

Item No. 6

APPLICATION NUMBER	CB/16/02972/FULL
LOCATION	Former Dukeminster Estate, Church Street, Dunstable
PROPOSAL	Erection of 274 houses with parking and associated works.
PARISH	Dunstable
WARD	Dunstable Icknield
WARD COUNCILLORS	Cllrs McVicar & Chatterley
CASE OFFICER	Donna Lavender
DATE REGISTERED	18 July 2016
EXPIRY DATE	25 November 2016
APPLICANT	Persimmon Homes North London
AGENT	
REASON FOR COMMITTEE TO DETERMINE	Major Application that is a departure from the Development Plan
RECOMMENDED DECISION	Approval subject to the completion of a S106 Agreement

Reason for Recommendation

The proposed development would result in the efficient re-use of previously developed land and is considered to be in accordance with local and national policy and there are no matters of detail that weigh against the grant of planning permission. The submitted viability assessment fully demonstrates that the development cannot deliver full contributions due to viability issues and given those constraints an acceptable level of affordable housing and proportionate contributions have been secured. The proposal would have an impact on the character and appearance of the area however this impact is not considered to be demonstrably harmful. The proposal is also considered to be acceptable in terms of highway safety and neighbouring amenity and therefore accords with Policy BE8 of the South Bedfordshire Local Plan Review and the Council's adopted Design Guidance (2014).

Site Location:

This site comprises the 4.65 ha. central and northern part of the 6.5 ha. Dukeminster Estate together with the estate road to Church Street (0.35ha.). This was until recently a commercial enclave on a rectangle of land half a mile east of Dunstable town centre with a long history of commercial use.

The Estate sits off the northern side of Church Street and the land was levelled in the past by forming embankments up to 5m high to part of the north and west sides. The embankments were planted resulting in a mature wooded bank on these frontages overlooking flats and houses in The Mall, Kingsway and Bernards Close. Part of the eastern boundary has an area of undergrowth, with young trees on a bank falling to the Busway. The White Lion Retail Park and Sainsburys superstore lie beyond to the east. To the south, the main site adjoins a care home and an Extra Care scheme. Access to the application site is off Church Street which runs between these two developments.

All the commercial buildings which stood on the site have now been demolished. The 1973 Tree Preservation Orders protect (a) trees in an Area which includes the bank towards the NW corner of the site and (b) individual trees at the foot of the bank to the rear of Scott's Court, Kingsway, and Earls Court, The Mall.

The Application:

The application represents an amendment to a previously approved scheme for the erection of 170 dwellings. The proposed scheme is described as 277 units; however the total number of dwellings would be 321 if permission was granted. The apparent discrepancy reflects the nature of the application which seeks to amend only parts of the approved scheme resulting in 44 units from the approved scheme being retained.

The revised scheme has changed the mix of units away from a house led scheme with a modest number of flats to a flat led scheme with a number of dwellings. The dwelling mix has moved away from larger units to a focus on smaller units. The proposed dwelling mix would be 120 houses and 201 flats. The flats are either 2 or 3 bedroom units with the houses being 2 or 3 bedroom units.

The general road layout and open space provision reflects that of the previously approved scheme although there have been a number of amendments made to respond to comments from consultees and local residents.

The application is supported by a comprehensive suite of documents including:

- Geotechnical Ground Investigation
- Street scenes
- Sustainability report
- Environmental Noise Assessment
- Residential Travel Plan
- Transport Assessment
- Design and Access Statement
- Planning Statement
- Statement of Community Involvement
- Landscape Management Plan
- Ecology Statement
- Financial Viability Assessment
- Road Safety Assessment

RELEVANT POLICIES:

National Planning Policy Framework (March 2012) & National Planning Practice Guidance (November 2016)

Section 4 - Promoting sustainable transport

Section 6 - Delivering a wide choice of high quality homes

Section 7 - Requiring good design

Section 8 - Promoting healthy communities

Section 10 - Meeting the challenge of climate change, flooding and coastal change

Section 11 - Conserving and enhancing the natural environment.

South Bedfordshire Local Plan Review Policies

BE8 Design Considerations

E1 Main Employment Areas

H2 Making provision for housing vis 'Fall-in' sites

H3 Local housing needs

H4 Providing Affordable Housing

R10 Children's play area standard

R11 New urban open space

T4 Public transport services along the former Luton/Dunstable rail line

T10 Controlling parking in new developments

SD1 Keynote sustainability policy.

(Due weight can be given to relevant policies in existing plans according to their degree of consistency with the NPPF. It is considered that Policy BE8 is consistent with the Framework and carries significant weight. However, Policy T10 carries less weight.)

Development Strategy

At the meeting of Full Council on 19 November 2015 it was resolved to withdraw the Development Strategy. Preparation of the Central Bedfordshire Local Plan has begun. A substantial volume of evidence gathered over a number of years will help support this document. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our website as material considerations which may inform further development management decisions.

Supplementary Planning Guidance and other documents

1. Central Bedfordshire Design Guide (September 2014)

2. Dunstable Town Centre Masterplan, May 2011

3. Managing waste in new developments SPD

Other relevant documents

- Luton to Dunstable Railway CWS
- Borough of Dunstable Tree Preservation Order No.1 1973
- Borough of Dunstable Tree Preservation Order No.2 1973

Relevant Planning History:

CB/15/03052/RM	Application for approval of reserved matters for the development of 170 dwellings with car parking including garages, internal access roads, public open space including play areas, landscaping, drainage and other related infrastructure pursuant to outline planning permission CB/13/01368/OUT. The outline planning application was not EIA and was not accompanied by an Environmental Statement.
CB/13/01368/OUT	Permission. The demolition of all buildings on the site and redevelopment for up to 170 residential dwellings together with improvements to the existing access road, associated vehicular parking and landscaped areas.
SB/OUT/06/0884	Appeal permission expired - Residential development for up to a maximum of 458 dwellings (85 dwellings per hectare

maximum) with associated parking and open space and up to a maximum of 300m² of Class A1 floorspace and up to a maximum of 520m² of Class D1 floorspace.

