

Item No. 11**SCHEDULE B**

APPLICATION NUMBER	CB/09/05548/FULL
LOCATION	Linpac GPG International, Luton Road, Dunstable, LU5 4LN
PROPOSAL	Erection of two linked data centre buildings (incorporating data storage equipment servers and associated plant) Erection of boundary and secondary 3.0m high inner security fence with security gates and gatehouse. Erection of substation building to rear with associated car parking, buried fuel tank storage, loading bay and perimeter service road. (Revised application CB/09/05002/TP)
PARISH	Dunstable
WARD	Icknield
WARD COUNCILLORS	Cllr John Kane & Cllr David McVicar
CASE OFFICER	James Clements
DATE REGISTERED	05 August 2009
EXPIRY DATE	04 November 2009
APPLICANT	Mr J Rooney
AGENT	Arcadium Associates Ltd
REASON FOR COMMITTEE TO DETERMINE	Called-in by Ward Councillor Kane
RECOMMENDED DECISION	Grant subject to Conditions and Section 106 Agreement

Site Location

The proposal site is located on the majority of the Linpac GPG International (Ecomold) site, Luton Road, Dunstable, but does not include the warehouse to northwest of the site. The site has been used for industrial purposes since the 1940s and benefits from a B1/B8 use with permission to operate 24 hours a day. The site's most recent use was as a plastics moulding company manufacturing parts of the car industry. In 2008 the business went into receivership.

The site is approximately 0.5 miles from Dunstable town centre, situated south of the Luton Road, on an area of land measuring 3.9 hectares. The existing buildings cover an area of 19,630m² with the main factory building 18,598m². The site has a frontage along Luton Road measuring approximately 150m, to the east are residential properties (Liscombe Road) and a BP petrol station, and to the west there are a number of industrial units on Eastern Avenue Industrial Estate. The southern site boundary abuts the former Luton-Leighton Buzzard trainline. To the south of the trainline is land used as paddocks. Blows Downs, the Chilterns Area of Outstanding Natural Beauty, a Site of Special Scientific Interest and a County Wildlife Site are approximately 140m to the south of the proposal site.

To the east of the site, the residential properties have rear gardens abutting the boundary of the proposal site, measuring approximately 30m in length. Both sides of

the boundary have a level of mature and semi-mature tree planting. On the residential side of the boundary there are a large number of leylandii and other evergreen trees. On the Linpac GPG side of the boundary there are a number of mature tree species including lime, maple, chestnut, plum and cherry. The Linpac GPG boundary also has a number of small, ancillary plant buildings including a generator house, plant storage building and oil storage building.

The original topography of the site was of a gentle slope from south to north. However, when the site was developed it was heavily landscaped to create a level surface. As a consequence the site varies in height when compared to the properties on Liscombe Road. At the southern end of the site the ground level is up to 3m lower than properties on Liscombe Road properties. The difference in height gradually reduces towards the north of the site where the boundary becomes level. The site is accessed from Luton Road and comprises 2 main blocks that were used as the factory and offices, a single-storey social club building and a number of small service buildings. The two main blocks are set back in a central position between 65 and 80 metres from the Luton Road. The main blocks are made up of buildings varying in height from approximately 7m to 16m and are predominantly constructed with a steel-frame construction and sheet cladding with some brick work. The 2-storey offices are situated on the Luton Road side of the east block and are constructed in brick. The main blocks are between 9&60m from the rear boundary of the site. The eastern block is between 12 and 17 metres from the boundary with the Liscombe Road Properties. To the north of the main buildings there is a security building with security gates and fencing, a single-storey works social club and parking area. The site along Luton Road is bounded by a steel railing and a landscape strip with a row of mature cherry and horse chestnut trees. Within the site the access road runs around the site between the two main buildings and between the eastern block and the Liscombe Road boundary.

The Application

Full planning permission is being sought for the erection of a data centre comprising a linked 2-storey data centre, each with a single-storey office building, housing data storage equipment. The proposal also includes a substation, perimeter service road, loading yard, service yard and parking area to both buildings and buried fuel tanks for generator diesel supply.

This proposal is a revision of planning application CB/09/05002. The application was withdrawn by the applicant after concerns were raised by the Council regarding the height of the building, and because a Flood Risk Assessment had not been submitted with the application.

Data Centre

The main purpose of a data centre is to house computer equipment to store information. This requires large uninterrupted spaces which house multiple computer servers in racks. This data centre will function as a business by renting servers for the storage of data. The predominant users are likely to be companies in banking, insurance, telecommunications and internet business.

The data centre would function 24 hours a day, 365 days a year and would be staffed on a pattern of three shifts a day. It is envisaged that there would be 150 employees including maintenance engineers, IT technicians and security operatives.

Buildings

The proposal comprises two 2-storey linked data centre buildings with single-storey office buildings. The footprint of each building would measure 15,964m² with a combined footprint of 31,928. Each data centre building would measure 89m wide, 79m deep, 13.3m to the eaves and 14.8m to the ridge height.

