

Item No. 7

APPLICATION NUMBER	CB/13/01384/FULL
LOCATION	The Drovers, Flitwick Road, Steppingley, Bedford, MK45 5BA
PROPOSAL	Part removal and Part retention of terraced area and sleepers.
PARISH	Steppingley
WARD	Flitwick
WARD COUNCILLORS	Cllrs Mrs Chapman, Gomm & Turner
CASE OFFICER	Sarah Fortune
DATE REGISTERED	18 April 2013
EXPIRY DATE	13 June 2013
APPLICANT	Mr S Miah
AGENT	Aragon Land and Planning UK LLP
REASON FOR COMMITTEE TO DETERMINE	Councillor call in by Councillor F Chapman for the following reason: Local Concerns regarding the use of the land.
RECOMMENDED DECISION	Full Application - Granted

Recommended Reasons for Granting:

The re-grading and re-landscaping of the land subject to planning conditions to mitigate the impact of the use on neighbours, the landscape and the Green Belt is considered to be in conformity with the National Planning Policy Framework (2012), Development Management Policies DM3, DM14, CS11, CS14 & CS16 and Policies 43, 36, 58 & 59 of the emerging Development Strategy for Central Bedfordshire.

Site Location:

The site lies on the north side of Flitwick Road in a countryside location outside of the village of Steppingley and within the Green Belt. It supports a Public house/restaurant to the front of the site and to the rear is the raised garden area the subject of this planning application and then open land beyond. To the east is a bungalow known as Longacre whilst to the west are allotment gardens

The Application:

This application is in respect of the part removal and part retention of the terraced garden area and sleepers - which lies to the rear of the Pubic House/restaurant.

RELEVANT POLICIES:

Core Strategy and Development Management Policies - North 2009

DM3 Amenity
DM14 Landscape and Woodland

CS11 Rural Economy and Tourism
CS14 High Quality Development
CS16 Landscape and Woodland

Development Strategy for Central Bedfordshire draft 2013

Policy 43 High Quality Development
Policy 36 Development within the Green Belt.
Policy 58 Landscape
Policy 59 Woodlands trees and Hedgerows.

National Planning Policy Framework (March 2012)

Supplementary Planning Guidance

Design in Central Bedfordshire A Guide for Development

Planning History - relevant

08/00830	Raised patio, fencing and lighting to front of site. Granted: 22/08/2008
08/01154/ADV	Replacement adverts Granted: 20/08/2008
11/01046	Single storey side and rear extensions. Granted: 17/05/2011
CB/11/03272/FULL	Landscaping works (Part Retrospective) Refused: 19/12/2011. Enforcement notice served on 30/05/2012 Appeal Dismissed: 24/10/2012. Remove the timber retaining walls and regrade the terraced land to form a single consistent slope to be completed by 24/11/2012. The preparation of the land for seeding and sowing it with grass seed to be completed by 24/01/2013

Representations: (Parish & Neighbours)

Steppingley Parish Council	Objects: Failure to address the matter of primary concern - the fact that an upper terraced area was to cut into the hill (and trees removed in the land behind the Drovers which the land user indicated was to be used for events hire. This proved to be the case when a marquee was erected there and very loud music played to the
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disturbance of the neighbourhood. It appears that the creation of an events venue by means of terracing has not been addressed but it is specifically contemplated - see the motor car drawn in drawing number 12/072/103. The proposed changes to the planning arrangements nearer to the building in the lower part of the hill misses the point - the local concern is not so much the planting arrangements as the unlawful development work carried out to the hillside. Please ensure that materials are added to restore the terraced area of this land to its original gradient - whether this is to be done in the present application is far from clear. Also, ensure that trees are replanted to replace the mature specimens that were felled.

Neighbours

1 Objects: No building regulation/inspection adhered to i.e. the steps have no handrails. Do the steps conform to any regulations?

