

Item No. 10

APPLICATION NUMBER	CB/14/04605/MW
LOCATION	Kiln Farm, Steppingley Road, Flitwick, Bedford, MK45 1AH
PROPOSAL	Removal of condition 6 and variation of condition 4 of permission CB/09/06977/MW to retain the access to the site as built.
PARISH	Steppingley
WARD	Flitwick
WARD COUNCILLORS	Cllrs Chapman, Gomm & Turner
CASE OFFICER	Natalie Chillcott
DATE REGISTERED	28 November 2014
EXPIRY DATE	27 February 2015
APPLICANT	Mr McAtavey
AGENT	Broughton Beatty Ltd
REASON FOR COMMITTEE TO DETERMINE	Contrary to policy (intrusion in the Green Belt) and there is no need for the entrance, other than for farm use.
RECOMMENDED DECISION	Granted

Site Location:

The 0.32ha site has an arable paddock landuse and is located southwest of Kiln Farm. Access to the site is gained from a field entrance on Flitwick Road, 120m from the Flitwick Road/ Steppingley roundabout. It is the field entrance to the site which forms the subject of this application.

The site is located within the South Bedfordshire Green Belt, within an Area of Great Landscape Value, outside the settlement envelope for Flitwick.

Background:

In June 2009 permission was granted to raise the ground level in two separate areas of Kiln Farm using inert materials from the site. This planning permission (CB/09/00816/FULL) restricted the type of material that could be used to raise the ground level to clean, inert materials. The permission required a scheme to be submitted for the reinstatement of the land and required the development to be completed within two years from the date of the permission.

In April 2010 permission was granted for the importation of sub-soil material to raise the ground level of the field to fulfil the requirements of planning permission CB/09/00816/FULL. This application (CB/09/06977MW) indicated that waste would need to be imported onto the site to enable the ground levels to be raised to the recognised and agreed level. This proposal was subsequently permitted and required vehicular access to the site to be gained via the existing access onto Flitwick road. The planning permission allowed the entrance to the site to be widened to accommodate HGVs entering and leaving the site, and required the temporary vehicular access to be reinstated to its former condition as an agricultural field entrance within 6 months of the commencement of the development. A condition also required a double staggered row of hawthorn whips (60cm – 90cm) to be planted where the section of roadside hedgerow had been removed.

The field which was the subject of the two applications described above has been restored and is in its final year of aftercare. However, during a routine monitoring visit to the site it was discovered that the works required under condition 6 of planning permission CB/09/06977/MW in relation to the field entrance had not been carried out. The officer informed the applicant of the breach of condition 6 and explained that either the site entrance must be reinstated and the planting done, as required under the condition; or the development must be regularised. The applicant has therefore decided to apply to regularise the development.

The Application:

Condition 6 states:

“Within 6 months of the date of commencement of the development, the temporary vehicular access shall be reinstated to its former condition as an agricultural field entrance by carrying out the following works, unless otherwise approved in writing by the Local Planning Authority:

- a) Remove the temporary surface provided pursuant to condition 5 of this permission and replace those topsoils which were stripped in order to accommodate that surface;
- b) Where the section of roadside hedgerow has been removed to accommodate the widened temporary access pursuant to condition 4 of this permission, plant a double staggered row of hawthorn whips (60cm – 90cm) at a rate of 5 per metre so as to reduce the access to its approximate former width of 3.5 metres.

Reason: In the interest of road safety and rural amenity and for the avoidance of doubt. (Policies GE23 of the MWLP).”

The proposal seeks to remove this condition.

The proposal also seeks to amend condition 4 which states:

“The temporary access to the site shall have a minimum width of 5 metres and radius of 6 metres.

Reason: In the interest of road safety and for the avoidance of doubt (Policy GE23 of the MWLP).”

The proposal seeks to vary this condition by removing the words “The temporary” from the condition to ensure consistency with the remaining conditions.

