

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

**This meeting
will be filmed.***



**Central
Bedfordshire**

please ask for Helen Bell
direct line 0300 300 4040
date 29 October 2015

NOTICE OF MEETING

DEVELOPMENT MANAGEMENT COMMITTEE

Date & Time

Wednesday, 11 November 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:

Cllrs K C Matthews (Chairman), R D Berry (Vice-Chairman), M C Blair, Mrs S Clark, K M Collins, S Dixon, F Firth, E Ghent, C C Gomm, K Janes, T Nicols, I Shingler and J N Young

[Named Substitutes:

D Bowater, Mrs C F Chapman MBE, I Dalgarno, Ms C Maudlin, P Smith, B J Spurr and T Swain]

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.

***This meeting may be filmed by the Council for live and/or subsequent broadcast online at**

<http://www.centralbedfordshire.gov.uk/modgov/ieListMeetings.aspx?Committeeld=631>.

You can view previous meetings there starting from May 2015.

At the start of the meeting the Chairman will confirm if all or part of the meeting will be filmed by the Council. The footage will be on the Council's website for six months. A copy of it will also be retained in accordance with the Council's data retention policy. The images and sound recording may be used for training purposes within the Council.

By entering the Chamber you are deemed to have consented to being filmed by the Council, including during any representation you might make, and to the possible use of the images and sound recordings made by the Council for webcasting and/or training purposes.

Phones and other equipment may also be used to film, audio record, tweet or blog from this meeting by an individual Council member or a member of the public. No part of the meeting room is exempt from public filming unless the meeting resolves to go into exempt session. The use of images or recordings arising from this is not under the Council's control.

AGENDA

Welcome

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 14 October 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 formal action report 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.	7 - 14

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/15/03000/VoC</p> <p>Address: Land rear of 197 Hitchin Road, Arlesey SG16 6SE</p> <p>Variation of Condition No. 2 on CB/12/03535/FULL dated 17/12/2012. No more than 19 static caravans to be stationed / occupied on the site at any one time and no more than 5 touring caravans shall be stationed on the site at any one time. Of the 5 touring caravans stationed on the site, none shall be occupied.</p> <p>Applicant: Mr Rooney</p>	15 - 40
7	<p>Planning Application No. CB/15/02102/FULL</p> <p>Address: Land to the East of High Road, Shillington SG5 3LL</p> <p>Erection of 19 dwellings following demolition of existing village hall, off road parking, private amenity garden space, landscaping, public open space and erection of double garage for No. 37 High Road.</p> <p>Applicant: Rowan Homes and Shillington Village Hall</p>	41 - 62
8	<p>Planning Application No. CB/15/02104/FULL</p> <p>Address: Land at Memorial Playing Field, Greenfields, Shillington SG5 3NX</p> <p>Demolition of existing club house and construction of a purpose-built community facility together with associated car parking. Relocation of existing storage container.</p> <p>Applicant: Rowan Homes & Shillington Village Hall</p>	63 - 80

13 **Planning Application No. CB/15/03281/FULL** 147 - 164

Address: 55 Jeans Way, Dunstable LU5 4PW

Construction of 1 No. 1 bedroom detached house following demolition of attached garage.

Applicant: Mr Edwards

14 **Determination of two applications to extinguish parts of Houghton Regis Footpaths Nos. 33 and 36** 165 - 196

1. To determine whether two applications which seek to extinguish parts of Houghton Regis Footpaths Nos. 33 and 36 should be approved and public path extinguishment orders made.

2. One application seeks to extinguish a parallel path and narrow a wide section of footpath. The other seeks to extinguish a footpath through Sewell Farm's yard and across a meadow and disused railway cutting.

15 **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

Meeting: Development Management Committee
Date: 11th November 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 11th November 2015)

	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
1	CB/ENC/11/0402	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	Officer working group reconvened 11/09/15 to tackle all issues (fly-tipping, anti-social behaviour, etc) as well as breaches of planning control.
2	CB/ENC/11/0499	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	Garage remains. Prosecution case being progressed. Case due to be heard by the Magistrates starting on 18th November 2015.
3	CB/ENC/12/0174	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 dismissed	09-Apr-16		Appeal dismissed on 9th October 2015. The property is required to return to a single dwelling house by 9th April 2016.
4	CB/ENC/12/0199	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				Kingswood Nursery appeal allowed and unauthorised occupier of The Stables dealing with pre-occupation conditions.
5	CB/ENC/12/0508	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 gates erected on adjacent plot preventing use of authorised access route needs to be removed.
6	CB/ENC/12/0521	Random, Private Road, Barton Le Clay, MK45 4LE	Enforcement Notice 2 - Without planning permission the extension and alteration of the existing dwelling on the land.	24-Aug-15	24-Sep-15	24-Mar-16 & 24-June-16	Appeal received 18/09/15			Await outcome of appeal.

Planning Enforcement formal action (DM Committee 11th November 2015)

	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
7	CB/ENC/12/0530	19 Ickwell Road, Northill, Biggleswade, SG18 9AB	Listed Building Enforcement Notice - Unauthorised works to a listed building.	07-Jul-15	07-Aug-15	07-Sep-15	Appeal received 05/08/15			Appeal against Enforcement Notice received 5/8/15, await outcome of appeal. Seeking confirmation of full compliance with breach of condition notice.
8	CB/ENC/12/0530	19 Ickwell Road, Northill, Biggleswade, SG18 9AB	Breach of Condition Notice - Condition 6 attached to Planning permission MB/06/00408/LB - external finishes	07-Jul-15	07-Jul-15	07-Aug-15				Appeal against Enforcement Notice received 5/8/15, await outcome of appeal. Seeking confirmation of full compliance with breach of condition notice
9	CB/ENC/12/0599	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				Notice partially complied with. Awaiting outcome of planning application.
10	CB/ENC/12/0633	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	Officer working group reconvened 11/09/15 to tackle all issues (fly-tipping, anti-social behaviour, etc) as well as breaches of planning control.

Planning Enforcement formal action (DM Committee 11th November 2015)

	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
11	CB/ENC/13/0083	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		08-Dec-15		Planning application ref: CB/15/03057/FULL to retain the walls, gates & piers granted permission on 08/10/2015 with a condition that within 2 months of the date of the decision the boundary wall, piers, and gates shall all be reduced according to the detail shown on the approved revised drawing.
12	CB/ENC/13/0336	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. Retail and residential use has ceased. Some areas of compliance still outstanding. Legal use application anticipated in November 2015.
13	CB/ENC/13/0452	Long Yard, Dunstable Road, Studham, Dunstable, LU6 2QL	3 X Enforcement Notices - 1 -Erection of timber building 2 - Material change of use from agriculture to storage of motor vehicles 3 - Material change of use of the land from agriculture to a mixed use for agriculture and the storage of motor vehicles, a touring caravan and building and hardore materials.	12-Aug-15	12-Sep-15	12-Nov-15				Check compliance 12/11/15
14	CB/ENC/13/0607	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	Appeal received 30/6/15			Await outcome of appeal. Written submissions made to the Planning Inspectorate.

Planning Enforcement formal action (DM Committee 11th November 2015)

	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
15	CB/ENC/14/0056	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				Site visit confirms the parking scheme has been implemented with areas designated for customer parking and 'end of life' vehicles.
16	CB/ENC/14/0351	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	Complied	Site visit has confirmed that the second storey rear extension has been removed in accordance with the requirements of the Enforcement Notice.
17	CB/ENC/14/0360	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 against Tree Replacement Notice dismissed and Notice upheld on 08/05/2015, allowing up until 08/11/2015 for compliance.
18	CB/ENC/14/0361	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				Site visit confirms that the notice has not been complied with & the agent & owner have been informed. The agent has now stated that contractors will be instructed to carry out the required work when funds are released as the owner lives in China. Waiting confirmation that contractors have been instructed, further visit to be made.
19	CB/ENC/14/0376	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. Compliance period expires at the end of October 2015. Site check to be carried out early November 2015.

Planning Enforcement formal action (DM Committee 11th November 2015)

	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
20	CB/ENC/14/0378	25 High Street, Sandy, SG19 1AG	Enforcement Notice - the installation of roller shutters	13-Aug-14	12-Sep-14	12-Oct-14	Appeal decision 23/7/15.	23-Aug-15		Enforcement Notice upheld for front roller shutter. Order for the removal of the shutter made.
21	CB/ENC/14/0414	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				Further reported breach of delivery hours file to be prepared for legal to consider prosecution action.
22	CB/ENC/14/0423	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				New planning application received CB/15/03000/VOC, serving of breach of condition delayed until application has been determined
23	CB/ENC/14/0485	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		Ongoing discussions with legal and assets regarding the possibility of Compulsory Purchase.
24	CB/ENC/14/0539	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 decision 23/7/15.	23/01/2016	Complied	Appeal decision 23/07/15 - Enforcement Notice upheld, time for compliance extended to 6 months. Notice complied with.
25	CB/ENC/15/0046	Running Water Farm, Langford Road, Biggleswade, SG18 9RA	Enforcement Notice - Siting of a mobile home	13-Aug-15	14-Sep-15	14-Dec-15				Check compliance 14/12/15
26	CB/ENC/15/0184	Land at New Road, Clifton	Breach of Condition Notice - Condition 13 attached to CB/13/01208/Full, Ground and tree protection	19-Oct-15	19-Oct-15	18-Nov-15				Check compliance 18/11/15

Planning Enforcement formal action (DM Committee 11th November 2015)

	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
27	CB/ENC/15/0253	238 Grassmere Way, Linslade, Leighton Buzzard, LU7 2QH	Enforcement Notice - Change of use from amenity land to garden land by enclosure of 2.2m fence	20-Aug-15	20-Sep-15	20-Nov-15				Check compliance 20/11/15
28	CB/ENC/15/0423	Land at, Astwick Road, Stotfold	Injunction served 22nd September 2015, continuation injunction served 5th October 2015 for unauthorised development for Gypsy and Traveller site.	22-Sep-15	22-Sep-15					Continuation of Injunction granted 5/10/15 to prevent further unlawful development. Planning application validated 29/9/15 for 4 pitches.
29	CB/ENC/15/0430	Land Adjacent to, Eversholt Beeches, Watling Street, Caddington	Temporary Stop Notice - Carrying out of Engineering operations on the land	23-Sep-15	23-Sep-15					Planning application has been received.



	© Crown Copyright. All rights reserved. Central Bedfordshire Council Licence No. 100049029 (2009)	
	Date: 27:October:2015	
	Map Sheet No	Scale: 1:1250

Application No. CB/15/03000/VOC

Land rear of 197 Hitchin Road, Arlesey, SG15 6SE

This page is intentionally left blank

Item No. 06

APPLICATION NUMBER	CB/15/03000/VOC
LOCATION	Land rear of 197 Hitchin Road, Arlesey, SG15 6SE
PROPOSAL	Variation of Condition No. 2 on CB/12/03535/FULL dated 17/12/2012 to allow no more than 19 static caravans to be stationed / occupied on the site at any one time and no more than 5 touring caravans shall be stationed on the site at any one time. Of the 5 touring caravans stationed on the site, none shall be occupied.
PARISH	Arlesey
WARD	Arlesey
WARD COUNCILLORS	Cllrs Dalgarno, Shelvey & Wenham
CASE OFFICER	Samantha Boyd
DATE REGISTERED	10 August 2015
EXPIRY DATE	05 October 2015
APPLICANT	Mr Rooney
AGENT	Thurdleigh Planning Consultancy
REASON FOR COMMITTEE TO DETERMINE	Cllr Shelvey Call in - Reasons. 1) Highway safety - no footpath to village. 2) Impact on landscape - consolidating permanent residential development in the countryside. 3) Concerns of the Town Council.
RECOMMENDED DECISION	Variation of Condition - Approval Recommended

Reason for recommendation

The proposed development would be in a sustainable location and would provide 19 static caravans towards the Councils 5 year supply of gypsy and traveller accommodation needs in accordance with the National Planning Policy Framework and Planning Policy for Traveller Sites. The proposal would not result in unacceptable harm to the character of the area or an adverse impact on the residential amenity of neighbouring properties and is acceptable in terms of highway safety therefore by reason of its size, design and location, is in conformity with Policy DM3 of the Core Strategy and Management Policies, November 2009; and The National Planning Policy Framework, Planning Policy for Traveller Sites and Saved Policy HO12 of the Mid Beds Local Plan Review.

Site Location:

The application site is located approximately 250 metres beyond the southernmost settlement boundary of Arlesey and approximately 75 metres to the east of the East Coast mainline. The site is within the open countryside and sits to the rear of 197 Hitchin Road and the neighbouring property, Fountain Cottage.

The site is an authorised Gypsy and Travellers site and comprises a number caravans together with associated hardstanding, internal roads and day rooms.

The Application:

Previous planning permissions have been granted for the change of use of the land to a gypsy and travellers site.

In December 2012 planning permission was granted for an extension to the existing site allowing pitches for 4 additional gypsy families, with a total of 8 caravans including no more than 4 static caravans, the extension of the hardstanding, the erection of two amenity blocks and landscaping under reference CB/12/03535/Full.

This application seeks to vary condition 2 of the above planning permission CB/12/03535/Full dated 17/12/12.

Currently condition 2 states: No more than 8 caravans (of which no more than 4 shall be static caravans) shall be stationed on the extension to the site hereby approved, as shown on plan CBC/002, and no more than 20 caravans (of which no more than 10 shall be static caravans) shall be stationed on the whole site.

The application seeks to vary the wording of condition 2 to read:

No more than 19 static caravans shall be stationed/occupied on the site, and no more than 5 touring caravans shall be stationed on the site at any one time. Of the 5 touring caravans stationed on the site, non shall be occupied.

The applicant states that the application is submitted to regularise the number of static caravans which have occupied the site for the past two years. A list of the current occupiers has been submitted with the application.

The proposal does not seek an extension to the site area previously approved under the earlier consents but more a re-arrangement of the internal layout of the site to allow an increase number in static caravans. In essence the proposal is for the replacement of the approved touring caravans with static caravans with the net impact of reducing the number of occupied caravans/mobile homes by one.

In accordance with Annex 1 of the Planning Policy for Traveller Sites, the applicant has confirmed that the occupants of the site are known as gypsies and travellers and a persons of a nomadic habit of life. Three of the occupants have taken the decision not to travel temporarily as a result of the educational needs of their children.

RELEVANT POLICIES:

National Planning Policy Framework (NPPF) (March 2012)

Planning Policy for Traveller Sites (August 2015)

Mid Bedfordshire Local Plan Review December (2005)

Saved policy - HO12 - Gypsies

Core Strategy and Development Management Policies - North (2009)

CS5 (Providing Homes)

CS14 (High Quality Development)

CS16 (Landscape and Woodland)

DM3 (High Quality Development)

DM4 (Development within and beyond Settlement Envelopes)

DM14 (Landscape and Woodland)

Draft Gypsy and Traveller Plan

In June 2014, Central Bedfordshire Council submitted the Gypsy and Traveller Plan to the Planning Inspectorate for Examination after a long process of preparation and consultation.

In August 2014, the issues and matters that the Inspector wished to discuss were received. In doing so, he raised significant issues on a substantial number of matters and asked the Council to undertake a considerable amount of additional work prior to the commencement of the Examination hearings.

Following considerations of these matters Officers concluded that it was unrealistic for the Council to respond within the proposed timescale and recommended to Members (via Executive on 19th August 2014 and subsequently at Council on 11th September 2014) that the plan was withdrawn. This document therefore carries little weight in the determination of this application. However for the purpose of assessing a planning application for the suitability of a proposed site, the policies contained within the document are considered to be useful guidelines as to whether a proposal is considered to be acceptable for its intended purpose.

Those policies thought to be relevant are:

GT5 (Assessing planning applications for Gypsy and Traveller sites)

Emerging 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 issued judicial review proceedings on the 12th March 2015 against the Inspectors findings. At the Council's Executive Committee on 6th October 2015, Members agreed to recommend to Full Council (19th November 2015) that the Development Strategy be withdrawn and to discontinue legal proceedings. Once withdrawn no weight should be attached to the Development Strategy. However, its preparation was based on and supported by a substantial volume of evidence studies gathered over a number of years. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our web site as material considerations which may inform future development management decisions.

Supplementary Planning Guidance/Other Documents

Central Bedfordshire Design Guide (March 2014)

Relevant Planning History:

CB/14/04470/VOC	Variation of condition 2 on application CB/12/03535/Full to be varied to read 'No more than 24 caravans shall be stationed on the site of which no more than 14 shall be static mobile homes' Refused 04/03/15.
CB13/03496/FULL	Erection of two detached day rooms. Approved 02/12/13
CB/12/03535/FULL	Change of use of land to use as residential caravan site for 4 additional gypsy families, with a total of 8 caravans including no more than 4 static caravans. Extension of hardstanding and erection of two amenity buildings and landscaping. Approved 17/12/12
CB/12/02799/FULL	Change of use from agricultural land to use as a residential caravan site for 4 additional gypsy families, with a total of 8 caravans including no more than 4 static caravans, extension of hardstanding, erection of 2 amenity buildings and landscaping. Refused 26/9/12.
CB/11/03370/FULL	Retention of use of land as a residential caravan site for 6 Gypsy families, including hardstanding, utility blocks and landscaping. Approved 5/3/12.
CB/09/05914/FULL	Change of use of land to use as residential caravan site for four gypsy families with a total of 8 caravans, erection of amenity blocks and landscaping. Approved 2/11/09, temporary consent for 3 years.
CB/09/00639/FULL	Change of use of land to use as residential caravan site for four gypsy families with a total of 8 caravans, erection of amenity blocks and landscaping - Refused 24/6/09.
MB07/01654/FULL	Change of use from dwelling to mixed use of dwelling and caravan site - Appeal allowed 11/9/08, temporary consent for 3 years.
MB/04/02146/FULL	Change of use of land to private gypsy transit site and construction of hard standing for a maximum of 15 pitches - Refused 17/3/05.

Consultees:

Arlesey Town Council	Object to the proposal, if granted it would be an overdevelopment of the site; members were concerned it would cause additional traffic accessing the highway; it would not be conducive to the local environment; and it would put additional pressure on local schools. Members also referred to government changes in policy where their
----------------------	---

redefinition of travellers sites regime and whether this would have an affect as to how the planning application was assessed. The Government has revised its special planning policy for travellers; this will only apply to those "who lead a genuine travelling lifestyle".

Highways	Access of a good standard therefore no objections to the proposal.
Public Protection	No comments to make
Private Sector Housing	Recommend amendments to comply with Site Licence in terms of spacing. Revised plan received: no objections.
Tree and Landscape Officer	No objections

Other Representations:

Neighbours letters received	Comments summarised:
77 Ramerick Gardens	<ul style="list-style-type: none"> • Arlesey already has a number of Gypsy and Traveller pitches, • Under LDF Plan Arlesey was allocated 10 pitches - this quota has been exceeded by development at Twin Acres and this site.
12 Cricketers Road	<ul style="list-style-type: none"> • Impact on main road which is 60 mph. • The site will have 19 caravans, the sites should be kept small. This site is of a significant size. • There have been near misses with vehicles and pedestrians at the access point,
38 Stotfold Road	<ul style="list-style-type: none"> • Appropriate number of pitches have already been granted for the amenities available to this small village, • The site is not on a safe road, • There are individuals living on the site that are not family members, • Cannot see how this variation would benefit the travelling community, Unauthorised encampments still happen on A507.

Site notice displayed 30/09/15

Determining Issues:

1. The principle of the development
2. The impact on the character and appearance of the area
3. Impact on neighbouring amenity
4. Any other considerations

Considerations

1. **The principle of the development**

1.1 Planning Case Law states that where an application is being considered for a variation of a condition, the original application should be re-considered as a fresh application as in effect a new planning permission would be issued. Although this may be the case, the planning history of the site, particularly those applications that have been granted, is a material consideration.

1.2 The site is allocated in the draft Gypsy and Traveller DPD, December 2010, for a total of 10 pitches and the site has planning permission for a total of 10 pitches across three parcels of land. The first being a narrow area of land to the south of the dwelling at 197 Hitchin Road with permission for 2 pitches, the second parcel is a larger rectangular section to the rear with permission for 4 pitches. Lastly application CB/12/03535/Full granted consent for a further 4 pitches on the rearmost parcel of land resulting in an overall total of 10 pitches.

1.3 Condition 2 of CB/12/03535/Full currently allows no more than 10 static caravans to be stationed across the site as a whole, and no more than 10 touring caravans on the site as a whole. The condition does not restrict permanent occupation of the touring caravans. The site as a whole is limited to a use by gypsies and travellers only.

1.4 The application is submitted in retrospect - there are currently 19 static caravans located at the site as set out on the submitted plan. In summary the variation of the condition would result in a re-arrangement of the site and the replacement of 9 of the permitted touring caravans with static caravans.

1.5 For clarity The legal definition of a caravan was established in the Caravan Sites and Control of Development Act 1960. It was modified in 1968 to include twin-unit mobile homes and again in 2006 when the sizes were increased.

1.6 Section 29 (1) of the Caravan Sites and Control of Development Act 1960 defined a caravan as:

“... Any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted.

1.7 This means there is no difference between a static caravan or a touring caravan in terms of the legal definition, therefore all can be occupied where no other restrictions are in place

1.8 It is noted that although condition 2 restricted the number of static caravans on the site there was no restriction on the occupation of all the touring caravans. This means that all 20 caravans permitted on the site could be occupied by a Gypsy and Traveller as permanent living accommodation completely in accordance with the existing planning permissions which is considered to be a material consideration in the determination on this application.

Whilst this proposal seeks to replace the touring caravans with static caravans, the 5 touring caravans proposed would not be occupied and only

1.9 used for touring, and this can be secured by a condition.

1.10 In terms of the number of occupants at the site, there would be little difference from the proposal and the occupancy allowed under the previous consent, there would in fact be one less occupied unit.

Policy

1.11 The site lies outside of the built up area of Arlesey within the open countryside where there is a general presumption against the granting of planning permission for new development as set out by Policy DM4 of the Core Strategy and Development Management Policies Document (2009). However the proposal relates to an existing site as established by the previous planning permissions and the site allocation.

1.12 Planning Policy for Traveller Sites (2015) guidance sets out that Local Authorities should ensure that traveller sites are sustainable economically, socially and environmentally.

1.13 The guidance requires that Local Planning Authorities carry out a full assessment of the need of Gypsies and Travellers in their area and identify a supply of deliverable sites sufficient to provide 5 years worth of sites against their locally set targets.

1.14 Paragraph 25 of the Planning Policy for Traveller Sites sets out that if a local authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary consent.

Gypsy and Traveller Pitch Provision

1.15 A Central Bedfordshire-wide Gypsy and Traveller Plan (GTP) has been prepared to deliver the pitch requirement for Central Bedfordshire to 2031 and was subject to public consultation following approval at full Council in February 2014. The Plan was later submitted to the Secretary of State in June 2014, however as noted earlier the Inspector raised a number of questions regarding the Plan and the Plan was later withdrawn. The Plan therefore carries very little weight in the determination of this application.

1.16 In preparation of the Plan the Council had a new Gypsy, Traveller and Showperson Accommodation Assessment (GTAA) undertaken, dated January 2014. This Assessment is considered to be up to date and highlights that there are a small number of unauthorised pitches, temporary consents, concealed households and people on waiting lists for the Council-run sites which are considered to represent the backlog of need within the area.

1.17 The need for Gypsy and Traveller pitches to 2031 is set out in the GTAA update and Full Council agreed on 30th January 2014 that the GTAA be endorsed and that the specific sites identified are taken forward to deliver 66 Gypsy and Traveller pitches.

While the current version of the GTAA identifies that Council has allocated sufficient sites to provide the required number of pitches to deliver a 5 year

1.18 land supply the plan has been withdrawn and therefore the 5 year supply cannot be demonstrated.

1.19 Nevertheless, pitches delivered through applications on existing sites or new unallocated sites would contribute to the number of windfall pitches provided.

1.20 Planning Policy for Travellers Sites (PPTS) policy H states that when determining planning applications for gypsy and travellers sites the existing level of local provision and need for sites is a material consideration. In a recent appeal decision at Twin Acres, also in Hitchin Road Arlesey (APP/P0240/W/15/3004755) the Inspector noted " Although the Council prepared the Central Bedfordshire Gypsy and Traveller Local Plan, that plan has been withdrawn and there are no allocated sites." The Appeal Decision for Land rear of Twin Acres, Hitchin Road, Arlesey (APP/P0240/W/15/3004755) is appended to this committee report.

1.21 The Inspector went on to say "It is clear there is a significant unmet, immediate need for gypsy and traveller pitches" and again to say "As a matter of policy the absence of an up to date five year supply of deliverable sites is a significant material consideration in applications for temporary permission by virtue of paragraph 25 of the PPTS. However, this factor is capable of being a material consideration in any case and with another appeal ref APP/P0240/A/12/2179237, concerning a site within Central Bedfordshire, the Secretary of State concluded that the need for sites carried considerable weight and the failure of policy was also afforded significant weight. That must remain the case today."

1.22 While there is clearly an unmet need, this application does not seek to extend the existing site or increase the permitted number of occupied caravans.

Sustainability

1.23 The PPTS accepts the principle of gypsy and travellers sites in rural and semi-rural areas. Paragraph 11 sets out the sustainability issues for gypsy and traveller sites and promotes access to health and education services. The site is not an unreasonable distance from Arlesey.

1.24 The application site has been identified as a suitable location for gypsy and traveller accommodation in the withdrawn Gypsy and Traveller DPD therefore the site itself is considered to be in an appropriate and sustainable location.

1.25 The site is within walking distance of Arlesey which is identified as a Minor Service Centre under Policy CS1 of the Core Strategy where there are a number of facilities and services together with the railway station providing links to London.

1.26 The location of the site has been assessed as being appropriate under the site allocation for the GTP and therefore is considered to be in a sustainable location.

Other Relevant matters

- 1.27 On 5 December 2014, the Councils Enforcement Team served a Breach of Condition Notice on the owner of the site (the applicant). The Notice was served because Condition 1 attached to planning permission ref: CB/12/03535/FULL requires that:

This permission does not authorise use of the land as a caravan site by any persons other than gypsies and travellers, as defined in Annexe 1 of Planning Policy for Traveller Sites, CLG, 2012.

Reason: To limit the use of the site to gypsies and travellers.

- 1.28 Evidence was submitted to the Enforcement Team that the caravans on the site were being advertised for rent by persons who are not Gypsies and Travellers. This evidence was supported by Public Sector Housing Officers who also reported that the site was not conforming to the traveller designation as stated in the original planning permission. After further investigation no further action was taken by the Enforcement Team.

- 1.29 This issue was also addressed by the Inspector dealing with the Twin Acres Appeal where it was alleged that caravans were being advertised for rent for persons other than gypsies and travellers. Here the Inspector states

"the existing site is subject to a standard condition restricting occupancy to gypsies and travellers, and the proposed development would be restricted to occupation by gypsies and travellers, as defined by Government guidance. Any breaches of the standard condition could be subject to enforcement action. Enforcement action is not always straightforward, but I am satisfied that the standard condition is enforceable. Accordingly, any past breaches, or fears of possible future breaches, would not justify dismissal of the appeal".

- 1.30 Given the Inspector's views, it would be a matter for enforcement should there be a breach of the occupation condition, and as stated by the Inspector dealing with the Twin Acres appeal, possible future breaches would not be a reason to justify refusal.

Intentional unauthorised development

- 1.31 As of 31st August 2015, the government made changes to planning policy guidance to make intentional unauthorised development a material consideration that should be weighed in the determination of planning applications. The government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. Often there is no opportunity to appropriately limit or mitigate the harm that has already taken place.

- 1.32 The application is submitted in retrospect and is therefore unauthorised. Where any harm identified cannot be mitigated or limited by planning conditions because the development has already taken place, weight should be given accordingly. The harm caused by the development is discussed later in the report.

Conclusion

In support of the current proposal the applicant has submitted a detailed list

1.33 of occupants currently residing at the site all of which are stated as being of gypsy and traveller origin in accordance with Annex 1 of the PPTS. The applicant states that the granting of planning permission would help meet an identified need which, as advised above is a material consideration in the determination of the application.

1.34 For this reason the proposal to vary the wording of condition 2 of application CB/12/03535/Full is considered to be acceptable in principle. The site would add to the 5 year supply of pitches and therefore go some way towards meeting the required level of general need for gypsy and traveller accommodation. While the application site is within the open countryside where there is a presumption against new development, the site is an existing gypsy and traveller site which has been allocated in the Draft Gypsy and Traveller Plan and the proposal does not seek an extension to the site boundary.

1.35 As such the development is considered to be acceptable and in accordance with the NPPF, PPTS and Policy DM3 of the Core Strategy and Development Management Policies Document and saved Policy HO2 of the Mid Beds Local Plan Review December 2005.

2. The effect on the character and appearance of the area

2.1 The application site is well screened from public views along Hitchin Road, being located beyond the rear of 197 Hitchin Road and Fountain Cottage. A boundary wall and some tree and hedge planting already exists along the southern boundaries and sporadic fencing and landscaping to the north and west. Between the existing properties and the site there is also a landscaped screen.

2.2 Whilst the principle of the site has been established by earlier planning permissions, the overall scale of the site was restricted by conditions relating to the number of caravans which could be sited at the premises in order to reduce the impact of the site upon the open countryside. Within the context of the site, and the need to provide Gypsy and Traveller accommodation, a limited number of pitches has been considered acceptable.

2.3 The siting of static caravans would have an impact on the character and appearance of the countryside. However given that the character of the area is already that of a gypsy and traveller site, the static caravans would not be completely at odds with the area. The area is generally well screened and the site only partially visible from Hitchin Road, (through the entrance gates into the site) With improved landscaping on the northern and eastern boundaries, the exposed boundary fencing would be screened from the countryside beyond and the railway line to the west. This can be secured by a condition.

Within the site, 19 static caravans are proposed together with two large days rooms and two smaller rooms. A small childrens play area is proposed and

2.4 a grassed area. Space is provided for the parking of 5 touring caravans. The layout of the site complies with the requirements of the Site Licence in terms of spacing etc. The site is not considered to be cramped and overdeveloped.

2.5 The applicant has submitted information which identifies that all units are currently occupied by persons of gypsy and traveller origin. This information supports the need for the static caravans within the site. Whilst there would be some harm to the character and appearance of the area given the existing use of the site, the harm is limited and as advised above the need for gypsy and traveller accommodation carries significant weight that may outweigh the harm.

2.6 The proposal is not for a new site or for an extension to the existing site boundary and therefore in this case the harm resulting from the replacement of touring caravans with static caravans is not considered to be so significant that it would justify a reason for refusal. As such the development is considered to be acceptable and in accordance with the NPPF, PPTS and Policy DM3 of the Core Strategy and Development Management Policies Document.

3. Impact on neighbouring amenity

3.1 The site is located some distance from nearby Arlesey. The only neighbouring properties immediately close are 197 Hitchin Road and Fountain Cottage.

3.2 In determining the appeal relating to the pitches adjacent to the boundary with the neighbouring property considered that with appropriate boundary fencing the level of activity on the site would not cause unacceptable harm to residential amenity.

3.3 The boundary of Fountain Cottage is demarcated by fencing and planting. No clear views into the neighbouring property are possible from the proposed static caravans or the hard standing area around them due to the existing boundary treatment.

3.4 There may be a material impact upon the amenities of the neighbouring property by way of noise and disturbance from the comings and goings to the site particularly at the access point. However given the location of the site is adjacent to a busy main road where there is already a considerable level of traffic noise, the noise and disturbance from the static caravans is not considered to be to such a level that would justify refusing planning permission. As advised above, the proposal is not for the extension of the site but the replacement of permitted (and occupied) touring caravans with static caravans.

3.5 The proposal is therefore considered to accord with Policy DM3 of the Core Strategy and Development Management Policies Document.

4. Other Considerations

- 4.1 Highways
There are no objections from the Highways Team to the development. The access to the site is of a good standard.
- 4.2 Concern has been raised that there are no footpaths to the site from Arlesey. Taking into account the recent appeal decision at Twin Acres, where the same issue was raised, the Inspector noted "there is no requirement in national policy to provide pedestrian links to gypsy and traveller sites. Government policy envisages such sites in rural areas where providing footpath links will often be impractical or inappropriate".
- 4.3 In any event previous permissions have accepted the location of this site is appropriate in terms of access, both vehicular and pedestrian.
- 4.4 Flooding
There are no objections to the development in terms of flooding or drainage
- 4.5 Noise from railway line
The main East coast railway line is to the west of the application site which would result in noise from trains passing by, however there is an approximate separation distance of 100m and a boundary fence. The proposal does not extend the application site boundary and no caravans would be placed any closer to the railway line than previously approved. Public Protection have not commented on the application.
- 4.2 Human Rights/Equalities Act
Based on the information submitted there are no known issues raised in the context of the Human Rights and the Equalities Act and as such there would be no relevant implications.

Recommendation:

That Planning Permission be granted subject to the following:

RECOMMENDED CONDITIONS / REASONS

- 1 The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites, August 2015, or any subsequent guidance.

Reason: To limit the use of the site to gypsies and travellers.

- 2 No more than 19 static caravans (as defined in the Caravan Sites and control of Development Act 1960 and the Caravan Sites Act 1968, as amended) shall be stationed on the site and no more than 5 touring caravans shall be stationed on the site. None of the 5 touring caravans shall be occupied as living accommodation on the application site at any time.

Reason: To control the level of development in the interests of visual and

residential amenity.

- 3 Within three months of the date of this permission, a detailed landscaping scheme for the site, particularly on the northern and western boundaries of the site shall be submitted to and approved in writing by the local planning authority and the scheme shall include a timetable for implementation and maintenance. The scheme shall be implemented in accordance with the approved details.

Reason: In order to ensure that the development has no unacceptable adverse effect upon general or residential amenity in accordance with saved policy HO12 of the Mid Beds Local Plan and DM3 of the Central Bedfordshire (North) Core Strategy.

- 4 No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

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

- 5 No commercial activities shall take place on the land, including the storage of materials.

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

- 6 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers TP01 location plan, TP02 Layout plan (rev A).

Reason: For the avoidance of 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.

3. 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 Core Strategy and Development Management Policies Document (2009) (North) unless otherwise specified.

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

The 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 proactively 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

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

Appeal Decision

Hearing held on 21 July 2015

Site visit made on 21 July 2015

by **J A Murray LLB (Hons), Dip.Plan.Env, DMS, Solicitor**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 August 2015

Appeal Ref: APP/P0240/W/15/3004755

Land rear of Twin Acres, Hitchin Road, Arlesey, Bedfordshire, SG15 6SE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Larry Connors against the decision of Central Bedfordshire Council.
- The application Ref CB/14/02124/FULL, received by the Council on 29 May 2014, was refused by notice dated 28 August 2014.
- The development proposed is the change of use of land to use as a residential caravan site for 10 traveller families, including laying of hardstanding and erection of amenity building.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Background

1. The appellant confirmed during the Hearing that his intention is to limit the total number of caravans on the appeal site to 10, regardless of whether they are static or touring caravans. I was told that, as many travellers only travel during the summer months, it is now common to buy a touring caravan at the start of the summer and then to sell it at the end. In any event, any site occupant who kept both a static caravan and a touring caravan could store the tourer off site.
2. Whilst the grounds of appeal had listed the intended occupiers, I was advised at the start of the Hearing that they may not actually be the occupiers. In any event, the appellant was not relying on the specific needs or personal circumstances of those people identified, but rather on the general need for gypsy and traveller accommodation. I was asked to determine the appeal on that basis.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal would pose an unacceptable risk in terms of highway safety, having particular regard to the lack of footway provision on Hitchin Road;
 - whether the proposal would represent sustainable development; and
 - the current and future levels of provision and general need for gypsy/traveller sites in the local area.

Reasons

Character and appearance

4. The appeal site lies in the countryside to the west of Hitchin Road and some 500m to the south of the small town of Arlesey. The appellant owns land between Hitchin Road and the main East Coast Railway line to the west. With the benefit of planning permission, the part of that land nearest the road is already in use as a gypsy and traveller site for up to 6 caravans and indeed the appellant occupies that land. The proposal would effectively extend that site some 65m to the west, providing pitches for an extra 10 caravans and an amenity building. A gap of around 150m would then remain between the proposed site and the fence separating the appellant's land from the railway. At the time of the Hearing, that area was covered with hard core. There was also a mobile home on it, some shipping containers and stored building materials. Development on that area to the west of the appeal site is unauthorised and there has been some enforcement action in the past. At the Hearing, the Council said that further action is under consideration and, at the site visit, I saw that part of this hard core area had been covered with soil. In any event, I am only considering the appeal site and its impact.
5. Hitchin Road is a busy, straight road, with a 60mph limit and double yellow lines. There are open fields to the East of Hitchin Road and immediately to the south of the appeal site are fields associated with Hollow Tree Farm. To the north lies the dwelling and land at Adenville Farm. Another field then separates that dwelling from an authorised gypsy and traveller site at 197 Hitchin Road to the north. The Council's January 2014 Gypsy, Traveller and Travelling Showperson Accommodation Assessment (GTAA) says that site has 10 authorised pitches. Although the prevailing character of the area is predominantly rural, established gypsy and traveller sites contribute to it.
6. Planning policy for traveller sites (PPTS) allows for gypsy and traveller sites in rural or semi-rural settings, but also seeks to protect amenity and the environment. In terms of the impact on the character of the area, given that gypsy and traveller sites already feature, the proposed site would not be unduly at odds with that character.
7. Turning to the appearance of the area, given the mature hedge along Hitchin Road, the existing and proposed boundary treatment on the appeal site and mature trees and buildings to the north, there would be no significant views of the development from Hitchin Road, except through the entrance to the appellant's existing caravan site. However, having regard to the proposed layout, this would be limited to the eastern gable end of the single storey amenity building, which would be sited adjacent to the southern boundary fence and hedge.
8. The proposed development would be seen by passengers on the East Coast main line, from where it would be perceived as an extension to the existing, relatively small site. I regard the railway line as an important public vantage point, even though passengers would normally be passing at speed. However, the site would be reasonably spacious, with a generous grass play area in the centre. There would be further grassed areas around the pitches and new boundary hedges to the south and west and a condition could require full details of a landscaping scheme to be submitted for approval. These factors would ensure that the development is suitably assimilated into the rural

Appeal Decision APP/P0240/W/15/3004755

- setting, especially since the site would be set back around 150m from the railway and not nearly as close as the authorised site at 197 Hitchin Road. Furthermore, bearing in mind that the proposal is limited to a total of 10 caravans of any type, the planned layout is spacious and, with its substantial central grass play area, it would be more open than the approved site at No 197, which can be seen in the recent aerial photograph produced by Councillor Dalgarno at the Hearing¹. PPTS paragraph 24 says weight should be attached to sites being well planned and landscaped in such a way as to positively enhance the environment and increase openness.
9. That said, it would be hard to conceive in practice of a caravan site that would not have some detrimental visual impact on a rural area, given the siting of caravans and the provision of hardstandings and utility buildings. Nevertheless, such sites are not uncommon in the countryside and development plan policies should be interpreted in the context of that reality and the question is essentially whether there would be significant or material harm.
 10. Taken together Policies DM3, DM4, CS14 and CS16 of the Central Bedfordshire Core Strategy and Development Management Policies (CSDMP), adopted November 2009, require all development to: be appropriate in scale and design to its setting; contribute positively to creating a sense of place and respect local character, context and distinctiveness; to be of the highest quality; and to conserve and enhance the character of the countryside.
 11. The only development plan policy which specifically concerns new gypsy sites is saved Policy HO12 of the Mid Bedfordshire Local Plan Review (LPR), adopted December 2005. Among other things, this says they should not be detrimental to the character and appearance of the surrounding countryside and sites *should relate well to existing built development, although a location within a defined settlement envelope will not be deemed essential*. PPTS does not explicitly require new sites to relate well to existing built development. It allows for gypsy and traveller sites in rural and semi-rural areas, whilst stating that they should respect the scale of and not dominate the nearest settled community. Though reasonably close to Arlesey, the Council acknowledged that the proposed site would not dominate it. The nearest existing built development is at Adenville Farm to the north. Having regard to the extent and layout of built development on that site² and the extent of existing and proposed vegetation and landscaping, the appeal scheme would relate well to that built development.
 12. Given the proximity of existing approved gypsy and traveller sites; the very limited views of the proposed development from Hitchin Road; its separation from the railway line; its scale, reasonably spacious layout and scope for landscaping; and its relationship with existing built development, I conclude on the first main issue that the proposal would have no significant detrimental impact on the character or appearance of the area, so as to result in conflict with PPTS, LPR Policy HO12, or CSDMP Policies DM3, DM4, CS14 and CS16. *Notwithstanding the rural location, any modest detrimental impact would not justify dismissal of the appeal.*

¹ Hearing document 1.

