

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** 26 November 2015

## **NOTICE OF MEETING**

### **DEVELOPMENT MANAGEMENT COMMITTEE**

Date & Time

**Wednesday, 9 December 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.**

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# 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 11 November 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	<b>Planning Enforcement cases where formal action has been taken</b>	7 - 14

To consider the report of the Director of Regeneration and Business providing a monthly update of planning enforcement cases where action has been taken covering the North, South and Minerals and Waste.

## Planning and Related Applications

To consider the planning applications contained in the following schedules:

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

<b>Item</b>	<b>Subject</b>	<b>Page Nos.</b>
6	<p><b>Planning Application No. CB/15/02419/FULL</b></p> <p><b>Address :</b> Land North of Flexmore Way, Station Road, Langford</p> <p>Residential development of 43 dwellings, vehicular access, pedestrian and cycle links, public open space, car parking, landscaping, drainage and associated works.</p> <p><b>Applicant :</b> David Wilson Homes (South Midlands)</p>	15 - 42
7	<p><b>Planning Application No. CB/15/03182/FULL</b></p> <p><b>Address :</b> Former Pig Unit, Hitchin Road, Stotfold, Hitchin, SG5 4JG</p> <p>Erection of 131 dwellings with access, parking, landscaping, open space and associated works.</p> <p><b>Applicant :</b> Lochailort Stotfold Ltd</p>	43 - 64
8	<p><b>Planning Application No. CB/15/03751/VOC</b></p> <p><b>Address :</b> Riveroaks, Stanford Lane, Clifton</p> <p>Removal of condition 5 to planning permission CB/14/04317/FULL: (Change of use and provision of 5 No. pitch travellers site).</p> <p><b>Applicant :</b> Mr and Mrs Porter</p>	65 - 80
9	<p><b>Planning Application No. CB/15/03767/FULL</b></p> <p><b>Address:</b> Westbury, Deepdale, Potton, Sandy SG19 2NH</p> <p>Erection of a detached dwelling and detached garage on land that currently forms part of the existing curtilage of Westbury.</p> <p><b>Applicant:</b> Mrs Crossman</p>	81 - 92



- 14      **Planning Application No. CB/15/03920/FULL**      175 - 184
- Address:**      Hadrian Academy, Hadrian Avenue, Dunstable,  
LU5 4SR
- Construction of two new out of school classrooms,  
new WCs and storage rooms, an extension to the  
existing dining room and formation of a covered  
courtyard.
- Applicant:**      Hadrian Academy
- 15      **Planning Application No. CB/15/03779/FULL**      185 - 194
- Address:**      Land rear of 30 – 32 Markyate Road, Slip End,  
Luton LU1 4BX
- Two new houses with garages.
- Applicant:**      Burgundy Developments Ltd
- 16      **Determination of an application to add a claimed bridleway  
through the Crown Hotel and yard, Biggleswade**      195 - 226
- The report proposes that a Definitive Map modification order be  
made to add a public footpath to the Definitive Map and  
Statement through the Crown Hotel and its rear yard between  
High Street and Church Street, Biggleswade. It is also proposed  
that enforcement action be taken to remove security fencing that  
obstructs the bridleway to enable free use of the bridleway  
ahead of a legal order being made.
- 17      **Site Inspection Appointment(s)**
- Under the provisions of the Members Planning Code of Good  
Practice, Members are requested to note that Site Inspections  
will be undertaken on Monday 4 January 2016.

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**Meeting:** Development Management Committee  
**Date:** 9<sup>th</sup> December 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.

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**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 9th December 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	18/11/15 Garage remains. Prosecution court hearing took place 18 & 19 November 2015 at Luton Magistrates. Court will reconvene on the 4th March.
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		Compliance to return to a single dwelling required by 9 April 2016. Clarification requested over which internal facilities are hoped to be retained in association with single dwelling occupation
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 9th December 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.
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				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 9th December 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		Retail use ceased. Some areas of compliance still outstanding. Legal determination application recently received.
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				The Notice relating to the land at the front has been complied with in full. The Notice relating to the land to the rear has been partially complied with, in that the vehicles have been removed along with the caravan and trailer, as well as building materials. However, there is still storage of some vehicles and hardcore condensed into the small rear compound at the site. The timber building is also in place still.  Negotiations are continuing to see if compliance can be realistically achieved.

## Planning Enforcement formal action (DM Committee 9th December 2015)

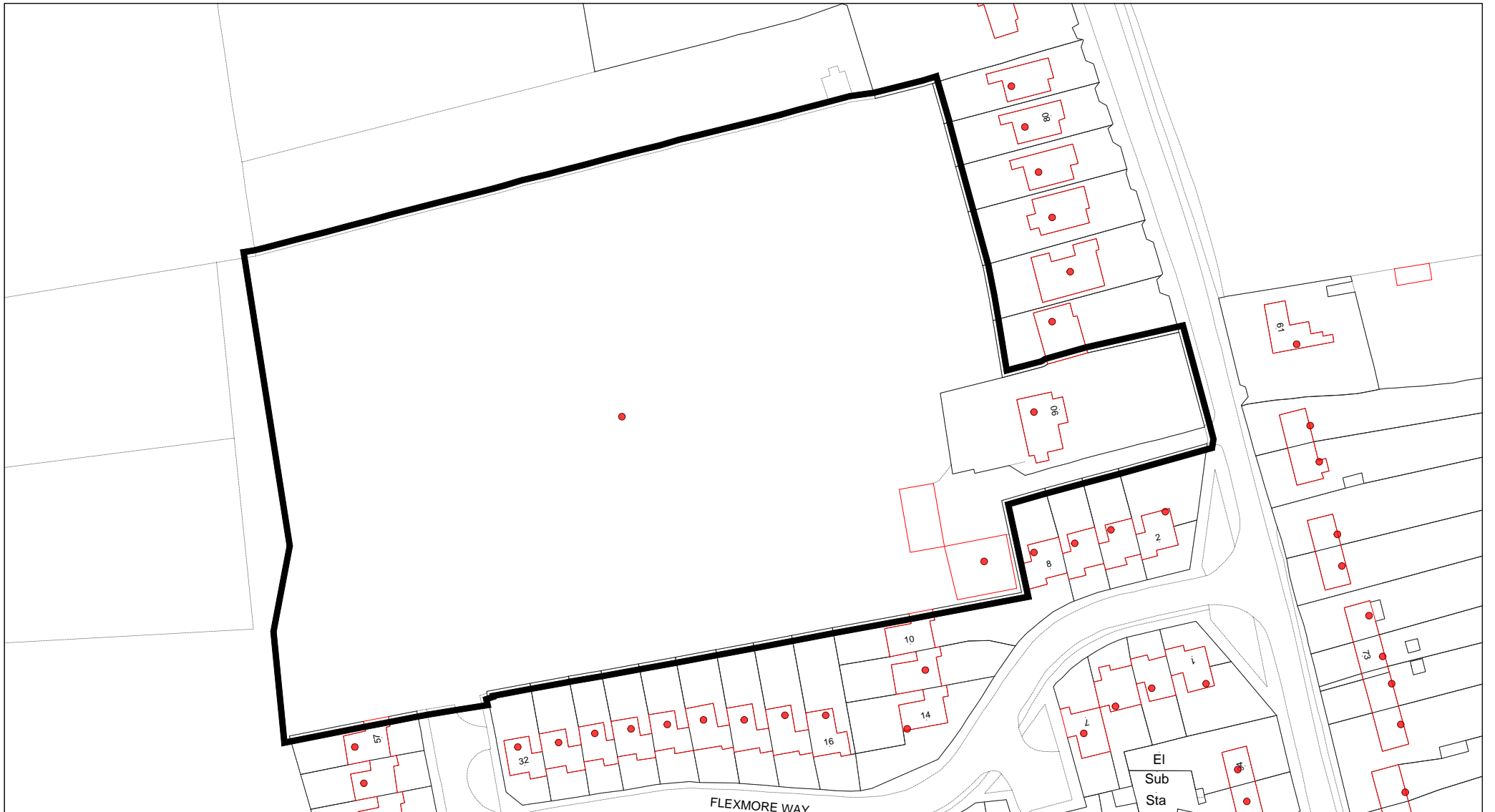
	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
14	CB/ENC/13/0607	Clements End Farm. Clements End Road, Studham, LU6 2NG	Enforcement Notice - Change of use from vehicle repairs to a mixed use for vehicle repairs and vehicle sales.	05-Jun-15	03-Jul-15	03-Sep-15	Appeal received 30/6/15			Await outcome of appeal.
15	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		Site visit confirms that the tree has been delivered to the property and meets the measurement requirements as specified in the Notice, however it has not yet been planted. Further site visit to check full compliance.
16	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.
17	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		Alternative premises for business use very recently obtained. Site check to be carried out early December 2015

## Planning Enforcement formal action (DM Committee 9th December 2015)

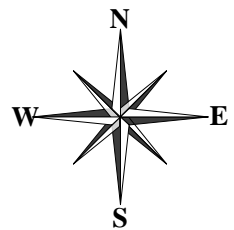
	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
18	CB/ENC/14/0378	25 High Street, Sandy, SG19 1AG	Enforcement Notice - the installation of roller shutters	13-Aug-14	12-Sep-14	12-Oct-14	Appeal decision 23/7/15.	23-Aug-15		Enforcement Notice upheld for front roller shutter. Front shutter removed notice has been complied with.
19	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				Report with legal to determine if further prosecution action should be taken.
20	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				Planning application CB/15/03000/VOC approved on 12th November 2015. Case to be closed as breach of condition notice now superseded by new permission.
21	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		Meeting to be arranged with Assets, Enforcement, Conservation and legal to discuss the best course of action for all parties.
22	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.
23	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
24	CB/ENC/15/0140	Springbank, Bottom Drive, Eaton Bray, LU6 2JS	Enforcement Notice - Unauthorised wall	09-Nov-15	08-Dec-15	08-Feb-15				Check compliance 08/02/15

## Planning Enforcement formal action (DM Committee 9th December 2015)

	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
25	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				Breach of condition notice served on the 19th October 2015 in relation to non compliance with condition 13 attached to the planning permission ref CB/13/01208/Full
26	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				Enforcement Notice superseded by planning approval reference CB/15/03320/Full. Case will be closed.
27	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.



FLEXMORE WAY



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Date: 24:November:2015

Map Sheet No

Scale: 1:1250

Application No. CB/15/02419/FULL

Land North of Flexmore Way, Station Road, Langford

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**Item No. 6**

<b>APPLICATION NUMBER</b>	<b>CB/15/02419/FULL</b>
<b>LOCATION</b>	<b>Land North of Flexmore Way, Station Road, Langford</b>
<b>PROPOSAL</b>	<b>Residential development of 42 dwellings, vehicular access, pedestrian and cycle links, public open space, car parking, landscaping, drainage and associated works.</b>
<b>PARISH</b>	<b>Langford</b>
<b>WARD</b>	<b>Stotfold &amp; Langford</b>
<b>WARD COUNCILLORS</b>	<b>Cllrs Dixon, Saunders &amp; Saunders</b>
<b>CASE OFFICER</b>	<b>Samantha Boyd</b>
<b>DATE REGISTERED</b>	<b>07 July 2015</b>
<b>EXPIRY DATE</b>	<b>06 October 2015</b>
<b>APPLICANT</b>	<b>David Wilson Homes (South Midlands)</b>
<b>AGENT</b>	<b>Bidwells</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Major development - contrary to Policy and Parish Council objection</b>

**RECOMMENDED  
DECISION**

**Full Application - approval recommended**

**Reason for Recommendation**

The proposed 42 dwellings are contrary to Policy DM4 of the Core Strategy and Development Management Policies Document, however the application site is adjacent to the existing settlement boundary in Langford and centrally located within the village, it is therefore considered to be a sustainable location. The proposal would have an impact on the character and appearance of the area however this impact is considered to be limited given the location of the site. The proposal is also considered to be acceptable in terms of highway safety and neighbouring amenity and therefore accords with Policy DM3 of the Core Strategy and Development Management Policies Document (2009) and the Council's adopted Design Guidance (2014). The proposal would provide affordable housing and would add to the Council's 5 year housing supply, these benefits are considered to add significant weight in favour of the development and therefore the proposal is considered to be acceptable.

**Site Location:**

The application site is located to the north of Flexmore Way and west of Station Road in Langford. The site is approximate 1.86 hectares and includes No 90 Station Road, which is to be demolished to provide the access route into the site.

The area of land currently comprises 90 Station Road and its curtilage together with the land to the rear that is currently paddock land with fencing and stables. There are mature trees surrounding the site on the northern and western boundaries. To the east there are existing dwellings in Station Road and to the south the site is bound by the rear gardens of the properties in Flexmore Way.

The site is partly in the Settlement Envelope for Langford (the existing dwelling to be demolished and its curtilage is within the envelope boundary). The remainder of the site forms part of the Langford 'triangle', a triangular piece of land centrally located with the village and surrounded by development, but is not included within the Settlement Envelope. The site is not within Green Belt or any other land designation.

### **The Application:**

Full planning permission is sought for a residential development of 42 dwellings, vehicular access, pedestrian and cycle links, public open space, car parking, landscaping, drainage and associated works.

During the application process revised plans have been received making alterations to the site layout, parking provision and visitor parking. The revisions lead to a reduction in the original number of dwelling proposed (43 to 42), the amendment of some house types to a bungalow and a pair of semi detached one and a half storey dwellings in place of two storey dwellings, relocation of the dwellings with dormers (rooms in the roof space) from the edge of the site to within the site, an increase in parking spaces to comply with the Design Guide and an increase and relocation of the Visitor parking spaces to comply with the Design Guide.

35% of the proposed dwellings are to be Affordable Housing and the approximate overall density of the site is 23 dwellings per hectare.

A further consultation based on the revisions has been undertaken therefore the assessment below is based on the revisions received on 19 October 2015.

### **RELEVANT POLICIES:**

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

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

CS1 Development Strategy  
CS5 Providing Homes  
DM1 Renewable Energy  
DM2 Sustainable Construction of New Buildings  
DM10 Housing Mix  
DM4 Development Within & Beyond the Settlement Envelopes  
CS14 High Quality Development  
DM3 High Quality Development  
CS7 Affordable Housing  
CS2 Developer Contributions

#### **Development Strategy**

At the meeting of Full Council on 19 November 2015 it was resolved to withdraw the Development Strategy. Preparation of the Central Bedfordshire Local Plan has begun. A substantial volume of evidence gathered over a number of years will help

support this document. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our website as material considerations which may inform further development management decisions.

### **Supplementary Planning Guidance/Other Documents**

Central Bedfordshire Design Guide (March 2014)

### **Relevant Planning History:**

There is no history relevant to this application

### **Consultees:**

#### 1. Langford Parish Council **Summary**

Langford Parish Council has carefully considered this application and has consulted on it widely throughout the village culminating in a public display of the planning documents attended by over 100 residents.

It is our view and that of our residents that this application is not in the best interests of our village and should be refused, it is poorly designed, totally unsustainable and will bring unnecessary pressures to bear on those living nearby who in many cases purchased their property on the basis of the published development strategies 2008-2011.

The proposed site is outside the agreed settlement envelope and is part of the "Green Triangle" which is the last green space of the old village it has stood the test of time and should remain so. We do understand the impact of the recent appeal judgement regarding the local authorities issues around demonstrating land supply for housing but given that Langford is already contributing to this issue with circa 200 houses approved we believe totally the flawed Flexmore proposal is a step too far and should be categorically rejected.

#### **Our specific grounds for opposition follow**

##### **Site Design**

1 Has centred on maximisation and has not considered at all the impact on the residents of Flexmore Way a cul de sac adjoining the proposal. Three storey properties are proposed which are totally out of keeping with the area and will create an imposing claustrophobic situation for those properties (even numbers) to the right of Flexmore Way and this is not acceptable. Privacy is being encroached upon in certain instances which are unacceptable; Residents have documented their specific concerns as it relates to their own properties which the

Parish Council totally supports. It should also be recognised that certain PROPERTY boundaries are being breached by the plan without the permission of the land owners, we do understand that planning consents do not necessarily require land ownership but in this situation where circa 35% of the site is impacted it needs to be publicly recognised that the developer has no solid remit.

- A pedestrian walk way is proposed between the new site and Flexmore Way; this is not acceptable as it will end up becoming an alternative entry to the new site with cars being parked across its entrance in Flexmore Way and its owners walking through to the new site.

3 The Parish Council and residents have grave concerns over the so called green space and balancing ponds(the site is on a hill so difficult to see how water will flow successfully)being at the rear of the site, it is too dark and remote from most of the properties and could unfortunately become an area attracting the wrong type of visitor.

The Parish Council in conjunction with the police are trying hard to ensure our leisure areas remain safe and secure for everyone especially our children who are naturally drawn towards such places. In our experience you avoid such eventualities by good design which this proposal is not.

4 Car Parking layouts do not look adequate given cars per household, visitors and delivery traffic, all spare space is allocated as visitor parking ( max 11),the spaces quoted overall probably meet the designated requirement but will result in a crowded and polluted environment with residents looking elsewhere to park.

5 Site Access onto Station Road is of great concern to us given the potential risks that are being created, the distances between the proposed entry point, Flexmore Way and the two others proposed off Station Road (Planning Consent given to a 110 dwelling estate with in and out entry roads ) appear insufficient from both a visual and practical perspective. Currently the bus stop at the Flexmore Way junction is used by both school transport and local services, the projected growth from the sites that already have planning consent will require dedicated pull offs for the increased services that will be needed. Given the multiplicity of roads being proposed it is difficult to see how this can be achieved safely

Station Road and its environs are probably the poorest of

our roads despite being weight restricted, and there is nothing in the forward plans to undertake any major work that we can see to cope with what will be a very significant increase in traffic volume.

There is an additional impact on those residents who live in Station Road with insufficient parking capability, with the restrictions that will be required with the multiplicity of all new accesses they will be unfairly compromised and this cannot be allowed

**In summary the proposal is of poor design, fails to consider the wider community and will create risk through the additional traffic navigations.**

#### Sustainability

We are very concerned regarding sewerage disposal given the proposal under consideration together with those developments already approved, Anglian Water have been moving waste via tankers for some time now without any obvious improvement to the basic infrastructure. We suggest the Council seeks a formal response from the utility company for them to confirm both current and future capacity levels for Langford .If this is not forthcoming we are prepared to issue an FOI request for it to be made publicly available

We would draw the council's attention to the Flood Statement that accompanies the proposal which fails to acknowledge past flood events in the immediate area and we would request these (which will be logged on the council's incidence systems) are urgently considered.

The Village Academy has confirmed they have 35 places in their forward plans which are clearly insufficient given those proposals that have already achieved planning consent. The proposal under consideration fails to acknowledge this situation.

The Pre-school capability within the village resides with The Owlets preschool group who are unable to meet any further demand, this is a key service.

The Travel plan within the proposal is not a plan at all but a series of politically correct statements, the fact of the matter is that the local bus network cannot support families most of whom will be commuting and returning home after the service has closed for the evening

We take great exception to the flawed conclusions "Housing needs in CBeds and Langford "which we trust the council will put aside. The statistics used to form its conclusions fail to take into account the progress the village has made in its planned housing capacity and just

repeats again the discrepancies within the local authorities land supply to gain some misguided support for the proposal.

In many of the supporting documents the developer makes reference to the Councils "Emerging Strategy" further supporting their proposals, as a Parish Council we are unaware of this strategy and in our view no credence can be assigned and it should be put aside.

In summary the proposal is totally unsustainable from several aspects and should be refused.

### **Other Representations:**

2. Neighbours -  
61 responses received  
from the local  
community.

Comments summarised below:

- loss of privacy to back of house (2 Flexmore Way)
- already experience problems with bus stop,
- 43 houses will bring extra children.
- increase in transport
- schools are already at capacity
- out of character with area
- extends into the Langford Triangle which is protected
- not enough parking places for proposed houses
- will set a precedent to develop triangle
- access onto Station Road inadequate
- lack of infrastructure to cope with new development
- Langford is a village and should remain so
- archaeological impacts from the development
- outside settlement envelope
- 3 storey houses not in keeping with area
- will reduce light to Flexmore Way
- poor layout
- has not been designated for housing by Parish Council
- consent already granted for new dwellings would push Langford over the edge.
- Consideration should be given to the approved developments
- Lower School and Nursery at capacity
- Langford is a Large Village: only small scale development is appropriate
- there is no benefit for the village from this development
- Station Road unable to cope with flow of additional traffic
- Utilities unable to cope with new development
- footpath from new development to Flexmore Way will attract crime

- clear intention of further development due to road layout
- brought property because it looked onto fields
- impact will be severe on existing properties
- current views will be lost
- will be overlooked by large properties and will lose daylight
- safety of children in terms of balancing pond
- Parking on Flexmore Way is already difficult - footpath will allow new residents to park in Flexmore and walk through.
- Overdevelopment
- development should be on the village outskirts
- possibility of flooding
- local amenities are at limits.
- land ownership/boundary issues.

### 3. SuDS team

Following detailed correspondence with the applicant and case officer regarding CB/15/02419/FULL Land North of Flexmore Way, Station Road, Langford, we would like to remove our previous objection dated the 27th July 2015 subject to this being addressed through the detail submitted with the technical note ref: E3420/TN1/tjw/25082015 (August 2015).

We would still like to request that details of the final detailed design, construction, and maintenance and management of the surface water drainage system proposed for the site be provided and therefore recommend the following conditions are applied to any planning permission. These are proposed in line with the following policy areas:

- Climate Change mitigation and adaptation: CBC draft development strategy Policy 48; Mid-Bedfordshire policy CS13; South Bedfordshire policy CS12.
- Green infrastructure and ecological enhancements: CBC draft development policies 56 and 57; Mid Bedfordshire CS18, CS17; South Bedfordshire policy CS10.
- Managing water quality and flood risk: CBC draft development strategy policy 49; South Bedfordshire policy CS12; Landscape character: CBC draft development strategy policy 58; Mid Bedfordshire policy CS16.
- Open space for healthy and sustainable communities: CBC draft development strategy policies 22 and 41; Mid Bedfordshire policy CS3; South Bedfordshire policy CS7.

4. Tree and Landscape  
Officer

The site at present is an area of grass pasture land. There are existing dwellings to the east and south, to the north the site boundary consists of mature hedging largely consisting of Hazel which is unusual and to the west the boundary consists of a ditch and early mature native planting in the form of a shelterbelt.

Supplied with the application is a tree survey and tree constraints plan which indicates the trees and boundary features on site along with the root protection areas. All trees on site have been categorised as C2 classification, although I would suggest that G27 would be considered a B2 category feature.

It is obvious looking at the Proposed Site Layout plan that a large number of the features/trees will be removed to allow the development which would be acceptable as the majority are of little significance. Of importance on the Landscape and Green Infrastructure Strategy plan (LGIS) is the retention of G27 which is to be protected throughout development with tree protection fencing in line with the Tree Constraints Plan. This feature is on the north boundary and indicative plan shows that only plot 23 is really likely to have any major encroachment issues. Is this hedgeline to be incorporated into the rear gardens of plots 23 to 34, if so is the intention to provide boundary fencing to these plots as to do so will require the hedgeline to be cut back.

The LGIS shows a reasonable area of public open space and a balancing pond, landscaping for this area should aim to be native species based making best use of potential wetland planting in the balancing pond area.

Plan is also included with Soft Landscape Proposals, the details of which would appear to be acceptable.

5. Landscape Officer

**Landscape Character/ Visual Impact** - this site forms part of the "Langford Triangle" - mixed agricultural land enclosed by residential streets, an enclave which I think is unique in Central Bedfordshire and which is important in terms of local distinctiveness and sense of place. This agricultural land has a valuable role in maintaining the quality of a village , so I regret the loss of land to residential development. However, I do not object to the development as aspects of the design, such as the setback of the housing from the boundary to the west helps to limit the urban influence, particularly night time lighting.



6. Sustainable Building Officer
- The proposed development should meet policy DM1 and DM2 requirements in regard to renewable energy and water efficiency standard. Should the planning permission be granted for this development the following planning conditions should be attached:
- Development to deliver 10% of its energy demand from renewable or low carbon sources;
- All dwellings to meet 110 litres per person per day water efficiency standard.
7. Green Infrastructure Officer
- The Parish Green Infrastructure Plan identifies this area as a priority for open public access, and creating community allotment space / play area with suitable access. In this context, the access to the open space from Flexmore Way is welcomed, to ensure that the open space is accessible to the existing community. The amounts of open space available should be assessed in line with Leisure Strategy requirements, and, if possible, space for community allotments and play should be incorporated into the design of the public open space.
8. Housing Officer
- I support this application as it provides for 15 affordable homes which reflects the current affordable housing policy requirement of 35%. The Strategic Housing Market Assessment (SHMA) indicates a required tenure split for sites meeting the affordable threshold as being 63% affordable rent and 37% intermediate tenure. From this proposed scheme that would make a requirement of 9 affordable rent units and 6 intermediate tenure units. I would like to see the units well dispersed throughout the site and integrated with the market housing to promote community cohesion & tenure blindness. I would also expect all units to meet all HCA Design and Quality Standards.
9. Highways Officer
- The revised proposal comprises a mix of a 2 bed bungalow, 4 x 3 bed houses, 13 x 4 bed houses and 9 x 5 bed houses for the open market together with 8 x 1 bed houses, 5 x 2 bed houses and 2 x 3 bed houses described as affordable.
- The proposed vehicular access to the site is from Station Road which in the vicinity of the site access is subject to a 30mph speed limit. The access is laid out in the form of a priority "T" junction and is sited some 50m north of the junction with Flexmore Way.
- The location of the proposed access can be considered acceptable in highway terms and the requisite visibility splays of 2.4 x 43m can be achieved in either direction.

If permission is granted to this proposal, the existing access on the site frontage will be redundant and will need to be formally "stopped up". This matter can be dealt with by condition.

The development access road will be 5.5m in width with 2.0m wide footways on either side. A minor access road will serve Plots 18 to 41 and this will be 4.8m in width with 2.0m wide footways on either side.

There are turning areas close to the ends of both the major and the minor access roads which are large enough to accommodate the refuse vehicle, a fire appliance and a delivery vehicle.

The on-plot parking provision has been assessed against the Council's parking standards. Each dwelling is provided with at least the minimum number of spaces for the size of dwelling and the garages are considered large enough to be considered usable. Some 12 visitor parking spaces are distributed throughout the development, thus ensuring compliance with the provision of 0.25 spaces per unit.

The application is accompanied by a Transport Statement and a Framework Travel Plan. I assume that colleagues in Sustainable Transport will comment on the details of the Travel Plan and therefore I only comment in detail on the Transport Statement.

The trip rates for the proposed development site are based on traffic surveys undertaken at the junction of Flexmore Way and Station Road. i.e. the peak hour observed traffic flows have been divided by the number of dwellings served by Flexmore Way to produce the peak hour trip rates. It is noted that the derived rates differ marginally from those traditionally obtained from the TRICS database.

The base traffic flows obtained from the junction survey counts have been "growthed" using TEMPRO to both 2015 (the base year) and to 2025 the Design Year. The "committed development" of 110 dwellings further along Station Road has been included in the traffic analysis and the development traffic has been assigned and distributed on the local road network using the existing turning proportions derived from the traffic counts.

The methodology used can be considered acceptable for the scale of development proposed.

The impact of the new development on the local road network has been assessed at the junctions of Church Street/High Street/Station Road and Cambridge Road/Station Road using the TRL program ARCADY in the "without" development scenarios for the base year (2014) and for 2015 and the "with" development scenarios for 2015 and 2025.

A similar exercise has been undertaken at the site access junction with Station Road using the TRL program PICADY.

The results of the operational assessment demonstrate that all three junctions will operate well within their theoretical capacity in both the morning and evening peak periods throughout the assessment years.

The Transport Statement also advises that the Council's consultant, Amey, provided the Personal Injury Accident Data for the area surrounding the development site for the period 1st April 2009 to 31st March 2014. These records indicate that there have been no collisions resulting in personal injury reported to the Police during that period.

Given that the proposed development site will be laid out and constructed in accordance with the Council's requisite standards and that the development traffic can be satisfactorily accommodated on the local road network, it is considered that the proposed development will not result in a detrimental impact in terms of highway safety.

10. Archaeology  
Officer

No objection subject to conditions

11. Adult Social Care  
(MANOP)

Our view is that the needs of older people should be considered as part of this proposal and, should approval be given, we would strongly support a significant proportion of houses in the scheme to be suitable for older people, by incorporating some or all of the design features mentioned above.

12. Environment  
Agency

We have no objection to this application.

13. Anglian Water

Informative note to be included. Foul drainage from this development is in the catchment for Poppy Hill Water Recycling Centre that will have available capacity for these flows.

The sewerage system at present has available capacity for these flows. Notice should be served if the developer wishes to connect to sewerage network.

- Should surface water drainage include interaction with Anglian Water assets we should be consulted to ensure an effective surface water drainage strategy is prepared and implemented.
14. Internal Drainage Board Storm water disposal is to an AWSL sewer. Confirmation should be sought from Anglian Water that a suitable surface water sewer exists and can accommodate the additional flows. Surface waster disposal should be agreed prior to commencement of the main works.
15. Education Officer No objections - comments relate to developer contributions towards school expansion within the area.
16. Pollution On the basis of the findings, conclusions and assumptions of the September 2014 Hydrock Ground Investigation, potential contamination concerns in terms of suitability for use and the health of future site users can be considered satisfied. Responsibility for reporting and resolving any unexpected contamination and related risks that may arise remains with the developer and site owner.
17. Public Protection No objections to raise

#### **Determining Issues:**

The main considerations of the application are;

1. Principle
2. Affect on the character and appearance of the area
3. Neighbouring amenity
5. Highway considerations
6. Other considerations

#### **Considerations**

##### **1. Principle**

- 1.1 The site lies for the most part outside of the settlement envelope of Langford and is therefore located in land regarded as open countryside. The adopted policies within the Core strategy and Development Management Policies 2009 limit new housing development on unallocated sites to within settlement envelopes (Policy DM4). Langford is designated as a large village where Policy DM4 limits new housing development to small scale development. On the basis of Policy DM4 a residential proposal outside of the settlement envelope would be regarded as contrary to policy. However it is necessary for the Council to consider whether there are any material considerations which outweigh the non compliance with Policy.
- 1.2 At the time of writing this report the Council can demonstrate a five year housing supply, therefore in accordance with Paragraph 49 of the NPPF, housing supply policies within the Core Strategy and Development Management Policies Document are not out of date.

1.3 The site is adjacent to and partly within the Settlement Envelope. To the east and south the site directly adjoins existing residential development. Given the layout of the Langford 'triangle', the application site does not extend outwards into the surrounding countryside. It does extend the built form into the triangle however this area of land is surrounded by development and as such the application site would not be visible from the wider landscape surrounding Langford. The site appears closely related to Flexmore Way which extends inwards within the 'triangle', and Station Road. Nevertheless the triangle area is outside the settlement envelope.

1.4 Concern has been raised relating to the infilling of the 'triangle' and the harm this would have on the village and the precedent it would set. The proposal would not infill the whole of the triangle, but would extend the built form in an already built up area but the development would extend no further to the west than Flexmore Way (to the south). The views of the development would be somewhat limited from the main areas of the village therefore harm to the open countryside would be to a lesser degree than an application site on the edge of the village. Concerns regarding precedent are not considered to be substantiated as each application should be dealt with on its own merits.

#### Affordable Housing

1.5 The proposal would provide 35 % Affordable Housing in accordance with Policy CS7. Of the 15 homes 63% would be for affordable rent and 37% intermediate tenure secured via a S106 Agreement. The proposal is therefore considered acceptable in this respect.

#### Sustainability

1.6 Concern has been raised regarding the sustainability of the proposal. Langford is categorised as a Large Village under Policy CS1 of the Core Strategy. There are various community facilities in Langford including shops, pubs, lower school, pre-school facilities, Church, Village Hall, doctors surgery and community clubs. There is also a bus service through the village to Biggleswade and Hitchin.

1.7 It is acknowledged that Langford has seen a number of proposals for additional residential properties, most recently the outline consent for 110 dwellings in Station Road on land almost opposite the site (ref: APP/P0240/A/14/2228154). In the Appeal for Station Road, while the site was also outside the settlement envelope, in allowing the scheme the Inspector felt that Langford was a sustainable location where new development could be accommodated without resulting in significant harm to the character and appearance of the area, the highway network and the community infrastructure. The Inspector noted *"I therefore conclude that the appeal proposal would amount to sustainable development in the terms of the Framework."*

1.8 As advised above, Langford is classified as a Large Village where small scale housing and employment uses will be permitted together with new facilities to serve the village. Although small scale development is not defined, the scale of the proposed development should reflect the scale of the settlement in which it is to be located. Langford is one of the larger villages within the

district where there is a number of facilities and services therefore the scale of the proposal is considered to be appropriate.

- 1.9 Concerns have been raised regarding the capacity of the School in the village. There have been no objections to the scheme from the Education team. Developer contributions are sought towards expansion of the existing school sites.
  - 1.10 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.
  - 1.11 Given the location of the site, there is a general presumption against new development, however the site is immediately adjacent to the Settlement Envelope and bound by existing housing on 2 sides of the site, therefore any harm to the open countryside would be limited. The extension of the village into the 'triangle' would result in some harm to the character of the village, however the harm would be limited to a small section of the triangle adjacent to existing development in Flexmore Way.
  - 1.12 In this case, the additional housing and the provision of the affordable housing units would be a benefit by adding to the 5 year supply. The visual impact would be limited, and the proposal would not be out of character with the surrounding pattern of development, and these factors would outweigh any adverse effects from the development. The proposal is therefore acceptable in principle as it would meet the sustainable development tests as set out in the NPPF.
- 2. Affect on the character and appearance of the area**
- 2.1 It is proposed to demolish No 90 Station Road to create access to the application site. Station Road is of mixed character with bungalows and two storey dwellings of varying age and design. There is no particular architectural styles that would inform the design of the proposed development however the immediate surroundings are shallow pitch late 1960's semi detached dwellings in Flexmore Way and semi detached hipped roof dwellings opposite in Station Road.
  - 2.3 The site adjoins Flexmore Way on the southern boundary and fills a square of land up to no 78 Station Road. To the north of the site there is development which extends beyond the Station Road building line namely Mager Way and Bentley Close however they do not extend back as far as the development proposal.
  - 2.4 The site comprises 42 dwellings of predominately detached two storey dwellings, some with rooms in the roof and dormer windows. Plot 42 is a detached bungalow and located to the rear of 88 Station Road. Plots 3 and 4 are semi detached one and a half storey dwellings. There are 8 one bedroom units, 5 two bedroom units and 2 three bed units which are proposed to be affordable housing units. All other dwellings are a mix of 3, 4 and 5 bedroom detached dwellings.

- 2.5 The Landscape Officer has raised concerns regarding the loss of the triangle, however there are no objections to the design and layout of the development as the dwellings are set back from the land within the triangle and separated by a balancing pond and landscaped public open space.
- 2.6 Concern has been raised regarding the overdevelopment of the site and that the dwellings, particularly those with rooms in the roofspace, are out of character with the surrounding area. In terms of density, the site has an approximate density of 23 dwellings per ha which is acceptable in villages or towards the edge of settlements and in accordance with the Council's Design Guide. Whilst the design of the dwellings is not similar to the adjacent development, this in itself is not a reason to refuse proposals for new residential estates. Nine of the proposed dwellings have rooms in the roof however they are of two storey design with dormer windows in the roof space. This type of housing is not uncommon in new development.
- 2.7 Generally the layout of the development is considered acceptable. There are focal points and buildings that turn corners. Each property is provided with a garden area approximately 80-90 sq m, except for the one bed units which have an area of communal amenity space and this accords with the Council's Design Guide. Garages and parking are also compliant with the Design Guide, however tandem parking has been provided which should generally be avoided as set out in the Design Guide. Although this may be the case, tandem parking is not considered to be a sufficient refusal reason where the layout would be acceptable in all other respects.
- 2.8 The application site is enclosed on three sides, east and south by existing residential development and north by a densely landscaped field boundary. While the site is partly within the 'triangle' the immediate surroundings are residential in character therefore the development would be closely related to existing housing.
- 2.9 It is accepted that there would be an impact on the character of the area, however given the location of the site the harm to the environment would be limited and therefore the proposal would comply with the environmental strand of NPPF.
- 2.10 Given the limited harm to the character and appearance of the area the proposal would not conflict with Policy DM3 of the Core Strategy and Development Management Policies Document and is therefore acceptable in this respect.

### **3. Neighbouring amenity**

- 3.1 The application site extends along the rear boundaries of the existing properties in Flexmore Way. The development would be to the rear of Nos 2 - 8, to the side of Nos 10 and 14 and then to the rear of 16 - 32. No 57 Flexmore Way lies at the end of the hammer head in Flexmore Way; the site adjoins the side boundary of this property. In Station Road, the site is to the rear of Nos 76 - 88.

- 3.2 The proposed layout of the site has been amended to reduce the impact on neighbouring amenity. Clearly there would be an impact on the amenities of the above properties as they currently enjoy views of open fields and this would be lost should the development proceed. In terms of the view, the right to a view over third party land is not a planning consideration.
- 3.3 Plot 1 and 2 would be to the rear of No 2 - 8 Flexmore Way. They would be separated by gardens and are around 12-13m from the rear of the existing dwellings. Revised plans have removed a first floor window facing onto the garden of No 2, as such no windows are proposed that would directly look into the gardens and result in loss of privacy.
- 3.4 There would be an impact on 8 Flexmore Way due to the location of Plot 2 and Plot 3 which are to the rear and side of the existing dwelling. However Plot 2 would be sited around 2m from the rear garden fence of No 8 and its narrow two storey gable some 13m from the rear elevation. Plot 3 would be immediately to the west of No 8 but separated by the parking spaces and single garage. Plot 3 has been reduced in height to a one and a half storey semi detached dwelling to reduce the impact on No 8. While Plots 2 and 3 would have an impact on No 8 Flexmore Way, the impact is not considered to be so significant that it would warrant refusal.
- 3.5 Plots 5 and 6 are located to the side of No. 10 Flexmore Way. Given their siting, there would be some overlooking from first floor windows particularly to the garden area of No 10, however the proposed garage serving plot 5 would act as a screen therefore the overlooking is not considered to be to an unacceptable level.
- 3.6 The proposed dwellings located to the rear of No 16 to 32 Flexmore Way are sited 21m from the rear elevations of the properties in Flexmore Way. this distance accords with the Design Guide in terms of an acceptable relationship to reduce adverse overlooking. There are detached garages located close to the rear boundaries of 16 -32 , however given the scale and location of the garages, while they will be visible, they would not result in a loss of light or overbearing impact.
- 3.7 Plot 10 is positioned site on to the rear of No 32 and separated by the parking spaces and double garage. Plot 10 has rooms in the roof however no windows are directly facing the rear elevation of No 32 therefore no adverse loss of privacy would occur.
- 3.8 Plot 10 and 11 are sited to the side of No 57 Flexmore Way and have no first floor windows facing the rear garden area of 57. Therefore no adverse loss of amenity would occur given the relationship between the existing and proposed dwellings.
- 3.9 No 88 Station Road is a bungalow with a shallow garden. Plot 43 is located to the rear of this property, however it has been reduced in scale to a bungalow and therefore would not significantly impact on No 88. The roof area would be visible however there would be around 11m between the properties and given the height of the proposed bungalow, this is not an unacceptable relationship.



- 3.10 No's 78 - 86 Station Road back onto the proposed two storey dwellings and the one bedroom affordable housing units. There would be 21m back to back window separation which is considered to be an appropriate relationship. The one bedroom apartments would be closer to the existing dwellings however they are designed with a narrow windowless gable that is located between No 82 and 82 Station Road as such the impact is limited.
- 3.11 Within the site layout itself, the dwellings are typically designed and are provided with adequate amenity space and parking provision.
- 3.12 Concerns have been raised regarding the proposed footpath link between the new development at the western end of Flexmore Way. The link provides connectivity but can be restricted to pedestrian use only to prevent vehicles using the access.
- 3.13 While it is accepted that there would be a visual impact on the existing residents in both Station Road and Flexmore Way, the proposal is designed to meet the requirements and spacings set out in the Councils Design Guidance. It is therefore considered that the proposal would not adversely affect the amenities of the existing adjacent occupiers to a to such a degree that would be considered unacceptable and a reason for refusal. The proposal is considered to comply with Policy DM3 of the Core Strategy and Development Management Policies Document (2009)

#### **4. Highway considerations**

- 4.1 There are no objections to the development from a Highway safety point of view. Adequate visibility can be achieved at the access point and the proposal has provided parking and visitor parking in accordance with the standards set out in the Councils Design Guide.
- 4.2 Given that the proposed development site will be laid out and constructed in accordance with the Council's requisite standards and that the development traffic can be satisfactorily accommodated on the local road network, it is considered that the proposed development will not result in a detrimental impact in terms of highway safety.

#### **5. Other Considerations**

##### **5.1 Archaeology**

An ongoing archaeological field evaluation on land to the west of Station Road has identified archaeological features which on morphological grounds could represent later prehistoric, Roman or Saxon and medieval settlement. Therefore, the application site should be considered to have high potential to contain remains relating to the archaeological landscapes that have been identified in the Ivel Valley system.

