

## **Item No. 9**

<b>APPLICATION NUMBER</b>	<b>CB/14/03040/FULL</b>
<b>LOCATION</b>	<b>Fen End Industrial Estate, Fen End, Stotfold, Hitchin, SG5 4BA</b>
<b>PROPOSAL</b>	<b>Proposed demolition of existing factory unit to build two number five bed houses and one number four bed house with associated garages, car parking and external works. Change of use from general industrial to residential.</b>
<b>PARISH</b>	<b>Stotfold</b>
<b>WARD</b>	<b>Stotfold &amp; Langford</b>
<b>WARD COUNCILLORS</b>	<b>Cllrs Clarke, Saunders &amp; Saunders</b>
<b>CASE OFFICER</b>	<b>Samantha Boyd</b>
<b>DATE REGISTERED</b>	<b>08 September 2014</b>
<b>EXPIRY DATE</b>	<b>03 November 2014</b>
<b>APPLICANT</b>	<b>Mr T Saunders</b>
<b>AGENT</b>	<b>Levitt Partnership Limited</b>
<b>REASON FOR COMMITTEE TO DETERMINE RECOMMENDED DECISION</b>	<b>The applicant is related to an elected Member  Full Application - Refusal Recommended</b>

### **Reasons for Recommendation**

The application site is allocated for employment use under Policy E1 of the Site Allocations Development Plan Document (2011), Policy E1 and Policy CS10 of the Core Strategy and Development Management Policies Document (2009) seek to safeguard the site for employment use therefore the proposal for three new dwellings would result in the loss of a safeguarded employment site which is unacceptable.

The proposal also is considered to result in an harmful visual impact on the character and appearance of the surrounding area given the proposed layout of the site which includes a significant area of hard standing to the frontage of the site and detached double garages to the front which would appear unduly prominent within the street scene and given the siting and design of the dwellings, the proposal would result in an adverse impact upon the amenities of the future occupiers of the site by way of significant overlooking from the adjacent industrial building.

Furthermore, the applicant has failed to demonstrate that the proposal would not result in significant impact from noise, smoke and fumes from the industrial units which would result in loss of amenity to future occupants of the properties.

Finally, the application qualifies for contributions in accordance with the adopted Planning Obligations Strategy. A draft Unilateral Undertaking has been submitted to the Council's Legal Team however a signed version has not been approved at the time of preparing this Committee report. Without a signed approved Unilateral Undertaking in place, the development fails to provide contributions towards local infrastructure in accordance with the Planning Obligation Strategy and Policy CS2.

The proposal is therefore contrary to Policies CS2, CS10 and DM3 of the Core Strategy and Development Management Policies Document (2009) and the Site Allocations Development Plan Document (2011).

**Site Location:**

The application site is 1 Fen End Industrial Estate and comprises a vacant industrial unit on the corner of Fen End and Astwick Road. The site is enclosed by chain link fencing and some trees exist on the frontage of the site. To the south east the site is adjoined by residential properties in Astwick Road and to the south west there are existing occupied industrial units. Fen End is a small industrial estate of mixed uses on the edge of Stotfold .

**The Application:**

Planning permission is sought for the demolition of the existing industrial unit and replacement with three detached dwellings, garaging, parking and a new access.

**RELEVANT POLICIES:**

**Site Allocations Development Plan Document 2011**

Policy E1 Safeguarded Employment Sites

**Core Strategy and Development Management Policies - North 2009**

CS1 Development Strategy

CS2 Developer Contributions

CS9 Providing Jobs

CS10 Location of Employment Sites

DM3 High Quality Development

DM4 Development within and Beyond Settlement Envelopes

**The Emerging Central Bedfordshire Development Strategy (June 2014)**

Policy 6 Employment Land

Policy 7 Employment Sites and Uses

Policy 8 Changes of Use

Policy 19 Planning Obligations and the Community Infrastructure Levy

Policy 27 Parking

Policy 29 Housing Provision

Policy 38 Within and Beyond Settlement Envelopes

Policy 43 High Quality Development

Policy 44 Protection from Environmental Pollution

**National Planning Policy Framework (March 2012)**

Paragraph 22

**Supplementary Planning Guidance**

### **Relevant Planning History**

48/2002/0232	Change of use from vehicle repairs and sales to general industrial use to include the storage, surfacing and maintaining equipment in connection with supplying road traffic management systems and equipment. Approved August 2002
07/00783/Full	Change of Use of to scaffold yard and depot - Refused July 2007.
07/00150/Full	Change of Use to scaffold yard and depot - Refused March 2007

### **Representations: (Parish & Neighbours)**

Stotfold Town Council	No objections
Neighbours Site Notice	No comments received 30/09/14