² Ibid.

Highway safety, having particular regard to the lack of footway provision

13. As indicated, Hitchin Road is a busy main road, with a 60mph speed limit. Between the appeal site access and Arlesey to the north, there is no footway for the first 250m or so. Although there is a narrow verge, it is not adequate to facilitate safe or convenient pedestrian access. Whilst Arlesey is within easy cycling distance, the Highway Authority's representative said that vehicle speeds are high, as Hitchin Road is wide and straight, and he would not therefore advocate cycling. Given the short distance to Arlesey, cycling may still be a reasonable option for some, but may well be unsafe for others, especially children.
14. In so far as LPR Policy HO12 requires a safe, convenient and adequate standard of access, including provision for pedestrians, the proposal gives rise to some conflict with it. CSDMP Policy DM3 also requires proposals to incorporate "appropriate access and linkages, including provision for pedestrians..." However, there is no requirement in national policy to provide pedestrian links to gypsy and traveller sites. Government policy envisages such sites in rural areas, where providing footpath links will often be impractical or inappropriate. Paragraph 29 of the Framework acknowledges that "different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas". This is echoed at paragraph 34. Accordingly, in so far as there is conflict with Policy HO12, national policy constitutes a material consideration to weigh against that and there is no real conflict with Policy DM3, as footpath provision is not "appropriate" in this rural location.
15. In terms of pedestrian safety, the Highway Authority view is that residents would be tempted and likely to walk into Arlesey, because of its proximity. This is in contrast to appeal Ref APP/J0405/C/13/2193582 concerning a site at Slapton in Buckinghamshire (the Slapton appeal), where the distances meant walking was not a serious option. I accept that there is a residual risk that occupiers of the site might walk on the road for 250m or so to get to the footway to the north and this would be potentially dangerous. However, common sense would discourage that course and, in any event, there is already a gypsy and traveller site here, for which the Council granted permission.
16. I note local residents' references to "near misses" involving vehicles entering or leaving the appellants' existing traveller site. However, at the Hearing, the Highway Authority representative confirmed his view that there is no justifiable reason to raise or sustain a highway objection for safety reasons, save that it would be unsafe for occupiers of the site to walk into Arlesey. I acknowledge residents' concerns, but, having regard to the Highway Authority's expert view and my own inspection, I am satisfied that vehicular traffic to and from the site would not create a significant risk. Clearly, the proposal would increase vehicle movements, but there are no records of serious accidents, even though the existing site has been operating for some time.
17. For all the reasons given, I conclude on the second main issue that, notwithstanding some conflict with LPR Policy HO12, the proposal would not pose an unacceptable risk in terms of highway safety, having particular regard to the lack of footway provision on Hitchin Road.

Sustainability

18. In terms of sustainability, the Council is principally concerned with the lack of safe pedestrian access to services and facilities and the consequent reliance on the private car. Given that safe pedestrian access is unavailable, I acknowledge that residents would be largely reliant on the car. However, PPTS accepts the principle of gypsy and traveller sites in rural areas and of course the Council has already granted permission for the existing 6 pitch site in this location. Paragraph 11 of PPTS sets out the factors relevant to the sustainability of gypsy and traveller sites. Aside from promoting access to health and education services, it makes no reference to the distance from services, and merely advocates reducing the need for long distance travelling. The Framework indicates that decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. Even if it were considered that the appeal scheme, either on its own or together with the existing site, would generate significant movements, the proximity to Arlesey is such that the need to travel would be minimised, in terms of the length, if not the number of journeys. Furthermore, PPTS notes that the provision of a settled base, in itself, can reduce the need for long distance travelling.
19. In the Slapton appeal, the site was in the countryside some 800m from a hamlet with no services, 1.5km from the village of Slapton, 2 - 3 km from the larger village of Cheddington and 5km from the town of Leighton Buzzard, where most amenities essential for day-to-day living were located. The Inspector found that the occupants would rely on private motor vehicles to reach most amenities and that it would be unpleasant, if not hazardous to walk to the nearest bus stops or the railway station, as there was no footway and only an overgrown verge and fast moving traffic. She nevertheless found that the site was not unduly far from local services and it is not unusual for country dwellers to rely on the private car. The same conclusion applies with even greater force in this case, where the site is much closer to significant services.
20. PPTS paragraph 11 says sites should not be located in areas at high risk of flooding. Local people raised concerns about flooding on the site and Councillor Dalgarno submitted a photograph of standing water on adjacent land, which was taken in early 2015³. However, a suggested condition requires details of proposals for surface water drainage to be submitted for approval and the appellant said his neighbour has overcome standing water issues by installing drainage pipes. In any event, the site is in Flood Zone 1 and there is no objection from the Environment Agency or the Internal Drainage Board.
21. Paragraph 11 of PPTS also says policies should provide for proper consideration of local environmental quality and Policy GT5 of the G&T LP indicated that sites should not be in an area immediately adjacent to railway lines or water bodies. The site is about 150m from the railway but, whilst the Council's Pollution Officer recommended that an informative be attached to any permission advising that railway noise may cause detriment, the appeal site is not as close to the railway as the site at No 197 Hitchin Road. My experience during the site inspection did not give me undue cause for concern on this score.

³ Hearing document 3.

22. There is also a body of water known as the Blue Lagoon in a field some distance to the east of Hitchin Road, which Town Councillor Kathy Lindscog said is a notorious hazard. However, the G&T LP has been withdrawn and in any event the site is not immediately adjacent to the railway or the Blue Lagoon and there is a suitable fence between the appellant's adjoining land and the railway. From maps it appears that the Blue Lagoon could be accessed by anyone determined to get to it via a track to the north, but it would not present an immediate risk to occupiers of the proposed site.
23. PPTS paragraph 11 also says undue pressure on local infrastructure and services should be avoided and Arlesey Town Council is concerned about the pressure on local schools and the medical centre. However, in the absence of any objections or comments from the education and health authorities, there is no clear evidence that the proposal would place undue pressure on infrastructure and services.
24. In terms of the remaining sustainability factors set out in PPTS paragraph 11, unauthorised camping is not conducive to peaceful and integrated co-existence between travellers and local settled communities. The provision of an authorised and properly regulated site can reduce the likelihood of unauthorised camping. In addition, there is no reason to conclude that this location would not facilitate access to appropriate health services, or enable children to attend school on a regular basis.
25. In all these circumstances, I conclude on the third main issue, that the proposal would constitute sustainable development.

Need

26. PPTS Policy H states that relevant matters to be considered when determining planning applications for gypsy and traveller sites include the existing level of local provision and need for sites. Paragraph 9 of PPTS requires local planning authorities to identify and update annually, a five-year supply of deliverable gypsy and traveller sites. Although the Council prepared the Central Bedfordshire Gypsy and Traveller Local Plan (G&T LP), that plan has been withdrawn and there are no allocated sites. The GTAA identified a backlog of 35 pitches as at January 2014. Having regard to that, and applying a 2% household growth rate, it identified a requirement for 54 pitches for the period 2014 – 2019 and 30 pitches for 2020 – 2024.
27. The Council accepted at the Hearing that, taking those figures, the requirement over the next 5 years, i.e. to 2020, would be 60 pitches (i.e. 54 + 30/5). However, as planning permission has been granted for 14 pitches since the GTAA, it was agreed that the current backlog is 21 pitches and the requirement up to 2020 is now for 46 pitches. The appeal scheme would almost halve the backlog, but there are still no allocated sites and no other sites with planning permission, or which could otherwise be considered deliverable.
28. LPR Policy HO12 does not allocate sites and does not promote the development of private sites. Whilst Policy 33 of the emerging Development Strategy for Central Bedfordshire, Revised pre-submission version (DS) June 2014 states that the G&T LP sets out how the Council will meet the accommodation needs of gypsies and travellers, the G&T LP has been withdrawn. Furthermore, the Inspector charged with examining the DS has indicated his view that the Council had not complied with its duty to co-operate. I was advised that the

Council is seeking leave for a Judicial Review of that determination in the Court of Appeal (leave having been refused in the High Court). Whilst the DS has not been withdrawn, I cannot be confident of whether, or in what form, that plan will be adopted and its policies cannot therefore carry significant weight.

29. In any event, DS Policy 33 states that applications for windfall gypsy and traveller sites will be considered: "having regard to the unmet level of need." It adds: "Relevant and up to date guidance will inform this process." I have already identified the level of unmet need and relevant and up to date guidance is contained in PPTS. There is no policy mechanism to address the under-supply of sites.
30. It is clear that there is a significant unmet, immediate need for gypsy and traveller pitches and the Council indicated at the Hearing that it is unlikely to have allocated sites in an adopted plan before February 2018, so that sites are unlikely to be provided within 5 years. As a matter of policy the absence of an up-to-date five-year supply of deliverable sites is a significant material consideration in applications for temporary permission, by virtue of paragraph 25 of PPTS. However, this factor is capable of being a material consideration in any case and in another appeal Ref APP/P0240/A/12/2179237, concerning a site within Central Bedfordshire, the Secretary of State concluded that the need for sites carried considerable weight and the failure of policy was also afforded significant weight. That must remain the case today.
31. I conclude on the fourth main issue that there is an immediate need for sites and a lack of a five-year supply, with no policy mechanism to address these problems and these factors carry significant weight.

Other matters

32. A number of representations were made about mobile homes on the appellant's existing site being advertised for rent generally and these raised concerns that he was using the less restrictive planning regime for gypsy and traveller sites to establish a caravan site available to the general public. Indeed, the Council produced an extract from www.rightmove.co.uk⁴ showing a mobile home for rent on Hitchin Road, albeit with a note that the property "has been removed by the agent."
33. The appellant denied advertising any of his caravans for occupation other than by gypsies and travellers, but acknowledged that the photograph in the rightmoves details appeared to be of one of his caravans. Whatever, the explanation for this, the existing site is subject to a standard condition restricting occupancy to gypsies and travellers, and the proposed development would be restricted to occupation by gypsies and travellers, as defined by Government guidance. Any breaches of the standard condition could be subject to enforcement action. Enforcement action is not always straightforward, but I am satisfied that the standard condition is enforceable. Accordingly, any past breaches, or fears of possible future breaches, would not justify dismissal of the appeal.
34. The Town Council also questioned whether there is adequate provision for vehicles on site. However, in view of the appellant's acceptance of a limit of

⁴ Hearing document 5.

- 10 caravans, whether static or touring, the proposed layout shows adequate space for vehicles.
35. The site would be subject to the Caravan Sites licensing regime but, having regard to the proposed layout plan, there is nothing to indicate that the standard licence conditions could not be met.
36. Councillor Lindscog felt that this development could set a precedent and lead to a proliferation of requests for the expansion of this site. However, any such proposals would have to be assessed on their merits having regard to all material considerations. These would include their visual impact in view, for example, of their proximity to the railway, and the question of dominance relative to Arlesey. These would be matters for the Council to judge.

Planning balance and overall conclusion

37. I conclude that the proposed development would cause no unacceptable harm to the character and appearance of the area, or in relation to highway safety. Whilst the absence of footway provision leads to some conflict with LPR Policy HO12, the requirement for pedestrian links is not consistent with Government policy. The development would comply with the Framework, PPTS, the remainder of saved LPR Policy HO12 and CSDMP Policies DM3, DM4, CS14 and CS16, which should prevail in my view. Furthermore, the development would be sustainable and it would provide 10 pitches where there is an immediate need for sites and no five-year supply.
38. In all the circumstances, I am satisfied that the appeal should be allowed and permission granted, subject to conditions.

Conditions

39. In addition to the usual time limit on commencement of development, it is necessary to limit occupation of the site to gypsies and travellers. This is because the proposal is only acceptable in the countryside because of the special accommodation needs of gypsies and travellers.
40. To ensure a spacious layout and to limit the impact of the development on the character and appearance of the countryside it is necessary to restrict the number of caravans on the site to 10. However, in the interests of precision, I will refer to the relevant legislation to define caravans.
41. To further protect the character and appearance of the area and the living conditions of nearby residents and to prevent pollution, it is necessary to prohibit commercial activities and to require the submission and approval of a scheme detailing foul and surface water drainage proposals; landscaping; boundary treatment; waste storage and collection arrangements; and external lighting. To ensure that the requirement for external lighting details has practical effect, it is necessary to add a provision that no external lighting shall be installed, other than that which is approved. As far as boundary treatment is concerned, whilst the Council's suggested condition focused on the northern and southern boundaries, I will also refer to the western boundary, given that the railway line is the main public vantage point and drawing CBC/002 indicates new hedge planting on that boundary anyway.

Appeal Decision APP/P0240/W/15/3004755

42. The Council agreed that I need not include its suggested provisions concerning an appeal if submitted details are not approved, as they are only necessary in retrospective cases.
43. The Council agreed at the Hearing that its suggested condition concerning vehicle parking and manoeuvring areas is unnecessary, as these are detailed on the submitted plans. For the avoidance of doubt and in the interests of proper planning, I shall require the development to be carried out in accordance with specified submitted plans.
44. Although the Council's list of suggested conditions did not address this, there is currently a large brick kennel building in the south west corner of the site. This is not shown on the submitted plans and the appellant acknowledged during the Hearing that it would need to be removed. I am satisfied that this is necessary to ensure the spacious layout and satisfactory appearance of the development. I will require its removal prior to first occupation of any of the caravans on the site.

Decision

Appeal Ref: APP/P0240/W/15/3004755

45. The appeal is allowed and planning permission is granted for the change of use of land to use as a residential caravan site for 10 traveller families, including laying of hardstanding and erection of amenity building at land rear of Twin Acres, Hitchin Road, Arlesey, Bedfordshire, SG15 6SE in accordance with the terms of the application, Ref CB/14/02124/FULL, received by the Council on 29 May 2014, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: CBC/001, CBC/002, CBC/003 and CBC/004.
 - 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning policy for traveller sites, March 2012, or any subsequent guidance.
 - 4) No more than 10 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended) shall be stationed on the site.
 - 5) No commercial activities shall take place on the site, including the storage of materials.
 - 6) No development shall take place until a scheme detailing:
 - (i) proposals for foul drainage of the site;
 - (ii) proposals for surface water drainage of the site, based on the site having no impervious areas;
 - (iii) a detailed landscaping scheme for the site, in particular on the northern and southern boundaries of the site;
 - (iv) boundary treatment of the site, specifically along the southern, northern and western boundaries of the site;

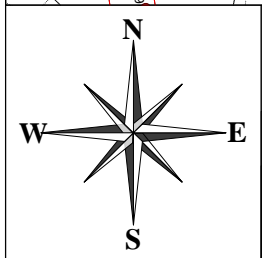
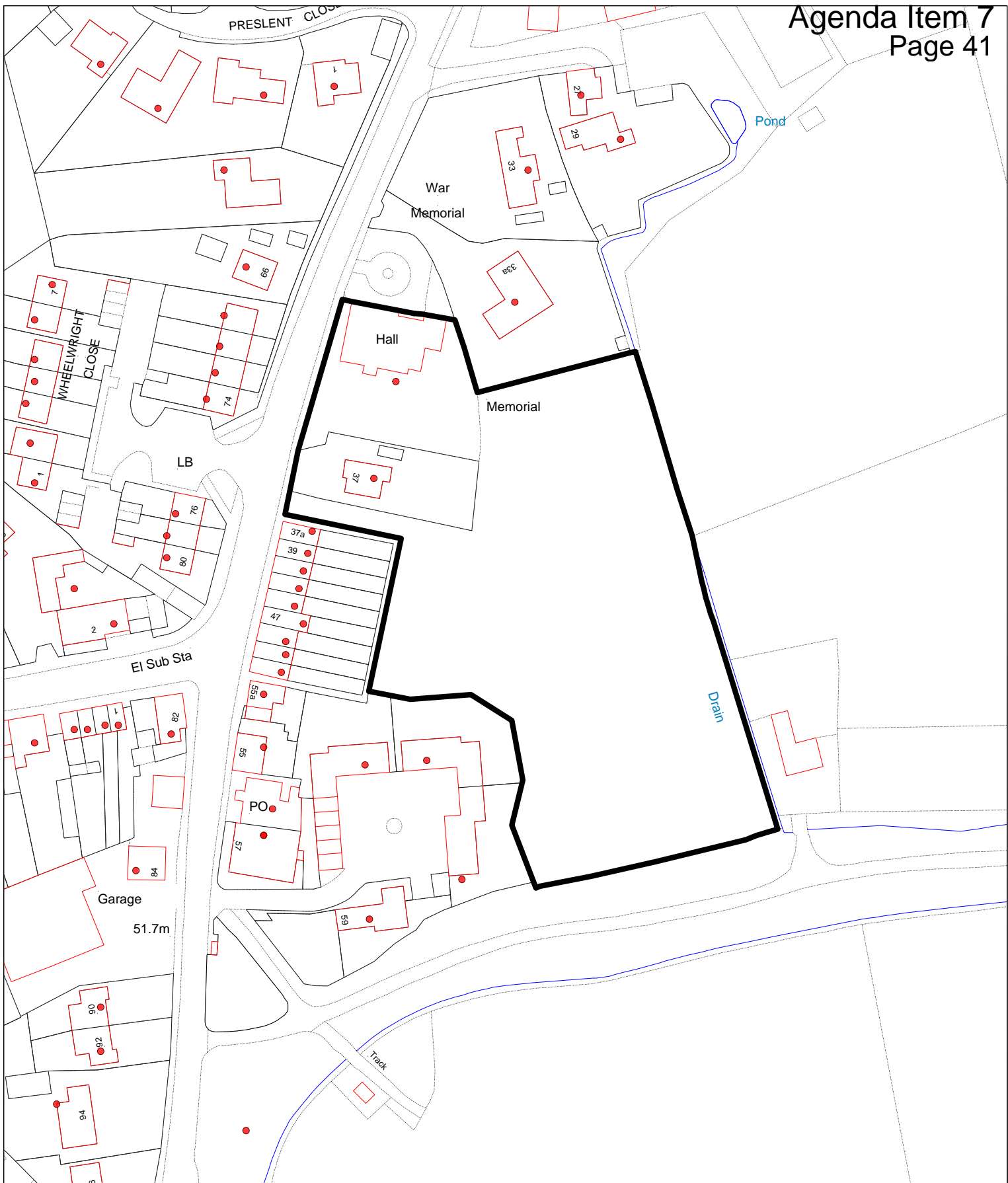
- (v) waste storage and collection points; and
- (vi) any external lighting

has been submitted to and approved in writing by the local planning authority and the said scheme shall include a timetable for the implementation of its various components. The development shall be carried out in accordance with the approved scheme and timetable and no external lighting shall be installed unless it is part of the approved scheme.

- 7) The residential use shall not commence and none of the caravans on the site shall be occupied until the existing brick kennel building in the south western corner of the site has been demolished and the resultant materials have been removed from the site.

J A Murray

INSPECTOR



© Crown Copyright. All rights reserved.
Central Bedfordshire Council
Licence No. 100049029 (2009)

Date: 27:October:2015

Map Sheet No

Application no CB/15/02102/FULL

Scale: 1:1250

Land to the East of High Road, Shillington, Hitchin, SG5 3LL

This page is intentionally left blank

Item No. 7

APPLICATION NUMBER	CB/15/02102/FULL
LOCATION	Land to the East of High Road, Shillington, Hitchin, SG5 3LL
PROPOSAL	Erection of 19 dwellings following demolition of existing village hall, off road parking, private amenity garden space, landscaping, public open space and erection of double garage for No. 37 High Road.
PARISH	Shillington
WARD	Silsoe & Shillington
WARD COUNCILLORS	Cllr Ms Graham
CASE OFFICER	Alex Harrison
DATE REGISTERED	18 June 2015
EXPIRY DATE	17 September 2015
APPLICANT	Rowan Homes and Shillington Village Hall (Charity No. 300066)
AGENT	Optimis Consulting
REASON FOR COMMITTEE TO DETERMINE	The application is a major application that is contrary to development plan policy.
RECOMMENDED DECISION	Full Application - Approval Recommended

Reason for recommendation.

The development of the site for residential purposes is contrary to policies within the Core Strategy and Development Management Policies 2009. However in this instance the development is considered acceptable as an exception on the basis that the material considerations with the scheme, that being that monies generated from the development will be directed towards the provision of a new Community Hall within the village at the Memorial Playing Fields, outweighing the non-compliance with policy. The proposed access is considered to be safe and the scheme provides suitable parking for the new dwellings and also parking for existing dwellings that do not benefit from off street parking presently. The amended scheme has produced a design that would be acceptable in its Conservation Area context and would not harm the character and appearance of the area. The proposal does not harm neighbouring residential amenity and provides a suitable level of amenity for potential occupiers.

Site Location:

The application site is an area of land which is, in the majority outside of the settlement envelope of Shillington and regarded as open countryside. A proportion of the site lies within the settlement envelope and comprises the existing village hall site and car park, residential property known as 37 High Road and a strip of land

adjacent the dwelling.

The site lies partially within the village conservation area. The area outside of the conservation area is considered to affect its setting.

The Application:

Planning permission is sought for the demolition of the existing village hall and the erection of 19 dwellings on the site. The dwellings are proposed in a mix of sizes and styles and will be accessed from a single new access point off of High Road.

The proposal also includes the provision of 9 off street parking spaces for the occupiers of existing dwellings at 37a - 53 High Road which will also be accessed from the new access.

The application also includes a proposed change of use of an access track to make it part of the residential curtilage of the existing dwelling No 37 High Road along with this change of use a detached double garage is also proposed.

The application has been amended since its original submission to address design concerns raised by the Case Officer. The amended plans are, at the time of drafting this report, out to consultation with consultees and neighbours and any additional comments received will form part of the late sheet update.

RELEVANT POLICIES:

National Planning Policy Framework (NPPF) (March 2012)

Core Strategy and Development Management Policies - North 2009

- CS1 Development Strategy
- CS3 Healthy and Sustainable Communities.
- CS14 High Quality Development
- DM2 Sustainable Construction of New Buildings
- DM3 High Quality Development
- DM4 Development within and Beyond Settlement Envelopes.

Emerging 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 issued judicial review proceedings on the 12th March 2015 against the Inspectors findings. At the Council's Executive Committee on 6th October 2015, Members agreed to recommend to Full Council (19th November 2015) that the Development Strategy be withdrawn and to discontinue legal proceedings. Once withdrawn no weight should be attached to the Development Strategy. However, its preparation was based on and supported by a substantial volume of evidence studies gathered over a number of years. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our web site as material considerations which may inform future development management decisions.

Supplementary Planning Guidance/Other Documents

Central Bedfordshire Design Guide (March 2014)

Relevant Planning History:

None

Consultees:

Shillington Parish Council Support the application, reiterated following the amendments.

Highways No comments received at the time of drafting this report

Trees and Landscape No objections to the proposal in principle but we will require retention of boundary hedgelines to the south and east of the site. These will require protection throughout development through the use of Heras type fencing at a suitable distance to prevent damage to roots or canopy. These hedgelines should be enhanced through additional native planting in areas where existing hedgeline is thin.

Details of additional landscaping will also be required and should include a mixture of native and more ornamental quality tree planting.

Landscape Officer By Condition - we need a detailed landscape plan (I was disappointed not to see a landscape plan as part of the submission) which would detail the proposed planting. The Ecological report states that the hedgerows on the eastern and southern boundary are to be retained. These are important features, helping to screen and integrate the development as well as benefitting ecology.

As they will become part of private property it would be helpful if the Specification for the site recommends a minimum height in terms of long-term hedge maintenance.

Also, as this is a very rural site, I would prefer the majority of trees to be native or native cultivars. Additional hedge shrubs should preferably be sourced from local provenance, eg from the Community Tree Trust.

I would also like the grassland of the public open space to be sown with a native grass mixture and low growing wild flora, rather than a standard amenity grass mixture. This would help to enhance local amenity and biodiversity and should reflect the local soil type

Green Infrastructure	<p>I do not generally get consulted on schemes of this scale.</p> <p>However, I would endorse comments made by landscape, ecology, SuDS and sustainability colleagues.</p>
Ecology	<p>I have read through the submitted documents and would have no objections to the proposal. The NPPF calls for development to deliver a net gain for biodiversity and proposed ecological enhancements include the strengthening of the eastern and southern hedgerow which is welcomed. Planting of trees or shrubs should use locally native species which are nectar or berry rich where possible. The existing site is derelict mown grassland bounded by hedgerows. I note that the 6.2.1 of the ecological appraisal states that hedgerows are to be retained as part of the proposed development but I am cautious where a hedgerow forms the curtilage of a dwelling. Given that this boundary forms the edge of the village with open countryside I would hope to ensure that these features are retained and well maintained as they will act as valuable wildlife corridors, providing habitat for birds, bats and other small mammals. I would seek to secure further opportunities for enhancement provided through the inclusion of integrated bird and bat bricks within the fabric of units 5 to 14 as a condition.</p>
Sustainable Drainage	<p>Urban Raised no objections subject to conditions, adding:</p> <p>We consider that planning permission could be granted to the proposed development and the final design, sizing and maintenance of the surface water system agreed at the detailed design stage prior to any development taking place on site.</p> <p>We therefore recommend conditions be applied. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.</p> <p>Although we are satisfied at this stage that the proposed development could be allowed in principle, the applicant will need to provide further information to ensure that the proposed development can go ahead without posing an unacceptable flood risk to the development and surrounding area, in accordance with section 103, 104 and 109 of the NPPF.</p> <p>This will include the following points being addressed in order to discharge the conditions as recommended below.</p>

Proposal to discharge to the sewer

The proposed method to discharge surface water to the sewer, before this approach is deemed to be acceptable it must be demonstrated that:

all other options set out in Approved Document Part H of the Building Regulations (2010) have been demonstrated to be exhausted.

If no other practicable alternative other than to dispose of surface water to a sewer is demonstrated, confirmation from the operator of the system should be provided to verify that there is adequate spare capacity in the existing pipework to receive additional flows and that this approach is viable.

We therefore request further detail be provided on the proposal to discharge to the sewer to demonstrate that the receiving system will have sufficient capacity to receive increased surface water flows created by the proposed impermeable areas of the site and that this is confirmed by the system's operator.

Use of underground attenuation

The ministerial statement made on 8 December 2014 (Ref. HCWS161) sets out the following requirements:

"...in considering planning applications, local planning authorities should consult the relevant lead local flood authority on the management of surface water; satisfy themselves that the proposed minimum standards of operation are appropriate and ensure through the use of planning conditions or planning obligations that there are clear arrangements in place for ongoing maintenance over the lifetime of the development. The sustainable drainage system should be designed to ensure that the maintenance and operation requirements are economically proportionate."

We therefore ask that details be provided by the applicant that will demonstrate responsibility for individual drainage components and maintenance of the proposed surface water drainage system and how this will, as far as is reasonable, ensure the long term operation of the proposed system for the lifetime of the development which it serves.

This should consider the need and provision for:

Regular maintenance (i.e. Checking inlets, outlets, control structures and overflows)

Occasional tasks (i.e. Jetting and suction where silt has settled)

Remedial work (i.e. Reinstatement)

Adequate access must also be shown to be provided to allow for inspection & maintenance activities to take place.

Silt interception and management arrangement is critical to long-term effectiveness of engineered below-ground storage structures and this must be demonstrated at design stage and confirmed for the design life of the development. In addition, in line with best practice (Ciria SuDS Manual, Anglian Water SuDS Manual) the cleaning of surface water runoff is also required before release to the environment. The preferred method of collection therefore is through the use of a permeable surface in the car park, such as permeable paving, as this will trap silt on the surface and provide cleaning before surface water enters storage. We ask that further details be provided on this and the use of appropriate sediment management and pollution control devices or mechanisms

Consideration of management of exceedance flows, due to an extreme weather event beyond the 1 in 100 storm or due to system failure should also be provided that will consider how these flows would be managed safely on site, i.e. through the use of overland pathways, finished floor levels etc.

Further to this, the proposal to use below ground attenuation does not adequately address groundwater implications. It is understood that the current assessment of site constraints is based on a desk top study and no site specific testing has been undertaken, although BRE 365 is proposed.

Where underground storage is proposed, the seasonal high groundwater table must be greater than 1m below the sub-base for total and partial infiltration systems; and must be below the geotextile membrane liner for no infiltration systems. Systems must also not be allowed to infiltrate in areas where there is a high risk of contamination, sealed systems (use of an impermeable geotextile membrane) may be used in these areas for treatment and attenuation purposes prior to discharge to another system. We ask that further consideration be given to these parameters.

Please note that site-specific details regarding permeability, depth to ground water and risk of

contamination will be required with the detailed design which must demonstrate that the structural design of the proposed geo-cellular units and any other underground storage is to be in accordance with relevant Standards in terms of structural integrity and operating efficiency. Further information can be found within the Structural Design of Modular Geocellular Tanks CIRIA C680 guide.

Conservation Officer

The current proposed development involves demolition of the hall & redevelopment comprising the erection of 19 dwellings (8 no. 4-bedroom, 3 no. 3-bedroom; & social housing- 4 no. 1-bedroom & 4 no. 2-bedroom) together with off-street parking, public open space, associated landscaping, private amenity garden space, car ports & a double garage for no. 37 High Road, adjoining the site to the south. The War Memorial, to the north of the Village Hall is to remain.

The proposed layout of the new dwellings, car ports & access road (so long as you are satisfied with the principle of this form & balance of development in wider planning policy & amenity matters) seems functional & efficient use of space, with some scope for interest (even *delight*), if carefully handled & no developer penny-pinching.

The key impact in terms of conservation area character & appearance is the road elevation & proposed enclosure created to the east side of High Road. The block of 4 dwellings- nos. 1- 4, the boundary wall around the garden of no. 4, the junction of the new access road & the flank wall of the garage for no. 37 are all important in the street scene & will require much further detailed design consideration, precise specification of materials & architectural detailing. The block of 4 houses relate well to the context, in terms of form & scale/ massing, & with thoughtful detailing (as yet not shown with submitted drawings & information) will be a positive feature in this part of the conservation area. The street scene drawings 1 & 2 are helpful in assessing likely impact/ harm but could have included a wider area of adjacent buildings/ sites for reference.

The proposed double garage to no. 37 (& proposed low garden wall) will be a prominent feature in High Road but is a dull blank flank wall. This looks uncomfortable in terms of scale/ bulk with the terrace of houses adjacent to the south. Further design input will be required. As submitted not acceptable.

There is the basis of a potentially acceptable, even decent, scheme here- but further input is required to raise

standard of design of buildings, landscaping & spaces to proper conservation area quality- at least on the prominent road frontage.

Archaeology

The proposed development is within the historic core of the settlement of Shillington (HER 17113), a heritage asset with archaeological interest as defined by the *National Planning Policy Framework*.

Shillington is first recorded in the 11th century in a land charter of 1060 AD and again in the Domesday Survey of 1086. This suggests that the settlement was well established by this time and had its origins earlier in the Saxon period. Shillington's history and development in the medieval period is complex and may have been polyfocal in form. An archaeological field evaluation of land on the south west corner of the proposed development site identified a number of features dated to the earlier medieval period and probably representing paddocks or other enclosures linked to the village settlement. Investigations in other villages in Central Bedfordshire such as Stotfold, Langford and Henlow have shown that archaeological remains of the earliest phases of settlement survive in this sort of location in relation to the existing village core.

The Archaeology Team identified a requirement for an archaeological field evaluation to be undertaken in order to identify the impact of the proposed development on archaeological remains and to conform to the requirement of paragraph 128 of the *NPPF* (CB/13/0301/PAPC). A report on an archaeological trial trench evaluation and a *Heritage Statement* (Archaeological Project Services, August 2015) has now been submitted by the applicant.

The evaluation identified a small number of archaeological features and the earthwork remains of ridge and furrow field system within the proposed development site. The ridge and furrow earthworks are part of the medieval open field system of Shillington. This sort of earthwork were once a very common feature of the Bedfordshire countryside and a major survival of the medieval agricultural landscape, but changes in agricultural practices since the middle of the 20th century have resulted in a loss of most of the earthworks to the point that less than 4% of the original stock of this class of monument now survives.

The buried archaeological features consist of a small number of linear features (ditches). One of them was dated to the medieval period on the basis of ceramic finds

from within its fill, it is suggested that the other undated features are likely date to the medieval period too. Their stratigraphic location, below and thus pre-dating, the surviving ridge and furrow earthworks, known to date from the medieval period would support this. These features probably represent land boundaries and trackways towards the edge of the contemporary settlement core. They bear some similarity to features identified in an archaeological evaluation of land immediately to the south although there is no evidence of the alluvial deposits encountered within that site; this is not wholly surprising as this site is further away from the small stream that is the source of the alluvial material.

The Heritage Statement suggests that the heritage assets, both buried archaeological deposits and ridge and furrow earthworks are susceptible to damage during groundworks associated with development the site. It also suggests that there is a permanent record of the earthworks and a partial record of the buried deposit. Whilst the evaluation report does contains a plan showing the earthworks it does no conform to the requirements for earthwork survey contained in *Understanding the Archaeology of Landscapes* (English Heritage 2007) and, therefore, cannot be considered to be an adequate and definitive record of the earthworks. Also although the evaluation has identified buried archaeological remains their full extent and character have not been defined nor has their relationship to the ridge and furrow been established. The changes in landuse represented by the transition between the activity represented by the ditches and the establishment of the open field system represented by the ridge and furrow is important in understanding the development of the medieval landscape and its relationship to the settlements within it.

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). The proposed development will have a negative and irreversible impact upon any surviving archaeological deposits and earthwork remains 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 and surveying and recording the surviving earthworks, the post-excavation analysis of any archive material generated and the publication of a report on the works. In order to secure this, please attach a condition to any permission granted in respect of this application.

Sustainable Officer Growth The proposed development should comply with the requirements of the development management policies DM1: Renewable Energy and DM2: Resource Efficiency. These policies have not been acknowledged in the Planning, Design and Access Statement.

Policy DM1 requires all new development of more than 10 dwellings to meet 10% energy demand from renewable or low carbon sources. The proposed development is above the policy threshold and therefore all dwellings should have 10% of their energy demand sources from renewable or low carbon sources.

Policy DM2 requires all new residential development to meet CfSH Level 3. 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.

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.

Should permission be granted for this development I would expect the following conditions to be attached to ensure that policy DM1 and DM2 requirements are met:

- 10% energy demand of the development to be delivered from renewable or low carbon sources;
- Water efficiency to achieve water standard of 110 litres (including 5 litres for external use) per person per day.

Housing Officer Development I would expect to see at least 35% affordable housing or 7 affordable homes of mixed tenures of 63% Affordable Rent and 37% Intermediate Tenure as per the Strategic Housing Market Assessment, this equates to 5 units for Affordable Rent and 2 units of Intermediate Tenure/Shared Ownership. I would like to see the units dispersed (pepper-potted) throughout the site and

integrated with the market housing to promote community cohesion & tenure blindness. I would also expect all units to meet at the very minimum meet all HCA design and quality standards.

However this application is to provide 8 units of affordable housing and this is acceptable as it provides more affordable housing. If 8 units are provided I would like to see 5 units for affordable rent and 3 units for Intermediate Tenure. If my comments were taken into account I would support this scheme.

Pollution Officer

No objections in principle with this development subject to a noise condition being applied to any granted permission.

Other Representations:

Neighbours

7 letters have been received, 5 raising objection and 2 providing comments. The following issues are raised:

- Concerns over access location opposite an existing access and concerns over increased on street parking to High Road.
- Majority of existing dwellings do not have off road parking and the already overwhelmed with dwellings, businesses and vehicles.
- Provision for pedestrian crossing in a location and questions marks as to how this affects parking needs.
- Proposed detached garage at no. 37 is on the soakaway for the adjacent cottages.
- Development is on Greenfield Land and outside the Village Envelope.
- Disturbance to residents during construction.
- Overlooking and noise impacts to existing dwellings.
- Confirmation required that the proposed parking spaces for the existing cottages are allocated as such.
- Confirmation required that alleyway to the rear of the terrace on the High Road will not be used by new residents as a footpath.
- Concerns over village infrastructure being able to cope with the increased population.
- Concerns raised over the loss habitat within a historic native hedge in the meadow.

Determining Issues:

1. The Principle of Development
2. The Loss of a Community Facility
3. Impact on the Character of the Area
4. Impact on Neighbouring Amenity
5. Impact on Parking and the Highway
6. Other Issues

Considerations

1. The Principle of Development

- 1.1 The proposal is contrary to development plan policy. The majority of the site lies outside the settlement envelope and is therefore not a site that is considered appropriate for residential development in policy terms. However in this instance material considerations are that the application is submitted alongside another separate scheme in the village for a new community facility at the Memorial Playing Fields. This application, ref: CB/15/02104/FULL, is also on this agenda. The delivery of this residential scheme would result in various funding sources that would go towards the delivery of the proposed community facility for the village. A principal funding amount will be provided through the applicant, Rowan Homes, by way of redirected profit and S106 monies from the housing development. Furthermore the purchase of the land for the residential application generates funding that will also be used to deliver this project.
- 1.2 Therefore the justification for the proposed residential development is that it would provide the majority of funding for the delivery of the new community facility which will be provided by the applicants. The report for CB/15/02104/FULL recommends to Members that the new facility should be regarded as an enhanced offering for the village and therefore it is considered in this instance that the residential development will facilitate the delivery of the community hall, the delivery of which would be secured through S106 agreement, and therefore can be considered acceptable in principle as an exception.

2. The Loss of a Community Facility

- 2.1 The proposal does result in the loss of an existing village hall. The direct consequence is that there is a loss of community facility as a result of the proposal. However, as detailed above, there is a separate application for a new community facility in a different location within the village. While not on the High Road the new site is accessible to the rest of the village and the accompanying application on this agenda is recommended for approval. Therefore in principle it is considered that in this instance, a loss of community facility is acceptable on the site and ultimately the development will enable the delivery of an enhanced facility elsewhere.
- 2.2 The existing village hall would have to be demolished to allow the construction of the dwellings proposed. It would potentially mean that there is a period where the existing village hall is gone and the new facility, if approved, is not complete. In order to ensure that the new hall is delivered on the basis of the justification for this residential scheme it will be necessary to secure the monies referred to in 1.1 through a S106 agreement.