- 5.2 The proposed development will have a negative and irreversible impact upon any surviving archaeological deposits present on the site, and therefore upon the significance of the heritage assets with archaeological interest. This does not present an over-riding constraint on the development providing that the

applicant takes appropriate measures to record and advance understanding of the archaeological heritage assets.

5.3 Paragraph 141 of the NPPF states that Local Planning Authorities should require developers to record and advance understanding of the significance of heritage assets. The planning application includes a *Heritage Statement* (CgMs May 2015) supported by the results of a geophysical survey (Stratascan August 2105) and a trial trench evaluation (Albion Archaeology June 2015) in conformity with the requirements of paragraph 128 of the *NPPF*. There are no objections to the development however further investigation should take place prior to any work commencing on site. In order to secure this a condition can be attached to any permission granted in respect of this application.

5.4 Drainage

The Sustainable Drainage Team have withdrawn their original objection to the proposal following negotiations with the developer and amendments to the proposed surface water drainage strategy. There are no objections to the scheme subject to details being approved and implemented as a condition.

5.5 This response is echoed by the Internal Drainage Board and the Environment Agency.

5.6 Following concerns relating to the capacity of the existing sewerage and water services, Anglian Water have been consulted on the proposal and have no objections to the development in terms of network capacity.

5.7 Ecology

The site is currently used as a paddock with fencing and stables. It is not considered that the land would have high ecological value, however bird and bat boxes would provide a net gain for Biodiversity in accordance with the *NPPF*.

5.8 Agricultural land

Concerns have been raised regarding the loss of good grade agricultural land. The application site is defined as Grade 3 Agricultural Land on the agricultural land classification maps which is classed as being 'Good'. (Grade 1 being the best and most versatile). Paragraph 112 of the *NPPF* advises:

*“Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.”*

5.9 While the loss of the agricultural land is a material consideration, in this case the land is not being used for agricultural purposes, as such the development would not result in an unacceptable loss of agricultural land such that the proposal would be considered unacceptable.

5.10 S106 contributions

The Education Officer has confirmed there are no objections to the development however contributions are required to help towards funding expansion projects.

5.11 Education

- a. Middle School Contribution – Henlow VC Middle School expansion - £99,707.71
- b. Upper School Contribution – Samuel Whitbread and Etonbury Upper School expansion - £122,268.06
- c. Early years - £27,726.76

5.12 Waste Management Contribution

£46 per dwelling towards equipping all new residential properties with kerbside and domestic waste/recycling containers.

5.13 As well as financial contributions the S106 agreement seeks to secure other pertinent issues. In this instance the S106 would seek to secure the provision of the to secure the affordable housing particulars including numbers and tenure. The contributions towards Education are considered to be a benefit of the scheme and would off set the impact of the development on the education service.

5.14 Concern has been raised regarding the ownership of the site and the true boundaries. The applicant has served notice on 90 Station Road. While the comments regarding boundary issues are noted, land ownership and boundary disputes are not a material planning consideration.

**Recommendation:**

That Planning Permission be granted subject to the following conditions and the completion of a S106 Agreement securing financial contributions and Affordable Housing.

**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 construction of the development shall commence, notwithstanding the details submitted with the application, until details of all external materials to be used in the construction of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.**

**Reason: To control the appearance of the buildings in the interests of the visual amenities of the locality in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document (2009)**

- 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, the location of which shall first be agreed in writing with the Local Planning Authority. Thereafter the site shall be developed in full accordance with the approved details.**

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

- 4 No development shall commence until a scheme detailing the final design, construction and associated management and maintenance for the proposed surface water drainage system for the site, based on the agreed Flood Risk Assessment (FRA), technical note (ref E3420/TN1/tjw/25082015), correspondence with Anglian Water, and the principles and techniques contained within the CBC Sustainable Drainage Guidance; has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is completed and shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.**

**Reason: Required prior to the commencement of the development to prevent the increased risk of flooding, to improve and protect water quality, and improve habitat and amenity in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document (2009)**

- 5 Prior to the commencement of any construction works of the development hereby approved a landscaping scheme, to include all hard and soft landscaping and boundary treatments, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented by the end of the full planting season immediately following completion and/or first use of any building (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained for a period of five years from the date of planting and any which die or**

are destroyed during this period shall be replaced during the next planting season with others of a similar size and species.

**Reason: To ensure an acceptable standard of landscaping in the interests of visual amenity and biodiversity in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document (2009)**

- 6 Prior to the commencement of any construction works on the site a scheme detailing on-site equipped play provision and details of the arrangements for the future maintenance of the play equipment shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of any dwelling unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure satisfactory provision for play facilities to serve the development in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document (2009).

- 7 **Prior to the commencement of construction work hereby approved details of any external lighting to be installed, including the design of the lighting unit, any supporting structure and the extent of the area to be illuminated, shall have been submitted to approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details.**

**Reason: To protect the visual amenity of the site and in the interests of biodiversity in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document (2009).**

- 8 **No construction work on the buildings hereby approved shall commence before details of how the development will achieve a reduction in carbon emissions of at least 10% more than required by current Building Regulations through the use of on-site or near-site renewable or low carbon technology energy generation have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out as approved.**

**Reason: Required prior to commencement to ensure the development is energy sufficient and sustainable in accordance with Policy DM1 and DM2 of the Core Strategy and Development Management Policies Document (2009).**

- 9 No part of the development shall be occupied until a site wide travel plan has been submitted to and approved in writing by the council, such a travel plan to include details of:
- d. Baseline survey of site occupants in relation to these current/proposed travel patterns;
  - e. Predicted travel to and from the site and targets to reduce car use.
  - f. Details of existing and proposed transport links, to include links to both

pedestrian, cycle and public transport networks.

- g. Proposals and measures to minimise private car use and facilitate walking, cycling and use of public transport.
- h. Detailed 'Action Plan' to include specific timetabled measures designed to promote travel choice and who will be responsible
- i. Plans for monitoring and review, annually for a period of 5 years.
- j. Details of provision of cycle parking in accordance with Central Bedfordshire Council guidelines.
- k. Details of marketing and publicity for sustainable modes of transport to include site specific welcome packs. Welcome pack to include:
  - a) site specific travel and transport information,
  - b) details of sustainable incentives (e.g. travel vouchers)
  - c) maps showing the location of shops, recreational facilities, employment and educational facilities
  - d) details of relevant pedestrian, cycle and public transport routes to/ from and within the site.
  - e) copies of relevant bus and rail timetables together with discount vouchers for public transport and cycle purchase.
  - f) details of the appointment of a travel plan co-ordinator.

No part of the development shall be occupied prior to implementation of those parts identified in the travel plan [or implementation of those parts identified in the travel plan as capable of being implemented prior to occupation]. Those parts of the approved travel plan that are identified therein as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

Reason: To promote sustainable modes of travel and to reduce the potential traffic impact of the development on the local highway network in accordance with Policy DM3.

- 10 **No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall include proposals for construction traffic routes, the scheduling and timing of movements, any traffic control, signage within the highway inclusive of temporary warning signs, together with on-site parking and turning of delivery vehicles and wheel wash facilities. The CTMP shall be implemented in accordance with the approved details for the duration of the construction period.**

**Reason: Details are required prior to work commencing on site in order to minimise danger, obstruction and inconvenience to users of the**

**highway and the site.**

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

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

- 12 **No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. The written scheme shall include details of the following components:**

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

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

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

**Reason: (1)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.**

**(2) 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)***

- 13 No building/dwelling shall be occupied until the developer has formally submitted in writing to the Local Planning Authority details that the approved scheme has been checked by them and that the entire surface water drainage system has been correctly and fully installed as per the approved scheme.

Reason: To ensure that the entire system will be operationally ready at all times and functions within the performance requirements; that the operation of the system is safe, environmentally acceptable, and economically efficient; that as far as possible the failure of one section of a drainage system will not adversely affect the performance of the other parts.

- 14 No development shall begin until details of the junction between the proposed estate road and the highway have been approved by the Local Planning Authority and no building shall be occupied until that 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 of the proposed estate road.

- 15 No dwelling shall be occupied until visibility splays have been provided on each side of the junction of the access road with the public highway. The minimum dimensions to provide the required splay lines shall be 2.4m measured along the centre line of the proposed access road from its junction with the channel of the public highway and 43m measured from the centre line of the proposed access road along the line of the channel of the public highway. The vision splays required shall be provided and defined on the site by or on behalf of the developers and be kept free of any obstruction.

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

- 16 No development shall begin until the detailed plans and sections of the proposed access road, including gradients and method of surface water disposal have been approved by the Local Planning Authority and no building shall be occupied until the section of road which provides access has been constructed (apart from final surfacing) in accordance with the approved details.



Reason: To ensure that the proposed roadworks are constructed to an adequate standard.

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

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

- 18 No works to the construction of the dwellings hereby approved shall take place until details have been submitted to and approved in writing by the Local Planning Authority of proposals to integrate a minimum total of 10 integral bat and bird boxes into the elevations of the buildings hereby approved and construction of the dwellings shall be carried out in accordance with the approved details.

Reason: To ensure the development provides an enhancement and net gain to biodiversity in the interests of the policies within the National Planning Policy Framework.

- 19 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbered S247\_110, S100\_131, S247\_211, S3694/01, S247\_100 C, S100\_130 B, S247\_200 C, S247\_210 C, S247\_101 C, GL0409 01B, BWB2 2--5, P382-EB5, P341-WD5 sheet 1, P341- WD5 sheet 2, H336--5 sheet 1, H336--5 sheet 2, DWB4 6--5 sheet 1, DWB4 6--5 sheet 2, H421--5 sheet 1, H421--5 sheet 2, H485--5 sheet 1, H485--5 sheet 2, H469--X5 sheet 1, H469--X5 (2013) sdheet2, H536--Y5 sheet 1, H536--Y5 sheet 2, H597--5 sheet 1, H597--5 sheet 2, SH11, SH11 PLANNING GF PLAN, SH11 PLANNING FF PLAN, SH27--X5, SH39--X5, XSG1F, LDG1A, XDG2S, XTG2S, Landscape and Visual Impact Assessment ref BIR.4840 REv A dated Nov 2015, Tree constraints plan D14-3125, Hydrock Desk Study and Ground Investigation ref R/14689/001 Sept 2014, Transport Statement June 2015 E3315-langford-ajr-tsreport-0615 rev3, Utilities Report E3315-SRL-njb-utilities rev1 May 2015, Travel Plan E3315-langford-ajr-travelplan-0615 rev3, Flood Risk Assessment E3315-SRL-mjl-frareport-rev2, Geophysical Survey Report ref J7239 Aug 2014, Heritage Statement May 2015, Archaeological Evaluation ref 2015/74 Version 1.0, Sustainability Statement Issue 04 Sept 2015, Technical Note 1\_Langford Suds 25082015.

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

## INFORMATIVE 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.

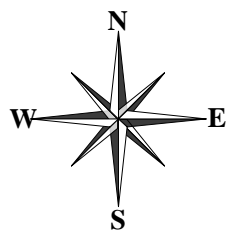
2. In accordance with Article 35 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the reason for any condition above relates to the Policies as referred to in the Core Strategy and Development Management Policies Document (2009)

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

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

**DECISION**

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Date: 24:November:2015

Map Sheet No

Scale: 1:2000

Application No. CB/15/03182/FULL

Former Pig Unit, Hitchin Road, Stotfold, Hitchin, SG5 4JG

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**Item No. 7**

<b>APPLICATION NUMBER</b>	<b>CB/15/03182/FULL</b>
<b>LOCATION</b>	<b>Former Pig Unit, Hitchin Road, Stotfold, Hitchin, SG5 4JG</b>
<b>PROPOSAL</b>	<b>Erection of 131 dwellings with access, parking, landscaping, open space and associated works.</b>
<b>PARISH</b>	<b>Fairfield</b>
<b>WARD</b>	<b>Stotfold &amp; Langford</b>
<b>WARD COUNCILLORS</b>	<b>Cllrs Dixon, Saunders &amp; Saunders</b>
<b>CASE OFFICER</b>	<b>Samantha Boyd</b>
<b>DATE REGISTERED</b>	<b>10 September 2015</b>
<b>EXPIRY DATE</b>	<b>10 December 2015</b>
<b>APPLICANT</b>	<b>Lochailort Stotfold Ltd</b>
<b>AGENT</b>	<b>DLP Planning Ltd</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Major Development - contrary to Policy</b>
<b>RECOMMENDED DECISION</b>	<b>Full Application - Approval recommended</b>

**Reason for Recommendation**

The proposed 131 dwellings is contrary to Policy MA7, DM4 and CS7 of the Core Strategy and Development Management Policies Document, however the proposed houses which would benefit the Councils 5 year housing supply and most significantly, the development would facilitate the provision of a much needed lower school which would provide additional school places for the residents of Fairfield Parish and the surrounding area. The proposal would also result in a visual improvement to the landscape by regenerating an unused designated employment site. These benefits are considered to add significant weight in favour of the development and therefore the proposal is considered to be acceptable.

The proposal is considered to be acceptable in terms of highway safety and neighbouring amenity and therefore accords with Policy DM3 of the Core Strategy and Development Management Policies Document( 2009).

**Site Location:**

The site is situated on the east side of Hitchin Road, between Stotfold and Fairfield Park which is located opposite to the west. The site lies within the Parish of Fairfield but is outside the Settlement Envelope boundary and therefore within open countryside.

The Meat and Livestock Commission constructed the purpose built site in 1984 as the Pig Development Unit and operations ceased in 2007. The site has remained vacant since and the existing buildings are falling into disrepair.

The land level falls from west to east with Pix Brook running along the eastern

boundary and there are a number of mature trees and hedgerows along the boundaries of the site and within the site itself. The site is well screened by the existing landscaping.

There is a shared footway/cycleway, which lies adjacent to the west side of Hitchin Road and provides a link to Fairfield Park and to neighbouring Stotfold via an underpass beneath the A507. The application site is well placed for bus links to Stotfold, Letchworth and Arlesey, both of which have rail links to London and beyond.

### **The Application:**

Planning permission is sought for a development of 131 dwellings following the demolition of the existing buildings on the site together with open space and ancillary works.

The proposal is a revised application to that previously approved under reference CB/14/04048/Full granted consent by the Development Management Committee on 21 August 2015 for a development of 116 dwellings and a 70 bed care home. Application CB/14/04048/Full was considered alongside application CB/15/01355/OUT for a new lower school on land adjacent to Hitchin Road which was also granted consent at the same committee meeting.

The current proposal seeks to increase the number of dwellings on the site and includes a revised layout. The red line of the application site does not include the Care Home, however it has been confirmed that the care home would be implemented under the previous consent.

The main change in this application is that the house numbers have been increased through the provision of an apartment block towards the front of the site which is specifically designed for the older generation and includes larger apartments and lifts to the upper floors and would be occupied by over 55's.

### **RELEVANT POLICIES:**

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

Paragraph 22 and 55

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

CS1 Development Strategy  
DM4 Development Within & Beyond the Settlement Envelopes  
CS5 Providing Homes  
CS7 Affordable Housing  
DM3 High Quality Development  
DM1 Renewable Energy  
DM2 Sustainable Construction of new buildings

#### **Development Strategy for Central Bedfordshire 2014**

At the meeting of Full Council on 19 November 2015 it was resolved to withdraw the Development Strategy. Preparation of the Central Bedfordshire Local Plan has

begun. A substantial volume of evidence gathered over a number of years will help support this document. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our website as material considerations which may inform further development management decisions

### **LDF Site Allocations (North) April 2011**

MA7: Land at Former Pig Development Unit, Hitchin Road, Stotfold  
Site Area: 5 ha

Land at the former Pig Development Unit, as identified on the Proposals Map, is allocated for mixed-use development providing 5 replacement dwellings and B1, B2 and B8 employment land. The site will be developed in accordance with its approved planning permission.

### **Supplementary Planning Guidance/Other Documents**

Central Bedfordshire Design Guide (March 2014)

#### **Relevant Planning History:**

<b>Case Reference</b>	<b>CB/14/04048/FULL</b>
Location	Former Pig Unit, Hitchin Road, Stotfold, Hitchin, SG5 4JG
Proposal	Demolition of all existing buildings and dwellings. Erection of 116 dwellings and a 70 bedroom care home with access, parking, open space and ancillary works.
Decision	Full Application - Granted
Decision Date	24/08/2015
<b>Case Reference</b>	<b>CB/11/03946/REN</b>
Location	Meat And Livestock Commission, Hitchin Road, Stotfold
Proposal	Renewal of planning permission 08/02000/FULL (removal of condition 14) in respect of planning approval 08/01043/OUT (redevelopment to form a business park (B1,B2 and B8 uses) and erection of 5no. replacement dwellings (all matters reserved except access).
Decision	Rep PP - New Time Limit - Granted
Decision Date	29/03/2012

<b>Case Reference</b>	<b>MB/08/01043/OUT</b>
Location	Meat And Livestock Commission, Hitchin Road, Stotfold
Proposal	Outline: Redevelopment to form a business park (B1,B2 and B8 uses)and erection of 5 no. replacement dwellings (all matters reserved except access).
Decision	Outline Application - Granted
Decision Date	17/09/2008

#### **Consultees:**

1. Fairfield Parish Council No objections to the proposal.

**Other Representations:**

2. Neighbours                      None received
3. Highways                        I have to acknowledge that this proposal is a modest amendment to the scheme approved under reference CB/14/04048/FULL. In a highway context the amendments have no significance to that approved by Mr McMurray previously and as such I have to accept the off-site highway works and access arrangements agreed.
- With regard to the internal highway layout there is a possibility that not all of the estate roads will be suitable for adoption as public highway without modification. I have referenced this within my recommended conditions and advice notes which I am acutely aware were missing from the previous approval.
4. Public Protection - Contamination                      No objections subject to conditions
5. Public Protection - Noise                        The proposed residential properties to the west of the development fronting Hitchin Road may suffer detriment to amenity from road traffic noise. This may be dealt with a condition requiring a noise assessment to be submitted with a mitigation scheme if required to meet the CBC noise standards.
- The previously approved Care Home application ref CB/14/04048 has a noise condition (11) requiring that plant noise from the care home does not exceed a specified level at residential properties. It is not known at this stage what plant and equipment such as air conditioning units, compressors and extraction facilities are to be installed at the adjacent care home and in what location. Therefore I am unable to comment on whether the plant noise level is achievable with the proposed residential design and layout. Consideration should be given to providing an acoustic fence along the boundary with the care home to help mitigate any noise impact from its use. The care home kitchen and laundry are shown as located in the north west corner of the care home building and therefore I would assume that some of the plant will be in this location which has proposed residential properties to the north. However the closest properties to the north are type B-b and are shown with a gable end facing the care home with no window openings on that facade. The applicant and the care home should liaise regarding location of plant and noise levels to ensure that the future occupiers do not suffer detriment to amenity and that condition 11 of the care home permission can be met. This application of 131 units meets the required threshold for affordable housing provision. We would be seeking an
6. Housing Officer



affordable housing requirement of 35% which equates to the requirement of 46 affordable housing units from the development. The Strategic Housing Market Assessment (SHMA) indicates a tenure split as being 63% rent and 37% intermediate tenure from sites meeting the affordable threshold. This would make a requirement of 29 units of affordable rent and 17 units of intermediate tenure (shared ownership) from this development.

Further comments on the Heads of Terms. If the application is to be approved then we would look for 15 year timescale for the spending of the commuted sum.

7. Archaeology Officer Although the proposed development site has the potential to contain archaeological remains relating to prehistoric settlement and other activity that has been identified in the surrounding area, previous development site is likely to have had a major impact on the survival of any remains and any surviving remains will have low significance. The proposed development will have an impact on any remains that may survive at the site but given the low significance of any such remains this does not represent a constraint on the proposal. Consequently, I have no objection to this application on archaeological remains.
8. Ecology No specific objection - conditions required for biodiversity enhancements.
9. Internal Drainage Board The IDB have raised an objection to the proposal given the increase in impermeable surface however the reason behind the IDB's objection is that they are seeking to secure betterment from the site to overcome an existing and longstanding flooding issue further downstream.
- The applicant has been involved in discussions with the IDB in order to offer the betterment sought, but to do so the IDB will need to allow the relocation of the existing storm water discharge pipe. The relocation of the storm water discharge point is something that is within the IDB's gift and there is a meeting scheduled for the 24<sup>th</sup> November to discuss the proposal and the benefits that it offers.
- If the proposal is viewed favourably it may allow the IDB to withdraw its current objection. The outcome of the meeting will be reported to the Development Management Committee on the Late Sheet.
10. Environment Agency No objection, please consult IDB
11. SuDS Team The Suds Team have raised an objection to the surface

water strategy however taking into account the established planning permission, the objection cannot be sustained.

12. Education

No comments received at time of drafting report.

13. Play and Open Space

On-site Provision Required

- Provision for Children:
  - The development should provide 2 on-site combined LEAP/LAP age play areas, each comprising, approx. 450sqm with 3 pieces of equipment for 3-6 year olds plus 5 pieces of equipment for 6-12yr olds, with safety surfacing and ancillary facilities.
  - The application proposes only 1 LEAP play area on-site of 300sqm at The Crescent – a LEAP should be 400sqm. plus a ‘small playground on the Village Green’.
  - This does not the provision standard or the needs of the development. If the LEAP is increased to 500sqm and provides an increased level of play equipment i.e. 6-7 pieces of equipment for 6-12yr olds; and the Village Green play area is of 150sqm with 4 pieces of play equipment for 3-6yrs olds this will be an acceptable level of play provision.
- Amenity Space: On-site informal amenity space should be provided on-site to meet the standard above. Ideally this would be provided with the play space to create a multi-functional space.
- SUDS area: the proposed SUDS area adjacent to the LEAP will not count towards the play or amenity space provision as it will contain water at certain times and is therefore not safe for play/recreation uses.

14. Tree Officer

No objection subject to protection of retained trees.

15. Landscape Officer

Visual impact of block of flats is a concern in prominent location, site boundaries would benefit from additional planting, Village Green and Woodland corridor require additional information. a lighting strategy is required given location of site and wildlife corridors, surface water piped system should be reconsidered.

Note: the applicant has met with the Landscape Officer on site and has submitted revised plans based on landscaping and the woodland corridor discussions.

16. Adult & Social Care Housing(MANOP)      The needs of older people should be considered as part of this application proposal. We would support a scheme suitable for older people.

### **Determining Issues:**

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

### **Considerations**

#### **1. The principle of the development**

- 1.1 The proposal is for the redevelopment of the former Pig Testing Unit for 131 residential properties. The application site is outside of any Settlement Envelope as defined by the Core Strategy Proposals Maps however the Site Allocations Document (2001) allocated the application site for 18,000 sq m of B1, B2 and B8 employment land together with 5 replacement dwellings under Policy MA7 and outline planning consent for the development was granted in 2008 and later renewed in 2011. The planning permission has since expired.
- 1.2 The proposal as set out does not offer any employment generation from B uses and provides a much higher level residential properties, as such the proposal is contrary to Policy MA7. However the principle of residential re-development of the site has been established under planning permission CB/14/04048/Full.
- 1.3 The current application does not include the previously approved 70 bed care home within the red line of the application site. The applicant has confirmed that while the care home has not been included, the intention is to implement the care home under the previous planning consent. Advanced discussions have taken place with a future operator of the care home who is happy with the approved plans and layout, therefore the applicant felt it was unnecessary to include the care home in a revised proposal for the residential element.
- 1.4 The existing buildings on the site are purpose built for their intended use. The buildings are dilapidated and unsightly and the site is considered to be developed land in the countryside given its former use as research facility. The proposed redevelopment of the site with a well designed housing scheme would result in a visual improvement of the site and would facilitate the redevelopment of the former developed site.
- 1.5 Paragraph 55 of the NPPF advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting. In this case the proposal is considered to lead to an enhancement of the immediate setting by removing the former purpose built unused buildings and replacing with a high

- quality residential scheme with additional landscaping.
- 1.6 The application site lies opposite Fairfield Park and to the south of Stotfold. There are existing footpaths and cycle routes adjacent to the west side of Hitchin Road providing a link to Fairfield Park and to Stotfold via an underpass beneath the A507. The application site is well placed for bus links to Stotfold, Letchworth and Arlesey and there are existing bus stops along Hitchin Road near to the site. Given the proximity of the site to Stotfold and Fairfield, the site is considered to be in a sustainable location and therefore would meet the NPPF objective of the presumption in favour of sustainable development.
- 1.7 The proposed development is within an area which is experiencing a high level of demand for school places across all three phases of education. The development would fall into the catchment area for Fairfield Lower School, Etonbury Middle and Samuel Whitbread Upper. Fairfield Lower School has been expanded to 2 forms of entry and has a high number of 0-5 year olds already living within the catchment. Fairfield Lower School cannot be expanded further due to the constraints of the site and in neighbouring Stotfold, St Mary's lower school has been expanded and Roecroft Lower School has also been relocated and expanded, in light of the increasing number of lower school pupils in the local area.
- 1.8 The local schools continue to be popular and 273 applications were made for the 270 reception places currently available at Gothic Mede (Arlesey), Fairfield Park, St Mary's Lower and Roecroft for September 2015. Fairfield Park, Roecroft and Gothic Mede are particularly oversubscribed. Pupil forecasts are indicating continued high demand for school places.
- 1.9 Therefore a 1.4ha lower school site would be required to make the proposal for additional 131 dwellings in this location acceptable in terms of sustainable development.
- 1.10 During the consideration of the previous application CB/14/04048/Full, the applicant submitted a separate application for a new lower school site on 1.4ha of land immediately adjacent to the application site. The land is owned by Central Bedfordshire Council, however the applicant agreed to contribute significantly to the cost of building a new lower school in this location (a £3million contribution). The suitability of the site for a school was considered by Development Management Committee at the meeting dated 22 July 2015 and subsequently granted permission under application CB/15/01355/OUT.
- 1.11 This revised application includes the same provisions for the school funding which will be secured via a new S106 Agreement. The redevelopment of the former Pig Unit site with residential properties will facilitate the provision of the new school which is a material consideration and a significant benefit to the wider community.
- 1.12 Affordable Housing  
Policy CS7 requires 35% of Affordable Housing from all new residential development. The revised proposal fails to provide any affordable housing units and is therefore contrary to Policy CS7.

In the previous application the applicant stated that, with the contribution

1.13 towards a new school, highway works and decontamination works to the existing site, the development would not be viable if they were to increase the number of affordable units on the site. The proposal was approved with 5 affordable housing units and a £600,000.00 commuted sum. At the time the weight attributed towards the provision of a much needed Lower School or the provision of affordable housing units was considered to weigh in favour to a significant reduction in affordable housing provision in order to allow the provision of the school.

1.14 Previous Information received from the Housing Officer states that at present there are 4 applicants on the housing waiting list for Fairfield Parish and 24 in neighbouring Stotfold. While the Affordable Housing policy is district wide and not limited to the need of each Parish, in this case there are significant wider benefits to the community from the proposed scheme.

1.15 This current application does not offer any affordable housing provision, however it does provide a specifically designed apartment block for the ageing population who may wish to downsize. It also provides a commuted sum of £1.2million towards affordable housing elsewhere in the district where there may be a greater need. Within the Fairfield Parish it is considered there is a greater need for lower school places which weighs in favour of the development being supported without affordable housing.

#### Conclusion

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.

1.17 The site allocation (MA7) is outside of any Settlement Envelope, however at the time the provision of employment land was considered to outweigh the harm to the character and appearance of the countryside. The land was previously used for research purposes and has remained unused since despite previously approved planning consents for B uses and a lengthy marketing campaign.

1.18 The proposal would not be in compliance with site allocation Policy MA7, however the previously approved application identified need for the provision of residential care places for the elderly and established the principle of residential use of the site. Furthermore the proposal for 131 residential dwellings would be instrumental in the provision of a much needed new lower school for the Fairfield catchment and surrounding areas as the residential use of the site would allow the development to offer significant funding to CBC for the school construction.

1.19 Whilst the proposal is contrary to Policy CS7 in that it would not provide the required level of affordable housing, the developer has agreed a commuted sum of £1,200,000 towards affordable housing provision elsewhere within Central Bedfordshire where there may be greater need. The reduction in Affordable Housing at this site allows the developer to provide the £3million contribution towards the construction of the new school therefore in this case, an offsite contribution towards affordable housing elsewhere is felt to weigh in

favour of wider benefits of the development. The proposal would also add to the Councils 5 year housing supply. Furthermore the proposal includes apartments specifically designed for the ageing population for which there is an identified need.

- 1.20 As the proposal would result in significant benefits to the local economy in terms of additional housing and school place provision together with funding for the construction of the school from the developer, these benefits are considered to be material and in this particular case outweigh any harm to the character and appearance of the countryside and the non-compliance with Policy MA7, Policy CS7 and DM4 of the Core Strategy. The development is therefore considered to be acceptable in principle.

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

- 2.1 The proposed development takes its design cue from the adjacent Fairfield development with high quality materials and Victorian design features. The overall layout of the development is felt to be acceptable and provides a good residential layout with green spaces and an acceptable relationship between the buildings.
- 2.2 The general principle and layout of the site was accepted under the previous planning permission for the care home and 116 dwellings.
- 2.3 The rear of the site slopes down towards the stream therefore the dwellings would lie on the lower land levels. The area immediately adjacent to Pix Book is to be retained as open space and a play area. Landscaping is proposed along the northern and southern boundaries of the site to screen the development from the open countryside beyond details of which can be secured by a condition. Landscaping also includes a woodland boardwalk linking the site to the proposed school land to the south of the site.
- 2.4 The existing character of the site is commercial, with a number of buildings that are falling into disrepair. The reuse of the site for residential purposes is considered to be an improvement given the overgrown unused condition of the site resulting in a visual enhancement of the site and the surroundings in general.
- 2.5 The proposed apartment block is positioned to the front of the site. The building would be over four floors, the fourth floor being within the roof space of the building. Given the scale of the building it would be visible and quite prominent from within the surrounding landscape which would result in a visible impact to the countryside, however as the site gently slopes downwards from Hitchin Road, the three storey building would appear at a lower ground level than the road and therefore less dominant from along Hitchin Road. It would be designed similar to the approved care home and incorporates the Victorian features of Fairfield Hall development opposite.
- 2.6 Whilst the scale of the building would be clearly visible from the surrounding countryside, is it not an unpleasant design and would form part of the larger residential development to the rear of the building. Therefore the resulting

impact from the scale of the building would be limited and is therefore not considered to be significant harm, particularly given the need for additional housing for the over 55's.

- 2.7 Taking into account the existing buildings and use of the site together with the site allocation and previously granted planning permission for commercial use of the site, overall the current proposal is not considered to result in harm to the character and appearance of the area. The proposal would therefore comply with Policy DM3 of the Core Strategy and Development Management Policies Document (2009)

### **3. Neighbouring amenity**

- 3.1 The application site is adjacent to a pair of residential properties to the south of the site (approximately 10m away) and The Lodge, a detached dwelling to the west separated from the development by Hitchin Road. About 140 metres further to the west is the north eastern edge of Fairfield Park.
- 3.2 The area surrounding the development is open fields with no neighbouring residential properties, except those highlighted above. In light of the location of the site, the scale and height of the proposed development, taking into account the topography of the land, would not result in any adverse impact due to visual or overbearing impact.
- 3.3 It is accepted that there would be an element of additional noise and disturbance from the proposed development given the current situation. However having regard to the proposed employment use of the site which included consent for B2 and B8 uses, these uses are more likely to create noise from potential HGV traffic than that associated with a residential development.
- 3.4 The proposal is not considered to result in unacceptable harm to the amenities of the neighbouring properties and as such would be compliant with Policy DM3 of the Core Strategy and Development Management Policies (2009).

### **4. Highway considerations**

- 4.1 The site is to be provided with two dedicated access points, one for the care home (which does not form part of this application )and one for the residential estate road. This principle is supported by Highways. In terms of highway safety, trip generation and the impact on the existing highway infrastructure, there are no objections to the development subject to conditions.
- 4.2 Car Parking Provision  
The proposal complies with the parking standards as set out in the Councils Design Guide and the proposed garages meet the size requirements to be counted as a useable parking space.
- 4.3 As there are no objections to this proposal from a highway safety point of view

therefore the proposal is considered to accord with Policy DM3 of the Core Strategy and is therefore acceptable in this respect.

## **5. Other relevant issues**

### **5.1 Flooding/Drainage**

There are no objections from the Environment Agency to the development however the IDB have raised an objection to the increase in the impermeable areas on the site. The applicant is currently in discussions with the IDB with the view to providing a betterment from the site. Members will be updated with the results of the discussions however consideration has to be given to the previously granted consent where the IDB raised no objection.

5.2 The existing private dwellings to the south of the site do not have mains foul drainage connections. As an added community benefit the applicant has agreed to enter an agreement with these houses and connect them to the new mains drainage system required for the site.

### **5.3 Archaeology**

There are no objections to the development from an archaeology perspective.

### **Planning Obligation Strategy**

5.4 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) which is expected towards the end of 2015.

5.5 All contributions sought will need to comply with the three tests set out in Regulation 122(2) of the CIL Regulation 2010 (as amended). While the development will have an impact on other areas, such as open space provision and cycle network etc, it is felt that the education contribution is of greater importance in this location and given the scale of the contribution towards the new lower school and the affordable housing commuted sum no other contributions towards specific projects will be sought from this development.

### **Human Rights/Equalities Act**

5.6 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 conditions and the completion of a S106 Agreement

## **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 **No construction of the development shall commence, notwithstanding the details submitted with the application, until details of all external materials to be used in the construction of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.**

**Reason: To control the appearance of the buildings in the interests of the visual amenities of the locality in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document (2009)**

- 3 **No development (other than that required to be carried out as part of an approved scheme of remediation) shall take place until conditions (a) to (c) below have been complied with, unless otherwise agreed in writing by the Local Planning Authority. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition (c) has been complied with in relation to that contamination.**

**(a) Submission of a Remediation Scheme**

**A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historic environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.**

**(b) Implementation of Approved Remediation Scheme**

**The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.**

**Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.**

**(c) Reporting of Unexpected Contamination**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the management of Land Contamination, CLR 11'.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition (b).

**Reason:** Required prior to the commencement of development to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the Core Strategy and Development Management Policies Document (2009).

- 4 **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, the location of which shall first be agreed in writing with the Local Planning Authority. Thereafter the site shall be developed in full accordance with the approved details.**

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

- 5 **No construction works shall commence until a detailed surface water drainage scheme, based on the agreed Flood Risk Assessment ref 1377 FRA September 2015 has been submitted to and approved in writing by the Local Planning Authority. Infiltration systems shall only be used where it can be demonstrated that they will not pose a risk to groundwater quality. The scheme shall include a restriction in run-off rates as outlined in the FRA. The scheme shall be implemented in accordance with the approved details before the development is completed. The development shall be carried out in accordance with the approved details.**

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

**accordance with Policy DM3 of the Core Strategy and Development Management Policies Document (2009)**

- 6 Prior to and during demolition and construction works, all tree protection measures and working method procedures shall be carried out in strict accordance with the Haydens Tree Survey Arboricultural Impact Assessment Preliminary Arboricultural Method Statement & Tree Protection Plan (11/11/15 Rev A) and plans 4820-D/2/rev A, 4820-D/1 rev A,

Reason: To ensure that a satisfactory standard of working practice is implemented that safeguards the trees from damage incurred during development works, so as to ensure the health, safety, amenity and screening value of the retained trees in accordance with policies contained within the Core Strategy and Development Management Policies Document (2009)

- 7 **Prior to the commencement of any construction works of the development hereby approved (which for the avoidance of doubt excludes any demolition works), a landscaping scheme, to include all hard and soft landscaping and boundary treatments, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented by the end of the full planting season immediately following completion and/or first use of any building (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained for a period of five years from the date of planting and any which die or are destroyed during this period shall be replaced during the next planting season with others of a similar size and species.**

**Reason: To ensure an acceptable standard of landscaping in the interests of visual amenity and biodiversity in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document (2009)**

- 8 **Prior to the commencement of any construction works for the development hereby approved (which for the avoidance of doubt excludes any demolition works), a detailed waste collection strategy for the development shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall be implemented in accordance with the approved details.**

**Reason: To ensure that development is adequately provided with waste and recycling facilities in accordance with Policy WSP5 of the Bedford Borough, Central Bedfordshire and Luton Borough Council's Minerals and Waste Local Plan: Strategic Sites and Policies (2014) and Policy DM3 of the Core Strategy and Development Management Policies Document (2009).**

- 9 Prior to the commencement of any construction works on the site a scheme

detailing on-site equipped play provision and details of the arrangements for the future maintenance of the play equipment shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of any dwelling unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure satisfactory provision for play facilities to serve the development in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document (2009).

- 10 **Prior to the commencement of construction work hereby approved (which for the avoidance of doubt excludes any demolition works) details of any external lighting to be installed, including the design of the lighting unit, any supporting structure and the extent of the area to be illuminated, shall have been submitted to approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details.**

Reason: To protect the visual amenity of the site and in the interests of biodiversity in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document (2009).

- 11 **No construction work on the buildings hereby approved shall commence before details of how the development will achieve a reduction in carbon emissions of at least 10% more than required by current Building Regulations through the use of on-site or near-site renewable or low carbon technology energy generation have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out as approved.**

Reason: Required prior to commencement to ensure the development is energy sufficient and sustainable in accordance with Policy DM1 and DM2 of the Core Strategy and Development Management Policies Document (2009).

- 12 No part of the development shall be occupied until a site wide travel plan has been submitted to and approved in writing by the council, such a travel plan to include details of:
- Baseline survey of site occupants in relation to these current/proposed travel patterns;
  - Predicted travel to and from the site and targets to reduce car use.
  - Details of existing and proposed transport links, to include links to both pedestrian, cycle and public transport networks.
  - Proposals and measures to minimise private car use and facilitate walking, cycling and use of public transport.
  - Detailed 'Action Plan' to include specific timetabled measures designed to promote travel choice and who will be responsible

- Plans for monitoring and review, annually for a period of 5 years.
- Details of provision of cycle parking in accordance with Central Bedfordshire Council guidelines.
- Details of marketing and publicity for sustainable modes of transport to include site specific welcome packs. Welcome pack to include:
  - a) site specific travel and transport information,
  - b) details of sustainable incentives (e.g. travel vouchers)
  - c) maps showing the location of shops, recreational facilities, employment and educational facilities
  - d) details of relevant pedestrian, cycle and public transport routes to/ from and within the site.
  - e) copies of relevant bus and rail timetables together with discount vouchers for public transport and cycle purchase.
  - f) details of the appointment of a travel plan co-ordinator.

No part of the development shall be occupied prior to implementation of those parts identified in the travel plan [or implementation of those parts identified in the travel plan as capable of being implemented prior to occupation]. Those parts of the approved travel plan that are identified therein as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

Reason: To promote sustainable modes of travel and to reduce the potential traffic impact of the development on the local highway network in accordance with Policy DM3.

- 13 **Development shall not begin until the detailed plans and sections of the proposed road(s), including gradients and method of surface water disposal have been approved by the Local Planning Authority and no building shall be occupied until the section of road which provides access has been constructed (apart from final surfacing) in accordance with the approved details.**

**Reason: To ensure that the proposed roadworks are constructed to an adequate standard in accordance with Policy DM3.**

- 14 **No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall include proposals for construction traffic routes, the scheduling and timing of movements, any traffic control, signage within the highway inclusive of temporary warning signs, together with on-site parking and turning of**

**delivery vehicles and wheel wash facilities. The CTMP shall be implemented in accordance with the approved details for the duration of the construction period.**

**Reason: Details are required prior to work commencing on site in order to minimise danger, obstruction and inconvenience to users of the highway and the site.**

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

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

- 16 Each unit within the apartment block hereby approved shall be occupied only by :
- a) persons aged 55 or older; or
  - b) a widow or widower of such a person or persons, or
  - c) any resident dependant or dependants of such a person or persons, or
  - d) a resident carer of such a person or persons.

Reason: In view of the limited amenity space provided with the apartments and given the need or elderly accommodation in the area and in accordance with the NPPF.

- 17 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbered 5793/001, 5793/004, 5793/002C, 5793/007, 5793/008, 5793/003A, 070, 071, 072, 5793/006B, P440/001 rev A, 5793/056, 5793/055, 5793/054, 5793/053, 5793/052, 5793/015/01A, 5793/015/B, 5793/033/B, 5793/033/01A, 5793/032/B, 5793/032/1B, 5793/031/B, 5793/031/1A, 5793/027/A, 5793/027/15793/026/B, 5793/026/1, 5793/025/A, 5793/025/1, 5793/024/A, 5793/024/1, 5793/023/A, 5793/023/1, 5793/022/A, 5793/022/1, 5793/021/A, 5793/021/1, 5793/020/A, 5793/020/1A, 5793/0196, 5793/0196/1, 5793/0195, 5793/0195/1, 5793/0193/1, 5793/0193, 5793/0194, 5793/0194/1, 5793/0192, 5793/0192/1, 5793/016A, 5793/016/1, 5793/017/A, 5793/017/1, 5793/018/A, 5793/018/1A, 5793/019/1, 5793/019/A, 5793/0191, 5793/0191/1, 5793/034, 5793/035/A, 4820-D EXTRACT, P440/SK002A, P440/SK001, P440/SK003

Flood Risk Assessment ref 1377 FRA September 2015, Capacity Analysis Report September 2015, Tree Survey Arboricultural Impact Assessment Preliminary Arboricultural Method Statement & Tree Protection Plan (11/11/15 Rev A), 4820-D-1/A, 4820-D-2/A, Updated Ground Investigation ref BRD1534-OR3-A, BG\_1035\_01A rev A, Transport Assessment ref: 406.05741.00003, Heritage Asset Assessment 2014/007 Version 1.0, Phase 1 Desk Study BRD1534-OR1 version B July 2012, Phase 2 Site

Investigation BRD1534-OR2 version B September 2012, Preliminary Ecological Appraisal December 2013, Final Ecological Appraisal October 2015,

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

## INFORMATIVE 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. 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)
3. The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Central Bedfordshire Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. Further details can be obtained from the Development Control Group, Development Management Division, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford SG17 5TQ.

