

Item No. 19

APPLICATION NUMBER	CB/12/04446/FULL
LOCATION	Touchwood, Plantation Road, Leighton Buzzard, LU7 3JE
PROPOSAL	Retention and use of detached timber outbuilding as beauty therapy business
PARISH	Leighton-Linslade
WARD	Leighton Buzzard North
WARD COUNCILLORS	Cllrs Johnstone, Shadbolt & Spurr
CASE OFFICER	Adam Davies
DATE REGISTERED	19 December 2012
EXPIRY DATE	13 February 2013
APPLICANT	Mrs P Goodwin
AGENT	D J Harnett & Associates
REASON FOR COMMITTEE TO DETERMINE	Councillor Spurr has requested that the application be referred to Committee if Officers are minded to approve due to concerns regarding the parking and access arrangements for the property.
RECOMMENDED DECISION	Full Application - Granted

Site Location:

The application site is a residential plot located on the northern edge of Leighton Linslade, to the east of Plantation Road. The site is served by a private access drive from Plantation Road which also serves a number of other residential properties including The Knolls Care Home. The plot backs onto Sandy Lane and Leighton Buzzard Golf Club to the north. The property comprises a detached two storey dwelling with a detached timber outbuilding. The site is enclosed along all four boundaries by substantial tree screening. The site is located within an Area of Special Character as defined on the Proposals Map of the South Bedfordshire Local Plan Review 2004. The adjoining land to the north of the site falls within the South Bedfordshire Green Belt and forms part of an Area of Great Landscape Value.

The Application:

If provided for a purpose incidental to the enjoyment of the main dwellinghouse as such, the existing timber outbuilding would fall within the residential permitted development rights of the property and would not therefore require the Council's express planning permission. However, in this case the building has been erected to provide a beauty salon use and as such the Council's planning permission is required for the building and its use.

Planning permission is therefore sought for the retention of the timber outbuilding and its use as a beauty business. The submitted floor plan shows that the building measures 4 metres by 11 metres and 2.9 metres in height with a pitched roof. It is located on the east side of the plot, adjacent to the main dwelling at Touchwood. The building would provide a reception area, a massage room and an area for beauty treatments. The proposal would effectively constitute a material change of use in the use of the site from residential, to a mixed use comprising a Use Class

C3 residential use and a beauty use which, depending on the specific nature of the services provided, is often considered a Sui Generis Use.

The submitted Design and Access Statement states that the beauty business would be run by the daughter of the owner/occupier of the property. The business would operate between the hours of 9am and 5pm Monday to Friday, between the hours of 9am and 12noon on Saturdays and would not operate on Sundays. The building would be occupied by no more than one member of staff and one customer at any one time. It is stated that there is presently space for 7 vehicles to park within the site. One of these spaces would provide customer parking. Pedestrian access is by way of a footpath from the existing driveway to the side of the property.

RELEVANT POLICIES:

National Planning Policy Framework

South Bedfordshire Local Plan Review Policies

BE6 Control of Development in Areas of Special Character

BE8 Design Considerations

T10 Controlling Parking in New Developments

The NPPF advises of the weight to be attached to existing local plans for plans adopted prior to the 2004 Planning and Compulsory Purchase Act, as in the case of the South Bedfordshire Local Plan Review, due weight can be given to relevant policies in existing plans according to their degree of consistency with the framework. It is considered that Policies BE6 and BE8 are broadly consistent with the Framework and carry significant weight. Policy T10 carries less weight but is considered relevant to this proposal.

Development Strategy for Central Bedfordshire

Policy 1: Presumption in Favour of Sustainable Development

Policy 24: Accessibility and Connectivity

Policy 25: Capacity of the Network

Policy 27: Car Parking

Policy 43: High Quality Development

Having regard to the National Planning Policy Framework, significant weight is given to the policies contained within the emerging Development Strategy for Central Bedfordshire, which is consistent with the NPPF. The draft Development Strategy is due to be submitted to the Secretary of State in May 2013.

Supplementary Planning Guidance

Design in Central Bedfordshire, A Guide for Development, Adopted 23 July 2010.

Pre-Submission Core Strategy for Southern Central Bedfordshire adopted for Development Management purposes by Executive, August 2011.

CBC Emerging Parking Strategy, Appendix F, Central Bedfordshire Local Transport Plan, endorsed for Development Management purposes by Executive October 2012.

Planning History

None relevant.

