

Item No. 14

APPLICATION NUMBER CB/13/00892/FULL
LOCATION 2 High Street, Stotfold, Hitchin, SG5 4LL
PROPOSAL New detached dwelling, revised plans
PARISH Stotfold
WARD Stotfold & Langford
WARD COUNCILLORS Cllrs Clarke, Saunders & Saunders
CASE OFFICER Samantha Boyd
DATE REGISTERED 15 March 2013
EXPIRY DATE 10 May 2013
APPLICANT Mr McNeil
AGENT Aragon land and Planning Ltd
REASON FOR COMMITTEE TO DETERMINE Cllr Call in Cllr B Saunders

I have been asked by the Town Council that if you are minded to Approve this application that it is forwarded to the Development Management Committee for discussion.

My understanding is that the previous amendment was to move the building by 6ft and that the 2nd revision is another 8ft.

The Town Council are currently awaiting a response from the footpaths officer regarding the movement of the boundary on no. 2 onto what is the current Public Footpath

Recommended Decision Full Application - Approval

RECOMMENDED REASONS FOR GRANTING

The proposal would not have a negative impact on 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, the proposal is in conformity with Policies DM3, DM4, CS1, CS2 and CS14 of the Core Strategy and Management Policies, November 2009; and The National Planning Policy Framework. It is further in conformity with the Supplementary Design Guide: Design in Central Bedfordshire: A Guide for Development, 2010.

Site Location:

The site measures 0.2ha and lies to the rear of No. 2 High Street, Stotfold; a two storey detached pebble dashed dwelling with a plain tiled roof. The property benefits from a long back garden which will be approximately halved to create the application site.

The surrounding area comprises a church and civic/public buildings to the west, separated from the site by a public footpath that extends from High Street to the

south of the application site. To the east and south of the site is existing residential development.

The Application:

Planning permission is sought for a detached two bedroom bungalow, proposed to be sited at the southern end of the site. Access to the bungalow would be from the High Street using an existing crossover. Parking would be provided for both the new and the existing dwelling along with a turning area to the front.

RELEVANT POLICIES:

National

National Planning Policy Framework 2012

Central Bedfordshire Core Strategy and Development Management Policies (2009)

Policies DM3, DM4, CS1, CS2 and CS14 apply.

Supplementary Planning Guidance

Design Guide for Central Bedfordshire (Jan 2010)
Local Transport Plan - Parking Strategy

Planning Obligations Strategy (2009)

Planning History

CB/12/04085/Full	Two storey rear extension to No. 2. 27/11/12
CB/12/00466/Full	Erection of one detached dwelling. Refused 09/02/12 ALLOWED ON APPEAL 10/09/12
CB/11/03668/LDCP	Lawful Development Certificate - Erection of garage, office and playroom with alteration to existing access to provide a longer access and hard standing area to front of proposed garage building. Granted 25/11/2011
CB/10/03477/FULL	Full: Detached dwelling to the rear garden of existing house. Refused 12/11/2010 Appeal dismissed 07/03/2011

Representations: (Parish & Neighbours)

Stotfold Town Council: Objection received on 11/04/13 on the following grounds:
The plan drawings submitted as part of the application do not accurately show the property western boundary and are therefore potentially misleading and should be amended accordingly to prevent future misunderstandings (a copy of the title deeds showing the actual boundary is attached).
We believe that the applicant does not have any legal right to build over the western boundary line marked by the

solid black line on his title plan, he would not appear to have any title to the land on the west of the path, unless he has purchased this separately. To all intents and purposes, therefore unless he gets the footpath diverted, the existing fence line is his physical boundary.

As the amended plans submitted after the application show a proposed diversion of a public footpath, the planning application documents are therefore incorrect as point 6 indicates that there are no required diversions/extinguishments and/or creation of rights of way.

As we are disputing the applicant's boundary claim, point 25 of the application document is also incorrect as it states that the applicant owns all property within the shown boundary. We therefore query whether notice has been served on the owner of the disputed area of land.

As the amended proposal is to move the bungalow closer to the footpath and adjoining Town Council buildings it is considered that this would create a narrowing and overbearing visual impact on the adjacent footpath and its users.

The development would, by virtue of the layout of the site and position of the bungalow, and the poor outlook and light, would result in a generally poor quality of living accommodation for future occupiers.