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.

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

The applicant is advised that if it is the intention to request Central Bedfordshire Council as Local Highway Authority, to adopt the proposed highways as maintainable at the public expense then details of the specification, layout and alignment, width and levels of the said highways

together with all the necessary highway and drainage arrangements, including run off calculations shall be submitted to the Development Control Group, Development Management Division, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford SG17 5TQ . No development shall commence until the details have been approved in writing and an Agreement made under Section 38 of the Highways Act 1980 is in place.

All roads to be constructed within the site shall be designed in accordance with Central Bedfordshire Council’s publication “Central Bedfordshire Design Guide A guide for designing high quality new developments” and the Department for Transport’s “Manual for Streets”, or any amendment thereto.

Otherwise the applicant is advised that Central Bedfordshire Council as highway authority may not consider the proposed on-site vehicular areas for adoption as highway maintainable at public expense.

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.

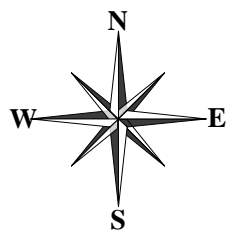
**Statement required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 - Part 5, Article 35**

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

**DECISION**

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Date: 24:November:2015

Map Sheet No

Scale: 1:3000

CB/15/03751/VOC

Riveroaks, Stanford Lane, Clifton SG17 5EU

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**Item No. 8**

<b>APPLICATION NUMBER</b>	<b>CB/15/03751/VOC</b>
<b>LOCATION</b>	<b>Riveroaks, Stanford Lane, Clifton</b>
<b>PROPOSAL</b>	<b>Removal of condition 5 to planning permission CB/14/04317/FULL: (Change of use and provision of 5 No. pitch travellers site).</b>
<b>PARISH</b>	<b>Southill</b>
<b>WARD</b>	<b>Northill</b>
<b>WARD COUNCILLORS</b>	<b>Cllr Mr Firth</b>
<b>CASE OFFICER</b>	<b>Samantha Boyd</b>
<b>DATE REGISTERED</b>	<b>30 September 2015</b>
<b>EXPIRY DATE</b>	<b>25 November 2015</b>
<b>APPLICANT</b>	<b>Mr &amp; Mrs J Porter</b>
<b>AGENT</b>	
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Cllr Call in: Cllr F Firth Contrary to policy: Permission only granted for this site on the basis of exceptional family need. General use is contrary to development in the open countryside.</b>
<b>RECOMMENDED DECISION</b>	<b>Variation of Condition - approval recommended</b>

**Reason for recommendation:**

Planning permission was granted on 19 December 2014 for the change of use of the land to provide 5 Gypsy and Traveller pitches. The proposal to remove condition 5 (named occupancy) from the consent would provide accommodation which would be available to any gypsy and traveller and would contribute towards the Councils 5 year supply of sites in accordance with the National Planning Policy Framework and Planning Policy for Traveller Sites. The proposed development would be in a sustainable location and 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:**

Riveroaks (formally known as Silver Lake Farm) is located on the west side of Stanford Lane, between the villages of Clifton and Stanford.

Planning permission was granted under reference CB/14/04317/Full for a change of use of the land to 5 Gypsy and Traveller pitches by the Development Management Committee on 19 December 2014. The permission has been implemented. Currently the site includes two static caravans, one tourer caravan, a brick outbuilding, a number of small sheds and gravelled internal roads with parking areas. The static caravans are occupied and the tourer is used by the applicants temporarily until they are able to provide themselves with a static caravan. Although two of the approved plots are empty, work has been carried out with

regard to the services and water supply etc. The empty pitches are therefore ready for occupation.

The site lies outside of any settlement envelope and is therefore it is within the open countryside. The River Ivel runs along the western and southern boundary. The application site falls within the Parish of Southill, but adjoins the Parish boundary of Clifton.

### **The Application:**

Permission is sought for the Removal of a Condition attached to planning permission CB/14/04371/Full dated 19 December 2014.

The applicant seeks to remove condition 5 of the consent which states:

The occupation of the caravans on the Site hereby permitted shall be limited to the following persons and their dependant relatives:

Mr John Porter (senior) & Mrs Silvia Porter  
Mr John Porter (junior) & Mrs Simone Porter  
Mr John Wetton & Mrs Tracey Wetton  
Mr Mark Smith & Mrs Mel Smith  
Hayley Lee

Reason: In recognition of the location of the site in the open countryside and the personal circumstances which weighed in favour of the application in accordance with the National Planning Policy Framework and Planning Policy for Traveller Sites.

The removal of the condition is sought because the circumstances of some of the listed occupants has changed. Currently the site is occupied by Mr & Mrs Porter (the applicants) although at present Mr & Mrs Porter are temporarily staying at the site in a touring caravan after which they will permanently live at the site in a static caravan.

Mr John Porter (junior) and Mrs Simone Porter also live at the site in a static caravan and John Older currently resides at the site. Mr Older was incorrectly named as Mr John Wetton in condition 5. Mr John Wetton and Mrs Tracey Wetton (Mrs Porter's sister) were partners, but unmarried. They have since separated and Tracey has moved away.

The other named persons in condition 5, Mr Mark and Mrs Mel Smith and Hayley Lee are at present no longer able to live at the site due to personal circumstances.

The Gypsy and Travellers status of the families was accepted during the consideration of application CB/14/04317/Full.

### **RELEVANT POLICIES:**

#### **National Planning Policy**

National Planning Policy Framework

Planning Policy for Traveller Sites

**Mid Bedfordshire Local Plan Review December (2005)**

HO12 - Gypsies

**Core Strategy and Development Management Policies - North (2009)**

CS5 (Providing Homes)

CS14 (High Quality Development)

CS15 (Heritage)

CS16 (Landscape and Woodland)

DM3 (High Quality Development)

DM4 (Development within and beyond Settlement Envelopes)

DM13 (Heritage in Development)

DM14 (Landscape and Woodland)

**Development Strategy for Central Bedfordshire 2014**

At the meeting of Full Council on 19 November 2015 it was resolved to withdraw the Development Strategy. Preparation of the Central Bedfordshire Local Plan has begun. A substantial volume of evidence gathered over a number of years will help support this document. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our website as material considerations which may inform further development management decisions.

**Draft Gypsy and Traveller Plan**

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 19<sup>th</sup> August and subsequently at Council on 11<sup>th</sup> September) 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)

**Supplementary Planning Guidance/Other Documents**

Central Bedfordshire Design Guide (March 2014)

**Relevant Planning History:**

<b>Case Reference</b>	<b>CB/14/04317/FULL</b>
Location	Riveroaks (formerly Silver Lake Farm), Stanford Lane, Clifton, Shefford, SG17 5EU
Proposal	Change of use and provision of 5 No. pitch travellers site
Decision	Full Application - Granted
Decision Date	19/12/2014

**Consultees:**

Southill Parish Council      Strongly objects to removal of condition 5. A significant part of the justification for the original application was the personal circumstances of the applicants and their family. If the condition was removed then it brings the approval into question and sets up the site as one for travellers which was not part of the original application. If five caravans are no longer required by the family, which only a few months ago were essential to them, they should be removed from the site. It is not a suitable location for a traveller's site as opposed to a settled family unit.

2nd letter restating strong objection. The Council believe that is planning approve this revision it will shortly be followed by an application for further spaces on the site which would be totally unacceptable as far as the local population is concerned.

Clifton Parish Council

**Other Representations:**

Neighbours      6 comments received. Comments summarised below -

- Again no consultation with immediate neighbours or the village.
- removal of condition 5 would remove justification for the consent
- Consent was granted on the basis on the need for the accommodation by Mr & Mrs Porter's family. These personal circumstances weighed in favour of the development.
- Question whether the standard of landscaping as set out in condition 2 has been carried out to the satisfaction of the Council.

Application advertised      20/11/15  
in Press

15/10/15

Site Notice displayed

**Determining Issues:**

The main considerations of the application are;

1. Principle
2. Affect on the Character and Appearance of the Area
3. Neighbouring Amenity
4. Highway Considerations
5. Other Considerations

## Considerations

### 1 Principle

- 1.1 The principle of a Gypsy and Traveller site in this location was established under planning consent CB/14/04317/Full however planning Case Law states that where an application is being considered for a variation/removal 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 fact that planning permission has already been granted for development of a similar nature is a material consideration.

#### Policy Background

- 1.2 The site lies outside of any built up area within the open countryside where there is a general presumption against the granting of planning permission for new development. The new Planning Policy for Traveller Sites guidance sets out that Local Authorities should strictly limit new Traveller site development in open countryside that is away from existing settlements.

- 1.3 Planning Policy for Traveller Sites (August 2015) is specifically designed to provide guidance on determining Gypsy applications and to ensure fair and equal treatment for Travellers, in a way that facilitates that traditional and nomadic way of life for Travellers whilst respecting the interests of the settled community. The document also defines Gypsies and Travellers (the definition remains the same as that in the replaced Circular 1/2006).

- 1.4 The policy document requires that Local Planning Authorities carry out a full assessment of the need of Gypsies and Travellers in their area in liaison with neighbouring authorities to determine the need for sites. Sites should be specific deliverable sites sufficient to provide 5 years worth of sites against the authorities locally set targets.

- 1.5 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 particularly when considering applications for the grant of temporary consent.

#### Gypsy and Traveller Pitch Provision

- 1.6 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.

- 1.7 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.

- 1.8 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.

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

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

- 1.10 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."

- 1.11 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." A copy of the appeal decision is appended to this report.

#### Gypsy and Traveller Pitch Trajectory

- 1.12 The draft Gypsy and Traveller Local Plan was accompanied by a trajectory which demonstrated that the Council had identified sites which together with windfall sites would deliver a 5 year land supply, however as the Gypsy and Traveller Local Plan has been questioned, at present the trajectory figures could be subject to change.

- 1.13 Nevertheless, 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 land supply but pitches delivered through applications on existing sites or new unallocated sites would contribute to the number of windfall pitches provided. Applications such as this therefore potentially make a contribution



to the delivery of the required number of Gypsy and Traveller pitches and help to maintain the required 5 year land supply trajectory providing they are acceptable in all other respects.

Since the withdrawal of the Gypsy and Traveller Local Plan there have been a number of applications for gypsy and traveller accommodation. However the consented pitches still do not meet the backlog of pitches required.

1.14

Recent appeals have noted there is an immediate unmet need for accommodation in the district and Inspectors have given substantial weight to the need for pitches when determining applications.

1.15

Sustainability

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 in the rural area but is not an unacceptable distance from Clifton. Clifton is identified as a Large Village under Policy CS1 of the Core Strategy where there are some community facilities and links to public transport.

1.16

The location of the site has been assessed as being appropriate under the previous consent and therefore is considered to be in a sustainable location.

Removal of condition 5

1.17

It is acknowledged that the previous planning permission was granted based on the personal needs of the specific occupants listed in condition 5. Since that time the Twin Acres appeal was allowed where the Inspector concluded significant weight should be afforded to unmet need. Given the situation with the Gypsy and Traveller Plan and appeal decision, there is clearly a need to provide sites that are available to all gypsy and traveller families where the site is acceptable in all other respects. Comments have been raised regarding the sudden need to remove the occupancy condition however an individuals personal circumstances can change rapidly therefore is not unreasonable for the applicants to seek an amendment to the condition a short time since the original approval was granted.

1.18

It is noted that Condition 5 does not require the removal of the caravans once occupation by those named has ceased. This means that the caravans could remain in situ at site once the named occupants have moved on, but could not lawfully be occupied. Given the identified need for gypsy and traveller accommodation within the district this situation should be avoided as the unoccupied pitches would reduce the supply of gypsy and traveller accommodation.

1.19

The applicant does not seek to increase the number of caravans on the site or extend the site boundary. The condition relating to the occupation of the site by persons of a Gypsy and Traveller status would remain in place.

Concern has been raised regarding potential future applications to extend the site, however a decision can only be based on the proposal as submitted.

1.20

Future applications for any development at the site would need to be considered on their own merits.

1.21

The proposal to remove condition 5 would help meet the urgent and pressing unmet need for Gypsy and Traveller pitches which has been highlighted by the appeal allowed at Twin Acres, would provide pitches in accordance with the requirements of legislation and national planning policy by allowing the site

to be occupied by any gypsy and traveller family.

1.22

**2. Affect on the character and appearance of the area**

2.1 The supporting text to Policy DM4 (Development Within and Beyond Settlement Envelopes) sets out at 11.1.5 that outside settlement envelopes, where the countryside needs to be protected from inappropriate development, only particular types of new development will be permitted in accordance with national guidance. The application site falls outside of any identified Settlement Envelope and is within the open countryside.

2.2 The site is 350 metres beyond the settlement envelope of Clifton and for planning purposes falls within the open countryside. The eastern boundary of the site comprises a mature hedgerow, planting and fencing and views into the site from Stanford Lane are very limited. A public footpath runs along the northern side of the site and although there is substantial planting along the boundary some views into the application site are possible. The site is open to the south and west and long range views of the site from various viewpoints are possible.

2.3 The existing boundary landscaping and that within the site which would go some way towards minimising the visual impact of the site. The two buildings on the site which are to be retained and re-used are authorised, either through planning permission or the passage of time, would remain whether or not the application was approved. The site is limited in scale and contains no new permanent buildings.

2.4 It is considered that views across the open countryside towards the site should be screened by some additional landscaping located centrally on the site to further reduce the visual impact of the site. Of note, the previous planning approval included a condition relating to additional landscaping of the site. The landscaping details have been submitted and approved but are only part implemented at present.

2.5 Overall the proposal to remove the occupancy condition is considered to result in little harm to the character and appearance of the open countryside and would therefore comply with Policies DM3 and DM4 of the Core Strategy and therefore that harm is considered to be outweighed by the need to provide Gypsy and Traveller accommodation.

**3. Neighbouring amenity**

3.1 The nearest residential dwelling to the proposed site would be approximately 200m away at Clifton Manor. It is not considered due to the distance between the site and the nearest houses that the proposed development would have any adverse impact on residential amenity.

3.2 Commercial activity taken place on the site could lead to adverse impacts on amenity therefore it is considered that it would be appropriate to add a condition to any planning permission granted preventing the commercial use

of the site.

#### 4 Other Considerations

##### 4.1 Assessment against Policy HO2

Policy HO12 is a criteria-based policy for assessing planning applications and is the relevant adopted policy for the determination of this application. The previous application was assessed against this criteria and found to be acceptable however for clarity each part of the policy is addressed in turn below:

Proposals for the development of new gypsy sites will be expected to conform with the following criteria:

(i) That the proposal is not detrimental to the character and appearance of the surrounding countryside and that adequate landscaping measures to mitigate any adverse visual impact of the proposed use are capable of being carried out;

The impact on the character and the appearance of the area has been considered in section 2 above.

(ii) Development must incorporate a safe, convenient and adequate standard of access, including provision for pedestrians and cyclists;

The Highways Development Control Officer previously confirmed there is no technical or safety objection to the proposal subject to conditions.

(iii) The amenities of neighbouring or nearby residential property are not unacceptably harmed;

Due to the distance between the proposed site and other residential dwellings it is not considered that the amenities of nearby properties would be unacceptably harmed.

(iv) Appropriate safeguards are put in place to prevent pollution of surface water and groundwater;

During the previous planning application both the Environment Agency and the Internal Drainage Board confirmed that they have no objection to the proposal. The Environment Agency and IDB are the expert bodies whose advice the Council as Local Planning Authority relies on.

(v) There is no unacceptable adverse impact on nature conservation interests; and

Whilst the site is in the open countryside where nature conservation is important the site is not within an area designated of particular conservation importance. Large parts of the application site and other land owned by the applicant would remain undeveloped.

(vi) There is no unacceptable adverse impact on the historic environment.

The site is not within the vicinity of any other designated heritage asset.

Sites should relate well to existing built development, although a location within a defined settlement envelope will not be deemed essential. Sites which are poorly located in relation to community facilities and public transport will not be permitted.

The site is outside of the settlement envelope but as set out in the policy this is not deemed essential. The site is within 350m of the settlement envelope boundary and is considered to be within a satisfactory distance of Clifton and Shefford where community facilities and public transport are accessible. Further consideration of this matter is found in section 6.

#### 4.2 **Assessment against Policy GT5**

Policy GT5 which is a criteria-based policy for assessing planning applications and still considered to be relevant in the assessment of planning applications however as notes above the draft Gypsy and Traveller Plan carries little weight. The previous application was assessed against this criteria and found to be acceptable. For clarity each part of policy GT5 is addressed in turn below.

Justification of local need for the scale and nature of development proposed

Development such as that proposed will help identify the need for sites to be met which is a material consideration given the recent appeal decision at Twin Acres.

The scale of the site and number of pitches would not dominate the nearest settled community and would not place undue pressure on infrastructure.

Planning Policy for Traveller Sites (PPTS) states that in rural and semi-rural settings, Local Planning Authorities should ensure that the scale of such sites does not dominate the nearest settled community. It is not considered that the aim of the PPTS is to prevent there being more Gypsies and Travellers than members of the settled community within an area. It is considered that the point of the policy is to ensure that in rural and semi-rural areas that the traditional bricks and mortar settlement is not dominated in terms of the scale and visual impact of Gypsy and Traveller pitches. Due to the limited scale of the proposed site and the distance from Clifton, it is not considered could reasonably be argued that the site would dominate the settled community.

The site would not be located in an area of high risk of flooding, including functional floodplain. A flood risk assessment will be required in areas of flood risk.

The application site is entirely within flood zone 1, where there is the lowest risk of flooding, and therefore no flood risk assessment is required. The most southern part of land within the applicant's control, but outside of the application site is within flood risk zone 3.

During the consideration of the previous application neither the Internal Drainage Board or Environment Agency have raised objections to the proposed development.

Satisfactory and safe vehicular access.

During the consideration of the previous application the Highways Development Control Officer reviewed the application and confirmed that there is no technical highway reason to raise an objection on safety or capacity grounds and that the visibility is appropriate to the speed of traffic on the highway.

Site design demonstrates that the pitches are of sufficient size.

Whilst there is no defined size for a Gypsy and Traveller pitch, they are normally of sufficient size to accommodate a static caravan, touring caravan, parking spaces and amenity space. Providing that the licensing requirements for the separation between the caravans can be met it is considered that the proposal is acceptable in this regard.

Landscaping.

The site contains high levels of boundary landscaping and there are opportunities to increase the levels of landscaping to further improve the screening of the site and the biodiversity opportunities the site could provide. Existing landscaping and hedgerows would be retained.

Sensitive boundary treatment.

Boundary treatment could be controlled by condition in the event that other matters were considered acceptable.

The amenity of nearby occupiers would not be unduly harmed by the development.

The impact on neighbouring properties is considered above.

Pollution from light and noise sources should be minimised.

The impact of the development on neighbours through noise and disturbance is described and assessed above. A condition restricting commercial use of the site has been included should permission be granted.

Adequate schools, shops, healthcare and other community facilities are within a reasonable travelling distance.

Facilities would be within reasonable driving distance of the site. There is no footway linking the site to Clifton along Stanford Lane however there is access to the public footpath which leads to Shefford, a walk of approximately 1.2km. This matter is considered in greater detail below.

Suitable arrangements can be made for drainage, sanitation and access to utilities.

Sewerage would be dealt with by way of an existing septic tank details which have been approved as a condition of the original application. The site is already served by water and electricity. A refuse collection service is in operation at the site.

4.3 Highway safety

The application site is accessed off Stanford Lane, an unclassified road, on the stretch of road between Clifton and Stanford.

4.4 There is an existing access which is proposed to be used for the site access and would provide a 4.2m wide roadway to enable two vehicles to pass. There are no technical highway reasons to resist the application.

4.5 In terms of sustainability of the site, the granting of the previous application accepted the location of the site as being acceptable for the purpose of the Gypsy and Traveller site.

4.6 Human Rights/ Equality Act 2010:

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 No caravan located on the Site shall be occupied for residential purposes by persons other than Gypsies and Travellers, as defined by the Planning Policy for Traveller Sites 2015.

Reason: To ensure that the occupation of the residential caravans on the site is restricted to Gypsies and Travellers.

- 2 No more than 10 caravans shall be located on the site, of which no more than 5 of which shall be a mobile home/static caravan.

Reason: In recognition of the location of the site in the open countryside and having regard to the provisions of the National Planning Policy Framework and to the provisions of Policy HO12 of the Mid Bedfordshire Local Plan Review, Policy DM3 of the Core Strategy and Development Management Policies (2009)

- 3 The landscaping scheme approved on 16/02/15 under condition 2 of

CB/14/043147/Full shall be implemented by the end of the full planting season immediately following the completion and/or first use of any separate part of the development (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained for a period of five years from the date of planting and any which die or are destroyed during this period shall be replaced during the next planting season and maintained until satisfactorily established.

Reason: To ensure a satisfactory standard of landscaping in this rural location having regard to the National Planning Policy Framework and to the provisions of Policy HO12 of the Mid Bedfordshire Local Plan Review, Policies DM3 & DM16 of the Core Strategy and Development Management Policies.

- 4 The site layout Reason: To ensure an appropriate standard of development and general amenity having regard to the National Planning Policy Framework and to the provisions of Policy HO12 of the Mid Bedfordshire Local Plan Review, Policy DM3 of the Core Strategy and Development Management Policies.

- 5 No commercial activity shall take place on the Site, including the storage of materials.

Reason: In order to ensure that the development has no unacceptable adverse effect upon general or residential amenity having regard to the National Planning Policy Framework and to the provisions of Policy DM3 of the Core Strategy and Development Management Policies (2009).

- 6 Concurrent with the reconstructed access being brought into use all other existing access points not incorporated in the development hereby permitted shall be stopped up by raising any existing dropped kerbs and reinstating the verge and highway boundary to the same line, level and detail as the adjoining footway verge and highway boundary

Reason: To limit the number of access points onto the highway where vehicular movements can occur for the safety and convenience of the highway user.

- 7 All on-site vehicle areas shall be surfaced in tarmacadam or similar durable, porous but bound material and arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

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

- 8 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plan, numbers 108/01/14.

Reason: For the avoidance of doubt.

**INFORMATIVE 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 Core Strategy and Development Management Policies Document ( 2009)
2. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

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

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

**DECISION**

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**Item No. 9**

<b>APPLICATION NUMBER</b>	<b>CB/15/03767/FULL</b>
<b>LOCATION</b>	<b>Westbury, Deepdale, Potton, Sandy, SG19 2NH</b>
<b>PROPOSAL</b>	<b>Erection of a detached dwelling and detached garage on land that currently forms part of the existing curtilage of Westbury.</b>
<b>PARISH</b>	Potton
<b>WARD</b>	<b>Potton</b>
<b>WARD COUNCILLORS</b>	<b>Cllrs Mrs Gurney &amp; Zerny</b>
<b>CASE OFFICER</b>	<b>Samantha Boyd</b>
<b>DATE REGISTERED</b>	<b>05 October 2015</b>
<b>EXPIRY DATE</b>	<b>30 November 2015</b>
<b>APPLICANT</b>	<b>Mrs Crossman</b>
<b>AGENT</b>	<b>Ian Blaney Architects</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	Cllr Call in - Cllr Adam Zerny The applicant considers it a contemporary design, which they feel is a subjective matter and they would like the opportunity to address the Committee to ask them to support their proposals. They would also like the Committee to have the opportunity to visit the site.
<b>RECOMMENDED DECISION</b>	<b>Full Application - Refusal recommended</b>

**Reason for recommendation:**

The proposal is for one new dwelling on land within the open countryside and in an unsustainable location remote from any settlement, where development plan policies and the NPPF seeks to strictly control new development in order to protect the character of the countryside and achieve a sustainable form of development. No material reasons have been put forward to outweigh the non compliance of the proposal with the development plan and government guidance. The proposal is also unacceptable in terms of achieving a safe access to the site. As such the proposal is contrary to Policy DM3 and DM4 of the Core Strategy and Development Management Policies Document (adopted 2009) and the National Planning Policy Framework (2012).

**Site Location:**

Westbury is a two storey semi-detached dwelling within Deepdale which lies to the west of Potton. Westbury benefits from a large garden screened by mature trees and hedges and private access from Sandy Road. The surrounding area comprises sporadic residential development but is predominately open countryside.

**The Application:**

The application seeks planning consent for a new two bedroom dwelling and detached garage within the grounds of Westbury. The proposed single storey dwelling is of a contemporary design with a domed roof set in the south east corner of the site and set back some distance from the site frontage. Access to the site

would be via the existing access and shared with the existing dwelling.

## **RELEVANT POLICIES:**

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

Paragraph 55

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

DM4 Development within and Beyond Settlement Envelopes  
CS14 & DM3 High Quality Development

### **Development Strategy**

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)

### **Recent and relevant planning History**

Pre-application advice was sought by the applicant regarding the principle of a new dwelling in this location. The pre-application advice dated 19/08/14 concluded -

*'It is my opinion that a planning application for a new dwelling in this location would not be supported. The site lies outside of any Settlement Envelope, as defined on the Local Development Framework Proposals Maps, and as noted earlier, it is therefore classified as open countryside for the purpose of determining planning applications.*

*There are no material considerations of sufficient weight that would overcome the policy objection to this proposal. The proposal is considered to be contrary to planning policy within the National Planning Policy Framework and the Council's Core Strategy and Development Management Policies Document and is therefore considered to be unacceptable as it would have a detrimental impact upon the character and the appearance of the countryside.'*

Subsequently a planning application was submitted and refused on 22/05/15

under ref: CB/15/01183/Full. The reasons for the refusal :

1. The proposal is for one new dwelling on land within the open countryside and in an unsustainable location remote from any settlement, where development plan policy and the NPPF seeks to strictly control new development. No material reasons have been put forward to outweigh the non compliance of the proposal with the development plan and government guidance. As such the proposal is contrary to Policy DM4 of the Core Strategy and Development Management Policies Document (adopted 2009) and the National Planning Policy Framework (2012).

2. The proposed development if permitted would result in an intensification of use of a substandard access which makes no provision for adequate driver/driver intervisibility to the east, the critical side with oncoming traffic, and will lead to conditions of danger and inconvenience to users of the highway and the property. The proposal is therefore considered to be contrary to Policy DM3 of the Core Strategy and Development Management Policies Document (2009)

### **Previous planning history**

MB/96/01416 Land adj Westbury Deepdale. Erection of detached house. Refused 24/09/96

MB/75/01420 Westbury Deepdale. Outline consent for one dwelling and garage. Refused 09/11/83

MB/75/1420B Westbury Deepdale. Dwelling and garage. Refused 09/09/83

MB/80/01584. Westbury Deepdale. Agricultural dwelling and rabbit breeding unit. Refused 10/02/81

### **Representations: (Parish & Neighbours)**

1. Potton Town Council Support application although also made comment on the introduction of a 40mph speed limit from Deepdale to Potton and that swift bricks are used.
2. Neighbours No comments received  
Site Notice

### **Consultations/Publicity responses**

3. Highways The proposal is for a new dwelling and parking/turning provision in the grounds of an existing property. Access exists and will not be altered and is taken from a national speed limit road (Potton Road, B1042).  
Potton Road is a busy rural road and not a 'street' and has limited pedestrian/street activity and retains its function of a vehicular route, so Manual for Streets should not be used to calculate the visibility splay but instead the

## Design Manual for Roads and Bridges.

A visibility splay of 2.4m ('x' distance) measured into the site along the centre of the access from the nearside 'kerbline' and from this point 215.0m ('y' distance) either side of the access to the nearside channel of the road is required. The visibility splays should be in land under the applicants control and/or public highway and not third party land.

The 'x' distance represents a reasonable maximum distance between the front of the car, clear of the carriageway, and the drivers' eye.

The 'y' distance is based on the stopping sight distance (SSD) within which drivers need to be able to see ahead and stop from a given speed. This distance should also take into consideration the impact that the gradient may have (approaching vehicles from the east will be coming downhill).

Visibility to the west is not an issue and is achievable. However due to the horizontal and vertical alignment of the road to the east (the critical side to the oncoming traffic) the achievable splay is in the region of 120.0m.

The applicant has had previous pre-application advice and was informed of the requirements for the visibility splay and that a planning application would not be supported by the Highway Authority due to the substandard visibility to the east.

The applicant has indicated that they believe that vehicle speeds are about 40mph, but they have not backed this up with any evidence. I would expect the submittal of a speed survey as evidence, and if this shows the 85th percentile wet weather speed to be below the national speed limit, the visibility splay can be reduced in accordance with the findings.

The applicant has also submitted a plan indicating a visibility splay of 163.0m to the east. I debate that this is achievable due to the vertical alignment of the road, and the splay is based only on the horizontal alignment. The vertical alignment will take into account the variation of driver eye height and the height range of obstructions. Drivers need to see obstructions 2.0m high down to a point 600mm above the carriageway.

I have looked at the accident data for Potton Road in the vicinity of the site, and there has been one slight incident in 2007 and one fatality in 2013. I do not have the details at hand to ascertain if these incidents involved vehicles manoeuvring to/from the property.

The applicant has provided a Transportation Technical Note as evidence for a reduced visibility splay to the east using Design Manual for Roads and Bridges TD 9/93 for Highway Link Design for 'the basic principles to be used for co-ordinating the various elements of the road design', where TD 41/95 Vehicle Access to All Purpose Trunk Roads for 'access visibility standards' is the document that should be used.

The geometric standards for direct access (point 2.22) states the 'y' distance for a major road of 100kph (60 mph) is 215.0m, with a Note that 'these figures correspond to the Desirable Minimum stopping sight distances set out in Table 3 in TD9 (as submitted by the applicant). Relaxations are not available on these figures. DMRB 2.24 states 'Relaxation below desirable minimum are not permitted under TD9 on the immediate approaches to junctions and this shall apply to direct accesses.

The applicant has also submitted a letter stating that the speed limit of Potton Road will, in the future, be reduced from 60mph. The proposal can not be assessed on a reduction of speed limit that is not currently in force as vehicle speeds will still be in the region of 60mph and therefore the 'y' distance of 215.0m is still relevant.

Given the submitted details do not indicate a visibility splay of 215.0m to the east, and there is no evidence to indicate that vehicle speeds from traffic coming from this direction are below the national speed limit, I can not support the proposal Therefore I hereby recommend that planning permission be refused.

- |                            |   |
|----------------------------|---|
| 4. Internal Drainage Board | No comments to make regarding application   |
| 5.. Public Protection      | No objections however site is adjacent to a former railway line - include informative to applicant. |

### **Determining Issues**

The main considerations of the application are;

1. The principle of the development
2. The impact upon the character and appearance of the area
3. Neighbouring amenity
4. Highway considerations
5. Any other issues

### **Considerations**

## 1. The principle of the development

- 1.1 The application site lies outside of any Settlement Envelope as defined on the Proposals Maps of the Development Plan Documents.
- 1.2 Policy DM4 of the Core Strategy and Development Management Policies Document seeks to ensure new development is restricted to within settlement boundaries. Outside settlements new development is strongly restricted to protect the countryside from inappropriate development.
- 1.3 Policy DM3 states that new development should be appropriate in scale and design to their setting and contribute positively to creating a sense of place and respect local distinctiveness through design and use of materials.
- 1.4 Section 55 of The National Planning Policy Framework advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances, such as:
  - the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
  - where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
  - where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or the exceptional quality or innovative nature of the design of the dwelling.
- 1.5 Such a design should:
  - be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
  - reflect the highest standards in architecture;
  - significantly enhance its immediate setting; and
  - be sensitive to the defining characteristics of the local area.
- 1.6 There is a strong presumption against new development in the countryside and the NPPF advises that proposals for new isolated residential dwellings in the countryside will require special circumstances for planning permission to be granted. The application site is some distance from nearby towns such as Sandy and Potton with limited access to public transport therefore it is considered to be in an isolated and unsustainable location. This is particularly relevant as sustainable development is a key objective of the NPPF.
- 1.7 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 1.8 The applicant states that the building meets the objectives of paragraph 55 in



delivering a dwelling that is of exceptional design. The building is of a contemporary bespoke design with a double curved roof line and a combination of rendered walls and timber cladding. The building is proposed to be constructed with high levels of insulation and aims to achieve level 4/5 of the Code for Sustainable Homes.

- 1.9 The applicant considers the design of the house to be of innovative design and exceptional quality which outweighs the presumption against new development in the open countryside. The design of the dwelling would allow open plan living and would include high levels of insulation, LED lighting and air source heat pumps to consume minimal energy.
- 1.10 While the dwelling would take on the appearance of a modern building, it is not considered that the design is of exceptional quality or so unique that it would outweigh the need to avoid isolated homes in the open countryside as set out within the NPPF and Policy DM4 of the Core Strategy.
- 1.11 In this case there appears to be no other justification for a new dwelling in the countryside, for example it would not house an agricultural or forestry worker, it would not represent the optimal viable use of a heritage asset, it would not re-use redundant or disused buildings nor would the proposal be of exceptional quality leading to an enhancement of the area.
- 1.12 Furthermore the NPPF advises there is a presumption in favour of sustainable development, however the application site is located in an isolated rural location where there are no facilities for residents and limited access to public transport. Given the isolated location of the site, the proposal is not considered to be sustainable development.
- 1.13 At the time of writing the Council is currently able to demonstrate a 5 year housing supply. Notwithstanding the 5 year supply, a contribution of one dwelling would not materially add to the supply of houses in the area and is therefore not considered to be a material consideration that would weight in favour of the development.
- 1.14 Overall it is considered that the proposed new dwelling in this location is unacceptable in principle and contrary to the advice given in the NPPF and to policy DM4 of the Core Strategy and Development Management Policies Document (2009).

## **2. The impact upon the character and appearance of the area**

- 2.1 The proposed dwelling would sit towards the rear of the site some 40m from the site frontage. The existing semi detached dwelling is sited to the front of the site and therefore the proposed dwelling would extend the built form into the open countryside beyond the rear of the existing properties. It would however be partially screened by the existing landscaping.
- 2.2 The proposed dwelling is U shaped and, together with the garage, occupies a footprint of approximately 126 sq m (excluding the courtyard and patio areas). The flat roof design has a total height of 4.5m. It is proposed to construct the building with a combination of render and horizontal cladding.

The land slopes down from the road into the site and the proposed dwelling is single storey in nature, however the building would be visible from Sandy Road, particularly during winter months when the trees are bare.

- 2.3 Given the location of the dwelling, within the open countryside and sited towards the rear of the site, the proposal is considered to result in a harmful impact upon the rural character of this part of the area which is remote with few existing dwellings and building in the vicinity. While the site is enclosed by mature trees, this in itself would not outweigh the harm that would result from the proposed dwelling. In any case, the existing trees are not protected and could be removed from the site at any time in the future.
- 2.4 The modern design of the dwelling is unlike the traditional appearance of the nearby dwellings. Although the design of the dwelling is not in keeping with the adjacent dwellings, it is not considered to be inappropriate. However this does not outweigh the harm to the rural area that would result from the siting of a new dwelling in this location.
- 2.5 The proposal is considered to result in unacceptable harm to the character and appearance of the rural area given its scale and siting and is therefore contrary to Policy DM3 of the Core Strategy and Development Management Policy Document (2009) which requires all new developments to be appropriate in scale and design to their setting.

### **3. Neighbouring amenity**

- 3.1 The proposed dwelling is to be sited at some distance from Westbury which is the only neighbouring property. Given the siting and design of the proposal there would be no adverse impact on neighbouring amenity.

### **4. Highway considerations**

- 4.1 The proposal would use the existing access which serves the existing dwelling. Sandy Road is a busy road with a blind bend on the brow on a hill to the east.
- 4.2 Visibility to the west is not an issue and is achievable. However due to the horizontal and vertical alignment of the road to the east (the critical side to the oncoming traffic) the achievable splay is in the region of 120.0m.
- 4.3 The applicant has had previous pre-application advice and was informed of the requirements for the visibility splay and that a planning application would not be supported by the Highway Authority due to the substandard visibility to the east.
- 4.4 The applicant has indicated that they believe that vehicle speeds are about 40mph, but they have not backed this up with any evidence.
- 4.5 The applicant has also submitted a plan indicating a visibility splay of 163.0m to the east. This may not be achievable due to the vertical alignment of the road, and the splay is based only on the horizontal alignment. The vertical alignment will take into account the variation of driver eye height and the

height range of obstructions. Drivers need to see obstructions 2.0m high down to a point 600mm above the carriageway.

- 4.6 The applicant has also submitted a letter stating that the speed limit of Potton Road will, in the future, be reduced from 60mph. The proposal can not be assessed on a reduction of speed limit that is not currently in force as vehicle speeds will still be in the region of 60mph and therefore adequate visibility splays much be achieved. The proposal is therefore considered to be unacceptable in terms of highway safety.
- 4.7 Policy DM3 of the Core Strategy and Development Management Policies Document seeks to ensure that all new developments incorporate appropriate access and linkages, including provision for pedestrians, cyclists and public transport. The proposal is not considered to provide an appropriate and safe access and is therefore considered to be unacceptable in this respect.

## 5. Any other considerations

### 5.1 Planning Obligation Strategy

From 6 April 2015 only site specific planning obligations can be negotiated until the adoption of the Central Bedfordshire Community Infrastructure Levy (CIL).

- 5.2 All contributions sought will need to comply with the three tests set out in Regulation 122(2) of the CIL Regulation 2010 (as amended). Given the scale of this development no contributions towards specific projects will be sought.

### 5.3 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 is for one new dwelling on land within the open countryside and in an unsustainable location remote from any settlement, where development plan policy and the NPPF seeks to strictly control new development in order to protect the countryside and achieve a sustainable form of development. No material reasons have been put forward to outweigh the non compliance of the proposal with the development plan and government guidance. As such the proposal is contrary to Policy DM3 and DM4 of the Core Strategy and Development Management Policies Document (adopted 2009) and the National Planning Policy Framework (2012).

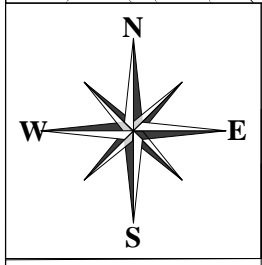
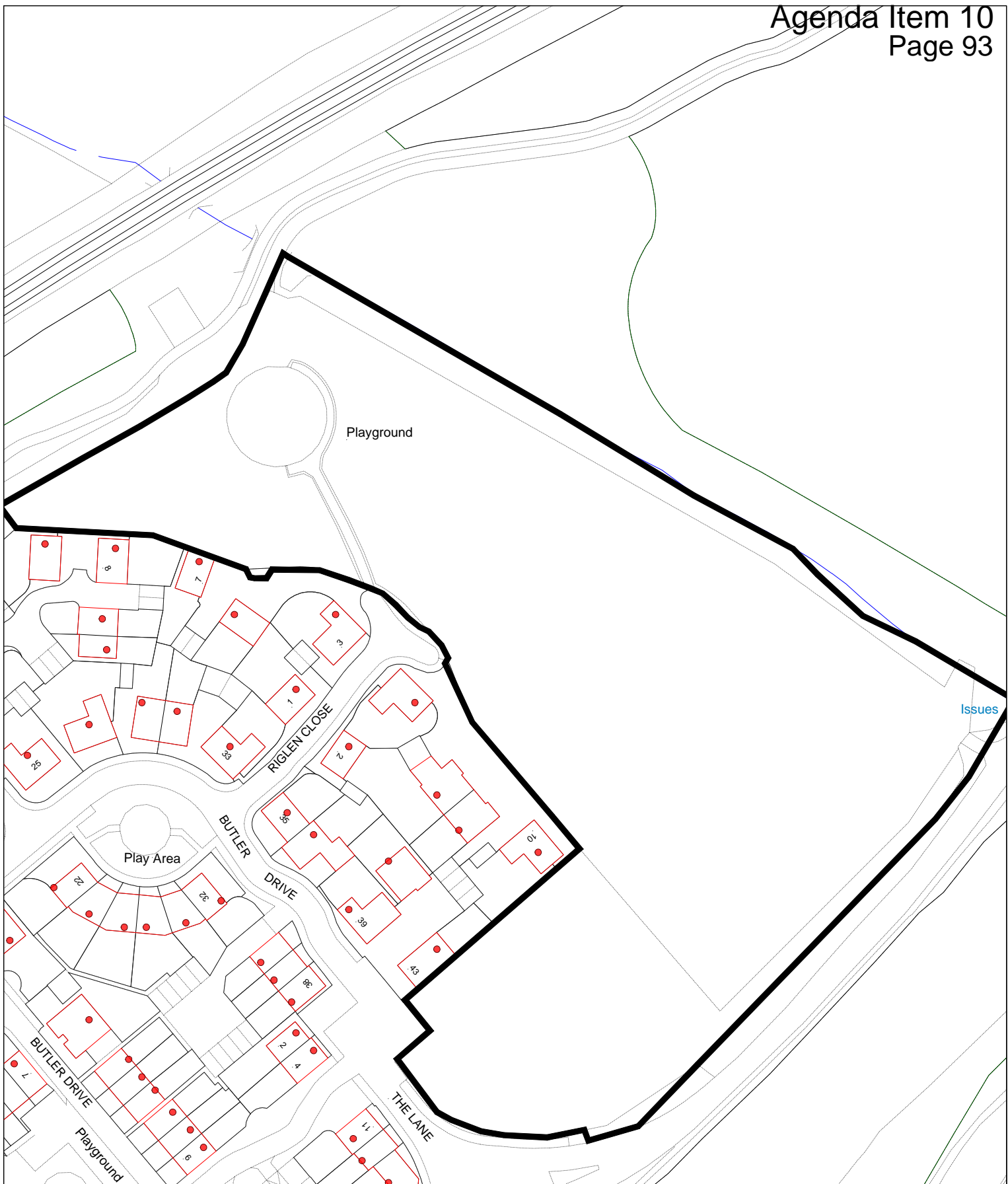
- 2 The proposed development if permitted would result in an intensification of use of a substandard access which makes no provision for adequate driver/driver intervisibility to the east, the critical side with oncoming traffic, and will lead to conditions of danger and inconvenience to users of the highway and the property. The proposal is therefore unacceptable and contrary to Policy DM3 of the Core Strategy and Development Management Policies Document (2009).