CB/11/02380/FULL	Resolved to Grant - Demolition of all existing buildings and redevelopment for up to 172 residential dwellings together with 300m ² (gfa) of Class A1 retail space and 513m ² (gfa) of Class D1 accommodation. Section 106 Agreement not signed.
CB/11/03053/DEM	Demolition consent for removal of buildings.
CB/11/04497/OUT	Resolved to Grant - Demolition of all buildings on the site and redevelopment for a mixed use scheme for up to 203 residential dwellings together with a 75 bed care home, 568m ² (gfa) Class A1 retail space, 505m ² (gfa) Class A2 financial and professional services or Class 3 restaurants and cafe space, 555m ² (gfa) Class D1 non residential institutions space, 783m ² (gfa) Class B1 business space together with associated vehicular parking and landscaping areas. Section 106 Agreement not signed.
CB/12/01114/SCN	Screening Opinion for current proposal - Not EIA Development.
CB/13/00710/FULL [land to south-east of site]	Permission - New build Class C2 care home facility and upgrade of existing access road.
CB/13/01276/FULL [land to south of site]	Permission. Demolition of all existing buildings on the site and redevelopment for the construction of 83 Extra Care Flats for Older Persons with communal areas, support facilities and retail unit.

Town Council:

Dunstable Town Council (31/08/17) (*Verbatim*) - Members were satisfied with the overall layout of the estate including the number of parking spaces and the number and type of properties. Members expressed concern about the single vehicle access arrangements to the site from Church St and in particular questioned the capacity and vehicle control arrangements taking account of the increased number of vehicles associated with the development alongside the existing vehicle volumes associated with the Priory View care home. Members asked that CBC be requested to review the suitability of these access arrangements at the Church St junction entrance.

Members suggested that a footpath link be created near or adjacent to the L.E.A.P. to provide access to the guided busway and the nearby local bus stop.

Previous comments made regarding the landscaping proposals contained within the outline planning application CB/15/03052/RM remain unchanged where still relevant.

Internal Consultees:

CBC Housing Development Officer (09/08/16, 06/12/16 & 23/05/17)

Application now proposes an element of affordable housing through intermediate tenures (shared ownership and starter homes) despite submission of viability demonstrating zero affordable housing can be provided on site. The submitted viability was independently assessed and verified which broadly agreed with the findings from the submitted viability. Whilst the addition of an element of affordable housing has been incorporated into the scheme, am not inclined to offer support to the revised application. The intermediate tenure units will not be providing affordable units for those in the greatest housing need. The Strategic Housing Market Assessment indicates the overarching requirement in Central Bedfordshire is for affordable rented housing (73% of all affordable units from qualifying sites). It would be preferable for the scheme to incorporate the provision of less affordable units than the quantum proposed through intermediate tenures with the provision of affordable rented housing, which will provide affordable housing for those in the greatest housing need.

CBC Integrated Transport (21/11/16) -

No comment

CBC Ecology (05/12/16 , 31/08/16, 20/04/17 & 25.05.17) -

No objection. Welcome references to biodiversity and the need to give consideration to bats and birds when undertaking works. Also welcome the planting/seed mix.

Amended proposals: Having looked at the new landscape drawings, concerned about the wet pour ground treatment for the LEAP in the NE corner of the site. Not clear if this is the new artificial sett or the original main sett. Intensified Scheme Ecology Letter is dated June 2016 so is almost 1 year old and hence does not relate to the current situation on site. Understand the NE licence has been extended but no information relating to this extension has been provided. Equally no method statement has been submitted to evidence how works will proceed without causing harm to the badgers on site. Given the protracted process of this application and the fluid nature of badger habitation would expect an updated assessment of badger activity and potential impacts to be provided.

CBC Highways Officer
(30/09/17, 11/10/16,
27/03/17 & 26.05.17)

Recommendations made for the commissioning of a safety audit which should inform any appropriate amendments to the access to the site and any highway safety mitigation.

On receipt of the safety audit and on the advice of the Councils Highways Officer, a revised access plan demonstrated more appropriate alignment, visibility and pedestrian refuge points were supplied.

Within the revised drawing number 14.100.1.101.2 Rev12 there is an additional 19 spaces provided which now means that there is a total under provision of 23 spaces.

While there could be an argument for general under provision and this could be supported by the residential parking research document produced by Community and Local Government, I would not support an application where there is an under provision of visitor spaces to this level.

While in the location I would be willing to support an application that does not meet the authority standard; in relation to visitor spaces the applicant should be urged to make alterations to provide additional visitor spaces to meet the authority standards,

In relation to the other minor alterations within the reconsultation; these matters do not relate to highway matters.

Accept the proposals shown on drawing number 17178-002 Rev. A subject to a Road Safety Audit.

CBC Strategic Landscape
(16/08/16,07/12/16,
09/12/16, 22/03/17 &
24/05/17)

No Objection, however offered recommendations. The visitor parking bays at the main access to the development would benefit from the inclusion of street tree / trees within a build out to define the parking area, assist in traffic calming and also contribute to a landscape / green 'gateway' to the site.

The higher density housing to the southwest of the site appears to include very limited communal green space therefore it is recommended that more opportunities for additional 'community greens / pockets parks' with attractive landscaping and seating in this area of the development be considered.

A footpath and cycle access at the northern point of the site would increase permeability of the development and offer residents access to the bus way and wider 'green' public open spaces, promoting recreation opportunities and health.

In addition a request was made for a landscape management plan which was received on 02.05.17.

No additional comments on the amended plans.

CBC Public Art (27/07/16 & 09/12/16) -

Central Bedfordshire Council actively encourages the inclusion of Public Art in new developments and looks to developers / promoters of sites to take responsibility for funding and managing the implementation of Public Art either directly or through specialist advisers and in consultation with Town and Parish Councils and Central Bedfordshire Council.