The two main buildings would be linked by glazed curtain wall passageways: one at ground floor and the other at first floor level and would be identical in terms of size and design. The buildings are designed with a portal framed type steel structure with a barrel roof and would be constructed with metal panels/cladding and reclaimed Luton Grey brick. Within the main buildings there would be two data halls on two storeys which would be serviced by associated plant rooms. Each building would have 3 data halls on each floor, measuring 47 by 22m. Within the roof above the plant areas there would be chiller and generator compounds.

To the front and rear of the main buildings would be identical single-storey buildings measuring 18.5m deep, 75m wide and 9.5m in height, which would be used as offices and the main access for staff and visitors. They would each contain a reception, office space, toilet facilities, loading bays and communication rooms. In terms of construction the roof would be mono-pitched with a 'green roof', the elevations would incorporate significant glazing and there would be Luton Grey brick infill, metal cladding and loading bays.

The main building would be set back at angle from the Luton Road by approximately 37-56m for the single-storey reception/office element, and 72-90m for the main 2-storey element. The main building would be approximately 14 metres from industrial buildings on the Eastern Avenue Industrial estate, approximately 60m from the former trainline and between 25&30 metres from the garden boundary with Liscombe Road properties.

To the rear of the site adjacent the former trainline it is proposed to construct a sub station measuring 1,400 m². At this stage the applicant is not able to supply full details of the sub-station. The applicant has therefore agreed to withdraw this part of the application.

Generators, fuel tanks and chiller units

One of the primary requirements for the operation of data centres is the cooling of the computer equipment within the data halls. Each of the two data centre buildings would be cooled by 18 chillers which are proposed within the roof of the main buildings, to the west of the site adjacent buildings on the Eastern Avenue Industrial Estate. Backup diesel generators would also be required to produce electricity, should there be a power failure. Each data centre building would have 8 diesel generators located on the Liscombe Road side of the buildings. Both the diesel generators and chiller units would have metal screen infill panels on the sides of the building to dampen the noise.

The chillers would be used 24 hours a day and have been located on the western side of the building away from residential properties. It was originally envisaged that the diesel tanks would be located underneath the access road adjacent the Liscombe Road properties. However, following discussions with officers and

concerns raised by local residents, the applicant has amended the plan relocating the diesel tanks underneath the western access road.

Landscaping

New landscape areas are proposed to the north and east perimeter. The new landscaping zone adjacent the boundaries with Liscombe Road would measure 13-18m in width and would be built up to the height of the neighbouring garden level. It is proposed to retain as many existing trees as possible.

Landscaping is also proposed to supplement and extend planting on the northern boundary and adjacent to the proposed parking areas and security gates

Traffic movements and Parking

The site would be accessed from the existing access on Luton Road and would have parking to the front and rear of the site, with 198 parking spaces overall including 8 disabled spaces. There would be secure on site sheltered bicycle storage and changing facilities would be provided for staff and visitors who cycle to the site.

A Draft Travel Plan from JMP Consultants Limited has been submitted with the application. Approximately 150 staff would be expected to work at the data centre, and the applicant has stated that traffic movements would be limited to staff and small van/truck deliveries.

Security

Due to the type of use, security is of a high importance. It is therefore proposed to erect two fences and utilise CCTV. The two fences would comprise an outer security fence measuring approximately 2.1m and an inner fence measuring approximately 3m in height.

RELEVANT POLICIES

National Policies (PPG & PPS)

- PPS1 - Delivering Sustainable Development
- PPG4 - Industrial and Commercial Development and small firms
- PPS7 - Development in Rural Areas
- PPS9 - Biodiversity
- PPG13 - Transport
- PPS23 - Planning and Pollution Control
- PPG24 - Planning and Noise

Regional Spatial Strategy

East of England Plan (May 2008)

- SS1 - Achieving Sustainable Development
- ENV2 - Landscape Conservation
- ENV3 - Biodiversity and Earth Heritage
- ENV7 - Quality in the Built Environment
- ENG1 - Carbon Dioxide and Energy Performance
- ENG2 - Renewable Energy Targets
- T4 - Urban Transport

T14 - Parking

Milton Keynes and South Midlands Sub-Regional Strategy (March 2005)

South Bedfordshire Local Plan Review

E1 - Safeguarding B1-B8 Employment Land

BE8 - Design and Environmental Considerations

T10 - Controlling Parking in New Developments

Planning History

CB/09/05002	Withdrawn application for the erection of two linked data centre buildings, (incorporating data storage equipment servers and associated plant). Erection of boundary and secondary fence. Erection of substation building to rear with associated car parking, buried fuel tank storage, loading bay and perimeter service road.
SB/TP/02/1272	Permission for installation of spray booth exhaust stack.
SB/TP/98/0006	Permission for the erection of first aid room, toilet accommodation and canopy.
SB/TP/97/0630	Permission for alterations to buildings including re-sheeting part of roof and elevations and construction of replacement fire escape.
SB/TP/96/0927	Permission for the change of use of the existing part warehouse area and boiler room to light industrial use and new mezzanine floor.
SB/TP/96/0877	Permission for the erection of replacement production building and one additional silo.
SB/TP/94/0638	Permission for the erection of a single storey front extension.
SB/ADV/94/0044	Advertisement Consent for the display of externally illuminated company name.
SB/81/00176	Permission for substation and switchgear.
SB/77/01186	Permission for covered bridge.
SB/73/299	Permission for continued use of 2 Romney Huts and 1 Nissan Hut.