Parking for 25 - not 46 - as claimed so excess parking will be in the road which may be dangerous as there is no footpath or street lighting. The design is unnatural and imposing and the layout creates flat areas for out door events which have in the past been extremely noisy and invasive. As for the large boundary trees only time will tell if they recover from the 1m deep excavation around their roots and lowering of the site around them. Where did all that soil go?

2. Comments and objections. Are they planning to return the top side of the area to the slope as original, are trees to be replanted in the flat surface area, what is the land to be used for and is the area at the back and top side going to be used for parking. Object that they have not respected the planning rules, lack of leadership from the County Council at dealing with the Drivers who clearly had not filled any original planning applications - and lack of honesty from the owners as to the purposes and use of the land.

1. Comments. Legal action has been taken against the applicant for non-compliance with planning laws, any plans they now submit should be carefully considered by the planning officers. The application is to remove the top tier from the development and to re grade the slope left by its removal. The illegal works carried out previously also included removing mature trees and digging out and levelling a large area behind the terracing, on which to erect a marquee for various parties and functions. How are they going to fill back in this large area to a slope - they advise that no materials will be imported into the site. Are they just levelling this area even further. This is not acceptable. Steppingley is a rural village in a Conservation Area and Green Belt and we are fighting to preserve its

dark sky policy and quiet country feel. There is no mention of removing the powerful lighting systems that the Drivers have installed on the tiers or reinstating the trees. This would not only make this area less bare but also help with the stability of the land. Would not object if we are guaranteed that the slope - from the furthest excavated area to the lower terrace is to be reinstated to its previous level and incline and most importantly that new trees are replanted for the area from which they were removed.

Petition (submitted with the application) in favour of the landscaped garden with 95 signatures: The garden is a lovely amenity for the area, we should support local businesses, the garden is a credit to the business, provides a safe play area of kids, it would be a real shame if removed, is an improvement, tastefully done, do not understand the objections, it is an asset to the village, an improvement on the previous vista, great location for marquees etc..

App Adv

Consultations/Publicity responses

Tree Officer	No objection. Suggest that some suitable additional planting of trees on the site be agreed. Please add a condition requiring details of species of trees and sizes along with a plan showing their location.
E.H.O.	No comment
Minerals Officer	No obs received.
Highways Officer	Assume that no materials are to be removed from the site. Recommend a condition and Highway note be attached to any permission.

Determining Issues

The main considerations of the application are:

1. Background and Policy
2. Impact on visual amenities of area
3. Impact on amenities of neighbours
4. Other Considerations

Considerations

Human Rights issues

There are no Human Rights issues

Equality Act 2010

There are no issues under the Equality Act

1. Background and Policy

The site supports a Public House /restaurant - the main restaurant being to the rear of the property and the drinking area to the front. There is a front patio area as well as a further sitting out area to the east side of the main restaurant conservatory extension. There is a hard surfaced car park to the west side and to the immediate rear of the property.

There is a large area of land to the rear of the property which is also in the ownership of the applicant. Historically the area to the immediate rear of the car park has been used for additional pub garden with the land beyond being an open area of rough grass leading up to where it adjoins the footpath off Church End to the north.

The site has been the subject of a number of planning applications over the last few years including consent for the rear conservatory, the erection of the raised patio and associated fencing as well as more recent planning consent for a single storey side and rear extension to form a new kitchen.

The property was a Public House for many years and is well established at the site having grown over these years to now include a large restaurant area to the rear. The associated outside seating areas have also been extended.

Approximately two and a half years ago the applicant carried out very extensive works to this land which involved the regrading of it to provide for some raised terraces which were then landscaped. A small part of the front of this terraced area is on the land that had previously been used as a garden area to the Public House but the rear section of this terracing was formerly an area of rough grass. The applicant submitted a retrospective application for what was effectively an extension of the pub garden areas as well as the regrading of the land to create the terraces under planning ref: CB/11/03272.

Cross sections were submitted which showed sections through this site of ground levels. This showed that the land has been raised up to 2 metres (approx) above the level of the access track alongside of the terracing.