Further comments received on 18/4/13

On taking further views of the documents submitted with this application I feel that we must make sure that all interested parties are aware that the implications of the latest "minor amendments" to the planning consent already in place are far from "minor" in terms of their effect on the footpath and its future.

While the overview may be taken that it "only" involves the new building moving westward around 5 feet the actual effect on site boundary definition, and with that the revised position and shape of the footpath at the lower SW corner, is a move of 2 metres (their scale-line) further out from the current position.

We have never questioned that the footpath is positioned within the site boundary of the property but it must be questioned why, on both versions of Aragon drawing ref. 1563/12/3 the current position of the footpath is indicated in agreement with their own drawing 1563/12/1 BUT the boundary line has been drifted progressively outwards from a position alongside the west of No.2 High Street down to the SW corner?

On the final (?) version drawing 1563/12/3B where a revised footpath route is indicated the 2 metre "dog-leg"

imposed on the path route can clearly be seen with the visibility and safety implications this would bring for pedestrians, particularly at night time, even if further lamp standards were installed!

For both this planning application CB/13/00892/FULL and questions on "true" route of footpath for inclusion on the "definitive map" of footpaths please refer respective CBC officers or other interested parties to -

H.M. Land Registry site plan; Title Number BD204649 (which you already have)

Aragon Land & Planning Ltd drawings (submitted with application) ref.

1563/12/1 Site Location

1563/12/3 Proposed Layout

1563/12/3B Proposed Layout

It's urgent that these drawings be included in any considerations by Footpaths Officer and also that discrepancies between them are highlighted to the Planning Department to show that some of the documentation submitted by the applicant cannot be taken as reliable information on which a decision should be made!

NOTING

Aragon drawing 1563/12/1 would appear to show a site boundary that is in agreement with H.M. Land Registry Title No. drawing BD204649. These both indicate a site boundary and footpath position exactly where it is now giving a continuity of flow along the footpath with reasonable vision along its length and no severe changes of direction.

Further Aragon drawings 1563/12/3 and 1563/12/3B, for no apparent reason, show the SW corner of site boundary moved some 2 metres (6ft 6ins) further West than the previous two drawings. There appears to be no explanation as to why there is this discrepancy but there must be the potential for users of these drawings to be misled regarding the actual position in situ?

My concern on this issue is so great that I must ask that you pass copies of this E-mail on to both the respective Footways & Planning Officers as a hopefully clearer explanation on some of the issues and also on to CBC Councillor Brian Saunders and members of STC Planning Committee for their information.

Neighbours:

22 signatures on the same letter. Raising concern summarised as -

The amendments require the diversion of a public right of

way. This means creating a dog leg in the footpath. The red line on the submitted plans do not comply with title deed BD204649. The footpath has always been in this position. The dog leg would cause a serious safety issue.

Site Notice Displayed 25/03/13
Advert in Newspaper 12/04/13

Consultations/Publicity responses

CBC Highways In highway terms the application is relatively unchanged from that proposed in application number CB/12/00466 (allowed on appeal).

No objection subject to conditions.

CBC Footpath: No objections to development. No objections to moving the boundary fence, no objections to moving the footpath to its legal line provided it is at the applicants own expense.

Determining Issues

The main considerations of the application are;

1. Planning History
2. Principle of development
3. Impact upon character and appearance of the area
4. Impact upon the amenities of adjoining properties
5. Highway safety and access
6. Other Issues

Considerations

1. Planning History

The site has been subject to recent planning history which is relevant in the consideration of this application.

In 2010 a full planning application was submitted for a detached two storey dwelling on this site and refused by the Council on 9 September 2010. The decision was appealed and subsequently dismissed by the Planning Inspectorate.

Following the dismissal of the appeal, a Lawful Development Certificate was granted for the erection of garage, office and playroom with alteration to existing access to provide a longer access and hard standing area to front of proposed garage building.

A further application was then submitted for the erection of a bungalow with access, turning area and parking. The proposed bungalow would be largely the same size and in the same location as the building approved under the LDC

application. The application was appealed prior to its determination. During the appeal the Council submitted evidence to the Planning Inspectorate that the proposal would result in a cramped form of development with little amenity space, which would be harmful to the character and appearance of the area. The appeal was allowed and the appeal decision is appended to this report.

In coming to his decision the Inspector noted that while the proposed dwelling would be visible from the High Street between Nos 2 and 4, it would not have a materially different visual impact to the ancillary building approved under the LDC. Its size and height would not be intrusive or harmful.

