

## Item No. 9

## SCHEDULE A

<b>APPLICATION NUMBER</b>	<b>CB/10/04579/FULL</b>
<b>LOCATION</b>	<b>Oak Tree Farm, Potton Road, Biggleswade, SG18 0EP</b>
<b>PROPOSAL</b>	<b>Change of use of first floor from games room to seperate residential unit and laundry on ground floor</b>
<b>PARISH</b>	<b>Sutton</b>
<b>WARD</b>	<b>Potton</b>
<b>WARD COUNCILLORS</b>	<b>Cllr Doreen Gurney &amp; Cllr Anita Lewis</b>
<b>CASE OFFICER</b>	<b>Kate Phillips</b>
<b>DATE REGISTERED</b>	<b>31 December 2010</b>
<b>EXPIRY DATE</b>	<b>25 February 2011</b>
<b>APPLICANT</b>	<b>Mr Sturman</b>
<b>AGENT</b>	
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Councillor Vickers requested that the application be determined by Development Management Committee to allow full consideration of the business implications of the proposal</b>
<b>RECOMMENDED DECISION</b>	<b>Full Application - Refused</b>

### Site Location:

The application site is Oak Tree Farm on Potton Road on the northern outskirts of Biggleswade, outside of the Settlement Envelope. The site, which is on the southern side of Potton Road, comprises of a large, detached residential dwelling and walled garden, a detached, two-storey garage/workshop (the subject of this application) and also a large commercial workshop building. This is related to the adjacent site, Simply Oak, a large furniture warehouse and showroom with restaurant facilities and a car-park.

The surrounding area is characterised by a few other commercial buildings, a few dwellings, further up the road, and open countryside.

Planning permission for the detached garage building was granted in 2008. In 2010 a non-material amendment application was granted to make some external changes to the building (insert extra door and window in northern elevation, 1 garage door in east elevation instead of 2, move position of double doors to mower store, single door on southern elevation). Later in 2010 an application was submitted to change the use of the first floor of the garage/workshop from recreational to residential use. The application was refused for the following 2 reasons:

- 1. The proposal to change the use of the first floor of the garage/workshop from ancillary recreational use to residential use is tantamount to the creation of a new dwelling in the countryside. The proposed dwelling would be located outside any defined Settlement Envelope and no overriding justification has been made for it; as such the proposal is contrary to Policies DM4 and CS11 of the Council's Core Strategy and Development Management Policies DPD and also Planning Policy*

Statement 7 (2004).

2. A Unilateral Undertaking has not been submitted with the proposal, in order to make a financial contribution towards infrastructure in the local area; as such the proposal is contrary to Policy CS2 of the Central Bedfordshire Council Core Strategy and Development Management Policies Development Plan Document (2009) and the Central Bedfordshire Council Planning Obligations Supplementary Planning Document (Reviewed November 2009).

### **The Application:**

This application is a resubmission of the earlier application for a change of use of the first floor of the garage/workshop from a games room to a separate residential unit and a laundry on the ground floor.

### **RELEVANT POLICIES:**

#### **National Policies (PPG + PPS)**

- PPS 1 Delivering Sustainable Development (2005)
- PPS 3 Housing (2010)
- PPS 7 Sustainable Development in Rural Areas (2004)

#### **Regional Spatial Strategy**

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

#### **Bedfordshire Structure Plan 2011**

Not applicable

#### **Central Bedfordshire Council's Core Strategy and Development Management Policies Development Plan Document**

- Policy CS2 Developer contributions
- Policy CS14 High quality development in the natural and built environment
- Policy DM3 High quality development – incl. extensions
- Policy DM4 Development within and beyond settlement envelopes

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

Not applicable

#### **Supplementary Planning Guidance**

- Central Bedfordshire Council's Technical Guidance – A Guide for development (2010)
- Central Bedfordshire Council's Technical Guidance - Design Supplement 1: New Residential Development (2010)

## Relevant Planning History

CB/10/02051/FULL Full: Change of use of first floor of garage/workshop from recreational to residential use – **REFUSED**

### *Reasons for refusal:*

*1. The proposal to change the use of the first floor of the garage/workshop from ancillary recreational use to residential use is tantamount to the creation of a new dwelling in the countryside. The proposed dwelling would be located outside any defined Settlement Envelope and no overriding justification has been made for it; as such the proposal is contrary to Policies DM4 and CS11 of the Council's Core Strategy and Development Management Policies DPD and also Planning Policy Statement 7 (2004).*