Representations (Parish & Neighbours)

Town Council	Awaiting comments.
nos. 6, 12, 14, 15, 16, 18, 19, 23, 26, 29, 30, 31, 32, 39, 41 and 46 Liscombe Road (and two further not numbered residences in Liscombe Road).	<ul style="list-style-type: none">• Excessive noise• Risk of leakage and explosion from the buried fuel tanks. Should be located on the Eastern Avenue side.• Who will maintain the Liscombe Road side of the landscape zone.
10 Liscombe Road	<ul style="list-style-type: none">• What is the management regime for the generators?• How will exhaust fumes be dispersed and fumes from the tanks be vented?

22 Liscombe Road

- How will the building be electromagnetically screened?

Supports application - 'If rejected it would be quite possible that another application would not be made and then we would end up with another derelict building. The application is preferable to high density housing'.

Consultations/Publicity responses

Environmental Health Officer	No objection subject to conditions to control noise levels from the chillers and generators and a condition to control hours during construction and a Code of Construction Practice.
Highway Officer	No objections subject to 2 conditions – Travel plan and gates to be set back – and a Section 106 legal Agreement for a contribution for sustainable transport.
Council Archaeologist	No objection - the location and nature of the proposed development means that there is unlikely to be a significant impact on important archaeological deposits.
Tree & Landscape Officer	No objection subject to landscaping conditions for a scheme and management.
Force Architectural Liaison Officer	No objections subject to a commuted sum in line with section 11 of the Draft South Bedfordshire Planning Obligations SPD.
Highways Agency	No objection subject to a condition for a full Travel Plan.
Environment Agency	Objection - additional drainage details required to meet part Flood Risk Assessment requirements set out in Annex E, paragraph E3 of Planning Policy Statement 25 (PPS 25). Once these issues are resolved, one drainage condition recommended.

Determining Issues

The main considerations of the application are:

1. Principle of development;
2. Noise and pollution;
3. Location of fuel tanks;
4. Transport;
5. Design and Environmental Considerations; and
6. Section 106 Legal Agreement.

Considerations

1. Principle of development

The proposal site is land designated in the South Bedfordshire Local Plan Review as E1 Safeguarding B1-B8 Employment Land. Policy E1 states that,

'Within main employment areas, defined on the proposals map, planning permission will not be granted for uses other than B1, B2 or B8 of the Use Classes Order 1987'.

The existing site has a B1/B8 (light industry/storage or distribution) use whilst the proposed data centre is considered to have a *suis generis* use. However, it is a *suis generis* use closely related to that of a B1 (light industry) use and is therefore considered to be acceptable.

2. Noise and pollution control

The Council's Environmental Officer does not have any objections in principle to the proposed development.

Noise

One of the main issues raised by residents relates to detrimental noise levels which would be created by the proposal. In support of the application an Acoustic report has been submitted by Anderson Acoustics. The report states that:

'The calculated noise levels show that the highest noise levels with all chillers operating is likely to be experienced at 1 Ash Grove where noise levels of approximately 34 db are predicted. This level is 2db below the night-time background noise level and therefore slightly exceeds recommended criteria to aim for 5 db below background. During the daytime the background noise level is 5db higher in each monitoring location and therefore noise from the chillers would be 7db below the background noise level. This indicated that daytime operation of the chillers should not lead to any adverse noise impacts....the overall findings suggest that worst case noise levels during operation of the data centre should not give rise to any significant noise impacts at the nearest residential properties to the northeast in Liscombe Road, to southwest in Long Hedge and Bartons Avenue and to the north in Bramley Court'.

The Council's Environmental Health Officer considers the findings to be broadly acceptable but has stated, 'The applicant's noise consultants have suggested noise criteria for fixed plant operating continuously, i.e. the chillers and for fixed plant operating under emergency conditions, i.e. the generators. The consultants do not consider that noise from the chillers and generators contain any distinguishable tones or impulse characteristics. I would argue that the generators would have a distinguishable acoustic feature at the Liscombe Road properties, though probably not at the further removed Barton Avenue and the Ash Grove receptors'.

The Environmental Health Officer has therefore recommended two conditions to ensure that development would meet with the recommended noise methodology set out in BS 4142:1997 so that fixed plant operating continuously (chillers) are designed a minimum of 5db below background level and that the fixed plant operating under emergency conditions (generators) are designed to a maximum of 5db above background levels.