3. Impact on the Character of the Area

- 3.1 The development of the site amounts to an intrusion of development into the open countryside. As previously advised this can be considered acceptable in this instance. The impact of the development is minimised by the site boundaries aligning to the existing field boundary which is strongly defined by existing planting. The development would read as a minor extension to the village envelope but is of a scale that it is likely that it would integrate into the existing village successfully.
- 3.2 The proposed residential development has been amended since its original submission to take account of comments from the case officer in relation to the design detail. The scheme proposes 4 dwellings facing High Road which will have the largest impact on the streetscene. These units are also located in the Conservation Area. The amended plans have sought to improve the detailing of these units to result in a higher quality dwelling that sits comfortably in the Conservation Area. The boundary arrangements have also been altered to increase garden sizes in line with the Council's Design Guide recommendations.
- 3.3 Within the development itself a number of units were re-sited to provide larger gaps between the properties which gave less of a cramped character. The amendments also saw the alteration of units to provide a stronger streetscene. The amendments to the new residential development are considered to, holistically, result in an improved layout which has less of an impact on the character of the area.
- 3.4 The proposed garage for No 37 High Road has been amended due to concerns over its bulk in the streetscene. The amended plans have reduced its scale to reflect the form of the roof pitch of the adjacent cottages and while it is still a prominent feature in the street it is not considered not be a harmful impact and is considered to address the comments raised by the Conservation Officer. There are garages at the front of sites elsewhere on High Road. The change of use of land is also considered acceptable as it is a track that sits between two residential properties that would become redundant as a result of this scheme. Incorporating it into an existing residential curtilage is considered to be the best use for it.
- 3.5 In terms of the impact on the Conservation Area, the removal of the existing village hall is not considered to have an adverse impact on this character and appearance. The new dwellings have been amended to improve their design and it is considered that this could be a positive addition to this heritage area. The entrance to the residential development itself is low density and relatively spacious which would sit comfortably in the context of the conservation area. The entrance is likely to be subject to strong boundary features and it is therefore considered necessary to condition the approval of such details to ensure appropriate boundaries are established from a heritage context.
- 3.6 The proposed development is considered acceptable in principle and while it is acknowledged that it would materially alter the character of the area the impact is such that it would not do so to a harmful extent and therefore no objection is raised on the grounds of this impact.

4. Impact on Neighbouring Amenity

- 4.1 There are existing neighbouring properties immediately adjacent to the site to the north and western side. The scheme has been designed to ensure there is no direct overlooking or loss of light issues to any existing neighbouring property. Concerns have been received from the occupier of No 33a to the north of the site on these grounds. While the presence of built form will affect the perception of amenity it is not considered to be a detrimental impact. The common boundary can be strengthened and improved to further reduce any impact and this can be secured by condition. The scheme is therefore not considered to harm existing neighbouring amenity to the extent that the impact is detrimental.
- 4.2 Plot 13 has a fairly close relationship with the existing dwellings to the west but the only first floor window proposed on the affecting elevation is a bathroom window which means there would be no direct overlooking. To a similar extent Plot 14 has a close relationship with the existing courtyard development to the west. The nature of the layout is such that the rear elevation of this property faces these existing dwellings. At first floor level there will be three windows facing this neighbour, all of which serve proposed bedrooms. These windows will look towards the existing neighbouring dwelling which has a single ground floor window affected and the associated garden area up to the common boundary. It is acknowledged that the Design Guide seeks to achieve a window to window distance of 21 metres between properties but in this instance it is considered that there is suitable distance left to ensure there would be no detrimental impact from overlooking. It is noted that the relationship will be close and would be more overbearing than the existing situation. Boundary planting would mitigate this impact and a landscaping scheme for the whole site should include this within the proposal. Similarly there is also a close relationship between Plots 16-18 and this same neighbour however it is noted that these proposed units are bungalows and therefore would not create a direct overlooking impact and would not be considered overbearing either.
- 4.3 In terms of the provision of amenity for new occupiers the amended scheme has addressed previously raised concerns over the relationship between Plots 14 and 15. The amendments have allowed for a suitable sized garden for Plot 15 which is no longer subject to an overbearing impact from 14. The dwellings are considered to provide appropriate garden sizes with the majority reaching the recommended depth. Where there is a shortfall it is not considered to result in a neighbouring amenity impact and therefore no harm occurs.

5. Impact on Parking and the Highway

- 5.1 The new access has been considered and no objections have been raised by the Highway Officer. It is therefore regarded as safe and functional. The concerns raised by neighbours over increased traffic and parking are noted however the access arrangement is such that it is not considered that there would be a harmful impact.
- 5.2 In terms of parking on the development each unit has been provide with appropriate parking both in terms of the number of spaces and the dimensions of space. On this basis it is not thought that there would be a resultant pressure for on-street parking on the High Road as a result of the scheme.
- 5.3 Furthermore the proposal provides nine parking spaces for existing cottages at

37a – 53 High Road. Currently these nine cottages have no off street parking and park on High Road. The scheme gives each cottage a parking space which is an improvement over the existing situation and would contribute to a potential reduction in cars on High Road.

- 5.4 The proposed access and parking arrangements are considered to be acceptable and can potentially contribute to a reduction of vehicles parked on High Road. It is considered that there is no harm to highway safety as a result of this scheme.

6. Other Issues

6.1 Delivery

The provision of the previously mentioned Community Facility will be financed through a number of sources. A principal funding amount will be provided through the applicant, Rowan Homes, by way of redirected profit and S106 monies from a housing development on the edge of Shillington. Furthermore the sale of the land for the residential application generates funding that will also be used to deliver this project. This application for the new community facility is also on the Committee agenda (CB/15/02104/FULL) with a recommendation for approval.

- 6.2 To ensure that the community facility is delivered as proposed it is necessary to secure this through a S106 agreement that requires the applicant to provide the hall within an appropriate timeframe or trigger and the recommendation reflects this.

6.3 S106 Contributions

The Council's Education Officers have provided comments relating to the impacts of the proposed housing on the education infrastructure and have requested a number of contributions to offset the impact.

The requested amounts are as follows:

Middle	£34,781.76
Upper	£42,651.65
Total	£77,433.41

The contributions will form part of the proposed S106 discussion and will take account of the viability of the scheme in light of the community benefits it is providing and the scale of the development proposed in light of the CIL Regulations pertaining to the number of times a project can request contributions. Members will be updated on this in the forthcoming late sheet.

6.4 Surface Water Drainage

Concern was raised on the grounds of drainage impacts from the new garage and increased curtilage of No 37. Currently the guttering from the adjacent cottages takes rainwater to this track to soakaway and this is potentially affected through the development of the proposed double garage. A conditions requiring the approval of surface water drainage details has been included in the recommendation and an informative can also be included to specifically raise the need for these details to take account of the impacts from the works and change of use at No 37 to ensure a suitable solution is reached.

6.5 Human Rights and Equality Issues

Based on the information submitted there are no known issues raised in the context of Human Rights/equalities Act 2010 and as such there would be no relevant implications with this proposal.

Recommendation:

That Planning Permission be granted subject to the completion of a S106 agreement and 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 No works on the construction of the dwellings hereby approved shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To control the appearance of the building in the interests of the visual amenities of the locality.

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

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

- 4 **Notwithstanding the details in the approved plans, no development shall take place until 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 scheme shall include the retention of the existing hedgerow planting on the boundaries of the site and shall propose additional plantain to strengthen these boundaries. 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.

- 5 None of the dwellings hereby approved shall be occupied until a scheme has been submitted for approval in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected which shall include acoustic fencing on the western boundary of the site. The boundary treatment shall be completed in accordance with the approved scheme before the buildings are occupied and be thereafter retained.

Reason: To safeguard the amenities of the neighbouring occupants and the future occupiers of the buildings.

- 6 **No development shall take place until details have been submitted to and approved in writing by the Local Planning Authority of a Construction Traffic Management Plan which details access arrangements for construction vehicles, on-site parking and loading and unloading areas, materials storage areas and wheel cleaning facilities. The construction of the development hereby approved shall then be carried out in accordance with the approved details.**

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

- 7 The development shall not be occupied or brought into use until the parking scheme shown on Drawing No. 12494 200 F has been completed. The scheme shall thereafter be retained for this purpose.

Reason: To ensure provision for car parking clear of the highway.
(Policy 27, DSCB)

- 8 **No development shall take place unless and until the following have been submitted to and approved in writing by the Local Planning Authority:**

a) A Phase 1 Desk Study incorporating a site walkover, site history, maps and all further features of industry best practice relating to potential contamination.

b) Where shown to be necessary by the Phase 1 Desk Study, a Phase 2 Site Investigation report further documenting the ground conditions of the site with regard to potential contamination, incorporating appropriate soils and gas sampling.

c) Where shown to be necessary by the Phase 2 Desk Study, a Phase 3 detailed scheme for remedial works and measures to be taken to

mitigate any risks to human health, groundwater and the wider environment.

Any works which form part of the Phase 3 scheme approved by the local authority shall be completed in full before any permitted building is occupied. The effectiveness of any scheme shall be demonstrated to the Local Planning Authority by means of a validation report (to incorporate photographs, material transport tickets and validation sampling), unless an alternative period is approved in writing by the Authority. Any such validation should include responses to any unexpected contamination discovered during works.

The British Standard for Topsoil, BS 3882:2007, specifies requirements for topsoils that are moved or traded and should be adhered to.

Applicants are reminded that, should groundwater or surface water courses be at risk of contamination during or after development, the Environment Agency should be approached for approval of measures to protect water resources separately, unless an Agency condition already forms part of this permission.

Reason: The details are required prior to commencement to protect human health and the environment in accordance with policy DM3 of the Core Strategy and Development Management Policies (2009).

- 9 None of the dwellings hereby approved shall be occupied until all access and junction arrangements serving the development have been completed in accordance with the approved plans and all other existing access points within the highway frontage of the site have been stopped-up by raising the existing dropped kerb and reinstating the footway to the same line, level and detail as the adjoining footway.

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

- 10 **No development shall take place until a written scheme of archaeological investigation; that 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 archaeological scheme.**

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 affected as a consequence of the development and to make the record of this work publicly available.

- 11 **Prior to the commencement of development a scheme setting out measures for protecting all trees, shrubs and other natural features during construction work shall be submitted to and approved in writing by the Local Planning Authority. No work shall commence on site until all trees, shrubs and features to be protected are fenced with 2.3 high weldmesh fencing securely mounted on standard scaffolding poles**

driven firmly in the ground in accordance with BS 5837:2005;

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

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

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

- 12 No development on the dwellings hereby approved shall take place until details have been submitted to and approved in writing by the Local Planning Authority showing how renewable and low energy sources would generate 10% of the energy needs of the development and also showing water efficiency measures achieving 110 litres per person per day. The works shall then be carried out in accordance with the approved details.

Reason: In the interests of sustainability.

- 13 **Notwithstanding the details in the approved plans, no development shall take place until the detailed design and associated management and maintenance plan for the proposed surface water drainage for the site, based on sustainable principles and a detailed site specific assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design and shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.**

Reason: To ensure the approved system will function to a satisfactory minimum standard of operation for the lifetime of the development.

- 14 Before the new accesses are first brought into use, any existing access within the frontage of the land to be developed, not incorporated in the highway works approved under any reserved matters application shall be closed in a manner to the Local Planning Authority's written approval.

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

- 15 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans,

numbers 12494 200 F, 12494 201, 12494 202 A, 12494 203 B, 12494 205, 12494 208, 12494 209 A, 12494 100, 12494 101, 12494 102 p1, 12494 103, 12494 104, 12494 105 and 12494 106 A.

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

Notes to Applicant

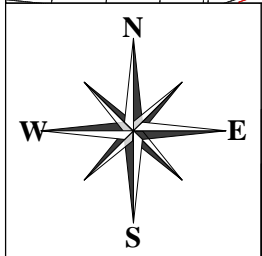
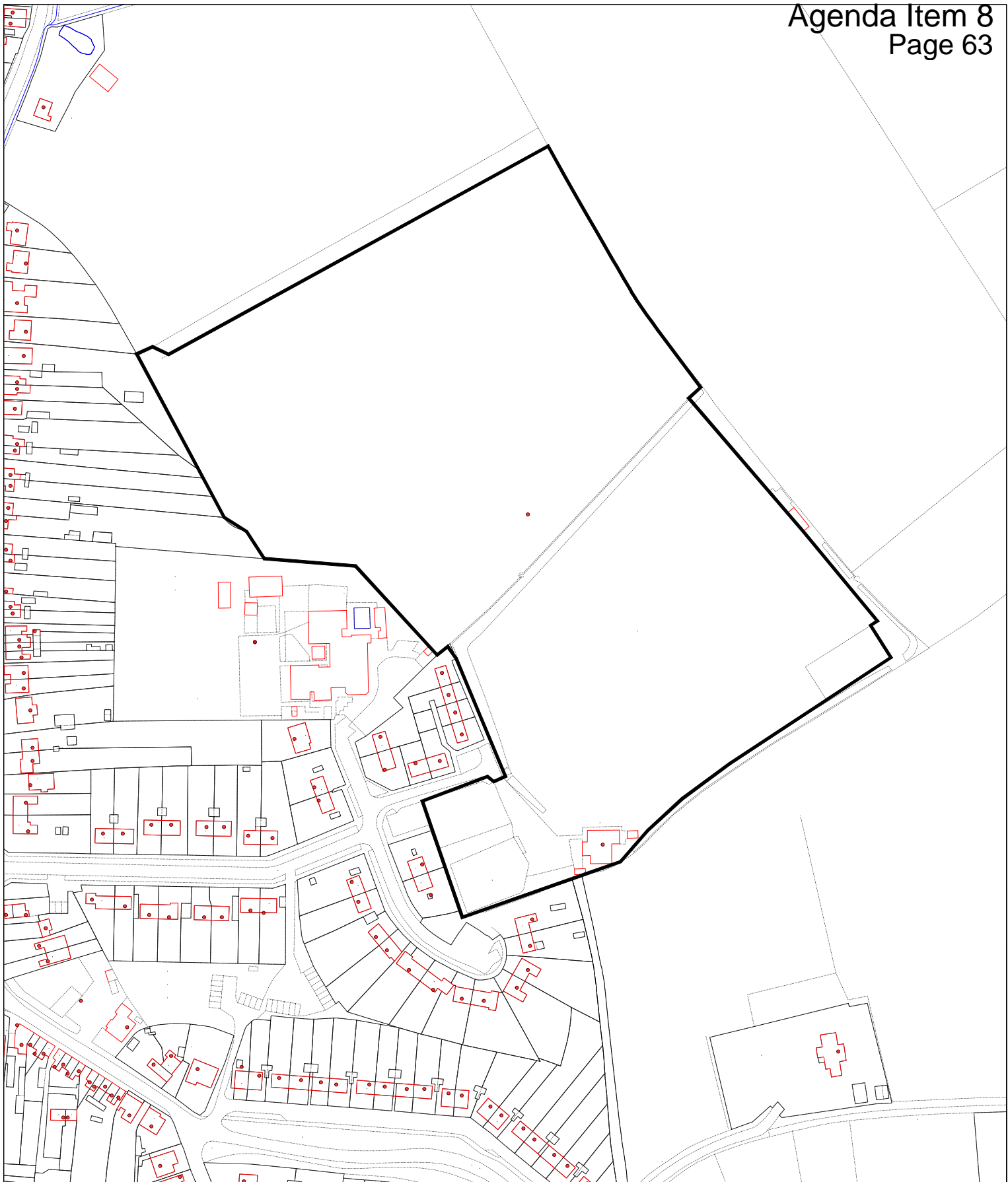
1. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.
2. Applicant is advised to note that the requirements of surface water drainage proposals in condition 13 should include proposals that take account of the enlarged curtilage area of No 37 High Road and the approved garage to be constructed.

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. Discussion with the applicant to seek an acceptable solution took place regarding the design of 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) Order 2015.

DECISION

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



© Crown Copyright. All rights reserved.
Central Bedfordshire Council
Licence No. 100049029 (2009)
Date: 27:October:2015
Map Sheet No

Application No.
CB/15/02104/FULL

Scale: 1:2500

Land at Memorial Playing Field, Greenfields, Shillington, Hitchin,
SG5 3NX

This page is intentionally left blank

Item No. 08

APPLICATION NUMBER	CB/15/02104/FULL
LOCATION	Land at Memorial Playing Field, Greenfields, Shillington, Hitchin, SG5 3NX
PROPOSAL	Demolition of existing club house and construction of a purpose-built community facility together with associated car parking. Relocation of existing storage container.
PARISH	Shillington
WARD	Silsoe & Shillington
WARD COUNCILLORS	Cllr Ms Graham
CASE OFFICER	Alex Harrison
DATE REGISTERED	18 June 2015
EXPIRY DATE	13 August 2015
APPLICANT	Rowan Homes & Shillington Village Hall (Charity No. 3000656)
AGENT	Optimis Consulting
REASON FOR COMMITTEE TO DETERMINE	The application is linked to CB/15/02102/FULL also on this agenda, which is a scheme recommended for approval as an exception to policy due to the funding link between that scheme and this proposal.
RECOMMENDED DECISION	Full application – Approval recommended

Reason for recommendation.

The proposal provides an enhanced community facility in a recreation location closely associated with the existing village. The design is larger than the existing facility but not considered to have a harmful impact on the character of the area. Appropriate conditions are proposed to ensure that the development will not harm neighbouring amenity. The development increases the parking in the area and is suitably access using the existing arrangement. The loss of open space is noted but considered acceptable in this instance given the gains of the development overall.

Site Location:

The application site lies within the existing Memorial Playing Field and is an area of public open space. The playing fields sit partly within the designated settlement envelope and partly outside and the location of the proposal is within the envelope.

There is an existing pavilion located on the playing fields at the southern extent of the site which sits close to an existing car park and play area. Vehicular access to the site is obtained through the adjacent residential area, via Greenfields.

The Application:

Full planning permission is sought for the demolition of the existing pavilion and the construction of a new community facility with associated parking. The proposed facility will be located further east within the site and will provide approximately 790

square metres of floor space and will provide a multi-functional hall, meeting space, changing room facilities, a bar and Parish Council Office.

The application is proposed alongside a separate application for full planning permission (CB/15/02102/FULL) for 19 dwellings on a site largely outside of the settlement envelope, adjacent the edge of the village. The applications are linked in that the profits made from the residential scheme will be used to fund the construction of this proposed facility. This accompanying application is also on the agenda.

RELEVANT POLICIES:

National Planning Policy Framework (NPPF) (March 2012)

Core Strategy and Development Management Policies - North 2009

CS1 – Development Strategy.

CS3 – Healthy and Sustainable Communities.

CS14 – High Quality Development

DM3 – High Quality Development

DM4 – Development Within and Beyond Settlement Envelopes.

DM5 – Important Open Space within Settlement Envelopes.

Emerging 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 issued judicial review proceedings on the 12th March 2015 against the Inspector's findings. At the Council's Executive Committee on 6th October 2015, Members agreed to recommend to Full Council (19th November 2015) that the Development Strategy be withdrawn and to discontinue legal proceedings. Once withdrawn no weight should be attached to the Development Strategy. However, its preparation was based on and supported by a substantial volume of evidence studies gathered over a number of years. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our web site as material considerations which may inform future development management decisions.

Supplementary Planning Guidance/Other Documents

Central Bedfordshire Design Guide (March 2014)

Relevant Planning History:

None

Consultees:

Shillington Parish Support the application
Council.

Highways This proposal has been the subject of pre-application discussion and the contents of the Design and Access

Statement together with the Transport Statement accurately reflect the highways position. As such I can confirm that there is no fundamental highway objection to the proposal. The site is located within the village, easily accessible by foot, cycle and car. The vehicle access arrangements together with the on-site parking proposals are satisfactory.

Trees and Landscape

Prior to the application being received there was some discussion regarding tree issues on the site, these primarily related to trees on the south east boundary some of which are covered by Tree Preservation Order, this includes the mature tree located close to the existing club building that is to be demolished. Because of its proximity and the potential for damage to the structure of the tree including roots during the demolition phase including removal of existing foundations/hardstanding we have asked for a BS5837 2012 Tree Survey and Arboricultural Impact Assessment (AIA) to be supplied with regards to trees along this part of the south east boundary. This will include the trees in the vicinity of the new parking area.

Any new service lines and soakaways are to avoid root protection areas of trees to be retained.

Details will be required with regards to additional planting and landscaping.

Leisure Services

- The Planning, Access and Design Statement list the Leisure Strategy Chapter 1: Leisure Facilities Strategy in relation to local needs. This is irrelevant to this application as Chapter 1 deals with indoor sport and leisure facilities i.e. leisure centres as none of the relevant facilities are to be provided in the proposed community hall/changing pavilion.
- There is no objection in principle to the provision of a new changing facility to serve the outdoor sports facilities. The existing building is old and offers poor quality facilities. The combining of changing and community facilities can offer benefits to both activities and enable the facility to be more financially viable.
- The consultation with the Football Association in the design of this facility is noted however, the application does not identify if the facility has been designed in accordance with Sport England or FA guidance.
- The opportunity to include other sports such as cricket, netball and tennis is welcome. Further clarity/information is needed to show if cricket facilities

are currently provided, are needed in the future and whether it is planned that they will be provided. The plans show a potential overlap with mini football which would not be appropriate.

- Sport England's comments raise a number of issues with regard to clarity and sufficiency of information and I would support these. The various plans submitted are somewhat contradictory and the information requested by SE re existing and proposes pitch sizes etc. would help resolve where pitches may be lost.
- The application does not provide a plan of the proposed community centre. This is vital in determining both the adequacy of the sports facilities and the community uses.
- The plans show a number of 'possible' locations for pitches and a MUGA. Clarification is needed as to whether it is proposed to remove the tennis courts and replace them with a MUGA.
- There are 2 locations for the play area, one proposed and one possible. Again clarification is required on where/what is proposed and whether the existing equipment can safely be relocated.

Sport England

Raised a holding objection stating:

Existing Playing Pitch Layouts: From the plans provided there is uncertainty about what existing winter playing pitch layout is correct. The existing site layout shows a football pitch in the area where the community hall is proposed but the site location plan does not show a pitch in this location. It is therefore unclear whether there is a football pitch currently marked out in this area. Clarity on this matter is therefore requested and whichever plan is inaccurate should be amended accordingly. It would be helpful if all plans showing existing pitch layouts could show the dimensions of the pitches to aid comparison with the proposed pitch layouts. This information is requested to allow an informed assessment to be made of the impact of the proposals on existing playing pitches.

2. **Football Pitch Impact:** The existing site layout plan shows that the proposed community hall would displace a football pitch and the proposed site layout indicates that 3 possible football pitches

of different sizes could be marked out on the field to the west presumably to mitigate this. First, it would be helpful if the dimensions of the existing and proposed football pitches were provided to allow comparison and if applicable an explanation is provided of why smaller pitches are proposed on the field to the west. Second, it should be clarified what the status of the 'possible' football pitches are as if they are proposed to mitigate the displaced pitch then Sport England would expect them to be provided as part of the planning application. Third, it should be clarified whether the areas proposed for the possible football pitches are areas that have already been constructed for playing pitch use (i.e. levelled, drained and with a suitable surface) or whether this is proposed as part of the application. These areas could only be used for playing pitches if appropriate ground works have been undertaken. Fourth, if the areas proposed for possible pitches require ground works to be undertaken, clarity is requested of whether a feasibility study has been or will be undertaken to assess the works required to convert the areas to playing pitch use. This information is requested to allow an informed assessment to be made of the impact of the proposals on football pitch provision and the acceptability of the mitigation measures.

- 3. Cricket Pitch Proposals:** Clarity is requested of whether existing natural turf cricket pitches are sited on the playing field as it is unclear from the existing site plan and aerial photos. Clarity is also requested of the status of the proposed cricket pitches as it is unclear whether a cricket square and outfield are proposed as part of the planning application or whether the plans are indicative to show that a pitch could be provided at a later date if required. If a pitch is proposed to be provided, it is queried whether it is actually proposed that the cricket square and mini football pitch would overlap in practice (as a suitable quality cricket square would need to be safeguarded for cricket use) and what the distance from the wickets to the outfield boundary would be as it would appear to be smaller than required for meeting ECB guidance for both senior and junior cricket grounds. Details of any consultation with the local cricket club and the Beds County Cricket Board would be welcomed as the statement of community involvement does not refer to consultations with cricket stakeholders about the proposals. This information is requested to allow an informed assessment to be made of the

proposals for cricket provision.

4. **Community Centre Floor Plan and Sections/Elevations:** A floor plan of the proposed community centre together with sections and elevations. This information has not been provided with the planning application. This information is requested to allow an informed assessment to be made of the design and layout of the changing facilities and community hall (in terms of its suitability for indoor sport).
5. **Sport Related Benefits of the Community Centre:** Further details of the sport related benefits of the proposed community centre facilities as while reference is made to the changing facilities replacing the existing changing pavilion which is in a state of disrepair, it is unclear what the deficiencies are and how the new facilities would address these problems and meet the current needs of local sports clubs. Also, how would a community hall designed for indoor sport address local needs? This information is requested to allow an informed assessment to be made of the community sports benefits of the facilities which would assist with assessing the proposals against exception E5 of the above policy;

Following the submission of amended plans the holding objection has been withdrawn and no objections raised.

Internal Drainage Board Had no comments to make

Ecology I have read through the submitted documents and would have no objections to the proposal. Ecological enhancements are proposed which include the provision of an area of wildflower grassland which is welcomed. Any additional planting of trees or shrubs should use locally native species which are nectar or berry rich where possible.

The ecological appraisal notes potential bat and bird interest on the site and as such I would wish to see a condition on any planning permission granted which requires the retention of the ash tree adjacent to the existing club house building. This should be safeguarded throughout the construction works and operational phase of the build as it contains a known bat roost. A root protection area should be established and all construction works should be undertaken during daylight hours to prevent harm or disturbance to bats.

For the same reason I would wish to see the following condition added to require a lighting strategy;

A lighting strategy for biodiversity will be produced for the sports pitches and community building *and* be submitted to and approved in writing by the local planning authority.

The strategy shall:

a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and

b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

I would also seek to add an informative regarding timing of works to buildings or vegetation clearance to ensure this avoids the bird nesting season of March to August inclusive.

Sustainable
Drainage Officer

Urban

We consider that planning permission could be granted to the proposed development and the final design, sizing and maintenance of the surface water system agreed at the detailed design stage prior to any development taking place on site.

We therefore recommend conditions be applied as recommended below. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

Although we are satisfied at this stage that the proposed development could be allowed in principle, the applicant will need to provide further information to ensure that the proposed development can go ahead without posing an unacceptable flood risk to the development and surrounding area, in accordance with section 103, 104 and 109 of the NPPF.

Rights of Way Officer

The building does not obstruct the PROW and therefore I have no objections.

Pollution Officer I have no objections to the proposed redevelopment of the site in principal. However the applicant has failed to provide details on how they are going to control noise and odour from the use of the development and how they are going to protect the neighbouring residential occupiers from its use.

In the context of the planning history at the site the proposal is considered to be acceptable subject to the imposition of the following conditions stated below. They will require the submission of additional information and schemes for the subsequent discharge.

Community Safety Had no comments to make.
Officer

Other Representations:

Neighbours 2 letters have been received. One raising objection, the other providing comments. The issues raised are as follows:

- The location is fine for the sports facilities but less so for other community activities. This would be a very large structure in a rural setting but we have little information regarding materials. The proposed elevations show mainly blank walls with some, what could be vertical cladding, and possibly a tiled roof. Red brick walls and tiled roofs should predominate.
- The floor plan shows a demountable stage with no provision for curtains or entrances to left and right or designated changing rooms. The absence of such provision significantly diminishes its value as a Community building.
- The building design does not appear to provide any measures to minimise vandalism, often a problem around this isolated area.
- Access is a major cause of concern to vehicles that approach along Greenfields, which also provides access to Shillington Lower School. The proposal will result in increased parking problems in the immediate area and beyond.

Determining Issues:

1. The Principle of Development
2. The Impact on Sports Pitch Provision
3. The Impact on the Character of the Area.
4. The Impact on Neighbouring Residential Amenity.
5. The Impact on Parking and the Highway.

Considerations

1. The Principle of Development

- 1.1 While the playing fields are partly within and partly outside the settlement envelope, the area on which the built development is located lies within the settlement envelope and for planning purposes does not amount to development in the open countryside. The area of the proposed development is part of a designated area of important open space. Policy DM5 is therefore pertinent which states that the Council will refuse proposals that amount to a loss in open space and an adverse impact on either its visual or functional value. In addressing redevelopment proposals the policy states that applications will only be considered favourably where proposals would result in an enhanced provision in functional terms, where there are exceptional circumstances resulting in overall community benefit or where there would be no adverse effect on the visual quality of the settlement.
- 1.2 It is considered that this proposal can be considered as a redevelopment project as the existing hall will make way for the proposed. It is not argued, neither it is considered, that there is a shortfall in community facilities to the extent that exceptional circumstances should be considered but it is felt that the proposal would result in an enhanced provision over the existing facilities and against the backdrop of the existing village, will not result in a visual detractor. The provision of recreational and community facilities are considered to be acceptable in principle.

2. The Impact on Important Open Space and Sports Pitch Provision

- 2.1 The enlargement of the parking and provision of new building result in a loss of the Important Open Space and playing field area. In considering policy DM5 it is considered that the proposal can be regarded as an enhancement of facilities through a redevelopment project. In this instance the loss of important open space is noted but not considered to be to the detriment of the larger space itself. The scheme as a whole is considered to be an enhancement to the facilities on the site which will potentially increase the number of visitors and participants to the site.
- 2.2 With regards to sports pitch provision the current playing fields are used for team sports but site visits have indicated that it is not intensively so. Sport England initially raised a holding objection on the grounds stated in the consultation section. Following discussions with the applicant and the submission of a revised pitch layout drawing the objection has been withdrawn. The proposal is considered to provide an enhanced sporting provision with larger and improved changing room facilities within the hall.
- 2.3 The comments from the Leisure Officer supported the previous objection from Sport England. No further comments have been received and it is assumed that the revised comments from Sport England are now also endorsed.
- 2.4 The Leisure Officer raises queries relating to clarity over a potential multi use games area (MUGA) and relocation of the play area within the playing fields. The MUGA as shown on the plans is considered to be illustrative only. The application does not include the provision of such a surface and therefore its location is not a consideration. The applicant will be advised on the decision notice that this consent, should it be granted does not give permission for the

installation of a MUGA, which requires planning permission in its own right.

- 2.5 In terms of the play equipment this is to be relocated due to the extended car park as proposed. The playing fields are within the red line area and the equipment is an existing provision. It is therefore considered reasonable to obtain the clarification for the relocation via condition should planning permission be granted. Therefore it should be noted that this application will need to consider the relocation of the play equipment as a matter of principle but not the provision of a MUGA.
- 2.6 The proposed provision of the community facility is considered to be an acceptable redevelopment scheme that provides an enhanced sporting provision in the area and no objection is therefore raised on the loss of open space that is of consequence.

3. The Impact on the Character of the Area.

- 3.1 The proposed building is functional in design. It provides a large footprint of community facility with the bulk of building successfully broken up through different roof structures. There is a principal double storey element which would house the main hall area and the rest of the floor space is provided in single storey elements. The existing facility is smaller and therefore has less of an impact but it is also functional in appearance. The enhanced provision that is brought about by the proposal does result in an increased prominence of building in this location. It is however not so prominent as to be regarded as harmful to the character and appearance of the area and the use of appropriate finishes and external materials would contribute to reducing the impact of the larger bulk.
- 3.2 The proposal results in the enlargement of the parking area at the southern part of the site, providing a total of 102 parking spaces overall. The increased area of hardstanding results in a need to relocate existing play equipment. The car park extension provides a harder character than existing however it would read as an ancillary aspect of the new hall and would not therefore be considered out of character with the development and would not be inappropriate in terms of how it sits in the character of the area itself.
- 3.3 The impact on the character and appearance of the area will be greater than the existing but not to the extent that it would be considered to be detrimental.

4. The Impact on Neighbouring Residential Amenity.

- 4.1 The principal consideration in terms of amenity would be from noise and disturbance from the new facility. The location further into the playing field increases the distance of the facility from the nearest dwellings. This should be considered against the enhanced provision providing better facilities for evening activities that could potentially be noisy. The Council's Pollution Officer did acknowledge that there were no details provided to demonstrate how noise impacts would be addressed but at the same time raised no objections. It is prudent therefore to consider that a solution regarding noise impact is achievable in principle and such details can be reserved by condition as part of the recommendation.

- 4.2 Noise impact concerns are also raised from other areas of the development, namely the proposed car park extension, fixed plant and equipment serving the building and the relocated MUGA. As previously mentioned the MUGA is indicatively shown and does not form part of this scheme. The recommendation from the Pollution Officer is that the impacts can be addressed through conditions.
- 4.3 The Pollution Officer has also referenced lack of information from proposed lighting as a result of the scheme. The scheme does not specifically detail lighting in the plans but it is fair to assume that such a development would come with a need or pressure to provide lighting at the building and car park area. Given the layout of the scheme as submitted it is likely that the most affected properties will be those on Greenfields immediately adjacent or directly facing the car park area, namely nos 21, 23, 29 and 31 odds as well as 22 – 40 evens. Light pollution could potentially have a detrimental effect on residential amenity (and the character of the area in this edge of village setting) and therefore it is also considered appropriate to condition a lighting scheme to ensure that an appropriate solution is approved from the outset.
- 4.3 The proposed scheme has the potential to impact on neighbouring residential amenity. However following consideration from the Pollution Officer it is considered that concerning impacts can be mitigated against through appropriate conditions and therefore no objection is raised in this respect.

5. The Impact on Parking and the Highway.

- 5.1 The impact of the scheme in terms of sports participation is unlikely to be different from the existing situation as these are existing pitches. The proposal will provide more parking spaces for visitors to the playing fields and therefore at peak times there is a reduced risk of vehicles parking on street at Greenfields due to a lack of parking currently.
- 5.2 The Highways Officer has reviewed the proposal and raised no objections to the scheme and therefore access arrangements and increased parking numbers are considered to be acceptable.
- 5.3 Moving away from the private car, the location of the site is such that it is considered to be well linked to the village and accessible by both foot and cycle. The scheme provides space for 48 cycle parking spaces appropriately located adjacent the building.
- 5.4 The proposal is therefore not considered to have a detrimental impact on the highway and makes provision for cycle parking as well.

6. Other Considerations

6.1 Ecology

The Ecologist raises no objection and wishes to see an existing ash tree retained due to potential for birds and bats. The layout plan shows this and rather than secure this by condition it is reasonable to encompass its retention as part of the wider landscaping requirement for the project.

6.2 Delivery

The provision of the Community Facility will be financed through a number of

sources. A Principal funding amount will be provided through the applicant, Rowan Homes, by way of redirected profit and S106 monies from a housing development on the edge of Shillington. Furthermore the sale of the land for the residential application generates funding that will also be used to deliver this project by the applicant of that residential scheme. This application is also on the Committee agenda (CB/15/02102/FULL) with a recommendation for approval.

6.3 Internal layout

Concerns are raised over the nature of the stage arrangement at the proposed hall. The specifics of an internal arrangement such as this is not a planning consideration

Recommendation:

That Planning Permission is 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 No development relating to the construction of the community facility shall take place, notwithstanding the details submitted with the application, until details of the materials to be used for the external walls and roofs of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

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

- 3 Notwithstanding the details in the approved plans, the community facility hereby approved shall be brought into use until 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.

- 4 **No development shall take place until a until details have been submitted to and approved in writing by the Local Planning authority of a scheme for the detailed design of surface water disposal along with associated management and maintenance, incorporating sustainable principles wherever appropriate. The works shall then be carried out in accordance with approved details.**

Reason: To ensure that the surface water drainage system is sufficient to accommodate the impacts of the development hereby approved.

- 5 The community facility hereby approved shall not be occupied until all on-site vehicular areas have been surfaced in tarmacadam or other bound material. Arrangements shall be made for surface water drainage from the site to soak away within the site so that it does not discharge into the highway or into the main drainage system.

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

- 6 **No development shall take place until an Environmental Construction Management Plan detailing access arrangements for construction vehicles, on-site parking, loading and unloading areas, materials storage areas and wheel cleaning arrangements shall be submitted to and approved in writing by the Local Planning Authority. The construction of the development shall be carried out in accordance with the approved Environmental Construction Management Plan.**

Reason: In the interest of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Policy DM3 of the Core Strategy and Development Management Policies 2009.

- 7 The development hereby approved shall not be brought into use until details have been submitted to and approved in writing by the Local Planning Authority of a proposed lighting scheme and impact assessment for the building and car park area hereby approved which is devised to eliminate any detrimental effect caused by obtrusive light from the development on the neighbouring residential occupiers and considers biodiversity implications in accordance with informative 2. The scheme shall be prepared by a suitably qualified lighting engineer in accordance with the relevant publications and standards. The works shall be carried out in accordance with the approved details and thereafter be retained.

Reason: To protect the neighbouring residential occupiers from any adverse impact from the lights arising from the use of the premises.

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

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

- 9 The kitchen ventilation system approved in accordance with condition 8 above, together with any other 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 quality) when measured or calculated according to BS4142:2014, at the boundary of any neighbouring residential dwelling. The applicant shall clearly demonstrate that noise from the installed plant achieves the required noise standard, prior to the use hereby permitted commencing.

Reason: To protect neighbouring residents from any adverse impact from noise arising from the kitchen extract ventilation system and other external plant on the premises.

- 10 **No development shall take place until a detailed scheme of noise mitigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable for the implementation of the approved measures. The proposal shall be carried out in accordance with the approved timetable and mitigation scheme and the required measures maintained thereafter.**

Reason: To ensure development hereby approved is mitigated against noise impacts on neighbouring residential properties.

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

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

the greater;

- **for other natural features along a line to be approved in writing by the Local Planning Authority.**

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

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

- 12 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 12495 01, 12495 02, 12495 03 Rev E, 12495 04, 12495 05, 12495 07 and UNV-LIG-5000-STD-1.00 (C).

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. Applicant is advised to note that, in producing the proposed lighting scheme as required by condition 7, the following biodiversity considerations should be taken into account and reflected in the scheme:
 - a) identification of areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
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.

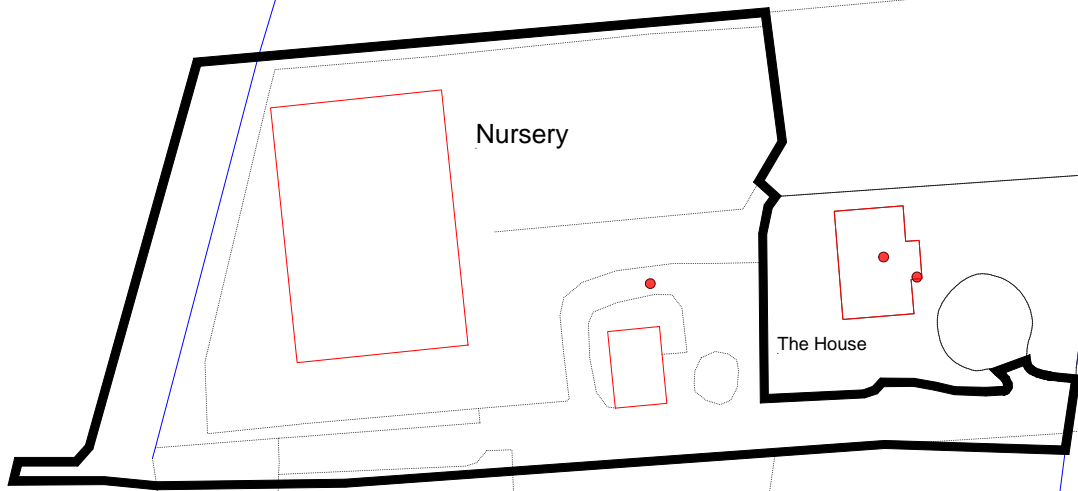
4. The applicant is advised that no highway surface water drainage system designed as part of a new development, will be allowed to enter any existing highway surface water drainage system without the applicant providing evidence that the existing system has sufficient capacity to account for any highway run off generated by that development. Existing highway surface water drainage systems may be improved at the developers expense to account for extra surface water generated. Any improvements must be approved by the Development Control Group, Development Management Division, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford SG17 5TQ.