*2. A Unilateral Undertaking has not been submitted with the proposal, in order to make a financial contribution towards infrastructure in the local area; as such the proposal is contrary to Policy CS2 of the Central Bedfordshire Council Core Strategy and Development Management Policies Development Plan Document (2009) and the Central Bedfordshire Council Planning Obligations Supplementary Planning Document (Reviewed November 2009).*

CB/10/01752/NMA Non Material Amendment: Erection of two storey Garage/Workshop as approved on planning application MB/08/00431/Full dated 16th May 2008. Alterations to include insertion of additional door and window in north elevation, 1 garage door in east elevation instead of 2 and change of position of double doors to mower store and single door on south elevation. – Granted

MB/08/01951/FULL Full: Change of use of commercial building into 2 no. residential dwellings following alterations to the existing building. - Refused

MB/08/00431/FULL Full: Erection of two storey Garage/Workshop - Full Conditional Approval

MB/07/00617/FULL Full: First floor balcony to south east elevation - Full Conditional Approval

MB/05/00606/FULL Full: Erection of new showroom, restaurant, workshop, boundary wall and formation of new access and car park

MB/04/01448/FULL Full: Erection of showroom, restaurant, workshop, triple garage with games room over, clock tower and associated facilities. - Refused

## Representations: (Parish & Neighbours)

Sutton PC

### **Object**

The Parish Council has continuing concerns over the many changes that there have been to this development since planning permission was initially granted.

## Consultations/Publicity responses

Site notice posted 13.1.11  
CBC Highways No objection.

## Determining Issues

The main considerations of the application are;

1. The principle of residential development;
2. The impact upon the visual amenities of the area
3. The impact upon the amenities of adjoining, nearby and future occupiers
4. Access and parking
5. Any other relevant material considerations

## Considerations

### 1. The Principle

As noted at the time of the previous application, the application site is located outside Biggleswade's Settlement Envelope and the land is therefore classified as open countryside for the purposes of determining planning applications.

There is some support within the Council's Core Strategy and Development Management Policies DPD for the re-use of redundant properties in the countryside, however the presumption is in favour of commercial, industrial, tourism and recreational uses in the first instance, as opposed to residential use (Policy CS11). Given that the building was only granted permission in 2008 it is not considered that it could be classed as redundant, particularly because this application would retain part of the ground floor garage (thereby presumably proving that the building is utilised, rather than redundant). The application therefore fails the criteria laid out in Policy CS11 on 2 counts: the fact that a residential use has been proposed as opposed to a commercial, industrial, tourism or recreational use, and also the fact that the building could not be said to be redundant.

If an application for a new dwelling on the application site was received by the Council there would be no policy support for new residential development in the countryside. The original application was for the erection of a garage/workshop building for ancillary use to the main dwelling, but it would appear that the building has not yet been used for this purpose because the building work has still not been completed. Therefore, changing the use of the relatively new building, which is not redundant (or indeed hasn't been used for its original purpose at all), to residential use is considered to be tantamount to the creation or erection of a new dwelling. As noted, there is no policy support for residential development in the countryside, either at local level in the Council's Core Strategy and Development Management Policies DPD, or at national level. PPS7 is clear in stating that new house building in the countryside should be "strictly controlled". It goes on to note that isolated new houses in the countryside will require special justification for planning permission to be granted (para 10). For example, it should relate to the essential need for a worker to live permanently at or near their place of work in the countryside.

At the time of the previous application the applicant provided a covering letter to the application noting that he runs a restaurant in the adjacent Simply Oak building and they have been trying unsuccessfully for the last 18 months to employ a restaurant manager. He stated that most potential employees require on-site or nearby accommodation and this is the reason they wish to change the use of the first floor of the garage/workshop to residential accommodation. With this application he has provided a letter from Biggleswade Job Centre which notes that the position of a Restaurant Manager for Simply Oak has been difficult to fill. The letter specifically notes the following: "*There have been a variety of reasons for this situation including the company location, a lack of transport links, unsociable hours and a shortage of relevant experience. I understand you are now considering offering live in accommodation which may address some of the above difficulties you are facing with your recruitments.*"

The applicant has also submitted a supporting statement with the application in which he makes the following (summarised) points:

- PPS7 allows new isolated residential development to enable full-time workers to live on site.
- He is not asking permission to develop a new house, just to convert part of an existing building, with no external alterations.
- The Simply Oak restaurant serves the community and there is a need to house a full time employee in order to continue this contribution to the local community.
- Any potential restaurant managers require live-in accommodation to be offered with the job. This is due to the isolated location of Simply Oak, lack of public transport facilities and unsociable working hours.
- The applicant would be happy to accept a planning condition limiting the use of the accommodation to employees of Simply Oak.
- A manager living in Biggleswade would be less sustainable than one living on site as they would have to travel back and forth on a regular basis.
- Walking or cycling to work would not be an option due to the distance, the lack of footpaths and the late working hours.

In response to these points, the following comments are made.

Annex A to PPS7 states the following. "*One of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural, forestry and certain other full-time workers to live at, or in the immediate vicinity of, their place of work. It will often be as convenient and more sustainable for such workers to live in nearby towns or villages, or suitable existing dwellings, so avoiding new and potentially intrusive development in the countryside. However, there will be some cases where the nature and demands of the work concerned make it essential for one or more people engaged in the enterprise to live at, or very close to, the site of their work. Whether this is essential in any particular case will depend on the needs of the enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved.*"

In line with this guidance the proposed creation of a new dwelling is not considered to be justified. It is not considered that the nature and demands of

the work of a restaurant manager make it *essential* for them to live nearby in a 2 bedroom dwelling; instead it would be their personal preference, which PPS7 makes it clear is not a valid justification. Furthermore, although the applicant states otherwise, the application site's short distance from Biggleswade (approximately 1.5 kilometres) means that it would be convenient for a potential restaurant manager to live in Biggleswade (classed as a Major Service Centre in the Core Strategy and Development Management Policies DPD) and walk, cycle or drive to the site in a short amount of time.

With regards to the argument that having an on-site manager would be more sustainable than having one that lives nearby, this is not considered to be the case. Anyone living at the isolated site would most likely travel away from the site to places such as Biggleswade and further a field when not at work, for various reasons such as shopping and visiting friends. This would have a similar effect to someone needing to drive to work, and in any case the sustainability argument does not override the aims laid out clearly in PPS7.

Overall, despite the fact the applicant claims that he is unable to recruit a restaurant manager because he cannot provide on site accommodation the need for accommodation that he describes is not the same type of need referred to in PPS7. For this reason the application is considered to be contrary to policy and it should be refused for this reason.

Another justification for an isolated new dwelling in the countryside given in PPS7 is if the dwelling would be of exceptional quality and an innovative design. At the time of the original application for the building it was acknowledged that it would be of no architectural merit. Therefore, given that the design of the garage is not of exceptional quality or innovative design, the new dwelling would not meet the other relevant criteria in PPS7 to make it acceptable.

For the reasons outlined above, the proposal is considered to be contrary to policy and the application should therefore be refused on that basis.

**2. Impact upon the visual amenities of the area**

The proposal would not involve any external alterations to the garage/workshop building which is set well back from the nearby road. The proposal is therefore considered to be acceptable in this respect.

**3. Impact upon the amenities of adjoining, nearby and future occupiers**

The only neighbouring property is the main dwelling, which is in the same ownership as the garage/workshop building. Given that there would be no external alterations made to the building it is not considered that the main dwelling would be affected in terms of loss of light/ outlook or overbearing impact.

With regards to overlooking, the two dormer windows on the northern side of the building would directly overlook the private garden area for the main house. Given that the two buildings are in the same ownership this is considered to be acceptable, even though this would not normally be the case.

Overall, the proposal is considered to be acceptable in this respect.

#### **4. Access and parking**

Once again a Council Highways Officer has noted that the proposal to create an additional residential unit would generate approximately 7-8 additional trips per day, although if the person was employed at Simply Oak this figure might be lessened it is thought.

Either way, it is still considered that this can safely be accommodated at the site and that there would be sufficient parking availability. The proposal is therefore considered to be acceptable in this respect.

#### **5. Any other relevant material considerations**

Following the adoption in 2008 of the Planning Obligations Strategy Supplementary Planning Document, the Council requires a financial contribution for developments of one or more dwellings and therefore, if the application was otherwise judged to be acceptable (see above), a unilateral agreement would be required prior to the granting of planning permission. This contribution would go towards local infrastructure such as sustainable transport, health facilities and leisure and recreational open space in the surrounding area.