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

Planning permission is recommended for refusal. 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**

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Licence No. 100049029 (2009)  
Date: 23:November:2015  
Map Sheet No

Application No:  
CB/15/02258/Full

Scale: 1:1250

Land Off Marston Road, Lidlington, MK43 0UQ

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**Item No. 10**

<b>APPLICATION NUMBER</b>	<b>CB/15/02258/FULL</b>
<b>LOCATION</b>	<b>Land off Marston Road, Lidlington, Bedford, MK43 0UQ</b>
<b>PROPOSAL</b>	<b>Residential development of 31 dwellings, including vehicular access, pedestrian and cycle links, public open space, car parking, landscaping, drainage and associated works.</b>
<b>PARISH</b>	<b>Lidlington</b>
<b>WARD</b>	<b>Cranfield &amp; Marston Moretaine</b>
<b>WARD COUNCILLORS</b>	<b>Cllrs Morris, Matthews &amp; Mrs Clark</b>
<b>CASE OFFICER</b>	<b>Lisa Newlands</b>
<b>DATE REGISTERED</b>	<b>18 June 2015</b>
<b>EXPIRY DATE</b>	<b>17 September 2015</b>
<b>APPLICANT</b>	<b>BDW Trading Ltd and Henry H. Bletsoe &amp; Son LLP</b>
<b>AGENT</b>	<b>Bidwells</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Called in by Cllr Clark on the grounds it is outside the settlement envelope and potential impact on East-West rail improvements to the Marston Road crossing. Major development which is a departure from policy.</b>
<b>RECOMMENDED DECISION</b>	<b>Full Application - Approval subject to the completion of S106 obligation.</b>

**Summary of recommendation:**

The proposal is considered to be a sustainable form of development that would be commensurate with the scale of Lidlington as a small village. Whilst it is considered that the Council can demonstrate a 5 year housing supply, this proposal would add to this and assist in the future safeguarding of this position. The re-development of the employment allocation is supported in the National Planning Policy Framework and it is considered that the site has been marketed for a suitable period of time.

On balance, it is therefore considered that the proposal presents a sustainable form of development that would assist in our continued delivery of a 5 year supply of housing land and would be in conformity with the National Planning Policy Framework (2012).

**Site Location:**

The site is located to the east of Lidlington, north west of Marston Road and north east of The Lane. The site measures 1.77 hectares and is located in open countryside adjacent to but outside of the settlement envelope for Lidlington.

The site is currently used for rough grazing. Residential dwellings are situated to the south west of the site, open countryside to the north, east and south of the site. A public footpath is located immediately to the north of the site, beyond this is the railway line.

A portion of the site, close to the roundabout and adjacent to the existing residential properties is allocated as employment for B1 use.

### **The Application:**

Full planning permission is sought for the erection of 31 dwellings, an area of public open space, 35% affordable housing, vehicular access, pedestrian and cycle links, landscaping and drainage.

The scheme has been revised from that original submitted, with a reduction in the number of units from 37 to 31, removal of the access from Marston Road and Riglen Close.

The proposal is to be served from the side street of the existing development with primary access from Marston Road coming via the existing roundabout.

### **RELEVANT POLICIES:**

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

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

CS1 Development Strategy  
 CS2 Developer Contributions  
 CS3 Healthy and Sustainable Communities  
 CS4 Linking Communities - Accessibility and Transport  
 CS5 Providing Homes  
 CS6 Delivery and Timing of Housing Provision  
 CS7 Affordable Housing  
 CS13 Climate Change  
 CS14 Heritage  
 CS16 Landscape and Woodland  
 CS17 Green Infrastructure  
 CS18 Biodiversity and Geological Conservation

DM1 Renewable Energy  
 DM2 Sustainable Construction of New Buildings  
 DM3 High Quality Development  
 DM4 Development Within and Beyond Settlement Envelopes  
 DM9 Providing a Range of Transport  
 DM10 Housing Mix  
 DM13 Heritage in Development  
 DM14 Landscape and Woodland  
 DM15 Biodiversity  
 DM16 Green Infrastructure  
 DM17 Accessible Green Spaces

### **Development Strategy**

At the meeting of Full Council on 19 November 2015 it was resolved to withdraw the Development Strategy. Preparation of the Central Bedfordshire Local Plan has begun. A substantial volume of evidence gathered over a number of years will help



support this document. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our website as material considerations which may inform further development management decisions.

**Supplementary Planning Guidance/Other Documents**

- Central Bedfordshire Design Guide (March 2014)
- Sustainable Drainage Guidance SPD (April 2014)
- The Leisure Strategy (March 2014)
- The Mid Bedfordshire Landscape Character Assessment (2007)
- Draft Central Bedfordshire Landscape Character Assessment (2015)

**Relevant Planning History:**

Application Number	CB/14/03130/SCN
Description	Screening opinion residential development
Decision	EIA not required
Decision Date	19/08/14
Application Number	MB/03/00165/OUT
Description	B1(a) office development
Decision	Approved
Decision Date	25th June 2004
Application Number	MB/07/01433/OUT
Description	Class B1(a) office development (all matters reserved)
Decision	Approved
Decision Date	08/10/07
Application Number	CB/10/00036/REN
Description	Extension of time MB/07/01433/OUT
Decision	Approved
Decision Date	15/12/10

**Consultees:**

Parish/Town Council	<p>Object to the proposal on the following grounds:</p> <ul style="list-style-type: none"> <li>• Outside the settlement envelope, so this would set a precedent</li> <li>• The site is currently designated for commercial buildings, the Parish Council strongly support this use for the area, to attract businesses to the village</li> <li>• The site given its current commercial use allocation has not been marketed at all for this purpose</li> <li>• The village now has access to super fast broadband so this would be a suitable time for site to be marketed with commercial use</li> <li>• The submitted plans show insufficient parking provision, the allocation within this area is lower than</li> </ul>
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the allocation on the nearby estate which already clearly has issues

- The Council is concerned about the developer's inability to take the nearby estate through to adoption
- Concern that the developer has left parts of the nearby estate in poor condition, the management of the play area facility is not being carried out,
- The site includes strategic land earmarked by Network Rail as part of the core scheme for the East - West rail link which will be included in their public consultation from September
- Lidlington is a small village, the nearby estate when it was built meant a 15% increase in number of properties in the village, this proposed development would mean a further 7% increase. The Council object to this inappropriate growth to a small village which does not have any infrastructure.

MANOP		The needs of older people should be considered as part of this proposal and, should approval be forthcoming, we would urge that a significant proportion of dwellings in the scheme are designed to be suitable for older people.
Housing Officer	Development	No objection
IDB		No comment to make
Community Officer	Safety	No comment to make
Countryside Access		Do not wish to seek S106 contributions from this development.
Ecology		No objection. Integrated bird and bat boxes should be included within the fabric of the buildings on the periphery of the site adjacent to the hedge and ditch features.
Highways		No objection
Integrated Transport Landscape Officer		No objection
LDF Team		No objection subject to conditions relating to planting At the time of writing it is considered that we can demonstrate a 5 year housing supply.
Economic Development		No objection
Network Rail		No objection subject to conditions
Play and Open Space Officer		No objection subject to conditions
Public Protection		No objection subject to noise condition in terms of rail and road traffic noise.
Contaminated Land Officer	Land	No objection
Rights of Way		No objection subject to condition
SuDs		No objection subject to conditions
Transport Strategy		No objection, however, concerns raised regarding the proposed development and the impact it may have on the future delivery of an alternative crossing for Lidlington. The East West Rail project team were consulted but no response received.

**Other Representations:**

Neighbours

2, 3, 6, 8, 10 Riglen  
Close – Objection

36 letters of representation have been received in objection to the proposal.

- Lidlington is classified as a small village and by adding 37 new dwellings the village will grow considerably and lose its feel
- Lidlington has had its share of developments and do not need more
- Lidlington is very congested
- Adjacent site built by the same developer – the roads are very narrow and the houses do not have enough private parking
- There is a suggestion to create a new access road to the proposed development off Marston Road – This has now been revised and removed from the proposal.
- Movement of the existing playground would be closer to the railway line – security risk for children playing outside
- There is only one small village shop available to residents, thereby residents have to travel to nearby towns for their shopping. Since the current public transport system offers limited options residents have to use their cars. Adding more houses would increase the traffic considerably in and through the village.
- The developer has marked boundary lines wrong and taken land that doesn't belong to them. This has now been rectified in the revised drawings.
- The proposed development includes land that is currently up for sale as B1 commercial development. They have stated that this land is unable to sell and would be better used for residential development. It is hard to believe that there is no interest at all to develop any kind of commercial business on that land. The village would benefit far more from a commercial unit that would create local jobs in the area, rather than more houses.
- The local school is already oversubscribed
- The closest doctors surgery is in Marston Moretaine and they are already struggling with the amount of patients registered with them.
- Network Rail are electrifying the train line through the village – a recent consultation meeting suggested that one option involves moving the main road through the village and this would cut through the field where this development is proposed. By building on this site you would be limiting the options for Network Rail. It is felt that the train line is far more important than additional dwellings.

- The developer did not accurately follow plans for the adjacent development and it is feared they will do the same here.
- It has been suggested that the owner of the land has turned down a number of reasonable offers for the land over the years in the hope that they would eventually gain consent for residential development – the village is in dire need of local businesses.
- Access via Riglen Close would be dangerous for all of the current residents and upset current parking arrangements.
- Access via Marston Road would be dangerous as this is the main artery through the village and turning on to and off this road would be dangerous.
- The proposal would add significantly more cars to the village traffic.
- The proposed houses differ aesthetically to the existing adjacent properties
- The layout is bizarre placing roads next to existing roads with a hedge in between.
- Traffic calming measures or urban realm improvement works have been suggested along Marston Road – these should be in place before planning work is approved, it is a dangerous road that has previously had fatalities.
- There is no pavement on the side of Marston Road next to the proposed housing estate therefore pedestrians would therefore have to cross a busy road with a blind corner in order to gain access to the village.
- The increase in visitor parking has been noted, based on 1 visitor per 4 houses. What is this based on? The proposal fails to cater for the 10 parking spaces that would be displaced from the current adjacent estate when the new side street access road is created.
- The transport statement is not appropriate as it is too narrow and does not consider traffic incidents on the junctions from Lidlington onto the A507 Bedford Road. Both of these junctions have been the scene of fatal accidents.
- The transport statement should also consider the planned changes as part of the rail upgrades – this will increase the traffic load on Marston Road and increase risk onto the dangerous junction with the A507.
- Riglen Close is not a standard width, it is very narrow and fire engines or ambulances would find it very hard to access the new properties if they were built using this access
- We already have a problem with parking in the close as many properties are 4/5 bedroom houses

with only 1 parking space. The end of the Ringle Close is currently a T junction and is often used for parking. If the development went ahead this would then be a through road, where would these vehicles park? We also have to park cars partly on the pathways otherwise vans/cars are unable to pass

- The whole estate already has problems with parking without any more houses being built to increase this problem.
- There are a number of local residential developments either taking place, approved, or under construction. Recently completed are the former Royal Oak Public House site and the conversion of Lidlington Church into residential accommodation. The Hanson Offices are now sold for development, and there is a substantial new development proposed at Millbrook. The local plan states that 500 new homes should be accommodated by the 50 small villages in the county. Lidlington has already provided over 70 of these in the current estate. On the presentation of the local plan, council representatives informed us that the proposed development was unlikely to be given approval during the term of the current local plan, as Lidlington would have limited infill development only.
- A few weeks ago the local shop - The Lemon Larder closed down. The village now has no shops and I have to travel outside of the village to do my weekly food shop. Its my understanding that part of the site has been cleared for business use. If this development was to go ahead it would use this land. This land needs to be kept for business use, its is a good size for a metro sized supermarket and this is something the community greatly needs, especially in light of the recent closing of the only shop left in the village.
- Developer hasn't completed the existing estate – the estate roads have yet to be adopted by the Council, there is no paved link between Kerrison Close and The Grove footpath and general maintenance is lacking
- Increased traffic on the estate and the village as a whole
- The local school is very small – where would the

6, 8 and 18 Kerrison Close - Objection

children go?

- Car parking is already a big problem – this new build will only make it worse
- It will be a safety issue due to blocked roads for larger vehicles and emergency vehicles
- Movement of the play park – add to the already high level of noise experienced, especially with another 31 houses
- Will there be a regular rubbish collection
- Will the roads be cleaned during the building phase
- Does the new fast rail link know about another 31 houses that could use the railway station and plan to have them stop at Lidlington
- Concerns regarding the relocation of the existing childrens play area – it appears to site it significantly closer to our property. This may lead to significant increases in noise disturbance and will impact our privacy. Our lounge window would look directly out to the area where the new site will be and anyone using the equipment would have a direct view into our lounge.
- David Wilson Homes have not completed the existing development at Butler Drive, no contractors for public spaces are in place and the development is now turning wild, with Children's play areas now no go areas.
- The proposed development will be visually overbearing and have a significant detrimental impact on the verdant landscape. The style and design of the proposed development is not in keeping with existing dwellings thereby reducing the village aesthetics. One of the reasons we bought our house in this area was because of it being in a small village with a rural, country design and feel.
- Safe access and egress to the development will be compromised in an already overpopulated and busy residential area. We already suffer with a lack of suitable parking resulting in residents parking on the main access road (Butler Drive) and pavement leading into the

2, 4, 11, 37, 39 Butler Drive – objections

development. With the speed at which cars enter the development the obstructions caused by the overflow parking naturally cause concern for pedestrian safety and roadway preservation. Similarly, people have been observed to cut off the corner into Butler Drive. The increase in traffic flow and parked cars, to an already busy junction, and estate, jeopardises the safety of our children, residents and also the safety of our roadways.

- The development is planned on potential employment land. This area of land has been advertised for employment and therefore contradicts the initial plans for this area, removing the possibility for local employment and income generation.
- The noise levels will be greatly increased in building such an estate around and already established area, for those who do not work 9-5 this would cause a big disruption during the day. equally the road and surrounding areas will be filled with drilling and building noise. once build this will add 35+ peoples daily noise.
- village life as it is at the moment represents all that is good with small rural housing, it allows a sense of security and relaxation as the small area allows the community to be aware of each other, by increasing the number of houses in this village it will alter the quality of the village that we have all come to know and love.
- by removing the marston vale trail this would stop the free roaming of the land (which we believed was protected for 25 years) from the current families in the village from; dog walking, hiking and enjoying the countryside. Additionally the wildlife already on the site (would be destroyed) including rabbits, foxs butterflys birds and a multitude of different smaller creatures which would be eradicated not dissimilar to cutting down the rainforests of south america which i am sure even BDW would agree is not acceptable!
- Finally there is already large en-mass building of estates in bedfordshire; Flitwick, Millenium park and others. furthermore there are houses in Lidlington that have been built that are not yet sold, would it not therefore make sense to optimism the current vacancies before building more housing.
- The transport statement is out of date – incorrect bus timetable information
- Not sufficient parking for existing and future

residents

- the proposal to create a side street from the existing access square servicing 90% of the new houses is ill conceived.
- The incorporation of a so called 'private road' from access to the north east provides further annoyance. A second means of access and egress from the estate generally would be beneficial to the existing and new properties.
- The current proposed new access road from Butler Drive will include a sharp corner with limited sightlines. I believe this will be dangerous and creates a blind spot. Cars already cut the corner from the roundabout, over the square, onto Butler Drive. With the proposed access accidents will occur.
- The straight roads now proposed for phase II, I believe, will cause for heavier traffic to be parked on the roads within these areas.
- Generally it is accepted there is a lack of parking within phase I. No consideration appears to have been made with regard to phase II.
- The house styles that have been proposed for the dwellings do not mirror those of phase I. I do not consider these to be inkeeping with the style or feel of the village or the original phase I development. (An issue I believe Central Bedfordshire Council took great care to ensure in phase I).
- In addition I note within the affordable housing that flats have been proposed. Again I feel that these are not inkeeping with the phase I development or the village as a whole.
- I note that the affordable housing has been crammed into an area directly adjacent to the roundabout. I note that this area has previously been allocated for employment land. Therefore I cannot see why housing is being allowed to be created on this area.
- The affordable housing has been put in a separate area with separate parking area complete. This appears to isolate the affordable housing from all other residents within phase II of the scheme.
- The access routes will create problems, both from the existing road and particularly from Marston road. The road is busy and has a nasty bend near the proposed entrance which has seen previous fatalities.
- There is lack of adequate parking. The existing part of this development is ridiculously

40 Whitehall – objection



overdeveloped and under resourced for parking. Most of the roads are permanently clogged with residents cars.

- Network Rail needs to close the automatic rail crossing close to this development and is on the threshold of applying to build a bridge to do this. This will be impossible if the development is approved and may result in Marston Road being permanently closed. This will be a disaster for the village and will not be popular with Millbrook Proving ground who have permission to build on the opposite side of Marston Rd.
- There is existing planning permission for this site for light industrial development. The developers never wanted this and have not tried to market it. With a recovering economy they now have an opportunity to do so and to provide potential employment in the village which now has superfast broadband.
- The village infrastructure is overstretched already and this development would only exacerbate that.
- There is no land set aside for Self Build.
- There have been 10 new dwellings approved in Lidlington in recent months. Four have been built on the former Royal Oak site, 3 in St Margarets church and there are approved plans for two dwellings adjacent the Green Man pub and one on Station Road, none of which are affordable housing. Lidlington is supposed to be a small village. The previous housing development extended the village by 14%. This is extending the village boundary even further and by another 7%.
- The developer of the existing site has an appalling record of discharging its responsibilities once the houses are built and sold.
- There has been no consideration given to the amount of increased traffic flow, noise and inconvenience to local residents, especially during construction, if the plan is approved.
- The reference made to improved local transport links and facilities is sadly misinformed.
- The local bus service is a once a day bus at best with the nearest regular service some 2 mile walk away in Martson Mortaine.
- There is no longer a village shop, with the proposed building of a new one appearing to falter!
- The present rail service is an hourly one at best (in either direction) and is regularly subject to

2, 11 The Lane –  
objection

delays and cancellations, especially in the evening.

- As far as I understand it, the new improved service will not stop at Lidlington. The future electrification of the line will require substantial construction to improve the level crossing in Marston Road, effectively isolating the eastern end of the village, meaning that the only access will be from the western end, additionally increasing traffic.
- Local building projects (e.g. the conversion of the old church) caused parking issues during construction and some 12 months later the building still remain vacant! The new development in neighbouring Marston Mortaine has provided a significant increase in local housing and the increase in residents is already eroding its village appearance.
- Whilst understanding the need to increase home building nationally, I can see no benefits to this application to the residents of Lidlington. We are a village and proud of it!
- This is seen locally as the thin edge of the wedge, with the much opposed plan of linking Bedford and Milton Keynes, through housing developments, as gaining momentum through piecemeal development.
- The slow but steady erosion of the surrounding countryside, to increase available housing, will only benefit the local authorities through grants and central government handouts, with no visible improvement to our quality of life and for the above reasons I still strongly object to any new proposed developments to our village.
- This would spoil the landscape and is a perfect dog walking area, it is safe and would spoil the rural scene of Lidlington whilst destroying the newly planted trees.
- The land is adjacent to nature reserve and would damage natural habitat of animals.
- the village cannot accommodate any further development.
- There will be a strain on facilities, increased traffic, increased noise and pollution, local services will be under further strain especially the village school and local doctors surgery.
- Further development will detract from the rural nature of the village, a characteristic much valued by the current residents.
- I am concerned about the possible increase in the village school place competition.
- Lidlington has already provided land for recent

20, 21, 22 Greensand Ridge – objection

- Development on the proposed site will result in further loss of countryside bringing this villages merger with Marston Moretaine even closer. I chose to live in Lidlington as it is a village, I want to live in a village not a town.
- There must come a time when building on greenfield sites must stop before the natural landscape of this country is irreversibly damaged. I refute the popular belief that a housing crisis exists in the UK. A population crisis exists in this country. The UK is one of the most densely populated countries in the world. Further development only encourages population increase. To ease overcrowding immigration must be vastly reduced and couples should be encouraged to have no more than two children. A smaller population would result in greater quality of life for everybody and make it more possible to live sustainable lives. I therefore oppose this development as I oppose all greenfield development. I propose this land should instead be used for the production of food or made an addition to the neighbouring woodland reserve.
  - Lidlington is a small village with little infrastructure or schooling. To add an additional 37 homes will create an increase of traffic pollution/vehicle movements. A potential increase of around 80 additional vehicles out on to the Marston Road.
  - Currently there is one access/exit from/to the existing estate which will take the additional homes which is via a roundabout on to the small Marston Road, which would be incapable of taking the increased traffic. The adjacent Land is currently arable land in the green belt, This area is currently used by residents/visitors for walking, dog walking, cycling and general amenities, and we understand we could lose part of this area.
  - There is further the additional East/West Varsity line rail link with possible alterations to the road by closing the level crossing 300 mtrs from the site, so Marston road would again be the popular route out of the village. The level crossing in Lidlington could also be closed. Whilst acknowledging that housing stock is needed a small rural village is not the correct location especially at the moment when so much is still to be decided.
  - There is also the current planning consent to Millbrook Proving Ground for additional

9 Station Crescent –  
objection

business buildings located on land opposite site again using the Marston Road for access.

- I have concerns over increased traffic in an already congested village, increased traffic especially close to bridleways and on the Lidlington Hill where there is no footway. I am also very concerned about the lack of shops and of facilities such as GP practice - which it is already very difficult to access and get appointments at. The size of Lidlington has already caused infrastructure stress (roads, services) and to increase population again by building more houses will only add to the existing pressure on local amenities. Risk to local walkers, and users of bridleways and cyclists will also increase due to additional traffic.

Hill View, Lodge Road  
Cranfield– Objection

- Its too large, developments in a village the size of Lidlington should be smaller.
- The submitted plans by the developer are inconsistent, each document features a varied layout.
- The size of the proposed development would compromise the small village feel that Lidlington currently has.
- The proposed site would be better used with a business located on it.
- If built, access to the houses on the site would be difficult and dangerous.
- Local facilities are already oversubscribed, increasing the capacity of local schools and doctors surgeries should be first addressed before building new houses.
- The land has also been scoped in the preliminary plans by National Rail to electrify and extend the railway and move the villages level crossings. Using it for a housing development may affect their project and the extension of the railway is a much more worthy project.
- Internet access in Lidlington is slow, the recent network upgrade to fibre has now been fully subscribed and BT can no longer accept any more customers, leaving the majority of the village still on the old slow connection. Adding more houses will make slow Internet even slower.
- Lidlington has been designated as a small village and a development of this size would threaten that particular classification. The development is set to stretch the village geographically, it is my firm belief that there are

many sites closer to the heart of Lidlington than should be first considered for development, before any extension to the village. There has also been a large amount of development in the area recently and Lidlington has taken its fair share of the councils new housing quota.

- I am aware of pre existing planning permission on part of the site. I believe that this should remain classified as B1. To remove or modify this classification would hurt the local community, who could immeasurable benefit from a new local business. As previously mentioned, the anecdotal part of the plans discuss the range of amenities already accessible by the local community, this information is out of date and there are far less facilities than mentioned. If this plot of land is continually reserved for business purposes it will eventually be purchased and developed. From reading the documents it is my understanding that offers have previously been made by prospective businesses but have been rejected by the owner of the land. I assume the owners approach is that the sum of the land is greater than its parts and is biding time until extremely profitable residential planning permission can be obtained for the entire plot of land. It is crucial that the council do not agree to change the type of planning as the residents of Lidlington and the immediate surrounding areas would benefit far more from a new local business than a new housing estate.
- Part of the plans change the planning use of part of the proposed site from business to residential. Lidlington only has one pub, one small local shop, one hairdressers and one church. The local residents would benefit from this land being kept for business use and being sold to a business. Its my understanding that this land has been for sale for some time, but the seller has not sold it even though they have numerous decent offers. I encourage you to refrain from changing its planning from business to residential, this may force the seller to finally accept an offer so that land can be sold to a business and developed, which would greatly benefit the local community.
- Access to the site causes me some concern. The site is partly accessed from a busy road that has tight and blind corners, this could lead to accidents. Another access point displaces a large parking area on a housing estate, where will these cars park? The only option I can see

is that they will start to park on the main roads in the village. This would turn a two way traffic system, into a one way road which would cause delays when travelling through the village.

- My final point is that there has been enough development in the area already, I have seen new houses go up in Lidlington, as well as the major conversion of the local church. There is also a huge development taking place at Milbrook. My worry is, if the proposed plans in Lidlington are allowed to happen, it will expand the size of Lidlington and you will soon get Marston, Lidlington and Millbrook sprawling in to each other forming one large pseudo town. Lidlington is a small village and the council should preserve it, only small developments that fill in empty plots between existing houses should be allowed.
- I lived in Marston and then moved to Cranfield, over the past 65 years of being a resident of both villages I have seen them grow, slowly at first but housing development after housing development have caused each village to become more like a town. Its my belief that the proposed housing development would have the same effect on Lidlington. Its important to retain Lidlington as a village and keep development to a minimum, nothing of this scale should be approved.
- Lidlington is supposed to be a SMALL village. The previous housing development extended the village by 14%.
- This is extending the village by ANOTHER 7%, pushing the village boundary even further.
- The access routes will create problems, both from the existing estate road and from the main road. There is lack of parking.
- Cars in the current estate are parked on the road causing difficult access.
- The access route is very close to existing dwellings and will cause nuisance.
- What happens if the RAIL CROSSINGS CLOSE in future and the road is diverted with a bridge over the Marston Road? It may not leave enough land.
- What has happened to employment land?
- There is no land set aside for Self Build.
- There have been 10 new dwellings approved in Lidlington in recent months. Four have been built on the former Royal Oak site, 3 in St Margarets church and there are approved plans for two dwellings adjacent the Green Man pub

Hurst Grove – 1  
Objection

Millbrook Proving  
Ground - Objection

and one on Station Road, none of which are affordable housing.

- The site is not well suited to residential development.
- The development does not provide benefits for the community and will in effect remove an opportunity to provide business accommodation suited to local needs
- Whilst it is acknowledged that they may have been little interest in the area previously designated for employment - the period incorporated the economic recession and further marketing should be considered, in addition the recent approval of employment at Millbrook Proving Ground may well stir further interest in alternative business developments in the area.
- The marketing report suggests that there has been positive interest in the site previously but these have been rejected as either being below market value or at conflict with the local residents.
- the proposal demonstrates an incursion into the open countryside
- The proposed development does not integrate with the existing development.
- The lack of connection between the two sites demonstrates that this proposal does not represent a natural extension to the existing urban fringe.
- The LVIA states that the site has a low landscape value - this is rejected. The site's landscape value is in creating a clear transition between the edge of the settlement and Granary Wood.
- The rough pastureland alongside the woodland creates a valuable wildlife and biodiversity habitat, which would be lost with the development of the site.
- Poor design in terms of elevations and integration.
- The proposal site cannot be considered to be a sustainable development - the premature loss of a designated employment site, given the recent permission for a new technology park would appear to compromise the economic element of being sustainable development.
- Not considered that the site is appropriate to meet housing need
- It is considered that the proposal would also fail the environmental strand of sustainable development.

### **Determining Issues:**

The main considerations of the application are;

1. Principle
2. Access and Highway considerations
3. Impact on the character and appearance of the area
4. Neighbouring Amenity
5. Biodiversity
6. Loss of Employment Land
7. Planning Contributions
8. The Planning Balance
9. Other Matters

### **Considerations**

#### **1. Principle**

- 1.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) and paragraph 11 of the National Planning Policy Framework set out that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 1.2 The Central Bedfordshire Core Strategy and Development Management Policies (2009) forms part of the Local Development Framework for the North Area of Central Bedfordshire. It sets out the Strategy for providing homes and jobs in Central Bedfordshire. At 3.3.1, it sets out the approach that will be taken to achieve these development requirements. Part of that approach is to control development within the open countryside.
- 1.3 The supporting text to Policy DM4 (Development Within and Beyond Settlement Envelopes) sets out at 11.1.5 that outside settlement envelopes, where the countryside needs to be protected from inappropriate development, only particular types of new development will be permitted in accordance with national guidance.
- 1.4 The application site falls outside of the defined settlement envelope for Lidlington and is therefore considered to be within open countryside. Lidlington is designated as a small village in Policy CS1 (Development Strategy) this states that in the rural part of the district new development will be limited in overall scale. Policy DM4 states that within the settlement envelope of small villages '*development will be limited to infill residential development and small-scale employment uses*'. The proposal would therefore on this basis be considered as inappropriate development in the open countryside and would conflict with the development plan.
- 1.5 However, there are a number of other considerations that need to be taken into account when considering the principle of development. In considering proposals for residential development outside of defined Settlement Envelopes, regard should be had to Paragraph 49 of the NPPF which states that:

*"Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of*



*deliverable housing sites."*

Paragraph 14 of the NPPF sets out that, in considering development proposals in circumstances when relevant policies of the development plan are out of date, planning permission should be granted unless:

*"- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in (the) Framework taken as a whole; or  
- specific policies in (the) Framework indicate development should be restricted."*

In a recent appeal decision in relation to Langford Road, Henlow, the Inspector raised a number of concerns about the deliverable supply of housing land and considered that the Council had not demonstrated a deliverable 5 year supply. At the present time, it is considered that there is a five year supply of deliverable housing land for Central Bedfordshire. However, in light of this recent appeal decision, Paragraphs 14 and 49 of the NPPF continue to be a significant material consideration.

- 1.6 It is therefore considered whilst the Council considers it can demonstrate a 5 year supply of deliverable housing land, the proposed development would add to this supply for future safeguarding. Therefore, it is a material consideration in the application.
- 1.7 Lidlington is classified as a small village with the Core Strategy and Development Management Policies for Central Bedfordshire (North), it has good transport links to the surrounding area and has a number of local facilities. It has been drawn to my attention that since submission of the application, the local shop has closed. However, there is a local school, hairdresser, Post Office/shop (currently closed for refurbishment), Pub and village hall. There is good access to both Marston Moretaine and further afield. It is therefore considered whilst a small village, that it is a sustainable location.

## **2. Access and Highway Considerations**

- 2.1 Access is to be taken via the existing roundabout from Marston Road and then using Side Street adjacent to the existing development. The Highways Officer is content that this is an acceptable arrangement for serving the development. The removal of the access from Riglen Close and Marston Road have aided the scheme and removed any highway concerns relating to access.
- 2.2 The proposal is predominantly Design Guide compliant apart from the inclusion of parking court at the front of the site and tandem parking. The parking court at the entrance to the site is seen as acceptable to achieve a more continuous frontage and replicate a similar design to that on the opposite side of the entrance. The use of tandem parking whilst not favoured is considered to provide an appropriate level of parking for the development and the number of visitor spaces within the scheme to compensate.
- 2.3 Overall, the Highways Officer has raised no objection and is content that the proposal is acceptable in highway terms.

## **3. Impact on the character and appearance of the area**

- 3.1 The application site is outside of the envelope and is therefore considered to be

within the open countryside. The site is currently used for rough grazing. Adjacent to the site is a residential development on one side and open countryside on the other. To the rear of the site is a footpath and beyond that the railway line. Opposite the site on the other side of Marston Road is Millbrook Proving ground.

- 3.2 The wider context of the site, surrounding the village of Lidlington to the west, is characterised by the transition between the wooded greensand ridge and the relatively open clay vale. To the north of Lidlington the landscape is dominated by low-lying agricultural landscape, a number of water bodies, the settlement of Marston Moretaine and dispersed farmsteads. To the east, the landscape is influenced by the man-made feature of Millbrook vehicle proving ground. To the south, the landform begins to rise and forms a series of low, rounded slopes and hills which are covered extensively by woodland. To the west, the land is mainly occupied by arable fields associated with small scale woodland, village settlements and a distribution centre. The site is covered by the defined area of the Forest of Marston Vale.
- 3.3 The site is located in the the NCA 90 Bedfordshire Greensand Ridge and at the local level within the settled and farmed clay vale (LT5) and the North Marston Clay Vale (LCA 5D). The landscape character of LCA5D is described as ' a large scale, flat and open clay vale with distant views to the contrasting landscapes of the Mid Greensand Ridge (6A) and the Cranfield to Stagsden Clay Farmland (1A) - containing the vale and forming a prominent backdrop to the south and west'. Although arable farming remains the predominant land use, the vale has been greatly influenced by industrial development, urban fringe pressures, and primary transport corridors'.
- 3.4 The Landscape Officer has commented on the application and has raised no concerns in terms of the impact on the landscape. They acknowledge that this development is an extension of previous recent residential development and welcome the retention of landscape features on site. This is important as this development extends to the Millbrook Proving Ground boundary, and the existing trees and hedges on the proposal site link with the planting at Millbrook to create a valuable network of planting within the Forest of Marston Vale.
- 3.5 The removal of the second access from Marston Road is welcomed as the native hedging along Marston Road is an important part of local character and should be reinforced as part of any planting proposals.
- 3.6 There would be a loss of rough grazing land and in turn open countryside through the expansion of the built form into the site. It is not considered that this harm would be significant and demonstrable. Given the current permitted use of part of the site as employment allocation and the public open space and the retention of the existing landscape features, it is considered that it would be difficult to sustain an argument that the adverse impact on the landscape would be significant and demonstrable.
- 3.7 The design of the dwellings has been amended since first submission, they are now considered to be acceptable and would complement and be in keeping with the neighbouring development.
- 3.8 The proposal will provide a mix of dwellings, with a mix of designs and

roofscapes to add variety and interest. The use of chimneys adds to the interest and hierarchy of dwellings.

#### **4. Neighbouring Amenity**

- 4.1 The development is to be accessed via the existing roundabout and then through an existing side street, which was constructed to serve the employment area. There will be no other access points for vehicles through the existing development. This was amended from the previous scheme, due to concerns raised by residents in terms of access from Riglen Close.
- 4.2 The area at the front of the site, close to the roundabout has been designed to reflect the continuous frontage on the opposite side of the roundabout and will be served by a parking court to the rear.
- 4.3 The residents within Riglen Close would have a change to their current view of open countryside. The proposal has been amended since first submission to reduce the impact of the proposal on these residents, with the scheme being reduced in number and moved further away from these dwellings. The scheme now achieves a front to front distance over some 20m at this point, with only two properties facing towards the existing development.
- 4.4 It is considered given the design and separation distance that the proposed development would not result in any loss of privacy or overbearing impact on the existing residents neighbouring the site.
- 4.5 Some residents have expressed concern in terms of the repositioning of the LEAP/LAP. The proposed LEAP/LAP is at the closest point some 20 metres from the existing properties and some 20 metres from plots 30-31 of the proposed development. This is considered to be a suitable separation distance from residential properties.
- 4.6 The proposal is considered to be Design Guide compliant in terms of amenity space and would provide a suitable level of amenity for future residents.
- 4.7 It is therefore considered that the proposal would not have a detrimental impact on the residential amenities of neighbouring residential properties.

#### **5. Biodiversity**

- 5.1 The existing site is semi improved grassland with hedgerows and a wet ditch being features of greatest ecological interest and could be beneficial to reptiles. It is noted from the proposed site layout that these features are to be retained. However, the NPPF calls for development to deliver a net gain for biodiversity, it is therefore considered that further enhancements should be incorporated into the scheme.
- 5.2 The soft landscaping plan shows EM1 as a seed mix and the revised site layout plan shows this mix to be used across the site in the public open space, pathways can be mown through this and it will help to offset the grassland which will be lost to the development. Given that the site does have potential for reptile interest any existing tussocky grassland should be left in situ rather than reseeding.
- 5.3 The wet ditch to the north west is within the public realm apart from to the rear of

- 5.4 The corridor along the southern boundary of Hedge 1 ensures this is protected and enhanced with further planting and this is welcomed.
- 5.5 General good practice should be followed during site clearance and construction works to prevent any risk of harm to wildlife, these are detailed in chapter 4 of the ecological appraisal and are considered acceptable. The Council's Ecologist does not object to the application and is satisfied with the information provided.
- 5.6 In order to deliver a net biodiversity gain it is considered appropriate to condition up to 10 integrated bird and bat boxes be included within the fabric of the buildings on the periphery of the site adjacent to the hedge and ditch features.

## **6. Loss of Employment Land**

- 6.1 The portion at the front of the site close to the existing roundabout would result in the loss of a designated employment area. A marketing report has been submitted with the application. The report identifies that the employment land has been fully exposed to the market and between late 2008 and 2012 and during the marketing process there has been no firm interest in the land from either property developers, or occupiers, seeking space for a B1(a) scheme.
- 6.2 Despite various approaches based on a change of planning permission, the interest was not continued, or it was deemed that the proposed alternative use would create unacceptable conflict with local residents. The current permission is due to expire in December 2015.
- 6.3 The part of the site subject to the planning consent for employment use is located almost entirely outside the settlement boundary. However, the extant permission shows the principle for built development on this area of land has previously been accepted.
- 6.4 The report concludes that there is insufficient employment demand to bring forward this site for employment. The NPPF makes it clear that if employment sites are not performing then alternative uses should be considered.
- 6.5 The Council's Economic Development Officer has been consulted on the application and whilst they raise concern regarding the loss of local employment sites serving local needs they raise no objection. The marketing report does note available B1 sites a significant distance away in attempting to demonstrate a supply of land. However, given the recent approvals at Millbrook, development that could house B1 uses this would mitigate the potential loss of land. Therefore they would not oppose the application on the grounds of the site not being marketed adequately.
- 6.6 Millbrook Proving Ground have raised objection to the application on a number of grounds, one being that the proposal has not been marketed at the right time and that it should be re-marketed given the recent approvals at Millbrook which may encourage businesses to the area. However, this is considered unreasonable, the site has been marketed for a number of years and nothing has progressed. It is seen that the site is not attractive to businesses and therefore the use of the land for residential would be more appropriate.

## 7. Planning Contributions

- 7.1 A S106 agreement will be used to secure the relevant contributions required towards local infrastructure. The Heads of Terms are still under discussion at the time of writing and will be finalised on the late sheet prior to the Development Management Committee. The current heads of terms being discussed are as follows:

### Education

- Middle School - project to increase the capacity of Marston Vale Middle School through extension or reorganisation.
- Upper School - project to build a new 6th form block on land adjacent to the School site, providing additional 6th form space and freeing up space in the existing accommodation to accommodate the additional pupils expected to arise from this development.

### Affordable Housing

- 35% affordable housing will be secured across the site.

### Other

Provision of open space and future management.

- 7.2 The proposed heads of terms are considered to meet the tests as set out in terms of the Community Infrastructure Levy and a final Heads of Terms will be finalised prior to the Development Management Committee.

## 8. The Planning Balance

- 8.1 Whilst it is considered that the Council can demonstrate a 5 year supply of deliverable housing, the proposal is considered to represent a sustainable form of development that would add to this supply and assist in safeguarding this position in the future.
- 8.2 The NPPF makes it clear in paragraph 22 that *'planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose...Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits...'*
- 8.3 It is considered that the previous land approved for employment has been marketed appropriately over a number of years and is considered to be unattractive to B1(a) development. Given its location within a village and adjacent to an existing residential development it is considered that other commercial uses may not be appropriate, whereas residential is seen as an appropriate alternative use in this area. The proposed development would provide for 12 affordable homes (35%) on the employment site, with the remaining being sited on adjacent land up to the natural boundary of the site along the ditch. It is considered that this additional housing could be accommodated within Lidlington and would be of suitable scale for the village.
- 8.4 The Landscape Officer has raised no objection to the scheme and it is considered that the proposal would not have a detrimental impact on the character of the area or the landscape at this point.

- 8.5 A number of representations have been raised in terms of the East-West rail proposal and the possible impact on the proposed development. At present the options are being consulted on and no firm proposal has been explored, therefore the weight that can be attributed to this is limited. It is considered that both the development and the improvements to the Marston Road crossing can be achieved and that the proposal would not prejudice the East-West Rail link.
- 8.6 On balance, it is considered that the proposal presents a sustainable form of development that would assist in our continued delivery of a 5 year supply of housing land and would be in conformity with the National Planning Policy Framework (2012).