RELEVANT POLICIES:

National Planning Policy Framework (2012)

Minerals and Waste Local Plan (2005) (MWLP)

GE1 Matters to be addressed in planning applications

GE5 Protection of Green Belt land

GE8 Protection of AGLV

GE9 Landscape protection and Landscaping

GE10 Protection/enhancement of trees and woodland

GE13 Species and habitat protection and enhancement
GE18 Disturbance
GE23 Transport: suitability of local road network
GE26 Restoration

Minerals and Waste Local Plan: Strategic Sites and Policies (2014) (MWLP:SSP 2014)

MWSP1 Presumption in favour of sustainable development

Planning History

CB/09/00816/FULL	Raising of ground levels using materials from the site- Part Retrospective.
CB/09/06977/MW	Importation of sub soil material to raise ground level of field to allow completion of planning permission CB/09/00816/FULL
CB/10/01931/MWS	Approval of details pursuant to condition 5 of planning permission no. CB/09/06977/MW for surfacing of temporary vehicular access and arrangements for surface water to be intercepted and disposed of so that it does not discharge onto the highway.
CB/10/02040/MWS	Scheme of aftercare pursuant to condition 15 of planning permission no. CB/09/06977/MW

Representations: (Parish & Neighbours)

Steppingley Parish
Council

Strong objection:

Background: This property has an unfortunate planning history where the owner has previously carried out works without permission and has only sought permission retrospectively under threat of enforcement action. It is understood also that he caused the land to become contaminated with diesel waste and that investigation was carried out by CBC with regard to this, although the outcome of such inquiry is not known.

Application CB/09/00816/Full correctly conceded that the land in which the new house was built is arable paddock yet since developing the new house, the owner has treated the surrounding land as domestic property.

The use of night time illumination, including uplighting, on the new house, as well as its outbuildings and indeed the boundary walls to the property has already been the subject of complaint to CBCC by Steppingley Parish Council in the context of earlier planning applications yet the owner determinedly pursues the continued urbanisation of this farm. The present application appears to be merely an extension of this process.

Biodiversity – The previous application CB/09/00816, to which this application relates, stated that there was no likelihood of adverse effect upon conserved species or habitats thereof. We consider that such assertion to be incorrect. Indeed it would certainly be incorrect to approach the present application on the footing that there is no wildlife impact assessment required. The road and land adjacent to this site is affected by the reptile population during the breeding season – toads and frogs are readily to be seen in the vicinity of the entrance to Flitwick Road which is proposed by the present application to be rendered a permanent route to the applicant's land. Given that this is an area where crested newts are often found (and specific measures were taken in relation thereto most recently in the construction of the new roundabout and as to development also in Froghall Road) we consider it essential that a full biodiversity survey be procured by the applicant and that any application of this nature must include detailed proposals as to avoiding any damage to the same.

Lapse of existing permission deprives CBCC of power to vary – It does not appear that the development permitted by CB/09/06977 was in fact commenced in accordance with condition 2 thereof and it was not completed within the 6 months mandate contained in condition 3. It cannot be correct in principle for CBCC to remove existing conditions since to do so would lend support to the waiver of compliance with conditions 2 and 3.

Change of Agricultural Access entrance in substance is sought – The application seeks removal of a condition as to temporary access in the grant of a permission to import subsoil (CB/09/06977) to the land. There was no grant of permission to enlarge the field access; the condition merely imposes, to accommodate the permission granted, and for safety reasons, a minimum width of the temporary access. The owner has yet to comply with such condition. In seeking the removal of condition 6, the application proceeds on the fallacious conclusion that permission to enlarge the field access has been granted where it has not. The applicant is seeking to achieve a grant of permission to construct a permanent access to Steppingley Road, “by the back door”.

No change of circumstances which could justify removal of conditions – As is recorded in the terms of Condition 6 of CB/09/06977, such CBCC resolved to impose on the grant an obligation to reinstate the agricultural field entrance “*in the interest of road safety and rural amenity*” and in order to comply with the policies therein referred to. The land in question remains within the Green Belt and is an important feature of the character and environs of Steppingley Parish. Its rural amenity value thus remains precisely the same today as that which it possessed in April 2010 at the time of the grant. Similarly there can be no basis for contending that whilst removal of the entrance on road safety grounds was correctly conditioned in 2010, such safety considerations have ceased to exist. It would be inconsistent for CBCC to uphold the request to remove condition 6 since to do so would run contrary to a determination already made by it. In substance, the present application seeks to appeal CBCC’s earlier determination nearly 5 years after the event.