If the application were to be approved it is requested a Condition be applied to secure a public art plan.

CBC Sustainable Growth (15/08/17, 28/11/16, 09/03/17 & 12/05/17) -

Additional information was requested on how sustainability standards required by policy would be met. A sustainability statement was supplied on 02.05.17 for consideration.

The submitted Energy Statement proposes 10% emission rate improvement over current Building Regulation Standards. This approach is acceptable and the following planning conditions should be attached:

- 10% energy demand of the development to be delivered from renewable or low carbon sources;
- Water efficiency to achieve water standard of 110 litres per person per day.

CBC Trees and Landscape (06/12/16, 10/04/17 & 15/05/17) –

No objection to the application on the provision that tree protection conditions are imposed. The areas of "No Dig" construction, being used for pathways and other hard standing areas, should be based on a three dimensional cellular confinement system, and fully supported by an Arboricultural Method Statement, and an amended "Tree Protection Removal Plan". This will ensure that the fibrous rooting system and rooting medium of these trees are fully protected from excavation and compaction damage, in order to ensure their long-term health and stability.

CBC Sustainable Transport - Travel Plan Officer

There are some amendments required. It would also be useful to see a plan of the proposed direct

(10/08/16) -	<p>pedestrian/ cyclist access to the busway as this will be a key component to the success of the measures put lined in the plan.</p> <p>The plan, as per the previous application will need ongoing implementation and monitoring secured via an appropriate condition.</p>
Urban Design Consultant (02/12/16 & 17/03/17) -	<p>Lack of street trees, particularly in front of apartment blocks 12 (plots 445-461) (plots 410-424, 383-397)</p> <p>Ground floor garden spaces should not be provided on the street frontage. Private garden space should be provided to the rear of the building. An alternative to private gardens would be an area of communal space.</p> <p>Bin/cycle stores and undercroft parking provide inactive ground floor frontages to the street within the apartment blocks.</p> <p>Recessed or cantilevered balconies (rather than those supported by an external frame) would add more interest to the apartment elevations.</p> <p>The relationship of apartment blocks 5, 9 and 8 to adjoining dwellings needs addressing. They should step down from four to three storeys where they adjoin 2 storey dwellings.</p> <p>Flat blocks 8 and 9 frame the main square, which is a key space within the scheme should be brick rather than render. Buildings should animate the square but the central part of the elevation is weak with an inactive ground floor.</p>
CBC Waste Services (07/12/16 & 24/03/17) -	<p>Raise no objection in principle but give detailed advice on the required level of bin provision and requirements for storage and collection points which could be secured through condition.</p>
CBC Green Infrastructure (15/06/17) -	<p>The levels of open space provision on the development site should be checked against the Leisure Strategy standards. We would expect that the development delivers the required quantity of open space on site in the first instance. If this is not possible, contributions would be required to enhance or extend existing open spaces. N.B. Refer to S106 obligations.</p>
CBC SuDS Team (21/03/17) -	<p>We are unable to recommend the application CB/13/01368/OUT for approval until details have been received to demonstrate that condition 12 and 13 of CB/15/03052/RM have been satisfied.</p>

Details to discharge the conditions under the RM application were submitted to support this application on 02.05.17.

CBC Countryside Services
(26/08/16 & 19/12/16) - Concerns expressed over the lack of open space provision and the a direct impact on existing Countryside Sites, it is just over 1000mtrs to Walk/Cycle to Houghton Hall Park to engage in educational/countryside activities. it is also noted that the Residential Travel Plan makes no reference to visiting the nearest park space at Houghton Hall Park. Furthermore concerns expressed about the visual view of the landscape in particular to the north east boundary overlooking the Guided Busway.

CBC MANOP (Meeting the
Needs of Older People)
Officer (19/08/16) - Request that the needs of older people are addressed and considered in the assessment of the application.

CBC Pollution Officer
(12/08/16, 02/12/16 &
25/05/17) - No Objection, subject to the imposition of conditions to secure a phase 4 validation report in respect of remediation and an updated noise mitigation scheme.

CBC Public Sector Housing
(05/05/17) - No comments to make.

External Consultees:

Natural England
(05/08/16 & 18/05/17) - Statutory nature conservation sites – no objection.

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. Landscape enhancements.

Highways England
(15/08/16 & 05/05/17) - No objection.

Anglian Water
(06/09/16) - Raise no objection subject to the imposition of conditions to secure a foul water strategy and surface water management.

Environment Agency
(18/08/16) - The proposed development site appears to have been the subject of past industrial activity which poses a high risk of pollution to controlled waters and as such planning conditions may be deemed necessary by the Local Lead

Flood Authority and/or CBC Pollution Team in terms of mitigating any risk of contamination to controlled waters.

Sports England
(29/07/16 & 09/05/17) -

No Comments.

106 Sustainability Mitigation Obligations:

CBC Education Officer
(08/03/17)-

Has requested contributions towards the delivery of additional education facilities arising from the development.

CBC Leisure Officer
(23/09/16, 19/12/16 &
13/04/17) -

The development generates a requirement to provide on and off site open space totalling 5.4ha. Both Countryside Recreation and Informal Recreation would be made off the development site in the form of creation or improvements to existing facilities.

Children's Play/Teenagers - a development of this size should provide on-site play provision of: 1 NEAP play area plus 2 LEAP / LAP combined play areas. The proposed onsite LEAP and 2 LAP play areas falls below the standard required for the development, and the equipment proposed previously (below) is unsuitable.

As an alternative to onsite play facilities the developer may wish to provide a contribution toward enhancement of existing play facilities locally.

As no onsite outdoor sport would be appropriate on this development, a contribution of £86,627 is sought toward Dunstable Town Council's project to upgrade the sports changing pavilion at Kingsbury Park, which accommodates football and bowls pitches/facilities, based on the Sport England Playing Pitch Calculator. In addition a £70,000 contribution towards an offsite NEAP.

Other Representations:

Neighbours

One letter has been received from a resident of Priory View which raises no objection to the application.