Representations:

- Town Council
- No objection. Recommends a condition to be added, restricting consent to the applicant only, not only so that permissions could not be transferred to a future landowner, but also to restrict trading to the applicant's daughter only, so that trading could not carry on independently from the main residence.
- Neighbours
- Three objections have been received, two from the same person, which can be summarised as follows:
- The existing outbuilding is a substantial structure which may have needed planning permission in its own right as a residential building.
 - The proposal is not appropriate to this Area of Special Character.
 - The building is capable of being used more intensively than described and it may not be possible to control the level of use if planning permission were granted. Neighbours would not want to be in the position of having to monitor this future use.
 - The site is accessed from private driveways which are not within the control of the applicant and are narrow.
 - Any signage associated with the proposed use would not be appropriate.
 - The application does not sufficiently address the access arrangements for the proposed beauty therapy use.
 - The proposal has the potential to generate a significant number of vehicle and pedestrian movements over and above those resulting from the use of the site for residential purposes and this would occur on land which is not within the applicant's ownership.
 - The existing parking area is more limited and constrained than is suggested within the application and is often fully occupied. The number of cars used by the residents at the property is understated in the application. Additional parking has previously taken place along the private drive at the front of the site. The proposal would necessitate turning within the drive to Badgers Beat.
 - The existing sewage infrastructure could not support a business use
 - An intensification in the use of the site would impact on the privacy of Badgers Beat and gives rise to concerns regarding security as it would increase the number of unknown visitors to the site.
 - The residents of Badgers Beat had not been consulted or seen the plans.

Consultations/Publicity responses

Highways	<p>I would not expect this type of development to generate significant numbers of traffic, however I would expect any vehicle which enters the site in forward gear to be able to exit on to the public highway in forward gear. I would suggest a suitable turning area for vehicles likely to use the site, shall be provided within the area defined by the red line plan. I shall recommend a condition is imposed to secure this. I would not wish to raise any highway objection to this application subject to a condition requiring details of a suitable turning area to be provided.</p>
Public Protection	<p>No objection in principle. Clarification is requested regarding sewage connections for the outbuilding. No welfare facilities are shown on the plans for the outbuilding, but they may not be required if they are accessible in the main house. Some beauty treatments would generate commercial waste and in certain circumstances that waste could be classed as clinical waste. Some beauty treatments require registration by the Council. The applicant is therefore advised to contact Public Protection to discuss these matters further.</p> <p><i>(Officer note: The applicant has confirmed the outbuilding would not connect to a sewer system. Customers and staff would be required to make use of an existing WC within the main dwelling.)</i></p>
Tree and Landscape Officer	<p>Refers to previous comments in respect of pre-application proposal. Previous comments are as follows:</p> <p><i>It was noted that the building had already been erected, and that excavation work, which was carried out to a depth of 300mm, had extended beyond the footprint of the new building towards two protected trees; namely an Oak with a trunk diameter of 740mm, and a Scots Pine, with a trunk diameter of 550mm. These trees are included in a "Woodland" type Tree Preservation Order.</i></p> <p><i>As the excavation works had been dug approximately 4m from these trees, there was clear encroachment into the Root Protection Area (RPA) of both specimens (calculated at 8.8 and 6.6m radius respectively), and a significant portion of damaged roots could still be seen exposed by the works.</i></p> <p><i>Therefore it would have been advised beforehand that the structure, along with its associated pathways and hardstanding areas, were being positioned too close to these trees and that the RPA should have been recognised and respected. The failure to do this has</i></p>

resulted in damage to the root systems of two protected trees, which is an offence under the Town and Country Planning Act.

It is not considered to be in the public interest that legal action is appropriate in this instance as the damage was more negligent than wilful. However, if the building is used for a beauty business, and more extensive access pathways are required, then these must take into account the needs of the trees, and be positioned accordingly.

Archaeology

The proposed development is within an area known as The Heath (HER 11095), a large heathland to the north of Leighton Buzzard with origins in the medieval period, it is a heritage asset with archaeological and historic landscape interest as defined by the National Planning Policy Framework. It is also 100 metres north of a pair of Bronze Age round barrows (HER 2) which are Scheduled Monuments (SM 20424 and 20425). These are designated heritage assets and the proposal lies within the setting of these assets which forms part of their significance.

The scale, nature and location of the proposed development, however, are such that it is unlikely to have had a major impact on buried archaeological remains or on the setting of the two Scheduled Monuments. Therefore, there will have been no impact on the significance of either the heritage asset with archaeological interest or the designated heritage assets. Consequently, there would be no archaeological objection to the application.

