

## **Item No. 16**

<b>APPLICATION NUMBER</b>	<b>CB/12/01590/FULL</b>
<b>LOCATION</b>	<b>Land to r/o 24-68 Byford Way and 27-31 Garland Way, Billington Park, Leighton Buzzard</b>
<b>PROPOSAL</b>	<b>Change of use of open space to residential gardens</b>
<b>PARISH</b>	<b>Leighton-Linslade</b>
<b>WARD</b>	<b>Leighton Buzzard South</b>
<b>WARD COUNCILLORS</b>	<b>Cllrs Berry, Bowater &amp; Dodwell</b>
<b>CASE OFFICER</b>	<b>Nicola Darcy</b>
<b>DATE REGISTERED</b>	<b>02 May 2012</b>
<b>EXPIRY DATE</b>	<b>27 June 2012</b>
<b>APPLICANT</b>	<b>Mr King</b>
<b>AGENT</b>	<b>PJPC Ltd</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Called-in by Cllr Bowater (reason to be advised)</b>
<b>RECOMMENDED DECISION</b>	<b>Full Application - Refusal</b>

### **Site Location:**

The application site comprises a long strip of grassed land to the rear of 24-68 Byford Way. It varies in width from about 8m at its northern end (to the rear of 27-31 Garland Way) to 6m at the southern end (to the rear of 68 Byford Way) The land at the southern end runs into the main large recreational open space of Astral Park which serves local residents of the Billington Park residential development, on the former R.A.F. Stanbridge site, developed over ten years ago.

A tree belt is evident to the western edge which is protected by a Tree Protection Order. Beyond the western boundary of the site is a mature hedgerow which borders a footpath running along the eastern edge of the Sandhills residential development, developed a few years after the R.A.F. Stanbridge development.

### **The Application:**

Permission is sought for the enclosure of the land to residential gardens by way of 1.8m close boarded fencing. This involves all of the protected trees becoming enclosed within the proposed garden areas. The change of use would not extend to the hedgerow running between Sandhills and Billington Park that largely remains in the ownership of the Ministry of Defence.

It should be noted that the land behind number 32 Byford Way has already been enclosed with 1.8m close boarded fencing, providing a 5m unauthorised extension to the residential garden.

## RELEVANT POLICIES:

### National Planning Policy Framework

#### South Bedfordshire Local Plan Review Policies

BE8 Design Considerations

R12 Protection of Recreational Open Space

*(Having regard to the National Planning Policy Framework, the age of the plan and the general consistency with the NPPF, policies BE8 and R12 are still given significant weight.)*

#### Development Strategy for Central Bedfordshire

Policy 43: High Quality Development

Policy 40: Other Area of Open Space within Settlements

*(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 June 2013.)*

#### Supplementary Planning Guidance

Central Bedfordshire Design Guide: A Guide for Development:

#### Planning History

SB/03/01515 - Residential development (Outline)

(Pratt's Pit site 15a)

SB/99/00457 - Construction of access roads for residential development

(Land at, RAF Stanbridge, Stanbridge Road, Leighton Buzzard.)

SB/97/00776 - Residential development and recreational uses (outline)

RAF Stanbridge, Stanbridge Road, Billington

SB/92/00793 - alterations to vehicular access

RAF Stanbridge, Stanbridge Road, Leighton Buzzard.

#### Representations:

##### (Parish & Neighbours)

Town Council	Resolved to make no comment - Owners of the land in the application site.
--------------	---

Neighbours	Objections
------------	------------

66 Cormorant Way (22/05/12)

We would like to object to the planning application made.

Our comments are as follows:

There are very little public open spaces on the Sandhills development and what little there is should be protected.

The area should be developed and landscaped to protect the wildlife, trees and open space on the estate. It should

also be to the benefit of the Sandhills development to provide official access to the sports area and pitches and it should not be developed for the benefit of individuals.

There is a concern that once the land passes into private ownership, its value as a habitat for wildlife can no longer be guaranteed.

We have not been provided with any details regarding how much money the council aims to raise from the sale of this land, nor how this would be spent to benefit the wider community.

We disagree strongly that the land is an eyesore; to the contrary it can be rather beautiful particularly in Spring. The observation made in the proposal is entirely subjective and should not be considered in the final decision.

On the matter of the litter problem I am sure that the community would rather be given the opportunity to address this problem ourselves rather than losing access to the land entirely.

The Horse Chestnuts Trees offer a degree of privacy when in bloom. If planning permission was to be approved and we would like to see them protected and where they could not be cut down if incorporated into residents gardens.