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

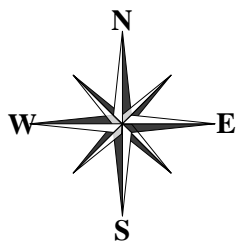
It is recommended that planning permission be granted for this proposal. Discussion with the applicant to seek an acceptable solution took place regarding sports pitch layout. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) Order 2015.

DECISION

.....
.....



26.7m



© Crown Copyright. All rights reserved.
Central Bedfordshire Council
Licence No. 100049029 (2009)

Date: 27:October:2015

Map Sheet No

Application No.
CB/15/03228/OUT

Scale: 1:1250

Chalkcroft Nursery, The Ridgeway, Moggerhanger, Bedford, MK44 3PH

This page is intentionally left blank

Item No. 09

APPLICATION NUMBER	CB/15/03228/OUT
LOCATION	Chalkcroft Nursery, The Ridgeway, Moggerhanger, Bedford, MK44 3PH
PROPOSAL	Outline Application: change of use from nursery to residential and the demolition of the existing nursery buildings and the construction of 9 dwellings, car parking and associated works.
PARISH	Moggerhanger
WARD	Northill
WARD COUNCILLORS	Cllr Mr Firth
CASE OFFICER	Samantha Boyd
DATE REGISTERED	27 August 2015
EXPIRY DATE	22 October 2015
APPLICANT	Mrs E Aldridge
AGENT	Clarke & Whalen Architects Ltd.
REASON FOR COMMITTEE TO DETERMINE	Cllr Call-in - Cllr Firth. Will provide all weather footpaths that connect to the west of Blunham Road and the footpath running past The Ridgeway Business Park to the River Ivel. The footpath will also provide a direct safe route to any villagers working at The Ridgeway Business Park and DS Smith.
RECOMMENDED DECISION	Outline Application - Refusal recommended

Reason for recommendation:

The proposal for residential development located in the open countryside and in a remote location is considered to be unsustainable development which would also result in harm to the character and appearance of the rural area by introducing a cluster of new dwellings in an area which is rural in nature. The proposal is therefore contrary to Policy DM3 of the Core Strategy and Development Management Policies Document (2009) and the NPPF.

Site Location:

The site comprises land known as Asterby and Chalkcroft Nursery. On the site there is an existing bungalow, polytunnels and outbuildings associated with the existing horticultural business that operates from the site. The existing access is taken from The Ridgeway.

The site is located within the open countryside between Blunham and Moggerhanger. The area is predominantly open farmland however nearby there are commercial uses at The Ridgeway Business Park and former Abbey Corrugated unit.

The Application:

Outline consent is sought for the demolition of the existing nursery buildings and poly tunnels and the construction of 9 dwellings with car parking and associated works with all matters reserved except access and layout.

The 9 dwellings comprise 1 x 2 bed house, 6 x 3 bed houses and 2 x 4 bed houses with the indicative appearance of traditional barns surrounding a large courtyard.

The application also includes three dwellings for affordable housing, a new footway/cycle path across the fields in the applicants ownership linking the development to Blunham road in Moggerhanger, and a £50,000 contribution towards the new village hall car park.

RELEVANT POLICIES:

National Planning Policy Framework (NPPF) (March 2012)

Core Strategy and Development Management Policies - North 2009

DM3 High Quality Development
DM4 Development within and Beyond Settlement Envelopes

Emerging 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 issued judicial review proceedings on the 12th March 2015 against the Inspectors findings. At the Council’s Executive Committee on 6th October 2015, Members agreed to recommend to Full Council (19th November 2015) that the Development Strategy be withdrawn and to discontinue legal proceedings. Once withdrawn no weight should be attached to the Development Strategy. However, its preparation was based on and supported by a substantial volume of evidence studies gathered over a number of years. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our web site as material considerations which may inform future development management decisions.

Supplementary Planning Guidance/Other Documents

Central Bedfordshire Design Guide (March 2014)

Relevant Planning History:

Case Reference	CB/10/04346/FULL
Location	Asterby, Chalkcroft Nursery, The Ridgeway, Moggerhanger, Bedford, MK44 3PH
Proposal	Full: Change of use for part of retail nursery to garden centre
Decision	Full Application - Refused
Decision Date	08/02/2011

Case Reference	CB/10/00060/FULL
Location	Asterby, Chalkcroft Nursery, The Ridgeway, Blunham, Bedford,

	MK44 3PH
Proposal	Full: Change of use from retail nursery to retail nursery, garden centre and farm shop
Decision	Full Application - Refused
Decision Date	12/03/2010

Case Reference	MB/97/00431/FULL
Location	Chalkcroft Nursery, The Ridgeway, Moggerhanger, Chalton, MK44 3PH
Proposal	FULL: CHANGE OF USE OF LAND TO FORM PADDOCK ENCLOSURE. ERECTION OF DONKEY SHELTER AND POLYTUNNEL FOR USE AS PLANT SALES AREA. (RETROSPECTIVE).
Decision	Full Application - Granted
Decision Date	25/04/1997

Case reference	MB/95/01528/Full
Location	Chalkcroft Nursery, The Ridgeway, Moggerhanger, Chalton, MK44 3PH
Proposal	FULL: FOUR TRANSPARENT POLYTUNNELS (RETROSPECTIVE)
Decision	Full Application - Granted
Decision Date	16/01/1996

Case Reference	MB/95/00457/FULL
Location	Chalkcroft Nursery, The Ridgeway, Moggerhanger, Chalton, MK44 3PH
Proposal	FULL: ERECTION OF SHOW CONSERVATORY (RETROSPECTIVE)
Decision	Full Application - Refused
Decision Date	23/05/1995

Case Reference	MB/95/00029/FULL
Location	Chalkcroft Nursery, The Ridgeway, Moggerhanger, Chalton, MK44 3PH
Proposal	FULL: SITING OF MOBILE HOME FOR NURSERY MANAGER
Decision	Full Application - Refused
Decision Date	14/03/1995

Location	Chalkcroft Nursery, The Ridgeway, Moggerhanger, Chalton, MK44 3PH
Proposal	ADVERTISEMENT: IDENTIFICATION SIGN
Decision	Advertisement - Granted
Decision Date	23/01/1981

Case Reference	MB/79/00449/FULL
Location	Land On The South Side Of, Blunham Road, Moggerhanger
Proposal	11,000 VOLT OVERHEAD LINE
Decision	Full Application - Granted
Decision Date	31/05/1979

Decision Date	07/01/1975
---------------	------------

Consultees:

Moggerhanger Parish Council Approve the proposals

Other Representations:

8 Neighbours

Comments in support of application

54a, 56 Park road
Moggerhanger

3, 7, Blunham Road

55a Bedford Road
Moggerhanger

14 Park Lane Blunham

Asterby Nursery, The
Ridgeway, Blunham
(The applicant)

Room2, Block D,
Holland Drive
Newcastle upon Tyne

Summary of comments

- support application for redevelopment of brownfield land,
- application has many community benefits,
- existing business is not viable,
- Small development will not adversely affect area,
- no nearby houses would be impacted,
- will help with housing needs,
- will not be putting strain on existing sewerage as in other parts of the village, Water supply will be coming from Blunham,
- the development is attractive
- a new footpath/cycleway will be provided.
- will be beneficial to Village Hall,
- benefit to wider community,
- there is already good screening on the site,
- it will not impact on existing Anglian Water services,
- development rear of the Guinea was approved and is outside settlement,
- there is already commercial development in this area,
- A community focused development providing new facilities for new and existing residents and not the developer alone.

4 Neighbour Objections

The Ridgeway Blunham
Station Masters
Cottage, Old Station
Court, Blunham.

25 Chapel Field, Great
Barford.

24 Blunham Road
Moggerhanger

Summary of comments

- development is inappropriate,
- site is remote and isolated from amenities,
- site outside settlement envelope and in countryside,
- will have an impact on the rural area,
- public transport is very restricted,
- no mention of the proposed use for the 20+ acres of farmland already owned by applicant,
- Ridgeway is already an overused narrow road,
- Existing congestion from Ridgeway Business Park and Andersons Transport - this development will add to.
- could set a precedent and allow the village to be extended further
- may affect right of access to fields beyond

Highways

As you will be aware from my comments made at the pre-

application stage the fundamental highway issue with development of this site for residential purposes is the remote location and complete lack of proximity to local services and facilities and sustainable transport. This is not a sustainable location as defined by NPPF and should not be granted planning permission.

Nevertheless, if looking at the scheme from a compliance with standards viewpoint only there is no technical highway reason to object. Visibility from the proposed access can be achieved, albeit with some trimming of existing trees and hedgerow where they overhang the highway verge, traffic generation will not be significant and within the site ample room exists to provide a development that would be design guide compliant.

Tree and Landscape
Officer

Supplied with the application is a tree survey and tree protection plan. The survey identifies the hedge lines on the north and west boundaries to be retained and suggests that they should be reduced in height to 9 metres with the long term view that they may be removed at a later date once new tree planting has established on the west boundary. This would be a sensible proposal. The tree protection plan also identifies that tree protection fencing will be erected throughout development of the site. That fencing is to be in place as shown on the plan prior to any work on site. This hedge I assume will then be incorporated into individual garden boundaries, as such unless there is some agreement as to future management then each property owner will make their own decision as to how the hedges will be maintained.

I have no objections to what is proposed but we require details of additional planting for the site including the proposed new tree screening. It is not clear from the information supplied as to whether the intention is to include this tree screening at this present time or carry it out at some future date.

Housing Officer

I note from the submitted documentation the intention for the proposed 3 units of affordable housing is for the three units to be allocated to local people. As this application has not been submitted as a rural exception scheme the allocation of the affordable units would have to adhere to the general allocations policy and can not be guaranteed for those with a local connection. To ensure affordable housing was allocated to those with a local connection and in perpetuity the scheme would have to be submitted as a rural exception scheme where the Local Lettings

Policy would apply.

Ecology

I have read the submitted Ecological Appraisal and I am satisfied that the proposals would not have a detrimental effect on protected species. I welcome the proposed native hedge but note that the landscape strategy does not detail shrubs within the development area, ideally these should include nectar rich species such as lavender or hebe. In line with the NPPF the development should deliver a net gain for biodiversity and I would like to see the provision of 9 integrated bird/ bat boxes to be conditioned as a ratio of 1 per dwelling. These should be appropriately positioned according to Bat Conservation Trust guidelines

Strategic Landscape Officer

Landscape Character - Visual Impact -This is a proposal for nine houses on a nursery site where at present there is only one bungalow. I am concerned about the change of use to residential at this scale - it will create an outlying development which does not relate to the settlement pattern and sets a precedent and increased risk of infill on land to the north.

The site lies at the edge of the Marston Vale (area 5E) but is heavily influenced by the outlook to the Ouse Valley (area 4A) , with views to the riverside vegetation of the Upper Ivel. The actual setting of the Nursery is characteristic of the open vale landscape - level ground with wide open views and little landscape structure in the form of hedgerows. The bungalow is well screened by the roadside hedge and trees but the rear of the site is relatively open and the poly tunnels are clearly seen from Chalton and the A603 to the south. These structures are single storey and light coloured ; in my view the visual impact of residential development will be intrusive , although the design will minimise this in the views from Chalton. The conifer screening does largely contain views from the north and south but the evergreens detract from landscape character .If the site was to be approved I would prefer that these screens are removed at the outset to enable a more sympathetic scheme based on locally native trees and hedgerow shrubs to be established. The proposal to lower the height will result in an unattractive feature which will neither enhance the landscape or the new domestic setting.

In my view this development does conflict with landscape character - in an area at risk of increasing urban fringe pressure. The LCA Guidelines highlight the need to retain the character of the existing villages and the separation / traditional land use between them and introducing development in this rural location would be contrary to Policy 16. I am concerned about urbanising factors such

as the greater density of building and night time impact. However, the site is brownfield and I am concerned about the negative impact of a derelict site.

If the development is approved, by **condition** we would need a detailed landscape plan appropriate to the Ivel / Ouse valley area .I would like the submitted strategy to be revised to include the removal of the conifer screen , as this would be a benefit to landscape character. Enhancement with additional hedgerow planting , preferably to include the route of the proposed footpath would also benefit the location.

Sustainable
Dev/Climate Change

The proposed development is below threshold of 10 houses and therefore the development management policies DM1 and DM2 in regard sustainability and renewable energy standards do not apply. However, I would strongly recommend that the houses meet the policy requirements and achieve high energy and water efficiency standards: as far as possible deliver 10% of energy demand from renewable or low carbon sources and achieve water efficiency standard of 110 litres per person per day. These standards will reduce use of natural resources and also utility bills of future householders.

The developer should design dwellings with future climate changes in mind (e.g. increase in temperatures and rainfall insensitivity) and reduce risk of summer overheating and risk of flooding. I note that majority of homes have east-west orientation; westerly facing dwellings at most risk of summer overheating. I would encourage amending the layout to orientate as many dwellings as possible within 30 degrees from the south.

LDF Team	No comments received
Internal Drainage Board	No comments to make
Waste	No comments received
Pollution Team	No comments to make
British Gas Transco	No comments received
Gov. Pipeline & Storage System	No comments received
Rights of Way Officer	No comments received at time of writing report
Anglian Water	No comments received at time of writing report

Determining Issues:

1. The principle of the development
2. The impact on the character and appearance of the area
3. Affect on neighbouring amenity
4. Highway safety
5. Other considerations

Considerations

1. The principle of the development

- 1.1 The application site is located some distance from any Settlement Envelope as defined by the Development Plan Proposals Maps. It is therefore located within the open countryside where there is a presumption against new residential development in order to protect the open countryside.
- 1.2 The site is currently used for horticultural purposes and is open to the general public where they can purchase plants and ancillary gardening items such as compost. There are a number of poly tunnels, plant storage areas, small brick outbuildings, a parking area and the applicants bungalow located towards the front of the site. The site itself is well screened with mature conifer trees located along the boundaries.
- 1.3 Located between Moggerhanger and Blunham the site is not considered to be in a sustainable location for a development of 9 new dwellings. The site is remote from existing services within the nearby villages and the isolated nature of the site means that occupiers would be reliant on the car to reach everyday facilities and services. Public transport in this location is very limited. There is a Bedford-Sandy-Biggleswade bus however the bus stops in the centre of Moggerhanger, some distance from the application site and along main roads where there are no footpaths.
- 1.4 The proposal is considered to be contrary to Paragraph 55 of the National Planning Policy Framework which advises that Planning Authorities should avoid isolated dwellings in the open countryside. Furthermore paragraph 7 of the NPPF sets out the three dimensions of sustainable development as being, environmental, social and economical. In such a remote location, the proposal would result in environmental harm to the character and appearance of the rural area as a result of introducing residential development in such an isolated rural location, and given that future occupants would be reliant on the car to access local services.
- 1.5 In support of the proposal the applicant has put forward a number of reasons which they believe would outweigh the policy objection to the proposal; these are set out below.
- 1.6 Viability of the existing business
The applicant has submitted a viability assessment setting out the financial difficulties currently experienced by the existing business. The assessment sets out that horticulture is suffering a downturn and lists a number of similar businesses that have reported losses. It states that the business is not viable and requires significant capital injection to repair the existing buildings. However whilst the council tax for the residential property and the rateable value of the business has been included, there are no details of the actual accounts for the business over the last few years to demonstrate that the business is no longer profitable and viable. In any event the viability of the business would not justify an unsustainable development contrary to the NPPF.

Redevelopment of Horticultural sites

1.7 Policy DM12 supports the re-use and redevelopment of redundant horticultural and agricultural sites however the policy supports proposals for commercial developments on such sites provided the proposal is considered acceptable in terms of scale, layout, relationship with road network and neighbouring settlements, impact on existing nearby retail facilities and suitable access arrangements. The policy also requires that any redevelopment assimilates into the rural setting and is assessed against the Landscape Character Assessment. Proposals for redevelopment require evidence that agricultural, market gardening or horticultural use is not viable.

1.8 The proposal for residential redevelopment of the site is not compliant with Policy DM12 as the policy does not support the reuse of such sites for residential purposes.

Permitted Development Rights conversion of buildings to residential

1.9 The applicant states the existing buildings could be converted to residential use under the Permitted Development regime however there are a number of limitations and conditions set out by the relevant class of the General Permitted Development Order and the need to submit an application for Prior Approval to the Council where the application can be assessed for compliance. During the site visit it was noted that the majority of the buildings on the site are polytunnels and as such would not constitute a conversion without significant rebuilding and therefore it is very unlikely that the buildings would fall within the permitted development criteria. For this reason permitted development rights are not considered to be a reliable fall back position that could be considered relevant to this proposal.

Housing need and supply

1.10 The application proposed 9 dwellings, 3 of which would be Affordable Housing units. The proposal would meet the requirements of Policy CS7 which seeks to secure 35% Affordable Housing from developments of 4 or more dwellings.

1.11 As the proposal is not submitted as an Exception Scheme under Policy CS8, normal policy for affordable housing would apply and therefore the scheme would have to adhere to the general allocations policy and cannot be guaranteed for those with a local connection. Whilst there would be an overall benefit in the supply of affordable housing units, it would not be a benefit directly focused on the adjacent communities, or one which would outweigh the objections to the development.

1.12 In terms of the Council's 5 year housing supply, at the time of writing this report the Council cannot demonstrate a 5 year supply, therefore Policy DM4 is out of date as set out by Paragraph 14 of the NPPF. Paragraph 14 advises that where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

1.13 This proposal for residential development, particularly when the site is isolated and in an unsustainable location, would not provide a significant boost to the housing supply and therefore this issue alone would not be a sufficient reason to outweigh any other objections to the development. The adverse impacts in this case would demonstrably and significantly outweigh the benefits.

Community benefits

1.14 The applicant proposes a contribution of £50,000 towards the new car park at Moggerhanger Village Hall. However this contribution is not considered to be compliant with the tests set out in Regulation 122(2) of the CIL Regulation 2010 (as amended) in that it is not necessary to make the development acceptable in planning terms and it is not directly related to the development. The proposed contribution may be an aspiration of the Village Hall however it cannot be secured via the planning application and therefore cannot be considered as part of this proposal or as a benefit of the development. It therefore carries no weight.

1.15 The application also proposes a new cycle/footway link from the site to Blunham Road in nearby Moggerhanger. The footpath would cross open fields and provide a link to the nearby settlement. However no specific details have been put forward such as surfacing and lighting. In any case the footpath would be isolated and is quite a distance from Moggerhanger therefore it is difficult to see that it would be a significant benefit to the local community which would weigh materially in favour of the development.

1.16 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 (and Section 70 (2) of the Town and Country Planning Act 1990) requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case there are no material considerations which would outweigh the non compliance of the scheme with both national and local planning policy therefore the overall principle of the development is considered to be unacceptable.

2. The impact on the character and appearance of the area

2.1 The site lies at the edge of the Marston Vale (area 5E) but is heavily influenced by the outlook to the Ouse Valley (area 4A). The actual setting of the Nursery is characteristic of the open vale landscape - level ground with wide open views and little landscape structure in the form of hedgerows. The LCA Guidelines highlight the need to retain the character of the existing villages and the separation / traditional land use between them.

2.2 The existing bungalow is well screened by the roadside hedge and trees but the rear of the site is relatively open and the poly tunnels can be seen in the wider landscape and the A603 to the south. These structures are single storey and are a characteristic of the countryside. Their impact is not intrusive in the rural area.

2.3 The proposed dwellings, although designed to appear as agricultural buildings, would have a domesticated appearance of greater scale and site coverage than the existing buildings. The cluster of the dwelling would have the appearance of a remote, isolated estate of residential properties which is out of character with the surrounding agricultural landscape. It is acknowledged there are residential properties nearby, however the dwellings are individual properties, isolated and single storey in height.

2.4 The proposal is considered to result in harm to the overall character of the

countryside in this location which is not residential, particularly by introducing a group of dwellings such as this. The conifer screening would restrict views from the north and south but the evergreens detract from landscape character. The proposal includes lowering the height of the conifers however this will result in an unattractive feature which will neither enhance the landscape or the new domestic setting.

- 2.5 The proposal is considered to result in unacceptable harm to the character and appearance of the rural area by introducing residential development in an isolated and remote location and no circumstances have been put forward that would outweigh this harm. The proposal is therefore contrary to Policy DM3 of the Core Strategy and Development Management Policies Document which seeks to ensure that all new development respects the character and appearance of the area.

3. Affect on neighbouring amenity

- 3.1 Given the isolated location of the site, apart from the applicants own bungalow there are no neighbouring properties nearby that would be materially affected by the development.

4. Highway safety

- 4.1 The main highway issue with development of this site for residential purposes is the remote location and complete lack of proximity to local services and facilities and sustainable transport. This is not a sustainable location as defined by NPPF.
- 4.2 Nevertheless in terms of compliance with standards only there is no technical highway reason to object on a highway safety point of view. Visibility from the proposed access can be achieved, albeit with some trimming of existing trees and hedgerow where they overhang the highway verge, traffic generation will not be significant and within the site ample room exists for adequate parking provision.
- 4.3 Aside from the unsustainable location of the site, there are no highway objections to the scheme.

5. Other Considerations

- 5.1 There are no objections to the scheme from an ecology perspective provided provision is made for bat and bird boxes.
- 5.2 Planning Obligation Strategy
The Planning Obligation Strategies that have previously been used to inform the collection and negotiation of contributions can no longer be applied. From 6 April 2015 only site specific planning obligations can be negotiated until the adoption of the Central Bedfordshire Community Infrastructure Levy (CIL).
- 5.3 All contributions sought will need to comply with the three tests set out in the

Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) in that the contributions are -

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

5.4 Given the scale and location of the development no contributions towards specific projects will be sought from this development. As set out above the applicant's offer of £50,000 towards a new car park at the village hall is not a contribution that the Council can secure through this development as it would not comply with the above regulations.

5.5 Human Rights/Equalities Act

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

Recommendation:

That Planning Permission be refused for the following reasons:

RECOMMENDED CONDITIONS / REASONS

- 1 The proposal for residential development located in the open countryside and in a remote location is considered to be unsustainable development and therefore contrary to the aims and objectives of the National Planning Policy Framework which seeks to achieve sustainable development and avoid isolated homes in the countryside. Given the remote location of the site the proposal would also result in harm to the character and appearance of the rural area by introducing a cluster of new dwellings in an area which is rural in nature. The proposal is therefore contrary to Policy DM3 of the Core Strategy and Development Management Policies Document (2009).

Notes to Applicant

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

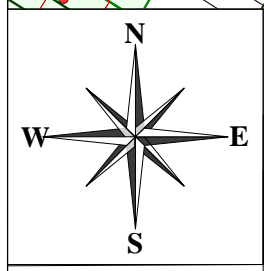
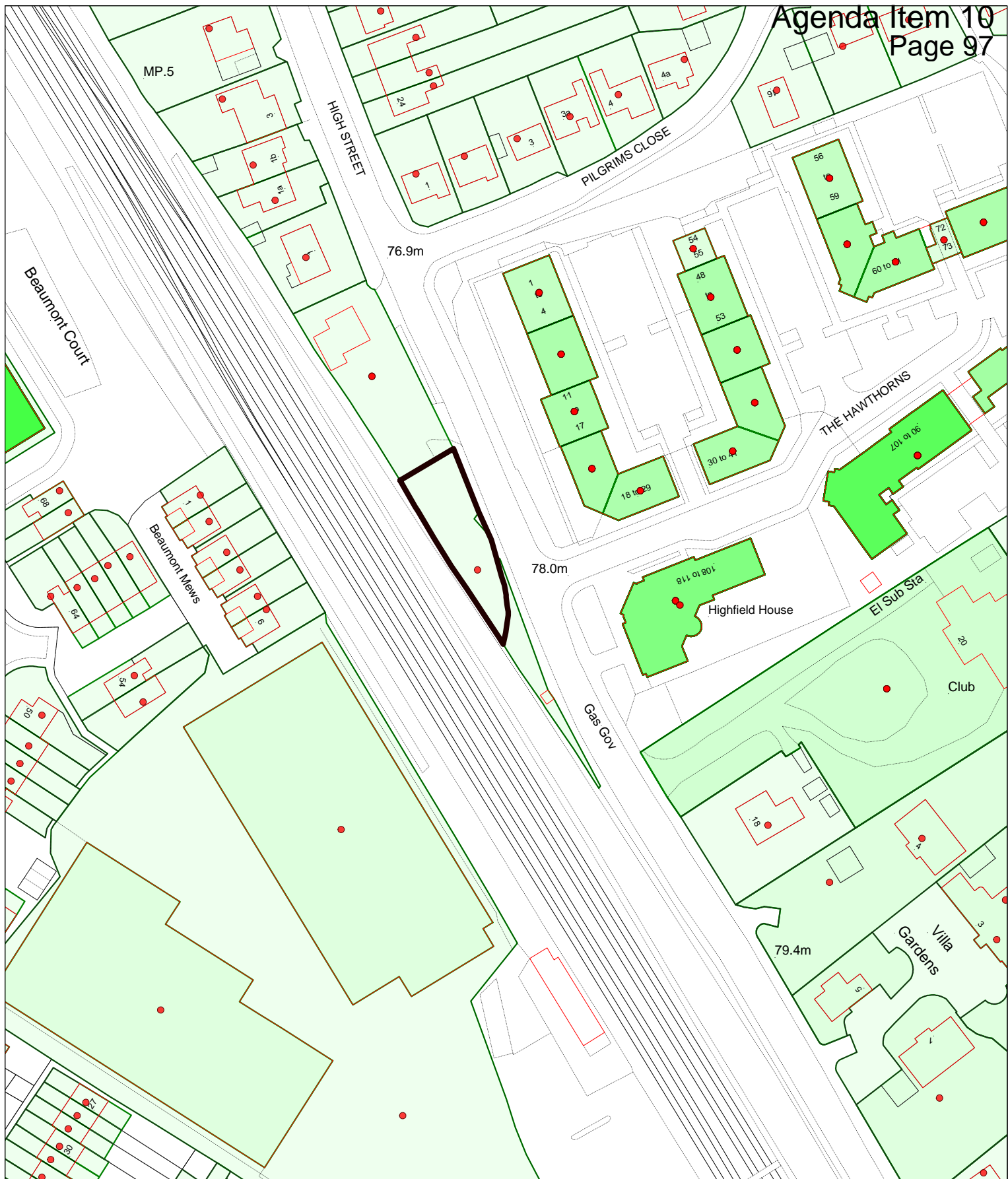
Refusal of planning permission is recommended. The Council acted pro-actively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The applicant was invited to withdraw the application to seek pre-application advice prior to any re-submission but did not agree to this. The Council has therefore acted pro-actively 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

.....

.....

This page is intentionally left blank



© Crown Copyright. All rights reserved.
 Central Bedfordshire Council
 Licence No. 100049029 (2009)
 Date: 27:October:2015
 Grid ref: 503263, 235256

Application no.
 CB/15/02248/FULL

Scale: 1:1250

Land adj. to Flitwick Filling Station, High street, Flitwick, Beds. MK45 1DU

This page is intentionally left blank

Item No. 10

APPLICATION NUMBER	CB/15/02248/FULL
LOCATION	Land adj. to Flitwick filling station, High Street, Flitwick, Beds. MK45 1DU
PROPOSAL	Residential development - 4 no. 1 bedroom apartments.
PARISH	Flitwick
WARD	Flitwick
WARD COUNCILLORS	Cllrs Mrs Chapman, Gomm & Turner
CASE OFFICER	Sarah Fortune
DATE REGISTERED	17 June 2015
EXPIRY DATE	12 August 2015
APPLICANT	Urban Fox Developments Ltd.
AGENT	Sherwood Architects Ltd
REASON FOR COMMITTEE TO DETERMINE	Called in by Councillor Andrew Turner for the following reasons: very small site overcrowded with four flats, does not fit in with local street scene, access to/from the site is difficult on a very busy road, inadequate parking and only one visitor parking allocated and no other available parking locally due to restrictions . Possible further issues from any potential residents objecting to business next door and industrial noise.
RECOMMENDED DECISION	Full Application - Recommend Approval

Summary of Recommendation

The site lies in the settlement envelope of the town of Flitwick which is identified as a Major Service Centre in the Core Strategy (2009). There are no objections to the principle of the erection of four no. one bedroom flats on this site, which would be located within close proximity to the Railway Station and local shops. The scheme as amended, is not considered to represent overdevelopment of the site, and the design and layout is in keeping with the character of the site and its surroundings. There are no highways objections, provided that conditions are attached to any permission, and no undue adverse impact on the amenities of neighbours. Potential noise issues can be mitigated by conditions. Issues raised by Network Rail are also to be addressed by conditions.

Site Location:

The application site is on a triangular shaped site adjacent to the railway line and the High Street within the town of Flitwick. The site is currently open scrub land that was formerly garden land and is adjacent to a commercial business which comprises of a former petrol station (known as Flitwick Filling Station) that is now being used as a van hire business and car wash facility. To the east is High Street (A5120) and to the west is the railway line - (the main north/south London Midland

railway.)

The Application:

Planning permission is sought for the erection of a two storey building comprising of four one bedroomed residential units. There is to be covered parking on the ground floor, bin store, bike store, entrance staircase and one residential unit and the first floor is to comprise of three apartments. Access to the site is to be off High Street. There is no access to the site at present.

RELEVANT POLICIES:

National Policy

National Planning Policy Framework (2012)

Section 6: Delivering a wide choice of quality homes.

Central Bedfordshire Councils Core Strategy and Development Management Policies 2009

- Policy CS1 Development Strategy
- Policy CS2 Developer Contributions
- Policy CS4 linking communities - Accessibility and transport
- Policy DM3 High quality development
- Policy DM4 Development Within and Beyond Settlement Envelopes
- Policy DM10 Housing Mix

Emerging 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 issued judicial review proceedings on the 12th March 2015 against the Inspector's findings. At the Council's Executive Committee on 6th October 2015, members agreed to recommend to Full Council (19th November 2015) that the Development Strategy be withdrawn and to discontinue legal proceedings. Once withdrawn no weight should be attached to the Development Strategy. However, its preparation was based on and supported by a substantial volume of evidence studies gathered over a number of years. These technical papers are consistent with the spirit of the

and therefore will remain on our web site as material considerations which may inform further development management decisions.

Policy 19	Planning Obligations and CIL
Policy 38	Development Within and Beyond Settlement Envelopes
Policy 43	High quality development

Supplementary Planning Guidance

Central Bedfordshire Councils Technical Guidance - *Design in Central Bedfordshire: A guide for development*

Planning History

CB/14/01336/FULL	Residential development comprising of 3 apartments: Withdrawn: 14/05/2014.
CB/14/ 02559/FULL	Residential development comprising of 3 apartments within a 3 storey block and the provision of car parking. Refused: 22/08/2014 Appeal Dismissed: 22/01/2015.

Representations: (Parish & Neighbours)

Flitwick Town Council Objects on grounds that would lead to overdevelopment of the site, there would be a lack of parking and poor manoeuvrability for the spaces that have been allocated, access/egress onto an already busy section of High Street, out of character with the street scene and the aesthetic views of the building from Steppingley Road. Also concerned that if this development is approved where would the building materials be stored during the building works and what would be the impact on neighbouring properties - not to mention traffic movement during this time.

Neighbours Occupier of Drivestyle objects on grounds that:

Represents overdevelopment of the site in conflict with local plan policies, overbearing and out of scale, other nearby properties are single storey and it will totally blank out our site and have an adverse impact on our business method statement A detailed method statement is required for the build process before planning is approved. Cannot see how Pile driving, deliveries to the site etc .. can be achieved without massive disruption to our business and the town. Most of the build can only be done from the footpath and highway.

Noise Acoustic assessment A revised acoustic assessment has not been submitted. Our operation is 7 days a week with more vacuum cleaners at week ends and peak periods and being placed much nearer to the proposed development. Would like a sound insulation scheme to allow for 24 hours industrial noise coming from our site and allow for equipment to be used anywhere on our site and not just the far corner. Mixing industrial with residential has always been problematical. Do not want our operation to be closed down because of noise complaints for future tenants of this development. Want reassurance that no noise complaints from future residents could be entertained and affect our business.

App Adv

Consultations/Publicity responses

Highways (CBC)	No objection subject to conditions
Public Protection (CBC)	No objection subject to condition
Network Rail	No objection - Recommends conditions
Highways England	No objection
Leisure Officer (CBC)	No comments
Waste Officer (CBC)	Bin storage will need to be able to accommodate 2 x 660 litre communal bins and be within 10 metres pull distance from the middle of the road to the bin store. Communal properties do not receive individual bins.

Determining Issues

The main considerations of the application are;

1. The principle of development
2. Impact of the proposal on the character and appearance of the surrounding area
3. Residential Amenity
4. Any other considerations

Considerations

1. The principle of development

- 1.1 A recent planning application for the erection of three apartments (parking at ground floor level, two one bed at first floor level and one two bed flat at second floor level) within a three storey block and the provision of car parking was refused on grounds that by reasons of its scale, layout and built form on this

triangular site it would result in a cramped and confined form of development appearing as overdevelopment of and out of character with the site and the surrounding area. This would have been in conflict with planning policies. (ref: CB/14/02559/Full). A subsequent appeal was dismissed on grounds that the development would have material harm to the character and appearance of the area by reason of its height, massing and context. The design was considered to be of poor quality. It would have been in conflict with planning policies in the Core Strategy and Development Management Planning Document dated 2009. There were no highways objections from the planning inspector. He did state that the proposals would make a small contribution to housing supply in an accessible location, would re-use vacant land, and contribute to the regeneration of the area and these matters weighed in favour of the proposal.

1.2

The Planning Inspector stated:

'The three storey appeal building would appear unduly prominent and as an isolated feature due to its height and massing on this side of the street. In particular from a northerly approach it would appear elevated at the brow of rising land next to low level buildings. There would be only a limited setback of the long elevation fronting High Street, between 1.5m and 3.5m, although there would be a narrow area of open space tapering to a point at the tip. Whilst the proposals would not appear unduly cramped, it would be out of context on the narrow strip of land in relation to other buildings and uses on this side of the street due to its height and massing.

1.3

I conclude that there would be material harm from the appeal proposal to the character and appearance of the area on account of its height, massing and context. In this respect, there would not be a high quality of design. There is conflict with the objectives of policies CS14 and DM3 of the Core Strategy and Development Management Policies. Policy CS14 requires development to be of the highest quality, and amongst other matters, to respect local context. Policy DM3 amongst others things requires new development to be appropriate in scale and design to the setting.'

1.4

The application site is within the settlement envelope for Flitwick. Flitwick is identified as a Major Service Centre in the Core Strategy and Development Management Policies for Central Bedfordshire (North). Policy DM4 of the same document states that new residential development commensurate with the scale of the settlement will be acceptable in principle subject to detailed planning considerations in terms of design, layout and scale. Policy CS4: 'Linking Communities - Accessibility and Transport' states that the Council will focus new development in locations which due to their convenient access to local facilities and public transport, promote sustainable travel patterns. Policy DM10 states that all new housing developments will provide for a mix of housing in terms of tenures and sizes in order to meet the needs of all sections of the local community.

1.5

The NPPF states in section 6 that housing applications should be considered in the context of the presumption in favour of sustainable development.

1.6

Whilst this site is only providing for one bed units aimed at single persons it is near to the railway station and other local facilities and will provide much needed accommodation in a sustainable location opposite other flatted development and will compliment the mix of housing accommodation being provided on other sites currently being developed for housing in Flitwick.

1.7

It is considered that the proposed development is therefore acceptable in policy terms/ principle. There is a current shortfall in housing supply and this site will help in a small way towards meeting the required housing provision and complies with the above policies.

1.8

The main issues are whether the site, siting and design of the proposed residential development is in keeping with the character of this part of the edge of the town centre of Flitwick, the residential amenity of future occupiers and the proposed access arrangements.

2. Impact of the proposal on the character and appearance of the surrounding area

2.1 The application site is a triangular plot of land between the railway line and the High Street within Flitwick. Adjacent to the site is a small commercial business. Opposite the site on the other side of the road is a mixed development with residential and shops/ small businesses on the frontage.

2.2 Given the shape of the site, the built development has been designed to make use of the available space within the site. There is very little space around the building to the north, west and eastern boundaries, with a small wedge shape of space at the tip of the site. Given this design and arrangement it is accepted that whilst the proposal does appear as being quite a dense form of development it would not be out of character with the local townscape. This is a town centre site very close to Flitwick Station and will provide much needed one bed roomed units in a sustainable location.

2.3 There have been a number of changes to the layout and design of the proposals since the previous application which was dismissed on appeal. In particular the development is now only two storeys in height with the parking, bin store, cycle parking and entrance staircases at ground floor level and one of the residential units - (whereas the previous one was for a three storey building having all the parking at ground floor level and the dwelling units above) This has allowed for the bulk of the building to have been reduced. The gable end fronts onto the High Street so a roof elevation will be seen and this breaks down the visual bulk. The proposed development has also taken on board components of the Hawthorns development on the other side of the site - notably in the use of gabled roofs, bay windows and half dormer windows. Brickwork and render are to be used with concrete flat slate style roof coverings. The revised plans also indicate that there are to be additional apertures and cladding on the High Street (front) elevation. This gives the building a more interesting appearance from the road frontage which will be of benefit of the wider street scene.

2.4 To the east of the site there are a series of apartments and retail units with some offices - and their scale is three storey. Immediately to the north there is one

single and two storey accommodation. It is therefore considered that the proposed two storey development will blend into this area which has at present no particular character.

- 2.5 It is considered that the scale of the proposed development will not appear as undue overdevelopment of the site and would be in compliance with Policies CS14 and DM3 of the Core Strategy and Development Management Planning Document dated 2009 and policies 4, 38 and 43 in the emerging Development Management Policies for Central Bedfordshire (North) in terms of being appropriate in scale and design to their setting.

3. Residential Amenity

- 3.1 There are no residential properties adjacent to the application site, with the High Street and railway line being the predominant features. There is a flatted development on the other side of High Street to the east but these flats are at a distance of over 22 metres at their closest. They will experience some loss of outlook and overlooking but not sufficient as to sustain an objection on these grounds. There are also dwellings on the other side of the railway line but these are at a distance of over 35 metres so there will be minimal loss of amenity to these occupiers by way of loss of outlook or overlooking.
- 3.2 There is a commercial business to the north called Drivestyle which incorporates a vehicle washing and hoovering facility and hires out vans. The owner of this facility has raised concern over the proposed residential development in terms of the noise impact on the proposed flats from this adjacent business use as well as from the railway line. Public Protection have commented on the application and advised that a condition should be attached to any permission which states that no occupation of the units shall take place until the applicant has demonstrated that the noise resulting from the railway and industrial uses does not exceed those specified in the Acoustics Report PJB7501/13423 dated June 2015. Thereafter any approved scheme shall be maintained in perpetuity. (The acoustic report attached to the permission presents a number of different options to meet noise criteria. The applicant can choose which one they wish to adopt but the key is that the applicant can demonstrate that the noise levels specified in the report can be achieved through post completion testing. The scheme that is adopted will then need to be specified in any post completion report and that scheme is the one which will need to be maintained thereafter).
- 3.3 The owners of Drivestyle next door to the site are concerned that the noise from the use of their vacuum cleaners at the site throughout the week will give rise to noise complaints from the occupants of the proposed flats. The environmental health officer has advised that he agrees with the findings of the acoustic assessment which concludes that conservatively, the predicted level will be below the ambient background and this meets the Council's standards and objectives in accordance with British Standard 4142. This standard is external to the proposed residential properties and therefore further attenuation will be provided by the structure of the properties themselves. Likewise the relevant facade of the proposed flats building which is next to Drivestyle has limited window apertures - the weak point in any structure - so there will be limited

opportunity for the transmission of noise through the structure.