Site Contamination

In terms of site contamination the Environmental Health Officer has no

objection subject to 4 standard conditions.

Air Quality

With respect to air quality, PPS23 states that air quality is particularly important when the development is proposed inside or adjacent to an Air Quality Management Area (AQMA) designated under Part iv of the Environment Act 1995. The proposed development is adjacent an AQMA that includes Luton Road. The applicant's transport consultant's conclude that the redevelopment of the site would not adversely impact on the highway network and that overall the number of trips generated by the site would be reduced. The oil storage tanks would only be required in an emergency and for servicing. The proposed development is therefore, not considered to result in a deterioration of local air quality.

Electromagnetic pollution

The applicant has stated that the building would be constructed in such a way that any electromagnetic radiation from the computer servers and equipment would be retained within the building and would not affect radio or television transmission or the Liscombe Road properties.

Noise and pollution during construction

In terms of noise and pollution during the construction of the development, the Environmental Health Officer has recommended a condition for a Code of Construction Practice to be submitted. This plan would include details such as a plan for community relations including a local point of contact and progress updates, hours of working, temporary hoardings, access, including emergency service vehicles, artificial lighting, highway management, including delivery times, traffic routes, wheel/road washing, provision to accommodate all site operatives', visitors and construction vehicles loading, off-loading, parking and turning within the site during the construction period and environmental controls to protect the environment from dust, air pollution, land contamination, asbestos, noise and vibration, water and effluent, pest control.

Generator management regime

The generators would typically be tested for one hour at a time during normal working hours. An agreed maintenance regime would be determined by way of condition.

Flood Risk Assessment

The Environment Agency has objected to the proposal because of a lack of information required to meet Annex E, paragraph E3 of Planning Policy Statement 25 (PPS 25). Once these issues are resolved the Environment Agency has recommended one drainage condition.

It is anticipated that this information will be forthcoming. An update will be provided at the Committee.

3. Location of fuel tanks

It is proposed to locate ten 64,000 litre capacity fuel tanks underneath the proposed access road adjacent the Eastern Avenue Industrial Estate. It was originally envisaged that the diesel tanks would be located underneath the access road adjacent the Liscombe Road properties. However, the applicant has relocated the proposed diesel tanks to the opposite side of the site.

Residents have raised concern that the fuel tanks would hold more fuel than the nearby BP garage, that there is a risk of leakage, explosion, contamination and that there is limited access for emergency vehicles.

The applicant has stated that:

'The proposed fuel tanks would meet all the relevant regulations required in law, including: Building Regulations Part J (location of tanks), British Safety Standard BS799: Specifications for oil storage tanks, Environment Agency PPG 27: Installation, decommissioning and removal of underground storage tanks standards for pollution control and BN EN12285-1:2003: Workshop fabricated steel tanks. Horizontal cylindrical single skin and double skin tanks for the underground storage of flammable and non-flammable water polluting liquids.

The fuel to be stored at the Dunstable data centre is diesel not unleaded petrol. Unleaded petrol is many times more explosive and flammable than diesel. In fact unleaded petrol can be ignited from the fumes, whereas diesel cannot be lit until it has reached a temperature over 60c. Diesel is not subject to the same rules as Petrol. Petrol requires a PEA or local Petroleum Enforcement Authority (the old Petroleum Officer) to agree to petrol tanks being installed. Diesel does not fall under this category as it is very similar to heating oil as it is nowhere near as volatile.

The fuel systems at the Dunstable data centre would be rarely used and the "fuel transit" levels are extremely low (many times lower than the petrol station at the end of the road), however, in the event of a power failure, the monitoring of the fuel system is doubled-up in all cases and a "fault" results in a shut-down of that particular system on safety grounds until the fault has been remedied. The generator installation will be in line with the 'Clean Air Act' this requires exhaust flues to be above the height of the property thereby ensuring fumes are dispersed into atmosphere. The generators are connected to catalytic convertors which remove 99% of the harmful element produced during combustion'.

The Health and Safety Executive, Bedfordshire Fire and Rescue and the Council's Petroleum Officer have been consulted. However, at the time of writing their comments have not been received. Any comments received will be made available at the Committee Meeting.

4. Transport

In terms of traffic the proposal is likely to be an improvement over the existing use of the site. Due to the nature of the data centre the site would be predominantly occupied by data handling computers and associated plant areas. It would therefore be less populated than a general industrial site and there would be less staff than the previous use, which at times employed up to 400 people. The total number of staff employed for the proposed data centre

would be approximately 150, with around 50 people working on site per shift. Up to a maximum of 100 people could be onsite at any one time in order for the overlap in staff while employees changes shift.

Unlike the previous industrial use nothing would be produced or fabricated onsite and the use would require few deliveries. The applicant has stated the previous use had upwards of 40 HGV movements a day. The applicant estimates that the proposal is likely to generate 1 lorry movement a day.