54 letters have been received from residents of **Priory View, Bernard Close and Kingsway** which raise objection on the following grounds to the original and amended proposals (in summary):

- Overlooking;
- Invasion of privacy;
- Extra traffic /pollution onto an already very congested road;
- Loss of trees;
- Boundary fences which are in a poor state of repair;
- Existing health problems would be exacerbated by

- construction works and increased pollution;
- 600 extra cars, vans, lorries would travel up and down the access road;
- Miss selling of property;
- Over Development;
- Site is much higher than Kingsway;
- High rise buildings should be located away from existing dwellings;
- Site hoarding should be retained to provide privacy;
- Branches have already been removed from protected trees;
- Junction with Church Street would be over capacity with associated severe congestion and highway danger;
- Loss of light;
- Adverse impact on the gardens to Priory View;
- Disturbance during construction works;
- Too many new homes are being built in the area;
- Nobody will want to live in Priory View after the new development is carried out.

Additional comments received on amended plans:

- Amended flat blocks 1 and 2 will still remain 4 and 5 storey respectively when you include the height of the gable roof and will still cause overlooking, loss of daylight, not just in the mornings and evenings and loss of privacy.
- Limited sunlight will have an adverse effect on quality of life and health, particularly those with vitamin deficiencies and depression. Many residents are unable to travel from the Priory View garden area which would no longer be therapeutic and is a focal point for the community.
- Still object to the scale and mass of the development at the rear of Priory View.
- Highways report does not take account of increased volume in traffic.
- How can the builders know what they are building if the plans keep changing?
- Blocks 1 and 2 should be replaced with housing.
- Detrimental impact on air quality from additional traffic.
- The CB Design Guide at para 5.02.03 explicitly refers to two storey structures and suggests that three storey and above heights would require an increase in distance which will not overcome overlooking if 4 storey.
- It is misleading to directly compare 'pitched roof' structures with those having 'flat roofs'.

A petition of objection signed by 71 residents and 7 visitors to Priory View has been received which raises objection on grounds of

- Loss of light;
- Overlooking;
- Shading of landscaped garden;
- Increased noise;
- Increased traffic volumes adding to existing levels of congestion;
- Increased pollution;
- Severe disruption to residents;
- A northern exit road should be created;
- Taller dwellings should be located away from existing dwellings; the layout plans should be turned around.

Determining Issues:

The main considerations of the application are;

- 1. Principle of Development**
- 2. Affect on the Character and Appearance of the Area**
- 3. Neighbouring Amenity**
- 4. Highway Considerations**
- 5. Other Considerations**

Considerations

1. Principle of the Development

NPPF paragraph 49 states that 'housing applications should be considered in the context of the presumption in favour of sustainable development'. In the local context, the site falls within the town of Dunstable. Dunstable is designated as a town which is considered to be a sustainable location for planning purposes and wherein the principle of new development is considered acceptable.

The principle of development for residential on this site was established with the grant of Outline planning permission, and subsequent approval of reserved matters for the demolition of all buildings on the site and re-development for 170 dwellings. This planning permission remains extant and as such is material to the consideration of this application.

Since the original grant of planning permission the NPPF has been published and there have been other changes such as the CIL Regulations; however, none of these changes mitigate against the principle of a residential development on this site.

Accordingly there is no objection to the principle of residential development on this site. A residential reuse would make a positive contribution towards urban regeneration and the supply of land for housing with effective use of the available land and is therefore considered acceptable in principle and accords with national advice and Local Plan housing policies. It is also accepted and agreed that the site is previously developed land and so the principle of the use of the site for residential development is therefore acceptable, subject to other

considerations such as design, amenity and highway which are considered later in this report.

This full planning application has been considered in relation to the EIA Regulations (2011) as amended March 2014 and it is felt that no further information is required to be submitted in this respect.

2. Affect on the Character and Appearance of the Area

Appearance and Scale

The scale of development has increased significantly since the original approval; however, this has also reflected a change in the mix of proposed dwellings with a much greater emphasis on flats. The change in mix and numbers has also resulted in an increase in the height of the development with several four storey flat blocks included.

There is a mix of terraced units with some semi-detached properties and a significant presence of flats proposed. Building materials are mainly brick with some render and timber cladding used to create interest and variety. The materials generally reflect those found in the new developments to the south of the site.

In terms of overall scale, the development would not be out of character with the care home and extra care building which are two and a maximum of five storeys high respectively. The heights of the buildings vary within the development and amendments have been made to ensure that there is a progressive transition between the different building heights to create an interesting but balanced street scene.

There have been other revisions to the development to remove areas of undercroft parking and replacement with flats to animate the street frontage. The materials treatment of the proposed blocks has been revised to create more visual interest and break up the mass and bulk of the flat blocks. The proposed layout conforms to established good principles of design by respecting key groupings of buildings, street design, set backs, boundary treatments, parking typologies and materials.

As such, following the revisions to the scheme, it is considered that, the development would complement the character and appearance of the surrounding area.

Layout & Legibility

With regards to pedestrian access, a network of footpaths would be constructed within the site and linkages would be provided through the north eastern and north western boundaries to the busway and The Mall respectively as with approved scheme.

The majority of private outdoor space for flats is provided as balconies with limited communal garden space and houses would be served by rear gardens which, in most cases, comply with the CBC Design Guide. Given the site's proximity to public open spaces within walking distance of the Priory Gardens and the Grove park and the on site play area provision (detailed below); it is considered that the amenity space provided would be acceptable.

Landscaping

To soften the appearance of the development within the site, trees would be planted on the sides of roads. Additional planting would be introduced along the north eastern boundary to provide a buffer with the busway. A detailed landscape strategy covers the whole site and includes two Local Areas for Play (LAP) one situated at the site entrance and another on the north western edge of the site. In addition, a LEAP would be provided on the north eastern corner of the site. The details of landscaping submitted are considered acceptable.