## 9. Other Considerations

- 9.1 **Human Rights issues:** The development has been assessed in the context of human rights and would have no relevant implications.
- 9.2 **Equality Act 2010:** The development has been assessed in the context of the Equalities Act 2010 and would have no relevant implications.

### Recommendation:

That subject to the completion of a S106 agreement, full planning permission be granted subject to the following:

### RECOMMENDED CONDITIONS / REASONS

- 1 The development hereby permitted shall begin not later than three years from the date of this permission.  
  
Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development shall be carried out in accordance with the materials shown on drawing number S242\_200 Rev I unless otherwise agreed in writing by the Local Planning Authority.  
  
Reason: To control the appearance of the building in the interests of the visual amenities of the locality.  
(Section 7, NPPF)
- 3 The boundary treatment shall be completed in accordance with the approved scheme shown on drawing number S242\_210 Rev I before the buildings are occupied and be thereafter retained.  
  
Reason: To safeguard the appearance of the completed development and the visual amenities of the locality.  
(Section 7, NPPF)
- 4 **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.  
(Sections 7 & 11, NPPF)**

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

Reason: To ensure the provision of adequate play and children's recreation facilities.  
(Section 8, NPPF)

- 6 Development above ground level shall not begin until the detailed plans and sections of the proposed road(s), including gradients and method of surface water disposal have been approved by the Local Planning Authority and no building shall be occupied until the section of road which provides access has been constructed (apart from surfacing) in accordance with the approved details.

Reason: To ensure that the proposed roadworks are constructed to an adequate standard.

- 7 Before first occupation of any dwelling hereby approved all other existing vehicle access points not incorporated in the development hereby permitted shall be stopped up by removing any hardsurfacing, reinstating the verge and highway boundary to the same line, level and detail as the adjoining footway verge and highway boundary.

Reason: To limit the number of access points onto the highway where vehicular movements can occur for the safety and convenience of the highway user.

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

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

- 9 No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall include proposals for construction traffic routes, the scheduling and timing of movements, any traffic control, signage within the highway inclusive of temporary warning signs, together with on-site parking and turning of delivery vehicles and wheel wash facilities. The CTMP shall be implemented in accordance with the approved details for the duration of the construction period.

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

- 10 Development above ground level shall not begin until a scheme for the provision of integrated bat/ bird boxes within the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To increase biodiversity and ensure the provision of appropriate habitats within the development.

- 11 **Prior to the commencement of the development hereby permitted, the applicant shall submit in writing for the approval of the local planning authority a scheme of noise attenuation measures which will ensure that internal noise levels from external rail and road traffic noise sources shall not exceed 35 dB LAeq, 07:00 – 23:00 in any habitable room or 30 dB LAeq 23:00 – 07:00 and 45 dB LAmax 23:00-07:00 inside any bedroom, and that external noise levels from external rail and road traffic noise sources shall not exceed 55 dB LAeq, (1hr) in outdoor amenity areas. Any works which form part of the scheme approved by the local authority shall be completed and the effectiveness of the scheme shall be demonstrated through validation noise monitoring, with the results reported to the Local Planning Authority in writing, before any permitted dwelling is occupied, unless an alternative period is approved in writing by the Authority.**

Reason: To protect the amenity of future residential occupiers of the development hereby approved.

- 12 **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: To prevent 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.



- 13 No building/dwelling shall be occupied until the developer has formally submitted in writing to the Local Planning Authority that the approved scheme has been checked by them 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.

- 14 No dwelling hereby permitted shall be occupied until a scheme for the provision of waste receptacles has been submitted to and agreed in writing by the Local Planning Authority. The receptacles shall be provided before occupation takes place.

Reason: To ensure appropriate waste provision on the site.

- 15 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers Planning Statement (September 2015); LVIA (November 2015); Design and Access Statement (November 2015); Sustainability Statement; Report on Marketing; Ecological Appraisal; Arboricultural Assessment; Flood Risk Assessment; Utilities Report; Phase II Ground Investigation; Noise Assessment; Transport Assessment; 20282\_02\_010\_01 Rev C; 20282\_01\_230\_001 Rev H; S242\_110 Rev C; S242\_100 Rev I; S242\_101 Rev I; S424\_130 Rev D; S242\_210 Rev I; S242\_200 Rev I; 20282\_06\_170\_01.1; S242\_211; GL0408 01D; GL0408 02A; SH11 (elevations) Rev B; SH11 (plans); SH27 - X5 Rev B; SH35-X5 (2013) Rev B; SH35-X5 Rev B; P332-5 Rev G; P341-WD5 (1 of 2) Rev A; P341-WD5 (1 of 2) Rev F; P341-WD5 (2 of 2) Rev K; H421-5 (1 of 2) Rev G; H421-5 (2 of 2) Rev L; H452-5 (1 of 2) Rev F; H452-5 (2013) (2 of 2); H456-5 (2013) (2 of 2); H456-5 (2013) (1 of 2); H469-X5 (1 of 2) Rev I; H469-X5 (2013) (2 of 2) Rev A; H486-5 (1 of 2) Rev A; H486-5 (2013) (2 of 2); H533-5 (1 of 2) Rev F; H533-5 (1 of 2) Rev F; H533-5 (2 of 2) Rev F; H536-Y5 (2013) (1 of 2) H536-Y5 (2 of 2) Rev M; H585-5 (1 of 2); H585-5 (2 of 2); LDG1H; XTG2S; XSG1F; XDG2S.

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

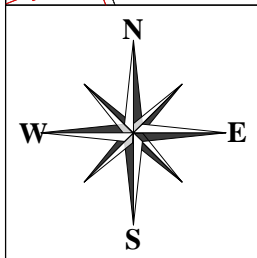
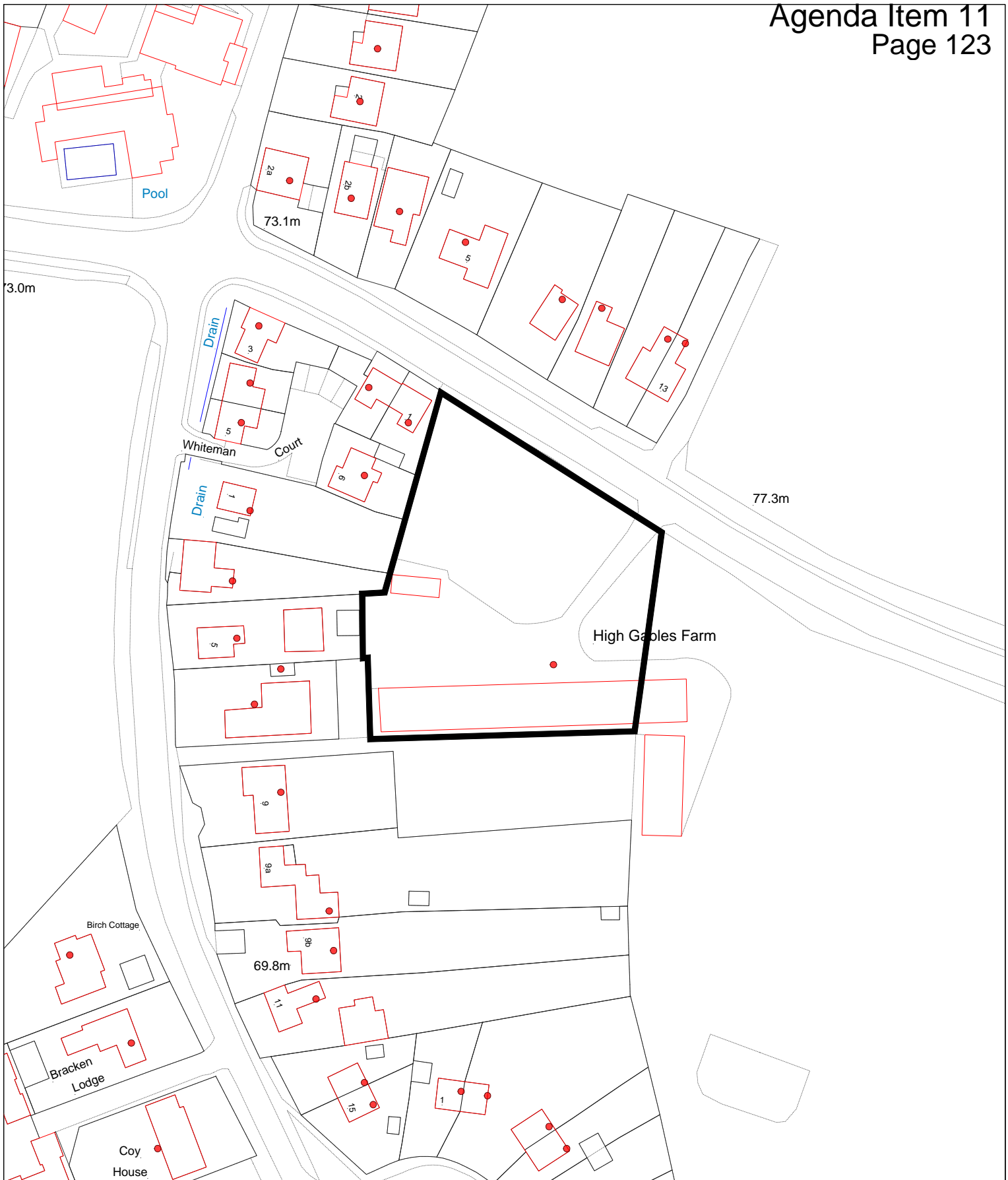
## **INFORMATIVE NOTES TO APPLICANT**

1. The applicant is advised that if it is the intention to request Central Bedfordshire Council as Local Highway Authority, to adopt the proposed highways as maintainable at the public expense then details of the specification, layout and alignment, width and levels of the said highways together with all the necessary highway and drainage arrangements, including run off calculations shall be submitted to the Development Management Group, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford SG17 5TQ . No development shall commence until the details have been approved in writing and an Agreement made under Section 38 of the Highways Act 1980 is in place.

2. The applicant is advised that no highway surface water drainage system designed as part of a new development, will be allowed to enter any existing highway surface water drainage system without the applicant providing evidence that the existing system has sufficient capacity to account for any highway run off generated by that development. Existing highway surface water drainage systems may be improved at the developer's expense to account for extra surface water generated. Any improvements must be approved by the Development Management Group, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford SG17 5TQ.
3. The applicant is advised that the requirements of the New Roads and Street Works Act 1991 will apply to any works undertaken within the limits of the existing public highway. Further details can be obtained from the Traffic Management Group Highways and Transport Division, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford, Bedfordshire, SG17 5TQ.
4. All roads to be constructed within the site shall be designed in accordance with Central Bedfordshire Council's publication "Design in Central Bedfordshire A Guide to Development" and the Department for Transport's "Manual for Streets", or any amendment thereto. Otherwise the applicant is advised that Central Bedfordshire Council as highway authority may not consider the proposed on-site vehicular areas for adoption as highway maintainable at public expense.
5. 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 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.

**DECISION**

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Central Bedfordshire Council  
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Date: 23:November:2015  
Map Sheet No

Application No  
CB/15/03296/OUT

Scale: 1:1250

High Gables Farm, Clophill Road, Maulden

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Policy DM3: High Quality Development  
 Policy DM4: Development Within and Beyond Settlement Envelopes  
 Policy DM14: Landscape and Woodland

*(Having regard to the National Planning Policy Framework, the age of the plan and the general consistency with the NPPF, policies CS14, CS16, DM3, DM4 and DM14 are still given significant weight.).*

## Development Strategy

At the meeting of Full Council on 19 November 2015 it was resolved to withdraw the Development Strategy. Preparation of the Central Bedfordshire Local Plan has begun. A substantial volume of evidence gathered over a number of years will help support this document. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our website as material considerations which may inform further development management decisions.

## Supplementary Planning Guidance/Other Documents

Central Bedfordshire Design Guide (2014)

### Relevant Planning History:

Application Number	CB/15/01777/LDCP
Description	Lawful Development Certificate Proposed - Change of use to residential
Decision	Application withdrawn
Decision Date	09/07/2015
Application Number	CB/14/03375/PAAD
Description	Prior Approval of change of use from agricultural to dwelling
Decision	Prior Approval refused
Decision Date	20/10/2014
Application Number	CB/13/02290/OUT
Description	Outline application: Erection of two storey dwelling
Decision	Refused. Appeal dismissed.
Decision Date	21/08/2013
Application Number	CB/12/01161/OUT
Description	Outline application: Double storey detached dwelling
Decision	Withdrawn
Decision Date	30/07/2012
Application Number	MB/99/00365/OUT
Description	Outline application: Residential development (all matters reserved except access).
Decision	Refused. Appeal dismissed.
Decision Date	01/06/1999
Application Number	MB/88/01876/OUT
Description	Outline application: 6 detached dwellings.
Decision	Refused. Appeal dismissed.
Decision Date	13/10/1988

**Consultees:**

- Malden Parish Council     07/11/2015:  
Malden Parish Council are of the opinion that this planning application is outside the Village Development Envelope and they have concerns on the impact of the countryside and surrounding area.
- With these reasons in mind, Malden Parish Council are against this planning application and would like it calling in.
- CBC Archaeology     20/10/2015:
- The applicant is aware of archaeological interest in the site through the consideration of previous planning applications. A Heritage Statement should be submitted to assess the site.
- 11/11/2015:
- The applicant has submitted a Heritage Statement which highlights the potential for archaeological deposits relating to the medieval settlement of Malden to survive within the development site.
  - The nature and scale of the proposed development is such that it could have an impact upon a negative and irreversible impact upon any surviving archaeological deposits present on the site.
  - Whilst this does not present an over-riding constraint on the development, further archaeological investigation is required. Further investigation has been suggested as a planning condition.
- CBC Highways     20/11/2015:
- The principle is acceptable from a highways context
  - Concerns raised regarding the lack of a footway along the site frontage. The footway should be extended up to the proposed vehicle access. This will impact the hedgerow but will ensure safe route for pedestrians to a safe crossing point.
  - Several conditions have been recommended if the application is approved.
- CBC Ecology     05/11/2015:
- The site lies within the Greensand Ridge Nature Improvement Area and as such development should support a net gain for biodiversity in line with NPPF and in accordance with the objectives of the Nature Improvement Area.
  - The existing barns contain some features which may be of interest to bats or birds although given the location of the site and construction of the buildings I

think this is unlikely.

- Ask that an informative be added to any planning permissions to advise the applicant that should bats or birds be found during the demolition then works should cease and advice be sought from Natural England.
- I would wish to see the new development provide a net gain through the use of locally native, nectar and berry rich species in landscaping and through the provision of bat and bird roosting opportunities.

CBC Planning Policy

20/11/2015:

- The housing trajectory is in the public domain as evidence for the Henlow appeal.
- This shows that the Council have a 5 year supply, with headroom.
- As such, Paragraph 49 of the National Planning Policy Framework continues to be a significant material consideration in determining applications.
- The housing trajectory is in the public domain as evidence for the Henlow appeal.
- This shows that the Council have a 5 year supply, with headroom.

As such, Paragraph 49 of the National Planning Policy Framework continues to be a significant material consideration in determining applications.

The Wildlife Trust

15/10/2015:

- Advise that a bat and barn owl survey should be submitted before the application is determined.

11/11/2015:

- Reiterate the need for a bat and barn owl survey.
- As the roof has been removed, the site should be photographed. If the site does not meet the Natural England guidance, which require a bat survey, then I would be happy to reconsider my comments.

Internal Drainage Board

26/10/2015:

- The Board notes that the proposed method of storm water disposal is by way of soakaways.
- If ground conditions are not suitable for soakaway drainage, then confirmation should be sought from Anglian Water
- A condition has been suggested on the means of surface water disposal being agreed prior to commencement of the main works. *[Officer note - This condition is not considered appropriate or necessary, given that the proposed method of storm water disposal is by way of soakaways and a building already exists on site.]*

**Other Representations:**



## Neighbours

- 1 Whiteman Court                      05/10/2015:
- No objection - Support the application.

### Determining Issues:

The main considerations of the application are;

1. Principle of development
2. Affect on the character and appearance of the area
3. Neighbouring amenity
4. Highways considerations
5. Ecology considerations
6. Other considerations

### Considerations

#### 1. Principle of development

1.1 The application site is located outside of the Maulden Settlement Envelope and, as such, the site is located within the open countryside. Maulden Parish Council have raised concerns regarding the location of the site outside of the Settlement Envelope.

1.2 Policy DM4 of the Central Bedfordshire (North) Core Strategy and Development Management Policies Development Plan Document identifies that there is a general presumption against development outside of the Settlement Envelope, stating that:

*"Beyond Settlement Envelopes, limited extensions to gardens will be permitted provided they do not harm the character of the area. They must be suitably landscaped or screened from the surrounding countryside and buildings may not be erected on the extended garden area."*

1.3 Further to this point, the preamble to this policy provides guidance regarding where development may be acceptable outside of the Settlement Envelope. This states that:

*"Outside settlements, where the countryside needs to be protected from inappropriate development, only particular types of new development will be permitted in accordance with national guidance (PPS7 - Sustainable Development in Rural Areas) and the East of England Plan. This includes residential development on Exceptions Schemes as set out by CS7, or dwellings for the essential needs of those employed in agriculture or forestry, or that which re-uses or replaces an existing dwelling."*

The proposed development would not be part of an Exception Scheme and would not support the essential need of those in agriculture or forestry. The development would not replace or re-use an existing dwelling.

1.4 In considering proposals for residential development outside of defined Settlement Envelopes, regard should be had to Paragraph 49 of the NPPF

which states that:

*"Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."*

Paragraph 14 of the NPPF sets out that, in considering development proposals in circumstances when relevant policies of the development plan are out of date, planning permission should be granted unless:

“- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in (the) Framework taken as a whole; or  
- specific policies in (the) Framework indicate development should be restricted.”

- 1.5 In a recent appeal decision in relation to Langford Road, Henlow, the Inspector raised a number of concerns about the deliverable supply of housing land and considered that the Council had not demonstrated a deliverable 5 year supply. At the present time, it is considered that there is a robust five year supply of deliverable housing land for Central Bedfordshire. However, in light of this recent appeal decision, one dwelling would not make any material difference to the supply of housing and does not therefore amount to a material consideration in favour of the proposal.
- 1.6 The application site has previously been subject to several planning applications for residential development. As these applications are similar in nature to the current proposal, it is considered appropriate to briefly summarise these applications.

MB/88/01876/OUT

This outline application for 6 dwellings (including formation of an access road) was refused planning permission in 1988. This decision was upheld at appeal, where the inspector noted that the site was situated away from the centre of the village and the loss of the open spaces the site provided by the site would have detracted from the rural character of the area.

MB/99/00365/OUT

This outline application for residential development (with all matters reserved except access) was refused planning permission in 1999. The reasons for refusal were based upon the location of the site outside of the Settlement Envelope, the impact to the rural character of the area, loss of agricultural land and traffic issues relating from having two access points. This decision was upheld at appeal, where the inspector concluded that the need for additional housing land would not outweigh the harm to the objectives of the development plan and to the character of the area.

CB/12/01161/OUT

This outline application for a two storey dwelling was withdrawn on 30 July 2012.

CB/13/02290/OUT

This outline application for a two storey dwelling was refused planning permission on 21 August 2013. The reasons for refusal were that the proposed development, as it would be located outside the Settlement Envelope, would

constitute inappropriate development, and that the applicant had not entered into a unilateral undertaking. In the subsequent appeal decision, the Inspector commented in detail on the site and its location. The Inspector concluded that the site would be unsustainable for residential development outside of the Settlement Envelope and considered that the proposal would be contrary to Policy DM4 and inconsistent with the principles of sustainable development having regard to the development plan and the National Planning Policy Framework. This recent appeal was therefore dismissed on this basis on 30 April 2015. A copy of the appeal decision is appended to the Committee papers. Members' specific attention is drawn to Paragraphs 5 to 12 of the appeal decision.

- 1.7 It is considered that this planning history is a significant material consideration, given the similar nature of the application and recent timing of the decisions. Whilst it is noted that the proposed development would be located on previously developed land, which is supported by the National Planning Policy Framework, the proposed development would be located outside of the Settlement Envelope and, therefore, contrary to Policy DM4. As such, the proposed development is not considered to be consistent with the principles of sustainable development having regard to the development plan and the National Planning Policy Framework.
- 1.8 The principle of development is not considered to be in accordance with Policy DM4 of the Central Bedfordshire (North) Core Strategy and Development Management Policies Development Plan Document and the National Planning Policy Framework.

## **2. Affect on the character and appearance of the area**

- 2.1 The Residential Parameter Plan identifies that the proposed residential development would be situated on the location of the existing barn, set back from Clophill Road by at least 37.0 metres.
- 2.2 This area of Clophill Road largely consists of ribbon development along the road, with the application site forming part of a larger field, containing various agricultural buildings. The site is bordered by residential development to the north, south and west.
- 2.3 It is considered that the field forms part of a visible countryside gap between the two Settlement Envelopes along Clophill Road, in a manner which adds to the countryside character of the area. The proposed development would be considered to reduce this separation between the residential areas to the east and west. This position is echoed by the inspectors decision in relation to the previous outline application for residential development on the site.
- 2.4 In summary the proposal is not in accordance with Policies CS14, DM3 and DM4 the Central Bedfordshire (North) Core Strategy and Development Management Policies Development Plan Document and the National Planning Policy Framework. The design does not accord with the Central Bedfordshire Council Design Guide and would result in a detrimental impact upon the character and appearance of the area or the street scene. As such it is not considered to be acceptable.

**3. Neighbouring amenity**

- 3.1 The application site adjoins several properties to the east and south. To the east, the application site borders Nos.1, 3, 5 and 7 Silsoe Road and Nos. 1 and 6 Whiteman Court. To the south, the application site borders an area of unkempt grassland, which separates the site from Nos. 9 and 9a Silsoe Road.
- 3.2 The Residential Parameter Plan identifies that the proposed dwelling would be located on the site of the existing barn. This barn is located approximately 15.0 metres away from the nearest residential property, considered to be No.7 Silsoe Road. As such, the proposed development is not considered to present an unacceptable adverse impact in terms of being unduly overbearing, loss of light or loss of privacy.
- 3.3 Therefore it is considered that, in respect of neighbouring amenity, the proposal meets the requirements of Policies CS14 and DM3 of the Central Bedfordshire (North) Core Strategy and Development Management Policies Development Plan Document. It also complies with the objectives of the Central Bedfordshire Design Guide. As such the proposal is not considered to cause a detrimental impact in terms of loss of privacy, loss of light or result in noise or light pollution and is considered acceptable.

**4. Highways considerations**

- 4.1 The application has been considered by a Highways Officer, who has raised no objection in principle. It must be noted that concern has been raised by the Officer, regarding the lack of safe pedestrian access to the property, suggesting that a footway, connecting the site with an existing footway on Clophill Road, should be provided. As the site is used already for agricultural purposes without a footway, the requested footway connection is not considered necessary.

**5. Ecology considerations**

- 5.1 The Wildlife Trust have responded to the application, asking that a Bat and Barn Owl Survey is submitted to support the application. The Council's Ecology Officer has considered this application and has identified that the existing barns contain some features which may be of interest to bats or birds however, given the location and construction of the buildings, this is unlikely. With this in mind, a Bat and Barn Owl Survey is not considered necessary. If bats or birds are found during demolition then works should cease and advice be sought from Natural England.

**6. Other Considerations**

**6.1 Human Rights issues:**

The proposal would not raise any Human Rights issues.

**6.2 Equality Act 2010:**

The proposal would not raise any issues under the Equality Act.

**Recommendation:**

That the Development Infrastructure Group Manager be authorised to REFUSE Planning Permission subject to the following:

**RECOMMENDED CONDITIONS / REASONS**

- 1 The proposed development, by reason of its location outside any Settlement Envelope, would constitute inappropriate development within the countryside and would be out of character with the pattern of residential development in the locality. As such, the proposed development would be contrary to Policies CS14, DM3 and DM4 of Central Bedfordshire Council's Core Strategy and Development Management Policies Development Plan Document and the National Planning Policy Framework.

**INFORMATIVE NOTES TO APPLICANT**

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

The Council acted pro-actively through positive engagement with the applicant but fundamental objections could not be overcome. The applicant was invited to withdraw the application 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**

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Quality Assurance Unit  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Customer Services: 0303 444 5000

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Mrs R V Crisp  
Central Bedfordshire Council  
Priory House, Monks Walk  
Chicksands  
Shefford  
Bedfordshire  
SG17 5TQ

Your Ref: CB/13/02290/OUT  
Our Ref: APP/P0240/A/13/2208832  
Date: 30 April 2014

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Dear Mrs Crisp

**Town and Country Planning Act 1990**  
**Appeal by Mr & Mrs S Lowe**  
**Site at Land Off Clophill Road, Maulden, Bedford, MK45 2AX**

I enclose a copy of our Inspector's decision on the above appeal.

If you have queries or feedback about the decision or the way we handled the appeal, you should submit them using our "Feedback" webpage at <http://www.planningportal.gov.uk/planninginspectoratefeedback>.

If you do not have internet access please write to the Quality Assurance Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Yours sincerely

Debbie McGough

COVERDL1



*You can use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is - <http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp>  
You can access this case by putting the above reference number into the 'Case Ref' field of the 'Search' page and clicking on the search button*



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## Appeal Decision

Site visit made on 7 April 2014

**by Jonathan Hockley BA (Hons) DipTP MRTPI**

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

Decision date: 30 April 2014

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**Appeal Ref: APP/P0240/A/13/2208832**

**Land off Clophill Road, Maulden, Bedford, Bedfordshire MK45 2AX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs S & R Lowe against the decision of Central Bedfordshire Council.
  - The application Ref CB/13/02290/OUT, dated 25 March 2013, was refused by notice dated 21 August 2013.
  - The development proposed is described as 'outline planning application for a new two storey dwelling house on a site of approximately 0.37ha (0.92ac) on land off Clophill Road, Maulden'.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on this basis.
3. The Government's Planning Practice Guidance was published on 6 March 2014. The content of the Guidance has been considered but in the light of the facts of the case the document does not alter my conclusions.

### Main Issue

4. The main issue in this case is whether the dwelling proposed would be consistent with the principles of sustainable development having regard to the development plan and the National Planning Policy Framework.

### Reasons

5. Policy CS1 of the Central Bedfordshire Local Development Framework Core Strategy and Development Management Policies document (the Core Strategy), adopted November 2009, defines a settlement hierarchy to help inform where development within the area should take place. Policy DM4 seeks to ensure that development proposed within these settlements is restricted to areas inside defined boundaries. The village of Maulden has two such settlement boundaries; one located around 'Maulden (main village)', which is designated as a large village, and one around 'Maulden (Clophill Road)', which is distinguished as a small village.
6. The proposed site lies in between, but outside the defined settlement boundaries for both Maulden (main village) and Maulden (Clophill Road). Both parties are in agreement over this fact. This effectively means that under

policy DM4 and its supporting text, the site lies within the category "countryside" where only dwellings for the essential needs of those employed in agriculture or forestry, or that which re-uses or replaces an existing dwelling will be permitted. The proposed house is not for either of these exceptions and is not a proposal for a replacement dwelling. The proposal is therefore contrary to Policy DM4.

7. Maulden is an attractive village, with the main area of the village sited to the west of the appeal site. The defined Clophill Road area of the village lies to the east, and largely consists of ribbon development along this road. The appeal site forms part of a large field and contains various agricultural buildings. The site would be accessed off Clophill Road. There are houses to the west and south west of the site situated along Silsoe Road, and a few houses on the north of Clophill Road opposite the site. The field, along with one on the north side of Clophill Road, forms a significant and visible gap in development between the two settlement boundaries of the main village and of the Clophill Road part of the village.
8. The appellant considers that the site is a logical rounding off of the settlement and would not materially erode separation between the two distinguished settlements. However, it was clear from my site visit that the site has an agricultural, countryside feel. The various buildings on site add to this feel, and when viewed from the higher ground to the east the site forms part of a visible gap between the two settlement boundaries. Development within this gap would erode this separation.
9. Whilst I note that the settlement boundary of the main village includes the houses to the west and north of the site, to the east is the main area of the field that the site lies within and to the south the boundary does not include land to the rear of No 9 Silsoe Road. I do not consider therefore that the settlement boundary 'wraps around' the site.
10. The appellant also considers that the removal of the existing structures from the site and replacement with a dwelling and associated native planting proposals would represent an environmental improvement weighing in favour of the development. However, I do not consider that the existing buildings detract from the surrounding area. They do not appear incongruous from outside the site, suiting the agricultural feel of the proposed development site. I therefore give this view little weight.
11. I also note the appellant's view that the scale of the site close to the development boundary means that the site can be considered as a modest extension of the settlement boundary and that various paragraphs of the National Planning Policy Framework (the Framework) support the scheme, including the presumption in favour of sustainable development. However, the provision of development boundaries within the Core Strategy aims to ensure that development in settlements is largely restricted within the boundaries, where developments are likely to be more sustainable and have less impact on the character and appearance of the countryside. The proposed site is outside of this area and as such is considered by the development plan to be unsustainable for the development proposed. I am also mindful in this respect of the fact that the defined settlement boundaries form part of the Core Strategy, and hence have been through the various stages of consultation and examination that this entails.

12. I therefore conclude that the proposed development would not be consistent with the principles of sustainable development having regard to the development plan and the National Planning Policy Framework.

*Other matters*

13. The Council consider that the proposed siting of the dwelling would not be in accordance with the character and appearance of the area, and that were residential development to be acceptable then siting towards the Clophill Road would be more appropriate. The appellant considers that siting could be a reserved matter. However, given that I am dismissing the appeal for other reasons I have not considered this matter further.
14. The application was refused on two grounds, the second of which related to the fact that no acceptable legal undertaking was provided. However, I note the unilateral agreement submitted with the appeal providing contributions towards various issues, including education, transport, leisure and health, in accordance with Policy CS2 of the Core Strategy and the Council's Planning Obligation Strategy (2008). However given that I am dismissing the appeal for other reasons I have not considered this matter in any further detail.

*Conclusions*

15. For the reasons given above, and having regard to all other matters raised, including the letter in support of the scheme from a nearby resident, I conclude that the appeal should be dismissed.

*Jon Hockley*

INSPECTOR





CB/13/02290

27 JUN 2013

OS Mastermap  
25 January 2012, ID:  
BW1-00123126  
maps.blackwell.co.uk

1:1250 scale print at A3, Centre:  
506012 E, 237744 N

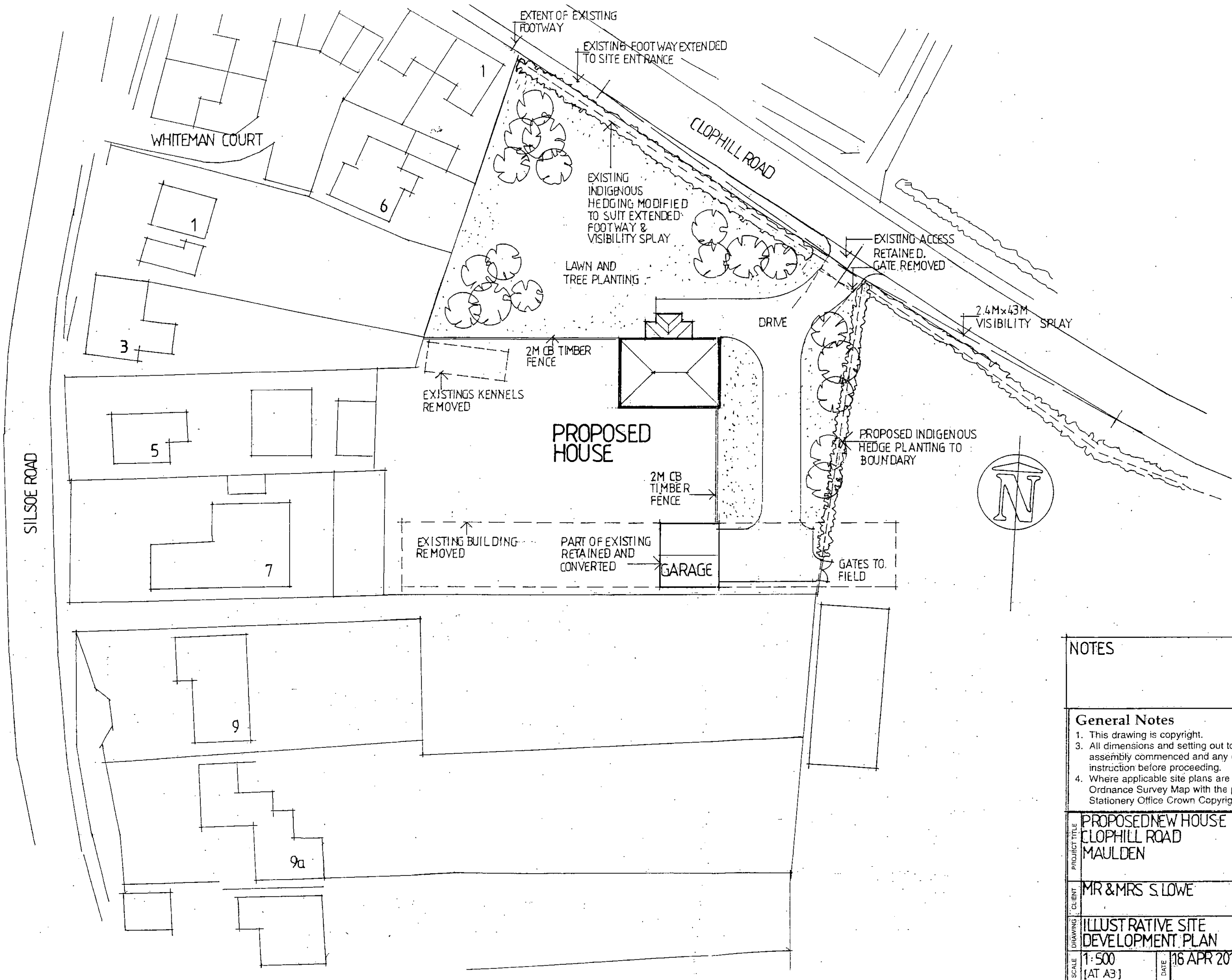
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CB/13/02296

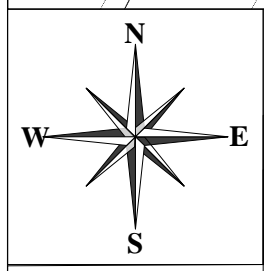
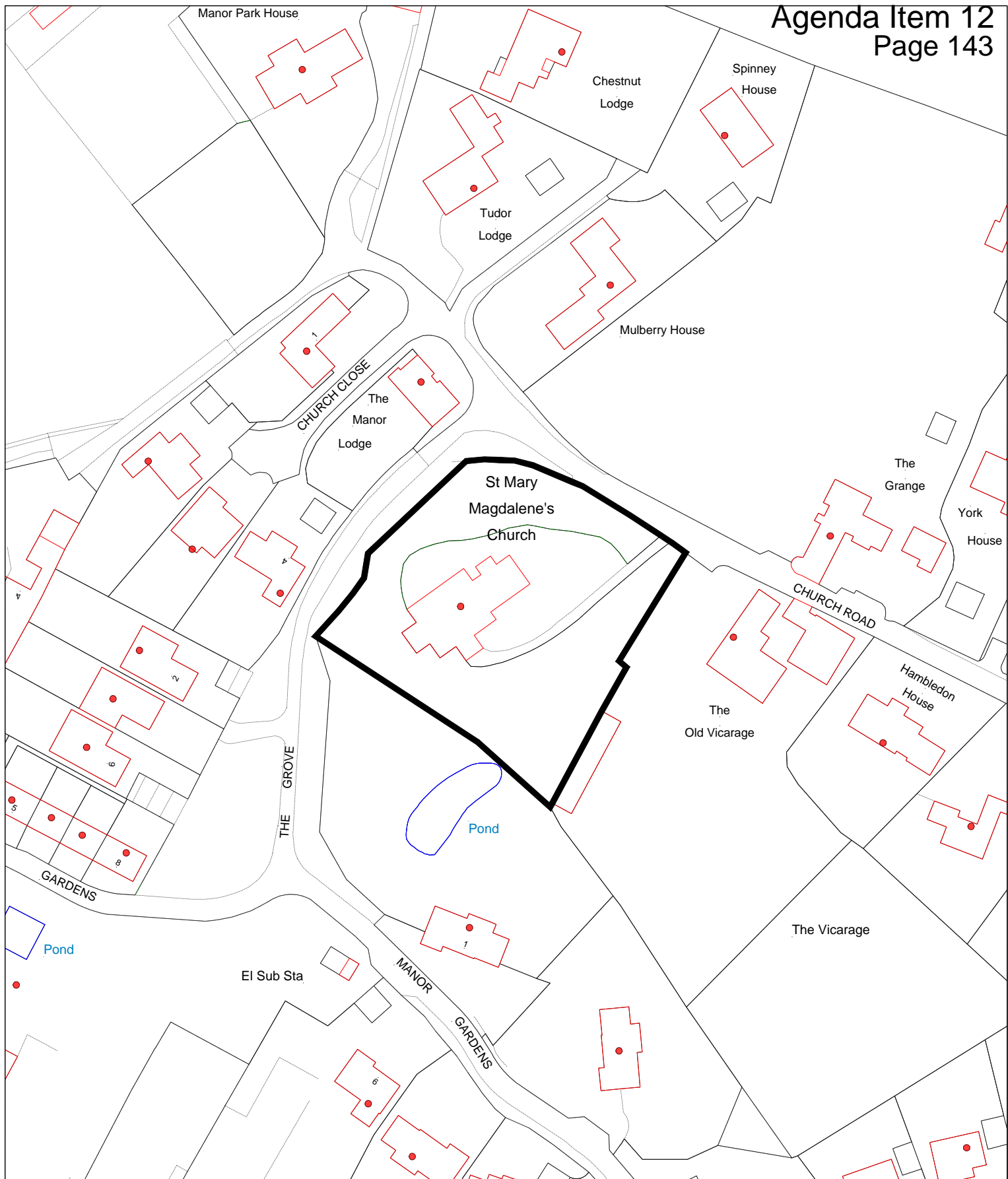


27 JUN 2013

NOTES		REVISIONS A B5.13 FOOTWAY EXTENSION AND VISIBILITY SPLAYS ADDED HEDGING TO EAST BNDRY.	
<b>General Notes</b> 1. This drawing is copyright. [REDACTED] 3. All dimensions and setting out to be checked before site work or assembly commenced and any discrepancies referred to architect for instruction before proceeding. 4. Where applicable site plans are reproduced from or based upon Ordnance Survey Map with the permission of the Controller to H. M. Stationery Office Crown Copyright Reserved. Licence No. AR 186635			
PROJECT TITLE PROPOSED NEW HOUSE CLOPHILL ROAD MAULDEN		PHILIP <b>EVANS</b> ARCHITECT Victoria House 31-33 Victoria Street, Kettering Northamptonshire NN16 0BU Telephone: Kettering (01536) 511849 Facsimile: Kettering (01536) 525253	
CLIENT MR & MRS S. LOWE		DRAWING ILLUSTRATIVE SITE DEVELOPMENT PLAN	
SCALE 1:500 [AT A3]	DATE 16 APR 2013	DWG NO 8212906	REVISION A

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Date: 23:November:2015

Map Sheet No

Application No  
CB/15/03253/Full

Scale: 1:1250

Church of Saint Mary Magdalen, Church Road, Westoning

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**Item No. 12**

<b>APPLICATION NUMBER</b>	<b>CB/15/03253/FULL</b>
<b>LOCATION</b>	<b>Church Of Saint Mary Magdalen, Church Road, Westoning</b>
<b>PROPOSAL</b>	<b>Erection of single storey building for Parish Room with support facilities and associated landscaping in the church yard.</b>
<b>PARISH</b>	<b>Westoning</b>
<b>WARD</b>	<b>Westoning, Flitton &amp; Greenfield</b>
<b>WARD COUNCILLORS</b>	<b>Cllr Jamieson</b>
<b>CASE OFFICER</b>	<b>Sarah Fortune</b>
<b>DATE REGISTERED</b>	<b>15 September 2015</b>
<b>EXPIRY DATE</b>	<b>10 November 2015</b>
<b>APPLICANT</b>	<b>Mr P Little</b>
<b>AGENT</b>	<b>Nigel Burgess Associates</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Called in by Councillor Jamieson due to parking concerns</b>
<b>RECOMMENDED DECISION</b>	<b>Full Application - Approval</b>

**Summary of Recommendations**

The site lies in the village of Westoning and in the Green Belt. Planning consent has previously been granted for the hall in 2010 and this expired in 2013. There are no objections in policy terms to the principle of the erection of the proposed hall since the relevant planning policies have not changed in the last few years and there have been few physical changes around the site that would justify taking a different decision on this application . The design and siting has been agreed with English Heritage provided that conditions are attached to any permission to cover materials finishes. Likewise, the highways officer, tree officer, archaeology officer and ecology officer are not raising any objections provided that conditions are attached to any permission. There will be no undue adverse impact on the amenities of neighbours and potential noise issues can be addressed by conditions.

**Site Location:**

The Church of Mary Magdalene is a Grade II\* listed building set in a churchyard situated on the corner of Church Road and The Grove in Westoning. It has its origins in the 12th Century, with most of the surviving medieval features dating to 14th and 15th centuries. It is constructed in coursed rubble in a mixture of ironstone, limestone and cobbles with ashlar dressings with clay tile roofs.