The application was refused on 19/12/2011 for two reasons - one of these being that the site is in the South Beds Green Belt in an area classified as being Greensand Ridge in the Mid Bedfordshire District Landscape Character assessment Document dated 2007. It was felt that the large scale regrading of the land to create terraces was to the serious detriment of the visual amenities of the site and the wider landscape generally in conflict with PPG2, the Landscape Character Assessment Document and policies DM3, DM14 and CS16 in the Core Strategy and Development Management Planning Document dated November 2009.

The second reason for refusal was in respect of the raising of the land to the rear to create terracing and the provision of the extended pub garden and children's play areas on these terraces would give rise to the potential for undue loss of amenity to occupiers of the neighbouring property by way of overlooking,

noise and general disturbance in conflict with planning policies and the former PPS1.

Following this refusal, an enforcement notice was served on 30/05/2012 in respect of the terracing of the land and the installation of timber retaining walls. The requirements of the notice were to remove the timber retaining walls and re-landscape the terraced land to form a single consistent slope and also prepare the land for seeding and sown with grass seed. A subsequent appeal against this was lodged and was dismissed by decision letter dated 24/10/2012.

Since the appeal decision the applicant has retained the terracing and had discussions with officers as he would like to retain the lower terracing and re-grade the upper terraces to provide a consistent slope.

The site lies in the Green Belt outside of the village of Steppingley in a very rural location where there are very strong controls over any inappropriate developments. One of the purposes of including land in the Green belt is to protect the countryside from encroachments and the recent National Planning Policy Framework 2012 states that the Green Belt serves five purposes and one of these is to assist in the safeguarding of the countryside from encroachment. It further states that the construction of new buildings is inappropriate in the Green Belt with some exceptions. However, these exceptions must not conflict with the purpose of including land in the Green Belt.

In addition, the site lies in an area which has been classified as Mid Greensand Ridge in the Mid Bedfordshire District Landscape Character Assessment dated 2007. The overall strategy in this document is to conserve and enhance the landscape of this ridge and to conserve the character of rural roads limiting urbanizing influences. Policy DM14 of the Core Strategy and Development Management Planning Document dated November 2009 states that planning applications are assessed against the impact the proposed development will have on landscape, whether positive or negative and that the Landscape Character Assessment will be used to determine the sensitivity of the landscape and the likely impact. It further states that any proposals that have an unacceptable impact on the landscape quality of the area will be refused unless there is a particular need for or benefit arising from the proposals that would override this requirement.

The more recent policy document of this council the Development Strategy for Central Bedfordshire states in Policy 36 that there is a general presumption against inappropriate development in the Green Belt but that certain forms of development are considered appropriate as long as they preserve the openness of the Green Belt. Policy 43 of this document states that new development must be of appropriate scale and design to its setting, contribute positively to creating a sense of place and respect local distinctiveness through design, layout and use of materials and planting. It must also respect the amenity of surrounding properties and their occupiers. Policies 58 and 59 in this document requires that landscapes are conserved and enhanced in accordance with the Landscape Character Assessment and provides for the council to ensure that any trees or hedgerows lost to development will, where appropriate, be replaced with landscape and habitat features of equivalent value.

2. Impact on visual amenities of area

At present the terracing extends across the width of the site (about 30 metres) and has a depth of about 25 metres. The floodlit, grassed terraced areas are contained by vertical sleeper walls which are bedded in concrete. It is estimated that this re grading has involved the raising in ground levels by 2 metres. The applicant has provided these levelled surfaces for sitting out and children's play which he hoped would attract more customers. A considerable amount of shrub planting has taken place on these terraces. To the west side of these terraces is a vehicle access.

The planning Inspector dismissed the appeal against the enforcement notice served in respect of this terracing on grounds that she was of the opinion that there was no overall need or benefit arising from the development which would override the aim of conserving the valued landscape set out in policies DM14 and CS16 of the Council's adopted Core Strategy and Development Management Planning Document dated 2009. She was also of the view that the development did not accord with policy DM3 which seeks to ensure that development is of high quality and of appropriate scale and design to its setting. She concluded that the development was detrimental to the character and appearance of the area and did not accord with adopted development plan policy and the National Planning Policy Framework.