### **Consultations/Publicity responses**

Highways	<p>I refer to the above full application for which you have requested my comments. I would advise as follows:</p> <p>The application proposes the demolition of a 540m<sup>2</sup> general industrial unit and the erection of three number four/five bedroom detached houses served via a new vehicular access with associated garages and car parking.</p> <p>The site is located on the corner of Fen End and Astwick Road and lies within the 30 mph speed limit. A footway with a highway verge behind traverses the site frontage which provides the requisite visibility splays within highway limits at the proposed point of access.</p> <p>The proposed access is set out in the form of a “bellmouth” junction and leads to a shared surface access drive serving the three dwellings. Each dwelling is provided with a double garage and two driveway parking spaces whilst two further spaces are also provided for use by visitors. The parking provision can therefore be deemed to comply with the Council’s parking standards.</p>
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The existing access onto Fen End becomes redundant and will need to be formally stopped up and the kerb, verge and footway reinstated to the appropriate line and level. This matter can be dealt with by condition.

The proposed change in use from industrial to residential is unlikely to result in a material increase in traffic movements to/from the site and therefore the development is unlikely to have an adverse impact on the local road network, once completed.

#### Public Protection - Noise

I would like to object to the proposed development. The proposed residential dwellings are located within an existing industrial estate and the applicant has not submitted any information in support of the application which considers the impact of noise, smoke and fumes from the industrial units on the proposed development. In addition the specific layout and design has placed habitable rooms directly overlooking yard areas and gardens backing onto industrial yards.

I am concerned that the proposed development will not achieve the Council's noise standards with respect to noise from the adjacent industrial units. I believe that noise from the industrial estate will result in detriment to the amenity of future occupants and potentially a Statutory Noise Nuisance under The Environmental Protection Act 1990. This could result in the council having to take formal action to control noise emissions from the industrial units and possible restriction on the hours and types of activities at the industrial premises.

The applicant should provide a noise assessment to support the application which measures noise levels from the adjacent industrial units and associated yards and roadway and assesses the extent of noise impact on the proposed dwellings and amenity areas. This information is required, together with a detailed scheme of noise mitigation measures to demonstrate that the Central Bedfordshire Council noise standards can be met with the proposed noise mitigation measures.

In achieving the Council's noise standards, emphasis should be placed on good design to achieve attractive, high quality living environments whereby layout, orientation and screening of buildings is considered before high sound insulation on exposed facades (i.e. mechanical ventilation, enhanced glazing etc). This is not to say that high sound insulation performance facades cannot be used, just that for sites to meet the sustainability objectives of other sources of planning

policy and guidance the developer should demonstrate that other methods of mitigation would not in practice be able to achieve acceptable noise standards.

The applicant will also need to submit further information regarding the impact of smoke, odour and fumes on the proposed development.

Public Protection  
Contamination

- Due to the previous use of the site, and it being the responsibility of the developer to make the site safe and suitable for use, I would expect to attach the following conditions to any permission granted:

Condition "1"

No development approved by this permission shall take place until the following has been submitted to and approved in writing by the Local Planning Authority:

- A Phase 1 Desk Study incorporating a site walkover, site history, maps and all further features of industry best practice relating to potential contamination.
- Where shown to be necessary by the Phase 1 Desk Study, a Phase 2 Site Investigation report further documenting the ground conditions of the site with regard to potential contamination, incorporating appropriate soils and gas sampling.

Condition "2"

No occupation of any permitted building shall take place until the following has been submitted to and approved in writing by the Local Planning Authority:

- Where shown to be necessary by any Phase 2 Desk Study found to be necessary by Condition 1, a Phase 3 detailed remediation scheme and measures to be taken to mitigate any risks to human health, groundwater and the wider environment. Any works which form part of the Phase 3 scheme approved by the local authority shall be completed in full before any permitted building is occupied.
- The effectiveness of any scheme shall be demonstrated to the Local Planning Authority by means of a validation report (to incorporate photographs, material transport tickets and validation sampling), unless an alternative period is approved in writing by the Authority. Any such validation should include responses to any unexpected contamination discovered during works.

The British Standard for Topsoil, BS 3882:2007,

specifies requirements for top soils that are moved or traded and should be adhered to.

There is a duty to assess for Asbestos Containing Materials (ACM) during development and measures undertaken during removal and disposal should protect site workers and future users, while meeting the requirements of the HSE.

Applicants are reminded that, should groundwater or surface water courses be at risk of contamination before, during or after development, the Environment Agency should be approached for approval of measures to protect water resources separately, unless an Agency condition already forms part of this permission.