The applicant has chosen not to submit a unilateral undertaking and makes reference to his reasons for not doing so in the accompanying statement to the application. The applicant wishes to know precisely what the contributions would go towards in the local area and believes he has the right to decide whether to offer such a contribution, to negotiate upon any parts of the contribution he feels are unreasonable or even to offer no contributions on the basis that he feels his development is acceptable in planning terms.

The information which the applicant wishes to see is all available in the Council's Planning Obligations SPD and the Background Papers. The overall aims of the Planning Obligations SPD are to deliver the development of sustainable communities; to ensure that the additional impacts of development are adequately mitigated or compensated for; and to provide a transparent, streamlined, practical, consistent and accountable approach to the negotiation of planning obligations.

The SPD notes that any new house building in the district will place increasing pressure on the existing infrastructure, services, facilities, environment, biodiversity and green infrastructure of the area and its communities. Planning obligations are primarily intended to make acceptable those developments that would otherwise be unacceptable in planning terms. PPS1 requires local authorities to ensure that new development is planned to be sustainable. Growth is considered to be sustainable if the necessary additional infrastructure is provided and therefore the SPD notes that it is important that new development makes commensurate contributions towards new and improved local infrastructure where the development would add to infrastructure needs and requirements locally. Although the applicant states that his development is "acceptable in planning terms" he is referring to planning policy (for which it has been established it is not acceptable) and the creation of a new dwelling would undoubtedly add to infrastructure needs and requirements locally, if only to a small degree, which is what makes it "unacceptable" in the terms laid out in the SPD.

The SPD highlights that even smaller developments create additional demands for new infrastructure, services and facilities within an area. Planning obligations provide a means to enable the proposed development to proceed taking account of and/or compensating for its impacts. In line with this guidance, it is apparent that creating a new residential unit is considered to cause an impact, and it is for this reason that a financial contribution would be required.

As noted above, the applicant does not feel that a financial contribution would be justified in his case and he makes reference to the Government's Circular regarding planning obligations, claiming that the Council has failed the tests. The SPD refers to case law (*Tesco Stores Ltd v. Secretary of State for the Environment -1995*) which has clarified that failure to comply with the advice in the Circular would not invalidate a planning application as a matter of law and that local planning authorities are not legally bound to apply the Secretary of State's policy and would not be acting unlawfully if they failed to apply the above tests. Only a connection between an obligation and development judged to be 'greater than de minimis' is required in practice rather than meeting the necessity test in full.

The Council has not adopted a blanket approach to the application of planning obligations; obligations are assessed on a site-by-site basis. The background paper to the Planning Obligations SPD gives further information on how the figures have been reached for different types of dwellings in different settlements and how this has resulted in a cost per dwelling figure.

As noted, no unilateral undertaking was submitted as part of the original application and therefore, because no contribution would be made towards sustainable transport, health facilities, leisure, recreational open space and green infrastructure, community facilities and services, community cohesion, waste management and emergency services needs in the local area, the proposal is contrary to Policy CS2 of the Council's Core Strategy and Development Management Policies DPD and Planning Obligations Supplementary Planning Document.

## **Reasons For Refusal**

- 1 The proposal to change the use of the first floor of the garage/workshop from ancillary recreational use to residential use is tantamount to the creation of a new dwelling in the countryside. The proposed dwelling would be located outside any defined Settlement Envelope and no overriding justification has been made for it; as such the proposal is contrary to Policies DM4 and CS11 of the Council's Core Strategy and Development Management Policies DPD and also Planning Policy Statement 7 (2004).
- 2 A Unilateral Undertaking has not been submitted with the proposal, in order to make a financial contribution towards infrastructure in the local area; as such the proposal is contrary to Policy CS2 of the Central Bedfordshire Council Core Strategy and Development Management Policies Development Plan Document (2009) and the Central Bedfordshire Council Planning Obligations Supplementary Planning Document (Reviewed November 2009).



**Notes to Applicant**

1. Please note that the unnumbered drawings submitted in connection with this application have been given unique numbers by the Local Planning Authority. The numbers can be sourced by examining the plans on the View a Planning Application pages of the Council's website [www.centralbedfordshire.gov.uk](http://www.centralbedfordshire.gov.uk).

**DECISION**

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