On the point that the land is currently being misused, the sale of the land to private individuals can only be considered as a last resort. There is no mention of the steps the council has already taken to tackle these issues in the proposal.

#### 40 Cormorant Way (11/05/12)

- Detrimental impact upon privacy if the gardens are to be closer to the dwellings on Cormorant Way.
- No anti-social behaviour known to residents
- The green open space provides a natural habitat for wildlife, especially birds and insects. Concerns that this will be damaged and shrubs and vegetation will be removed to accommodate the fencing potentially disturbing the habitat.
- Important open space between housing

#### Support

#### 32 Byford Way (17/05/12)

The land has never been looked after and is a mess, often

used for tipping rubbish and vandals damaging fences and the hedgerow.

Changing use to gardens will ensure the land is looked after by the home owners.

## **Consultations/Publicity responses**

Tree and Landscape Officer                      Objection due the potential impact upon Protected Trees.

## **Determining Issues**

The main considerations of the application are;

1.        Background
2.        Impact Upon Amenity
3.        Trees and Landscape
4.        Other Matters

## **Considerations**

### **1.    Background**

The land in question is an open strip of land to the rear of the garden fences of the properties on Byford Way and Garland Way and is owned by Leighton Buzzard Town Council. Together with the main large area of open space at Astral Park, the land was handed to the Town Council with a commuted sum as Public Open Space as required by the original Section 106 Agreement for the development of R.A.F. Stanbridge, reference SB/97/0776 granted in May 1999

The strip of land was intended as a buffer between the residential development at R.A.F. Stanbridge and the adjoining Pratts Sand Quarry and as a means of keeping protected trees that had formerly provided a setting to the R.A.F. base. The land had been intended as a through link to Garland Way, but unfortunately this was not able to be completed, due to the handing over of the northern end of the land to private residential owners by the developers. When Sandhills (Site 15 (a)) was constructed a few years later reference SB/03/01515 granted in August 2004, the opportunity was taken to provide a layout adjoining the western side of the hedgerow that incorporated a footpath and other open space areas. There is therefore the potential for a more comprehensive open space and link between the Sandhills and Billington Park developments.

The one metre width of the hedgerow between the two estates is still owned by the Ministry of Defence however, there are opportunities for the Council to acquire the land in the future through Section 106 Agreement when the remainder of the R.A.F. Stanbridge site comes forward for development in the near future. This would enable the above potential for a more comprehensive open space to be unlocked.

## 2. Impact Upon Amenity

Letters of objection and support were received as a result of consultations on the application.

Saved Policy R12 of the South Bedfordshire Local Plan Review emphasises the need to preserve formal and informal open spaces in the district. The explanatory text to the policy states that the Council considers that open spaces have a vitally important amenity role in addition to their value for recreational purposes. Such open spaces contribute to the variety of land uses within the urban fabric which help to make towns convenient, satisfying and enjoyable to live. Amenity land is generally defined as land which is valued locally for its visual importance and contribution to the character of the area but may also have other uses i.e formal or informal recreation, environmental, cultural and historical and for wildlife and nature conservation value. Such open spaces give relief from the built environment.

Accordingly, Policy R12 of the adopted Local Plan which is intended to include proposals for the incorporation of amenity areas and spaces into private gardens whether privately or publicly owned states that,

**"In the towns and villages of South Bedfordshire excluded from the Green Belt, planning permission will not be given for the development of open space for non-open recreational purposes. Exceptions to this policy will only be considered where the proposed new development is essential for the improvement, enhancement or enlargement of an existing open space or area for sporting or recreational use and where only a small part of the existing open space will be lost."**

The land to the rear of Byford Way and Garland Way serves a vital amenity function. Proper maintenance of this land could provide an important link between Astral Park and the two large housing developments at Billington Park and Sandhills and it is such land which Council policy seeks to preserve and hence, any piecemeal alterations to the original landscape concept of the estate would be unduly detrimental to the general amenity and appearance of the area if permitted.

The application site is in an area where such pockets of amenity land are not uncommon and these areas of land make important contributions to the neighbourhood. In general they provide a soft edge or buffer between the buildings and the footpaths or highway areas. Larger areas of amenity land within the area also make important contributions in terms of recreational space and enhance the local environment. The loss of these areas would not be encouraged, as their removal would be harmful to the character and appearance of the area. For these reasons the change of use of the land and its inclusion within the gardens of the properties would be detrimental to the character and appearance of the area. Furthermore giving approval to the removal of such spaces may also be used as an argument for other areas of open space which would result in the gradual erosion of the green spaces within the estate, thus causing further harm to the character and appearance of the estate.