- 3.4 There is a small area of communal land provided within the site at the tip of the plot, but the proposal does not provide any private amenity space for each flat. Whilst such private amenity space is desirable in this case these are small one bed flats not specifically designed for larger family accommodation. Also, the communal amenity space is very close to the road with a railway line to the immediate west so is not therefore a site where one would expect to sit outdoors.
- 3.5 On balance, it is considered that the proposed development would provide an acceptable level of amenity for likely future occupiers of such a development of one bed flats and therefore would be acceptable in terms of residential amenity.

4. Any other considerations

4.1 Highways

- 4.2 The access to the site has been altered from that provided for in the previously withdrawn application and is considered acceptable in highway terms. The applicant has submitted further drawings of site sections . The section drawing through the vehicle entry shows a normal dropped kerb arrangements on the footpath and a 1 in 10 gradient from the back of the footpath down into the site to the point where vehicles will pass under the structure and once into the underground car parking the slope reduces itself to 1 in 60 down towards the railway embankment. There is a shaded area on this plan which indicates where the land levels will need to be raised up to allow for these gradients to be achieved.
- 4.3 The Highways Officer has raised no objection to the proposed application in relation to the design and location of the access, manoeuvrability for cars within the site and parking provision subject to conditions being attached to any permission. She has also taken into consideration the location of the access onto a busy section of the road where there is a 30mph speed limit.
- 4.4 Communal refuse bins would be provided in the site within the covered parking area. There is no access on to the site for emergency vehicles but due to the public highway location fire fighting provisions are fully complied with to at least 50% of the external building envelope.
- 4.5 With regards to landscaping low level shrub plants have been provided on the site boundary fronting the High Street with a feature tree at the southern most point. The landscaping will be low maintenance and looked after by a management Company. The full details of landscaping are to be dealt with by way of conditions.

4.6 Unilateral Undertaking

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 development (10 dwellings or less, or 1'000 square metres of gross floor space). This a material consideration of significant weight to be taken in decision-making on planning applications.

- 4.7 However, significant weight should also be given to the NPPF which calls for the achievement of the three dimensions of sustainable development: economic, social and environmental. It is considered that policy 19 of the Submitted Development Strategy for Central Bedfordshire is in accordance with the NPPF. 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 there are no specific contributions that are required at this time for this development of four one bedroomed flats.
- 4.8 With regards to affordable housing this council is at present requiring 30% affordable housing on sites of four or more dwelling units. However, this application was submitted prior to the July 2015 challenge to the courts regarding the 10 number limit. In this case, however, the applicant advises that there are strong viability grounds as to why an affordable unit cannot be provided on this site. The applicant advises that the scheme will be costly to construct as it is next to the railway and incorpoates undercover parking. Also, no social landlord will want to take on a single bed unit in isolation.

4.9 **Human Rights Issues**

There are no relevant issues under the Human Rights Act

4.1 **Equality Act 2010**

There are no relevant issues under the Equality Act

Network Rail.

In view of the fact that the main line railway to London St Pancras runs to the immediate west of the site Network Rail have forwarded lengthy comments on the application. They have recommended that a number of conditions and Notes to the applicant be attached to any permission to ensure the safety operational needs and integrity of the railway. The applicant has also been liaising with Network Rail direct.

Recommendation

That Planning Permission be granted subject to the following conditions.

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 **No development shall take place, notwithstanding the details submitted with the application, until details of the materials to be used for the external walls and roofs of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.**

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

- 3 No occupation of the units hereby approved shall take place until the applicant has demonstrated that the noise resulting from the railway and industrial uses does not exceed those specified in the Acoustics report PJB7501/13423 dated June 2015. Thereafter the scheme shall be maintained thereafter.

Reason: To safeguard the amenities of occupiers of the dwelling units hereby permitted.

- 4 No building shall be occupied until the junction of the proposed vehicular access with the highway has been constructed in accordance with the approved details.

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

- 5 No dwelling shall be occupied until the widened footway has been constructed in accordance with details on the approved drawing no. 40. Any Statutory Undertakers equipment or street furniture shall be resited to provide an unobstructed footway. (See Note to applicant).

Reason: In the interest of road safety and pedestrian movement.

- 6 The proposed vehicular access shall be surfaced in bituminous or other similar durable materials as may be approved in writing by the Local Planning Authority for a distance of 5.0m into the site, measured from the highway boundary, before the premises are occupied. Arrangements shall be made for surface water drainage from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

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

- 7 Any gates provided shall open away for the highway and be set back a distance of at least 5.0m for the nearside edge of the carriageway of the adjoining highway.

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

- 8 The maximum gradient of the vehicular access shall be 10% (1 in 10).

Reason: In the interests of the safety of persons using the access and users of the highway.

- 9 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, or any amendments thereto, the parking provision inclusive of visitor parking on the site shall not be used for any purposes, other than as parking provision, 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.

- 10 The proposed development shall be carried out and completed in all respects in accordance with the access, siting and layout, pedestrian visibility splays, visibility splays and visitor parking layout both vehicular and bicycle, and refuse collection point illustrated on the approved drawing no. 40 and defined by this permission and notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, (or any Order revoking or re-enacting that order). There shall be no variation without the prior approval in writing of the Local Planning Authority. The vision splays shall for the perpetuity of the use of the access remain free of any obstruction to visibility. The cycle parking and refuse collection point shall thereafter be retained for these purposes.

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

- 11 **No development shall take place until details of any lighting to be erected on the site has been submitted to and approved in writing by the Local Planning Authority. The location and colour of the lights must not give rise to the potential for confusion with the signalling arrangements on the railway.**

Reason: To safeguard the safety, operational needs and integrity of the railway.

- 12 The applicant is advised that bin storage must be able to accommodate 2 x 660 litre communal bins and be within 10 metres pull distance from the middle of the road to the bin store. Communal properties do not receive individual bins.

Reason: To ensure satisfactory provision for storage of bins at the site.

- 13 **No development shall take place until 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 in the interest of the visual amenities of the area.

- 14 A scheme shall be submitted for approval in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. Security of the railway boundary will need to be maintained at all times. A suitable trespass proof fence shall be provided adjacent to Network Rail's boundary (minimum 1m high) and provision made for its future maintenance and renewal. The boundary treatment shall be completed in accordance with the approved scheme before the use hereby permitted is commenced and be retained thereafter.

Reason: To safeguard the appearance of the completed development and the railway and protect the visual amenities of the locality.
(Policy 43, DSCB)

- 15 **No development shall take place until details of the method of disposal of surface water drainage have been submitted to and agreed in writing by the Local Planning Authority, including any land drainage system. Thereafter no part of the development shall be occupied or brought into use until the approved drainage scheme has been implemented. All surface and foul water arising from the proposed works must be collected and diverted away from the adjacent railway. In the absence of detailed plans all soakaways must be located so as to discharge away from the railway infrastructure.**

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)

- 16 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 40/a, 41/a, 42, 43, 44, 45, 05.

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.
3. The applicant is advised that in order to comply with condition 5 of this permission it will be necessary for the developer of the site to enter into an agreement with Central Bedfordshire Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. Further details can be obtained from the 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 Traffic Management Group Highways and Transport Division, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford, Bedfordshire, SG17 5TQ.
5. 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".
6. Best practical means shall be taken at all times to ensure that all vehicles leaving the development site during construction of the development are in a

condition such as not emit dust or deposit mud, slurry or other debris on the highway, in particular efficient means shall be installed prior to commencement of the development and thereafter maintained and employed at all times during the construction of the development of cleaning the wheels of vehicles leaving the site.

7. All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, with 3.0m of overhead electrical equipment or supports.
8. All excavations/earthworks carried out in the vicinity of Network Rail property/structures must be designed and executed such that no interference with the integrity of that property/structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to the commencement of works, full details of excavations and earthworks to be carried out near the railway undertakers boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rail infrastructure or railway land.
9. Security of the railway's boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.
10. Once planning permission has been granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted: Asset Protection Project Manager, Network Rail (London North Eastern) Floor 2A, George Stephenson House, Toft Green, York YO1 6JT. (assetprotectionlne@networkrail.co.uk). The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.
11. Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to commencement of works and the works shall only be carried out in accordance with the approved method statement.

12. Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.
13. From the information supplied, it is not clear if any abnormal loads associated the construction of the site will be using routes that include any network Rail asset (e.g. bridges - in this instance particularly the bridge over Flitwick Railway Station). We would have serious reservations if during the construction operations of the site, abnormal loads will use routes that include Network Rail assets. Network Rail would request that the applicant contact our Asset Protection Manager to confirm that any proposed route is viable and to agree a strategy to protect our asset(s) from any potential damage caused by abnormal loads. I would like also to advise that where any damage, injury or delay to the rail network is caused by an abnormal load (related to the application site), the applicant or developer will incur full liability.
14. Consideration should be given to ensure that construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building shod be situated at least 2 metres of, from Networks Rail's boundary. This will allow construction and future maintenance to be carried out fro the applicants land, this reducing the probability of provision and costs or railway look-out protection, supervision and other facilities necessary when working for or on railway land. We note that provision for this requirement is made in the Design and Access Statement for this development.
15. The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposals onto network Rail land, no over-sailing into Network Rail air space and no encroachment of foundations onto network Rail land and soil. There must be no physical encroachment of any foundations onto network Rail Land. Any future maintenance must be conducted solely within the applicants' land ownership. Should the applicant require access to Network Rail land then he must seek approval from the Network Rail Asset Protection team. Any unauthorized access to network Rail land or air space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to network Rail land then they will be liable for all costs incurred in facilitating the proposal.
16. The applicant is advised that parking for contractors vehicles and the storage of materials associated with this development should take place within the site and not extend into and within the public highway without authorisation from the highways authority. If necessary the applicant is

advised to contact Central Bedfordshire Council's Highways help desk on 0300 300 8049. 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.

17. In view of the nature of the proposed developments there will be an increased risk of trespass to the railway. The Developer must provide a suitable trespass proof fence adjacent to network Rail's boundary (minimum approx 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing/wall must not be removed or damaged.

Reason: To ensure the safety, operational needs and integrity of the railway.

18. Method statements may require to be subjected to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Project Manager and are subject to minimum proper notice period for booking of 20 weeks. Generally if excavations/piling/buildings are not located within 10m of the railway boundary a method statement should be submitted for NR approval.

19.

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Network Rail must be involved in the approval of an landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved by Network Rail to ensure that it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are listed below:

Acceptable:

Birch (Betula), Crab Apple Malus Sylvestrix), Field Maple (Acer Campestre), Bird Cherry (Prinus Padus), Wild pear (Poyrs Communis), Fir Trees - Pines (pinus), Hawthorn (cretaegus), Mountain Ash - Whitebeams (Sorbus), False Acacdia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatat "Zebrina".

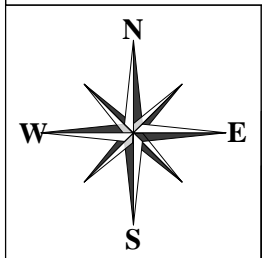
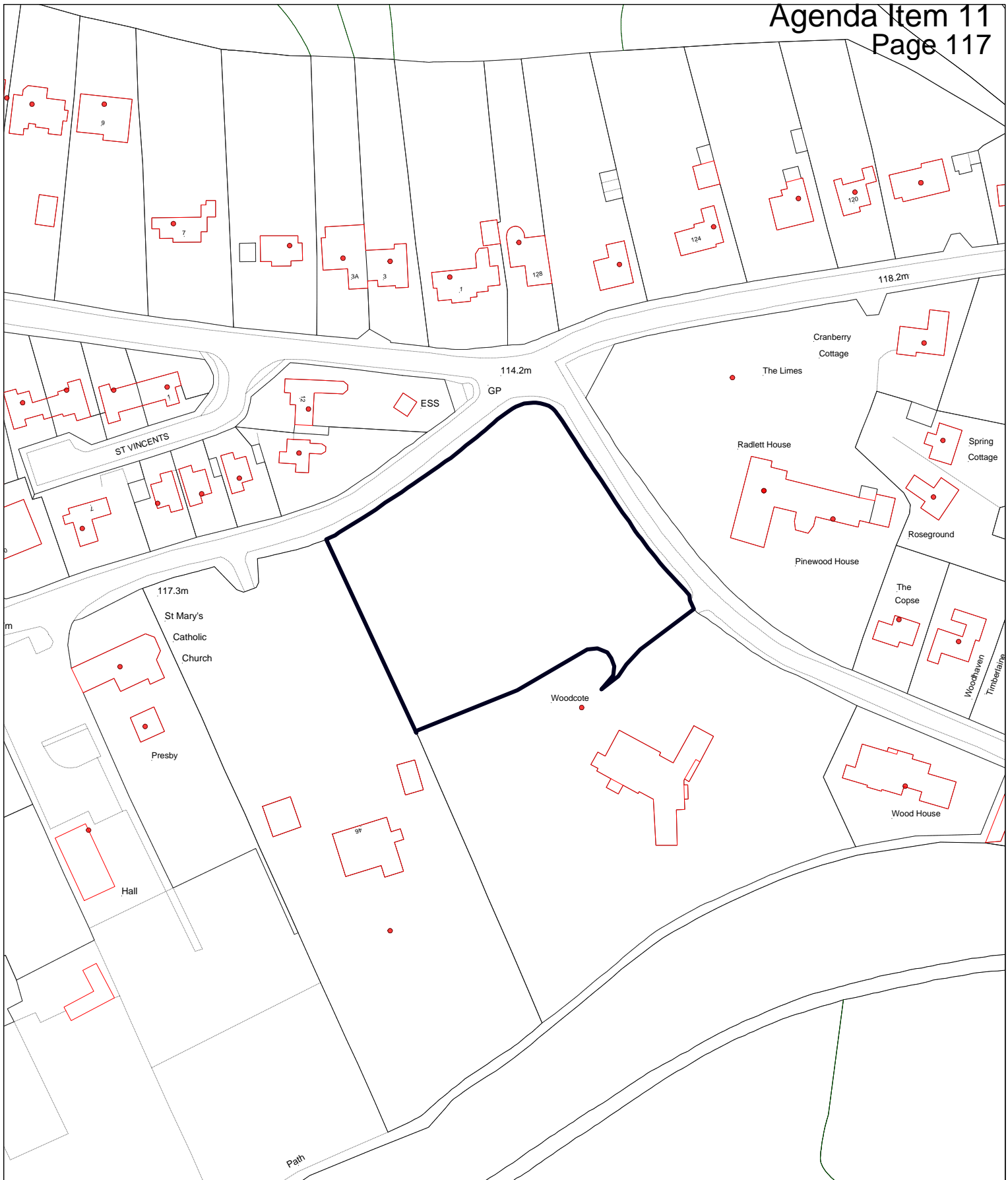
Not Acceptable:

Acer (Acer pseudoplatanus), Aspen - Poplar (Populus), Small-leaved Lime (Tilia Cordata), Sycamore - Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Savita), Ash (Fraxinus Excelsior), Black poplar (Populus nigra var, betulifolia), Lombardy Poplar (Populus nigra var, italica), Large-leaved lime (Tilia platphyllos), Common lime (Tilia x europea).

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 and during the consideration of 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) Order 2015.

This page is intentionally left blank



© Crown Copyright. All rights reserved.
Central Bedfordshire Council
Licence No. 100049029 (2009)

Date: 26:October:2015

Grid Ref: 493266, 235729

Application No.
CB/15/03408

Scale: 1:1750

Woodcote, Woodside, Aspley Guise, MK17 8EB

This page is intentionally left blank

Item No. 11

APPLICATION NUMBER	CB/15/03408/FULL
LOCATION	Woodcote, Woodside, Aspley Guise, Milton Keynes, MK17 8EB
PROPOSAL	Erection of two detached dwellings each with a two bedroom annex used as ancillary accommodation over the detached triple garage, associated driveways, landscaping and tree work.
PARISH	Aspley Guise
WARD	Aspley & Woburn
WARD COUNCILLORS	Cllr Wells
CASE OFFICER	Judy Self
DATE REGISTERED	14 September 2015
EXPIRY DATE	09 November 2015
APPLICANT	McCann Homes
AGENT	DLP Planning Ltd
REASON FOR COMMITTEE TO DETERMINE	Called in by Cllr Wells as the precedent for infill on the opposite side of the road, where two very large houses built as infill in the last 5 years
RECOMMENDED DECISION	Full Application - Recommend Refusal

Summary of Recommendation:

The site lies within the South Bedfordshire Green Belt, where permission will not be granted except in very special circumstances for development for purposes other than those listed in paragraphs 89 and 90 of the National Planning Policy framework. The proposed development would be, because of its excessive bulk, height and scale, materially more harmful to the openness of the Green Belt than the existing use as garden land and as such would constitute inappropriate development in the Green Belt which by definition is harmful. The scale of the development would give rise to harm to the openness and character of the area. No 'Very Special Circumstances' have been put forward which would outweigh the harm by reason of inappropriateness or any other harm caused to the visual amenity and openness of the Green Belt. In addition approval of development in this location could set a precedent for further development in this area or in similar areas. The development is therefore contrary to Policy DM4 of the Core Strategy and Development Management Policies 2009 and national advice within the National Planning Policy Framework 2012

Site Location:

The corner site which currently forms the garden of Woodside is bounded two sides by Woodside and Aspley Hill. The area whilst varied is primarily characterised by one and two storey dwellings set in large plots. The area is washed over by Green Belt. It is outside of the defined 'in-fill only boundary for Aspley Guise'.

The Application:

Permission is being sought for 2 x detached dwellings each with a two bed annexe over a detached triple garage. The proposal includes associated driveways, landscaping and tree works.

The dwellings have a footprint which measure some 16m x 18m and 11.8m in height;

The detached garages have a footprint which measures 12m x 8m and 7.4m in height.

The 7 bedrooms have accommodation spread over three floors.

RELEVANT POLICIES:

National Planning Policy Framework (NPPF) (March 2012)

9: Protecting Green Belt Land

Core Strategy and Development Management Policies - North 2009

CS1: Development Strategy

DM3: Residential Amenity

DM4: Development within and beyond Settlement Envelopes

DM6: Development within Green Belt Infill Boundaries

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 issued judicial review proceedings on the 12th March 2015 against the Inspectors findings. At the Council's Executive Committee on 6th October 2015, Members agreed to recommend to Full Council (19th November 2015) that the Development Strategy be withdrawn and to discontinue legal proceedings. Once withdrawn no weight should be attached to the Development Strategy. However, its preparation was based on and supported by a substantial volume of evidence studies gathered over a number of years. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our web site as material considerations which may inform future development management decisions.

Supplementary Planning Guidance/Other Documents

Central Bedfordshire Design Guide (March 2014)

Relevant Planning History:

Case Reference	CB/10/01473/FULL
Location	Woodcote, Woodside, Aspley Guise, Milton Keynes, MK17 8EB
Proposal	Full: Proposed basement to approved dwelling appno. CB09/06614/Full.
Decision	Full Application - Granted
Decision Date	14/06/2010
Case Reference	CB/09/06614/FULL
Location	Woodcote, Woodside, Aspley Guise, Milton Keynes, MK17 8EB
Proposal	Full: Erection of detached dwelling with swimming pool and garage and widening of existing access.
Decision	Full Application - Granted

Decision Date 31/03/2010

Case Reference

MB/08/00774/FULL

Location Woodcote, Woodside, Aspley Guise, Milton Keynes, MK17 8EB
Proposal Full: Demolition of existing dwelling and replace with Detached dwelling with detached garage and new access.

Decision Full Application - Granted

Decision Date 20/06/2008

Case Reference

MB/05/00551/FULL

Location Woodcote, Woodside, Aspley Guise, MK17 8EB
Proposal Full: Demolition of existing house and outbuildings and erection of detached dwelling, detached garage and formation of new access to Aspley Hill. Relocation of summer house. Revised scheme to that previously approved 23/12/04 ref. 04/01999/FULL

Decision Full Application - Granted

Decision Date 20/10/2005

Case Reference

MB/04/01999/FULL

Location Woodcote, Woodside, Aspley Guise, MK17 8EB
Proposal Full: Demolition of existing house and outbuildings and erection of detached dwelling, detached garage and formation of new access to Aspley Hill. Relocation of summer house.

Decision Full Application - Granted

Decision Date 23/12/2004

Case Reference

MB/79/00723/FULL

Location Land At Woodcote, Woodside, Aspley Guise
Proposal FULL: EXTENSION TO STABLES FLAT TO FORM SITTING ROOM

Decision Full Application - Granted

Decision Date 18/07/1979

Consultees:

Aspley Guise PC

I am writing to set out the parish council's objections to the above planning application. The parish council does not object to the development in principle but has the following concerns about certain details of the application.

1. Design:

The Design and Access Statement indicates that the houses will be built in buff brick. As set out in the last review of the Aspley Guise Conservation Area buildings in the village are predominantly of red brick construction, particularly those of a similar scale to the two homes proposed. The parish council believes that the houses should be built in red brick.

The design also includes a number of bricked in windows referring back to the practise of infilling windows following the introduction of a window tax. We also feel that these are not in keeping with the character of the village.

2. S106 Contribution:

The Planning Statement included with the application indicates that there will be no S106 contribution from the proposed development. The parish council believes that a development of this scale and value should require a S106 contribution from the developer to help fund much needed infrastructure that these properties will benefit from. Were the new CIL in force this development would attract a levy of £471,900 at the currently proposed rates.

3. Trees, hedges and blocked gully:

As shown by the Arboricultural Method Statement included with the application there are a large number of mature trees and a high holly hedge on the north east corner of the site at the junction of Aspley Hill and Woodside. Falling leaves from overhanging branches regularly block the gully at this location causing severe flooding at the busy junction of Aspley Hill, Weathercock Lane, Woodside and West Hill. Black ice also forms in winter months which could lead to road accidents.

We believe that any approval of this application should include a condition that the trees and hedge in this area are cut back to prevent the gully from becoming blocked.

Further the gully involved is set into a soil bank with inadequate protection from falling debris. We believe that the S106 agreement referred to above should include a requirement for the protecting walls around this gully to be improved to prevent it from becoming blocked.

Highways	No objection subject to an advisory note
Trees & Landscape	No objection subject to the specified conditions
Ecology	No objection subject to a condition requiring an ecology assessment
Woburn Sands and District Society	We write to oppose this application to build two detached houses and separate garage in what is the front garden of Woodcote. This area is Green Belt and due to its very low density and greenery (trees and hedges) historically acts as a barrier preventing coalescence between the more urban area of Woburn Sands Buckinghamshire and more rural Aspley Guise in Bedfordshire. This site and area provides a distinctive setting for what is a historic doomsday village. Replacement building is allowed on Green Belt, as was the case in respect Woodcote, but new builds are not unless there are exceptional circumstances. There are no exceptional circumstances in this case and we would urge the Council not to make an

exception in this case.

Additionally the buildings proposed are not in the local vernacular. Red brick Georgian boxes, with seven bedrooms and ancillary accommodation over the garages are far from the style of the houses within the settlement boundary in the locality and indeed the proposed buildings take up over half of the site.

We not clearance work has already been carried out on the site, predominantly on the boudnary and we sincerely hope that no TPO protected trees were felled as part of this work.

Other Representations:

- | | |
|----------------------|---|
| 128 West Hill | I think most people in the village accept that more properties are needed, and we were pleasantly surprised and pleased to see that the site is not going to be developed into a large apartment block. The proposed houses are in keeping with the size and style of the surrounding houses and will not therefore overly increase the amount of vehicles using the junction onto West Hill. We feel that this type of scheme that does not impact on the village roads should be supported. |
| The Limes, West Hill | I live opposite the development and am probably the house closest to this development and do not consider that I will be affect by it. I am therefore in full support of this development and feel after reviewing the plans it is in keeping with this part of the village and the properties surrounding it. |

Considerations

1. Principle of Development

1.1 Policy DM4 'in-fill' only boundaries

Whilst there might be currently some uncertainty over the settlement boundary as defined under DM4 of the Core Strategy and Development Mangement Policies (as identified in the Applicant Design and Access Statement) it is considered that there is a greater degree of certainty where the proposed development falls within the Green Belt.

The Council have stated that they will adhere to the principles contained with the Core Strategy and Development Mangement Policies (2009). Settlements that lie within the Green Belt fall into two categoeres. Some are inset in the Green belt and are defined by Settlement Envelopes. The remainder are 'washed over' by the designation. Some of the villages washed over by Green Belt have defined 'infill only' boundaries. Aspley Guise is one such village as identified in Policy DM6 of the Core Strategy and Development Mangement Policies and as detailed on the proposals map.

Only within the Infill Boundaries will the principle of development (as defined) will be considered acceptable in principle even though there are other houses formed in relatively close proximity.

Reference has been made to the in-fill development on the opposite site of the road, where two very large houses were built within the last five years. However it must be noted that the opposite side of the road on Woodside and Aspley Hill falls **within** the Green Belt in-fill only boundary where the principle of development may be acceptable. Some such examples are:

Radlett House, 91 West Hill. Planning permission was granted under CB/12/03664/Full for the erection of two detached dwellings and garage block.

Green Timbers, Woodside. Planning permission was granted under CB/14/02376/Full for a replacement dwelling

Wood Place, Woodside. Planning permission was granted under CB/14/0217/Full for a replacement dwelling

Long Paddock, 46 Aspley Hill. Planning permission was granted under MB/07/00757

In addition permission has been granted on sites in the vicinity which fall outside of the Green Belt in-fill area where the proposal replaces an existing dwelling and can be acceptable in policy.

1.2 Paragraph 89 of The National Planning Policy Framework

In support of the application the applicants state that specific guidance which originally appeared in Planning Policy Guidance 2: Green Belts (1995) was not carried forward into the counterpart paragraph (89) of the National Planning Policy Framework (2012). It is therefore their view that the Framework no longer requires infilling the Green Belt to be tied to local plan policy; rather, as defined by the Courts, it a standalone exception that requires decision makers to consider whether, as a matter of fact, on the ground, a site can constitute an infill site.

At the heart of this is paragraph 89 and specifically the later points:

"A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- *buildings for agriculture and forestry;*
- *provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;*
- *the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*

- *limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or*
- *limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development".*

1.3 The applicants state that it is also the case that the infill boundaries have not themselves been reviewed to take into account changes in the development pattern, or indeed the most recent policy approach as set out in the Framework and are themselves therefore, by definition, out of date.

The Green Belt and Green Belt Infill Boundaries were defined by the adopted Core Strategy and Development Management Policies DPD.

Paragraphs 82 to 86 of the NPPF refer to the definition of Green Belt boundaries through the Local Plan process. Paragraph 86 relates to the inclusion or exclusion of villages within the Green Belt when defining the extent of the Green Belt. It does not apply to the consideration of individual sites through the development management process. Paragraph 83 of the NPPF makes clear that once established Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of a Local Plan.

The Green Belt Technical Paper was a high level assessment that looked at the function of the Green Belt at a parish level in the context of identifying strategic sites for development through the Development Strategy. It was not a detailed review that assessed village or infill boundaries or individual parcels of land for release. A detailed Green Belt review will be conducted as part of our forthcoming Allocations Local Plan.

Bullet 5 of Paragraph 89 of the NPPF states exceptions to inappropriate development in the Green Belt would include 'limited infilling in villages, and limited affordable housing for local community needs *under policies set out in the Local Plan*'. Green Belt Infill Boundaries provide the local policy mechanism for enabling infill development. Referring to the adopted Core Strategy, Policy DM6 allows limited infilling within the infill boundaries. The emerging Development Strategy continues to acknowledge the importance of infill boundaries in Green Belt areas. Infilling is defined in both the adopted Core Strategy (paragraph 11.3.2) and emerging Development Strategy (para 11.7) and a proposal would need to meet the definition in order to be considered appropriate under Policy paragraph 89 of the NPPF. Any future detailed Green Belt Review will determine whether the Green Belt or Green Belt Infill Boundary should be amended.

To conclude, under current policy the site remains in the Green Belt and as such it is considered that Green Belt policies should be used in determining the application.

No Very Special Circumstances' have been put forward which would outweigh the harm by reason of inappropriateness or any other harm caused to the visual

amenity and openness of the Green Belt and as such refusal is recommended.

2. Impact upon the character and appearance of the area

- 2.1 The two dwellings are 'Georgian' in design. The proposed dwellings are very large 7 bedroom detached dwellings with accommodation spread over three floors. Each property has a triple garage with a two bedroom flat above located in front, but to the side of the main dwelling.

The area is currently garden land, albeit enclosed by mature trees and planting. The construction of two very large dwellings in association with two very large garages in this location would result in harm to the character and appearance of the Green Belt to the detriment of the character and appearance of the area.

3. Residential amenity

- 3.1 Given the location and orientation of the dwellings and the positioning of windows no impact upon residential amenity (by way of overbearing impact, loss of light or loss of privacy is considered to arise).

4. Highway Safety

- 4.1 In a highway context the proposed plans indicate an acceptable scheme and as such the Highways Officer raise no objection to the proposal.

5. Other Considerations

5.1 Parish Council concerns not covered above:

2. Financial Contributions

The proposed development falls below the threshold at which affordable housing is required. The Council no longer has a Supplementary Planning Document that assesses the requirements for Planning Obligations and has not yet introduced a Community Infrastructure Levy and, as such, each application is considered on its merits to determine whether site specific planning obligations are required to make the development acceptable. In this case, it is considered, based on the small scale and the location of the development that there are no site specific planning obligations required to make the development acceptable in planning terms.

3. Trees, hedges and blocked gully

No objection was raised by the Tree & Landscape officer and as discussed above, a s106 is not required as these issues do not relate directly to the development in planning terms.

5.2 Appeal Court decision Wood v Secretary of State for Communities and Local Government [2014].

During the consultation period reference has been made to the above appeal decision in support of the application.

In Wood v Secretary of State for Communities and Local Government [2014] EWHC 683 (Admin) the Appellant had appealed against the decision of Gravesham Borough Council to refuse planning permission for a single dwelling in a site which lay in the Green Belt but was surrounded by existing built development. The principal issue for the Court was the proper interpretation of

one of the exceptions in the NPPF to the construction of new buildings being "inappropriate development" in the Green Belt. Paragraph 89 provides that an exception to the general rule is "limited infilling in villages".

Whilst this Appeal Decision has been noted the current situation as at the 15th September 2015 is that the Secretary of State's planning inspector dismissed the appeal and said that the proposed house was not in-fill and contravened the clear provisions of the council's strategy and national planning policy. He also said the development was not sustainable and rejected the developer's argument about not enough land being supplied for housing.

5.3 Woburn Sands and District Society

The comments received have been noted and have been addressed in the report above.

5.4 Human Rights issues:

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

5.5 Equality Act 2010:

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

Recommendation:

That Planning Permission be refused for the following reason:

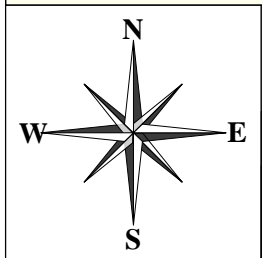
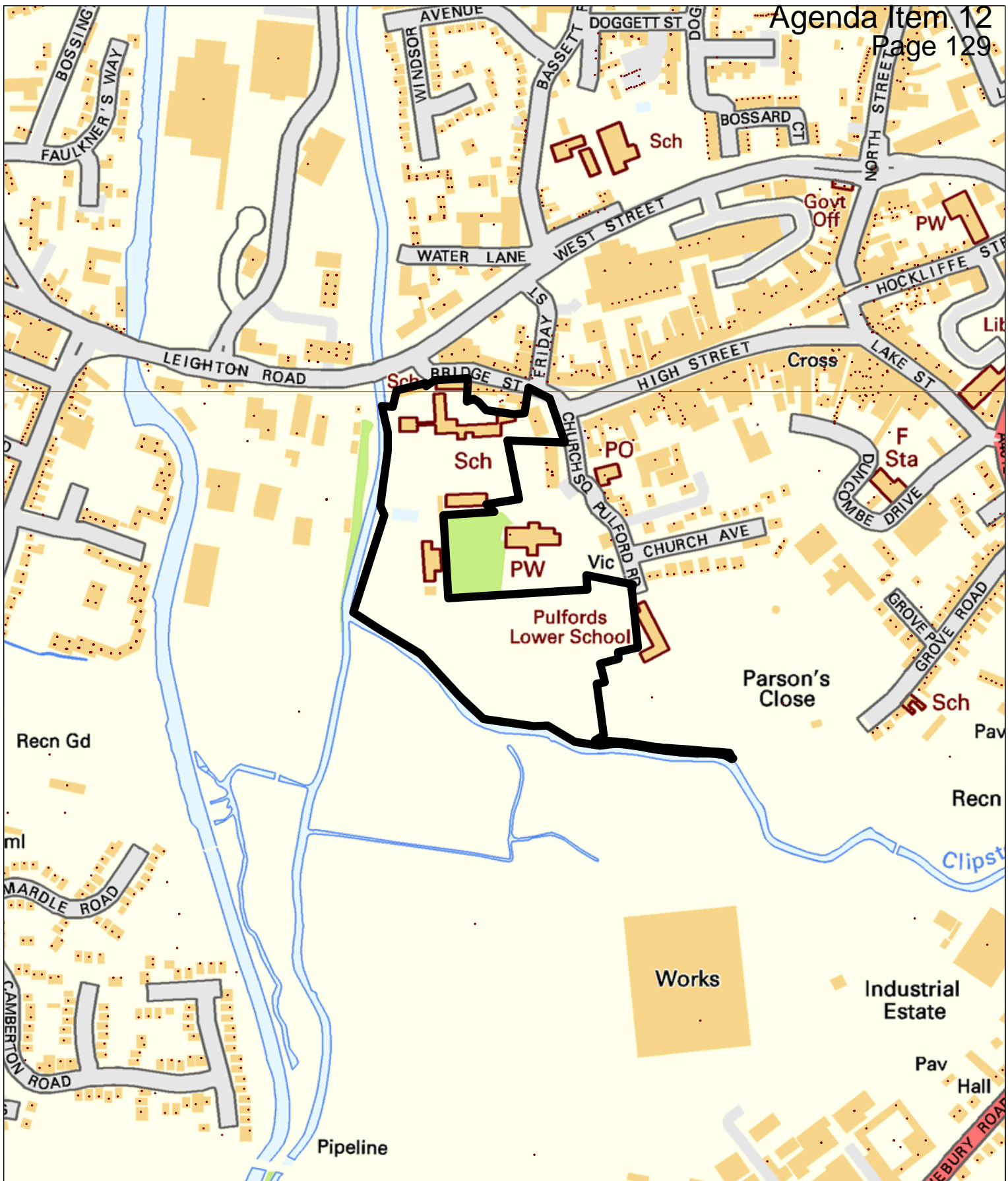
RECOMMENDED CONDITIONS / REASONS

- 1 The site lies within the South Bedfordshire Green Belt, where permission will not be granted except in very special circumstances for development for purposes other than those listed in paragraphs 89 and 90 of the National Planning Policy framework. The proposed development would be, because of its excessive bulk, height and scale, materially more harmful to the openness of the Green Belt than the existing use as garden land and as such would constitute inappropriate development in the Green Belt which by definition is harmful. The scale of the development would give rise to harm to the openness and character of the area. No 'Very Special Circumstances' have been put forward which would outweigh the harm by reason of inappropriateness or any other harm caused to the visual amenity and openness of the Green Belt. In addition approval of development in this location could set a precedent for further development in this area or in similar areas. The development is therefore contrary to Policy DM4 of the Core Strategy and Development Management Policies 2009 and national advice within the National Planning Policy Framework 2012.

Notes to Applicant

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

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted pro-actively through early engagement with the applicant at the pre-application stage. This advice has however not been adequately followed and therefore the Council remains of the view that the proposal is unacceptable. The applicant was invited to withdraw the application to seek pre-application advice prior to any re-submission but did not agree to this. The requirements of the Framework (paragraphs 186 and 187) have therefore been met in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.



© Crown Copyright. All rights reserved.
Central Bedfordshire Council
Licence No. 100049029 (2009)
Date: 27:October:2015
Grid Ref: 491791; 224839

Application No.
CB/15/03064/REG3

Scale: 1:5000

Leighton Middle School, 2 Church Square,
Leighton Buzzard, LU7 1EX

This page is intentionally left blank

Item No. 12

APPLICATION NUMBER	CB/15/03064/REG3
LOCATION	Leighton Middle School, 2 Church Square, Leighton Buzzard, LU7 1EX
PROPOSAL	The proposed school extension incorporates a new block which will provide 5 new classrooms for the Year 5 group, together with a new block providing a general classroom and technology room. In order to meet the expansion plans, the proposed development will also include for the remodelling and refurbishment of the existing dining block. Additional car parking spaces will also be provided to assist with the increase in occupants on the site. Existing external elements will be amended to provide improved access arrangements.
PARISH	Leighton-Linslade
WARD	Leighton Buzzard South
WARD COUNCILLORS	Cllrs Berry, Bowater & Dodwell
CASE OFFICER	Debbie Willcox
DATE REGISTERED	18 August 2015
EXPIRY DATE	13 October 2015
APPLICANT	Head Teacher at Leighton Middle School
AGENT	Kier Services
REASON FOR COMMITTEE TO DETERMINE	The application is a Regulation 3 application and a material objection has been received that cannot be overcome by condition.
RECOMMENDED DECISION	Regulation 3 - Recommended for Approval

Summary of Recommendation

The principle of development is considered to be acceptable. The proposed buildings and alterations would complement and harmonise with the application site and its wider surroundings, including the heritage assets. The proposal would not have a detrimental impact upon the safety and capacity of the highway network and would encourage an increase in the use of sustainable methods of transport. The proposal is therefore considered to be in accordance with the National Planning Policy Framework, policies BE8, R6 and T10 of the South Bedfordshire Local Plan Review, policies 1, 21, 22, 24, 25, 26, 27, 43, 49 and 59 of the emerging Development Strategy for Central Bedfordshire and the Central Bedfordshire Design Guide.

Site Location:

Leighton Middle School comprises a 4 hectare campus located to the south of Bridge Street and the west of Church Square in Leighton Buzzard Town Centre. It is bordered to the west by the River Ouzel, with the Bridge Meadows site on the other side of the river. The Clipstone Brook runs along the southern boundary of the site and there are open fields beyond it. Pedestrian access to the school is available from Bridge Street, Church Square and Judges Lane Road. The site wraps around All Saints Church, with Pulford Lower school being located to the east of the site.

The majority of the school buildings are located on the north section of the site, including one grade II* and one grade II Listed Building. The south of the site is predominantly comprised of playing fields.