Church Road is characterised by dwellings of varying styles and ages. The Old Vicarage next to the church is Grade II listed. The site is within the South Beds Green Belt.

**The Application:**

Planning permission is sought for the erection of a single storey building for the use as a Parish Room directly associated with the existing community use of the Church. It is effectively a renewal of a previous application for the same development that was granted under planning ref: 09/06757 which expired on 3/03/2013.

**RELEVANT POLICIES:**

**National Planning Policy Framework (NPPF) (March 2012)**

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

DM3 High Quality Development  
DM13 Heritage in development  
DM14 Landscape and woodland  
CS16 Landscape and Woodland  
CS18 Biodiversity and geological Conservation  
DM6 Development in Green Belt boundaries

**Development Strategy for Central Bedfordshire (June 2014)**

At the meeting of full council on 19th November it was resolved to withdraw the Development Strategy. Preparation has begun on the CB Local Plan. A substantial volume of evidence studies gathered over a number of years will help to support this document. These technical papers are consistent with the spirit of the NPPF and therefore remain on our web site as material considerations which may inform further development management decisions.

**Supplementary Planning Guidance/Other Documents**

Central Bedfordshire Design Guide (March 2014)

Supp 3: The Historic Environment

**Relevant Planning History:**

Application Number	CB/09/06757/FULL
Description	Erection of single storey building for the use as a parish Room
Decision	Granted 3/03/2010
Decision Date	3/03/2010

**Consultees:**

Westoning Council	Parish	Objects: The site lies in the South Beds Green Belt, it is outside of the Westoning Settlement Envelope, the design and materials are out of keeping with the adjacent Church, no provision for off street parking, Westoning
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does not need another large meeting room as Recreation Club has recently opened a large extension with ample off street parking and the village hall has recently unveiled plans for refurbishment. Would result in increased parking on Church Road which is very narrow, poorly lit at night and has no footpath beyond the cemetery considerably increasing the danger to pedestrians particularly during the intended evening meetings. The development would involve the loss of several mature trees in an area covered by a blanket Tree Preservation Order. The development is close to neighbouring residential properties at the Old Vicarage, The Grange, Church Close and Manor Gardens. Loss of amenity to these properties by way of noise generated by the Parish Room.

The PC recognise the need for some additional facilities to support the activities of the Church and would be supportive of a much smaller, more sympathetic development that provided for toilets, a kitchen and an office with capacity for small groups to meet and some additional storage. A development of that scale would not exacerbate the existing parking problems in Church Road and would meet the most pressing needs of the Church.

Since the expired consent for the same development in 2009 there have been a number of material changes of circumstances that have a direct impact on this application:

1. Considerable intensification of the use of the Macintyre Care Home in The Grove, adjacent to the Church. This intensification of use has resulted largely from numerous planning approvals granted by CBC in recent years with a consequential increase in the number of staff working from or visiting the site and a loss of on site parking. As a result, Macintyre staff regularly park their vehicles outside of the Church and as the Care Homes are staffed 24/7 vehicles are left parked on Church Road at night as well as during the day.
2. There have been several applications in recent years at Manor Farm which has resulted in the generation of more traffic on Church Road.
3. Parking by members of the Church congregation regularly cause problems on Church Road which is barely wide enough for two cars to pass in places. Horse boxes use Church Road regularly to gain access to the equestrian facilities at Manor Farm as do CBC transport taking residents to and from the Macintyre Care Homes.
4. When vehicles are parked on Church Road it is often impossible for emergency services to gain access to over 40 dwellings in Church Road, Manor Farm, The Grove, Westoning Manor, Manor Court and Manor Gardens.
5. The volume of delivery vehicles using Church Road

has increased significantly particularly on a Sunday, with far more supermarket home delivery lorries for Tesco and Waitrose struggling to get past the congregation cars in Church Road.

The Church's focus has moved from simply serving Westoning to serving "the surrounding villages and Westoning" so far more of the congregation come by car further adding to the problems in Church Road.

It is appreciated that the principle of the development has already been granted but the above material changes in circumstances allow this application to be considered again. Consider that if this application is allowed it would be detrimental to road safety in the area for vehicles, wheelchair users, cyclists and pedestrians.

A meeting held by the Parish Council was attended by 23 parishioners and 16 of these were opposed to approval and three were in favour. (four abstained). All of these had close connections with the church and none live in Church Road.

If planning permission is granted then recommend that the following conditions be applied:

A condition for parking restrictions to be introduced in the following locations on Church Road:

*A 24/7 No parking zone from the Church down to the turning into Manor Park Drive on the south side.*

*A 24/7 No parking zone for the entrance to Mulberry House to Manor Park Drive on the north side.*

*A 2 hour stay limit including one Disabled bay outside the Church and*

*A 24/7 No parking zone from Church Road into Westoning Manor.*

That no use be allowed between 10.00 pm and 9.00 am.

That automatic ventilation be installed and no opening windows be allowed on any elevation, with effective sound insulation materials used in the construction

That the external materials to both the roof and wall are in keeping with its environment.

At least one of the groups named as future users of the Parish Rooms no longer operates in the village (i.e. the Cubs) and others (e.g. the WI) have not been consulted on the move of venue detailed in the Design and Access Statement.

Westoning Parish Council hopes that the application will be refused on the grounds set out above. In view of the strength of the opposition to this application the Parish

Council requests that if it is recommended for approval by officers that it be sent to the Planning Committee for determination so that the Parish Council has the opportunity to make representations to the Committee prior to determination.

### Other Representations:

#### Neighbours

2 Support: on grounds that the Church does not have appropriate facilities for many events and meeting connected with the Church so they are held elsewhere. The Church itself does not have facilities such as a kitchen, storage areas, suitable space for meetings, toilets etc.. heating of such a large building is very expensive . The new building would provide modern and convenient facilities and would in the longer term enable savings to be made both in terms of hire charges for alternative accommodation and heating and lighting costs. The new building would enable the work of the Church to be enhanced by allowing the Sunday School to be held in part outside of main service by providing a more appropriate meeting space for the Youth Club, choir, prayer groups, Alpha courses and a meeting room for the Vicar to see parishioners to discuss arrangements for wedding, christening's, funerals etc.. The use of the building would not generate significantly more traffic than is currently associated with the use of the Church as the majority of activities which are intended to take place are already held within the church. It is appreciated that there are parking problems in Church Road (not only outside of the church) cars parked outside and in the vicinity of the church are not necessarily associated with activities within the Church as the area is also used for parking by staff at the nearby McIntyre premises, by dog walkers and by ramblers walking the Bunyan Trail. Whilst it is true that there are parking problems when the church is used for weddings and funerals, the construction of the new building would not change this situation in an way; it is important to note that when such events do take place, parking is managed as best it can with parking cones placed to ensure that inconvenience is minimised and car parking is provided on the forecourt of The Vicarage which can accommodate up to twenty cars; this area is also available for parking when church services are held and would continue to be available should it be required by users of the new building although such a requirement is unlikely. It should be noted that there are other events which generate large volumes of traffic in Church Road namely horse shows at Church Farm and 'Open Gardens' at The Old Vicarage which adjoins the Church and has only limited off street parking. The design of the proposed building has previously been accepted and consider that such a new building should be designed so that it does not

25 Object (local residents) on grounds that the design of the new building is not sympathetic to the existing architecture of the medieval church, the ever increasing amount of traffic coming up church road will be further increased. With the increased use of the facility where will both the additional cars park? Expect that they will continue to park in the private road opposite our homes as on many occasions this happens on Sundays during Church services or at weddings and funerals et.. Drives get blocked. There has been an increase in traffic using Church Road as a result of development of the Manor Farm barns and there are regular very large horse boxes going to Manor Farm at week ends and evenings plus traditional farm yard and machinery. Over the last five years McIntyre Care has moved more staff to the site in Westoning and they now hold staff conferences which has increased traffic as carers and other staff need to regularly park along the Church Road boundary on Church Road (as they have limited parking at the Care Home site). There has also been an increase in mini buses moving residents to spend time in Westoning during the day and returning home in the evenings. Consider that the Church groups etc.. should be held in the Village hall, Recreation Club or the Cricket Club, all which have on site parking.

There is no need for this hall as Westoning already has a village hall and recreation club building. Since the previous approval of the church hall the recreation club has built an additional room. The WI and Brownies are quite happy using the village Hall. Any keep fit classes would add to the parking problems or require participants to walk along a poorly lit road with no path. This is dangerous for pedestrians. The village no longer has Cubs or Rainbows - and Rainbows met in the village hall before they folded. The village hall was given to the residents of Westoning as a Parish Room and has served this purpose for the last 75 years. The village hall has announced plans for expansion.

When there is a service at the Church parking often stretches from Manor Park Drive to Church Close causing problems for cars and larger vehicles such as emergency vehicles, horse boxes and tractors to navigate there way along this narrow road which has no footpath from the cemetery to the top of Church Road.

The availability of the church hall will generate pressure to run more groups catering for local activities. A youth club for example would generate traffic and automatically include music and related activities. It is considered that it would be preferable for there to be a modest extension to the church to provide for toilets, hot and cold water and a kitchenette- provided that it did not lead to an increase in

traffic and parking problems.

Westoning Parish Council made the previous planning application which was approved and they are now objecting to this application as a result of the further escalation in the ever increasing parking problems. Church attendances have continued to increase since 2009 due largely to the hard work and dedication of the vicar and church warden. The Church also has a number of people who attend for outside of the village which means that more and more people travel to the site by car. Car parking has in our view more than doubled in the last six years.

There are more weekday meetings at the church and these are not as well marshalled regarding parking as the week end services etc..

Consider that it would be preferable if the area for the proposed hall were to be used as a parking area and a small extension be made to the church.

Consider that some of the road frontage to the site and adjoining properties be made a no parking zone where the road is very narrow.

Vehicles often park in Church Road and block the drives of nearby residents.

There will be problems during the construction period. The removal of trees to allow the building to be constructed would permanently alter the tree scape. There is no planned restriction on wedding receptions, birthday parties and other potential noisy activities until 11pm.

English Heritage	No objections subject to conditions and comments.
Highways Officer	No objections subject to conditions being attached to any permission.
Archaeology Officer	No objections subject to conditions regarding the submission of a written scheme of Archaeological Resource Management.
Tree officer	Recommend that the conditions on the previous consent be attached to any permission.
E.H.O.	No comment.
Conservation Officer	No objections subject to conditions as this is a previously approved scheme.
Ecology Officer	No objections subject to provision of bat boxes on retained mature trees.

**Determining Issues:**

1. Background, Policy and Impact on the Green Belt.
2. Siting, Size and Design and Visual impact.

3. Impact on setting of listed building
4. Impact on amenities of neighbouring properties
5. Highways Considerations
6. Trees
7. Biodiversity Issues and archaeology matters
8. Other Considerations

## Considerations

### 1. Background, Policy and Impact on the Green Belt

- 1.1 Planning permission for this Church Parish Room has been granted under planning ref :CB/09/06757/Full on 03/03/2010. The permission expired on 03/03/2013. This application is a resubmission of the proposals and is supported by an updated ecological survey of the churchyard dated September 2014.

- 1.2 What needs to be considered in this application is whether there has been a significant change in circumstances relating to the site and its surroundings or whether there has been a change in planning policy which would justify a different decision now being made in regard to this resubmission.

- 1.3 The site lies in the Green Belt and this status has not changed since the previous approval. However, the subsequent National Planning Policy Framework 2012 refers to developments in the Green Belt that are considered in general policy terms to be acceptable as long as other criteria are satisfied. It states in Section 9 that the Green Belt serves various purposes and these include preventing the unrestricted sprawl of large built up areas by keeping them open and assisting in the safeguarding of the countryside from encroachment. The essential characteristics of Green Belts are their openness and their permanence.

- 1.4 Most forms of development are not acceptable in the Green Belt but developments that may be viewed favourably include the extensions or alterations of a building provided that it does not result in disproportionate additions over and above the size of the original building and limited or the partial or complete redevelopment of previous developed sites 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. New buildings that may be appropriate in the Green Belt are provision of appropriate facilities for outdoor sport, outdoor recreations and for cemeteries. Policies in both the Core Strategy support these Green Belt policies.

- 1.5 The Church is a Grade II\* Listed Building and it would be challenging (design wise) to extend this main building. It is therefore considered that the same view be taken of this hall in that it will effectively be an extension of the use of the church and will not affect the openness of the Green Belt by reason of its location and its immediate surroundings.

- 1.6 With regards to changes that may have taken place around the site since the previous planning permission there have been no planning consents for new residential dwellings at the top of Church Road since the previous approval. It is accepted that there may be more visits to and from the Macintyre Homes sites and more on line delivery vehicles but this is not considered by the highways



officer to be sufficient for taking a different view on this application.

## **Siting, Size and Design and Visual Impact**

2.

2.1 A detached building is proposed in the southern corner of the churchyard. It will serve as a parish room and comprise a main hall with storage, kitchen and toilets.

2.2 The building is 11.35 metres wide by 19 metres long. The walls will be rendered clay block which is plastered internally. The roof is to be coated stainless steel with a low pitch roof form with a central ridge.

2.3 The building will be sited in the rear corner of the churchyard parallel to the south eastern boundary of the churchyard. Its ridge would run parallel to the boundary and its narrower end would face Church Road and the entrance to the churchyard. The front elevation of the building will face the church.

2.4 The roof is divided up into three sections of varying heights. The front section is approximately 4 metres in height and 7 metres in length, the middle section is approximately 5 metres high and is 8 metres in length, the rear section is 4 metres high and 3 metres in length. The staggered roof heights of the building help to break up the massing of the building.

2.5 Windows are ribbon form and the strip of glazing between the eaves and the walls helps to visually separate the roof from the walls, breaking up the massing and giving the illusion that the roof is floating. The eaves and verge detail show the roof with a deep overhang and this further help to break up the shape of the building. The front (west) elevation will have three sets of composite glazed doors with the central section of the building having two sets of double doors with glazing above. This will further help to give the building a lightweight appearance.

2.6 The footprint of the building reflects the width of the main section of the church (the nave and aisles) with the roof reflecting this section of the church.

2.7 The design has been agreed by both English Heritage and this authority's conservation officer. Extensive discussions took place between the applicant and English Heritage prior to the application being submitted in 2009. A contemporary solution was considered to be the most appropriate way forward.

2.8 The building will be located in the rear corner of the churchyard and will appear subservient to the main church due to its single storey nature and because the building is aligned so that the narrower section of the building is presented. There are recessive views of the building as it is set behind the chancel/sacristy of the church by approximately 16 metres. The north east gable end of the building is built approximately in line with the church porch and there is a separation of 8 metres from the eastern corner of the porch to the northern corner of the parish room. After this point the separation between the two buildings increases due to their orientation in relation to each other. As such it is considered long views of the building will become recessive and the building will not have a detrimental impact on the setting of the listed church.

2.9 Due to the position of the building only the north east gable end will be prominent when viewed from the church gate and the front boundary of the church. However this end of the building will be screened by existing trees to the boundary with The Old Vicarage and by an existing London Plane tree in front of it. This area will be also supplemented with additional planting. Views of the front of the building facing the church will be recessive. An existing Horse Chestnut tree and Cedar tree between the Church and the parish room are to be retained and will partially screen the front of the building. An existing Sycamore to the rear will also be retained and will help screen the end of the building. Supplementary planting is proposed to the perimeter of the churchyard around the building.

2.1 It is considered that the new building will have minimal impact on the visual appearance of the site by reason of it being surrounded by mature trees and being set well back from Church Road. It is in compliance with planning policies in the Core Strategy and Development Management Planning Document dated 2009 and the NPPF.

### **3. Impact on setting of listed building**

3.1 The building is subservient to the church and, as stated previously, being single storey and set back and separated from the church is not considered to detrimentally impact upon the setting of the listed building.

3.2 The building has a contemporary design and does not detract from the appearance of the church by trying to replicate the architectural features and design of the church.

3.3 The Conservation Officer is satisfied with the design and siting of the new building given its appropriate design and that it is based on a previously approved scheme (provided that conditions are attached to any permission covering details of material finishes).

### **4. Impact on amenities of neighbouring properties**

4.1 The building is inset from boundary with The Old Vicarage by a distance of one metre. The property at The Old Vicarage presents an outbuilding to the boundary. This outbuilding will partially screen the building from view from the main house and will prevent the new building being overbearing on the boundary with this property.

4.2 The neighbour at 1 Manor Gardens adjoins the application site to the rear. The building is inset from the rear boundary by at least three metres. The building is not considered to be overbearing on the boundary. High level windows are proposed in the end elevation of the building facing the rear garden of this property and as such there is no potential for loss of privacy through overlooking into the rear private garden.

4.3 With regards to noise issues the Environmental Health Officer has not raised any objection. He advises that the proposal is for a parish/church hall of which many exist and operate successfully in residential areas. The intended uses in the design and access statement are unlikely to give rise to disturbance and are

not dissimilar to other parish halls. The design and layout of the premises is beneficial in that there are limited windows in the facades facing residential receptors and there is not any real simple and enforceable way of controlling any activities through the use of conditions. If the use intensifies at a later date then the environmental health section can look to resolve any such issues through appropriate licensing and nuisance regimes.

## **5 Highway considerations**

- 5.1 The proposal does not provide for any on site parking facilities. With regards to the 2009 application it was originally going to provide for two disabled parking spaces to the north of the church building. However, due to access ownership difficulties and following discussions with officers it was agreed that this could be deleted due to problems with gaining access to these spaces.
- 5.2 There are many objections to the proposed development, from local residents and the Parish Council on highway grounds regarding the lack of on site parking and the fact that there is already parking on the road when the church is being used and that this will get worse when the hall is in use. Concerns have been raised about cars blocking local residents drives, difficulty of going up and down the narrow top end of Church Road especially for larger vehicles including emergency vehicles and danger to pedestrians who have to walk on the road as there is no pavement at the top of end of Church Road in the vicinity of the church.
- 5.3 The highways officer did not raise any objections to the previous application in 2009. The reason being that the existing community/church groups that use the church already do so with no parking within the site. The new hall will provide for existing community/church groups with a community hall. It would be difficult to demonstrate that the hall would create significant additional traffic given the existing use of the Church. In view of the fact that the proposal is the same as the extant planning permission it is recommended that any planning consent be subject to conditions covering details of a refuse collection point, details of on site construction parking arrangements, a scheme detailing access provision to and from the site and a covered parking area of cycles. A number of highway notes are to be attached to the consent.
- 5.4 In view of the concerns that have been raised by the Parish Council and local residents regarding the parking problems in Church Road the highways officer is advising that it would be beneficial if the development does not commence until a Traffic Regulation Order has been designed and agreed in writing by the local Planning Authority. This TRO needs to control and manage off-site parking within the surrounding highway network and be implemented to the satisfaction of the Local Planning Authority prior to commencement the development. Discussions are taking place with the applicant regarding this condition and the matter will be updated on the Late Sheet or at the Development Management Committee

## **Trees**

- 6.0
- 6.1 There are many trees on the site. Neither the previous application nor this one is accompanied by any BS 5837:2012 Tree Survey. The tree officer has recommended that the same conditions be attached if planning permission is granted.

## 7. Biodiversity issues and archaeology matters

7.1 There is a pond within 100 metres of the proposal in the rear garden of 1 Manor Gardens.

7.2 The application was accompanied by an Ecological survey carried out by a senior ecologist working for The Greensand Trust. Due to the proximity of the pond a refuge search for Great Crested Newts and other amphibians was made under any logs or other material lying on the ground. No amphibians were found.

7.3 There are mature trees with crevices that are likely to be used as roosting sites for bats. The trees were surveyed but no roosts were discovered.

7.4 It is considered that as the pond will not be directly affected by the development. It will not be filled in by the development and would not be isolated/severed by the development. As such it is considered that the proposal would not prejudice biodiversity.

7.5 The ecology officer is satisfied that the proposals could be undertaken without detrimental impact on a Protected Species provided construction and site preparation is undertaken in accordance with the recommendations set out at the end of the report.

7.6 The National Planning Policy Framework calls for development to deliver a net gain for biodiversity and given the current bat interest in the church the provision of bat boxes on retained mature trees would be welcomed. Felled timber should be retained on the site in piles where possible

7.7 The proposed development is located in the historic core of the settlement of Westoning. Under the terms of the NPPF the church is a designated heritage asset and it lies within an area considered to be a heritage asset with archaeological interest. To the west of the present village centre lies a Scheduled medieval moat and fishponds thought to have been built in the late 13th Century. The site is considered to have the potential to contain archaeological deposits relating to the Saxon, medieval and post medieval development of the village. The NPPF states that Local Planning Authorities should requires developers to record and advance understanding of the significance of heritage assets before they are lost in a manner proportionate to their importance and their impact, and to make this evidence publicly accessible. The proposed development will have a negative and irreversible impact upon any surviving archaeological deposits present at the site and therefore upon the significance of the heritage assets with archaeological interest. It may also disturb hitherto unrecorded human burials. There is conflict between the need to protect the existing trees on the site and the need to investigate and record any surviving archaeological remains at the site. The only way to achieve a compromise is by the use of foundations that will minimise the impact on both trees and the archaeological remains. Piled foundations are not acceptable from any archaeological perspective and therefore the foundation design needs to be undertaken in such a way that considers and accommodates the archaeological resource. The archeological constraints at the site do 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 or can design a foundation scheme that will not have an archaeological impact. In order to secure this a condition should be attached to any permission which requires that no development take place until a written scheme of archaeological resource Management has been submitted to and approved in writing by the Local Planning Authority.

## 8. Other Considerations

8.1 There are no relevant issues under the Equality Act

8.2 There are no relevant issues under the Human Rights Act

### Recommendation:

That Planning Permission be granted subject to the following:

### RECOMMENDED CONDITIONS / REASONS

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

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

- 2 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 1177/sk10, 1177/sk110, 1177/sk100, 1177/sk120/B, 1177/sk140, 1177/sk3/B, 1177/sk20/B, 1177/sk21/C, 1177/sk25/A, 1177/sk500/A,

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

- 3 **Before development/work begins and notwithstanding the details submitted with the application, details of the materials to be used for the external windows, doors, walls, roofs and rainwater goods of the proposed building shall be submitted to and approved in writing by the Local Planning Authority. The development/work shall be carried out only in accordance with the approved details.**

**Reason: To ensure that the development/work is in keeping with the existing building. (Section 12, NPPF)**

- 4 **No development shall take place until drawings of all windows and doors to a scale of 1:10 or 1:20, together with a specification of the materials and finishes has been submitted to and approved in writing by the Local Planning Authority. Details provided shall clearly show a section of the glazing bars, frame mouldings, door panels, the position of the door or window frame in relation to the face of the wall, the depth of the reveal and arch and sill details. The development shall be carried out only in accordance with the approved details.**

**Reason: To ensure that the proposed development/work is carried out in a manner that safeguards the historic character and appearance of the area.**

**(Section 12, NPPF)**

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

**Reason: To safeguard the special architectural and historic interest of this statutorily listed building.**

**(Section 12, NPPF)**

- 6 **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.**

**Where the proposed building encroaches into the root protection area then the fencing should be erected 1.5 metres from the building to allow access/scaffolding but the ground beneath should be protected in line with BS 5837, using geotextile membrane and scaffolding boards this is to avoid compaction of the roots and contamination of soil.**

**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.**

- 7 Notwithstanding the approved plans, detail of the hard landscaping including samples of the stone edging and the surfacing to the paths and cycle/parking areas shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby permitted.

**The development shall be implemented solely in accordance with these approved details.**

**Reason: To safeguard the setting of the Listed Building of special architectural or historic interest in accordance with the provisions of Planning Policy 15: Planning and the Historic Environment 1993.**

- 8 **The foundation structure of the building hereby approved shall be of a pad-and-beam or pile-and-beam method of construction. Details shall be submitted to and agreed in writing prior to the commencement of the development to include the layout, with positions, dimensions and levels, of service trenches, ditches, drains and other excavations on site, insofar as they may affect trees and hedgerows on or adjoining the site.**

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

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

- 9 Full details of both hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:-

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

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

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

- 10 The scheme approved in Condition 9 shall be carried out by a date which shall be not later than the end of the full planting season immediately following the completion of the development.

Thereafter the planting shall be adequately maintained for a period of five years from the date of planting. Any of the trees or shrubs or both which die or are removed, or which become severely damaged or seriously diseased (during the said period of five years) shall be replaced with trees or shrubs or both, as the case may be, of similar size and species to those originally required to be planted and the same shall be maintained until properly established.

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

- 11 No development shall take place until a written scheme of archaeological

resource management 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: This condition is pre-commencement as a failure to secure appropriate archaeological mitigation in advance of development would be contrary to paragraph 14 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).

- 12 Before development begins, a scheme for the secure and covered parking of cycles on the site (including internal dimensions of the parking area, cycle stands to be used and access thereto) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.

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

- 13 Details of a refuse collection point located at the site frontage and outside of the public highway shall be submitted to and approved by the Local Planning Authority prior to the occupation of any dwelling. The scheme shall be fully implemented prior to the development being brought into use and shall be retained thereafter.

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

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

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

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

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

- 16 The building hereby approved shall only be used between the hours of 9am to 11pm Mondays to Saturdays and 9am to 8pm on Sundays and Bank



Holidays unless otherwise prior agreement is given by the Local Planning Authority in writing. Page 161

Reason: To safeguard the amenities of neighbouring properties.

- 17 The soil levels within the root spread of the trees/hedgerows to be retained shall not be raised or lowered.

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

- 18 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 extensions or alterations to the building hereby permitted shall be carried out without the grant of further specific planning permission from the Local Planning Authority.

Reason: To control the external appearance of the building in the interests of the amenities of the area.  
(Section 7, NPPF)

### INFORMATIVE NOTES TO APPLICANT

1. 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.
2. 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".
3. The applicant is advised that, under the provisions of the Highways Act 1980, no part of the structure, including cellars, foundations and surface water hardware shall be erected or installed in, under or overhanging the public highway and no window, door or gate shall be fixed so as to open outwards into the highway.

The Highway Authority has the power under Section 143 of the Highways Act 1980, to remove any structure erected on a highway. (HN iii)

4. To fully discharge condition 14 the applicant should provide evidence to the Local Planning Authority that Bedfordshire Highways have undertaken the construction in accordance with the approved plan, before development commences, and that any temporary access has been closed and re-instated after the construction. The applicant is advised that no works associated with the construction of any temporary 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.

5. The granting of this planning permission does not absolve the applicants from complying with the relevant law protecting species including obtaining and complying with the terms of conditions of any licences required, as described in Part IV B of Circular 06/2005.
6. To safeguard the existing trees on the site in the interests of visual amenity the development shall be carried out in accordance with the relevant recommendations of BS 5837 (2005) - Trees in relation to construction.
7. Foundations construction method. Either pile and beam or pad and beam, this must occur within the root protection area of these two trees. The important point is that the beam must be above the ground and not excavated below the surface. This will mean that as the ground slopes down in a general southeast aspect then there will be a void under the building.

All service routes (water drains electric etc..) to avoid root protection area to avoid damage to roots. If it is unavoidable then these routes should be hand dug with no root severance. The plans appear to show that the toilets and kitchen are within the root protection area and therefore a solution should need to be found, possibly making use of the under floor void.

Any tree work ie crown raising to allow build and access to be approved by the Arboricultural Officer prior to work being carried out.

8. The applicant should be reminded that a premises licence may be required if events were to include the sale of alcohol and/or regulated entertainment. Whether or not such a licence is required the applicant is also reminded of their responsibilities under the Environmental Protection Act 1990 relating to statutory noise nuisance.
9. The applicant is advised that the provision of bat boxes on retained mature trees would be welcomed in accordance with the NPPF which calls for development to deliver a net gain for biodiversity. Felled timber should be retained on site in piles where possible.

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

Discussions with the applicant have taken place during the consideration of the application. The Council has therefore acted pro-actively to secure a sustainable form of development in

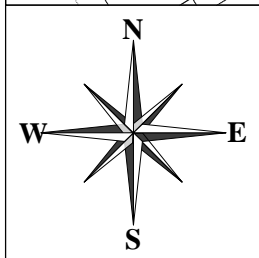
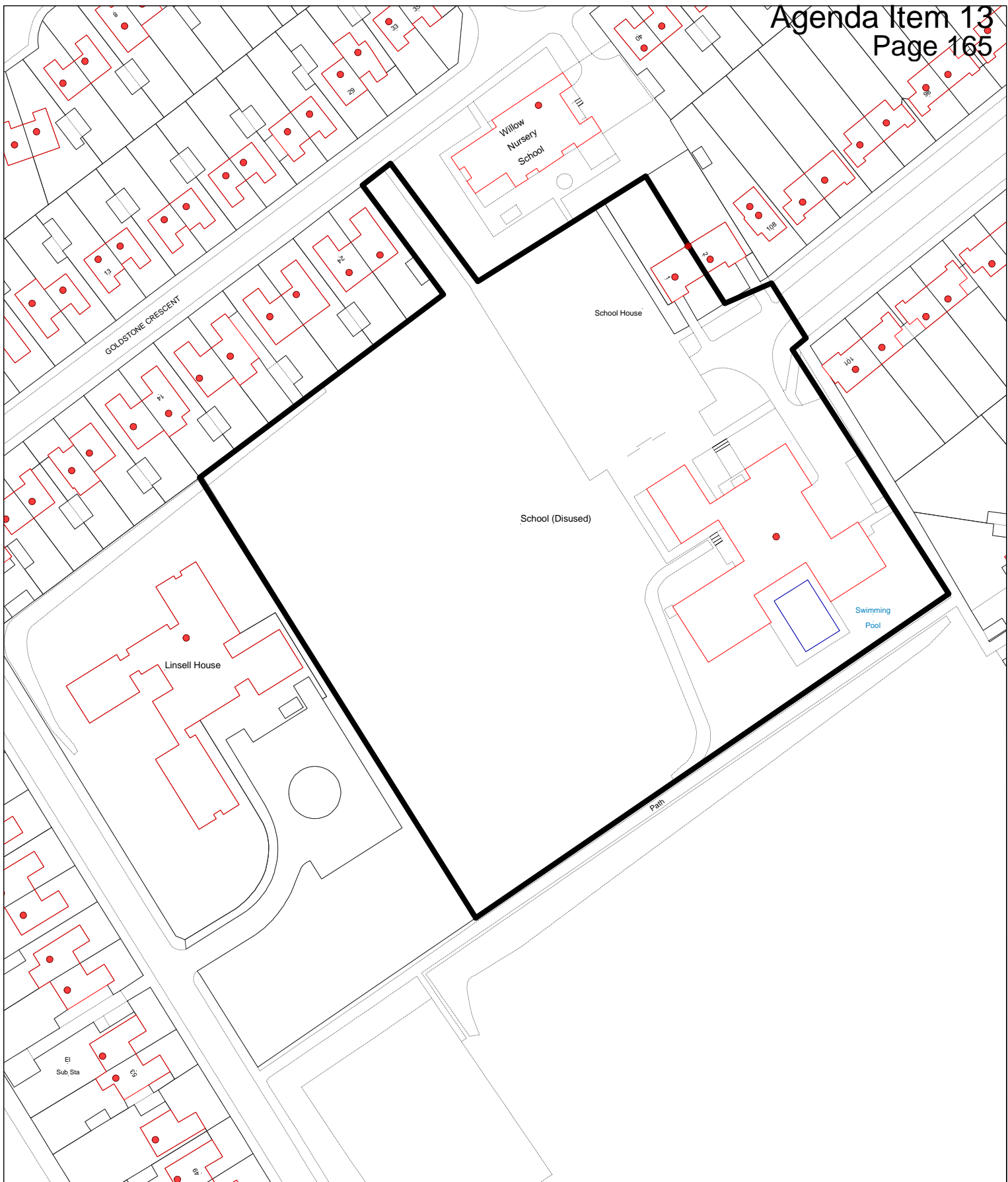
line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

**DECISION**

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Central Bedfordshire Council  
Licence No. 100049029 (2009)  
Date: 19:November:2015  
Grid Ref: 503030; 222621

Application No.  
CB/15/03807/FULL

Scale: 1:1250

Hadrian Academy, Hadrian Avenue, Dunstable, LU5 4SR

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<b>Item No. 13</b>
--------------------

<b>APPLICATION NUMBER</b>	<b>CB/15/03807/FULL</b>
<b>LOCATION</b>	<b>Hadrian Academy, Hadrian Avenue, Dunstable, LU5 4SR</b>
<b>PROPOSAL</b>	<b>Construction of a 130m2 first floor extension above the existing administration block, and internal reconfiguration of the ground floor administration area.</b>
<b>PARISH</b>	<b>Dunstable</b>
<b>WARD</b>	<b>Dunstable Icknield</b>
<b>WARD COUNCILLORS</b>	<b>Cllrs McVicar &amp; Chatterley</b>
<b>CASE OFFICER</b>	<b>Nicola Darcy</b>
<b>DATE REGISTERED</b>	<b>07 October 2015</b>
<b>EXPIRY DATE</b>	<b>02 December 2015</b>
<b>APPLICANT</b>	<b>Hadrian Academy</b>
<b>AGENT</b>	<b>PCMS Design</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Application on Council land with objections received that cannot be overcome by condition</b>
<b>RECOMMENDED DECISION</b>	<b>Full Application - Recommended for Approval</b>

### Summary of Recommendation

The proposed extension would not have a detrimental impact upon the residential amenity of nearby occupiers and with the addition of four additional staff parking spaces, would be in accordance with the Local Transport Plan Parking Standards. The proposal would further be in accordance with Policies BE8 & T10 of the South Bedfordshire Local Plan Review 2004 and having regard to the National Planning Policy Framework (2012).

### Site Location:

Hadrian Academy is situated at the end of Hadrian Avenue in the east of Dunstable. The site is approximately 1.6 hectares.

The original school building was constructed in 1965 and has had several additions since to provide additional space. The current building is a mixture of single and two storey blocks. In addition, the site benefits from a grass sports field and a large playground. There is a nursery on site situated to the north of the school buildings which is a purpose built, free standing building.

### The Application:

The application is for the addition of a first floor extension over the existing administration area, as well as the reconfiguration of the existing ground floor administration area. Also proposed is an extension of the entrance lobby, bringing the main entrance door forward by approximately 2m.

The proposed alterations and extension would provide:

- A staff room for up to 30 teaching/support staff at any one time
- An improved school office for two existing members of staff
- New sanitary facilities, including a DDA WC (with simple access from the school hall or lobby to facilitate lettings)
- A Headteacher's office
- A Deputy Headteacher's office
- A finance office for one member of staff
- A Site Agent's office / store
- Two meeting rooms (for parent meetings, staff 1:1s, external agencies)
- Circulation and storage space (including platform lift to first floor)
- An improved school entrance, with a larger lobby area to improve security

### **RELEVANT POLICIES:**

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

#### **South Bedfordshire Local Plan Review Policies**

BE8 Design Considerations

T10 Parking - New Development

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

#### **Development Strategy**

At the meeting of Full Council on 19 November 2015 it was resolved to withdraw the Development Strategy. Preparation of the Central Bedfordshire Local Plan has begun. A substantial volume of evidence gathered over a number of years will help support this document. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our website as material considerations which may inform further development management decisions.

#### **Supplementary Planning Guidance/Other Documents**

Central Bedfordshire Design Guide (March 2014)

#### **Relevant Planning History:**

Reference: CB/15/03920/FULL

Proposal: Construction of two new out of school classrooms, new WCs and storage rooms, an extension to the existing dining room and formation of a covered courtyard

Decision: Pending on this Committee Agenda

Reference: CB/15/02257/PAPC

Proposal: Construction of a first floor extension above the existing administration block, and reconfiguration of the ground floor administration facilities.

Decision: Pre-App Charging Fee Advice Released

Decision Date: 08/07/2015



Reference: CB/12/04305/FULL  
Proposal: Construction of a two classroom modular unit.  
Decision: Granted  
Decision Date: 28/03/2013

Case Reference: CB/10/03151/REG3  
Proposal: Erection of canopy to provide sheltered play area  
Decision: Granted  
Decision Date: 12/11/2010

Reference: CB/09/05647/FULL  
Proposal: Erection of single storey extension with canopy to increase size of existing classrooms and provision of landscaping to play area.  
Decision: Granted  
Decision Date: 21/10/2009

Reference: SB/06/01444  
Proposal: Erection of rear conservatory attached to existing library  
Decision: Granted  
Decision Date: 26/02/2007

Case Reference: SB/07/0019  
Proposal: Disabled parking space (BC/CC/2007/8) (regulation 3 refers)  
Decision: Granted  
Decision Date: 23/02/2007

Reference: SB/04/00067  
Proposal: Replacement boundary fence with 1.8m palisade fence.  
Decision: Granted  
Decision Date: 01/03/2004

Reference: SB/01/00012  
Proposal: Erection of two storey classroom extension and re-siting of temporary classroom (BC/CC/01/47 refers)  
Decision: Granted  
Decision Date: 28/03/2002

Reference: SB/01/00005  
Proposal: Erection of replacement fencing 1.8 m high (Reg 3) (BC/CC/01/0014 refers)  
Decision: Granted  
Decision Date: 12/04/2001

**Consultees:**

Town Council:	No objections.
Highways Officer:	No objections.
Strategic Transport Officer:	No objection subject to a condition to update existing Travel Plan and for annual monitoring.
Pollution Officer:	No objection.

## Other Representations:

- Neighbours
- Objections from the following:  
2 School Houses, 83, 86, 96, 99, 101, 110 Hadrian Avenue; 8, 15, 18, 26, 49 Goldstone Crescent
- Increased noise
  - Insufficient staff car parking provision
  - Existing parking pressures
  - Overlooking
  - Out of date Travel Plan
  - Out of keeping with the character of the area

## Determining Issues:

The main considerations of the application are;

1. Principle
2. Design and Impact Upon Neighbouring Occupiers
3. Parking and Highway Considerations
4. Other Considerations

## Considerations

### 1. Principle

- 1.1 The Academy has recently seen an increase in pupils due to a programme of conversion from a lower school to a primary school, and space is required to better accommodate members of administration staff. The existing Administration Area is inadequate for the Academy's daily requirements, both in terms of the available space for staff and also the floor plan, orientation and layout. Furthermore, the current facilities are in need of upgrading.
- 1.2 The NPPF states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities and that Local Planning Authorities should take a proactive, positive and collaborative approach to meeting this requirement and to development that will widen choice in education. They should:
  - give great weight to the need to create, expand or alter schools; and
  - work with school promoters to identify and resolve key planning issues before applications are submitted.
- 1.3 Furthermore, the proposed extension would complement and harmonise with the existing building and would not have a detrimental impact upon the street scene and would thus conform with policy BE8 of the South Bedfordshire Local Plan Review and the Central Bedfordshire Design Guide.

### 2. Design and Impact Upon Neighbouring Occupiers

- 2.1 The proposed first floor administration extension has a flat roof which would minimise the massing of the extension and harmonise the appearance with the existing main school. Because of the sloping nature of the site, there is already

an element of two-storey accommodation to the building.

- 2.2 Materials used for the first floor extension would match the existing school building, with brown brick and white uPVC or aluminium windows. Fenestration detailing would also match the existing building. This includes white windows with grey panels below, and also some slimline high level windows. The main entrance door would be powder coated aluminium in a red to match existing doors.
- 2.3 Although an objection has been received with regard to overlooking, the extension would lie some 20m from the side elevation of the nearest residential property (number 101 Hadrian Avenue) which is considered to be broadly in line with design guidance and considering the relationship of the extension with the side elevation of the property, potential for overlooking is minimal.

### **3. Parking and Highway Considerations**

- 3.1 Several objections have been made with regard to the existing on-street parking pressures both in Hadrian Avenue and Goldstone Crescent. The objections mainly focus upon staff parking all day in Hadrian Avenue and also the indiscriminate parking of parents at both drop-off and collection times.
- 3.2 It is important to note that the school have stated that there are to be no staff or pupil increases and that the proposal would improve facilities for existing staff and pupils, as a result of this, the Highways Officer has no objections.
- 3.3 The school are committed to improving relations with local residents and have recognised that there may be a shortfall in the number of staff parking spaces that are available within the school grounds and have proposed an additional four spaces to be associated with this proposal. A previous application (CB/12/04305) detailed an additional 8 spaces, however, it is understood that these spaces were not clearly marked out within the school grounds, therefore, it is considered appropriate to ensure a final parking scheme detailing an additional 4 spaces (as stated in the accompanying information submitted with the application) be required and secured by condition.
- 3.4 The application has also provided an opportunity to secure an update to the school's travel plan, which should help ease existing parking problems at drop-off and pick-up times. As such, subject to the imposition of the recommended conditions, it is considered that the proposal would have a beneficial impact on parking and wider highway safety and capacity.

### **4. Other Considerations**

#### **4.1 Human Rights issues:**

The proposal raises no Human Rights issues.

#### **4.2 Equality Act 2010:**

The Design and Access Statement that accompanied the application states that improvements will be made to the main school entrance to incorporate a larger entrance lobby which will aid those in wheelchairs and with buggies. Security will also be improved, as the main doors will allow access to the lobby where an

office hatch will be located to greet and sign-in visitors.

- 4.3 As a first floor is being added to the building, a platform lift large enough for a person in a wheelchair plus carer will be installed. A DDA WC will continue to be available on the ground floor, which is readily accessible from the hall and the main entrance.
- 4.4 The existing slope / ramped entrance will be maintained in its current position. However, the landing will be extended out by approximately 950mm to allow for a new entrance door. The ramp will be adjusted to allow for this, with the slope gradient being approximately 1:20.
- 4.5 Level access to the majority of the school building is good. There is a platform lift in the hall giving access onto the raised stage/dining area.

