

Item No. 12

APPLICATION NUMBER	CB/12/01799/ALT
LOCATION PROPOSAL	Victoria Allotments, West Street, Dunstable, Beds Certificate of Appropriate Alternative Development: Compulsory Purchase Order in connection with extension of West Street cemetery, Dunstable, Bedfordshire.
PARISH	Dunstable
WARD	Dunstable Central
WARD COUNCILLORS	Cllr Mrs Hegley
CASE OFFICER	Adam Davies
DATE REGISTERED	30 April 2012
EXPIRY DATE	25 June 2012
APPLICANT	Central Bedfordshire Council
AGENT	
REASON FOR COMMITTEE TO DETERMINE	Outside Scheme of Delegation
RECOMMENDED DECISION	Certificate of Alternative Development - Granted

Site Location:

The irregular shaped Application Site comprises part of the former Victoria Allotments located on the southern side of West Street between No. 149 and the cemetery ("the Site"). Planning permission was granted in August 2004 for the use of the frontage section of the allotments (extending to approximately three quarters of a hectare) as an extension to the cemetery. At this time the whole of the Victoria Allotments site was privately owned and largely overgrown to scrub land. Subsequently in 2005, the required land was acquired through compulsory purchase by South Bedfordshire Council on behalf of Dunstable Town Council for use as an extension to the cemetery. The Site has now been laid to grass with areas of hard standing providing vehicular access from the cemetery to the west and from West Street to the remaining allotments at the rear.

The Application:

The Application is made under Section 17 of the Land Compensation Act 1961 (amended by Section 63 of the Planning & Compensation Act 1991) and seeks a Certificate of Appropriate Alternative Development for the land to establish what planning permissions, if any, would have been granted had the land not been acquired compulsorily.

A Certificate of Appropriate Alternative Development ("a Certificate") is in effect a hypothetical planning permission provided solely for valuation purposes when a public authority acquires land compulsorily. The classes of development indicated in a certificate can briefly be described as those with which an owner might reasonably

have expected to sell his land in the open market if it had not been publicly acquired. Local Authorities can either refuse to issue a Certificate or grant with or without hypothetical conditions. An application must specify what classes of development are to be considered appropriate but the Local Planning Authority may issue a Certificate for the uses specified or conclude that there is no development for which planning permission would have been given.

The Application states that, in the applicant's opinion the use of the Site as allotments, cemetery or informal open space would be appropriate for the land. It is therefore necessary to consider whether these classes of development or any other classes of development would be appropriate immediately or at a future time

The Application is brought about at the request of Dunstable Town Council, to assist in a dispute over land compensation value. The Application has been included on the agenda partly in the interests of transparency because the application came about at the request of the said Town Council and partly due to the history of the Site which was compulsorily purchased.

RELEVANT POLICIES:

National Planning Policy

National Planning Policy Framework

Regional Spatial Strategy

East of England Plan (May 2008)

ENV1 Green Infrastructure

South Bedfordshire Local Plan Review Policies

R12 Protection of Recreational Open Space

Planning History

DB/TP/73/356 – 18 flats. Refused.

SB/TP/75/116 – 48 flats. Refused.

SB/TP/87/1271 – Residential development. Refused.

SB/TP/88/1373 – Residential development. Refused (Proposal should address designation as non-statutory allotments; incongruous and would prevent comprehensive treatment of similar land in locality).

SB/TP/96/0140 – Residential development. Refused (Loss of important open space; detrimental to character of locality; precedent).

SB/TP/01/0144 – Use of land for residential development. Withdrawn.

SB/TP/03/1226 – Change of use of allotments to cemetery use. Withdrawn.

SB/TP/03/453 – Mixed development incorporating residential development, a cemetery extension and recreational land. Refused (Loss of important open space; contrary to Local Plan Review; residential development detrimental to character of area; insufficient information to address implications for archaeological remains, ground water protection, flooding and traffic).

SB/TP/04/812 – Change of use of allotment gardens to cemetery use. Permission.

SB/TP/07/1481 – Erection of two storey dwelling with detached double garage. Refused. (Would prejudice future comprehensive development of the wider site; loss of important area of open space, to detriment of character of area).

CB/09/06215/FULL – Construction of vehicular access to serve future development. Refused (Loss of important area of open space; to detriment of character of area; detrimental to highway safety).