Subject to appropriate conditions, the proposed development would therefore make a positive contribution to the locality and hence would not conflict with the aspirations of the Outline Planning permission and policies BE8 of the South Bedfordshire Local Plan Review (SBLPR) and national advice within the National Planning Policy Framework (NPPF).

3. Neighbouring Amenity

The objectors have raised a number of issues in their representations; many of the points have been addressed above, however, the following points address some of the specific issues raised regarding amenity.

Concern has been raised over loss of light and overshadowing particularly for the Priory View development; however, the development lies to the north of the Extracare facility and it is unlikely that there would be any overshadowing of properties except at the beginning or end of the day and any impact would be minimal due to the distances involved. The scheme was revised by moving one of the flat blocks further away from the boundary with Priory View and reducing building heights.

The layout of the flats, position of windows and their balconies to the rear of the Extracare facility has been amended to reduce the likely impact of any overlooking. Concerns were expressed by residents that block 1 would result in overbearing impact on Priory View due to its proximity to the shared boundaries. However this block in terms of its siting and up to a height of three storey (with pitched roof) was approved under the previous reserved matters application. The revisions secured during the life of the application, reduced the proposed four storey nature of this block 1 building back down to three storey (with pitched roof) adjacent to the shared boundaries which is consistent with their previous and extant permission. As such, it is considered that the impact of this proposed development would be no greater than the previously approved and extant permission.

Concerns of residents of Priory View were also raised in respect of flat block 2 due to its proximity to the boundary resulting in overbearing impact and due to its overall height and position of windows and balconies having the potential to result in mutual overlooking concerns. Amendments were secured during the life of the application which removed the arched entrance to the parking which contained flats above and all windows and balconies have been removed from the rear elevation facing Priory View.

A minimum separation of 29 metres is now proposed between the flat block 2 and Priory View buildings which is the distance between the western ends of

both buildings. This separation distance increases to 33 metres at the eastern end of block 2 (with two storey element) and 35 metres around the middle of the block where it is four storey in height (with pitched roof). The Councils Technical Design Guidance recommends a 21 metre separation distance to prevent mutual overlooking but this relates to two storey height dwellings only. The Guidance states that “three storeys and above heights” require an increase in distance if the basic standard is applied but does not recommend an appropriate distance.

Concern has also been raised by residents of Priory View about the heights of the buildings proposed. Priory View is a flat roof building which has a 5-storey 'drum' near the junction of the estate road with Church Street, from which radiate 2 wings of decreasing height. The wing facing proposed flat block 2 is part four and part three storey. The applicant has provided marked up drawings of Blocks 1 and 2 which shows that Block 2 (mainly four storey) would be 10.8 metres to the eaves and a maximum 14.03 metres to the ridge.

It is acknowledged that there would be some degree of impact on amenity from the proposed flat block 2 but given the additional distance proposed (minimum 29 metres) and the location of flat block 2 to the north of the Priory View properties it is not considered that there would be significant harm.

An approximate 10 metre depth buffer surrounds the north and western boundaries shared with other additional residential properties in Bernard Close, Kingsway and The Mall. This separation, including the rear garden spaces of the existing properties adjacent to the shared boundaries with the site, which are excess of 10 metres in depth, makes for an adequate separation that would not give rise in amenity concerns in terms of mutual overlooking or overbearing impact to this local residents.

Concern has been expressed about health impacts arising from the development. The issues raised around dust and noise will relate to the construction phase of the development and will greatly reduce once the development is fully occupied. The greatest impact will, therefore, be relatively short lived. Any nuisance that may arise would be covered by other regulations and addressed by the Councils Public Protection Team. Whilst the concerns raised by the objectors are fully understood they do not represent grounds to resist the current revised scheme and furthermore some of these concerns can be addressed through a Construction Management Plan condition.

The Councils Public Protection Officer acknowledges that dwellinghouses have been sited in order to minimise noise disturbance however the original noise report was conducted in 2011 prior to the busway becoming operational and prior to changes on the White Lion Retail Park and no noise attenuation scheme has been updated and supplied with the application and therefore this would need to be secured through condition.

A bin collection scheme in terms of storage and collection points have not been supplied for consideration however there is sufficient space within the layout to allow for these provisions and as such this matter can also be secured through condition.

In terms of amenity space for future occupiers, each bedroom space meets either the minimum standards which are conveyed within the Central Bedfordshire Design Guide or statutory limitations under the Housing Act. Furthermore, the garden space for each dwellinghouse would meet external standards conveyed within the same technical planning guidance. There is a 20 metre or more in some instances, separation between the back to back of each dwellinghouse to ensure that the development would not result in mutual overlooking concerns. Therefore the proposal would conform with policies BE8, the Central Bedfordshire Design Guide and section 7 of the NPPF requiring good design.

4. Highway Considerations

Access onto the site comes off Church Street and was established by the Outline permission, although this was for a lesser number of dwellings. The layout of the dwellings follows the road design which was previously approved and comprises two inter-linked loops which terminate in cul-de-sacs in the north eastern and north western parts of the site. Amendments have been made to this access in terms of its alignment and width to improve visibility and pedestrian access in accordance with the conclusions of a safety audit supplied during the course of the application.

A total of 576 parking spaces including garages would be provided against the CBC requirement of 578 spaces. 54 of these would be for visitors which is 23 short of the standard for visitor spaces. Given the proximity of the site to the town centre, busway and pedestrian/cycle routes this provision is considered acceptable.

The traffic assessment and comments from the highway officer confirm that whilst there would be an increase this would not be to a level that would be unacceptable or warrant refusal of planning permission.

The Highways Officer has not wished to raise an objection to the granting of this approval subject to the imposition of conditions. Therefore it is considered that the application would conform with policy T10 of the South Bedfordshire Local Plan Review and the Central Bedfordshire Design Guide.