In view of the above decision letter of the Planning Inspector and following discussions with officers the applicant has submitted this revised application which is for the removal of the upper bank and the sleepers and to re grade the land into a gentle slope. The rear terrace is to be removed and the soil is to be raked so that the land slopes to a more natural level and this will not involve any export off site of any material. The existing boundary hedging and planting is to be retained as part of the proposal will remain as is along the boundaries.

The proposal is to remove the upper structure and re grade or shape the land to the lower level. The lower structure is to be retained in order to stop the bank from collapsing into the car park. The bank is retained by sleepers and can have some landscaping planted in front of the sleepers. The land is then to be seeded and left as a grassed area. This area would be used as a beer garden.

Objections have been raised by some of the local residents and the Steppingley Parish Council to these revised proposals. These objections are based on the fact that trees have been removed from this area of land when the terracing was created, marquees have from time to time been erected upon the land and there is lighting to this area which is considered to be out of keeping with Steppingley as a rural village in a Conservation Area and within the Green Belt. There is a general feeling that local residents would like the slope reinstated to its previous level and incline and trees planted on the areas from which they have been removed.

It is considered that the regrading of the land down to the lower terrace will give the area a less engineered appearance having a softer appearance more in keeping with its rural surroundings. Also, conditions can be attached which require that additional planting take place on the land to the immediate north of

the existing terraced area. This would provide replacement tree planting.

We have requested additional landscaping information from the applicant to ensure that there is a clear restoration plan. Subject to the receipt of these plans the landscaping concerns could be overcome

3. Impact on amenities of neighbours

An important consideration is the impact of the landscaping works on the amenities of neighbours - in particular the neighbours to the east of the site in the bungalow known as Longacre. The proposed revamped terraced area is to the rear of the Public House/restaurant and sited so that it starts on the rear building line of this bungalow to the east. It has been constructed so that it is up to the shared boundary with this bungalow.

The Planning Inspector stated in her appeal decision letter dated 24/10/2012 in paras 10 to 14:

There is considerable vegetation to the side boundaries which I saw prevents overlooking of the adjoining garden. This may be rather less effective during the months when not in leaf, but the terraces are much less likely to be used at such times.

However, the terraces mean that the outdoor area is likely to be more intensively used than before. Whilst it might be expected that people would sit outside in a pub garden, the elevated nature of the terraces mean that noise is more likely to carry and to give rise to disturbance for the adjoining residential occupiers.

The large levelled area facilitates the siting of a marquee for special events such as weddings and beer festivals. From the representations it is evident that, although not many such events may have been held, when they have occurred they have given rise to complaints about significant noise from residents over a wider area.

Conditions about the erection of marquees etc.. could be imposed if planning permission were to be granted. However, I do not consider that conditions would be reasonably imposed to protect neighbouring residents from the noise and disturbance resulting from the use of the elevated seating and children's play area.

I find that the development is detrimental to the living conditions of nearby residents and does not accord with Policy DM3 in this regard.

The applicants have stated that the land the subject of this application is to be used for pub garden purposes. A condition is recommended which states that the land to the rear of the regraded section outside of the red line is not used for pub garden purposes but is retained as a landscaped area.

The Planning Inspector in her recent appeal decision letter stated that the existence of terraces meant that the outdoor area was likely to be used more

intensively than previously and that noise from the elevated nature of the terraces is more likely to give rise to disturbance for the adjoining residential occupiers. The large levelled area facilitated the siting of marquees for special events - such as weddings and beer festivals - and the inspector stated that the holding of such events had given rise to complaints about significant noise from residents of a wider area.