Parts of the site, along the banks of the Clipstone Brook and River Ouzel, are within Flood Zones 2 and 3. The banks of these two watercourses are also part of designated County Wildlife Sites. The playing fields are washed over by the South Bedfordshire Green Belt. The north part of the site is located within the Leighton Buzzard Conservation Area and the majority of the site is located within an Archaeological Notifiable Area. There are a number of trees along the banks of both watercourses. There are significant level changes across the site.

Leighton Middle School accepts children from years 5 to 8 and currently has a capacity of 480 children.

The Application:

The application seeks planning permission for development that would facilitate the expansion of Leighton Middle School from a capacity of 480 children to a capacity of 600 children. It is intended that the expansion would take place over four years by increasing the intake of year five pupils by 30 children per year, beginning in September 2016.

The proposal includes the provision of two new classroom blocks on the site of two existing tennis courts on the northern, built-up section of the site, to the rear of the existing Design and Technology block, adjacent to the River Ouzel.

The two new blocks would comprise 5 classrooms that would serve the group of Year 5 pupils, while the other block would provide another new classroom and a technology room. The blocks would be two storey, with hipped roofs and would be linked by a glazed link at first floor level. They would have slate roofs and brick walls to match the surrounding traditional buildings, but would be modern in design with glazed elements to the elevations, including a full height glazed atrium to the Year 5 block.

The proposal also includes the refurbishment of an existing kitchen and dining block to the rear of the site, to include a new extraction system.

A new car park with 13 additional car parking spaces would be created between the new Year 5 block and the river, behind the existing Design and Technology block, to be accessed between the Design and Technology block and the river.

Finally, the application includes alterations to access arrangements to the dining block, including a new ramp, the reconfiguration of an existing external stairway and the installation of hand rails.

RELEVANT POLICIES:

National Planning Policy Framework (2012)

Section 4: Promoting sustainable transport

Section 7: Requiring good design

Section 8: Promoting healthy communities

Section 10: Meeting the challenge of climate change, flooding and coastal change

Section 11: Conserving and enhancing the natural environment

Section 12: Conserving and enhancing the historic environment

South Bedfordshire Local Plan Review Policies

BE8 Design Considerations

R6 Ouzel Valley Park Proposals: South of Bridge Street

T10 Parking - New Development

(Having regard to the National Planning Policy Framework, the age of the plan and the general consistency with the NPPF, policies BE8 and R6 are still given significant weight. Policy T10 is afforded less weight.)

Development Strategy for Central Bedfordshire (June 2014)

Policy 21: Provision for Social and Community Infrastructure

Policy 22: Leisure and Open Space Provision

Policy 24: Accessibility and Connectivity

Policy 25: Functioning of the Network

Policy 26: Travel Plans

Policy 27: Car Parking

Policy 43: High Quality Development

Policy 45: The Historic Environment

Policy 49: Mitigating Flood Risk

Policy 57: Biodiversity and Geodiversity

Policy 59: Woodlands, Trees & Hedgerows

(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 issued judicial review proceedings on the 12th March 2015 against the Inspector's findings. At the Council's Executive Committee on 6th October 2015, Members agreed to recommend to Full Council (19th November 2015) that the Development Strategy be withdrawn and to discontinue legal proceedings. Once withdrawn no weight should be attached to the Development Strategy. However, its preparation was based on and supported by a substantial volume of evidence studies gathered over a number of years. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our web site as material considerations which may inform future development management decisions.)

Supplementary Planning Guidance

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

Leighton Buzzard Development Briefs: Bridge Meadows (adopted as Technical Guidance for Development Management Purposes on 27/03/2012).

Relevant Planning History:

Application Number CB/15/03060/REG3

Description Installation of two new tennis/ netball courts, to replace existing tennis/netball courts including perimeter fencing, land reforming and rearranging of existing sports field pitches.

Decision Planning permission granted

Decision Date 20/10/2015

Consultees:

Leighton-Linslade Town No objections.
Council

Highways Officer

The applicant has appointed a transport consultant to provide more information to determine the existing flows on the highway (both pedestrian and vehicular). Further, they then determined the proposed (additional flows) to the school due to the proposed development.

It was agreed that the total number of movements associated with the new school pupil numbers were to be approximately 56 vehicle movements in the morning peak hour. However, when determining the traffic capacity of the Bridge Street/West Street junction using the computer software ARCADY9 this figure was doubled. Further, there was not any discounting associated with pupils who were dropped in places other than Bridge Street or West Street. While the pedestrian flow on the West Street zebra crossing has been increased this would appear to be a little light. Nevertheless it should be considered that the differential identified within the capacity calculation to be acceptable.

The result from the capacity calculation shows that the only approach to the roundabout about which is affected significantly is that on Bridge Street, an increase in maximum RFC (ratio to flow capacity) has increased but it is still below the theoretical limit of 0.85%. Further the queue length has only increased by just over 1 car.

I remain concerned in relation to pedestrian activity on the zebra and the affect this may have on the capacity of the junction. I also have concerns that the effect parents dropping off pupils along west street has on reducing capacity of the corridor and hence increasing congestion.

These can be mitigated against within the travel plan by introducing the following measures:-

- Bringing the school day forward by 10 minutes to 8:30am;
- Introducing a school crossing patrol officer at the Leighton Road zebra crossing at the Bridge Street junction; and
- Introduce a traffic regulation order to restrict stopping along West Street, Leighton Road and Bridge Street.

This can be addressed within the school travel plan and I understand that this approach has been accepted by the school.

Subsequently, in a highway context I recommend that the supplied condition be included if planning approval is to be issued.

Strategic Transport -
Travel Plans Officer

After meeting with both the school and our schools capital planning team to discuss the contents and commitments of the plan I can confirm that the version dated 14/09/15 is acceptable.

Conservation Officer

Taking full account of the particular sensitivities of the application site, with its assemblage of historic and local landmark buildings and important tree collection, the submitted Scheme is the result of detailed discussions in respect of building design and detailing, as appropriate to its recognised special architectural and landscape character, and Conservation Area location.

Building design has been steered at the outset to achieve new build which 'sits' perfectly comfortably with the existing, traditional school buildings around the site, whilst having a light and airy, 'dynamic' feel appropriate to a contemporary addition.

After much involvement in the design of this Scheme, I have looked at the finalised drawing submissions and offer the following comments/suggestions prior to determination:

Either secure by Condition or acquire 'up front' amended details:-

Notwithstanding the details submitted...

- (Hand rails) Revise proposed exterior hand rail installations to expressly exclude integrated mesh guarding. Require black painted (not galvanised) finish to hand rails throughout.
- (External materials and finishes – Y5 building elevations). Require a sample of the proposed solid infill panels, complete with proposed final finish applied, to be made available for comparison against the complete palette of external materials and finishes proposed for the Scheme. [The proposed infill panel colour finish RAL 7012 does not look acceptable].
- (Exterior Ramp). Require details of the type of final concrete finish of the proposed ramp surface to be agreed in advance by the LPA.
- (Kitchen block refurbishment). No depth of detail has been given of associated external alterations and redecoration. Require that full details of all external alterations and redecoration, and the replacement or installation of kitchen extraction flues and plant, including screening, as appropriate, must be agreed in advance by the LPA.

CBC Archaeologist

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, 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. In order to secure this scheme of works, please attach the supplied condition to any permission granted in respect of this application.

Trees & Landscape
Officer

I have examined the plans and documents associated with this application, namely the "Tree Survey Report (Pre-Development)" prepared by RGS Consultants, dated July 2015, which has identified the following arboricultural implications:-

- 3 No. Category B trees (of moderate quality) will need to be removed, namely T2 Italian Maple, T3 Holly and T6 Holly. The Italian Maple is a relatively rare tree, although several examples are found in the grounds of this school, but given its location it may be of self-set origin.
- There is encroachment into the Root Protection Area of T7 Wellingtonia caused by the construction of the teaching block and upgraded parking area. This will require that a piled foundation design will be required to construct the teaching block, whilst a suitable "no-dig" construction method with permeable surfacing and sub-base is to be adopted for two of the parking bays.
- Arboricultural supervision is required in respect of T1 (Horse Chestnut) where existing hard surfacing to the west side of the existing teaching block is to be removed.
- Robust temporary barriers will also be required around the stem of T1 to protect the tree during construction site access.

It was noted on examining the report that access facilitation pruning was not specifically mentioned in the Arboricultural Impact Assessment. This will need to be carried out in accordance with the "Survey Schedule" that forms Appendix 2 of the Tree Survey Report (Pre-Development) dated July 2015.

To ensure that the above implications are implemented it is advised that the supplied conditions are imposed.

- | | |
|--|--|
| Public Protection Officer | Due to the fact that site-wide testing has discovered elevated hydrocarbons in made ground that are unsuitable for exposed soil scenarios, it is recommended that the supplied condition and informative are attached to any Permission granted. |
| Environment Agency | No objections. |
| Buckingham and River Ouzel Internal Drainage Board | The site is in the vicinity of the Main River, therefore the Environment Agency must be consulted. |
| CBC Flood Risk and Drainage Management Team | We consider that planning permission could be granted to the proposed development and the final design, sizing and maintenance of the surface water system agreed at the detailed design stage; subject to an appropriate Surface Water Drainage Strategy and finalised Maintenance and Management Plan being submitted. We therefore recommend that the supplied conditions be applied. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application. |
| CBC Ecologist | <ul style="list-style-type: none">• A badger interest has been identified on site and as such it is recommended that an informative is added to any permission which advises the covering of any trenches/pits created during the works nightly to prevent any badgers from becoming trapped. A follow-up check for any new badger setts that may be impacted by the development will be undertaken closer to the commencement of works.• Some works to trees on site will be required, the arboricultural report acknowledges the need to avoid harm to wildlife and ideally these should be timed to avoid the bird nesting season of March to August inclusive.• The NPPF calls for development to deliver a net gain for biodiversity and as the site lies adjacent to the River Ouzel CWS and also sits within the Greensand Ridge Nature Improvement Area an element of |

ecological enhancement would be sought via **condition**. This would include the provision of 3 integral bird/bat boxes to be included in the built fabric of the new technology block facing the river corridor.

- No details of lighting have been provided for the new car park. The river is a sensitive wildlife corridor so should lighting be required it must not be allowed to spill into the wider site.
- Himalayan Balsam has been identified on site and as this is a non native invasive species a protocol for its removal and future control on site should be adopted.

Sport England

No objections subject to a condition requiring the implementation of planning permission CB/15/03060/REG3 prior to commencement of this development.

Other Representations:

Buzzcycles

The Ground Plan depicts a significant increase in car parking although it doesn't specifically show the road access between the two car parks. There is no mention of Transport access and Routes to School and there is no overt provision for extension of cycle parking facilities for the increased number of students. Adequate secure cycle parking provision must be part of the proposals in accordance with the principles of Leighton Linlade as a Cycle Town & CBC Policies. Moreover works of this scale on site must also address the issues of strategic cycle route requirements in this area - see comments regarding Application 15/03060

Determining Issues:

1. **Impact upon the Character and Appearance of the Area and on Heritage Assets**
2. **Impact on Neighbouring Amenity**
3. **Transport and Highways Implications**
4. **Other Issues**

Considerations

1. Impact Upon the Character and Appearance of the Area and on Heritage Assets

1.1 The design of the proposed new buildings has been evolved in consultation with both Planning and Conservation Officers from Central Bedfordshire Council and the general public at a consultation event held at the school in July 2015.

1.2 It is considered that the proposed buildings would complement and harmonise with their surroundings, including the historical and landmark buildings on and around the site and would not have a detrimental impact on the character and appearance of the application site and its wider surroundings.

- 1.3 In response to the minor points made by the Conservation Officer, it has been confirmed that the external alterations to the dining block are limited to the blocking up of a window. The proposed ventilation system is to form part of a separate planning application. An elevational drawing is to be submitted prior to the committee meeting to show the refurbishment of the dining block. The other points raised by the Conservation Officer will be controlled by condition.
- 1.4 It is considered that the proposal is in conformity with policy BE8 of the South Bedfordshire Local Plan Review, policies 43 and 45 of the emerging Development Strategy for Central Bedfordshire and the Central Bedfordshire Design Guide.

2. Impact on Neighbouring Amenity

- 2.1 The proposed buildings would be sited at a sufficient distance from any neighbouring residential properties that there would be no impact upon the occupiers of these properties. The proposal is therefore considered to accord 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. Transport and Highways Implications

- 3.1 Leighton Middle School is situated in a sustainable location, within the heart of Leighton Buzzard Town Centre, easily accessibly to walking and cycling. This is reflected in the walking and cycling figures, which last year were 58% of pupils walking and 6% of pupils cycling to school.
- 3.2 The submitted school travel plan has been formulated in consultation with the Council's Travel Plans Officer and the Transport Statement has been prepared in consultation with the Council's Highways Officer. The Travel Plan proposes a number of measures to improve sustainable methods of transport to school by staff and pupils, including the increase of secure cycle storage by a minimum of 10 spaces. The Travel Plan is to be reviewed annually and should more cycle parking be required as the school expands, this can be incorporated at the appropriate time.
- 3.3 The Travel Plan also suggests ways to mitigate the impact of the expansion of the school on the surrounding highway network, including the provision of a school crossing patrol officer and alterations to the time of the school day.
- 3.4 The proposed additional parking is sufficient to provide spaces for the 9 new members of staff that would be required and a small increase in visitor parking. Parents will continue to be discouraged from parking at the school except in exceptional circumstances (e.g. picking up a sick child).
- 3.5 It is noted that the comments of Buzzcycles were received prior to the publication on the Council's website of the Travel Plan and the Transport Statement. It is considered that the comments and concerns of Buzzcycles are mostly addressed by these documents and are dealt with immediately above. The only outstanding issue is the lack of improvement in strategic cycle networks in the area as part of the application.

3.6 This was raised by Buzzcycles as part of the earlier application for the replacement tennis courts, reference no. CB/15/03060/REG3. There is an aspiration to provide a strategic east west pedestrian link from Parsons Close to the east of the school to the railway station to the west, which has been expressed in a number of strategic plans and documents, including Policy R6 of the South Bedfordshire Local Plan Review. However, the proposals map indicates the route being located to the south of the Clipstone Brook, outside the school site.

3.7 The Council's Sustainable Transport Officer is working to progress these aspirations and was consulted on the previous application. He has confirmed that the replacement tennis courts would not prejudice these aspirations to provide a strategic east - west route either through or around the application site.

The comments from Buzzcycles indicate that an expansion of this size should include the provision of this aspired strategic cycle routes. However, this is not considered to be necessary to make the proposed development acceptable in planning terms.

In accordance with the comments of the Travel Plans Officer and the Highways Officer it is considered that, subject to the implementation and yearly review of the supplied Travel Plan, the proposal would not have a detrimental impact upon the safety and capacity of the highway network and would encourage an increase in the use of sustainable methods of transport. The proposal is therefore considered to accord with policies BE8, R6 and T10 of the South Bedfordshire Local Plan Review and policies 24, 25, 26 and 27 of the emerging Development Strategy for Central Bedfordshire.

4. Other Considerations

4.1 Impact on Sports Provision

The application would result in the loss of existing tennis courts, however, application CB/15/03060/REG3 has already been approved for the replacement of the Tennis Courts. Sport England has confirmed that, subject to these replacement tennis courts being provided prior to the commencement of development, the school will retain sufficient provision for sport. Therefore, subject to this condition, it is considered that the proposal would not have a detrimental impact upon sports provision for the school and thus the proposal adheres to policy 22 of the emerging Development Strategy for Central Bedfordshire.

4.2 Ecology

Based on the submitted Ecological Assessment and subject to the condition and informative suggested by the Council's Ecologist, it is considered that the proposal would result in a small net positive impact on the biodiversity of the application site and the County Wildlife Sites.

4.3 Human Rights issues:

The proposal raises no Human Rights issues.

4.4 Equality Act 2010:

The proposal seeks to improve access arrangements around the school and has

been designed to comply with Building Regulations Part M. Nevertheless, it is considered appropriate to impose an informative advising the applicant of their responsibilities under the Equality Act 2010.

Recommendation:

That Planning Permission be APPROVED 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 Notwithstanding the submitted details, the proposed handrails on the site shall be black painted and shall expressly exclude any integrated mesh guarding.

Reason: In the interests of the character and appearance of the application site.

(Policy BE8, SBLPR and Policies 43 and 45, DSCB)

- 3 Notwithstanding the submitted details, no work shall take place on the construction of the ramp until details of the type of concrete finish of the proposed ramp have been submitted to and approved in writing by the Local Planning Authority. The ramp shall thereafter be constructed in accordance with the approved details.

Reason: In the interests of the character and appearance of the application site.

(Policy BE8, SBLPR and Policies 43 and 45, DSCB)

- 4 Notwithstanding the submitted details, the proposed infill panels shall not be applied to the new buildings hereby approved until a sample of the proposed panel, complete with proposed final finish applied has been made available on site for comparison against the complete palette of proposed external materials and finishes for the new buildings and has been inspected and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

Reason: In the interests of the character and appearance of the application site.

(Policy BE8, SBLPR and Policies 43 and 45, DSCB)

- 5 **No occupation or use of any permitted building shall take place until the following has been submitted to and approved in writing by the Local Planning Authority: The effectiveness of remediation implemented by the capping of clean cover as advised in the Ground Engineering report C13600 shall be demonstrated to the Local Planning Authority by means of a validation report (to incorporate photographs and depth measurements).**

**Reason: To protect human health and the environment
(Policy BE8, SBLPR and Policy 44, DSCB)**

- 6 **No development 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: This condition is pre-commencement as a failure to secure appropriate archaeological investigation in advance of development would be contrary to paragraph 141 of the *National Planning Policy Framework (NPPF)* that requires the recording and advancement of understanding of the significance of any heritage assets to be lost (wholly or in part).
(Section 12, NPPF and Policy 45, DSCB)**

- 7 No development shall take place, including demolition works, until all protective fencing and ground protection have been erected in strict accordance with the Tree Protection Plan-Proposal (Dwg No. APP3B.01) that forms Appendix 3b of the "Tree Survey Report (Pre-Development)" dated July 2015 and been constructed in accordance with Section 5 "Recommendations" of the "Tree Survey Report (Pre-Development)", and the Arboricultural Method Statement, which forms Appendix 5 of the "Tree Survey Report (Pre-Development).

Reason: The condition must be pre-commencement to ensure that a satisfactory standard of Tree Protection is fully implemented in the interests of maintaining tree health and visual amenity.
(Policy BE8, SBLPR and Policies 43 and 59, DSCB)

- 8 No development shall take place until all recommended tree work has been carried out in accordance with the "Survey Schedule" that forms Appendix 2 of the "Tree Survey Report (Pre-Development)" dated July 2015. The work shall be carried out in accordance with best practice outlined in BS 3998 : 2010 "Tree Work - Recommendations".

Reason: The condition must be pre-commencement to ensure that only tree work required to facilitate the implementation of planning permission is carried out, and that the work is undertaken to a satisfactory standard.
(Policy BE8, SBLPR and Policies 43 and 59, DSCB)

- 9 No foundations shall be dug until details of pile and beam foundation for the teaching block have been submitted to and approved in writing by the Local Planning Authority. The details shall be designed by a suitably qualified structural engineer and be fit for purpose. The foundation design shall be such that it avoids excavation damage to tree roots and avoids root asphyxiation damage due to raising of ground levels . The foundations shall be constructed in accordance with the approved details.

Reason: To ensure that tree root damage within Root Protection Areas is

avoided by the use of special foundations, in the interests of maintaining tree health and stability.

(Policy BE8, SBLPR and Policies 43 and 59, DSCB)

- 10 Both prior to and during development, all arboricultural related operations and site supervision, as outlined in the Arboricultural Method Statement, which forms Appendix 5 of the Tree Survey Report (Pre-Development) dated July 2015 shall be fully implemented in accordance with the appropriate stage of development and build sequence.

Reason: To ensure that the appropriate methodology and site supervision is fully implemented in order to achieve best working practices in respect of tree protection measures.

(Policy BE8, SBLPR and Policies 43 & 59, DSCB)

- 11 No-Dig construction methods and permeable surfacing shall be carried out in the designated areas as shown on the Tree Protection Plan-Proposal (Dwg No. APP3B.01) that forms Appendix 3b of the "Tree Survey Report (Pre-Development)", and in accordance with the Arboricultural Method Statement, which forms Appendix 5 of the Tree Survey Report (Pre-Development) dated July 2015.

Reason: To ensure the appropriate construction methods are carried out within Root Protection areas, where this has been deemed to be unavoidable, in order that damage to tree roots is kept to a minimum.

(Policy BE8, SBLPR and Policies 43 and 59, DSCB)

- 12 The development hereby approved shall not be occupied or brought into use until a landscaping planting scheme, which shall clearly indicate the species, planting density, planting sizes and planting specification of all trees, shrubs and climbers has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in the first planting season immediately following completion of development, and shall be maintained for a period of 5 years thereafter until satisfactorily established. Any losses incurred during this period shall be replaced in accordance with the approved planting scheme.

Reason: To ensure a satisfactory standard of landscape planting, aftercare and establishment in the interests of visual amenity and to replace landscaping removed to accommodate this development.

(Policy BE8, SBLPR and Policies 43 and 59, DSCB)

- 13 The development hereby permitted shall not be occupied or brought into use until a scheme of ecological enhancement to include the provision of three integral bird/bat boxes within the built fabric of the new technology block facing the river has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme prior to the development being brought into use.

Reason: To ensure the delivery of a net gain for biodiversity as required by Section 11 of the National Planning Policy Framework.

(Section 11, NPPF & Policy 57, DSCB)

- 14 **No development shall take place until a Surface Water Drainage Strategy with the detailed design and associated management and maintenance plan of surface water drainage for the site, using sustainable drainage methods and site-specific percolation tests, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme and maintenance plan, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.**

Reason: The condition must be pre-commencement to ensure the prevention flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to reduce the risk of flooding to others downstream of the site.

(Policy BE8, SBLPR and Policies 43 and 49, DSCB)

- 15 The development hereby permitted shall not be occupied or brought into use until the developer has formally submitted in writing to the Local Planning Authority that the approved scheme has been checked by the developer and has been correctly and fully installed as per the approved details. The sustainable urban drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: To ensure that the construction of the surface water drainage system is in line with what has been approved and will continue to operate as designed for the lifetime of the proposed development.

(Policy BE8, SBLPR and Policies 43 and 49, DSCB)

- 16 All measures agreed within the submitted Travel Plan dated 26/10/2015 shall be undertaken in accordance with the approved plan. There shall be an annual review of the Travel Plan to monitor progress in meeting the targets for reducing car journeys generated by the proposal and this shall be submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety, to reduce congestion and to promote the use of sustainable modes of transport

(Policy BE8, SBLPR and Policies 26 and 43, DSCB).

- 17 The existing tennis courts shall not be taken out of use until the tennis courts approved under application reference no. CB/15/03060/REG3 have been fully implemented.

Reason: To ensure the satisfactory quantity, quality and accessibility of compensatory provision which secures a continuity of use.

(Policy 22, DSCB)

- 18 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers AL0102_P01, AP0102_P01, AP0103_P01, AP0201_P01, AP0251_P01, AP0601_P01, 2205AP0302_P01, 2205AP0303_P01, 2205AP0701_P01, 2205AP0702_P01, AP2205AP0801_P02,

2205AP0802_P02, 2205AP0803_P02, MS-4735 Sheet 1 of 4, MS-4735 Sheet 2 of 4, MS-4735 Sheet 3 of 4, MS-4735 Sheet 4 of 4.

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. During the works any trenches / pits should be covered over night to prevent any badgers from being trapped. A follow-up check for new badger setts that may be impacted by the development should be undertaken shortly before the commencement of works.
4. The applicant is advised of the following:

Any unexpected contamination discovered during works should be brought to the attention of the Planning Authority.

The British Standard for Topsoil, BS 3882:2007, specifies requirements for topsoils that are moved or traded and should be adhered to. The British Standard for Subsoil, BS 8601 Specification for subsoil and requirements for use, should also be adhered to.

There is a duty to assess for Asbestos Containing Materials (ACM) during development and measures undertaken during removal and disposal should protect site workers and future users, while meeting the requirements of the HSE.

5. Applicants are advised that, should groundwater or surface water courses be at risk of contamination before, during or after development, the Environment Agency should be approached for approval of measures to protect water resources separately, unless an Agency condition already forms part of this permission.
6. 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)

7. The applicant is advised that further information regarding the updating of the School Travel Plan is available from the Transport Strategy Team, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford, Bedfordshire, SG17 5TQ.

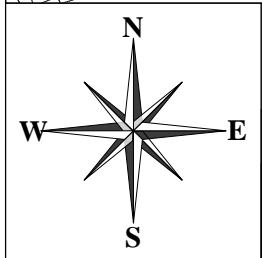
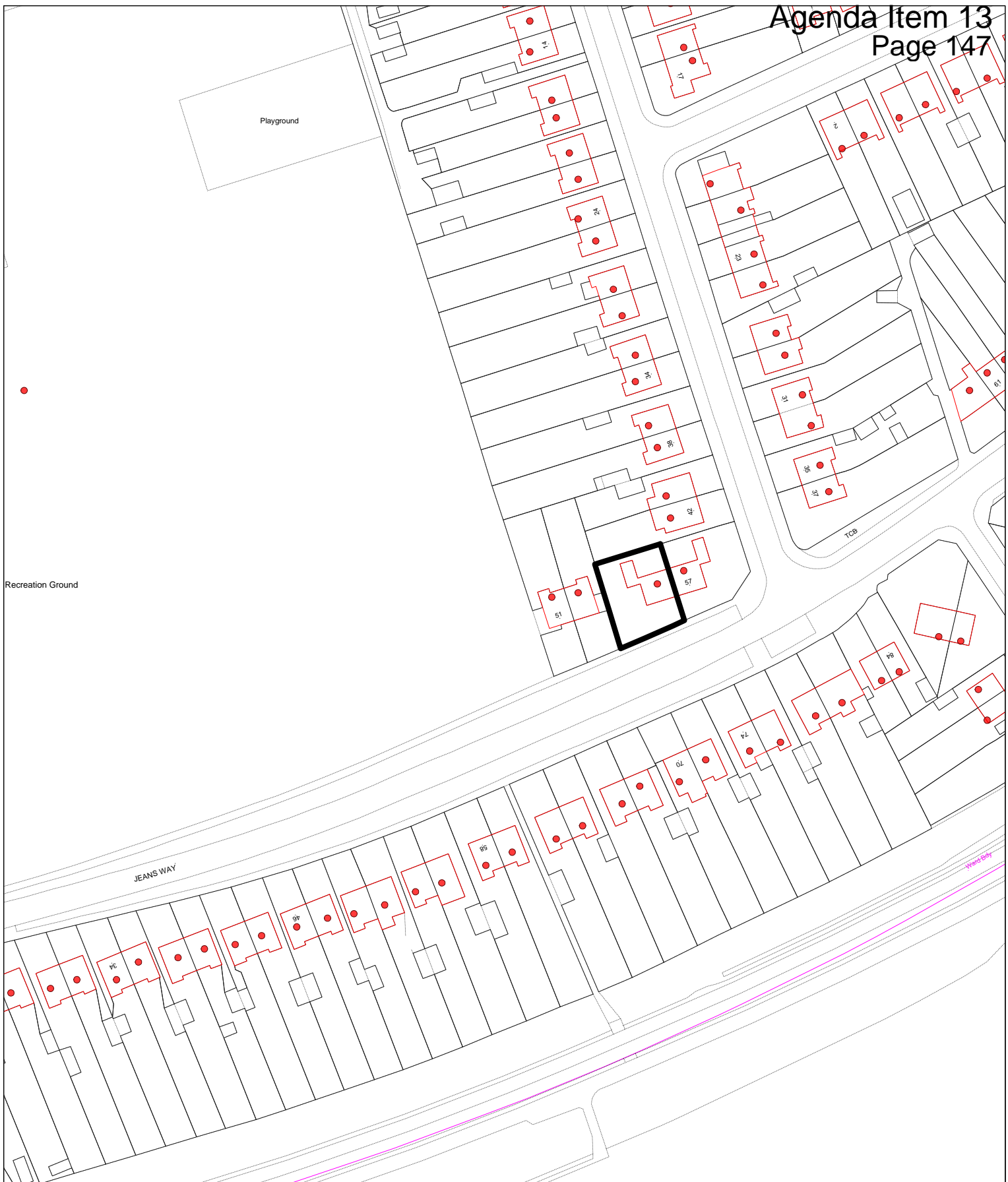
Statement required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 - Part 5, Article 35

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant at the pre-application stage and 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

.....

.....



© Crown Copyright. All rights reserved.
Central Bedfordshire Council
Licence No. 100049029 (2009)
Date: 27:October:2015
Grid Ref: 503481; 221959

Application No.
CB/15/03281/FULL

Scale: 1:1250

55 Jeans Way, Dunstable, LU5 4PW

This page is intentionally left blank

Item No. 13

APPLICATION NUMBER	CB/15/03281/FULL
LOCATION	55 Jeans Way, Dunstable, LU5 4PW
PROPOSAL	Construction of 1 No. 1 bedroom detached house following demolition of attached garage
PARISH	Dunstable
WARD	Dunstable Icknield
WARD COUNCILLORS	Cllrs McVicar & Chatterley
CASE OFFICER	Debbie Willcox
DATE REGISTERED	01 September 2015
EXPIRY DATE	27 October 2015
APPLICANT	Mr Edwards
AGENT	Mr Girling
REASON FOR COMMITTEE TO DETERMINE	Called in by Cllr McVicar on the following grounds: <ul style="list-style-type: none">• Loss of light to garden• Over development of what is currently a semi-detached house• Overbearing to No. 42 Kingsbury Gardens• Out of keeping with surrounding properties
RECOMMENDED DECISION	Full Application - Recommended for Approval

Summary of Recommendation

The principle of development is considered to be acceptable. The proposed dwelling would relate acceptably to the character and appearance of the area and would not have an unacceptable, detrimental impact on the amenity of the occupiers of neighbouring dwellings. The parking provision is considered to be acceptable and it is not considered that the proposal would have a detrimental impact on highway safety. The proposal is therefore considered to be in accordance with the National Planning Policy Framework, policies BE8, H2 and T10 of the South Bedfordshire Local Plan Review, policies 1, 25, 27 and 43 of the emerging Development Strategy for Central Bedfordshire and the Central Bedfordshire Design Guide.

Site Location:

The application site comprises the curtilage of a two storey semi-detached dwelling located on the north side of Jeans Way, a built-up residential street within Dunstable. The Dunstable Downs are located to the immediate south of dwellings on the south side of Jeans Way.

The subject dwelling has an existing, attached, single garage and garden both to the side and rear. The site is flanked to the east by 57 Jeans Way, to the west by 53 Jeans Way and to the north by 42 Kingsbury Avenue. The streetscene comprises similar semi-detached dwellings, typically with blocks of semis being separated from each other by two single garage widths (circa 5m). The street has a grass verge with some street trees, including one outside the application site. The grass verge is punctured by vehicular crossovers.

The Application:

The application seeks planning permission for the demolition of the existing attached garage and the subdivision of the plot. A two storey, detached dwelling would be erected to the side of the existing dwelling. It would measure 5.4m wide by 7m deep and would be set on the same building line as the existing dwelling. The new dwelling would be set 1.5m away from the proposed boundary with the host dwelling and 1.5m away from the boundary with No. 53. The roof of the dwelling would match that of the host dwelling in design, height and angle of pitch, with a ridge height of 8m.

The proposed new dwelling would have a kitchen and a lounge on the ground floor and a bedroom and bathroom on the first floor. It would have a rear garden with an area of 37 square metres. The host dwelling would retain a rear garden of 49 square metres.

The proposed dwelling would be provided with one parking space on the property frontage that would be accessed by the existing vehicular crossover. Two parking spaces and a new crossover would be provided immediately in front of the existing dwelling.

RELEVANT POLICIES:

National Planning Policy Framework (2012)

South Bedfordshire Local Plan Review Policies

SD1 Sustainability Keynote Policy

BE8 Design Considerations

H2 Making Provision for Housing via "Fall-in" Sites

T10 Parking - New Development

(Having regard to the National Planning Policy Framework, the age of the plan and the general consistency with the NPPF, policies SD1, BE8 & H2 are still given significant weight. Policy T10 is afforded less weight).

Development Strategy for Central Bedfordshire (June 2014)

Policy 1 : Presumption in Favour of Sustainable Development

Policy 2 : Growth Strategy

Policy 19: Planning Obligations and the Community Infrastructure Levy

Policy 25: Functioning of the Network

Policy 27: Car Parking

Policy 29: Housing Provision

Policy 43: High Quality Development

Policy 59: Woodlands, Trees & Hedgerows

(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 issued judicial review proceedings on the 12th March 2015 against the Inspector's findings. At the Council's Executive Committee on 6th October 2015, Members agreed to recommend to Full Council (19th November 2015) that the Development Strategy be withdrawn and to discontinue legal proceedings. Once withdrawn no weight should be attached to the Development Strategy. However, its preparation was based on and supported by a substantial volume of evidence studies gathered over a number of years. These technical papers are consistent with the spirit of the NPPF and therefore will remain on

our web site as material considerations which may inform future development management decisions.)

Supplementary Planning Guidance

Central Bedfordshire Design Guide: A Guide for Development:
Design Supplement 5: Residential Development, 2014
Design Supplement 7: Householder Alterations and Extensions

Relevant Planning History:

Application Number CB/13/03255/FULL
Description Construction of 1 x 4 bedroom detached house, demolition of existing garage
Decision Refused
Decision Date 16/01/2014

Application Number CB/14/02606/FULL
Description Construction of 1 No. 1 bedroom detached bungalow following demolition of attached garage
Decision Refused
Decision Date 02/09/2014

Application Number CB/14/02608/LDCP
Description Proposed loft conversion
Decision Lawful Development Certificate Granted
Decision Date 11/08/2014

Application Number CB/14/02609/FULL
Description Construction of 1 No. 1 bedroom attached bungalow following demolition of attached garage
Decision Refused
Decision Date 02/09/2014

Application Number CB/14/02613/FULL
Description Construction of 1 No. 1 bedroom attached house following demolition of attached garage
Decision Refused
Decision Date 02/09/2014

Consultees:

Dunstable Town Council Object as the proposal is considered to be over development of the site and not in keeping with the street scene.

Trees & Landscape Officer In recognition that there is no further encroachment of any vehicle crossover towards the highway tree, I have no objection to the application.

Highways Officer The new parking bay to the boundary of the existing property does not benefit from adequate visibility as this would be on third party land. As a result I recommend that these parking bays be moved 1.55m away from the southerly boundary so that adequate intervisibility can be

achieved. In a highway context I recommend that the supplied conditions and informatives be included if planning approval is to be issued.

Private Sector Housing

I have reviewed the planning application and have no comments to make. I feel that the proposed dwelling is small and that potentially there could be some crowding and space issues in the future due to the small size of the living room.

Other Representations:

40 Kingsbury Avenue,
Dunstable
42 Kingsbury Avenue,
Dunstable
53 Jeans Way,
Dunstable
37 Wyngate, Leighton
buzzard (daughter of
owner of 42 Kingsbury
Avenue)
4 Linford Mews,
Maldon, Essex

Object to the application for the following reasons:

- The dwelling would block light to the rear conservatory and garden of No. 42 Kingsbury Avenue and to No. 40 Kingsbury Avenue;
- The new dwelling would be overbearing to Nos. 40 and 42 Kingsbury Gardens, especially as the land is on a slope and the dwelling would be higher than Nos. 40 and 42;
- The windows may be frosted, but they could be opened, resulting in a loss of privacy to Nos. 40 and 42 Kingsbury Gardens;
- A loft conversion to the new dwelling would be permitted development and this would disrupt privacy to Nos. 40 and 42 Kingsbury Gardens;
- The development would block views of Blows Downs from Nos 40 & 42 Kingsbury Avenue;
- The construction period would provide months of noise and disruption which would affect the quality of life of neighbouring occupiers;
- The dwelling would not be in keeping with other properties in Jeans Way, it would constitute garden grabbing and cramming within a low density area;
- Insufficient garden space would be retained for No. 55 Jeans Way;
- The development only seeks to make money;
- There is insufficient parking proposed, which would encourage parking on the road or the verge;
- The proposal would result in the loss of lots of grass verge, which would have a detrimental impact on the streetscene;
- The garage is claimed to be blocked up but, at the date of writing, the house is advertised for sale with a garage;

Determining Issues:

1. **Principle of Development**
2. **Impact on the Character and Appearance of the Area**
3. **Impact on Neighbouring Amenity**
4. **Amenity of Future Occupiers**
5. **Highways Considerations**

6. Other Issues

Considerations

1. Principle of Development

- 1.1 The application site is located within the built-up area of Dunstable where the principle of the provision of new housing by the development of infill sites is considered to be acceptable by Policy H2 of the South Bedfordshire Local Plan Review.
- 1.2 The new dwelling and its garden would result in the loss of a significant proportion of the garden of the host dwelling. Annex 2 of the National Planning Policy Framework specifically excludes residential gardens from the definition of previously developed land and therefore there is not a presumption in favour of the development of residential gardens. Paragraph 53 of the National Planning Policy Framework encourages local planning authorities to consider creating policies to resist the inappropriate development of residential gardens where development would cause harm to the local area.
- 1.3 As such, it is considered that there is neither a presumption in favour or against the development of residential gardens. Rather, decisions should be made on whether or not the proposed development would result in harm to the character and appearance of the area and whether they would comply with the requirements of policy H2 of the South Bedfordshire Local Plan Review.
- 1.4 Policy H2 states that the provision of new housing by development of infill sites, redevelopment, conversion and re-use of buildings; and sub-division of large residential properties will be approved where the proposal would:
 - (i) make efficient use of the site or building in terms of density and layout;*
 - (ii) not result in loss of open space of recreational or amenity value or potential;*
 - (iii) respect and enhance the character of the surrounding area;*
 - (iv) provide good quality living conditions for residents;*
 - (v) be readily accessible to public transport and local services;*
 - (vi) be acceptable in terms of highway safety and traffic flow;*
 - (vii) not result in unacceptable loss of employment land; and*
 - (viii) not unacceptably constrain development of adjoining land for an allocated or permitted use.*
- 1.5 The proposal would make efficient use of the site in terms of density and layout. It would not result in the loss of open space or recreational or amenity value or of employment land. The site is readily accessible to public transport and local services and would not unacceptably constrain the development of adjoining land. The other requirements will be considered in the appropriate sections below.
- 1.6 The planning history of the application site is also a material consideration in the determination of this application. Four previous applications have been refused for the erection of a dwelling in this location. It should be noted that the three latter applications were submitted and determined at the same time, with the three applications differing in the positioning, scale and type of dwelling.

1.7 Application reference no. CB/13/03255/FULL for a four bedroom detached dwelling was refused for the following four reasons:

1) The application site is too restricted in size for the proposed development which would appear cramped in relation to adjoining buildings and out of character with the surrounding area. The proposed development would also result in the removal of a highway tree and its removal would result in an adverse impact on the wider streetscene. The proposal is therefore contrary to the principles of good design set out in the Policies BE8 & H2 of the South Bedfordshire Local Plan Review, Policy 43 of the emerging Development Strategy for Central Bedfordshire, the National Planning Policy Framework and the Central Bedfordshire: A Guide for Development, Design Supplement 1, New Residential Developments.