The Highway Officer has no objection to the application subject to conditions relating to a travel plan, cycle parking provision and a contribution to sustainable transport measures (discussed below).

5. Environmental and Design Considerations

Policy BE8 of the South Bedfordshire Local Plan Review sets out a number of design and environmental objectives that proposals for development should achieve. The objectives of Policy BE8 include the following:

- any natural features which are an attractive aspect of the site should be protected and conserved;
- the size, scale, density, massing, orientation, materials and overall appearance of development should harmonise with the local surroundings;
- the setting of any development should be carefully considered and attention should be paid to its impact on public views into, over and out of the site;
- the siting and layout of development should be designed to limit opportunities for crime;
- proposals should have no unacceptable adverse effect upon general or residential amenity and privacy;
- the development should make efficient use of scarce resources; it should maximise energy efficiency and conservation through the orientation, layout and design of buildings, landscaping and planting, and the use of natural lighting and solar gain; it should take full advantage of opportunities to use renewable or alternative energy sources;
- lighting should not have a detrimental impact on the surrounding area; and,
- proposals should take full account of the need for hard and soft landscaping and amenity space in order to integrate the development into its surroundings; they should demonstrate how trees and vegetation would be used to achieve visual, energy saving, wildlife and other environmental benefits.

In addition, Policy ENV7 of the East of England Plan requires that new development should

- provide buildings of an appropriate scale, founded on clear site analysis and urban design principles;
- provide a mix of building types where appropriate;
- promote resource efficiency and more sustainable construction, including maximum use of re-used or recycled materials; and
- reduce pollution, including emissions, noise and light pollution.

Design and impact on surroundings

The proposed buildings are designed with a portal frame steel structure with a barrel roof, metal panels/cladding, glazed areas and reclaimed Luton Grey brick. The office buildings would have 'green roofs', and the main roofs would be coloured green with the elevations a mixture of green and white. The design is a functional but contemporary design and would be an improvement on the existing mix of standard factory buildings.

In terms of impact on the townscape and views from Luton Road, considering the existing and surrounding industrial uses and buildings, and its location set back 37&72m from the road, the proposal would not have a detrimental impact. In terms of the impact of the development on the AONB and Blows Down, whilst the building would have greater massing than the existing buildings, due to its continuous height, the building would be an improvement because it would be located 40m further from the rear boundary and would have a more appropriate colouring scheme and incorporate 'green roofs'.

Impact on neighbours

In terms of the impact on properties on Liscombe Road, the proposal is considered to be acceptable. The proposed eaves height (highest part seen from Liscombe Road) is a constant 13.3m along its entire length (apart from the break between buildings), which would be lower than the highest existing buildings (16.1m), but would be up to 6.3m higher than many of the existing buildings. Although the overall massing of the proposed buildings would be greater than the existing, the buildings would be approximately 14.5m further from the boundary and dwellings. It must also be noted that there is existing mature landscaping along parts of the boundary and within the gardens, which does provide reasonable screening to a number of properties. It is proposed to incorporate a raised landscape strip along the boundary to supplement existing planting, which in the medium to long term would effectively screen the development. In the short term it is envisaged that an appropriately coloured side elevation would help to minimise the visual impact of the building.

Due to the nature of a data centre, security would be a high priority. CCTV would be used within the development and lighting would also be required for security purposes and for the loading/parking areas. The applicant has stated that CCTV would not be used to view residential areas and that all proposed lighting would be to a high environmental standard with minimum light spill. It is considered that CCTV and lighting can be adequately dealt with by way of condition.

Sustainability

The proposed data centre would use a large amount of electricity to power the servers and to cool the buildings. The power consumption is estimated for up to 30MVA (mega volts per annum). This equates to an approximate increase of 3% in the electricity use of Central Bedfordshire which is approximately the average consumption of 27,500 residential properties. This would be a significant proportional increase in the areas use of electricity, especially considering that Central Bedfordshire has a Local Area Agreement to reduce carbon emissions by 10% by 2020.

Due to the heat generated by the proposal and associated cooling, remedial measures such as additional or more efficient insulation are not appropriate. The applicant has agreed to incorporate measures such as a Ground Source Heat Pump for cooling and has agreed to meet the minimum BREEAM standards of 'Very Good' for the main buildings and 'Excellent' for the office buildings. This is to be welcomed.

Policy ENG1 of the East of England Plan states: 'To meet regional and national targets for reducing climate change emissions, new development should also be located and designed to optimise its carbon performance. Local authorities should encourage the supply of decentralised, renewable and low carbon energy sources...new developments of more than 10 dwellings or 1000m² of non-residential floor space should secure at least 10% of their energy from decentralised and renewable or low carbon sources, unless this is not feasible'. This would not be feasible because to provide 10% of energy onsite would require up to seven 2MW wind turbines or 75000-310000 photovoltaic panels. This would not be possible due to lack of space. However, even if space could be found, the impact on the AONB is unlikely to be acceptable. The applicant has therefore been asked to off-set 10% of the building's energy. This is discussed in more detail below.