**Representations:
(Parish & Neighbours)**

Town Council None received at time of drafting report.

Neighbours None received at time of drafting report.

Consultations/Publicity responses

Leisure services - Play None received at time of drafting report.
and open space

Determining Issues

In this instance the only issue for consideration is the principle of development on the site.

Considerations

1. Principle of development

The main purpose of the Certificate is to state what, if any, classes of development would have been granted planning permission had the land not been compulsorily purchased. In determining this, the Local Planning Authority should exercise its planning judgement, taking into account those factors which would normally apply to consideration of planning applications such as the character of the development in the surrounding area, any general policy of the current and foreseeable Development Plan, and national planning policy along with other relevant considerations where the site raises more complex issues which it would be unreasonable to disregard. Case law has established that these issues must be considered at the date when the land is proposed to be acquired.

A further purpose of the Certification procedure is to provide a basis for determining the development value to be taken into account in assessing the compensation payable on compulsory acquisition and as mentioned above the amount of compensation payable by Dunstable Town Council.

The planning history for the Site encompasses several previous planning applications for residential and mixed use development which were refused on the grounds that the proposal would have resulted in the loss of an important area of open space, protected under the Development Plan, and would have been to the detriment of the character of the area.

Section 17(7) of the 1961 Act provides that where land is allocated in the Development Plan for the use for which it has been acquired, a Certificate may not be refused for a particular class of development solely on the grounds that it would be contrary to the relevant Development Plan. In such cases, the Local Planning Authority must ignore Development Plan policies with no function

beyond the acquisition scheme. However, the decision maker may take account of broader policies if these imply that the classes of alternative development suggested by the applicant would not have been acceptable.

This Site is not subject to a specific allocation in the Development Plan but is protected as urban open space under Policy R12 of the South Bedfordshire Local Plan Review 2004. The South Bedfordshire Local Plan Review formed part of the Development Plan for the area at the time the land was compulsorily acquired and remains in force. Policy R12 states that planning permission will not be given for use of open space for non-open recreational purposes except where relatively small scale and essential for the improvement, enhancement or enlargement of an existing open or recreational space. Policy R12 is broadly in line with the National Planning Policy Framework which, in general terms, seeks to protect existing open space, sports and recreational buildings and land and encourage access to high quality open spaces and opportunities for sport and recreation which make an important contribution to the health and well-being of communities (paragraphs 73 and 74). In the interest of the health and well being of communities, the emerging Development Strategy for Central Bedfordshire also seeks to protect existing open space. Draft Policy 22, which concerns leisure and open space provision, states that planning applications that contain proposals that would adversely affect existing accessible open space will not be permitted.

The openness of the Site plays an important part in the character of the area with some views towards the Downs from West Street. Any development which would result in the loss of the openness of the Site would be to the detriment of this character. The principle of reuse for allotments, cemetery use or informal open space in terms of the impact on local amenities and access is considered to be acceptable given the existing adjoining cemetery use and the continued use of the same access arrangements.

The Council's Archaeological Officers have previously noted that the Site is adjacent to the Roman town of Dunstable (HER 135) and to the Icknield Way (West Street), a prehistoric routeway (HER 353), both of which are archaeologically significant areas. Between 2004 and 2009 a series of archaeological investigations were carried out on the land to the south west of the Site. These investigations confirmed the presence of features associated with the Icknield Way, a burial and Roman settlement activity. However, provided that adequate provision is made as part of any planning permission for the investigation and recording of any archaeological remains that may be affected, the Local Planning Authority has considered that this does not present an over-riding constraint to development on this site. The same considerations would also apply to the use of the site as allotments, cemetery or informal open space.

Having regard to the Development Plan, the size and location of the Site, the character of the area and the planning history for the Site, it is considered that, had the land not been compulsorily acquired, planning permission would have been given for its use as allotments, cemetery or informal open space, and would not have been granted for any other development. A Certificate for the specified classes of development should therefore be granted.

Recommendation

That a Certificate of Appropriate Alternative Development be GRANTED for development as allotments, cemetery or informal space and no other class of development.

Reasons for Granting

Having regard to the Development Plan, the size and location of the Site, the character of the area and the planning history for the Site, had the land not been compulsorily acquired, planning permission would have been given for its use as allotments, cemetery or informal open space, and would not have been granted for any other development.

DECISION

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