Impact on rural amenity and character – quite apart from the issue of inconsistency discussed in the previous paragraph, independently of such matter, SPC objects to the proposed development of this field access on the ground that it is an unwarranted intrusion into the Green Belt and that it will significantly adversely impact upon the rural character of the neighbourhood. SPC is very concerned as to the creeping urbanisation into the valuable rural qualities of this area which is enjoyed for free recreation by many from the local towns of Flitwick and Ampthill. Such users include walkers, horse riders and cyclists. Such qualities are recognised in the 2006 Steppingley Parish Plan to which CBCC has previously been referred (copy available on the Village website).

We ask CBCC to refuse the application.

Flitwick Parish Support the application

Consultations/Publicity responses

Neighbours The planning application was publicised by way of a site notice, press advert and notification of 7 neighbours by letter. No responses were received as a result of this publicity.

Cllr Chapman Both Steppingley and Flitwick Councils are very worried about this and I would ask that unless you are going to refuse it out of hand I would like it to come to Committee. There is no need for this exit at all other than as a farm exit and it should on no account be allowed to be made any more permanent.

CBC Landscape
Officer

The landscape officer raises no objections to the permanence of the gateway. The gateway is not a material change to the landscape character.

The proposal means that short sections of replacement hedge would not be planted. As the site is close to the junction, I think there is an advantage in having the gate set back and the dimension of the gateway is acceptable. However, the roadside hedge is closely mown and without any hedgerow trees.

As an alternative to the hedge planting, the officer has requested the planting of three hedgerow trees along the frontage. There may be scope to grow a tree by encouraging growth from the hedge itself, or by planting new trees adjacent to the hedge. Care would need to be taken to ensure the view to the road sign is not obscured. Field maple, oak, wild cherry or hornbeam would be suitable species.

The trees would enhance landscape character and create a link to the ash spinney opposite.

In terms of the grass -seeding and establishment - this looked fine although management in the spring will be required to control the spread of thistles - either mechanical cutting or a weed wipe.

CBC Highways
Officer

There are no highway reasons why the improved field access should not remain as is. Please note that this response does not imply that improvements and or modifications will not be required should the applicant pursue further development of the site.

Determining Issues

The main considerations of the application are;

1. Presumption in favour of sustainable development
2. Development within the Green Belt
3. Landscape Protection
4. Highways

Considerations

Presumption in favour of sustainable development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that any determination of a planning application shall be made in accordance with the development plan unless material considerations indicate otherwise. The relevant development plan comprises the policies contained in the Bedford Borough, Central Bedfordshire, Luton Borough Minerals and Waste Local Plan: Strategic Sites and Policies (MWLP:SSP), the saved policies from the Bedfordshire and Luton Minerals & Waste Local Plan 2005 (MWLP), the Core Strategy and Development Management document and Site Allocations document and saved policies from the Mid Bedfordshire Local Plan.

Whilst yet to form part of the Development Plan, the emerging policies from the Central Bedfordshire Development Strategy will also be considered.

The National Planning Policy Framework (NPPF), published in March 2012, does not change the statutory status of the development plan in decision making as set out in Section 38(6). At the heart of the NPPF is a presumption in favour of sustainable development in an economic, social and environmental context and, for decision-makers, this means "...approving development proposals that accord with the statutory development plan without delay" unless material considerations indicate otherwise.

The NPPF (para 12) states that "proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise." While paragraph 14 requires the LPA to "approve development proposals that accord with the development plan without delay." (NPPF para 14).

Others matters

Steppingley Parish Council expressed a number of concerns, some related to the proposal (development within the Green Belt and impact on rural amenity, character and biodiversity); while others do not, (land contamination with diesel waste, lighting of the house and the suggestion that the applicant treats the site as domestic property, rather than as arable paddock). The proposal can only be judged on its planning merits and therefore only concerns relating to planning matters connected with the proposal will be considered in this report.

Green belt

Steppingley Parish Council suggests that the current field entrance is an unwarranted intrusion into the Green Belt and it significantly adversely impacts on the rural character of the neighbourhood. The parish also fear that the development may lead to the "creeping urbanisation into the valuable rural qualities of the area."

Chapter 9 Protecting Green Belt Land from the NPPF describes the five purposes of the Green Belt and includes:

"to check the unrestricted sprawl of large built-up areas" and
"to assist in safeguarding the countryside from encroachment".