Determining Issues

The main considerations of the application are;

1. Principle of Development and Impact on Area of Special Character
2. Impact upon residential amenity
3. Highways considerations
4. Other considerations

Considerations

1. Principle of Development and Impact on Area of Special Character

The application site falls within an Area of Special Character which is primarily defined by low to moderate density residential development and generous gardens creating a sense of spaciousness. In line with Local Plan Review Policy BE6, the Local Planning Authority seeks to protect the character and quality of Areas of Special Character wherein there is a presumption against redevelopment to higher densities, subdivision of large plots, infilling, backland development or large extensions which would result in loss of gardens, other open land or mature woodland, or give rise to an over-intensive level of

development, in a way which would unacceptably harm the special character of the area. In this context commercial uses will not normally be considered appropriate, particularly in circumstances where the use would result in overly intensive development which would not reflect the general character, layout and use of other properties within the Area of Special Character.

In this case the existing timber outbuilding is a substantial detached structure but would be subordinate in scale to the main dwelling. It is noted that an outbuilding of this scale and in this location could otherwise be erected under permitted development rights if used for purposes incidental to the dwellinghouse as such. Taking account of the size of the plot and the location of the outbuilding relative to the dwelling at Touchwood and the neighbouring buildings, the outbuilding is considered appropriate to its setting. An existing pathway of loose stone as indicated on the submitted layout plan. This path was in place at the time of the recent request for pre-application advice as referred to by the Tree and Landscape Officer. The Design and Access Statement for the application states that the beauty business would be run by the daughter of the owner/occupier of the property. The proposal would not involve the subdivision of the larger site into distinct areas associated with the business use and the residential occupation of the property. The business would operate between the hours of 9am and 5pm Monday to Friday and between the hours of 9am and 12noon on Saturdays. The business would not operate on Sundays. The hours of use can be controlled by way of planning condition. It is suggested that the building would be occupied by no more than one member of staff and one customer at any one time. Highways have advised that the proposed use would not generate a significant volume of traffic. Given the number of vehicle movements which could result from uses incidental to the occupation of the property as a dwelling, it is considered that the level of activity resulting from the proposed use would be sufficiently low key such that it would not be harmful to the special character of the area. No objections are therefore raised in relation to Local Plan Review Policies BE6 and BE8 or Policy 43 of the emerging Development Strategy for Central Bedfordshire.

2. Impact upon residential amenity

There are a number of other residential properties surrounding the site. Vehicular access to the beauty business would be taken from the existing residential driveway from Plantation Road which is adjacent to the dwelling and residential plot for Badgers Beat. As noted, the site is enclosed along all four boundaries by substantial tree screening. Having regard to the scale and location of the building and the proposed hours of use, it is considered that the proposed use would be sufficiently low key that it would not give rise to an unacceptable reduction in privacy or disturbance to nearby residents by use of the building, access to the building or the property itself.

3. Highways considerations

On the basis of the Council's emerging Parking Strategy, the existing four bedroom dwelling would require a minimum of 4 parking spaces.

The emerging Parking Strategy does not provide any maximum parking standards for the non-residential use proposed. However having regard to the scale of the outbuilding and the number of staff and customers likely to be on site at any one time it is considered that the proposed non-residential use is unlikely to generate a requirement for more than three parking spaces at any

one time. It is therefore considered that a total of 7 on-plot parking spaces would be required for the site.

The existing driveway is relatively constrained due to its layout such that it is very difficult for drivers to turn within the site and exit in forward gear. Concern has also been raised that the existing parking arrangements are not sufficient for the present occupiers and this has given rise to ad hoc parking occurring along the shared driveway and elsewhere. However the driveway and garage within the curtilage of Touchwood are of a sufficient size to allow up to seven vehicles to park within the site. There is additional space within the site forward of the main dwelling which could be utilised to provide additional parking provision if necessary and this could be achieved without detriment to the special character of the area. Given the constrained layout of the drive it is considered appropriate to secure this by condition.

The concerns raised in relation to parking are noted. However having regard to the Council's current parking standards, the space available within the site for parking and the opportunity to secure additional parking by condition, it is considered that a refusal on parking grounds could not be sustained.

Highways consider that the proposed use would not generate a significant volume of traffic and, subject to a suitable parking and manoeuvring area being secured by condition, the proposal is considered acceptable in terms of highway safety.

4. Other considerations

The concerns raised in relation to the impact of new signage on the character of the area are noted. Whilst in certain circumstances, some smaller signage would benefit from deemed consent, and would not therefore require the Council's express consent, most new signage would be subject to planning control under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

It is acknowledged that the existing driveway serving Touchwood and the other nearby residential properties is privately maintained. Neighbouring residents may therefore be concerned about the potential for damage to the shared driveway as a result of additional vehicle movements associated with the proposed commercial use. As with any damage to private property, damage to the shared driveway, whether this results from vehicles associated with the occupation of the dwelling or otherwise, would be a civil matter and is not a planning matter.