5. Other Considerations

Affordable Housing Provision

Affordable housing provision was secured through the original outline planning permission for that number of units, in the form of Priory View. A viability report has accompanied this revised full planning application which concluded that this scheme, despite the increase in unit numbers, was considered to be unviable due to the construction costs in relation to flat blocks and due to the unsuspected additional ground construction works. As such no affordable housing provision was offered on the outset of this application.

However notwithstanding the conclusions of the viability report an element of affordable housing has been proposed as the viability report over estimated the likely S106 contributions. 10 % Shared ownership and 5% Starter homes has been agreed upon by the developer for the additional units proposed by this application which is considered acceptable in light of the viability conclusions. The proposal therefore is in accordance with Section 6 of the NPPF which

requires the delivery of a sustainable, inclusive and wider choice of high quality homes.

Contamination

The remediation strategy submitted in pursuit of discharge of condition 11 of permission number CB/13/01368 covers this entire site and as such covers this application and was included as part of this application submission. The Council's Pollution Officer raises no objections to the proposed development subject to the imposition of a condition to secure a phase 4 report demonstrating the effectiveness of the remediation strategy and a condition that if any unsuspected contamination found through site investigation, excavation, engineering or construction works to ensure this is identified and remediated.

Ecology

The Council's Ecologist and Natural England have both concluded that the proposal is unlikely to affect any statutorily protected sites or landscapes. Section 11 of the NPPF calls for a net gain in biodiversity. The references to biodiversity is welcomed including the planting/seed mix. The Council's Ecologist has recommended the provision of bat/bird boxes into the built fabric of dwellings which could be secured through condition.

An artificial badger set has already been provided to replace the original one which was closed due to its proximity to the guided busway. The Council's ecologist has asked for an update on badger activity on site and this should help inform other works which will be required.

No further objections have been raised by the Council's Ecologist or Natural England. The proposal therefore is considered to be in accordance with the NPPF.

106 Obligations

Significant weight should be given to the National Planning Policy Framework, which calls for the achievement of the three dimensions of sustainable development: economic, social and environmental. This states that developers are required to make appropriate contributions as necessary to offset the cost of providing new physical, social, community and environmental proposals. The applicant has (as stated previously) submitted a viability report to demonstrate that it is not financially viable to provide a policy compliant scheme for affordable housing. This report has been independently reviewed and whilst there have been revisions to the applicant's assessment this has not materially changed the conclusion that the development was in deficit in relation to residual land value.

Spending Officers were consulted and comments returned from Education and the Council's Leisure team whereby contributions were requested. Notwithstanding the conclusions of the viability report full education and leisure S106 contributions can be secured in addition to the affordable housing (as explored in section 5.1) the S106 package shall include:

- Education contribution (for additional 148 units): £460,788
- NEAP play area £70,000
- Upgrade the sports changing pavilion at Kingsbury Park: £86,627

which would form heads of terms for the legal agreement that would be required if Members resolve to approve.

Property Miss selling

Property miss selling has been raised; however, this is not a material planning consideration.

Sustainable Growth

Paragraph 6 of the NPPF states that the purpose of the planning system is to contribute to the achievement of Sustainable Development, requiring a Sustainability Statement to be submitted with applications demonstrating a developments contribution to Sustainable Development through energy efficiency, biodiversity net gain (which is covered above) water efficiency and landscaping opportunities. This statement was submitted for consideration as part of this application. The Councils Sustainability Officer is satisfied that the development can contribute to Sustainable Development and has recommended conditions to secure its commitment and as such the development is in accordance with the NPPF in this regard.

SuDs

The original outline planning permission for this site, required that a 'Surface Water Drainage Strategy which would set out the appropriateness of SuDS to manage surface water run off, including the provision of the maintenance for the lifetime of the development which they serve would be discharged by way of condition prior to the commencement of works. However as this proposal is a standalone application, an updated drainage statement was supplied with this application. Subject to the Councils SuDs Engineer being satisfied with the content of this report which will be updated to the committee on the late sheet, it is considered that the proposal accords with section 10 of the NPPF.

Human Rights issues:

The proposal raises no Human Rights issues.

Equality Act 2010:

The proposal raises no Equality issues.

Recommendation:

That Planning Permission be **APPROVED** subject to the completion of a Section 106 Agreement and the following conditions:

RECOMMENDED CONDITIONS

- 1 The development hereby permitted shall begin not later than three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 No building shall be occupied until a phase 4 Validation report demonstrating the effectiveness of the remediation strategy, presented in the BRD 'Additional

Contamination Assessment and Remediation Strategy' document (Report Ref: BRD2297-OR2-B) dated October 2015, has been submitted and approved in writing by the Local Planning Authority. Any such validation report shall include responses to any unexpected contamination discovered during works.

If during any site investigation, excavation, engineering or construction works evidence of land contamination is identified, the applicant shall notify the Local Planning Authority without delay. Any land contamination identified shall be remediated to the satisfaction of the Local Planning Authority to ensure that the site is made suitable for its end use.

Reason: To protect human health and the environment.
(Policy BE8 SBLPR and the provisions of the NPPF)

- 3 **No development shall take place until a scheme for protecting the proposed dwellings from noise has been submitted to and approved in writing by the local planning authority. The scheme shall follow the recommendations identified in the noise.co.uk report (Ref: 16065A-1) dated 24th October 2016. None of the dwellings shall be occupied until such a scheme has been implemented in accordance with the approved details, and shown to be effective, and it shall be retained in accordance with those details thereafter.**

Reason: This is a pre-commencement condition as the materials and other methods of noise mitigation are required to be pre-ordered prior to construction and to protect the residential amenity of any future occupiers.
(Policy BE8 SBLPR and the provisions of the NPPF)

- 4 **Prior to the commencement of development, including demolition, all tree protection barriers shall be erected and positioned in strict accordance with the "Tree Protection Removal Plan" drawings (Dwg No's 710 Rev C and 711 Rev C), in full compliance with the appropriate build specification as being shown on the drawings. The tree protection barriers shall then remain securely in position throughout the entire course of development.**