The essential characteristics of Green Belts are their openness and their permanence.

Whilst the emerging CBC Development Strategy extends the Green Belt Boundary in some areas it does not propose to remove the site or adjacent fields from the Green Belt. This means should any proposals come forward to develop the site or the surrounding area in the future, the proposal would need to be considered against Green Belt policy. It is important to recognise that the current application can only be determined on its planning merits, it cannot be judged against what development may or may not come forward in the future.

MWLP(2005) Policy GE5 Protection of Green Belt land supports the NPPF and requires minerals and waste development to be carried out to high environmental and restoration standards and to preserve the openness of the Green Belt.

Whilst the proposal can be considered to be development within the Green Belt, it does not jeopardise the 5 purposes of the Green Belt, in addition, whilst the NPPF

considers the construction of most types of new buildings to be inappropriate development within the Green Belt, it explicitly states that “engineering operations” and “local transport infrastructure which can demonstrate a requirement for a Green Belt location” are not inappropriate within Green Belt. On this basis the LPA does not consider the widening of the field entrance to be inappropriate.

In summary, the NPPF does not consider the proposal to be inappropriate development within the Green Belt; the proposal does not reduce the openness of the Green Belt and in this regard it is in conformity with MWLP policy GE5. For these reasons the proposal is consistent with Green Belt policy.

Landscape

Policy GE9 Landscape protection and Landscaping requires development proposals to be sympathetic to local landscape character and should minimise any adverse impact on the landscape character.

The CBC Landscape Officer was consulted on the application and raised no objection to the proposal. The officer suggests that as the site is close to the junction, there is an advantage in having the gate set back and considers the current dimension of the field entrance to be acceptable. However, the landscape officer recognises that the proposal would result in short sections of replacement hedge not being done. To compensate for this she has asked for three hedgerow trees such as field maple, oak, wild cherry or hornbeam to be planted along the frontage, adjacent to the hedge, taking care not to obscure the view of the road sign. The new trees would enhance landscape character and create a link to the ash spinney opposite.

On the proviso that the three trees are planted as described by the landscape officer, the proposal would not lead to an adverse landscape impact and as such is in conformity with MWLP policy GE9 Landscape protection and Landscaping.

Biodiversity

Steppingley Parish council note that the road and land adjacent to the site is affected by a reptile population during the breeding season and that toads and frogs have been seen in the vicinity of the entrance to Flitwick road. For this reason the Parish council has asked for a full biodiversity survey be submitted. As the proposal would cause less disruption to reptiles than the reinstatement of the field entrance, it is not considered that a biodiversity survey is needed.

Disturbance

As the proposal seeks to retain the entrance to the site, no disturbance from noise, vibration, dust or mud on the highway (MWLP 2005, GE policy18) would be caused by the development. It is notable that no objections have been received from local residents or Flitwick Parish Council. In fact, it is likely that more disturbance would be caused should permission be refused as noise, dust and vibration may be created while the width of the field entrance is reduced. For the reasons listed above the proposal is considered to be in conformity with MWLP(2005) policy GE18 Disturbance.

Highways

The officer report written for application CB/09/06977MW gives a number of reasons for condition 6 and includes “In the interest of road safety policy GE23”. For this reason the Highways Officer was consulted on the current application. Whilst the condition relating to the widening of the site entrance was due to highway safety reasons, as the Highways Officer raised no objection to the application and the existing access does

not appear to have created any highway safety issues since it was built in 2010, it is not considered that it is in conflict with policy GE23 "Transport: suitability of local road network".

Conclusion

The proposal has been considered against Green Belt Policy, Landscape Impact, the potential for disturbance and highway impact and is considered to be in accordance with the Development Plan. There are no material considerations to suggest that the development should not be allowed.