Reason: To protect human health and the environment

Internal Drainage Board    No objections subjects to adequate soakaways

## **Determining Issues**

The main considerations of the application are;

1. The principle of the development
2. The effect upon the character and appearance of the area
3. The impact on neighbouring amenity and the amenity of future occupants
4. Highway considerations
5. Any other relevant issues

## **Considerations**

### **1. The principle of the development**

Fen End Industrial Estate is identified as a safeguarded Key Employment Site for B1, B2 and B8 uses within the Site Allocations Development Plan Document (adopted 2011) (allocation E1) which means that employment use on these sites will continue to be safeguarded under Policy E1 and Policy CS10: Location of Employment Sites of the Core Strategy and Development Management Policies Document.

The application site comprises an empty industrial unit which has clearly been vacant for a number of years. The applicant states that the unit has been advertised for sale or rent since 2006 however no suitable occupier has been found. While this is noted, there is no evidence within the planning application to support this claim.

In 2007 planning permission was sought for a change of use to a scaffold yard and depot however the application was refused. Previously there have been a number of applications at the premises for various different uses as outlined above. Since then, the building has stood empty, is overgrown and run down.

The proposal is to demolish the industrial unit and replace it with three residential dwellings.

While the site is within the Settlement Envelope for Stotfold, given its allocation as a Key Employment Site, the redevelopment of the site for residential purposes would be contrary to Policy CS10 which safeguards Key Employment sites in order to strike a balance between housing growth and job provision.

Paragraph 22 of the NPPF advises that the long term protection of sites allocated for employment use should be regularly reviewed and where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits.

At the time of the site visit it was noted that the remainder of the units in Fen End Industrial Estate appear to be occupied.

The applicant has not sufficiently demonstrated that there is no real prospect of the building being used for employment purposes therefore the demolition of the unit and its replacement with three dwellings is considered to be unacceptable as it would involve the loss of important employment land. It would also make it difficult for the Council to resist applications for other vacant units in Fen End seeking redevelopment of their site for housing which would result in further loss of employment land, reducing the availability of local employment opportunities and choice of commercial premises.

The applicant submitted an application for pre-application advice prior to submitting this proposal. The advice set out the above concerns in terms of the principle of the development and advised that a planning application is unlikely to be supported.

Having regard to the National Planning Policy Framework, limited 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 was submitted to the Secretary of State on 24th October.

## **2. The effect upon the character and appearance of the area**

The proposed dwellings would be sited towards to the rear of the site with shared access created off Astwick Road. The access leads to a large paved parking and turning area shared by all three properties. Plot 1 and Plot 3 each have a detached double garage located to the front of the site and plot 2 (the central plot) is designed with an integral garage.

The detached dwellings each have adequate amenity space and sufficient parking provision is provided in accordance with the Council's Design Guide. The external appearance of the proposed dwellings is different from those adjacent in Astwick Road, however in this area of Stotfold there is no particular design that takes precedent.

The application site lies on a prominent corner. The detached garages to the front of the dwellings, particularly the garage serving plot 3 would appear out of character and prominent on the corner of Fen End and Astwick Road. The layout of the dwellings is also considered to be poor, with a substantial amount of hard standing to the front of the properties. Furthermore the proposed dwellings

are set back into the site which is out of character with the adjacent dwellings that are sited closer to the frontage of Astwick Road.

Overall the proposed layout of the development is considered to be out of character with the appearance of the area resulting in a harmful impact. The proposal is therefore contrary to Policy DM3 which seeks to ensure new development is appropriate in scale and design to its setting.

### **3. The impact on neighbouring amenity and the amenity of future occupants**

No 46 Astwick Road is the adjacent residential property to the south east of the application site. Plot 1 would be located closest to this property but would be set off the boundary by at least 6m. No 46 is set forward of the development therefore the bulk of Plot 1 would be visible to the side of the rear garden of No. 46. However given the separation distance there is unlikely to be any adverse impact on No. 46 with regard to loss of light and overbearing impact. There are first floor windows that face the garden of No 46 however these windows serve ensuite rooms and can therefore be restricted opening and obscurely glazed.

The new dwellings themselves are designed and sited so that future occupiers would no suffer any loss of amenity.

The rear of the site is currently bound by chain link fencing which separates the existing industrial unit from the adjacent unit. A close boarded 1.8m fence is proposed, however the adjacent industrial unit is sited with the front elevation parallel to the rear boundary with access and parking to the front, adjacent to the boundary of the site. The unit is separated into three smaller units with loading bays on the ground floor and first floor windows serving office on the first floor. There would be approximately 16m between the first floor windows of the industrial unit and the rear bedroom windows in the proposed dwellings. This is considered to be unacceptable and would result in an unacceptable material loss of privacy to the occupants of the dwellings. It also fails the advice set out in the Council's Design Guide which notes a distance of 21m should be used as a guideline for back to back window distances in order to avoid unacceptable overlooking. While it is possible that the offices may not be occupied in the evenings and at weekends, there are no hours of use restrictions on the industrial unit therefore potentially, they could be occupied during these times. In any case, during the day the windows in the industrial units would have direct line of sight into the private gardens of the new dwellings and with no established screening in place, this is considered to be unacceptable.