Reason: This is a pre-commencement condition as protection for pre-existing trees must be erected prior to construction to secure the protection of the rooting system, rooting medium and natural canopy spread of retained trees from all development activity, so as to maintain their good health in the interests of securing visual amenity (Policy BE8 SBLPR and the provisions of the NPPF)

- 5 **During the course of development, all hand excavation and root pruning being undertaken in the areas indicated as such on the "Tree Protection Removal Plan" drawings (Dwg No's 710 Rev C and 711 Rev C), shall be carried out under the direct supervision of a qualified arboriculturist, appointed by the developer to oversee these operations, in full compliance with good arboricultural practice.**

Reason: To ensure compliance with good arboricultural practice and to minimise damage to tree roots caused by construction operations being

required within the designated Root Protection Area's of the retained trees, so as to maintain their good health, in the interests of securing visual amenity.
(Policy BE8 SBLPR and the provisions of the NPPF)

- 6 No part of the development shall be occupied prior to implementation of those parts identified in the travel plan that are capable of implementation prior to occupation. Those parts of the approved Travel Plan that are identified as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

Reason: In the interest of promoting sustainable transport.
(Policy BE8 SBLPR and the provisions of the NPPF)

- 7 **No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.**

**Reason: This is a pre-commencement condition as ground works in relation to Foul Water will be required to be completed before the foundations and building of the units to prevent environmental and amenity problems arising from flooding.
(Policy BE8 SBLPR and the provisions of the NPPF).**

- 8 No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent environmental and amenity problems arising from flooding.
(Policy BE8 SBLPR and the provisions of the NPPF)

- 9 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, or any amendments thereto, the garage accommodation on the site shall not be used for any purpose, other than as garage accommodation, unless permission has been granted by the Local Planning Authority on an application made for that purpose.

Reason: To retain off-street parking provision and thereby minimise the potential for on-street parking which could adversely affect the convenience of road users.
(Section 4, NPPF)

- 10 **Notwithstanding the details supplied with this application, no development shall take place, until details of the materials to be used for the external walls and roofs (including the provision of birds/bat boxes) of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.**

Reason: This condition is pre-commencement as materials are ordered prior to construction and to control the appearance of the building in the interests of the visual amenities of the locality and in the interest of ensuring a net gain in biodiversity.

(Policy BE8 SBLPR and Sections 7 & 11, NPPF)

- 11 **No development shall take place until details of the existing and final ground and slab levels of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. Such details shall include sections through both the site and the adjoining properties, the location of which shall first be agreed in writing with the Local Planning Authority. Thereafter the site shall be developed in full accordance with the approved details.**

Reason: This condition is pre-commencement as ground levels must be agreed on site prior to construction to ensure that an acceptable relationship results between the new development and adjacent buildings and public areas.

(Policy BE8 SBLPR and Section 7, NPPF)

- 12 The dwellings hereby approved shall not be occupied until details of the bin storage & collection areas have been submitted to and approved in writing by the Local Planning Authority and the bin storage/collection areas have been implemented in accordance with the approved details. The bin storage & collection areas shall be retained thereafter.

Reason: In the interest of amenity.

(Policy BE8 SBLPR and Section 7, NPPF)

- 13 The planting and landscaping scheme shown on approved drawings shall be implemented by the end of the full planting season immediately following the completion and/or first use of any separate part of the development (a full planting season shall mean the period from October to March) and shall be maintained in accordance with the approved landscape management plan. The trees, shrubs and grass shall subsequently be maintained for a period of five years from the date of planting and any which die or are destroyed during this period shall be replaced during the next planting season with others of a similar size and species.

Reason: To ensure an acceptable standard of landscaping.

(Policy BE8 SBLPR and Sections 7 & 11, NPPF)

- 14 No part of the development hereby approved shall be brought into use until a Public Art Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall address suitable themes and artistic opportunities; strategies for pupil involvement as appropriate; timescales for implementation of the strategy; and project management and long-term maintenance arrangements. The Public Art Strategy shall then be implemented in full as approved unless otherwise amended in accordance with a review to be agreed in writing by the Local Planning Authority.

Reason: In the interests of promoting local distinctiveness and creating a

sense of place, in accordance with Policy BE8 SBLPR and the Central Bedfordshire Design Guide.

- 15 **No development shall take place until a Construction Management/Method Plan and Statement with respect to the construction phase of the development have been submitted to and approved in writing by the Local Planning Authority. Development works shall be undertaken in accordance with the approved Construction Management/Method Statement/Plan. The details shall include, amongst other things, access arrangements for construction vehicles; compounds, including storage of plant and materials; details of how the road shall be kept clear of mud deposit or other extraneous material; loading and unloading areas and construction workers parking arrangements.**

Reason: This condition is pre-commencement as the method of management of construction traffic and/or materials on site is required before works begin, in the interest of safeguarding the local residential amenity.

(Policy BE8 SBLPR and Section 4, 7 and 13 of the NPPF)

- 16 **No development shall take place until details have been submitted to and approved in writing by the Local Planning Authority showing how renewable and low energy sources would generate 10% of the energy needs of the development and also showing water efficiency measures achieving 110 litres per person per day. The works shall then be carried out in accordance with the approved details.**

Reason: This condition is pre-commencement as the details and materials used in construction must be ordered in advance of construction and in the interests of sustainability.

(Section 10 of the NPPF)

- 17 **No development shall commence until a detailed surface water drainage scheme for the site and an assessment of the hydrological and hydrogeological context of the development, including a plan for long term maintenance and management, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall also include details of how the system has been calculated as well as how it will be constructed, including any phasing, and how it will be managed and maintained after completion. The scheme shall be implemented in accordance with the approved final details before the development is completed, and shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.**

Reason: This condition is pre-commencement as the surface water drainage scheme will require ground works to be carried out prior to construction, to ensure the approved system will function to a satisfactory minimum standard of operation and maintenance and prevent the increased risk of flooding both on and off site, in accordance with para 103 of the NPPF.