One of the neighbouring residents has verbally advised the Council that, although the rights of access exist across the shared driveway for residential traffic, this driveway is not within the applicant's ownership and is subject to legal covenant which states that the drive shall only be used for residential purposes. Whilst the concerns regarding ownership and rights of access are noted, these are also not planning matters. Importantly however, the grant of planning permission does not infer a right to access land outside the ownership of the applicant or to access the site in a manner which may conflict with a separate legal covenant. Separate to the grant of any planning permission, the applicant will need to ensure that they benefit from suitable rights to access the site as proposed.

The Town Council have recommended a planning condition to ensure any permission granted is personal to the applicant's family. However, this is not considered appropriate in this instance. Regardless of the business operator, for the reasons set out above, the proposed use is considered acceptable in planning terms provided the level of use remains suitably low key. The scale and location of the outbuilding and its relationship with the dwelling at Touchwood would, to some extent, control the level and nature of commercial activity which the site could support. However planning conditions to control the hours of use and prevent the formal subdivision of the site into distinct parcels are also considered reasonable and appropriate to prevent an over-intensive level of use which would not be acceptable in this location.

Consideration has been given to relevant Human Rights issues and the Equality Act 2010. As the outbuilding is to be used by visiting members of the public the applicant's attention should be drawn to the requirement for suitable access arrangements for the disabled by way of informative.

Recommendation

That Planning Permission be GRANTED subject to the following:

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

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

- 2 **Prior to the initial occupation of the outbuilding, details of a turning space for vehicles shall be submitted to and approved in writing by the Local Planning Authority and shall be constructed within the curtilage of the site in accordance with the approved drawing.**

Reason: To enable vehicles to draw off, park and turn outside of the highway limits thereby avoiding the reversing of vehicles on to the highway.

- 3 The beauty business shall only operate between the hours of 9am and 5pm Monday to Friday and between the hours of 9am and 12noon on Saturdays. The beauty business shall not operate on Sundays or public holidays.

Reason: To protect the character of the area and the amenities of the neighbouring properties.
(Policies BE6 and BE8 S.B.L.P.R and Policy 43 D.S.C.B).

- 4 Notwithstanding the provisions of Schedule 2, Part 2, Class A of to the Town and Country (General Permitted Development) Order 1995 as amended (or any order revoking and re-enacting that Order with or without modification), no gate, fence, wall or other means of enclosure shall be erected or constructed within the curtilage of the property without the grant of further specific permission from the Local Planning Authority.

Reason: In order to prevent the formal subdivision of the larger site into distinct areas associated with the business use and the residential occupation of the property and thereby protect the character of the area. (Policies BE 6 and BE8 S.B.L.P.R and Policy 43 D.S.C.B).

- 5 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 18366, 18367 and 2012/1005/01.

Reason: For the avoidance of doubt.

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

Planning permission has been granted for this proposal. 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) (Amendment No. 2) Order 2012.

Reasons for Granting

Subject to appropriate conditions, the level of activity resulting from the proposed use would be sufficiently low key that it would not be harmful to the character of the Area of Special Character or the amenities of the neighbouring residents and is acceptable in terms of parking provision and highways considerations. Therefore an objection in relation to Policies BE6, BE8 and T10 of the South Bedfordshire Local Plan Review or Policies 1, 24, 25, 27 and 43 could not be sustained in this instance, having regard to the core planning principles set out within the National Planning Policy Framework.

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 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the reason for any condition above relates to the Policies as referred to in the South Bedfordshire Local Plan Review (SBLPR) and the emerging Development Strategy for Central Bedfordshire (DSCB).
3. The applicant is advised that some beauty treatments require registration with the Council; the applicant is advised to contact either Richard Johns on 0300 300 4422 or Ben Salvatierra on 0300 300 4492 to discuss these matters further.
4. Notwithstanding the grant of this planning permission, the applicant is advised that the Council has received third-party representations in

response to the application which raise concerns that the applicant does not have suitable rights for non-residential traffic to access the site via the shared driveway serving the property. It is indicated that the shared driveway is subject to a legal covenant which states that it shall only be used for residential purposes. The applicant is advised that the grant of planning permission does not infer a right to access land outside the ownership of the applicant or to access the site in a manner which may conflict with a separate legal covenant. Separate to the grant of any planning permission, the applicant should ensure that they benefit from suitable rights to access the site as proposed.

5. The applicants attention is drawn to their responsibility under The Equality Act 2010 and with particular regard to access arrangements for the disabled.

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

These requirements are as follows:

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

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

For further information on disability access contact:

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

DECISION

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