In view of the above it is considered that as long as conditions are attached to any permission which control the use of the land such that the beer garden is confined to the lower level area and permitted development rights are removed with regard to the erection of a marquee then there should not be an unduly adverse impact on the amenities of neighbours by way of noise and disturbance. Also, the pub garden is only likely to be used for such purposes in the summer months when the extensive planting along the side boundaries - shared with the neighbours - is in full leaf and as such provides a visual screen and a part noise barrier to the neighbours.

4. Other considerations

The highways officer did not raise any objections to the previous application for the terracing and is not raising any objections to this revised scheme of works as there are no changes to the means of access or to the overall level of parking provision. A condition is to be attached to the permission which requires a scheme for on site parking for construction workers and deliveries to be provided for the duration of the construction period.

The tree officer has advised that he has no objections to raise in principle but would want conditions to be attached to any planning permission which require the submission of planting details including details of species of trees and their sizes.

Recommendation

That Planning Permission be granted subject to the following:

RECOMMENDED CONDITIONS / REASONS

- 1 The development hereby approved shall be commenced within three months 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 The beer garden use hereby permitted shall be restricted to the area cross hatched on plan number ..

Reason: To safeguard the residential amenity of adjoining occupiers.

- 3 Before the beer garden is first brought into use a scheme of fencing and tree planting to demarcate and screen the rear and side boundary of the beer

garden shall be implemented, the scheme having first been approved in writing by the Local Planning Authority.

Reason: To safeguard the residential amenity of neighbouring occupiers and the character of the area.

- 4 The access track to the west of the beer garden shall only be used for maintenance purposes and shall not be used as a vehicular access to provide additional car parking or in association with uses ancillary to the restaurant, public house or beer garden.

Reason: To safeguard the residential amenity of neighbouring occupiers and the character of the area.

- 5 Notwithstanding Class B of Part 4 ('Temporary Buildings and Uses') of the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent order no marquees, tents or other temporary structures shall be erected on the application site or the land to the rear indicated in blue on plan number 12/072/1000. No part of the beer garden or land indicated in blue on plan number 12/072/1000 shall be used for car parking.

Reason: To safeguard the residential amenities of occupiers of the neighbouring properties.

- 6 Before the beer garden is first brought into use, the finished ground levels of the beer garden and full details of both hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:

- a tree planting scheme
- finished ground levels in relation to adjoining land
- proposed and existing functional services above and below ground level.
- planting plans, including a schedule of size, species, positions, density and times of planting.
- cultivation details including operations required to establish new planting
- details of existing trees and hedgerows on the site, indicating those to be retained and the method of their protection during the development works

The development shall be carried out in accordance with the approved details before the use of the beer garden commences.

- 7 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of the use 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 unless the Local Planning Authority give written consent to any variation.

Reason: In the interests of the visual amenities of the site and the area generally.

- 8 On site provision for the parking of construction workers vehicles and

delivery vehicles shall be made available throughout the entire period of the regrading works.

Reason: To ensure adequate off street parking during construction works in the interest of road safety.

- 9 No lighting shall be provided to the area of land to the rear of the car park or to the beer garden without the prior approval in writing of the Local Planning Authority.

Reason: To safeguard the visual amenities of the site and its surroundings.

- 10 The beer garden shall only be used for such purposes between the hours of 11am and 11.30pm on any day and no outside amplified music shall be installed or operated without the prior approval in writing of the Local Planning Authority.

Reason: To safeguard the amenities of occupiers of nearby dwellings.

- 11 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 12/072/101, 12/072/103/A, 12/072/104, 12/072/105, 12/072/100 12/072/102 and 12/072/1000

Reason: For the avoidance of doubt.

Notes to Applicant

1. The applicant is advised that photographs of the existing highway that is to be used for access and delivery of materials will be required by the Local Highway Authority. Any subsequent damage to the public highway resulting from the works as shown by the photographs, including damage caused by delivery vehicles to the works, will be made good to the satisfaction of the Local Highway Authority and at the expense of the applicant. Attention is drawn to Section 59 of the Highways Act 1980 in this respect.
2. 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)

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. The Council acted pro-actively through positive engagement with the applicant at the pre-application stage and 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.