- 18 No building shall be occupied until the junction of the proposed vehicular access within the highway has been constructed in accordance with the approved details shown on drawing number 17078/002 Rev A (Access).

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and the premises.

(Policy BE8 SBLPR and Section 4, NPPF)

- 19 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 38992/001 rev B Drainage Layout Sheet 1 of 2, 38992_002 E Proposed Drainage Layout Sheet 2 of 2, Drainage Strategy (38992-004) received 02.05.17, 14.100.1.100.1 rev 32 Site Layout Coloured, 14.100.100.1.SH rev 32 Storey Height Plan, 14.100.1.100.MAT rev 32 Wall & Roof Materials, 14.100.1.101 Rev A Site Location Plan, 14.100.1.101.2 rev 22 Site layout (with altered area), 14.100.1.200 rev - Single Garage, 14.100.1.201 rev -Double Garage, 14.100.1.A01 rev D Bickleigh House Type, 14.100.1.A02 rev B Bickleigh House Type (Contemporary), 14.100.1.B01 rev D Hanbury House Type, 14.100.1.B02 rev C Hanbury House Type (Contemporary), 14.100.1.C01 rev C Hatfield House Type, 14.100.1.C02 rev - Hatfield House Type (Contemporary), 14.100.1.D01 rev D Alnwick House Type, 14.100.1.D02 rev C Alnwick House Type (Contemporary), 14.100.1.E01 rev C Leicester House Type (Elevations), 14.100.1.E02 rev B Leicester House Type (Plans), 14.100.1.F01 rev D Moseley House Type, 14.100.1.F02 rev B Moseley House Type (Contemporary), 14.100.FL.01 rev E Flat Block 1 Plans, 14.100.FL.01.1 rev C Flat Block 1 Elevations, 14.100.1.FL.02 rev C Flat Block 2 (Plans), 14.100.1.FL.02.1 rev C Flat Block 2 (Elevations), 14.100.1.FL.03 rev C Flat Block 3 (Plans), 14.100.1.FL.03.1 rev C Flat Block 3 (Elevations), 14.100.1.FL.04 rev D Flat Block 4 (Plans), 14.100.1.FL.04.1 rev D Flat Block 4 (Elevations), 14.100.FL.05 rev E Flat Block 5 (Plans), 14.100.FL.05.1 rev E Flat Block 5 (Elevations), 14.100.1.FL.06 rev C Flat Block 6 (Plans), 14.100.1.FL.06.1 rev C Flat Block 6 (Elevations), 14.100.1.FL.07 rev C Flat Block 7 (Plans), 14.100.1.FL.07.1 rev C Flat Block 7 (Elevations), 14.100.1.FL.08 rev C Flat Block 8 (Plans), 14.100.1.FL.08.1 rev C Flat Block 8 (Elevations), 14.100.1.FL.09 rev C Flat Block 9 (Plans), 14.100.1.FL.09.1 rev C Flat Block 9 (Elevations), 14.100.1.FL.10 rev C Flat Block 10 (Plans), 14.100.1.FL.10.1 rev C Flat Block 10 (Elevations), 14.100.1.FL.11 rev C Flat Block 11 (Plans), 14.100.1.FL.11.1 rev C Flat Block 11 (Elevations), 14.100.1.FL.12 rev C Flat Block 12 (Plans), 14.100.1.FL.12.1 rev C Flat Block 12 (Elevations), 14.100.1.H01 rev – Lumley House Types (Contemporary – Plans), 14.100.1.H02 rev – Lumley House Types (Contemporary – Elevations), 14.100.1.J02 rev B Rockingham House Type (Contemporary), 14.100.1.K01 rev A – Greyfriars House Type, 14.100.1.SS.01 rev H Street Scenes 1, 14.100.1.SS.02 rev H Street Scenes 2, 14.100.1.SS.03 rev H Street Scenes 3, 14.100.1.101.3 rev 32 Cycle Parking, 14.100.1.101.4 Affordable Housing, JSL2463 110 rev F Landscape Strategy, JSL2463 111 rev E Landscape Management Zones, JSL2463 210 rev D Hard Landscape, JSL2463 300 rev A Illustrative sections, JSL2463 510 rev D Soft Landscape Planting Plan 1 of 2, JSL2463 511 rev D Soft Landscape Planting Plan 2 of 2, JSL2463 550 rev G Tree and shrub palette, JSL2463 570 rev E Landscape Management Plan, JSL2463 705 rev D Tree

Constraints & Shade Analysis, JSL2463 710 rev C Tree Protection Removal Plan 1 of 2, JSL2463 711 rev C Tree Protection Removal Plan 2 of 2, 17380/CHUR/5/500 rev E Refuse Vehicle Tracking, JSL2463 873 Ecology Statement, Energy Statement (May 2017), 16065A-1 Noise Assessment, 37341/5501 Rev A Residential Travel Plan, 37341/5501 Rev A Transport Assessment, Site Safety Assessment 1687C Jan 2017, 17078/002 Rev A (Access), BRD2297-0R2-B Contamination Assessment and Remediation Strategy (Oct 2015) & QTS Enviro Report 14-27284.

Reason: To identify the approved plans and to avoid doubt.

- 20 **Prior to the commencement of works an updated assessment of badger activity on site shall be submitted to and approved by the Local Planning Authority. This should inform a method statement detailing how ground works will proceed in preparing the LEAP and ongoing management of the area post construction to prevent disturbance to badgers.**

Reason: This condition is pre-commencement as updated assessment will inform other details to be approved under this permission and to ensure proper consideration of the impact of the development on ecology in accordance with the NPPF.

INFORMATIVE NOTES TO APPLICANT

1. In accordance with Article 35 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the reason for any condition above relates to the Policies as referred to in the South Bedfordshire Local Plan Review (SBLPR) and the National Planning Policy Framework (NPPF).
2. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

Statement required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 - Part 6, Article 35

The Council acted pro-actively through engagement with the applicant at pre-application stage and during the application 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) Order 2015.

DECISION

.....
.....