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

Reason: To safeguard the appearance of the completed development by ensuring that the development hereby permitted is finished externally with materials to match the existing building in the interests of the visual amenities of the locality.

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

- 3 Before the building is first brought into use, the school Travel Plan shall be updated and submitted to and approved by the Local Planning Authority. The plan shall contain details of:
  - a. plans for the establishment of a working group involving the School, parents and representatives of the local community;
  - b. pupil travel patterns and barriers to sustainable travel;
  - c. measures to encourage and promote sustainable travel and transport for journeys to and from school;
  - d. an action plan detailing targets and a timetable for implementing appropriate measures and plans for annual monitoring and review;

e. measures to manage the car parking on site.

All measures agreed therein 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.

- 4 Prior to the commencement of the construction of the extension hereby approved, the parking scheme shown on Drawing No. 376-101B shall be completed. The scheme shall thereafter be retained for this purpose.

Reason: To ensure the additional proposed parking is implemented in order to minimise on-street parking in Hadrian Avenue.  
(Section 4, NPPF)

- 5 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 376-101B, 376-102A, 376-103A, 376/104A, 376/105A, 376/106A, 376/107A, 376/108A, 376/109A & 376/110A.

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

## **INFORMATIVE 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 National Planning Policy Framework (NPPF).
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 applicants attention is drawn to their responsibility under The Equality Act 2010 and with particular regard to access arrangements for the disabled.

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

These requirements are as follows:

- Where a provision, criterion or practice puts disabled people at a substantial disadvantage to take reasonable steps to avoid that disadvantage;

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

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

For further information on disability access contact:

The Centre for Accessible Environments ([www.cae.org.uk](http://www.cae.org.uk))

Central Bedfordshire Access Group ([www.centralbedsaccessgroup.co.uk](http://www.centralbedsaccessgroup.co.uk))

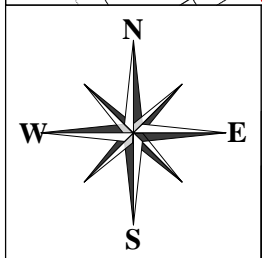
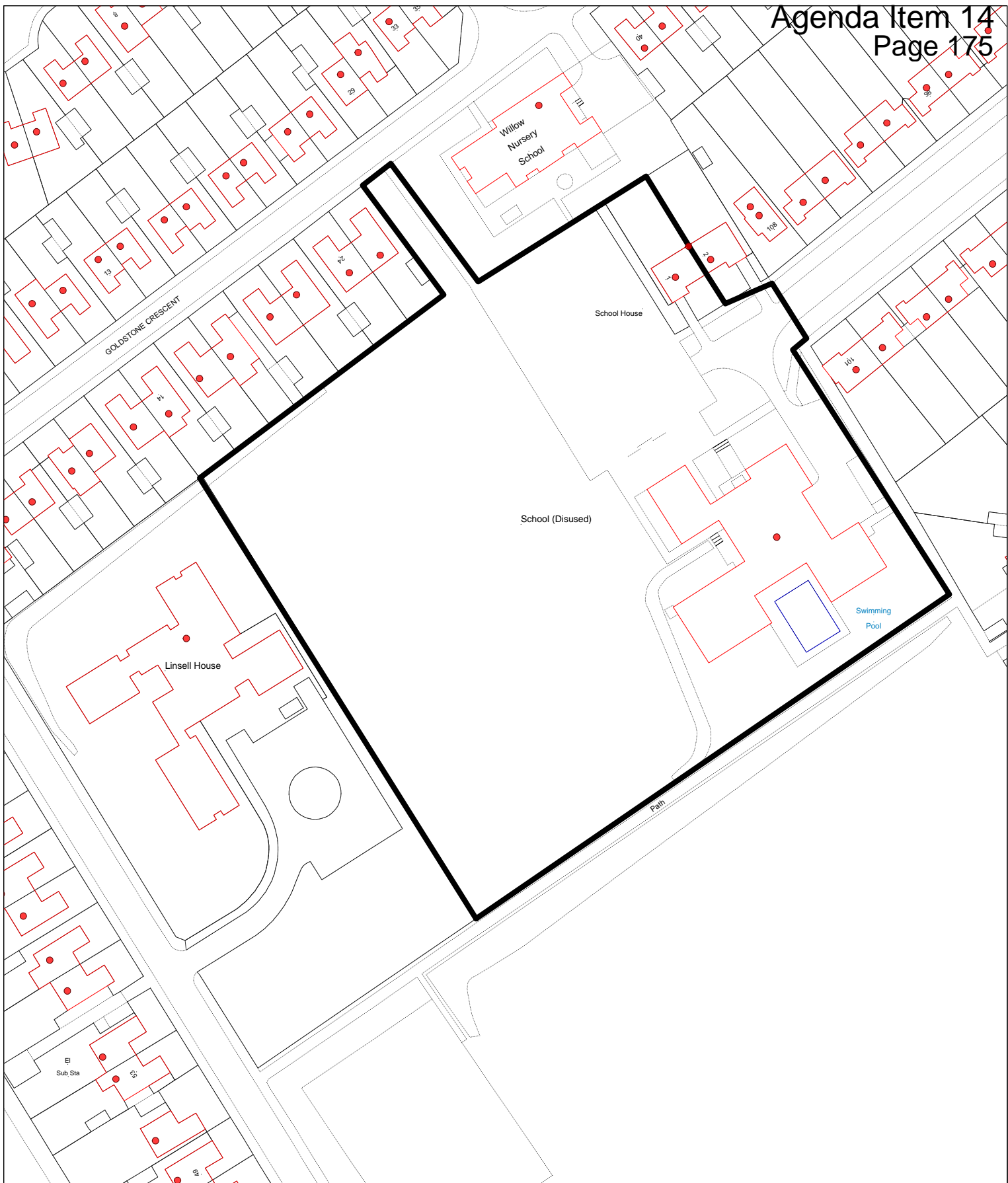
4. The applicant is advised that further information regarding the updating of the School Travel Plan is available from the Transport Strategy Team, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford, Bedfordshire, SG17 5TQ.

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

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**

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Central Bedfordshire Council  
Licence No. 100049029 (2009)  
Date: 19:November:2015  
Grid Ref: 503030; 222621

Application No.  
CB/15/03920/FULL

Scale: 1:1250

Hadrian Academy, Hadrian Avenue, Dunstable, LU5 4SR

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**Item No. 14**

<b>APPLICATION NUMBER</b>	<b>CB/15/03920/FULL</b>
<b>LOCATION</b>	<b>Hadrian Academy, Hadrian Avenue, Dunstable, LU5 4SR</b>
<b>PROPOSAL</b>	<b>Construction of two new out of school classrooms, new WCs and storage rooms, an extension to the existing dining room and formation of a covered courtyard.</b>
<b>PARISH</b>	<b>Dunstable</b>
<b>WARD</b>	<b>Dunstable Icknield</b>
<b>WARD COUNCILLORS</b>	<b>Cllrs McVicar &amp; Chatterley</b>
<b>CASE OFFICER</b>	<b>Nicola Darcy</b>
<b>DATE REGISTERED</b>	<b>14 October 2015</b>
<b>EXPIRY DATE</b>	<b>09 December 2015</b>
<b>APPLICANT</b>	<b>Hadrian Academy</b>
<b>AGENT</b>	<b>PCMS Design</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Application on Council land with objections received that cannot be overcome by condition</b>
<b>RECOMMENDED DECISION</b>	<b>Full Application - Recommended for Approval</b>

**Summary of Recommendation**

The proposed extension would not have a detrimental impact upon the residential amenity of nearby occupiers and with the addition of four additional staff parking spaces, would be in accordance with the Local Transport Plan Parking Standards. The proposal would further be in accordance with Policies BE8 & T10 of the South Bedfordshire Local Plan Review 2004 and having regard to the National Planning Policy Framework (2012).

**Site Location:**

Hadrian Academy is situated at the end of Hadrian Avenue in the east of Dunstable. The site is approximately 1.6 hectares.

The original school building was constructed in 1965 and has had several additions since to provide additional space. The current building is a mixture of single and two storey blocks. In addition, the site benefits from a grass sports field and a large playground. There is a nursery on site situated to the north of the school buildings which is a purpose built, free standing building.

**The Application:**

The application is for a single storey, infill extension to the southern elevation of the school to achieve the following:

- Maximise the dining room footprint, to enable space-saving tables and seating to be installed: The dining area is currently on a 'raised stage' at one end of the school hall. Due to the rise in pupil numbers, the dining area is no longer large enough. The proposal details extending the raised stage area to provide additional space, enabling more pupils to dine together, and also allowing the dining furniture to be efficiently stored.
- Provide a multi-function space that can be used independently of the school: The school is seeking for additional accommodation to provide for breakfast and after-school clubs, as well as more independent use, such as holiday clubs and weekend hire. This space would have direct access to the new covered courtyard area. Light would be maintained into the hall by means of new roof lights, (there is currently curtain walling to the rear of the raised stage area)
- Provide new WC facilities: The proposal includes independent children's WCs (girls and boys) and an Adult/DDA WC accessible jointly from both the dining area and the out of school classroom. The main doorway to this block would be from a covered courtyard.
- Provide additional storage facilities: Two new storerooms would be created, one specifically for the adjacent dining area and another to serve the new out of school classrooms.
- Create a covered courtyard: The whole scheme would be unified by a 53m<sup>2</sup> central 'covered courtyard' space that would have access from the new dining room extension, allowing access to the new WC facilities and would also have doorways to the both of the new out of school classrooms and the external grounds. This would provide circulation space, and also act as an informal 'break-out' area for the out of school classrooms.

#### **RELEVANT POLICIES:**

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

##### **South Bedfordshire Local Plan Review Policies**

BE8 Design Considerations

T10 Parking - New Development

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

##### **Development Strategy**

At the meeting of Full Council on 19 November 2015 it was resolved to withdraw the Development Strategy. Preparation of the Central Bedfordshire Local Plan has begun. A substantial volume of evidence gathered over a number of years will help support this document. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our website as material considerations which may inform further development management decisions.

## Supplementary Planning Guidance/Other Documents

Central Bedfordshire Design Guide (March 2014)

### Relevant Planning History:

Reference: CB/15/03807/FULL

Proposal: Construction of a 130m<sup>2</sup> first floor extension above the existing administration block, and internal reconfiguration of the ground floor administration area.

Decision: Pending on this Committee Agenda

Reference: CB/15/02257/PAPC

Proposal: Construction of a first floor extension above the existing administration block, and reconfiguration of the ground floor administration facilities.

Decision: Pre-App Charging Fee Advice Released

Decision Date: 08/07/2015

Reference: CB/12/04305/FULL

Proposal: Construction of a two classroom modular unit.

Decision: Granted

Decision Date: 28/03/2013

Reference: CB/10/03151/REG3

Proposal: Erection of canopy to provide sheltered play area

Decision: Granted

Decision Date: 12/11/2010

Reference: CB/09/05647/FULL

Proposal: Erection of single storey extension with canopy to increase size of existing classrooms and provision of landscaping to play area.

Decision: Granted

Decision Date: 21/10/2009

Case Reference: SB/06/01444

Proposal: Erection of rear conservatory attached to existing library

Decision: Granted

Decision Date: 26/02/2007

Reference: SB/07/0019

Proposal: Disabled parking space (BC/CC/2007/8) (regulation 3 refers)

Decision: Granted

Decision Date: 23/02/2007

Reference: SB/04/00067

Proposal: Replacement boundary fence with 1.8m palisade fence.

Decision: Granted

Decision Date: 01/03/2004

Reference: SB/01/00012

Proposal: Erection of two storey classroom extension and re-siting of temporary classroom (BC/CC/01/47 refers)

Decision: Granted  
Decision Date: 28/03/2002

Reference: SB/01/00005  
Proposal: Erection of replacement fencing 1.8 m high (Reg 3) (BC/CC/01/0014 refers)  
Decision: Granted  
Decision Date: 12/04/2001

**Consultees:**

Town Council:	No objections.
Highways Officer:	Awaiting comments.
Strategic Transport Officer:	No objection subject to a condition to update existing Travel Plan and for annual monitoring.
Highways:	No objection.

**Other Representations:**

Neighbours	Objections from the following: 2 School Houses, 83, 86, 96, 98, 99, 101, 106 Hadrian Avenue; 8, 13, 15, 18, 19, 26, 49 Goldstone Crescent
	<ul style="list-style-type: none"><li>- Increased noise</li><li>- Insufficient staff car parking provision</li><li>- Existing parking pressures</li><li>- Out of date Travel Plan</li><li>- Out of keeping with the character of the area</li></ul>

**Determining Issues:**

The main considerations of the application are;

1. Principle
2. Design and Impact Upon Neighbouring Occupiers
3. Parking and Highway Considerations
4. Other Considerations

**Considerations**

**1. Principle**

- 1.1 The Academy has recently seen an increase in pupils and staff following a programme of conversion from a lower school to a primary school. The accommodation requirements of the school have also increased, and staff have identified a need for improvements to the dining facilities. To accompany this, there is an aspiration to provide additional 'out of school' classrooms that can also be used independently from the main school.
- 1.2 The NPPF states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities and that Local Planning Authorities should take a proactive, positive and collaborative approach to meeting this requirement and to development that will widen choice in education. They should:

- give great weight to the need to create, expand or alter schools; and
- work with school promoters to identify and resolve key planning issues before applications are submitted.

1.3 Furthermore, the proposed extension would complement and harmonise with the existing building and would not have a detrimental impact upon the street scene and would thus conform with policy BE8 of the South Bedfordshire Local Plan Review.

## **2. Design and Impact Upon Neighbouring Occupiers**

2.1 The extension would be single storey to match the existing building, with buff/brown brick and white uPVC or timber windows and white fascias. There would be a flat roof to keep the profile low and harmonise with the surrounding buildings.

2.2 Maintaining light levels has been considered and addressed by the addition of roof light lantern lights to the existing flat roof of the stage/dining area, as well as the proposed introduction of a glazed, covered courtyard option. New roof lights would be added to the existing classrooms (6 & 7), again to compensate for any loss of light from the extensions. There would be windows and double doors to match the existing building in the new out of school classrooms.

2.3 Materials used for the first floor extension would match the existing school building, with brown brick and white uPVC or aluminium windows. Fenestration detailing would also match the existing building.

2.4 The extension would lie some 40m from the nearest residential properties (number 101 Hadrian Avenue and 47 Carterways) and as such, potential for overlooking is minimal.

## **3. Parking and Highway Considerations**

3.1 Several objections have been made with regard to the existing on-street parking pressures both in Hadrian Avenue and Goldstone Crescent. The objections mainly focus upon staff parking all day in Hadrian Avenue and also the indiscriminate parking of parents at both drop-off and collection times.

3.2 It is important to note that the school have stated that there are to be no staff or pupil increases and that the proposal would improve facilities for existing staff and pupils, as a result of this, the Highways Officer has no objections.

3.3 The school are committed to improving relations with local residents and have recognised that there may be a shortfall in the number of staff parking spaces that are available within the school grounds and have proposed an additional four spaces to be associated with this proposal. A previous application (CB/12/04305) detailed an additional 8 spaces, however, it is understood that these spaces were not clearly marked out within the school grounds, therefore, it is considered appropriate to ensure a final parking scheme detailing an additional 4 spaces (as stated in the accompanying information submitted with the application) be required and secured by condition.

3.4 The application has also provided an opportunity to secure an update to the school's travel plan, which should help ease existing parking problems at drop-off and pick-up times. As such, subject to the imposition of the recommended conditions, it is considered that the proposal would have a beneficial impact on parking and wider highway safety and capacity.

#### **4. Other Considerations**

##### **4.1 Human Rights issues:**

The proposal raises no Human Rights issues.

##### **4.2 Equality Act 2010:**

The Design and Access Statement that accompanied the application states that entry to the proposed out of school classrooms would be level, step-free and accessible to all. Making the classrooms accessible has informed the design concept from the outset. There would be a new DDA / Adult WC introduced as part of the proposed development. The covered courtyard area also would be level and step free.

4.3 For the extension to the raised stage dining area, there is an existing platform lift which allows access from the raised area to the front of the school.

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

Reason: To safeguard the appearance of the completed development by ensuring that the development hereby permitted is finished externally with materials to match the existing building in the interests of the visual amenities of the locality.

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

- 3 Before the building is first brought into use, the school Travel Plan shall be updated and submitted to and approved by the Local Planning Authority. The plan shall contain details of:

- a. plans for the establishment of a working group involving the School, parents and representatives of the local community;

- b. pupil travel patterns and barriers to sustainable travel;
- c. measures to encourage and promote sustainable travel and transport for journeys to and from school;
- d. an action plan detailing targets and a timetable for implementing appropriate measures and plans for annual monitoring and review;
- e. measures to manage the car parking on site.

All measures agreed therein 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.

- 4 Prior to the commencement of the construction of the extension hereby approved, the parking scheme shown on Drawing No. 376-101B shall be completed. The scheme shall thereafter be retained for this purpose.

Reason: To ensure the additional proposed parking is implemented in order to minimise on-street parking in Hadrian Avenue.  
(Section 4, NPPF)

- 5 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 376-101B, 380-101A, 380-102A, 380-103A, 380-104A, 380-105B & 380-106B.

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

#### **INFORMATIVE 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 National Planning Policy Framework (NPPF).
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 applicants attention is drawn to their responsibility under The Equality Act 2010 and with particular regard to access arrangements for the disabled.

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

These requirements are as follows:

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

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

For further information on disability access contact:

The Centre for Accessible Environments ([www.cae.org.uk](http://www.cae.org.uk))  
Central Bedfordshire Access Group ([www.centralbedsaccessgroup.co.uk](http://www.centralbedsaccessgroup.co.uk))

4. 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**

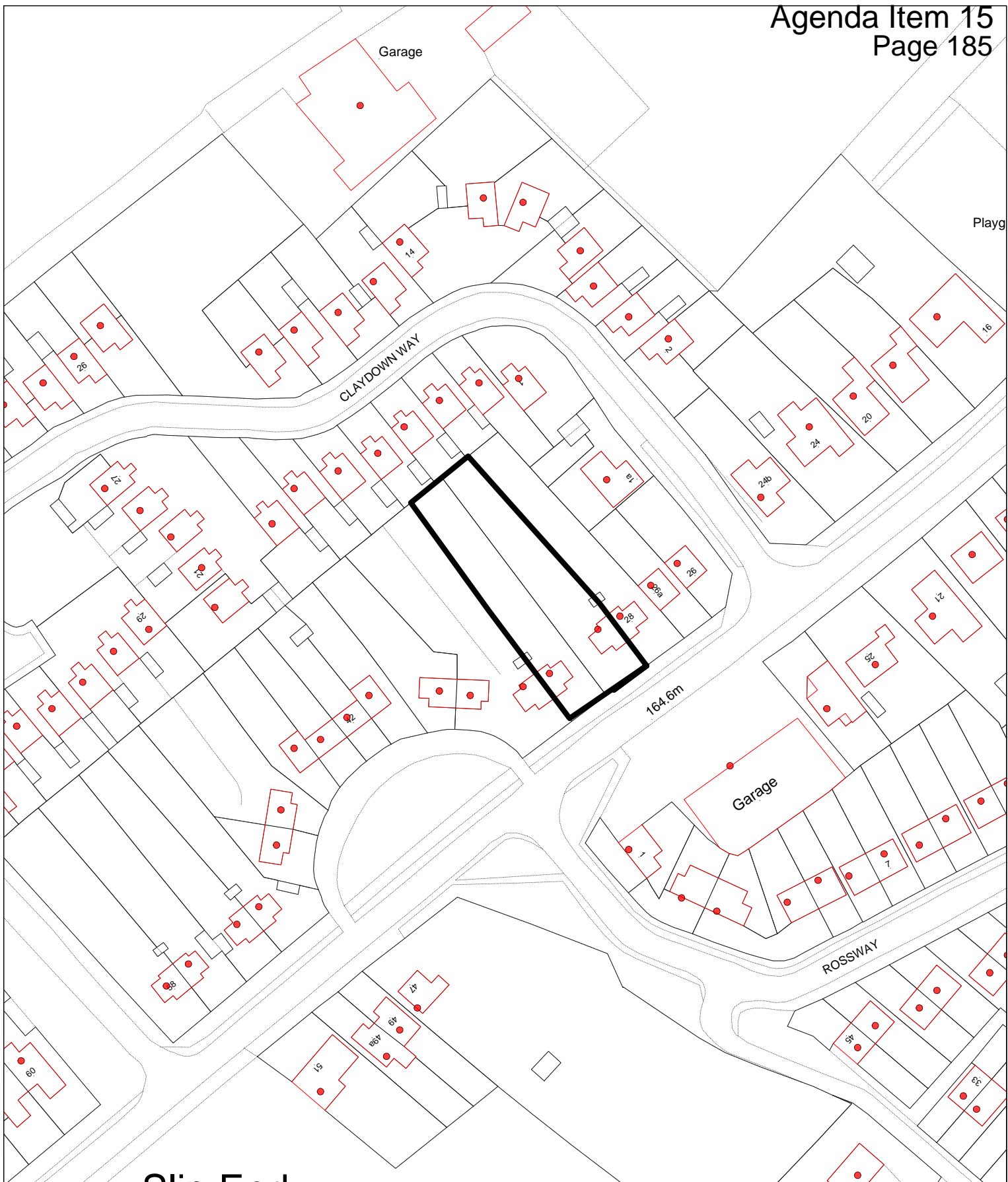
The Council acted pro-actively through early engagement with the applicant at the pre-application stage which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and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

**DECISION**

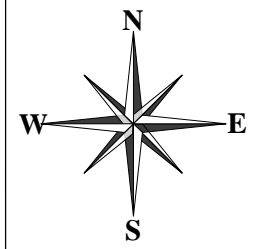
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Slip End



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Central Bedfordshire Council  
Licence No. 100049029 (2009)  
Date: 19:November:2015  
Grid Ref: 507807; 218394

Application No.  
CB/15/03779/FULL

Scale: 1:1250

Land rear of 30-32 Markyate Road, Slip End, Luton, LU1 4BX

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**Item No. 15**

<b>APPLICATION NUMBER</b>	<b>CB/15/03779/FULL</b>
<b>LOCATION</b>	<b>Land rear of 30-32 Markyate Road, Slip End, Luton, LU1 4BX</b>
<b>PROPOSAL</b>	<b>Two new houses with garages</b>
<b>PARISH</b>	<b>Slip End</b>
<b>WARD</b>	<b>Caddington</b>
<b>WARD COUNCILLORS</b>	<b>CIlrs Collins &amp; Stay</b>
<b>CASE OFFICER</b>	<b>Nicola Darcy</b>
<b>DATE REGISTERED</b>	<b>01 October 2015</b>
<b>EXPIRY DATE</b>	<b>26 November 2015</b>
<b>APPLICANT</b>	<b>Burgundy Developments Ltd</b>
<b>AGENT</b>	<b>A. P Whiteley Consultants Ltd</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Called to Committee in the public interest at the discretion of the Development Infrastructure Group Manager</b>
<b>RECOMMENDED DECISION</b>	<b>Full Application - Recommended for refusal</b>

**Summary of Recommendation**

The proposed dwellings would have an unacceptable relationship with the character and appearance of the area and would have an overbearing impact upon adjoining neighbouring occupiers. The proposal is therefore considered to be contrary with the National Planning Policy Framework, policies BE8, H2 and T10 of the South Bedfordshire Local Plan Review.

**Site Location:**

The application site is located to the rear of a line of houses situated on the northern side of Markyate Road in Slip End. The prevailing character of the immediate locality comprises modestly sized, two storey dwellings arranged in a linear development incorporating a small crescent, with long gardens that back onto a development to the rear of the site (Claydown Way) comprising detached, two storey dwellings with short rear gardens.

**The Application:**

Planning permission is sought for two detached, four bed dwellings with detached garages. Access is to be taken between numbers 30 and 32 Markyate Road.

Accommodation would be split over three floors, with the fourth bedroom proposed in the roofspace. Garden lengths would be 12.8m.

**RELEVANT POLICIES:**

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

The National Planning Policy Framework (NPPF) was published on 27th March

2012 and replaced most of the previous national planning policy documents PPS's and PPGs. The following sections of the NPPF are considered relevant to this application.

- Section 4 – Promoting Sustainable Transport
- Section 6 – Delivering a wide choice of high quality homes
- Section 7 - Requiring Good Design
- Section 8 – Promoting healthy communities

### **South Bedfordshire Local Plan Review Policies**

Policy BE8 Design Considerations  
Policy H2 Making Provision for Housing via “Fall-in” sites  
Policy T10 Controlling Parking in New Developments  
*(Having regard to the National Planning Policy Framework, the age of the plan and the general consistency with the NPPF, policies BE8 & H2 are still given significant weight. T10 is afforded less weight.)*

### **Development Strategy**

At the meeting of Full Council on 19 November 2015 it was resolved to withdraw the Development Strategy. Preparation of the Central Bedfordshire Local Plan has begun. A substantial volume of evidence gathered over a number of years will help support this document. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our website as material considerations which may inform further development management decisions.

### **Supplementary Planning Guidance**

Central Bedfordshire Design Guide Revision, March 2014

### **Relevant Planning History:**

Reference: CB/14/01145/PAPC  
Proposal: Pre-application non householder charge: Erection of two new dwellings  
Date: 09/05/14

### **Consultees:**

Slip End Parish Council      The Parish Council objects to this application on the grounds of;

1. Inappropriate infill
2. Exiting properties onto a zebra crossing
3. Tandem Housing
4. Fire Engine access
5. Car parking density not to guidelines
6. Room dimensions below CBC guidelines

### **Other Representations:**

Neighbours                      1,1a, 3, 5, 7, 9, 11, 17 Claydown Way  
- Contrary to neighbourhood plan

- Inadequate access for fire and rescue vehicles
- Conflict with pedestrian crossing
- Inadequate garage sizes
- Inadequate back to back distance for three storey dwellings
- Out of keeping with the character of the area
- Overbearing impact
- Higher roof ridges compared with Claydown Way
- Loss of privacy and light

Highways

No objection subject to several informative notes.

Tree and Landscape Officer

*There were no significant concerns to be noted regarding this site, and any trees could either be easily avoided or mitigated against damage, but trees observed to be either close to, or in the site, were clear of the intended dwelling/garage positions and new driveway.*

*In this respect, any future application would need to have a final design based on a BS 5837 : 2012 Tree Survey, Tree Constraints Plan and Arboricultural Method Statement to allow the designer an informed choice to avoid any tree conflict.*

In recognition of the above comments, although no tree survey has been made to support the application, the two units and associated car parking appear to be sufficient distance away from the mature tree in the garden of No. 34 Markyate Road, so as not to warrant concern. Therefore, on this basis, I have no objection to the application.

**Determining Issues:**

The main considerations of the application are;

1. Principle
2. Affect on the Character and Appearance of the Area
3. Impact Upon Residential Amenity
4. Highway Safety Considerations
5. Other Considerations

**Considerations**

**1. Principle**

- 1.1 Recent national advice within the National Planning Policy Framework (NPPF) states in Annex 2 that the definition of previously developed land excludes private residential gardens. There is therefore no longer a presumption in favour of re-developing residential gardens. It should be noted that this advice does not place a blanket ban on the re-development of residential gardens. Each case still has to be treated on its own merits having regard to the development plan and other material considerations. The NPPF further advises that the loss of residential gardens should be resisted where harm would be caused to the local

area. (paragraph 53). In this case, the application site was created from the subdivision of the garden space of the existing host dwellinghouses. The remaining garden for the original plot and that proposed for the new dwellinghouses would be adequate in terms of Design Guidance but would not reflect the size of the gardens to properties in the locality and thus would not be in-keeping with the established character of the area.

- 1.2 The site lies within the village envelope in a predominantly residential area. Policy H2 of the South Bedfordshire Local Plan Review (SBLPR) encourages the use of existing sites to provide additional accommodation providing that the proposal respects and enhances the character of the surrounding area and would provide good quality living conditions for future occupiers. The building line in the locality is very prominently defined therefore the siting of the dwellings is considered to be out of character with the uniformed building line and grain of development and as such would sit uncomfortably in the rear gardens of numbers 30 and 32 Markyate Road. The proposed size of the dwellings would also appear discordant in the surrounding area where the existing dwellings are significantly more modestly sized with generously sized gardens. There are no developments for dwellinghouses of a similar nature to the rear of any dwellinghouses in the vicinity. This harm would be emphasised by the plot coverage of the development which would appear restricted and hence resulting in a cramped form of development when compared with existing plots. It is considered therefore that the proposed development would have an overall harmful impact on the character and appearance of the locality.
- 1.3 A pre-application enquiry (CB/14/01145/PAPC) was made in respect of the proposed development and positive advice was released with regard to the principle of the development. However such advice is not binding and that advice was not supported by detailed elevations and was tempered by the need for any proposal for the design and scale of the dwellinghouses to complement to the prevailing character of the streetscene. In addition, since that advice was released two applications for similar 'backland' development within residential gardens have been refused in Caddington, the first being land rear of 20 Hawthorn Crescent, (CB/14/02350/FULL) refused on the 11/08/14 and dismissed at Appeal on 28/01/15, the second is land at 73 Dunstable Road, (CB/15/01230/FULL) refused on 2/09/15 currently awaiting an Appeal decision. These applications are considered to be a material consideration in the determination of this application, furthermore, the impact of such proposals can be subjective and further consideration of this proposal has resulted in a difference of officer opinion. Schemes such as these are subjective to the decision maker and in this case, including having regard to the objections of the Parish Council and local residents, the proposal submitted is not considered to be acceptable.
- 1.4 The potential benefits to be had from the development comprising the addition to the village's housing stock including the policy presumption in favour of using land effectively are acknowledged but are not considered sufficient to outweigh the identified harm. The principle of the development is therefore not acceptable and contrary the National Planning Policy Framework and to Policies BE8 and H2 of the South Bedfordshire Local Plan Review and the Central Bedfordshire Design Guide.

**2. Affect on the Character and Appearance of the Area**

- 2.1 Local Plan Policy BE8 states that proposals should take full account of the need for, or opportunities to enhance or reinforce the character and local distinctiveness of the area; and that the size, scale, density, massing, orientation, materials and overall appearance of the development should complement and harmonise with the local surroundings, particularly in terms of adjoining buildings and spaces and longer views.
- 2.2 Design Supplement 1 of the Central Bedfordshire Design guide states that proposals should be visually distinctive and should be designed as a sensitive response to the site and its setting.
- 2.3 The streetscene consists of identically sized dwellings and as such it is considered that the scale of the proposed houses would be incongruous with the character of the locality. Given the overall bulk and massing, the proposed development would appear intrusive when viewed from the adjoining gardens and would therefore detract from the character and appearance of the area. The proposal fails to conform with the principles of good design within the National Planning Policy Framework and Policies BE8 and H2 of the S.B.L.P.R and the Central Bedfordshire Design Guide.

**3. Impact Upon Residential Amenity**

- 3.1 The proposed dwellinghouses would be higher than those in close proximity to the site, however, there would be adequate separation between the backs of the proposed houses and those in Claydown Way (21.5m), it is therefore unlikely that the development would result in any loss of light or privacy to any main rooms in adjacent dwellinghouses. However, due to the close proximity of the proposed dwellinghouses to the adjoining boundaries shared by properties in Markyate Road (namely numbers 28 & 34), the development is considered to be overbearing when viewed from the gardens of these properties.
- 3.2 On this basis, it is considered that the proposal would result in an unacceptable overbearing impact upon neighbouring occupiers and as such is considered to be contrary to the National Planning Policy Framework and Policies BE8 and H8 of the South Bedfordshire Local Plan Review and the Central Bedfordshire Design Guide.

**4. Highway Safety Considerations**

- 4.1 The Highways Officer has stated that the applicant has taken on board all of the previous pre-application comments, apart from indicating the visibility but given the width of the footway and verge, adequate visibility is achievable without the need for additional splays. In addition, it is noted that the size of the garage does not meet design guide requirements, however as additional cycle storage is indicated there is no reason for objection.
- 4.2 On this basis, the Highways Officer has raised no objection to the granting of this permission subject to the imposition of several informative notes and therefore it is considered that the application would conform with policy T10 of the South Bedfordshire Local Plan Review and the parking standards of the Central Bedfordshire Design Guide as amended March 2014.

## **5. Other Issues**

### **5.1 Financial Contributions**

The Council's adopted Planning Obligations Strategy seeks the use of pooled contributions towards necessary infrastructure projects. However, the Ministerial Statement of 28th November 2014 stated that projects of 10 dwellings or under should not be required to deliver affordable housing or tariff style contributions. This is a material consideration in the determination of this application which should be given significant weight. Given the size of the development, it is not considered that the proposal would place a quantifiable material impact on existing infrastructure and therefore, in this case it is considered that the proposal would not conflict with the requirements of the National Planning Policy Framework to provide sustainable development..

### **5.2 Human Rights issues**

The proposal raises no Human Rights issues.

### **5.3 Equality Act 2010**

The proposal raises no issues under the Equality Act.

## **Recommendation**

That Planning Permission be REFUSED for the following:

## **RECOMMENDED REASONS**

- 1 The proposed development would because of its siting to the rear of the strong building line appear incongruous and cramped, out of character with the existing uniform grain of development and with adjoining dwellings in the locality. The overall scale and bulk of the proposed dwellinghouses are out if keeping with the existing character of the dwellings 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 and the Central Bedfordshire Design Guide.
- 2 The proposed development would, because of its size and close proximity with the boundaries of numbers 28 and 34 Markyate Road, appear unduly overbearing and result in an unacceptable impact upon adjoining properties. The proposal is therefore contrary to the principles of good design principles within the National Planning Policy Framework and to Policies BE8 and H8 of the South Bedfordshire Local Plan Review.

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

The Council acted pro-actively through early engagement with the applicant at the pre-application stage. This positive advice has been revisited and due to the outcome of applications since that advice was given, the development is now not considered to be acceptable. 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.



**DECISION**

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**Meeting:** Development Management Committee  
**Date:** 9 December 2015  
**Subject:** Determination of an application to add a claimed  
bridleway through the Crown Hotel and yard,  
Biggleswade  
**Report of:** Paul Mason – Head of Highways  
**Summary:** The report proposes that a Definitive Map modification order be made to add a public footpath to the Definitive Map and Statement through the Crown Hotel and its rear yard between High Street and Church Street, Biggleswade. It is also proposed that enforcement action be taken to remove security fencing that obstructs the bridleway to enable free use of the bridleway ahead of a legal order being made.

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

**RECOMMENDATIONS:**

**The Committee is asked to approve:-**

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

## Introduction

1. Mr. Darren Woodward submitted an application on 22 October 2014 under Section 53 of the Wildlife and Countryside Act 1981 (*“the 1981 Act”*) to have a public bridleway added to the Definitive Map and Statement from Church Street through the Crown Hotel’s yard to the High Street. A bridleway gives members of the public the right to pass and repass on foot, on horseback or leading a horse or on or pushing a bicycle.
2. JD Wetherspoon purchased the Crown Hotel, High Street, Biggleswade from Greene King plc. in mid-November 2013. The pub was subsequently closed and (at about this time) the claimed route was obstructed by security fencing pending the successful application for planning consent by JD Wetherspoon to develop the site. This application (CB/14/03126/LB) received planning consent on 19 February 2015. The proposed redevelopment seeks to fill in the passageway through the front of the building which gives access to the yard and Church Street to the rear. If this happens it would completely obstruct the claimed public bridleway – hence Mr. Woodward’s application.
3. The Council’s Development Management Committee resolved at its 24 June 2015 sitting that the evidence considered by the Committee and included in this report should be independently appraised by Counsel. Counsel’s Opinion has now been received and the legal advice incorporated in this revised report.

## Legal and Policy Considerations

4. The legal and policy considerations relating to an application to record a public right of way on the Definitive Map and Statement are detailed in Appendix B; the following sections provide a summary of the main points.
5. Section 53(5) of the Wildlife and Countryside Act 1981 permits any person to apply to Central Bedfordshire Council, as the Surveying Authority for the Definitive Map and Statement, for an order to modify the Definitive Map and Statement if they consider these are in error and need correcting. The Council has a duty to keep the Definitive Map and Statement up to date and make any changes that are required. In doing so, the Council has to consider whether the evidence shows, on a reasonable allegation, that the Definitive Map needs modification to add the claimed route.
6. Mr. Darren Woodward has applied to add a public bridleway to the Definitive Map and Statement on the ground that it subsists or is reasonably alleged to subsist, having been a way used both on foot and with pedal cycles. Mr. Woodward’s application is being dealt with out of turn due to the irreversible threat to the route by the proposed development and also because the area is already being investigated as part of a project to map unrecorded public rights of way in the urban centre of Biggleswade.

7. Section 31 of the Highways Act 1980 (*“the 1980 Act”*) requires the Council to deem that a way has been dedicated as public right of way if it has been used *“as of right”* and without interruption by the public for a full 20 years prior to the public’s right to use the way being called into question. In this case the action that has called into question the public’s right to use the claimed bridleway has been the erection of security fencing in late November 2013. The relevant 20 year period is therefore November 1993 – November 2013. The term *“as of right”* means without force, without stealth and without permission.



High Street - fencing across passageway



Church Street – fencing across car park entrance

8. The Council also has to consider whether there is any evidence of a contemporaneous non-intention to dedicate by the owners of the land; this can be evidenced by erected signs or challenges of the users. The route must also be capable of dedication at common law. During the relevant period the land (the Crown Hotel’s yard) was owned by Greene King plc. It appears from the evidence given by user surveys and statements that during this time many of the inhabitants of Biggleswade used the claimed route as a cut-through. The route is capable of being dedicated at common law and none of the users have reported any challenges or interruptions during the relevant period.
9. The legislative tests for the Council being able to deem under section 31 of the 1980 Act that a public right of way subsists are summarised above and described in detail in Appendix B. When considering whether a public right of way does or does not exist, the Council cannot consider ancillary matters such as privacy, security, need or convenience or the effect that any added public right of way would have on the proposed redevelopment of the Crown Hotel by JD Wetherspoon; this has been established by the case of *Mayhew v Secretary of State for the Environment [1992]*. Moreover, the proximity of alternative routes – such as Abbot’s Walk should also be disregarded.
10. The Committee should have regard to the fact that if it is satisfied that a public right of way exists it will also need to consider whether action should be taken to make that route open and available for public use. The Council has the power to remove any obstruction on a public right of way under Sections 143 and 137 of the Highways Act 1980. The Council also has the power to extinguish or divert any public right of way affected by development under the Town and Country Planning Act 1990 and or Highways Act 1980.

## Historical Evidence

11. A large number of historical documents at the Bedfordshire and Luton Archives have been investigated to try and establish whether a public right of way subsists over the claimed route. None of the documents viewed, see Appendix C, specifically record any public right of way through the Crown Hotel. However, this was not the purpose of most of these documents. Whilst many of the documents show that a route through the Crown Hotel has been physically available for many years, this evidence is insufficient to demonstrate that a public right of way subsists over it. This is also the view of Counsel instructed to appraise the evidence before the Committee.

## User Evidence

12. The applicant and the Biggleswade History Society have both submitted evidence of more recent public use of the route through the Crown Hotel's yard. Other Biggleswade residents (and ex-residents) have independently submitted letters and e-mails describing their use of the claimed route. This evidence is described in detail in Appendix D and summarised below.
13. Mrs. Jane Croot, the editor for the Biggleswade History Society canvassed a significant number of elderly residents close to the Crown Hotel as well as people collecting children from St. Andrew's Lower School as the claimed route is the most convenient route for these people. Thirty three of those surveyed have stated that they have used the Crown yard route between 1992 and 2013 - which is the relevant period for deemed dedication under Section 31 of the Highways Act 1980. As these results were from a quick survey there is no specific information relating to signs, challenges or any permissive use. However, none of the people canvassed mentioned any of these things in the "remarks" section of the survey form. By contrast some of the signatories did claim to use the route "regularly" or "all the time". The results, whilst lacking in detail do give a picture of public use of the Crown Hotel's yard as a public thoroughfare from at least as early as the 1920s.
14. The applicant has supplied ten user evidence forms which detail the use of the claimed route through the Crown Hotel. These document public use between 1968 and late 2013 and bolsters the public use within the relevant 20 year period evidenced by the Biggleswade History Society survey. More importantly it provides the necessary detail relating to user "*as of right*"; none of the ten users who submitted statements reported either being challenged or seeing prohibitive signs on the route. None were interrupted in their use prior to the security fencing being erected. Unfortunately none of the users have given a precise date for the erection of this fencing – believed to be in late November or early December 2013. Eight people were interviewed and described their use of the claimed route in detail.
15. Four of the people who submitted user evidence forms stated they had cycled the claimed route – as did two others who contacted the Council independently. Three cyclists used the claimed route for the full 20 years and three for periods of between eight and ten years during the relevant 20 year period. This level of public use is above that previously addressed by the courts in the case of *Whitworth 2010* (see Appendix B for further details of this case) which concerned a rural route. Whilst setting less of a precedent, an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs considered that ten users of an

urban route close to the centre of Scarborough was insufficient to demonstrate use by the public rather than by a few individuals. Likewise, Counsel's received Opinion is that the weight of evidence of cycling use through the Crown Hotel is insufficient to reasonably allege that a bridleway subsists. Consequently, whilst there is evidence of cycle use this is insufficient to cause the Council to deem that a dedication of a route for cyclists (a bridleway) has occurred.