Landscaping

New landscape areas are proposed to the north and east perimeter. To the north the landscaping would supplement and extend planting on the northern boundary and adjacent to the proposed parking areas and security gates. To mitigate the impact of the proposal on the Liscombe Road residents, it is proposed to incorporate a landscape strip between the garden boundaries and the access road (to the east of the building). The landscaping strip would measure between 13-18m in width and would be built up to the height of the neighbouring garden level and it is proposed to retain as many existing trees on the boundary as possible. A full landscaping scheme has not been submitted with the application and it is recommended that this is subject to a condition.

Residents have raised concern that tall trees would reduce light levels and would drop leaves in the autumn. The Landscape Officer has no objection to the proposal and has stated that a landscaping scheme could be designed with a mixture of suitably sized and positioned native trees, which would minimise leaf-drop and reduce the likelihood of loss of light. It should be noted, however, that the landscaping strip is to the west of the properties and therefore loss of light would be minimal.

Taking all the elements of the scheme into account, it is considered that the proposal meets the objectives of Policies BE8, ENV7 and ENG1.

6. Section 106 contributions

The applicant has agreed to enter into a Section 106 Legal Agreement.

Bedfordshire Police (11.10 Emergency Services)

Section 11 of the draft South Bedfordshire Planning Obligations SPD states that the basis of assessing the need for a contribution to the Police Force will be assessed on a case-by-case basis. Bedfordshire Police has requested a contribution of £19,630 based on £1 per sqm which is the rate for public art. The applicant has however offered a contribution of 50 pence per sqm. This is considered to be acceptable because the proposal is unlikely to create the policing issues caused by large housing estates or commercial developments with large concentrations of people.

Highway Authority (11.2 Sustainable Transport)

The Highway Officer has stated that, 'a contribution should be made towards improvements to public transport and cycle/pedestrian network and improvements to the highway network and in particular the Dunstable/Luton Busway. The sum would total £105,000 and this should be placed in a Section 106 Legal Agreement'. The applicant has agreed to this contribution.

Public Art (11.11 Public Realm)

Section 11.11 states that commercial development over 1000sqm will be expected to contribute at a rate of £1 per sq metre (£19,630). The applicant has agreed to this contribution.

Policy ENG1 East of England Plan - Off-setting Energy Use

As discussed in section 5, 10% of energy production onsite is not possible. The applicant has therefore agreed to off-set a percentage of the energy used by the development. An off-setting fund would primarily be used for schools, community buildings and social housing and would be overseen by a management board. The money would be used in projects for energy efficiency measures and renewables e.g. insulation, PV cells, solar water thermal heater and Ground Source Heat Pump.

We are still in negotiations with the applicant and will update Members at the Committee Meeting.

Reasons for Granting

The proposal accords with both the provisions of relevant national guidance and all relevant planning policies within the Development Plan and there are no material considerations that dictate any other decision should be made.

Recommendation

To authorise the Assistant Director Development Management to issue the grant of PERMISSION subject to the completion of an Agreement under Section 106 of the Town and Country Planning Act 1990 to secure -
Contributions towards Bedfordshire Police, sustainable transport measures, public art and a carbon offsetting fund.

- 1 The development 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 **Before development begins, a scheme for the parking of cycles on the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.**

REASON: To ensure the provision of adequate cycle parking to meet the needs of occupiers of the proposed development in the interests of encouraging the use of sustainable modes of transport.

- 3 **Before development begins, a landscaping scheme including the management of the landscaping to include any hard surfaces and earth mounding shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme 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 means the period from October to March). 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 and maintained until satisfactorily established.**

REASON: To ensure a satisfactory standard of landscaping. (Policy BE8, S.B.L.P.R).

- 4 **The plans and particulars submitted in accordance with Condition 3 above shall include:**

- (a) A plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter measured over the bark at a point 1.5 metres above ground level exceeding 75mm, showing which trees are to be retained and the crown spread of each retained tree;**
- (b) details of the species, diameter (measured in accordance with paragraph (a) above, and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;**
- (c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;**
- (d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation [within the crown spread of any retained tree or of any tree on land adjacent to the site] [within a distance from any retained tree, or any tree on land adjacent to the site, equivalent to half the height of that tree];**
- (e) details of the specification and position of fencing [and of any other measures to be taken] for the protection of any retained tree from damage before or during the course of development.**

In this condition “retained tree” means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

REASON: to comply with Section 197 of the Town and Country Planning Act 1990 and to safeguard the existing trees on the site. (Policy BE8, S.B.L.P.R).