2) The proposed development would, because of its size and layout result in additional overlooking and loss of privacy and loss of outlook to the occupiers of the adjoining property occupiers. The proposed development would therefore be detrimental to the amenity of the adjoining property occupiers in particular those at number 53 and 55 Jeans Way. The proposal is therefore contrary to the principles of good design set out in Policy BE8 of the South Bedfordshire Local Plan Review, Policy 43 of the emerging Development Strategy for Central Bedfordshire, the National Planning Policy Framework and the Central Bedfordshire: A Guide for Development, Design Supplement 1, New Residential Developments.

3) The applicant has not included adequate provision of space within the site for parking of vehicles clear of the highway. The development if permitted would therefore be likely to lead to additional on-street parking to the detriment of public and highway safety. The proposal is therefore contrary to Policy T10 of the South Bedfordshire Local Plan Review, Policies 27 & 43 of the emerging Development Strategy for Central Bedfordshire and Design in Central Bedfordshire: A Guide for Development, Design Supplement 7, Movement, Streets and Places .

4) The application is not accompanied by an acceptable completed legal agreement securing contributions towards existing local infrastructure. By reason of the omission of sufficient contributions for education, leisure and recreational open space and sustainable transport the proposal is contrary to the Central Bedfordshire Council's Adopted Supplementary Planning Guidance: Planning Obligations Strategy: South (2009) and policy 19 of the emerging Development Strategy for Central Bedfordshire.

1.8 The three 2014 applications were all refused for the following reasons:

2) The garden space proposed for the existing and additional dwelling would not be in compliance with the Internal & External Space Standards, Central Bedfordshire Design Guide Revision, March 2014 and would lead to unacceptable amenity space to the detriment of the quality of living accommodation for current and future residents and out of character to the locality where there are generous garden spaces in excess of 60 square metres. It is therefore considered that the development would be contrary to

Policy BE8 of the South Bedfordshire Local Plan Review, Policy 43 of the emerging Development Strategy for Central Bedfordshire, and the National Planning Policy Framework.

3) The application is not accompanied by an acceptable completed legal agreement securing contributions towards existing local infrastructure. By reason of the omission of sufficient contributions for education, leisure and recreational open space and waste, the proposal is contrary to the Central Bedfordshire Council's Adopted Supplementary Planning Guidance: Planning Obligations Strategy: South (2009) and Policy 19 of the emerging Development Strategy for Central Bedfordshire.

- 1.9 In addition, each application was refused for a reason relating to design. Application reference no. CB/14/02606/FULL was for a detached bungalow that would have been sited forward of the front building line of the main dwelling. It was refused for the following reason

1) The application site is too restricted in size for the proposed development and due to its siting forward of the strong building line would appear incongruous and cramped in relation to adjoining buildings. Opportunities have not been taken to enhance landscape features or to retain adequate green spaces between buildings and as such would be out of character with the surrounding area. In addition, the design and scale of the proposed bungalow would bear no relationship to the existing dwellinghouse and others within the immediate locality and thereby would be harmful to the visual amenities of the street scene and of nearby residents. The proposal is therefore contrary to the principles of good design set out in the National Planning Policy Framework, Policies BE8 & H2 of the South Bedfordshire Local Plan Review, Policy 43 of the emerging Development Strategy for Central Bedfordshire and the Central Bedfordshire Design Guide.

- 1.10 Application reference no. CB/15/02609/FULL was for an attached bungalow that would also have been located forward of the building line. It was refused for the following reason:

1) The application site is too restricted in size for the proposed development and due to its siting forward of the strong building line would appear incongruous and cramped in relation to adjoining buildings. Opportunities have not been taken to provide soft landscaping features forward of the dwellinghouses which are predominant to the area and as such would be out of character with the surrounding area. In addition, the design and scale of the proposed dwellinghouse would bear no relationship to the existing dwellinghouse or others within the immediate locality and thereby would be harmful to the visual amenities of the street scene and of nearby residents. The proposal is therefore contrary to the principles of good design set out in the National Planning Policy Framework, Policies BE8 & H2 of the South Bedfordshire Local Plan Review, Policy 43 of the emerging Development Strategy for Central Bedfordshire and the Central Bedfordshire Design Guide.

- 1.11 Application reference no. CB/15/02613/FULL was for a two storey attached dwellinghouse. It was refused for the following reason:

1) The application site is too restricted in size for the proposed development and due to its siting forward of the strong building line, the loss of spacing to the side and lack of subservience to the existing attached dwellinghouse would appear incongruous and cramped in relation to adjoining buildings. Opportunities have not been taken to enhance landscape features or to retain adequate green spaces between buildings and as such the development would be out of character with the surrounding area. The overall scale and bulk of the proposed dwellinghouse is exacerbated by the limited plot size and its design bears inadequate relationship to dwellinghouses within the immediate locality and thereby would be harmful to the visual amenities of the street scene and of nearby residents. The proposal is therefore contrary to the principles of good design set out in the National Planning Policy Framework, Policies BE8 & H2 of the South Bedfordshire Local Plan Review, Policy 43 of the emerging Development Strategy for Central Bedfordshire and the Central Bedfordshire Design Guide.

- 1.12 Whether or not the current application has overcome the previous reasons for refusal will be considered in the appropriate sections below.

2. Impact on the Character and Appearance of the Area

- 2.1 The impact of the proposed development on the character and appearance of the area is a key consideration in the determination of this application, both in terms of satisfying the relevant policies and in overcoming the reasons for refusal on the previous applications.
- 2.2 While the proposal would involve the development of a residential garden, it should be noted that the proposal would not comprise backland development, which can be intrinsically harmful to the character and appearance of an area. Rather it proposes an infill development that would have a frontage onto Jeans Way and would maintain the existing building line of dwellings in Jeans Way. The important consideration therefore, is whether or not the dwelling would appear out of character within the streetscene of Jeans Way.
- 2.3 As previously noted, Jeans Way is comprised predominantly of two storey, semi-detached dwellings of 1930s design, with typical spacing of some 5m between the flank walls of blocks, although in some cases this has been eroded by the erection of two storey side extensions. The application site is therefore unusual within the streetscene as the spacing between the flank wall of No. 55 and the flank wall of the unattached neighbour at No. 53 is currently approximately 10.5m, more than twice the typical spacing between blocks.
- 2.4 The proposed dwelling would retain spacing of 1.5m to the flank wall of No. 55 and some 4m to the flank wall of No. 53. It is considered that the dwelling would have slightly less spacing than is customary within the streetscene, however, it is considered that the current proposal would retain sufficient spacing that it would not appear unduly cramped within the streetscene.
- 2.5 The proposed dwelling would be detached, which would not accord with the prevailing character of the streetscene. However, in every other way, the proposed dwelling has been designed to reflect the character and appearance of the surrounding dwellings. In terms of scale, height, building line, roof design, detailing and fenestration, the proposed dwelling corresponds closely

to the host dwelling at No. 55 and the other dwellings within the streetscene.

- 2.6 The site layout indicates that elements of landscaping would be retained to the property frontage, including lawns to both plots. A street tree which was threatened by application reference no. CB/13/03255/FULL would be retained, along with the verge in front of the proposed new dwelling. It is acknowledged that an additional crossover would be required, which would result in some erosion to the expansion of verge, however, on its own, it is not considered that the impact of this on the character and appearance of the area would be significant.
- 2.7 The proposal would result in smaller rear garden sizes to both dwellings than is characteristic within the area. The impact of this on the amenity of future occupiers will be discussed further in Section 4 below. In terms of the impact of this on the character of Jeans Way, it is noted that the gardens would have the same depth as the existing rear gardens of Nos. 55 & 57. Therefore, officers do not consider that the smaller gardens would have a significant impact on the character and appearance of Jeans Way.
- 2.8 On balance, it is considered that this revised scheme, with its consistent building line, sympathetic detailed design, spacing to the boundaries and landscape features would not have a detrimental impact on the essential character and appearance of Jeans Way and the surrounding area. The proposal is therefore considered to accord with policies H2 and 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 Neighbouring Amenity

- 3.1 The proposed dwelling has been sited such that it would not result in any loss of light or privacy and would not appear overbearing to occupiers of the host dwelling or the unattached lateral neighbour at No. 53 Jeans Way.
- 3.2 The objections raised by neighbouring occupiers will be addressed below:
- 3.3 The dwelling would block light to Nos. 40 and 42 Kingsbury Gardens
The application site is located to the south and west of Nos. 40 and 42 Kingsbury Avenue. However, the proposed dwelling would have a height of 8m and would be located 12m away from the rear conservatory and thus would not block a notional 45 degree line taken from the conservatory. The Council's Design Supplement 7 indicates that this level of light loss is acceptable. The proposed dwelling would result in the loss of some afternoon and evening sun to the rear garden of No. 40 during the winter months; there would be limited loss of daylight to the garden as a result of the separation distance, which is 5.7m at its smallest point. This level of light loss is not considered to be sufficient to justify refusal for the proposed development. The dwelling would be located too far away to have a material impact on light reaching No. 40, which is situated beyond No. 42.
- 3.4 The dwelling would be overbearing to Nos. 40 and 42 Kingsbury Gardens
Again, the separation distance of 5.7m between the proposed dwelling and the boundary with No. 42 indicates that the proposal would not appear unacceptably overbearing. It is noted that the existing dwelling at No. 55 is

located the same distance away from the boundary and is closer to the rear elevation of No. 42 than the proposed dwelling. It is not considered that the proposed dwelling would result in a worsening of the existing situation. Again, the dwelling would be too far away to appear unacceptably overbearing on the occupiers of No. 40.

3.5 Loss of privacy to Nos. 40 and 42 Kingsbury Gardens

The proposal has been designed to have no clear glazed first floor windows facing the rear gardens of Nos. 40 and 42, with the only window serving a bathroom. It is considered appropriate that a condition be imposed requiring that this window be obscure glazed and fixed closed, with the exception of an opening section to be located a minimum of 1.7m above the floor level of the room in which it is situated. It is also considered appropriate to remove permitted development rights for the installation of additional windows in the rear elevation of the new dwelling at both first floor and roof level and the to remove permitted development rights for the creation of a rear dormer. Subject to these conditions, it is not considered that the proposal would have an unacceptable impact on the privacy of neighbouring occupiers.

3.6 Loss of views of Blows Downs from Nos. 40 and 42 Kingsbury Gardens

The loss of view is not a material planning consideration and is therefore not relevant to the determination of this application.

3.7 Impact of construction period

It is acknowledged that the construction period is likely to provide temporary disruption to neighbouring residents in terms of noise and disturbance. However, these impacts would be temporary and are not considered sufficient to justify the refusal of this application.

3.8 The development would be out of keeping with Jeans Way

This has been addressed in section 2, above.

3.9 Insufficient garden space retained for 55 Jeans Way

This is addressed in section 2, above and section 4, below.

3.10 The development only seeks to make money

The motives of the applicant are not a material planning consideration and are therefore not relevant to the determination of this application.

3.11 Insufficient parking

This is addressed in section 5, below.

3.12 Loss of grass verge

This is addressed in section 2, above.

3.13 Blocking up of the garage

The application claims that the existing garage is blocked up internally, yet the property has been marketed with a garage. While it is true that the garage is currently blocked internally, this could be reversed. However, this is not material to the determination of this application.

3.14 In conclusion, on balance it is considered that the proposal would not have an unacceptable impact on the amenity of neighbouring occupiers. The proposal is therefore considered to be in conformity with policies H2 and BE8 of the South Bedfordshire Local Plan Review, policy 43 of the emerging Development Strategy for Central Bedfordshire and the Central Bedfordshire Design Guide.

4. Amenity of Future Occupiers

4.1 Consideration should also be given as to whether the proposal would provide acceptable levels of amenity to future residents of both the proposed new dwelling and the host dwelling.

4.2 The proposed new dwelling would have a rear garden of only 37 square metres and would leave No. 55 with a rear garden of only 49 square metres. This is a larger allowance for No. 55 than was previously afforded under the schemes that were refused in 2014.

4.3 Design Supplement 5 of the Central Bedfordshire Design Guide sets out minimum internal and external space standards for new housing. There is no minimum external space standard for one bedroom dwellings and while the proposed garden is small, it is usable and the dwelling would be not occupied by a family. It is therefore considered that the provision for the new dwelling is acceptable.

4.4 However, the host dwelling comprises a family home and therefore, the Design Supplement expects a minimum of 60 square metres of rear garden. While the provision is larger than the schemes that were previously refused, it still does not comply with the requirements of the Design Supplement.

4.5 However, very careful judgement should be given as to whether or not sufficient weight can be given to this consideration to refuse the application. On 27 March 2015 a written material statement was published by the government which altered national planning policy to prevent the setting and use of local technical standards for new housing as of 01 October 2015. From this date, local planning authorities are directed to apply the Nationally Described Space Standard instead. However, the Nationally Described Space Standard does not set standards for external space. In this policy context, officers do not consider that the size of the garden that would be retained by No. 55 would be so inadequate that it would fail to provide acceptable living standards to occupiers to the extent that it would outweigh the presumption in favour of sustainable development enshrined within the National Planning Policy Framework, policy SD1 of the South Bedfordshire Local Plan Review and policy 1 of the emerging Development Strategy for Central Bedfordshire.

4.6 The internal space of the proposed dwelling would conform with the standards set out within the Nationally Described Space Standard and therefore would provide an acceptable level of amenity to future occupiers.

4.7 The proposal is therefore considered to conform with policies BE8 and H2 of the South Bedfordshire Local Plan Review and policy 43 of the emerging Development Strategy for Central Bedfordshire.

5. Highways Considerations

- 5.1 Following receipt of the comments of the Highways Officer a revised layout plan has been submitted showing adequate visibility splays for the parking spaces.
- 5.2 The proposal provides one parking space for the proposed one bedroom dwelling and two parking spaces for the existing three bedroom dwelling, which is in accordance with the Council's parking standards. It is noted that a lawful development certificate has been approved for a loft conversion to the host dwelling, which would include a fourth bedroom, however, this has not been implemented and thus very little weight can be given to this consideration. Furthermore, the Council's parking standards state the dwellings with four or more bedrooms should have three parking spaces, one of which can be on-street. There is on-street parking available on Jeans Way and therefore, the enlarged dwelling would still be compliant with these standards. As such, the proposal is in accordance with the Council's parking standards and it is considered that it would not have a detrimental impact on the safety and capacity of the highway network.

6. Other Considerations

6.1 Affordable Housing and Section 106 considerations

The proposed development falls below the threshold at which affordable housing is required. The Council no longer has a Supplementary Planning Document that assesses the requirements for Planning Obligations and has not yet introduced a Community Infrastructure Levy and, as such, each application is considered on its merits to determine whether site specific planning obligations are required to make the development acceptable. In this case, it is considered, based on the small scale and the location of the development that there are no site specific planning obligations required to make the development acceptable in planning terms.

6.2 Human Rights issues:

The proposal raises no Human Rights issues.

6.3 Equality Act 2010:

The proposal raises no issues under the Equality Act 2010.

Recommendation:

That Planning Permission be APPROVED 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 Prior to the commencement of the construction of the new dwelling details of the materials to be used for the external walls and roofs of the dwelling hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To control the appearance of the building in the interests of the visual amenities of the locality.

(Policies BE8 & H2, SBLPR and Policy 43, DSCB)

- 3 No work shall take place on the construction of the new access onto Jeans Way until details of the junction have been submitted to and approved in writing by the Local Planning Authority. The new dwelling shall not be occupied until the junction has been constructed in accordance with the approved details.

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

(Policy BE8, SBLPR and Policy 43, DSCB)

- 4 Visibility splays shall be provided at both private means of access from the individual properties within the site onto Jeans Way. These vision splay shall be provided on each side of the access drives and shall be 2.8m measured along the back edge of the new highway from the centre line of the anticipated vehicle path to a point 2.0m measured from the back edge of the footway into the site along the centre line of the anticipated vehicle path. The vision splays so described and on land under the dwelling occupier's control shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway level.

Reason: To provide adequate visibility between the individual accesses and Jeans Way, and to make the accesses safe and convenient for the traffic which is likely to use them.

(Policy BE8, SBLPR and Policy 43, DSCB)

- 5 The premises shall not be occupied until details of the construction and surfacing of the on site vehicular areas have been submitted to and approved in writing by the Local Planning Authority. These details shall include arrangements for surface water drainage from the site to soak away within the site so that it does not discharge into the highway or into the main drainage system. The vehicular areas shall be constructed in accordance with the approved details before the new dwelling is first occupied.

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 acceptable parking of vehicles outside highway limits .

(Policy BE8, SBLPR and Policy 43, DSCB)

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

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 BE8, SBLPR and Policy 43, DSCB)

- 7 **No development shall take place until a scheme detailing provision for on site parking for construction workers and deliveries for the duration of the construction period and a method statement of preventing site debris from being deposited on the public highway have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented throughout the construction period.**

Reason: The condition must be pre-commencement to ensure adequate off street parking and to prevent blockage of the public highway during the construction period in the interests of road safety.

(Policy BE8, SBLPR and Policy 43, DSCB)

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows shall be inserted into the first floor of the rear elevation or the proposed rear roof slope of the proposed dwelling, and no rear dormers shall be constructed without the grant of further specific planning permission from the Local Planning Authority.

Reason: To protect the privacy of neighbouring residents.

(Policies BE8 & H2, SBLPR and Policy 43, DSCB)

- 9 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 55/1BED-D/01, 55/1BED-D/02, 55/1BED-D/03, 55/1BED-D/04/R1, 55/1BED-D/05, 55/1BED-D/06/R1 .

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 no works associated with the construction of the vehicular access should be carried out within the confines of the public highway without prior consent, in writing, of the Central Bedfordshire Council. Upon receipt of this Notice of Planning Approval, the applicant is advised to write to Central Bedfordshire Council's Highway Help Desk, Priory House,

Monks Walk, Chicksands, Shefford, Bedfordshire, SG17 5TQ quoting the Planning Application number and supplying a copy of the Decision Notice and a copy of the approved plan. This will enable the necessary consent and procedures under Section 184 of the Highways Act to be implemented. The applicant is also advised that if any of the works associated with the construction of the vehicular access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) then the applicant will be required to bear the cost of such removal or alteration.

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 Traffic Management Group Highways and Transport Division, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford, Bedfordshire, SG17 5TQ.
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

It is recommended that planning permission be 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.

DECISION

.....
.....

This page is intentionally left blank

Central Bedfordshire Council

Development Control Committee

11/11/2015

Determination of two applications to extinguish parts of Houghton Regis Footpaths Nos. 33 and 36

Report of Paul Mason - Head of Highways

Advising Officers: Paul Cook - Assistant Director for Highways and Transport
Author: Adam Maciejewski – Senior Definitive Map Officer

Purpose of this report

1. To determine whether two applications which seek to extinguish parts of Houghton Regis Footpaths Nos. 33 and 36 should be approved and public path extinguishment orders made.
2. One application seeks to extinguish a parallel path and narrow a wide section of footpath. The other seeks to extinguish a footpath through Sewell Farm's yard and across a meadow and disused railway cutting.

RECOMMENDATIONS

The Committee is asked to:

1. **Approve the making of a public path order under Section 118 of the Highways Act 1980 to extinguish:**
 - a. **Those parts of Houghton Regis Footpath No. 33 which abut and adjoin the northern side of Sewell Lane between points A-E-C-B and C-D as delineated by the shading on the plan at Appendix A whilst retaining a 2 metre wide strip between points E-D.**
 - b. **That part of Houghton Regis Footpath No. 36 between points V-W as shown on the plan at Appendix A.**
4. **Refuse the application to make of a public path extinguishment order for the sections of Houghton Regis Footpath No. 36 between points W-X as shown on the plan at Appendix A on the grounds that this section of footpath is considered to be needed for public use.**
5. **Come to its own view on whether to approve or refuse the application to make a public path extinguishment order for the section of Houghton Regis Footpath No. 36 between points Y-Z through Sewell Farm as shown on the plan at Appendix A.**

Introduction

3. In September 2003 a resident in the hamlet of Sewell applied to the former Bedfordshire County Council for a definitive map modification order to add a public footpath from Sewell Lane northwards to connect to Houghton Regis Footpath No. 33. Following investigations by Council Officers, the former County Council made a definitive map modification order in 2005 to add the sections of footpath between A-C-E-B, C-D, V-W-X and Y-Z as shown on the plan at Appendix A. Following objections to both the order and to the subsequent modifications to the order, an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs confirmed the modified order in July 2012.
4. In October 2004 Mr. Alistair Moffitt of Orchard Cottage, Sewell Farm applied to have the proposed to be added sections of Footpath No. 36 between points V-W-X and Y-Z extinguished. In May 2008 a joint application was received from: Mr. Justin Gridley Esq. of Sundial Cottage, Mrs. Lorraine Gridley of Springwell Cottage and Mr. Hamish Kinmond and Ms. Liz McCaw both of Lane Farm to have the added parts of Footpath No. 33 between points A-C-B and C-D extinguished (see plan at appendix A). For purposes of practicality, cost and administration both of these applications have been processed together with the costs being proportionately divided between the various parties.

Description of Footpaths to be extinguished

5. Houghton Regis Footpath No. 33 at Sewell Lane is unusual in that rather than being a linear feature it is an irregular area consisting of a driveway (B-C), a narrow access to a cottage (A-E) and an area of steep banks and landscaping through which a driveway has recently been constructed (C-D). This area is best described by the shading on the plan at Appendix A. The section of footpath proposed to be retained (E-D) would rest on a 2 metre wide grassed terrace with revetment work on its eastern downslope side.
6. Houghton Regis Footpath No. 33 at Sewell runs across an old railway cutting which has an almost vertical southern face (V-W) and gently sloping northern face. The Sewell Greenway cycle route between Houghton Regis and Stanbridge runs through the cutting. Footpath No. 36 continues north-westwards downhill over a small pasture to Sewell Lane (W-X) and then runs through the yard of Sewell Farm before continuing downhill in a north-westwards and then northwards direction to connect to an unaffected part of Footpath No. 33 (Y-Z).

Legal and Policy Considerations

7. Section 118 of the Highways Act 1980 (“the 1980 Act”) empowers the Council, as Highway Authority, to make and confirm an order to extinguish a public footpath subject to it meeting a number of legislative tests. These are set out and discussed in detail in Appendix B and summarised below.

Considerations for making a public path extinguishment order

8. The Council can **make** a public path extinguishment order if it is expedient to do so on the ground that it is not needed for public use. In considering whether the extinguishment is expedient the Development Management Committee (hereafter “*the Committee*”) can consider a variety of ancillary matters – such as privacy, security, and health and safety. However, these matters are subordinate to the primary test of whether the footpath is needed for public use.
9. The table below summarises the findings detailed in Appendix B

<i>S.118(1) – whether it is expedient that the footpath should be stopped up on the ground that it is not needed for public use</i>		
Path section	Meets test?	Comments
Footpath No. 33		
A-C	Yes ✓	Runs next to cottage and is obstructed. Walkers can use Sewell Lane.
C-B	Yes ✓	Runs along driveway and then up a steep bank. Walkers can use Sewell Lane.
C-D	Yes ✓	Very wide - runs along a driveway and includes the land to either side including a steep bank. Part of width between points E-D retained for public use.
Footpath No. 36		
V-W	Yes ✓	Runs down the side of a near-vertical railway cutting. Alternative route via Bridleway No. 35
W-X	No ✗	Runs over a pasture between railway cutting (Sewell Greenway cycle route) and Sewell Lane. Would provide a direct link to the Greenway
Y-Z	Yes ✓	Runs from Sewell Lane through the farmyard of Sewell Farm to Footpath No. 36. Footpath No. 33 provides a suitable alternative route.

10. Consequently it is expedient to **make an order** to extinguish the sections of footpath between points A-C-B, C D, Y-Z and V-W on the ground that these sections are not needed for public use. The section of Footpath No. 33 between points D-E and the section of Footpath No. 36 between points W-X should be retained as this is considered needed for public use.

Considerations for confirming a public path extinguishment order

11. Before **confirming** a public path extinguishment order the Council must be satisfied that it is expedient to do so having regard to the extent that the footpath would be used by the public if not extinguished and the effect of the extinguishment on the lands served by the path. In considering whether the public would use a path, any temporary circumstance diminishing or preventing public use must be disregarded.
12. The table below summarises the findings detailed in Appendix B

<i>S.118(2) – the council shall not confirm a public path extinguishment order unless satisfied that it is expedient to do so having regard to the extent that the footpath would be likely to be used by the public if retained</i>		
Path section	Meets test?	Comments
Footpath No. 33		
A-C	Yes ✓	Walkers use Sewell Lane to avoid passing past cottage windows.
C-B	Yes ✓	Walkers use Sewell Lane to avoid climbing steep bank.
C-D	Yes ✓	Walkers use the retained width (E-D) in preference to the lower section along driveway.
Footpath No. 36		
V-W	Yes ✓	Walkers can use easier route via Bridleway No. 35
W-X	No ✗	Walkers can get pleasant views from the footpath and would use it to go from the Greenway to Sewell Lane
Y-Z	No ✗	Walkers are likely to use this route as a scenic alternative to Footpath No. 33. The level of public use cannot be ascertained as it is obstructed by a locked gate.

13. Consequently it is expedient to **confirm an order** to extinguish sections A-C-B, C-D, and V-W on the ground that these sections of footpath are unlikely to be used to a significant extent were they open and available for public use and not extinguished. However I consider that the sections of Footpath No. 36 running through Sewell Farm between points Y-Z and points W-X to the south are likely to be used if retained. Consequently an order extinguishing these sections could not be confirmed and therefore an extinguishment order ought not to be made.

Other considerations

14. A number of other considerations ancillary to the main legislative tests are considered in Appendix B. None of these have any great impact on the conclusions above although it should be noted that the most of the paths applied to be extinguished lie within an Archaeological Notification Area. Whilst not directly affecting any extinguishment it does have some bearing on how any non-extinguished sections of footpath are reinstated.

Consultation responses

15. The proposed extinguishment of several sections of Houghton Regis Footpaths Nos. 33 and 36 have been consulted on and the responses from various consultees are included at Appendix C and briefly summarised below.
16. The various applicants: Mr. Gridley Esq. Mrs. Gridley, Mr. Kinmond and Ms. McCaw and Mr. Alistair Moffitt are were consulted. All the applicants are supportive of the extinguishments they have applied for.
17. Mr. Moffitt has also submitted further representations in support of his application which, as discussed above, is not considered to meet the legislative tests for the making or confirmation of a public path extinguishment order. Mr. Moffitt's representations focus mainly on issues of farmyard security, safety of walkers crossing a working farmyard, family privacy, welfare and security issues, and the presence of Footpath No. 33 as a nearby alternative route and are included at Appendix C. Comments on the points Mr. Moffitt makes are also included.
18. Mr. Andrew Selous MP has written to the Council on behalf of Mr. Moffitt. Mr. Selous' inquiries relate principally to the issues of security of Mr. Moffitt's farm equipment and the health and safety of walkers. Mr. Selous' inquiries, Mr. Moffitt's e-mails to the MP, and the Council's responses are included separately at Appendix D.
19. Houghton Regis Town Council and the Ramblers both currently support the proposed extinguishments of all the paths applied for. However The Chiltern Society has stated that it opposes the extinguishment of the section of Footpath No. 36 between points X-W and potentially may also oppose the extinguishment of the section through the farmyard (Y-Z) (see Appendix C).
20. Sustrans, the County Archaeological Officer and Statutory Undertakers were also consulted and their responses are included at Appendix C.

Options for consideration

21. The recommendations invite the Committee to come to its own view on whether an order should be made to extinguish the section of Footpath No. 36 between points Y-Z through the yard of Sewell Farm.

22. The presence of an alternative route (Footpath No. 33) means that this section of Footpath No. 36 can be considered not needed for public use. However the pleasant views, visual interest of the farm building and farm yard means that this route would be likely to be used by walkers if it was opened up and signed. As this section of Footpath No. 36 is neither signed nor available for public use I cannot provide an actual level of public use but experience leads me to conclude that it would be used if it was made available. The Committee has to have *“regard to the extent that the footpath would be used”* in considering whether to extinguish the footpath which is a relatively subjective test of the Act.
23. Mr. Moffitt has been keen to stress a variety of issues which are ancillary to the above – including danger to walkers from farm vehicles, possible thefts and the implications on the cost of farm insurance, family privacy and welfare issues. These subordinate issues have been addressed elsewhere in the report and at Appendix B and can be included in the Committee’s consideration of whether it is expedient to make an order if the primary tests of *“not needed for public use”* and *“whether the path would be used by the public if not extinguished”* have been met.
24. The Committee can therefore:
 - A. Have regard to the potential use of the route with a view that this overrides any potential hazard to users or impact on the owners and inhabitants of Sewell farm and **refuse** this part of Mr. Moffitt’s application and retain the footpath between points Y - Z, or
 - B. Consider that the issues of public safety and Mr. Moffitt’s family’s security and business interests outweigh the extent to which members of the public are likely to exercise their right to walk the footpath through the farmyard between points Y - Z and that it is therefore expedient to **approve** his application for an order to extinguish this section of footpath.
 - C. The option of doing nothing is **not an option** as currently Mr. Moffitt is guilty of obstructing a public highway and not taking enforcement action lays the Central Bedfordshire Council open to action before the Magistrates’ Court under Section 130B of the 1980 Act.

Reasons for decision

25. The Legal and Policy Section above discusses whether the two applications meet the required tests of Section 118 of the 1980 Act.
26. This report considers that the proposed extinguishment of several sections of Footpath No. 33 does meet the legislative tests and consequently an order could be made if the Committee considers it expedient to do so.

27. Of the three affected sections of Footpath No. 36, section V-W is unlikely to be needed or used by the public and thus meets the legislative tests and consequently an order could be made if the Committee considers it expedient to do so.
28. The section of Footpath No. 36 between points W-X is considered to be needed for public use and would be used if made available to the public. This section does not meet the legislative tests and an order to extinguish this section could not be made.
29. The section of Footpath No. 36 between points Y-Z is considered to be not needed for public use. However this section of path is potentially a desirable and scenic alternative to the nearby Footpath No. 33 and therefore is likely to be used by the public if made available to them. Consequently an order to extinguish this section may not meet the confirmation test of Section 118. However, in considering whether it is expedient to confirm an extinguishment order the Committee can consider the issues included in Mr. Moffitt's representations at Appendix C and resolve to adopt one of the options at Paragraph 24 above.

Council Priorities

30. The proposal reflects the following Council priorities:
 - Enhancing your local community
 - Promote health and wellbeing and protecting the vulnerable.
 - Better infrastructure – improved roads, broadband reach and transport.
 - Great universal services – bins, leisure and libraries.
31. The proposal, if parts of Footpath No. 36 are retained, will provide a balance between public access from Sewell Lane northwards towards the A507 and southwards towards the Sewell Green Lane with increased privacy and security for properties situated alongside Sewell Lane.

Legal Implications

32. Section 118 of the Highways Act 1980 empowers the Council to make a legal order to extinguish a public right of way if it considers it expedient to do so on the ground that it is not needed for public use and is unlikely to be used were it not extinguished. The proposal by approving parts of the submitted applications but not others meets the legislative tests of the 1980 Act. As the proposal is currently opposed it is likely that any public path extinguishment order would receive objections and would need to be forwarded to the Secretary of State for Environment, Food and Rural Affairs for confirmation. It is likely the objections would be dealt with by written representations rather than a public inquiry.

33. Section 28 of the Highways Act 1980 gives any land owner or person with a legal interest in the land the right to claim compensation from the Council upon the coming into operation of a confirmed public path order. However the applicants - the landowners - have signed declarations that they would defray any compensation and thus in effect not claim any. Moreover, no compensation would be payable for not extinguishing part of a footpath added by a definitive map modification order.

Financial Implications

34. The Council's administrative and advertising costs for the making and confirmation of the proposed order are being paid for by the various applicants. How the joint applicants arrange to reimburse the principal contact who will be invoiced is a private matter between themselves. The Council's administrative costs are estimated to be £1500 and the advertising costs about £500. The charges will be applied in two tranches, one after the order is made and one after the order is confirmed. If members refuse the majority of the application by Mr. Moffitt the Council cannot charge for any administration costs incurred in dealing with that aspect of his application and so will bear those costs itself; otherwise, if his application is approved, he will be charged for administration and the costs of any order making. The part of Mr. Moffitt's application which is recommended for approval (V-W) is in the Council's interest rather than in the applicant's and so that cost will also be born by the Council from existing Rights of Way Team budgets. Depending on the Committee's resolution, it is proposed that separate orders be made for both footpaths so that any objection by the Chiltern Society to the extinguishment of parts of Footpath No. 36 does not prejudice the confirmation of the extinguishment of parts of Footpath No. 33. Administrative and advertising costs to be borne by the Council are estimated to be about 25% of the total cost – about £500.
35. The Council's administrative costs are being charged at the rate that was in force (£19/hr) when the applications were accepted as duly made in October 2004 and June 2008. Consequently the current 2015/16 minimum fee of £2040 is not applicable to these applications.
36. Currently there is opposition to the proposal and so it is likely that additional unrecoverable Council expenditure will be incurred in dealing with objections to an opposed order. This additional unrecoverable expenditure would include forwarding the order to the Secretary of State for Environment, Food and Rural Affairs for confirmation and would potentially cost £1000 which would be met out of the existing Rights of Way Team's budget.
37. Extensive works are required to install sleeper revetments which will be backfilled to raise and level the retained section of Footpath No. 33. These will be carried out by and at the expense of the applicant Mr. Gridley. Additional works – mainly clearance, signposting, installation of kissing gates and the construction of steps, would be

required on the section of Footpath No. 36 to the south of Sewell Lane (W-X) which is proposed to be retained. These works (excluding the kissing gates which are the landowner's responsibility) are estimated to cost £2000 and are part of the Council's duty to maintain highways and will be funded out of existing Rights of Way Team budgets.

Equalities Implications

38. The proposal would not discriminate against any particular group of local residents. If the proposal succeeds then local residents and walkers would be able to enjoy a comparatively flat grassed route (C-D) going northwards from Sewell Lane compared to the existing route which climbs a steep bank. Likewise the section of Footpath No. 36 heading northwards from Sewell Lane through the farmyard ((Y-Z) is a generally gently sloping path which is easy to use. The section of footpath to be retained to the south of Sewell Lane (W-X) requires opening up and steps or a ramp installed down the bank into the railway cutting and Sewell Green Way. There is though a slightly longer but metalled alternative route to avoid any steps if installed.

Community Safety

39. 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 extinguishment of parts of Footpaths Nos. 33 would remove the current footpaths from the principal access to Springwell Cottage and Lane Farm. The report does not support the extinguishment of part of Footpath No. 36 which runs through the farmyard of Sewell Farm where there is an increased chance of pedestrian-vehicle conflicts. However it is the duty of Mr. Moffitt as the farmer to ensure that he implements safe working practices to avoid endangering member of the public using the public footpath through his farmyard. By opening up Footpath No. 36 through the farmyard there may be an increase in risk of opportunistic theft from an area where thefts have occurred previously when public access was restricted.

Conclusions

40. Following the addition of several sections of Houghton Regis Footpaths Nos. 33 and 36 to the Definitive Map and Statement in 2012 two applications by neighbouring applicants seek to extinguish most of the sections of footpaths added by the earlier 2005 modification order.
41. One application seeks to extinguish sections of Footpath No. 33 which are either duplicated by the adjacent Sewell Lane – a very quiet dead-end road, or are where the footpath is recorded with a width far in excess of 2 metres and it is proposed to narrow this to a retained 2 metre wide strip along a revetmented terrace alongside Sundial

Cottage. The requested extinguishments are considered to meet the legislative tests of Section 118 of the 1980 Act.

42. The other application seeks to extinguish sections of Footpath No. 36 which run northwards from Sewell Lane through Sewell Farm and a meadow to connect with Footpath No. 33 or southwards from Sewell Lane over a meadow and across the deep railway cutting of the Sewell Greenway to connect with Bridleway No. 35 to the south. With the exception of a short section of footpath up the southern side of the railway cutting (section V-W), the requested extinguishments are considered to either not meet the making test of “not needed for public use” (section W-X) or the confirmation test of “would be used by the public apart from the order” (sections X-Y and Y-Z).

Next Steps

43. The sections of Footpath No. 36 between points W-X and Y-Z currently are not signposted or made open and available to the public. Depending on the resolution of the Committee and consequent success/failure of any orders, work will have to be done to signpost these sections and install steps across part of a County Wildlife Site and an Archaeological Notifiable Area. If Mr. Moffitt’s application is refused he will have to either unlock his main gate or provide a smaller unlocked hand-gate or kissing-gate to the side for use by walkers otherwise enforcement action would need to be taken to make the route available.
44. If members approve the making of separate extinguishment orders for Footpaths Nos. 33 and No. 36 these will need to be made and advertised on site and in the local press with copies being served on land owners and occupiers and statutory consultees. If no objections are received to the orders by the end of the five week objection period the Council can confirm the orders.
45. However, if objections are received and not withdrawn the opposed order(s) will need to be forwarded to the Planning Inspectorate for an independent Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs to consider the order(s) and to confirm/not confirm them as they consider appropriate having regard to the confirmation test of whether the public would use the footpaths if available and not extinguished.

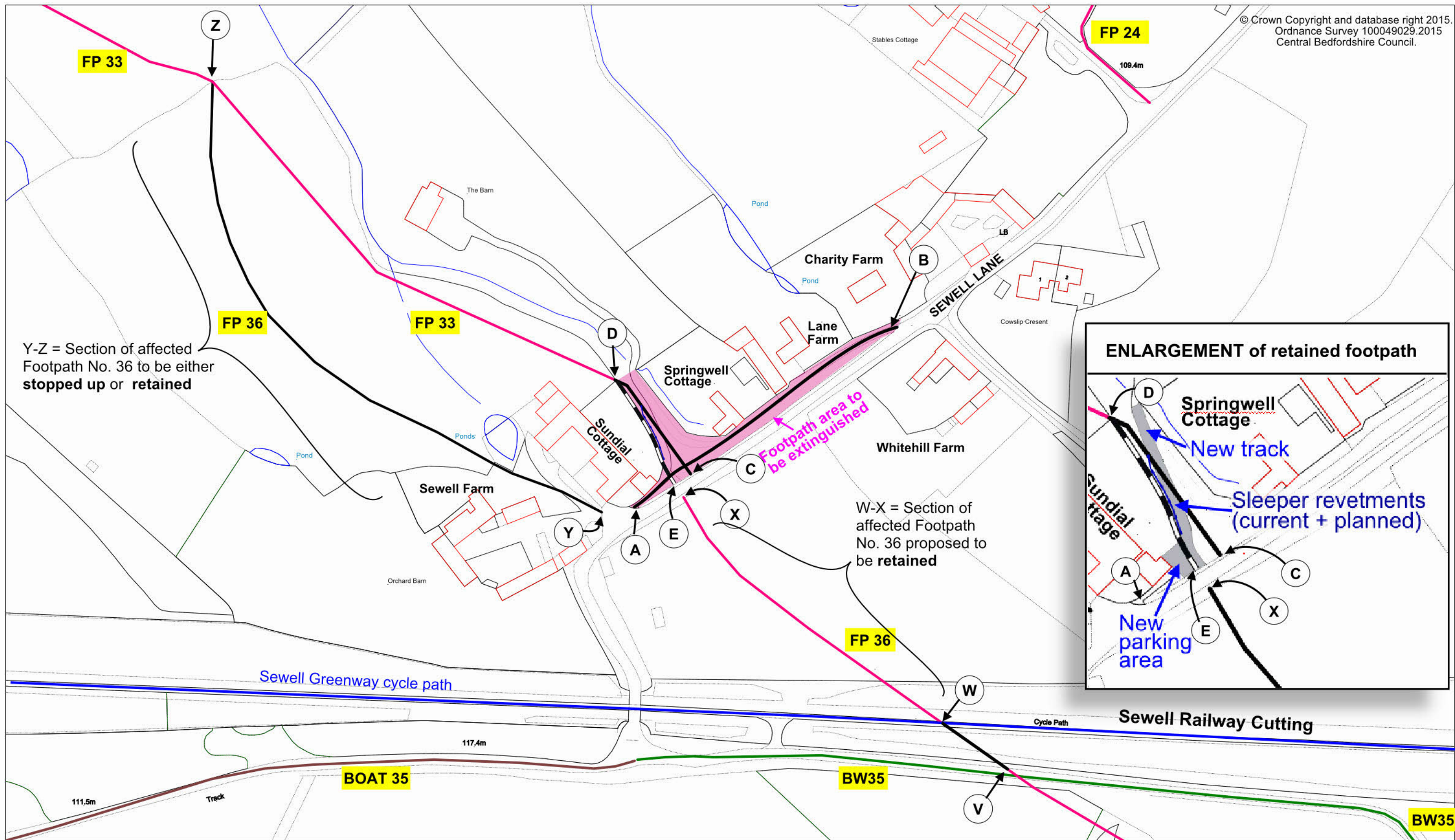
Appendices

- Appendix A – Plan showing footpaths
- Appendix B – Legal and policy considerations
- Appendix C – Consultation responses (including Mr. Moffitt’s representation)
- Appendix D – E-mails from Andrew Selous MP and CBC responses

Background Papers

None.