### Consultation Responses

16. A consultation was carried out with Biggleswade Town Council, Biggleswade Historical Society, local ward members, P3 volunteers, the local Ramblers Representative, and a number of local residents.
17. Biggleswade Town Council has been consulted. The Town Clerk has responded stating the "...*Council have asked that I write to you to insist that an application is made to register the Crown walkway as a footpath on the definitive map....*". A further request from the Deputy Town Clerk was "...*the Council has asked that the route be re-opened with the possibility of the [security] fencing being moved to the boundaries of the route if required, i.e. between the route and the building, rather than sealing off the route....*".
18. Witcomb Project Management Ltd. act as architects for JD Wetherspoon. They have expressed disappointment of the Council's interest in investigating the claimed public right of way. McLellans Solicitors act for JD Wetherspoon and provided legal advice on the matter of a potential public right of way through the Crown Hotel as part of the original planning application. This legal advice was seriously flawed in several ways - namely:
  - It did not consider deemed dedication under S.31 of the Highways Act 1980 or inferred dedication at common law.
  - It did not consider that use of the claimed route was for other purposes that accessing either the brewery or the c.2005/6 Asda supermarket.
  - The proximity of Abbot's Walk to the Crown Hotel and fact that the yard of the Crown Hotel's exit does not have a pedestrian crossing are irrelevant to the issue of whether public rights subsist over the claimed route.
  - The assertion that it would be disproportionate to claim a route through the Crown yard due to the disruption this would cause to the new owners of the land is irrelevant at law (*Mayhew 1992*) to the issue of establishing whether a public right of way already exists through the property.
19. JD Wetherspoon was given an early draft of the previous committee report and appendices in late 2014. McLellans Solicitors, acting for JD Wetherspoon commented on the report stating that the various historic maps cannot evidence the status of the route. Other historic evidence is anecdotal and unsupported and does not support continuous use by the public to the time the public's right to pass and re-pass was called into question. McLellans states that the tithe map does not show a road through the Crown Hotel and the 1833 Assizes report merely indicates that the witnesses were at the location – not necessarily exercising any public right.

20. In response, the report acknowledges at Paragraph 11 above that none of the historic documents investigated specifically record any public right of way through the Crown Hotel but these do show that a route has been physically available for use for over 180 years. Counsel's Opinion on the veracity of the historic evidence confirms that there is insufficient historic evidence to demonstrate the subsistence of a public right of way.
21. McLellans also comments on the poor quality of the user evidence, stating that public use of the route prior to the relevant period (1993 – 2013) cannot count towards evidence for deemed dedication and that the Biggleswade History Society's survey did not differentiate between sporadic and continuous use or the frequency, time of day or purpose for their use. McLellans also points out that only two users have used the claimed route for the full 20 year period. The evidence of Messrs Ball and Page was initially discounted as occurring prior to the relevant period. McLellans also cite the *Whitworth [2010]* appeal case to counter the use by a single cyclist as warranting the making of an order to record a public bridleway; it argues that if any order be made it should be to record only a public footpath.
22. In response, it should be noted that following the comments by McLellans a number of late submissions by the applicant increased the number of user evidence forms to ten. A statutory declaration by Mr. Page has also subsequently been received as well as statements from a number of other individuals. It is accepted that the results of the Biggleswade History Society's user survey are without detail. However, this does show that 33 people used the route during the relevant period – 23 for the full 20 years. Why and when they used the route is irrelevant if the use was "*as of right*". Similarly, with this number of users, a high frequency of use or individual use for the full 20 year period is not required. Following the submissions made by McLellans, eight witnesses were subsequently interviewed and their evidence incorporated into Appendix D. The use by Messrs. Ball and Page and Cllrs. D. and J. Lawrence is both within the relevant period as well as preceding it by several decades and is thus qualifying use.
23. JD Wetherspoon instructed Mr. Ollech of Counsel to represent its interests at the 24 June 2015 sitting of the Development Management Committee. Mr. Ollech asserted that the evidence detailed in that report was insufficient to allow the Council to make a definitive map modification order. As a result, the Council has sought and received Counsel's Opinion of the evidence. Counsel considers that the pedestrian use is sufficient to require the Council to comply with its statutory duty to make a modification order to add a footpath to the Definitive Map and Statement. However, Counsel considered that even though user interviews and late submissions have clarified and bolstered the cycling evidence, the six people who have stated that they had cycled the claimed route is not sufficient for the Council to reasonably allege that cycling rights subsist.
24. Mr. Desmond Ball has written and telephoned the Council concerning the blocked entrance to the Crown Hotel. Mr. Ken Page has submitted a statutory declaration concerning the history of the claimed route to the local Town Council. Mrs. Jane Croot, editor for the Biggleswade History Society, has submitted a user survey and other historic documentation as part of its objection to the planning application for the Crown Hotel. These are discussed in more detail at Appendix D and summarised below.



25. Mr. Ball has asserted that as a former employee of the Biggleswade Urban District Council (“BUDC”) he assisted with a rights of way survey in the 1950s and that the Crown Hotel yard was considered a public through-route. Indeed he alleges that the BUDC carried out publicly funded repairs to the route sometime in the late 1940s or 1950s. There is no corroborating documentary evidence of this or that the brewery disputed the public status of the claimed bridleway. However, Mr. Page was employed by the brewery to look after its property records during the same period and recalls that it welcomed the works by the BUDC to maintain the claimed route. Mrs. Temple, another witness and a former employee of the Crown Hotel owned by the brewery has stated that the landlord told her the claimed route was a public right of way.
26. Mr. Ball has also stated that the Crown Hotel’s yard was used as access to the school which used to exist on Church Street (previously Brewery Lane) as well as to a number of smaller shops which people again accessed from the High Street via the Crown Hotel’s yard. There was even a barber and dentist actually within the yard of the Crown Hotel. Mr. Ball also recalls that many people used to walk down Chapel Fields from Cowfair Lands and access the Market Square and High Street via the Crown Hotel’s yard as the current cut-through (Abbot’s Walk) didn’t come into being until c.1978. This newer route is not recorded as a public right of way.
27. Mr. Ken Page is local historian and ex-employee of the brewery and has submitted a statutory declaration describing his extensive knowledge of the Crown Hotel. He and his friends regularly used the Crown Hotel’s yard route in the 1930s as a pedestrian route to get to and from the junior school in Church Street. The claimed route was also used by brewery workers going to and from the brewery in Church Street. Mr. Page states that he has no knowledge of the route ever being closed or public use challenged in his lifetime until the erection of the security fencing in early 2014. Mr. Page also stated that long ago drovers herded cattle south from Biggleswade Common along Sun Street and then into Chapel Fields and through the Crown Hotel’s yard into the Market Square to access to the cattle markets.
28. Mrs. Jane Croot, the editor for the Biggleswade History Society, submitted a lengthy objection against the proposed re-development of the Crown Hotel. Much of the Society’s grounds for objection were based on the historic nature of the public thoroughfare though the Crown Hotel. As part of the objection she submitted a user survey consisting of 51 people which describes public use of the route since the 1930s (see Appendix D). She has also asserted that the route was historically used as part of the cattle trail from Biggleswade Common – something supported by a leaflet in the Bedfordshire and Luton Archives on the origins of the Market House Café.
29. Biggleswade P3 Group and the Ramblers have not responded to the consultation.
30. Following consultations with the local ward members for Biggleswade North and Biggleswade South, Cllrs. Jane and David Lawrence have responded to say that they have both lived in Shortmead Street since 1978 and until Asda was built (c.2005/6) used to use the claimed route “...through the Crown to go to the Market Square from Brunts Lane and Chapel Fields. More recently because of ASDA we tend to use Abbots Walk...”.

31. A number of unsolicited e-mails have also been received by the Council concerning the claimed route through the Crown Hotel. Out of the six e-mails received, four people stated that they had used the route; two supported the path's retention; four indicated it should either not be retained or could be moved; and four supported the proposed development by JD Wetherspoon (see Appendix D)

#### **Council Priorities:**

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

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

#### **Legal Implications:**

33. Section 53 of the Wildlife and Countryside Act 1981 permits a member of the public to apply to the Council, as Surveying Authority for the Definitive Map and Statement, if it considers that the map or statement is in error. The Council has a duty to keep the map and statement correct and up to date and to make any requisite orders to modify the map and statement. Definitive Map modification orders are based on evidence – normally a combination of historic documents and contemporary user evidence. To make an order the Council's Development Management Committee ("*the Committee*") must be satisfied that the evidence shows that it is reasonable to allege that a public right of way subsists. If the order is objected to the Secretary of State will use a stricter test of "balance of probability". The evidence in the report appears to meet the stricter test.
34. The Committee resolved at its 24 June 2015 sitting that Counsel's Opinion be sought on the veracity of the evidence presented. Counsel considers the evidence to be such as to trigger the Council's duty to make a modification order under the 1981 Act to record a footpath through the Crown Hotel.
35. If the Committee agrees with Counsel's Opinion and is satisfied that a public right of way does subsist – and thus ought to be recorded – it has a further duty under Section 130 of the Highways Act 1980 to assert and protect the rights of the public to use the route. The Council has the power to remove any obstruction under Sections 143 and 137 of the 1980 Act. If the Committee resolves that the obstruction should remain in place then the Council is at risk of being taken to the Magistrates' Court under S.130B of the Highways Act 1980 for failure to comply with its duty to assert and protect the rights of the public.
36. The applicant, Mr. Woodward, applied to have a bridleway recorded on the Definitive Map and Statement. If the Committee resolve that a footpath should be added instead, Mr. Woodward does not have a right under the 1981 Act to appeal this decision. He could, however, apply to the High Court for judicial review of the

Committee's decision not to make an order adding a bridleway.

37. On 19 February 2015 the owner, JD Wetherspoon, received planning consent to develop the Crown Hotel. However it cannot act on this consent until any public right of way - whether officially recorded or not – has been legally extinguished or diverted. JD Wetherspoon has the option of applying under either the Town and Country Planning Act 1990 or the Highways Act 1980 to either stop-up or divert the claimed right of way in order to enable the proposed development to take place.

#### **Financial Implications:**

38. The Council has a statutory duty to investigate and determine applications to modify the Definitive Map. Consequently the costs of such investigations are borne by the Council out of the existing Rights of Way Team budget. The administrative cost of this case so far is estimated to be approximately £6000.
39. The last resolution of the Committee that Counsel's Opinion should be sought on the veracity of the evidence has cost the Council £2700. These legal fees have been paid from the Rights of Way Team's budget.
40. The costs of advertising the making and confirmation of the proposed modification order is estimated at £550. However, as the order is likely to be opposed by JD Wetherspoon, the order must be forwarded to the Secretary of State for Environment, Food and Rural Affairs for confirmation. This is likely to cost the Council approximately £1000 in additional administration and possible venue hire should a public inquiry or hearing be required. Should further external legal advice or advocacy be required at an inquiry, this could cost potentially between £1000 and £3000. Again these costs will need to be met out of existing Rights of Way Team budgets.
41. If the Committee resolves that a modification order should be made, the Council will seek the removal of the security fencing currently obstructing the route. This would be moved at the expense of the land owner, JD Wetherspoon, as would any legal expenses incurred by the Council in securing the compliance of the owner.

#### **Risk Management Implications:**

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

#### **Equalities Implications:**

43. The Wildlife and Countryside Act 1981 is concerned only with whether public rights already do, or do not exist. Consequently the primary legislation of this Act takes precedence over the Council's statutory duty placed upon it by the Human Rights Act 1998 to have regard to a person's right to privacy and security. The proposed modification order would recognise the existence of a public right of way. In doing

so it would prejudice the re-development of a business. However the business does have a right to object and be heard by an independent Inspector. It also has the opportunity to apply for the diversion or extinguishment of any public right of way that is ultimately added to the Definitive Map and Statement.

44. The proposal would not discriminate against any particular group of local residents. If the proposal succeeds in the recording of a public right of way, the Council does have a duty under the Equalities Act to ensure that it is usable as far as reasonably practicable by all members of the public. The route is currently fairly level and surfaced. Consequently if the obstructions were removed it would be suitable for use by disabled people and mobility scooters.

#### **Community Safety Implications:**

45. 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 footpath does mean that the current car park to the Crown Hotel would be shared by pedestrians accessing the passageway through to High Street. However, it must be recognised that this proposal merely formalises the informal access situation that existed prior to November 2013. As a recognised public right of way the Council will be able to monitor and take any necessary steps to mitigate any hazards that become evident.

#### **Conclusions**

46. There is no direct documentary evidence to indicate that the claimed route through the Crown Hotel yard has been statutorily created as a public right of way. Mapping and other evidence does suggest that the route has been physically available for use for over 180 years; this though only can lend weight to an inference of a historic dedication of public rights. Evidence of public pedestrian use potentially dates back to 1833. More recent user surveys and statements suggest that the Crown Hotel's yard has been used regularly and to a significant extent by the public at large as a pedestrian thoroughfare since the 1930s. This level of use – which appears to have been unchallenged and “*as of right*” – supports a stronger inference of dedication.
47. User evidence forms and user interviews have provided evidence of significant public pedestrian use of the claimed route during the relevant 20 year period - counting back from the erection of security fencing in late c.November 2013. In the absence of any evidence demonstrating an overt and contemporaneous non-intention by the brewery to dedicate a highway, the Council has a duty under the 1980 Act to deem that a public right of way on foot exists across the curtilage of the Crown Hotel. This view is fully supported by Counsel's Opinion.
48. Evidence of use of the claimed route by bicycles during the relevant 20 year period also exists. However, Counsel's Opinion is that use by six people within an urban environment is insufficient for the Council to reasonably allege that a public right for cyclists (a bridleway) subsists.

49. If the Committee considers that a public right of way (of any status) is deemed to have been dedicated then the current security fencing is an unlawful and unauthorised obstruction – albeit an unintentional one erected on behalf of JD Wetherspoon. Representations from the Town Council and frustrated users indicate that there is a wish to see this route re-opened as soon as possible. This can be done under the powers contained within the Highways Act 1980.

**Appendices:**

Appendix A – Location plan showing Crown Hotel

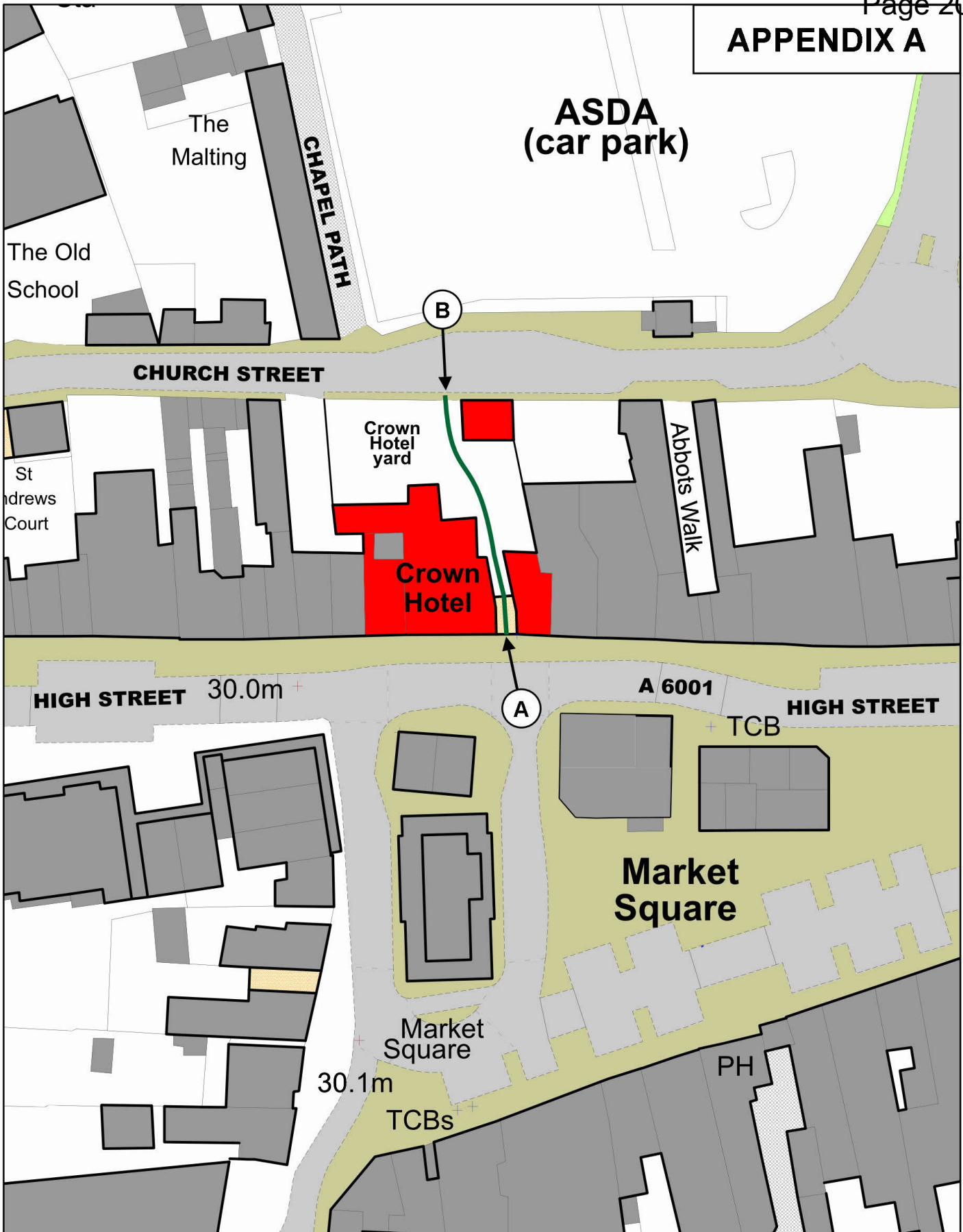
Appendix B – Legal and Policy Considerations

Appendix C – Historic Evidence

Appendix D – User Evidence

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**APPENDIX A**



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Scale 1:781 @A4



WILDLIFE AND COUNTRYSIDE ACT 1981

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

Claimed brideway to be added

**A**            **B**

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

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## APPENDIX B

### Legal and Policy Considerations

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

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

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

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

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

*1A (Omitted)*

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

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

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

*as a highway...*

*(b) has maintained the notice...*

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

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

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

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

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

- B.7. The Asda superstore immediately to the north of the Crown Hotel was built on the old Greene King brewery site which closed in October 1997. The brewery had previously been owned by Wells and Winch (as was the Crown Hotel) and had been on the site since the 17<sup>th</sup> Century. It is very likely that some of the brewery workers walked to work through the Crown Hotel yard. Whilst it is conceivable that the brewery may have given permission for the workers to walk this route, given the more general use by the public it is probably more likely that the brewery assumed that its workers used the route in the same manner as the other inhabitants of the town. This assumption accords with the judgment of McMahon J. in *Walsh & Cassidy v Sligo County Council [2010] IEHC 437, [2009 No 262P]* who found that whilst the users of a way may be known to the owner of the land – and even employed by them or have limited permission to use a route, the use of the route outside this limited consent would constitute “non-precarious” user and thus be “as of right”.
- B.8. The legislative tests for the Council being able to deem under Section 31 of the 1980 Act that a public right of way subsists are described above. The case of *Mayhew v Secretary of State for the Environment [1992] QBD* set out that issues of suitability or desirability – and by analogy: disruptive effects, proximity to alternative routes and need for the route cannot be considered in establishing what rights, if any, exist when determining whether to make a definitive map modification order. Consequently the Committee must disregard any perceived or alleged effect that a public right of way could or may have on the proposed development of the Crown Hotel when coming to its decision.
- B.9. The Council’s 24 June 2015 Development Management Committee resolved that the evidence used by the Senior Definitive Map Officer in coming to his recommendation should be independently appraised by Counsel. Counsel was instructed to take a view as to whether the Council should make an order based upon the evidence before it. Counsel concluded that:

*“...It is my view that the evidence submitted in connection with the Application, considered together with the results of enquires / investigations undertaken by Council officers, is such as to trigger the statutory obligation imposed by section 53(2) and section 53(3)(c)(i) of the 1981 Act. Specifically, I consider that the evidence demonstrates that a right of way which is not shown on the Definitive Map is reasonably alleged to subsist over the Crown Hotel yard, and that as such the Council is obliged to make a Modification Order in respect of the Definitive Map to provide its amendment. I consider*

*that right of way in question is a footpath...*

- B.10. This revised report addresses a number of points made in Counsel's Opinion which, in the main, remains legally privileged and so is not included in the background papers to this agenda item.
- B.11. Witness evidence indicates that the claimed route has been used by six cyclists: three for the full 20 years, and three for periods of 8 - 10 years during the relevant period (see Appendix D). The case of *Whitworth v Secretary of State for Environment, Food and Rural Affairs [2010] EWHC QBD 738 (Admin)* concerned limited levels of public user on a very rural route. In that case Langstaff J. said
- (49) *"...What gave me greater pause for thought was the question and questions raised by whether the user went beyond that which would support a conclusion that there was a bridleway. That involved an evaluation by the Inspector of two forms of transport. The first was the use of a pony and trap by a Mr. Clay. Mr. Clay says he used the pony and trap on a regular basis, it appears probably fortnightly, throughout the period from 1976 onwards... ..I reject the suggestion that if one person uses a pathway so regularly, it cannot give rise to there being a carriageway, when use to a lesser extent in aggregate, but by several different users over the same period, might. What matters is the nature and quality of the use taken as a whole, and whether it is secretly, with permission, with force; those requirements which are well understood as necessary for the establishment of a right of way..."*
- B.12. Langstaff J.'s view on limited user was not dealt with by Carnwath LJ. at the Court of Appeal in *Whitworth & ors V Secretary of State for the Environment, Food & Rural Affairs [2010] EWCA Civ 1468* due to the character of the users. In that case Carnwath LJ. in *obiter* considered it likely that cycle use was the assertion of a private right.
- B.13. By comparison, an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs Bridleways to hear the case of a claimed footpath in the urban centre of Scarborough (North Yorkshire County Council - FPS/P2745/7/44) concluded that 10 users was too insignificant a number for the urban location. This is not though as persuasive as the judgment of Langstaff J. in *Whitworth* which sets a legal precedent. Counsel's Opinion of the current user evidence is that the level of cycling use through the Crown Hotel (see Appendix D) is insufficient to meet the evidential test of *"reasonably alleged to subsist"* and consequently only a public right of way on foot can be considered to subsist.
- B.14. The Countryside Access Team's Applications Policy requires that modification applications be dealt with in strict order of receipt. However, an exception to the policy has been made in this case as the local area is already under investigation as part of an ongoing project to map unrecorded routes within the Biggleswade Excluded Area. Additionally, the claimed route is the subject of planning consent which would permanently

obstruct the claimed route. It is therefore appropriate to process and determine Mr. Woodward's application out of turn.

- B.15. Central Bedfordshire Council's Constitution (Section C of Part E2 at Annex A) identifies the Development Management Committee as the appropriate body to authorise the making of a Definitive Map modification order under the 1981 Act. The Constitution (H3 at Section 4.4.148.) prevents the determination of this application under delegated powers due to the objections to the proposal by the owners of the land, JD Wetherspoon.

### **Enforcement issues**

- B.16. The Council has a duty under Section 130(1) of the Highways Act 1980 to "...assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority...". If the Committee determines that an order should be made to add a public right of way to the Definitive Map and Statement on the grounds that a right subsists, it will need to also consider what action could be taken to make that route open and available for public use. The Council has the power to remove any obstruction under Sections 143 and 137 of the Highways Act 1980.

#### **137 Penalty for wilful obstruction**

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

#### **143 Power to remove structures from highways.**

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

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

- (a) *in the case of a highway which is for the time being maintained by a non-metropolitan district council by virtue of section 42 or 50 above, that council and also the highway authority, and*
- (b) *in the case of any other highway, the highway authority.*
- (2) *If a structure in respect of which a notice is served under this section is not removed within the time specified in the notice, the competent authority serving the notice may, subject to subsection (3) below, remove the structure and recover the expenses reasonably incurred by them in so doing from the person having control or possession of the*

*structure.*

*(3) The authority shall not exercise their power under subsection (2) above until the expiration of one month from the date of service of the notice.*

*(4) In this section “structure” includes any machine, pump, post or other object of such a nature as to be capable of causing obstruction, and a structure may be treated for the purposes of this section as having been erected or set up notwithstanding that it is on wheels.*

### **Planning Consent matters**

- B.17. The role of the Members of the Committee is to determine whether a public right of way does or does not exist along the route claimed by Mr. Woodward through the Crown Hotel. It is not for the Committee to second guess how any added right of way would be managed or impact on any proposed development of the Crown Hotel. However, the following sections seek to answer Members questions on just these issues.
- B.18. On 19 February 2015 the owner, JD Wetherspoon, received planning consent to develop the Crown Hotel. However it cannot act on this consent until any public right of way - whether officially recorded or not – has been legally extinguished or diverted. To do so would be illegal as any development would constitute either an unlawful interference with the surface of the highway or a wilful obstruction of the highway. Consequently JD Wetherspoon, or their agents, will need to apply for a legal order under either the Town and Country Planning Act 1990 or under the Highways Act 1980 to either extinguish or divert the claimed right of way. Development could not begin until any order was confirmed and had come into operation.
- B.19. When considering an application to extinguish the claimed right of way, the nearby Abbot’s Walk cannot be considered as a suitable alternative as this is not a public right of way. The alternative routes therefore are either via Rose Lane to the east or via Shortmead Street to the west. Legislatively these are unlikely to be seen as reasonable alternatives owing to their increased length and circuitousness.
- B.20. The alternative is for JD Wetherspoon to apply to create an alternative public right of way nearby. The nearby Abbot’s Walk is currently extensively used by the public and would provide a suitable alternative route. However, the owner of Abbot’s Walk, Hunting Gate/AC Estates Ltd., has indicated that it would not wish the route to become a public right of way. Under the Town and Country Planning Act 1990 the provision of an alternative route over a third party’s land requires that party to consent to the diversion. As this is not the case, the claimed right of way would need to be diverted under the Highways Act 1980.
- B.21. Under the 1980 Act the owner of Abbot’s Walk has a right to claim compensation where their value of an interest in land has been

depreciated or where they have suffered damage by being disturbed in their enjoyment of the land (Abbot's Walk) in consequence of the coming into operation of a public path order. This (as of yet unquantified) compensation would need to be paid by JD Wetherspoon as the applicant and "donor" of the path. However, if the added right of way was diverted by the Council as part of a Council-generated order rather than consequent to an application by JD Wetherspoon the Council would be liable to pay any compensation sought.

- B.22. The relative narrowness and congested nature of Abbot's Walk would make it only suitable for pedestrian use and consequently any equestrian/cyclists' rights (if established) would need to be extinguished.

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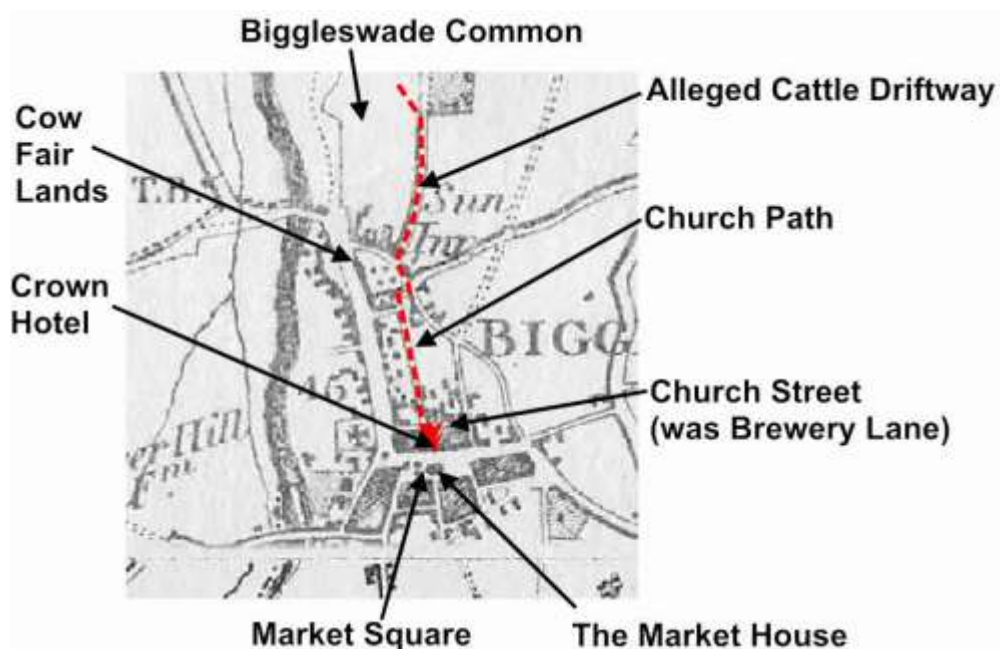


## APPENDIX C

### Historical Evidence

#### 1826 Bryant's Map of the County of Bedford

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



#### 1833 Northampton Mercury newspaper article

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

**1838 Biggleswade Tithe Apportionment Map [MAT 5/1]**

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



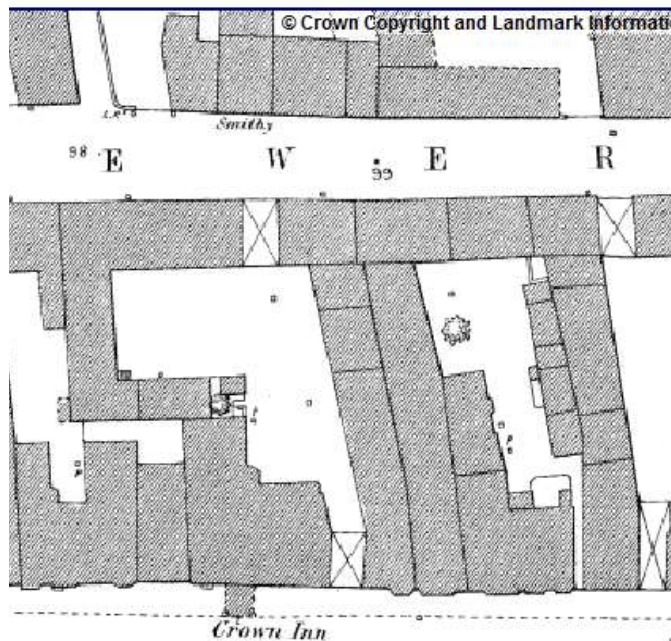
Crown Hotel

**No Parliamentary Inclosure Award**

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

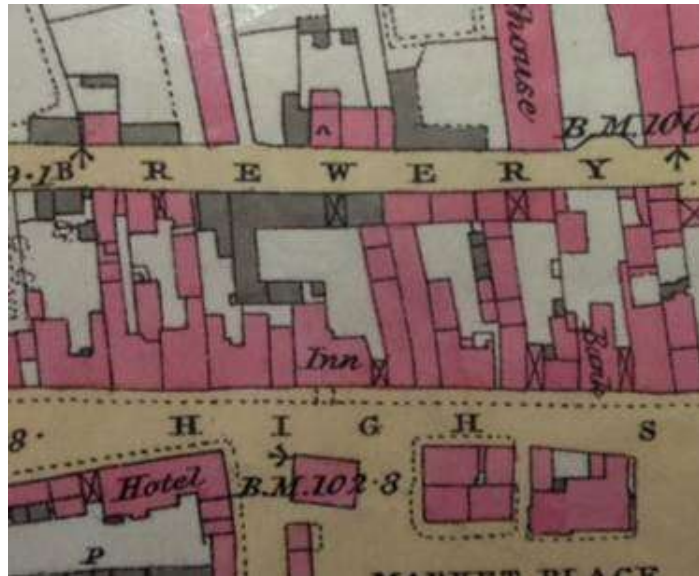
**Ordnance Survey Maps:**

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



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

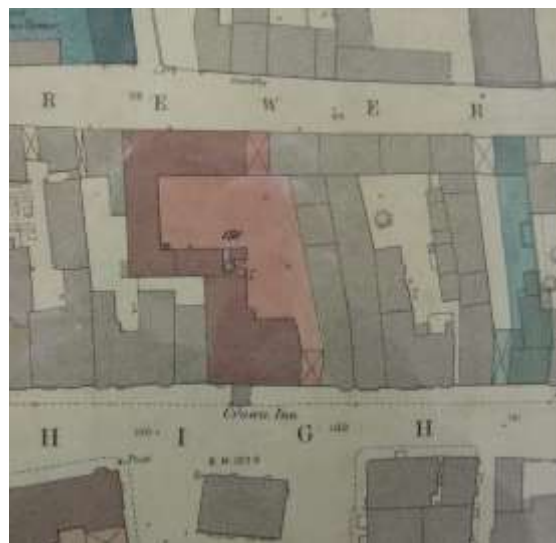
1<sup>st</sup> Edition 25" map (shown right) and was situated towards the eastern side of the yard (opposite the Smithy). The route is consistently shown along the same line on all the 25" maps between 1881 (1st Ed.) and 1974 (4th Ed.)



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

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

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



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

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

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

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

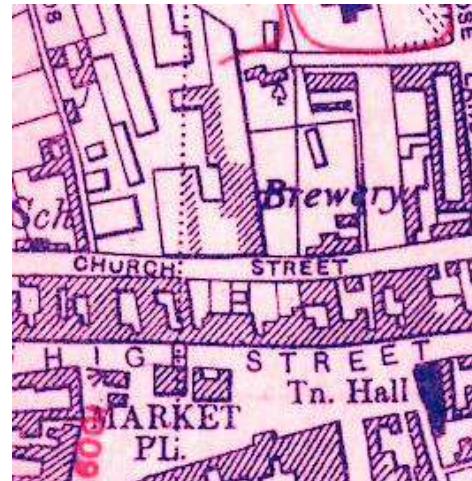


### **1949-57 Biggleswade Urban District Council Minutes [UDBwM 1/13-15 Minute Book]**

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

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

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



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

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

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

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

### **BCC Excluded Area survey**

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

## APPENDIX D

### User Evidence

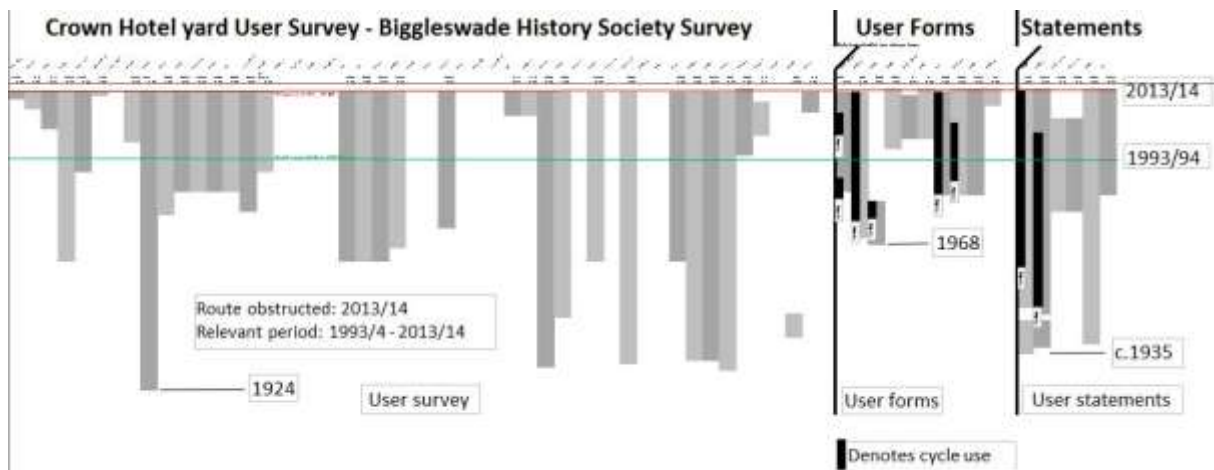
- D.1. In late October 2014 Mrs. Jane Croot, the editor for the Biggleswade History Society, canvassed 51 generally elderly residents living close to the Crown Hotel as well as people collecting their children from St. Andrew's Lower School. Thirty three of those surveyed indicated that they had used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

Name	Start	End	Duration	Remarks	Inter-viewed
<b>User Evidence forms and interviews</b>					
Mr. D. Woodward	1980	2013	33 years	Used on foot (1980 – 1987 monthly then occasional to 1995 then monthly between 2001-2007 and more recently as part of a dog-walking route and Used by bicycle monthly (for period: 1982-87 and occasionally between 2001-2007	Yes
Mr. K. Emmerson	1970	2013	43 years	Used weekly-fortnightly on foot (1970-2013) Used by bicycle monthly (during period 1975-2013)	Yes
Mr. M. Brawn	1968	1980	12 years	Used weekly on foot until 1975 and then monthly thereafter until c.1980 Cycled occasionally between 1975-80	Yes
Mr. M. Griffiths	1997	2014	17 years	Used daily on foot	No
Mrs. C. Woodward	2000	2012	12 years	Used monthly on foot	No
Mrs. C. Amos	2000	2014	14 years	Used daily on foot	No
Mr. J. Norris	1983	2013	30 years	Used weekly both on foot and by bicycle	No
Mr. A. Mapletoft	1983	2013	30 years	Used weekly on foot and used weekly by bicycle during period 1987-2004	No
Mr. C. Day	1987	2014	27 years	Used intermittently/weekly from c.1987 on foot	Yes
Mrs D. Temple	2010	2014	>4 years	Used daily on foot Used weekly on bicycle	No

**Statements from users and interviews and e-mails**

Mr. D. Ball	1930	2014	84	Regular use on foot and weekly by bicycle (1994-2014)	Yes
Mr. K. Page	1933	2014	81	Regular use on foot and Regular use by bicycle (up until 2001)	Yes
Mrs. J. Day	1983	2014	31 years	Used daily on foot with children until c.1987 then weekly on foot	Yes
Cllr. D & J Lawrence	1978	2005	27 years	On foot	No
Mr. P. Rutt	?	?	?	Walked through from childhood	No
Mr. T. Smith	1944	2014	70 years	Style of use not stated	No
Mr. R. Chadwick	?	?	?	Walked through many times	No
Mr. S. Clemo	?	?	?	Used to walk through to shops	No

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



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

D.5. Six cyclists have stated that they have used the route during the 20 year period prior to the route being obstructed at the end of 2013. Three for the full 20 years and three for periods of between eight and ten years. The rural case of *Whitworth v Secretary of State for Environment, Food and*

*Rural Affairs 2010] EWHC QBD 738 (Admin)* concerned limited levels of public user. The stated use would appear to provide a qualifying degree of public user by bicycle. However, Inspector's decisions and Counsel's Opinion both take the view that in an urban setting this level of use is insufficient to be able to reasonably allege that public cycling rights subsist (See Appendix B).

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

but also occasionally on foot.

- D.10. Mr. Ken Page, life president of the Biggleswade History Society, submitted a statutory declaration to Biggleswade Town Council in January 2015 in which he described his extensive knowledge of the Crown Hotel and recollections of his use of the route. In it he recalls that he and his friends regularly used the Crown Hotel's yard route in the 1930s as a pedestrian route to get to and from the junior school in Church Street. The claimed route was also used by brewery workers going to and from the brewery in Church Street (previously called Brewery Lane). Mr. Page states that he has no knowledge of the route ever being closed or public use challenged in his lifetime until the erection of the security fencing in early 2014.
- D.11. Mr. Page states that some of his ancestors were dairymen and he was told that long ago drovers herded cattle south from Biggleswade Common along Sun Street and then into Chapel Fields and through the Crown yard into the Market Square. Another cattle trail came northwards from Topley's Hill (Langford), via Holme Green and Palace Street to the Market Square. These probably existed until the railway came to the town in 1850. Mr. Page states that the Crown Hotel's yard provided access to the cattle markets. This historic evidence, however, is outside the relevant 20 year period and so cannot count towards deemed dedication of the claimed route.
- D.12. In a follow-up interview Mr. Page stated that he used to walk the route through the Crown yard from 1933 until it was closed off with the exception of two years when he was in Germany. He worked for the Brewery— initially Wells & Winch and then renamed Greene King in 1963, between 1942 and 1991 and dealt with their property records. His offices were based in what is now Abbott's Walk. He recalls that the brewery were happy for the BUDC to repair the Crown yard in the 1950s. Mr. Page owned a bicycle up until mid-2001 and used to cycle through the Crown yard which he considers to be a public bridleway.
- D.13. Mr. Philip Rutt e-mailed the Council in February 2015 to state that *"...I am an 81 year old Biggleswade resident and have lived in Biggleswade all my life. Throughout my life I have known the right to go through the Crown yard. I distinctly remember walking through it regularly as a child. In my strongly held view it should not be closed. It should have legal protection as a public right of way..."*.
- D.14. Mr. Terry Smith e-mailed the Council in February 2015 to state that he had lived in Biggleswade for 70 years prior to moving away in 2014. He stated that *"...the route through the Crown yard between the High Street and Church Street has now been gated and closed to the general public for somewhere in the region of two years without any obvious inconvenience. The route via Abbot's Walk - although as I understand it this isn't a protected right of way - is now the favoured route between the two thoroughfares, linking as it does the Asda supermarket and the town centre, via two appropriately sited crossings. It seems to me that even to consider*



*reopening the route through the Crown yard would be a wasted exercise as it is clearly no longer needed...”.*

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

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