Also a consideration of this proposal is the impact the adjacent industrial units would have on future occupants of the dwellings in terms of noise.

The applicant has not submitted any information in support of the application which considers the impact of noise, smoke and fumes from the industrial units on the proposed development. In addition the specific layout and design has placed habitable rooms directly overlooking yard areas and gardens backing

onto industrial yards.

Public Protection Officers have raised concern that noise from the industrial estate will result in detriment to the amenity of future occupants and potentially a Statutory Noise Nuisance under The Environmental Protection Act 1990.

The applicant should provide a noise assessment to support the application which measures noise levels from the adjacent industrial units and associated yards and roadway and assesses the extent of noise impact on the proposed dwellings and amenity areas. This information is required, together with a detailed scheme of noise mitigation measures to demonstrate that the Central Bedfordshire Council noise standards can be met with the proposed noise mitigation measures. In the absence of this information, the proposal is considered to be unacceptable.

#### **4. Highway considerations**

The site is located on the corner of Fen End and Astwick Road and lies within the 30 mph speed limit. A footway with a highway verge behind traverses the site frontage which provides the requisite visibility splays within highway limits at the proposed point of access.

The proposed access is set out in the form of a “bellmouth” junction and leads to a shared surface access drive serving the three dwellings. Each dwelling is provided with a double garage and two driveway parking spaces whilst two further spaces are also provided for use by visitors. The parking provision can therefore be deemed to comply with the Council’s parking standards.

The existing access onto Fen End becomes redundant and will need to be formally stopped up and the kerb, verge and footway reinstated to the appropriate line and level. This matter can be dealt with by condition.

The proposed change in use from industrial to residential is unlikely to result in a material increase in traffic movements to/from the site and therefore the development is unlikely to have an adverse impact on the local road network, once completed. There are no objections to the development from a highway safety point of view.

#### **5. Any other relevant considerations**

##### Contamination

Due to the previous use of the site, and it being the responsibility of the developer to make the site safe and suitable for use, should permission be granted conditions should be attached ensuring the land is assessed for contamination and mitigation measures proposed, if necessary.

##### Planning Obligation Strategy

The application qualifies for contributions towards local infrastructure in accordance with the adopted Planning Obligations Strategy. A draft Unilateral Undertaking has been submitted to the Council’s Legal Team however a signed

version has not been approved at the time of preparing the Committee report. Unless a signed version is submitted and agreed, the proposal would be contrary to Policy CS2 and the Planning Obligation Strategy.

### 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 REFUSED for the following reasons:

### **RECOMMENDED REASONS**

- 1 The application site is allocated for employment use under Policy E1 of the Site Allocations Document (Adopted 2011), Core Strategy and Development Management Policy CS10 (adopted 2009) and Policy E1 seeks to safeguard the site for employment use therefore the proposal for three new dwellings would result in the loss of a safeguarded employment site which is unacceptable. The proposal is therefore contrary to Policy CS10 of the Core Strategy and Development Management Policies Document (2009) and Policy E1 of the Site Allocations Document (2011).
- 2 The proposal is considered to result in a harmful visual impact on the character and appearance of the surrounding area given the proposed layout of the site which includes a significant area of hard standing to the frontage of the site and detached double garages to the front which would appear unduly prominent within the street scene. The proposal is therefore considered to be contrary to Policy DM3 of the Core Strategy and Development Management Policies Document (2009)
- 3 The proposal, given the siting and design of the dwellings, is considered to result in an adverse impact upon the amenities of the future occupiers of the site by way of significant overlooking from the adjacent industrial building. Furthermore, the applicant has failed to demonstrate that the proposal would not result in significant impact from noise, smoke and fumes from the industrial units which would result in loss of amenity to future occupants of the properties. The proposal is therefore considered to be contrary to Policy DM3 of the Core Strategy and Development Management Policies Document (2009)
- 4 The application contains insufficient information in the form of a completed Unilateral Undertaking in order to secure financial contributions towards infrastructure in the local area and mitigate the impact the proposal would have on community facilities and infrastructure; as such the proposal is

contrary to Policy CS2 of the Central Bedfordshire Council Core Strategy and Development Management Policies Development Plan Document (2009) and the Central Bedfordshire Council Planning Obligations Supplementary Planning Document (Reviewed November 2009).

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

Refusal of this proposal is recommended for the clear reasons set out. The Council acted pro-actively through early engagement with the applicant at the pre-application stage. The negative advice given on the proposal has however not been followed and the Council remains of the view that the proposal is unacceptable. The applicant was invited to withdraw the application but did not agree to this. The requirements of the Framework (paragraphs 186 and 187) have therefore been met in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.

**DECISION**

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