The Council has been consistent in its application of Policy R12 throughout the District and the current proposal presents no exceptional circumstances sufficient to reach a different conclusion.

In design terms, the proposed enclosure of amenity space would fail to enhance local distinctiveness contrary to Policy BE8 of the adopted local plan and national advice.

Para 11.17 of the emerging Development Strategy states that in order to protect the character of settlements, open spaces which are important both in visual and functional terms, should be protected from development or enclosed as private gardens unless there are exceptional circumstances. Open space also performs a variety of other important functions such as enhancing biodiversity, helping to create linkages for wildlife and humans, improving health and well being, carbon fixing and reducing the heat island effect of built development.

Similarly Policy 40 of the emerging Development Strategy states that:

Within the towns and villages of Central Bedfordshire where Important Open Space has not been designated, planning permission will not be given for the development of open space, including amenity open space and allotments, which contributes to the character of the area either functionally or visually, for non-open recreational purposes. Exceptions to this policy will only be considered where the proposed new development is essential for the improvement, enhancement or enlargement of an existing open space or area for sporting or recreational use and where only a small part of the existing open space will be lost.

Having regard to the foregoing appraisal, it is considered that the proposal is not acceptable as the area of land presently contributes to the landscape character and setting of both Billington Park and Sandhills residential development. Further, as discussed above in the background section, there is the potential for this landscaped character to be further enhanced in the future.

### **3. Trees and Landscape**

The Tree Preservation Order No. 7/2003, which includes those trees (Horse Chestnuts from the original R.A.F. Stanbridge site) growing in the existing area of open space that is being requested for the change of use to residential gardens.

The Tree Officer has concerns that the proposed change of use would inevitably result in the new owners extending their existing side garden fencing. It is calculated that the proposed fencing would come into direct conflict with the positions of many of the protected trees as shown on the TPO plan, and this would lead to future pressure for such trees to be detrimentally pruned or felled, especially where their trunks (or major limbs) are found to be obstructive to the line of the new boundary.

In this respect, the trunks of the following trees were noted to be growing in exactly the positions where new garden fencing is likely to be installed, following a change of use being granted:-

T2,T3, T5, T7, T10, T13, T15 and T16.

The Tree Officer objects to the application on the grounds that resultant garden boundary fencing would be in direct conflict with the positions of at least 8 trees protected by The South Bedfordshire District Council (Land rear of Garland Way and Byford Way (Billington Park) Leighton Buzzard) Tree Preservation Order No. 7/2003.

It is considered that the removal of these trees would lead to a reduction in the landscape value of a strategically positioned piece of green infrastructure, provided in the form of the tree belt, which is intended to visually break up the lines of large scale urban development in the area.

#### **4. Other Issues**

##### **Human Rights issues**

The proposal would raise no Human Rights issues.

##### **Equality Act 2010**

The proposal would raise no issues under the Equality Act 2010

#### **Recommendation**

That Planning Permission be REFUSED subject to the following:

#### **RECOMMENDED REASONS**

- 1 The application site comprises an area of open amenity land which makes a positive contribution to the visual amenity of the area. The inclusion of this land within the residential curtilages of land to r/o 24-68 Byford Way and 27-31 Garland Way and the erection of boundary fencing would be detrimental to the character and appearance of the area. The proposal is therefore contrary to national planning guidance National Planning Policy Framework, Policies BE8 and R12 of the South Bedfordshire Local Plan Review and Policies 40 and 43 of the emerging Development Strategy for Central Bedfordshire.
- 2 The grant of planning permission for the proposed development would create a precedent and make it difficult for the Local Planning Authority to resist other similar proposals in the area. Such piecemeal loss of open amenity space would result in the gradual erosion of the green spaces within the estate, thus causing harm to the character and appearance of the area contrary to national planning guidance within the National Planning Policy Framework, Policies BE8 and R12 of the South Bedfordshire Local Plan Review and Policies 40 and 43 of the emerging Development Strategy for Central Bedfordshire.

- 3 The resultant garden boundary fencing would be in direct conflict with the positions of at least 8 trees protected by The South Bedfordshire District Council (Land rear of Garland Way and Byford Way (Billington Park) Leighton Buzzard) Tree Preservation Order No. 7/2003, leading to pressure for works to the trees resulting in the loss of amenity value of the trees to the detriment of visual amenity of the locality.

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

Planning permission has been recommended for refusal for this proposal for the clear reasons set out in this decision notice. 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) (Amendment No. 2) Order 2012.

**DECISION**

.....  
.....