- 5 **Before development begins, a scheme for screen fencing and/or screen walling shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained.**
REASON: To safeguard the amenity of the area.
(Policy BE8, S.B.L.P.R).
- 6 **Before the premises are occupied all on site vehicular areas shall be surfaced in a manner to the Local Planning Authority's approval so as to ensure satisfactory parking of vehicles outside highway limits. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.**
REASON: In order to minimise danger, obstruction, and inconvenience to users of the highway and of the premises.
- 7 **Before development begins, details of the levels of the proposed buildings, parking areas, landscaped areas and access roads shall be submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be implemented accordingly.**
REASON: To produce a satisfactory relationship between the various elements of the scheme and adjacent properties.
(Policy BE8, S.B.L.P.R).
- 8 **Details and samples of materials to be used for the external finishes of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance therewith.**
REASON: To safeguard the appearance of the completed development by ensuring that the development hereby permitted is finished externally with materials to match/complement the existing building(s) and the visual amenities of the locality.
- 9 **Prior to the commencement of development, a Code of Practice for Construction shall be submitted to and approved in writing by the Local Planning Authority. The Code of Practice would relate to demolition, site clearance, ground works, preparation and construction phases and include detail upon:-**
a) Community relations, including a local point of contact and progress updates
b) Hours of working
c) Temporary hoardings
d) Access, including emergency service vehicles
e) Artificial lighting
f) Highway Management, including delivery times, traffic routes, wheel/road washing
g) Provision to accommodate all site operatives', visitors and construction vehicles loading, off-loading, parking and turning within the site during the construction period
h) Environmental controls to protect the environment from dust, air pollution, land contamination, asbestos, noise and vibration, water and effluent, pest control.

The development shall be implemented in accordance with the approved Code of Practice unless otherwise first agreed in writing by the Local Planning Authority.

REASON: To ensure that construction takes place in an appropriate manner with minimal inconvenience and disruption.

- 10 The office buildings hereby approved shall be ancillary to the main data centre use of the site.
REASON: To prevent the establishment of an independent office unit on the site.
(Policy BE8, S.B.L.P.R).
- 11 Prior to construction above ground details of the external lighting shall be submitted to and approved in writing by the Local Planning Authority. Such detail shall include the location, height, type and direction of light sources and intensity of illumination. Any lighting which is so installed shall not thereafter be altered without the prior consent in writing of the Local Planning Authority other than for routine maintenance which does not change its details.
REASON: In the interests of visual amenity
(Policy BE8, S.B.L.P.R).
- 12 The proposal hereby granted permission is for a *suis generis* use.
REASON: For clarification and to ensure the Local Planning Authority retains full control of the future use of the land/building(s) in the interests of amenity.
- 13 The development shall not be occupied until a travel plan has been submitted to and approved in writing by the Local Planning Authority, such a travel plan to include details of:
- Joint working with other local employers and shared travel plan activities.
 - Predicted travel to and from the site and targets to reduce car use.
 - Details of existing and any proposed transport links, to include links to both pedestrian, cycle and public transport networks.
 - Proposals and measures to minimise private car use and facilitate walking, cycling and use of public transport.
 - Timetable for implementation of measures designed to promote travel choice.
 - Plans for monitoring and review, annually for a period of 5 years at which time the obligation will be reviewed by the planning authority.
 - Details of provision of cycle parking in accordance with County Council guidelines.
 - Details of marketing and publicity for sustainable modes of transport.
 - Details of the appointment of a travel plan co-ordinator.
- No part of the development shall be occupied prior to implementation of those parts identified in the Travel Plan [or implementation of those parts identified in the Travel Plan as capable of being implemented prior to occupation]. Those parts of the approved travel plan that are identified therein 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: To promote sustainable modes of transport.

14 Prior to the commencement of above ground development of each building, independently verified certification confirming that the mechanical and engineering plant will be formulated and designed to achieve a design Power Usage Effectiveness of 1.7 or lower shall be carried out in accordance with the approved details unless otherwise first agreed in writing by the Local Planning Authority.

REASON: To ensure that the development is of optimum operational efficiency in order to minimise energy usage.

15 Prior to commencement of above ground development of each building, certification from an approved assessor demonstrating that the scheme has been designed to achieve a minimum of BRE Environmental Research Methods (BREEAM) Very Good standard for the main data storage buildings and Excellent standard for the ancillary office buildings.

REASON: To ensure that the development minimises waste, water, and energy consumption during demolition and operation phases.

16 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- i. A survey of the extent, scale and nature of the contamination;
- ii. An assessment of the potential risks to:
 - Human health
 - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
 - Adjoining land
 - Ground waters and surface waters
 - Ecological systems
 - Archaeological sites and ancient monuments
- iii. An appraisal of remedial options, and proposal of the preferred option(s)

This must be conducted in accordance with DEFRA and the Environment Agency's '*Model Procedures for the management of Land Contamination, CLR 11*'.

REASON: In the interests of pollution control.

17 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

REASON: In the interests of pollution control and residential amenity.