The Inspector also noted that while the bungalow would be most apparent from the public footpath to the west where it would stand close to the boundary, the height of the building, above the existing tall close boarded fence would not be dissimilar to the ancillary building, and would not be visually incongruous. The Inspector went on to say *"Moreover, due to the height of the fence, direct views into the site from the footpath would not be possible. For these reasons any differences in use between the two buildings would not be obviously apparent and the appearance and height of the appeal building would not be uncharacteristic or otherwise harmful."*

The current application is in essence similar to the scheme approved on appeal. The design of the roof has been altered, although it remains of the same height; the width of the dwelling has been increased in size by just over 1m and in terms of siting, the proposed bungalow would remain up against the western boundary, adjacent to the public footpath. However there are complicated and ongoing issues with the legal line of the public footpath adjacent to the side boundary and disputes over the land owned by the applicant. The applicant's Agent has confirmed that the land is within the applicant's ownership.

The main concern, as raised by Stotfold Town Council, is the realignment of the public footpath to the west of the site and the proposed siting of the bungalow against the footpath boundary. This issue will be discussed further in the report.

2. Principle of development

The site lies within the Settlement Envelope for Stotfold and as such there is a presumption in favour of new residential development where there is no adverse impact on the character of the area, neighbouring amenity and highway safety.

The proposal is broadly the same as the previous development that was granted on appeal therefore the principle of the development has been established and therefore acceptable.

3. Footpath 11 issues

The application site is unusual in that the public footpath that runs along the western boundary of the site falls within the applicant's ownership. The correct route of the footpath has been the subject of many discussions with the Council's Rights of Way Officers for sometime. It would appear that historically the footpath has been a straight line running alongside the boundary fence of

No.2. However the definitive map show the footpath's legal line to be in a slightly different location and offset from the existing fence line in a westerly direction. The applicant proposes to move the rear section of his boundary fence towards the west by approximately 1.5 to 2m which would align the footpath to its legal position. The realignment would create a kink in the footpath where it is adjacent to the far end of the applicants rear garden. This has caused concern regarding the safety of the footpath.

It would appear that in the past it has been assumed that the footpath is located in the correct position and this has been accepted by previous owners of No. 2. However as the current owner proposes to revert the footpath to its legal line there is no requirement for the applicant to apply for a diversion order. He would in fact be realigning the footpath to it's correct location and as the footpath falls under the applicant's ownership, he would be entitled to do so. The Councils Rights of Way Officer and Senior Definitive Map Officer are in agreement with the applicant's proposals and have no objections to the realignment of the footpath provided it is done at the applicants own expense.

The Town Council have contested the extent of the land owned by the applicant, in particular the section of land to the west of the footpath. The red line is the same as those submitted on all previous applications where no comments related to land ownership were raised. The only difference in this submission is the revised position of the footpath to its legally correct position.

4. Impact upon character and appearance of the area

As previously discussed, the proposal is similar to the earlier scheme that was allowed on appeal. The current scheme proposes changes to the roofline and the inclusion of an entrance porch. The roof line now includes a gabled section to the front elevation and the width of the bungalow has been increased by approximately 1.5m on the western side.

In terms of the position of the dwelling, it would be located to the rear of the garden with a parking and turning area to the front as was the scheme allowed on appeal.

The approved position of the dwelling is located so that the side elevation abuts the boundary shared with the public footpath. Given that the boundary fence is to be moved towards the west, the dwelling would be relocated 1.5m westwards, however it would remain against the boundary shared with the public footpath.

The changes to the roof design would result in a more prominent roofline than the approved scheme, which has a simple low pitch roof. However the gable section is within the site and therefore the view from the public footpath would remain relatively the same. The overall height of the building would remain as the approved plans.

The view of the Inspector is a material consideration in the determination of this application and as the building similar in scale and height, its impact is not considered to be significantly different to the approved scheme. The proposal is therefore considered acceptable in terms of its impact on the character of the

area in accordance with Policy DM3.

5. Impact upon the amenities of adjoining properties

The proposal is a single storey building and would not result in any loss of privacy to the neighbouring occupants. In coming to the decision on the appeal proposal, the Inspector stated "*In this case, there would not be a similarly harmful effect (refers to previous appeal for a two storey dwelling) because the proposal dwelling is single storey. Furthermore as the Council indicates, any concerns in this regard could be addressed through a condition requiring a higher boundary fence than currently exists*".