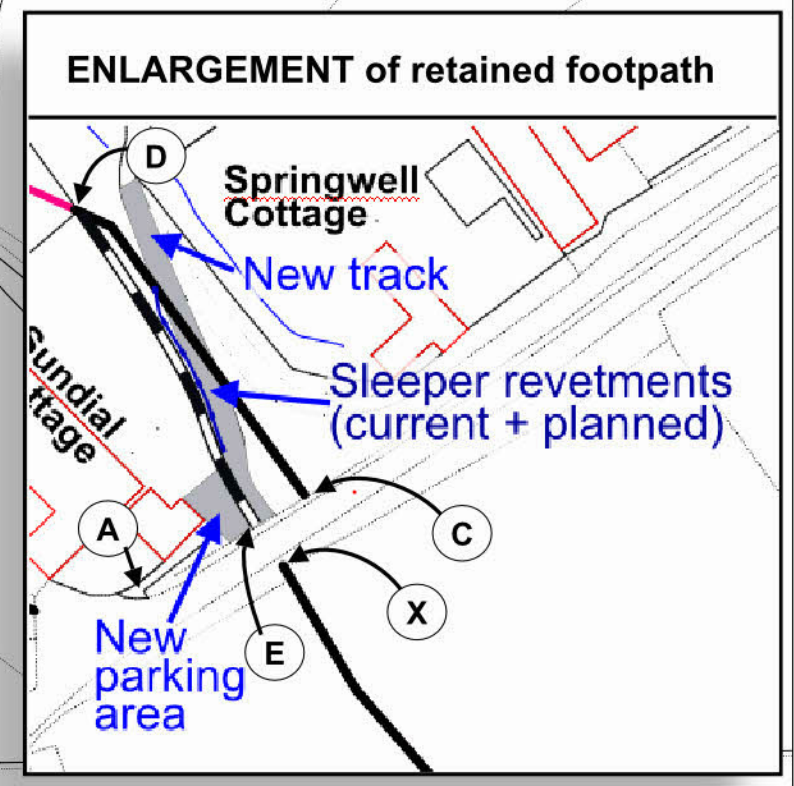
This page is intentionally left blank



Y-Z = Section of affected Footpath No. 36 to be either stopped up or retained

Footpath area to be extinguished

W-X = Section of affected Footpath No. 36 proposed to be retained

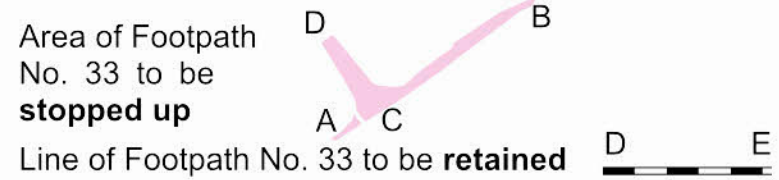


HIGHWAYS ACT - Section 118
 Proposed Extinguishment of Parts of Houghton Regis Footpaths Nos. 33 and 36

Date: 23 January 2015
 Scale: 1:1,500@A3
 (1:2,121@A4)

- Unaffected footpath —
- Unaffected bridleway —
- Unaffected BOAT —

- Footpath No. 36 to be **stopped up** — —
- Footpath No. 36 to be **retained** — —
- Footpath No. 36 to be either **stopped up** or **retained** — —



This page is intentionally left blank

Appendix B

Legal and Policy Considerations

- B.1. Section 118 of the Highways Act 1980 (“the 1980 Act”) empowers the Council, as Highway Authority, to make and confirm an order to extinguish a public footpath subject to it meeting a number of legislative tests. The following sections discuss the application of the legislative tests to the sections of footpath in question.

Considerations for making a public path extinguishment order

- B.2. The Council can **make** a public path extinguishment order if it is expedient to do so on the ground that it is not needed for public use.
- B.3. “Expediency” is a subordinate test within Section 118 – with the questions of whether a path is needed or would be used if not extinguished being the primary tests. In considering what could be considered “expedient” Philips J. in the case of *R. v Secretary of State for The Environment, ex parte Barry Stewart (1980) 39 P. & C.R. 534* stated:

“...Now, the only criterion that section 110(2) [now s.118(2) of the 1980 Act] lays down is whether it is ‘expedient’ to confirm the order having regard to the extent to which it appears to the Secretary of State that the path would be likely to be used. It thus concentrates on user as being, at all events, the prime consideration. I agree, however, with the submission made on behalf of the applicant that the word ‘expedient’ must mean that, to some extent at all events, other considerations can be brought into play, because, if that were not so, there would be no room for a judgment, which is bound to be of a broad character, as to whether or not it is ‘expedient’...”

- B.4. The notion of “expediency” can therefore include Members’ considerations of ancillary matters – such as the privacy, security and health and safety issues included in Mr. Moffitt’s representations at Appendix C. However, these matters are subordinate to the primary tests and consequently are unlikely to carry sufficient weight to overturn a finding that the footpath is either needed or would be used if retained.
- B.5. The section of Footpath No. 33 between points A-C-B runs parallel to and at a lower level to Sewell Lane which is a very quiet dead-end lane serving only Sewell Farm and Sundial Cottage. There are very few vehicle movements along the lane and the verge is wide enough for walkers should a vehicle need to pass. The section of footpath between points B-C follows the driveway down to Lane Farm and Springwell Cottage. Access to the remainder of Footpath No. 33 via the point B would necessitate scrambling up a steep 3 metre high

grassed bank to point D whereas access from point E would be comparatively level. Consequently it is unlikely that this route can be considered needed for public use.

- B.6. The section of footpath between A-C has been partly infilled and raised by the land owner to the level of the road as part of the construction of a parking area for Sundial Cottage. Again this section is not needed for public use as it is literally alongside the main lane.
- B.7. The section of Footpath No. 33 between points C-D descends a gravelled driveway and then climbs back up the aforementioned grassed bank. The proposed retention of the section of footpath which runs along a grassed terrace at the top of the bank between points D-E makes the retention of the remainder of the width of the footpath redundant and unneeded.
- B.8. The section of Footpath No. 36 between points Y-Z starts at the entrance to Sewell Farm and proceeds north-westwards along the main access track to the farm's barns before veering off onto a grassed track to go past a pond and then across a meadow in an arc to terminate at its junction with an unaffected part of Footpath No. 33 at point Z. This route slopes gently downwards from Sewell Lane to point Z and effectively duplicates the northern section of Footpath No. 33 between points Z-D-E. Because of this duplication it can be considered unneeded although it could be argued that its retention is desirable owing to its more open nature and picturesque views. There is, however, a significant difference between "need" and "desire". A way is needed for use if there is no suitable or accessible alternative. A way may be desired in preference to an alternative route if it is prettier or better surfaced for example. This is addressed in Section 118(2) of the 1980 Act which requires that the Council be satisfied that the extinguishment is expedient having regard to the extent that the path would be used apart from the order (see Paragraph 19 below). Hodgson J. in the case of *R. v The Lake District Special Planning Board ex parte Bernstein (1982)* commented that "*need*" could be distinguished into that "*...of the stranger visiting the area for the first time: it would not matter which path was to be closed because his only requirement would be a clearly indicated track...*", and "*...the local person familiar with the local rights of way: such a person would wish to use the familiar path...*". The current proposal seeks to retain a public footpath along the route currently used and marked on older pre-modification order Ordnance Survey maps, be it with a reduced width. This is also the route used by local residents and those further afield who regularly walk Footpath No. 33. The proposed extinguishment of Footpath No. 36 between points Y-Z would therefore seem to satisfy both of Hodgson J.'s criteria and can be considered not needed for public use.
- B.9. The section of Footpath No. 36 between points V-W climbs diagonally up the almost vertical southern face of the Sewell cutting which has a height of about

10 metres. Historically there was a flight of steps built onto the face of the cutting in the c.1950s but here is no trace of this today. To construct a new flight of steps would cost approximately £3000. Access to Bridleway No. 35 at point V is arguably easier via the underbridge at the end of Sewell Lane and then ascending the gentler gradient of the bridleway from its junction with BOAT No. 35 rather than negotiating both the northern and southern faces of the Sewell cutting. Consequently it is considered that the section V-W is not needed for public use.

B.10. The section of Footpath No. 36 between points W-X climbs slowly southwards from Sewell Lane across uneven ground to the lip of the Sewell cutting and then descends a gentle slope to the floor of the cutting approximately 3-4 metres below. The cutting is used for the Sewell Greenway which is a permissive cycle path between Houghton Regis and Stanbridge. Although Mr. Moffitt has applied for this section of the footpath to be extinguished I consider that it could provide a shorter and more convenient link to the Sewell Greenway for walkers than the alternative via the underbridge at the end of Sewell Lane and Bridleway No. 35. Consequently I consider that this section is potentially needed for public use. Work would need to be undertaken to construct steps down the slope of the cutting. These would cost approximately £2000.

B.11. Consequently it is expedient to **make an order** to extinguish the sections of footpath between points A-C-B, C D, Y-Z and V-W on the ground that these sections are not needed for public use. The section of Footpath No. 33 between points D-E and the section of Footpath No. 36 between points W-X should be retained as these are needed for public use.

Considerations for confirming a public path extinguishment order

B.12. Before **confirming** a public path extinguishment order the Council must be satisfied that it is expedient to do so having regard to the extent that the footpath would be used by the public if not extinguished and the effect of the extinguishment on the lands served by the paths. In considering whether the public would use a path, any temporary circumstance diminishing or preventing public use must be disregarded.

B.13. The section of Footpath No. 33 between points A-C-B runs parallel to Sewell Lane. The section C-B runs along a lower section of driveway to Springwell Cottage and then over new landscaping and up a steep bank to connect to the line C D. Whilst it is possible that walkers may wish to use this route, it is less convenient than walking along the higher part of the main lane. Consequently public use is likely to be minimal for this section. The section A-C runs directly in front of Sundial Cottage and adjoins the Sewell Lane. Its closeness to the windows and door of the cottage means that members of the public walk along

the main lane in preference and so it is unlikely that this section would be used if not extinguished even if it were not obstructed by the raised level of the new driveway.

- B.14. The section of Footpath No. 33 between points C-D descends a gravelled driveway from Sewell Lane and then ascends a steep grassed bank to point D. The alternative route to be retained crosses a gravelled parking area and then follows a grassed terrace along the top of the grassed bank to the existing gate at point D which is a much more easy and preferable route. Consequently it is very unlikely that walkers would use the wider area between points C-D if it was not extinguished – especially once further revetment works are carried out to widen and slightly level the current grassed terrace.
- B.15. The section of Footpath No. 36 between points Y-Z passes through a locked farm gate and runs along the access track to the yard of Sewell Farm before passing to the west side of a pond and descending a long gentle grassed slope through a meadow to connect to an unaffected section of Footpath No. 33 at the meadow's northern boundary (point Z). This is an attractive route with open views to the north and also views of a pleasant farm house and yard. The low/intermittent levels of use by farm vehicles would neither detract from the public's enjoyment of the route nor dissuade walkers from using it in my opinion. If the route was signposted and made available for public use it would, in my opinion, be used by the public if it was not extinguished. Whether the footpath would be used as much as or in preference to the nearby section of Footpath No. 33 between points E-D-Z is unknown.
- B.16. The section of Footpath No. 36 between points X-W-V slowly climbs southwards from Sewell Lane across uneven ground to the lip of the Sewell cutting and then descends a gentle slope to the floor of the cutting before climbing diagonally up the cutting's almost vertical southern face. Were the route open and available for public use it is likely that some of the more adventuresome walkers would use this route to access Bridleway No. 35 at point V. Many though may prefer to use the alternative route via the underbridge at the end of Sewell Lane and then to ascend the more gently sloping bridleway from its junction with BOAT No. 35 to point V or to switch onto the more level Sewell Greenway to access point W. However, it is likely that walkers would use the section W-X to access the Sewell Greenway as this route is more open and does provide good views to the north. I therefore consider that the section X-W is more likely to be used than its continuation W-V.
- B.17. The Committee also has to have regard to the effect of the extinguishments on the land served by the footpaths. Auld J. in *R v Secretary of State for the Environment ex parte Cheshire County Council* - [1991] JPL 537, CO/1012/89 clarified that this meant having to consider whether the extinguishment of a

right of way would be detrimental to a landowner – rather than of any benefit. In his judgment he stated:

“...Looking at section 118(2), Mr Cross relies on the words in this part of his case which follow the general test set out there, ‘having regard to the effect which the extinguishment of the right of way would have as respects land served by the path or way’. I agree with Mr Kent that this provision is clearly directed to the consideration of adverse effects from extinguishment on nearby landowners who derive a benefit of one sort or another from the use of the footpath. It is clearly directed to a case where extinguishment is on the cards, and where the Secretary of State is asked to consider whether that would in some way harm nearby landowners. That view is supported by the concluded words of section 118(2) ‘...amount being taken of the provisions as to compensation contained in section 28 above...’.”

- B.18. Based on Auld J’s clarification the extinguishment of the sections of footpath in question would not be detrimental to the interests of the owners of the land served by the footpaths.
- B.19. Consequently it is expedient to **confirm an order** to extinguish sections A-C-B, C-D, and V-W on the ground that these sections of footpath are unlikely to be used to a significant extent were they open and available for public use and not extinguished. I consider that the sections of Footpath No. 36 running through Sewell Farm between points Y-Z and point X-W to the south are likely to be used if retained. Consequently an order extinguishing these sections could not be confirmed and therefore an extinguishment order ought not to be made.

Other relevant considerations

- B.20. Sections 28 and 121 of the 1980 Act relate to the right to compensation for anybody with a legal interest in land affected by a public path order. However, the applicants have signed a waiver agreeing to defer any compensation that becomes payable as a result of the coming into operation of the order. Moreover, where the Council does not make an extinguishment order, there is no right to compensation consequent to the opening up of a public right of way.
- B.21. The Council has a duty under Section 118(6A) of the 1980 Act to consider any material provisions contained within a Rights of Way Improvement Plan (“RoWIP”) when determining whether or not to confirm a public path order. The Council’s Outdoor Access Improvement Plan acts as its RoWIP. The proposal does not conflict with any of its aims.
- B.22. Section 29 of the 1980 Act imposes a duty on the Council to have regard to the needs of agriculture and forestry, and the desirability of conserving flora, fauna and geological and physiographical features when determining whether to make and confirm a public path order. The effect of the order would be to

extinguish a number of sections of footpath that have either been surfaced or heavily landscaped or that cross part of the Sewell Greenway County Wildlife Site. The three sections of footpath that are proposed to be retained (sections: C-D, W-X and Y Z) cross land which is either within an Archaeological Notification Area or within a County Wildlife Site. Works to open up these rights of way will have a minimal impact on the archaeology of the area but may have some impact upon the flora on the southern side of the railway cutting. The effect of the extinguishments on fauna, geology, physiological features and agriculture is likely to be negligible. However, retention of the sections of Footpath No. 36 between points W-X and Y-Z could have a negative effect on farming activities – particularly the security of farm equipment kept at the barns at Sewell Farm.

- B.23. Central Bedfordshire Council's Constitution (Section C of E2 at Annex A) identifies the Development Management Committee as the appropriate body to determine whether the Council, as highway authority, should make orders under the 1980 Act to create, divert, or extinguish a public right of way. The Constitution (H3 at Section 4.3.74.) further authorises the Director of Community Services "*...To carry out the functions of the Council in respect of public rights of way, including the exercise of the Council's powers and duties under the Wildlife and Countryside Act 1981, the Highways Act 1980, Sections 257 and 258 of the Town and County Planning Act 1990 (including the maintenance, protection, enforcement, extinguishments, creation, diversion and modification of public rights of way) and the making of road traffic regulation orders in respect of public rights of way...*". The use of such delegated powers are "*...Subject to consultation with the relevant ward member, and subject to the Assistant Director Planning's power to authorise the making of orders in respect of public rights of way applying only in so far as no significant objection has been made to the application, proposal or matter concerned...*". As the report seeks to refuse most of Mr. Moffitt's application, this constitutes significant opposition; consequently the case falls to be determined by the Development Management Committee rather than under delegated powers.

Appendix C

Consultation Responses

- C.1. The joint applicants, Mr. Gridley Esq. Mrs. Gridley, Mr. Kinmond and Ms. McCaw were consulted. Mr. Gridley Esq. stated that he was "...happy with the details proposed..." Mrs. Gridley responded to state "...I am more than happy with the proposed plans [as applied for] and contributing towards the administration and advertising costs..." Mr. Kinmond and Ms. McCaw are happy that their application is being moved forward.
- C.2. The applicant, Mr. A. Moffitt has been consulted on the proposal that his application should be refused. He has subsequently submitted the following statement in support of his application.

FOR THE ATTENTION OF MR ADAM MACIEJEWSKI

Dear Adam,

HIGHWAYS ACT – SECTION 118 – PROPOSED EXTINGUISHMENT OF PARTS OF HOUGHTON REGIS FOOTPATHS NOS. 33 AND 36

Further to our meeting with you here at the farm, I am listing out some reasons for extinguishing the footpath between our two farmyards and also the footpath in the field known as Blacksmiths Shop. These are labelled as FP36 on your map of 23.01.15. These have been discussed with you and your predecessors many times over the past 12 years, since we first requested our extinguishment.

- 1. These footpaths are not needed for public use as other, better paths adequately serve the area, and, in the case of the footpath through the farmyard, run within a few metres of the established path. Also, although available for use by the public, they have not been used for many years, (probably since 1876 when the new yard was built.) Therefore these paths could rightly be extinguished under section 118 of Highways Act 1980.*

- 2. POTENTIAL RISKS TO WALKERS*

Walkers would seriously be at risk walking through a farmyard where heavy machinery is in constant use. To open an access for the public to a potentially dangerous workplace seems to most sensible people to be both foolish and irresponsible. The Health and Safety Executive is constantly reminding us of the danger existing in farmyards, and also of the high number of fatal incidents occurring in farmyards. F.P.36 from Blacksmiths Shop to the entrance to Sewell Farm follows the route of Sewell Lane for approximately 30 metres. This part of the lane can be extremely dangerous as it is near a blind bend in the road and motorists and motorcyclists often drive round this bend extremely fast. Most of the motorcyclists have been using the cycle track illegally and are often

neither insured nor taxed. We phone the police about this frequently. (The police have asked us to do this.)

3. SECURITY

Our farm is very vulnerable to crime and theft because of the open visibility from the old railway, which also gives an easy escape route onto the green lanes for criminals. We have lost 2 quad bikes and numerous pieces of equipment to thieves. Virtually all of this loss has been covered by ourselves because of the high cost of insurance. To have to leave an open gate into our 2 farmyards and houses means easier access to our properties and increased risk of criminal activity. The Police are advising increased security, while the Council are wanting open access to our property. We already have one access to our farmyards from F.P.33 and another easier access can only lead to more crime.

4. PRIVACY

My wife and I have a disabled daughter and we are extremely worried about privacy and security here, to the point that it is now making us ill. Louise suffers from refractory epilepsy and worry is the main trigger for her seizures. She is often hospitalised with seizures and we are concerned this footpath problem will exacerbate her illness.

My son and daughter in law, living in the farm house, are really worried about the danger to their two small boys aged five and three, with an unlocked gate and ready access to their garden.

5. PUBLIC INTEREST

There is no reason that these two sections of F.P.36 should not be extinguished as they both have public rights of way already established, parallel with them within a few yards. The new route of F.P.33 between Sundial Cottage and Springwell Cottage is easier, shorter and more scenic.

Through Blacksmiths Shop, the path is paralleled by Sewell Lane and Whitehill Lane.

No member of the public would in any way be inconvenienced, by extinguishing of these footpaths and the Council would save a lot of money, from signings and infrastructure for steps, bridges, gates and styles.

None of the interest groups have objected to the request to extinguish the footpath.

Yours sincerely

Alistair

- C.3. Mr. Moffitt also submitted two sequences of photographs showing tractors and sheep moving through his farmyard. The most relevant of these photographs

be they Mr. Moffitt's disabled daughter and two young grandchildren or members of the public walking the footpath. Mr Moffitt also alleges the 25 metres of Sewell Lane between the two sections of Footpath No. 36 is dangerous but omits to comment that the alternative route is over 100 metres along the same section of lane. The thefts that have occurred have been when there has been no recorded or signed footpath and with a locked gate. Consequently the presence of the footpath has not contributed to the level of criminal activity.

- C.6. Mr. Moffitt is concerned about the safety and welfare of his disabled daughter and two young grandchildren who live on the farm. In my opinion the presence of a footpath through the farm is unlikely to have such a detrimental effect on Mr. Moffitt's family so as to override the prime considerations of public need and future public use of the footpath.
- C.7. The two sections of Footpath No. 36 in question are significantly different in character to Footpath No. 33 and Sewell Lane which would provide the alternative route. As discussed in the Legal and Policy Considerations at Appendix B I consider that the southern section of Footpath No. 36 between points W-X is needed as a link to the Sewell Greenway. Whilst I agree that the northern section of Footpath No. 36 between points Y-Z through the farmyard is not needed due to the proximity of Footpath No. 33, I consider that if it was opened up it would be used by the public and consequently an order to extinguish the footpath could not be confirmed. The Chiltern Society has already indicated that it would object to the extinguishment of the section W-X were an order made to extinguish it (see paragraphs C.11 and C.12 below).
- C.8. Mr. Andrew Selous MP has written to the Council on behalf of Mr. Moffitt. Mr. Selous' inquiries relate principally to the issues of security of Mr. Moffitt's farm equipment and the health and safety of walkers. The text of Mr. Selous' inquiries, Mr. Moffitt's e-mails to the MP, and the Council's responses to Mr. Selous are included at Appendix D.
- C.9. Houghton Regis Town Council was consulted on the applications (as made) and the Deputy Town Clerk responded to state "... *The Town Council's 'Planning & Licensing Committee' considered the above extinguishment at its meeting this week and is in support of the proposals...*"
- C.10. The Ramblers' local footpaths officer was consulted and responded in May 2015, stating "... *I feel that the tidying up of old orders is essential and I have no objections to the proposal...*" as applied for. This contradicts an earlier more detailed response from the Ramblers which was received in June 2008. In this the Local Footpath Officer ("LFO") stated "... *The addition to the Definitive Map of parts of Footpath No. 36 is needed to provide the option of an alternative walk back to BW35 so that the same route does not have to be covered on the outward and return sections of any circular walk... The fact that the footpath is not easily accessible from point D because of the steep railway cutting is not a reason for extinguishing the footpath, it is a reason for improving access [the LFO alludes to not reinstating the vertical descent of the southern side of the cutting]... ..the applicant cites the proximity of FP33 to FP36 as a reason for extinguishing parts of FP36... The proposal tries to erode the maxim 'once a highway always a highway'... ..The Association is*

prepared to comment on a properly presented case for modification of the short additional section of FP33 running parallel to Sewell Lane. This section serves no particular purpose if FP33, as used at present (ie on the slope east of Sundial Cottage), were to be formally designated, properly signposted from Sewell lane, and waymarked..."

- C.11. The Chiltern Society was consulted and responded in March 2015, stating for Footpath No. 33 "...[C-D] We would oppose the diversion of this section to the line from D to E. We feel it would be a much better route if the footpath joined the new track to The Barn. Coming from D the path could join the track shortly before the sleeper revetment... This would mean part of the pink area should not be extinguished... [A-B] If most of the rest of the pink area is to be extinguished a decent clear grass verge is needed from A to B..." For Footpath No. 36 the Society stated "...[X-W] We all agreed that this section of the path should be retained and we would oppose its extinguishment... [W-V] This section does seem impossible to follow... we might reluctantly agree not to oppose its extinguishment... [Y-Z] As this is duplicated by Footpath No. 33 we would be agreeable to its extinguishment provided some improvements were made to Footpath No. 33... [D-Z] ...the planks over the stream are going rotten. A proper bridge with a handrail needs to be provided if the section of Footpath No.36 from Y to Z is to be extinguished..."
- C.12. In a follow up e-mail in March 2015 the Chiltern Society made further comments, stating "...We were both unhappy with the path crossing the parking area. We feel if a car or van is parked on the line of the path this would both obstruct and hide the path and probably make it impassable for a mobility vehicle. Our suggestion was not D-C but a combination of D-E and D-C. At the moment just before sleeper revetments the drop down from D-E to the track is minimal and would not involve a lot of earth moving to make it suitable for a mobility vehicle. Quite a lot of improvements are needed to make D-E suitable for a mobility vehicle. I think the path is rather steep for a mobility vehicle from E down to the lowest point..."
- C.13. In response – the section of Footpath No. 33 between points C-D currently goes down a track and then would have to climb up a very steep 3 metre high bank requiring steps. The proposed alternative between points D-E stays on the high ground and has no steep slopes or steps. The Chiltern Society's suggestion would not benefit walkers and would make it unusable for mobility scooters or buggies. Consequently the Council could not adopt this suggestion under the Equalities Act 2000. The section of Footpath No. 33 between points A-E is buried under landscaping. The section between points C-B is also affected by some landscaping and is not a level walk until on the drive by Springwell Cottage and Lane Farm. The verge along the road can be cleared of overhanging vegetation to allow passage – though there is very little vehicular traffic along this dead-end land as it only serves Sewell Farm and Sundial Cottage.
- C.14. The now inactive Bedfordshire Rights of Way Association was consulted on the extinguishment applications in 2008. It responded to state "...It is our opinion that Y-Z would be used in preference to A-C-D-Z. W-X offers a walk through pasture land offering good views..."

- C.15. Sustrans was consulted and Mr. Peter Bate, Sustrans Area Manager, Beds, Herts & Milton Keynes, stated that for the section of Footpath No. 36 between points X-V “...It seems very odd that this is still a FP given the steepness of the cutting. Does anyone use it? I don't even think there are any signs. There is no objection to the proposal to extinguish this FP provided that the diversion via BW35 and Sewell Lane is available...” and for the section of Footpath No. 36 between points Y-Z “...The proposals to modify FP33 seem a sensible alternative. Again, I don't recall ever seeing any signs at the junction with Sewell Lane...”
- C.16. The Wildlife Trust was consulted as part of Footpath No. 36 between points V-W-X is within a County Wildlife Site but has not responded.
- C.17. The County Archaeological Officer, Mr. Martin Oake, was consulted as parts of Footpaths Nos. 33 and 36 lie within an Archaeological Notification Area. He stated “...The lengths of footpaths W-X and D-E are in the area of Sewell medieval settlement (HER 16885) which is indeed an archaeologically sensitive area. W-X runs through an undisturbed area which contains substantial earthworks. I am concerned that groundworks will be required on the stretch as these could affect the integrity of the earthworks and disturb buried archaeological deposits relating to the medieval settlement. I would prefer to see any 'opening up' involve a minimum of ground disturbance in this area, of ground disturbance is necessary it is likely to require archaeological monitoring in order to investigate and record any archaeological deposits that are affected. Although D-E is also within the archaeologically sensitive area I am much less concerned about it. There has, as you point out, been extensive ground works along this stretch already including cutting the bank back some distance and depth. It is unlikely that further revetting will result any much additional loss of archaeological deposits in this area...”
- C.18. In response – it is envisaged that some minor works will be needed at the roadside bank at point X to put in a few steps up into the meadow and probably the installation of a kissing gate. There would not be any other structures installed within the main area of archaeology within the meadow. Another kissing gate would probably be installed at the northern boundary of the railway cutting (close to point W) with possibly a flight of steps down into the bottom of the cutting. Where possible steps can be built up and backfilled rather than being cut into banks to protect any underlying archaeology.
- C.19. Mr. Michael Griffin, a local walker who has been an interested party in this case for many years, was consulted and stated that he had no objection to the applications as made.
- C.20. The statutory undertakers were consulted. Neither Anglian Water, UK Power Networks (electricity), National Grid (gas) nor British Telecommunications Plc responded.

Appendix D

E-mails between Andrew Selous MP, Mr. Alistair Moffitt and Central Bedfordshire Council

Andrew Selous MP query No.2 (23rd June 2015)

From: David Leverington
Sent: 17 July 2015 11:07
To: Andrew Selous
Subject: Fw: Sewell Farm Footpath - MR ALISTAIR MOFFITT - SEWELL FARM

Dear Mr Selous

My apologies for the delay in a reply.

I understand that Mr Moffitt has recently made a number of submissions direct to Adam Maciejewski. Adam will include these in his report to Councillors on the Development Management Committee later in the year. He also confirmed that the report would have an open recommendation, so that members can decide what to do.

Should they decide to refuse the application to extinguish, we would then work with Mr Moffitt in terms of his Health and Safety assessment as landowner and any subsequent mitigation measures considered necessary to safeguard the public.

Regards

David Leverington
ROW Team Leader

From: HOWAT, Susan [<mailto:HOWATS@parliament.uk>] [on behalf of Andrew Selous]
Sent: 23 June 2015 14:00
To: Jason Longhurst
Cc: Cllr Richard Stay
Subject: Fw: Sewell Farm Footpath - MR ALISTAIR MOFFITT - SEWELL FARM

Dear Jason,

Sewell Farm Footpath - MR ALISTAIR MOFFITT - SEWELL FARM

Further to my previous correspondence and the reply received from David Leverington, Mr Moffitt has again contacted me to let me have his response to the Council's recent email. given Mr Moffitt's response please could I ask the Council to carry out an assessment in respect the impact on Mr Moffitt's farm and health and safety concerns of opening the footpath across Mr Leverington's farmyard given that

the farm is still in operation and that Mr Moffitt confirms that heavy machinery needs to be operated in the farmyard without interruption from pedestrians using the footpath.

I look forward to hearing back from you.

With very best wishes

Andrew

Andrew Selous

Member of Parliament for SW Bedfordshire

nb: email forwarded by my secretary to avoid delay due to OUTLOOK Network problems

From: Alistair Moffitt

Sent: 22 June 2015 14:41

To: SELOUS, Andrew

Subject: Sewell Farm Footpath - Mr. Andrew Selous M.P.

Dear Andrew,

Thank you for your further email and David Leverington's reply. It was not our fault that the Council's Definitive Map did not show the footpath through our farm. They had a legal duty to show footpaths that were extant. If we had known we probably would not have bought the farm.

He says he is not aware of a legal diversion of the footpath. Obviously this was a de facto action on the part of Mr. Cooke when he built the new farmyard in 1876, because of the risk of injury from cattle and horses and carts.

He also states that Adam Maciejewski has rarely seen farm traffic. This is only a small farm, but when we carry out many jobs we use large machinery and there is fairly constant movement between the two farmyards. Adam would need to spend a lot of time here to see all the movements. It seems to me and most sensible people that to open an access to a potentially dangerous workplace is both foolish and irresponsible. Warning notices are of not much use. They tend to be ignored or torn down. We are constantly being reminded by the Health and Safety Executive that farming is the only industry which kills its children and family members. Most of these accidents happen in farmyards. I leave you to judge the corollary.

Mr. Leverington states that the current level of theft cannot be blamed on the presence of a public footpath. We already have one footpath giving access to our farmyards. What I am suggesting is that a further footpath giving easier access to the farmyards will only lead to more crime. On one hand I have the Police telling me to increase our security and on the other I have the Council wanting me to have an unlocked gate and access for all to our farmyards. Only last week we have had a break-in and serious criminal damage to our property which has involved the police in a lot of work.

My wife and I have a disabled daughter and we are extremely worried about security here, to the point that it is now making us all ill. Louise suffers from refractory epilepsy

and worry is the main trigger for her fits. She is often hospitalised with fits and we are concerned this footpath problem will exacerbate her illness.

With paedophiles at large in the community, my daughter -in-law, living in the farmhouse is really worried about the danger to her two small boys aged three and five, with an unlocked gate and ready access to her gardens.

I applied to extinguish the footpath nearly twelve years ago. This has been hanging over us for a very long time. We have always welcomed walkers on our farm, and without the path through the farmyards, walkers would in no way be inconvenienced, as path 33 is actually shorter and probably more scenic.

Mr Leverington goes on to say that the path through the farmyards would probably be used if it were opened up. Any new road or path is always used simply because it is there. (Aristotle said nature abhors a vacuum)

We are really worried about the health and safety and security risks. The public would in no way be inconvenienced as there is already a parallel path, which has been used for the past 139 years. (Miss Bradshaw, who lived in Sundial Cottage since 1930, told us that no-one had used the path through the farm, at least since that date.). There will be no public benefit, only a loss of security and a far greater Health and Safety risk to the public.

It amazes me that Mr. Leverington can so glibly pass off our concerns Do not we have Human Rights of safety and security?

As you can see from what I have written we really are worried and concerned about this intrusive footpath which the Council seem to want to steamroller through without concern for our own rights.

Kind regards

Alistair

Andrew Selous MP query No.1 (15 June 2015)

From: David Leverington

To: Andrew Selous

Subject: MR ALISTAIR MOFFITT ORCHARD BARN, SEWELL, DUNSTABLE LU6 1RP – FOOTPATH

Dear Mr Selous

Thank you for your email that has been forwarded for my attention.

We are unsure when the route across Mr Moffitt's land was last used but according to the Ordnance Survey 25 inch maps it has been available since about 1880, plus it is also recorded in the Houghton Regis Inclosure Award of around 1800. However, both this authority and its predecessor have been sympathetic to Mr. Moffitt's

extinguishment application, seeking to determine the application before any attempt to open up the legal route.

The standard property search only asks what routes are currently shown on the Definitive Map of Public Rights of Way. Footpath No. 26, whilst legally in existence, was not recorded on the Definitive Map at the time of Mr. Moffitt's search and so its presence was not relayed to him. We are unaware of any legal diversion of Footpath No. 36 onto the current route of Footpath No. 33.

The footpath if reinstated would run up the main access to the farmyard. Adam Maciejewski has visited the farm a number of times but has rarely seen farm traffic. However, we do agree that modern farm vehicles pose a risk to pedestrians and in such situations would advise the erection of warning notices for both path users and vehicle drivers.

I understand that Mr. Moffitt has suffered a number of thefts from his farmyard over the years. These have occurred whilst there has been no public access to the farmyard and so the presence of a public footpath cannot be blamed on the current level of thefts.

Mr. Moffitt applied to extinguish the footpath through his farm. Adam has looked at the case and agrees with him that there is an alternative route nearby (Footpath No. 33). It can be argued that the farmyard footpath is not needed for public use due to the parallel Footpath No. 33. However, we also have to have regard to the extent to which the route would be used by members of the public if it were open and available for use and not extinguished. Adam does consider that the route would be used by the public to a significant degree but cannot quantify this level as the route is obstructed. He also currently thinks that the loss of the public right outweighs factors in favour of privacy, security and public safety.

Adam's intention is to submit a report to the Council's Development Management Committee in August and has encouraged Mr Moffitt to make his own submissions for inclusion in the report. He may also be persuaded by such to reconsider his opinion and hence recommendation to the Committee.

Regards

David Leverington

ROW Team Leader

From: SELOUS, Andrew [mailto:andrew.selous.mp@parliament.uk]

Sent: 15 June 2015 12:49

To: Jason Longhurst

Subject: MR ALISTAIR MOFFIT ORCHARD BARN, SEWELL, DUNSTABLE LU6 1RP - FOOTPATH

Dear Jason,

MR ALISTAIR MOFFIT ORCHARD BARN, SEWELL, DUNSTABLE LU6 1RP – FOOTPATH

I write on behalf of my constituent Mr Moffitt who has raised with me his concerns about a Council proposal to reinstate a medieval footpath through his farm yard which

I understand has not been used for the past 139 years. I further understand that when Mr Moffitt purchased the farm in 2003 Council searches only showed a diverted footpath so they were unaware of the original route of the path. I further understand from Mr Moffitt that should the footpath be reinstated through his farmyard and property that it will run right through an area which is used constantly by heavy farm machinery thus causing public health and safety issues. I further understand that the reinstatement of this footpath which has not been in existence for the past 139 years will also cause a great deal of financial outlay for Mr Moffitt in order to provide security for his farm.

Please could I ask you to look into the concerns that Mr Moffitt has raised with me and let me know what steps can be taken by the Council to resolve all the concerns which Mr Moffitt has highlighted in the attached email to assist me in writing back to my constituent.

With very best wishes,

Andrew Selous

Member of Parliament for SW Bedfordshire
& Parliamentary Under Secretary of State for Justice
www.andrewselous.org.uk

From: Alistair Moffitt [mailto:moffittalistair@gmail.com]
Sent: 15 June 2015 12:14
To: SELOUS, Andrew
Subject: CENTRAL BEDS COUNCIL - FOOTPATH -Mr. Andrew Selous MP

Dear Andrew,

Councillor Richard Stay advised me to contact you regarding a footpath issue.

Central Beds Council want to reinstate a footpath running between the Victorian Farmyard (build in 1876) and the original farm yard by the farm house.

It was diverted beyond the Victorian yard for common sense reasons of safety and security and has not been used for 139 years.

The Definitive map has until now only showed the diverted path, and when we purchased the farm in 2003 the Council searches only showed the diverted path so we were unaware of the original path.

Walkers would be seriously at risk walking through a working farmyard where heavy machinery is in constant use. The potential Health and Safety risk is great.

If we had an open gate there would also be a serious security risk. At the moment we feel under siege as we have had several thefts and break-ins over recent years. Only yesterday youths in a stolen car drove through our entrance gate and continued over 2 fields, (one, a new wild flower meadow) and onto our neighbours land, damaging beyond repair 2 gates and a length of new hedging and fencing.

While we are having to increase our security at great expense, the Council is trying to force us to keep an open gate onto our property.

If this footpath were to be reinstated, not only would there be a potential Health and Safety issue, also our lives would be made very difficult as we could have problems with security and privacy.

There is no need for this path through our farmyard as the diverted path runs parallel within 100 feet of the other path, so walkers would not be inconvenienced in any way.

I can of course supply you with much more detail, maps and photos, if you require them.

I would be extremely grateful if you could help us in this issue.

Thanking you again for your help in the past.

Yours sincerely

Alistair.

c.c. Councillors Richard Stay, Susan Goodchild and John Cane