- 18 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.
REASON: In the interests of pollution control and residential amenity.
- 19 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 18, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition 19, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 20.
REASON: In the interests of pollution control and residential amenity.
- 20 The development shall not be occupied until a management regime for the diesel generators has been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance therewith.
REASON: In the interests of residential amenity.
- 21 Fixed plant operating continuously associated with the proposed development must be designed to a level which is at least 5dB(A) below the existing LA90 background noise level as measured during the relevant time period. Any tonal, impulsive and/or irregular noise would be addressed by imposing a further 5dB penalty as per the methodology set out in BS 4142:1997. Noise limits for new plant are to apply at a position 1 metre from the closest affected window of the relevant noise sensitive property.
REASON: In the interests of residential amenity.
- 22 Fixed plant operating under emergency conditions associated with the proposed development must be designed to a level which is no more than 5dB(A) above the existing LA90 background noise level as measured during the relevant time period. Any tonal, impulsive and/or irregular noise would be addressed by imposing a further 5dB penalty as per the methodology set out in BS 4142:1997. Noise limits for new plant are to apply at a position 1 metre from the closest affected window of the relevant noise sensitive property.
REASON: In the interest of residential amenity.
- 23 During construction of the development the working hours shall only be 08:00-18:00 Monday to Friday , 08:00-13:00 Saturday and no working on Sunday, Bank Holidays and Public Holidays.
REASON: In the interests of residential amenity.

- 24 The development hereby permitted shall not be commenced until such time as a scheme to dispose of foul and surface water has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved.
REASON: There does not appear to be drainage plans detailing the foul and surface water system and so comments cannot be provided, until the requested information is provided.
- 25 This permission relates only to the details shown on Drawing Nos. A0.210A, A0.219A and A0.220A received 27/07/2009, A0.217B received 27/08/2009 and A0.218-B & A0.212-C received 07/09/2009 or to any subsequent appropriately endorsed revised plan.
REASON: To identify the approved drawings and to avoid doubt.

Notes to Applicant

1. In accordance with Article 22 of the Town & Country Planning (General Development Procedure) Order 1995 (as Amended), the Council hereby certify that the proposal as hereby approved conforms with the relevant policies of the Development Plan comprising of the Regional Spatial Strategy for the East of England (the East of England Plan and the Milton Keynes and South Midlands Sub-Regional Strategy), Bedfordshire Structure Plan 2011 and the South Bedfordshire Local Plan Review and material considerations do not indicate otherwise. The policies which refer are as follows:

Regional Spatial Strategy

East of England Plan (May 2008)

SS1 - Achieving Sustainable Development

ENV2 - Landscape Conservation

ENV3 - Biodiversity and Earth Heritage

ENV7 - Quality in the Built Environment

ENG1 - Carbon Dioxide and Energy Performance

ENG2 - Renewable Energy Targets

T4 - Urban Transport

T14 - Parking

Milton Keynes and South Midlands Sub-Regional Strategy (March 2005)

South Bedfordshire Local Plan Review Policies

E1 - Safeguarding B1-B8 Employment Land

BE8 - Design and Environmental Considerations

T10 - Controlling Parking in New Developments

2. In accordance with Article 22 of the Town and Country Planning (General Development Procedure) Order 1995 (as Amended), the reason for any condition above relates to the Policies as referred to in the Regional Spatial Strategy (RSS), Bedfordshire Structure Plan 2011 (BSP) and the South Bedfordshire Local Plan Review (SBLPR).
3. 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.

4.
 - Where remedial measures are necessary, they should be managed with Part IIA of the Environmental Protection Act 1990 in mind. Encapsulation of any contaminants should be made on the risk-based assessment so that they are unlikely to be subject to future release to the environment.
 - All ground investigations shall be risk based and have regard to BS10175:2001 *Investigation of Potentially Contaminated Sites - Code of Practice* and *Environment Agency/NHBC R&D Publication 66 - Guidance for the Safe Development of Housing on Land Affected by Contamination*.
 - Where analyses are undertaken analytical laboratories should be accredited to MCERTS and where appropriate laboratory methods should also be accredited to MCERTS.
 - The applicants/agent's consulting engineers shall certify that decontamination and remediation of the site has been undertaken in accordance with any measures approved by the Local Planning Authority.
 - The applicant shall advise the Local Planning Authority of commencement of the works.
 - The applicant should also be made aware that the ownership of land shown to be contaminated may accrue legal and financial liabilities under Part IIA of the Environmental Protection Act 1990. Such liabilities are maximised when "pollutant linkages" engender "pathways" for the contaminants to reach "receptors".
 - Central Bedfordshire Council has published its Contaminated Land Inspection Strategy in line with the Environmental Protection Act 1990: Part IIA and its definition thereof. No land has yet been formally designated as being 'contaminated'. However, it should not be taken to imply that the property or adjoining land is free from contamination.
5. The applicant should have regard to the Mayor of London's Best Practice Guidance (BPG) The Control of dust and emissions from construction and demolition. The BPG cites mitigation measures commensurate with the risk rating of the site.

DECISION

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