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 following:

RECOMMENDED CONDITIONS / REASONS

- 1 Planning permission shall extend to the area edged with a thick black line on the attached Plan No. CB/09/06977/MW-1 and the development shall be carried out in accordance with the planning application dated 5/01/10 and the accompanying information, except where modified by other conditions of this permission.
Reason: To define the permission and allow for minor amendments.
- 2 The development shall be carried out in accordance with details shown on Drawing Nos. 7768/EW21 Rev. A and 7768/EW22 (received on 5/01/10) and shall be completed within 6 months from the date of commencement, which shall include spreading of the indigenous topsoils, ripping and grass seeding (but excluding aftercare requirements).
Reason: To ensure that a good standard of restoration is achieved within an acceptable timescale (Policies GE5 and GE26 of the MWLP)
- 3 The access to the site shall have a minimum width of 5.0 metres and radius of 6 metres.
Reason: In the interest of road safety and for the avoidance of doubt (Policy GE23 of the MWLP)
- 4 The scheme for the surfacing of the vehicular access no. CB/10/01931/MWS as approved by letter of approval dated 7th September 2010 shall be maintained for the life of the development.

Reason: To avoid the carriage of mud or other extraneous material or surface water from the site onto the highway in the interest of highway safety. (Policy GE18 of the MWLP)
- 5 Vehicular access to the site shall only be gained via the existing access on Flitwick Road, shown on Drawing No. 7768/EW21 Rev A received 5/01/10.
Reason: In the interests of highway safety and for the avoidance of doubt (Policy GE23 of the MWLP)
- 6 Adequate precautions shall be taken at all times to prevent the deposit of mud and debris onto the highway.
Reason: In the interests of highway safety. (Policy GE18 of the MWLP)
- 7 Only inert waste materials comprising soils and subsoils and which are free from contamination shall be imported to the site.
Reason: To protect the quality of controlled waters. (Policy GE20 of the MWLP)
- 8 No vehicle shall enter or leave the site in connection with the development

hereby permitted and no operations authorised or required under this permission shall take place on site except between 0800 and 1700 Monday to Fridays, and no activity whatsoever shall take place on Sundays or Public Holidays.

Reason: To safeguard local amenity (Policies GE5 & GE18 of the MWLP)

- 9 In order to avoid damage to soil structure, topsoil handling shall only be carried out under suitable conditions when the material is in a dry and friable (non-plastic) condition.
Reason: To ensure a satisfactory restoration of the site (Policy GE26 of the MWLP)
- 10 Upon completion of importation of inert soil materials pursuant to this permission, all of the indigenous stripped soils stockpiled on site shall be spread to an even depth over the landraised area.
Reason: To ensure the satisfactory restoration of the site to a condition suitable for agricultural use (Policies GE6 & GE26 of the MWLP)
- 11 Upon completion of importation of soil materials pursuant to this permission, the landraised area and the whole of the means of access to the highway shall be ripped to a depth of 300mm at 300mm centres and all risings comprising non soil, stone or vegetable matter and all stone risings measuring in excess of 150mm in any direction shall be removed.
Reason: To ensure satisfactory restoration of the site (MWLP Policies GE5 & GE26)
- 12 The landraised area and the whole of the means of access to the highway shall be grass seeded using the following "Horse & Pony Paddock" seed mix comprising:
- Respect Perennial Ryegrass 44%
 - Foxtrot Perennial Ryegrass 24%
 - Herald Creeping Red Fescue 16%
 - Scots Timothy 8%
 - Rossa Meadow Fescue 8%
- Reason: To ensure a satisfactory restoration of the site (MWLP Policy GE26)
- 13 The scheme for aftercare no. CB/10/02040/MWS as approved by letter from the Council dated 2nd December 2010 which:
- (a) Provides an outline strategy, in accordance with Annex B of MPG7, for the 2-year aftercare period specifying the steps to be taken and the period during which they are to be taken, and including provision for treatment of the surface, any remedial drainage/ underdrainage, filling of any depressions and an annual progress meeting.
- (b) Provides for a detailed annual programme, in accordance with Annex B of MPG7, to be submitted to the Local Planning Authority not later than 1 month prior to the annual aftercare meeting.

shall be implemented for a period of 2 years at the end of completion of restoration.

Reason: To provide for the satisfactory management of the site (Policy GE27 of the MWLP)

- 14 Within 6 months from the date of this permission three hedgerow trees made up of the following species: Field maple, oak, wild cherry or hornbeam shall be planted along the site frontage- within 2 metres from the hedge planting.
These trees shall not obscure the view of the road sign.
Reason: Landscape benefit. MWLP policy GE9 Landscape protection and Landscaping.

Notes to Applicant

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 approval for this proposal. The Council acted pro-actively through positive engagement with the applicant and representatives of the parish councils and Ward member 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.

DECISION