The current proposal proposes no material changes to the approved design, in terms of additional windows therefore as the dwelling is single storey and located to the rear part of the existing gardens it would not result in a loss of amenity to the neighbouring properties. The Inspector noted that any concerns regarding overlooking can be addressed through a condition requiring a higher boundary fence than currently exists.

As such the proposal would not result in any additional impact upon the amenities of the adjacent properties.

The proposal is considered acceptable with regard to its impact upon adjoining properties in accordance with Policy DM3.

6. Highway safety and access

As with the previous application, there are no objections to the proposal on highway grounds. The access is considered adequate and sufficient off street parking is provided to serve both the No. 2 High Street and the proposed dwelling to the rear.

Subject to the attachment of relevant conditions, the proposals is acceptable in this regard.

7. Other Issues

The application qualifies for contributions in accordance with the adopted Planning Obligations Strategy. A Deed of Variation to the Unilateral Undertaking submitted with application CB/12/00466 is currently being prepared by the Councils Legal Team.

Human Rights/Equalities Act

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

Recommendation

That planning permission be granted subject to the completion of the Deed of Variation and subject to conditions.

RECOMMENDED CONDITIONS / REASONS

- 1 The development hereby approved shall be commenced within three years of the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 which is designed to ensure that a planning permission does not continue in existence indefinitely if the development to which it relates is not carried out.

- 2 **No development shall commence until a scheme has been submitted for written approval by the Local Planning Authority setting out the details of the materials to be used for the external walls and roof. The development shall be carried out in accordance with the approved scheme.**

Reason: To protect the visual amenities of the building and of the area generally in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document 2009.

- 3 **No development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The scheme as approved shall be carried out in the first planting season following the occupation of the dwelling or the completion of the development whichever is the sooner; and any trees or plants which within a period of 5 years of completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.**

Reason: In the interests of visual amenity and in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document.

- 4 **No development shall take place until details of the position, design, materials and type of boundary treatment to be erected have been submitted to and approved in writing by the local planning authority. This shall include a boundary fence to a minimum height of 1.8 metres along the boundary with No 4 High Street. Development shall be carried out in accordance with the approved details.**

Reason: In the interest of neighbouring amenity in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document 2009.

- 5 **No development shall take place until details of the junction of the modified vehicular access with the highway have been submitted to**

and approved in writing by the local planning authority and the dwelling hereby approved shall not be occupied until the junction has been constructed in accordance with the approved details.

Reason: In the interests of highway safety in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document 2009.

- 6 No development shall take place until details of the final ground and slab levels of the dwelling 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. Development shall take place in accordance with the approved details.**

Reason: To protect the amenities of neighbouring properties and the visual appearance of the area in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document 2009.

- 7 No development shall take place until a scheme detailing access provision to and from the site for construction traffic and provision for one-site parking for construction workers, 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.**

Reason: In the interests of highway safety in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document 2009.

- 8 Any gates provided shall open away from the highway and be set back a distance of at least 5 metres from the nearest edge of the carriageway of the adjoining highway.**

Reason: In the interests of highway safety in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document 2009.

- 9 The dwelling hereby permitted shall not be occupied until the vehicular access shown on plan no. 1563/12/3 has been constructed and surfaced for a distance of 8 metres into the site, measured from the highway boundary; and all on-site vehicular areas have been surfaced, all in accordance with details to be submitted to and approved in writing by the local planning**

authority. Arrangements shall be made for surface water drainage from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

Reason: In the interests of highway safety in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document 2009.

- 10 The turning space for vehicles illustrated on the approved plan no. 1563/12/3 shall be constructed before the dwelling hereby permitted is occupied and thereafter retained for that use.

Reason: In the interests of highway safety in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document 2009.

- 11 The dwelling hereby permitted shall not be occupied until details of the bin storage and collection point have been submitted to and approved in writing by the local planning authority and provided in accordance with the approved details.

Reason: In the interests of highway safety in accordance with Policy DM3 of the Core Strategy and Development Management Policies Document 2009.

- 12 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 1563/12/1, 1563/12/2, 1563/12/3B, 1563/12/4.

Reason: For the avoidance of doubt.

Notes to Applicant

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

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) (Amendment No. 2) Order 2012.

DECISION

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