

Item No.**SCHEDULE B**

APPLICATION NUMBER	CB/09/06528/OUT
LOCATION	Land adjacent to 192 High Street North and north west of and adjoining Tavistock Street, Tavistock Street, Dunstable
PROPOSAL	Erection of 24 dwellings and up to 1700sqm of business and storage/distribution units (class B1 & B8) (outline)
PARISH	Dunstable
WARD	Dunstable Downs
WARD COUNCILLORS	Cllrs Paul Freeman & Tony Green
CASE OFFICER	Gill Claxton
DATE REGISTERED	20 November 2009
EXPIRY DATE	19 February 2010
APPLICANT	Direct Pallets Limited
AGENT	Kirkby & Diamond
REASON FOR COMMITTEE TO DETERMINE	The application represents a departure from the Development Plan
RECOMMENDED DECISION	Outline Application - Granted

Site Location:

The irregular-shaped 0.98ha application site lies on the north eastern side of High Street North (A5). It has a frontage to High Street North of some 46 metres, then wraps around the rear of properties at No's 168 to 192 High Street North with a return frontage to Tavistock Street of approximately 174 metres. Tavistock Street along with Gilpin Street and Park Street, forms a one-way loop off the A5 serving both commercial and residential areas.

The site is generally flat and is currently in use for a number of commercial activities. Bee Hire (Van Hire) occupy land fronting High Street North. The hire vehicles are kept in an open yard with a number of portable buildings on the site. There is a direct vehicular access into this parcel of land from the A5. Direct Pallets, the applicant, occupy an area of land to the eastern half of the site. Their business comprises the storage, distribution and some light repair of pallets with buildings comprising wooden shelters and portakabins. Most of the Tavistock Street frontage is occupied by a concrete yard with flat roofed single storey commercial buildings (approximately 200m² in area) with lengths of palisade fencing delineating the highway frontage. This part of the site was formerly occupied by Sellwood plant hire but is now used for the sale and display of used cars with repairs and MOT facility for which planning permission was granted in September 2009 (CB/09/05172/FULL). Both parcels have their own access to Tavistock Street. A large portion of the interior of the site, 0.498 ha, is vacant and overgrown.

The former Dunstable to Luton railway was laid out along an embankment which forms the wooded northern boundary of the site. Sidings were laid out from points further east and these fanned out across the site to serve as a goods yard. Upon closure of the yard the site was divided for commercial reasons and parts used variously as oil depot, a base for van hire, storage of plant and storage of pallets. Recently British Railways Board Residuary (the company which holds redundant railway land) sold the site to the

applicant. Legal interest in the wooded northern embankment is in the process of being transferred from BRBR to Luton BC to be used in conjunction with the Guided Busway works (as a footway/cycleway link to the A5).

The western boundary abuts the rear of various commercial and residential properties facing High Street North, which are of varying ages and design and predominantly two storeys in height. There is also an electricity substation and compound on the Tavistock Street frontage to the rear of Nos 168 -170 High Street North. To the south, on the opposite side of Tavistock Street, lies an area of mixed industrial and employment development with a petrol filling station and Tesco Express store at the junction with High Street North. On the opposite side of the railway line is a predominantly residential area with a mix of flats and houses interspersed with commercial development and area of open space. The Council Offices are situated on the opposite side of High Street North.

The Application:

The application seeks outline planning permission to develop the site for a mixed residential plus B1/B8 commercial scheme, with all matters being reserved for later approval. Up to 24 dwellings would be built together with up to 1700m² employment development.

The application is accompanied by the following documents:

- Design and Access Statement
- Employment Statement
- Protected species scoping and Phase One habitat survey
- Badger survey
- Tree survey
- Arboricultural implications statement and preliminary method statement
- Phase 1 desk study report (ground conditions)
- Acoustic assessment
- Sustainability appraisal
- Transport assessment.

The applicant has provided a block plan with combined parameters for both the residential and the commercial elements of the scheme to shape any future reserved matters submission along with an illustrative layout.

The parameter plan indicates that about 0.5ha of the site would be devoted to residential development, giving a density of 48 dwellings per hectare. The parameter plan shows residential buildings in the western portion of the site, abutting High Street North and to the rear and north east of Nos 168 to 192. The bulk of the residential development would be a mix of 2 and 2.5 storeys in height with a three-storey feature building at the north western corner of the site, abutting the railway embankment. It is proposed that the existing access onto High Street North would be closed. There would be a pedestrian/cycle access on this frontage. The main vehicle access to serve the residential development would be on Tavistock Street. The residential development would be arranged in blocks fronting the new access road, High Street North, the railway embankment with a small frontage to Tavistock Street. The access road from Tavistock Street would lead to a new area of public open space which would incorporate tree planting, street furniture, car and cycle parking with a potential pedestrian and cycle access to the planned footpath/cycle route along the embankment.

The remaining 0.48ha of the site would be used for commercial development. An element of B1 only development would be situated adjacent to the housing with a frontage to Tavistock Street, while the remaining B1/B8 development would be sited within the eastern part of the site. In order to ensure that there would not be the potential for noise issues to arise from the commercial element a solid build element would be erected through the centre of the site which could also screen the residential from the commercial. The parameter plan provides for a maximum range of heights for the commercial units culminating in a height of up to 7m for the solid element. Indicative vehicular access would be from Tavistock Street with two proposed and two potential access points, the precise position being determined during the detailed stage. The application does not envisage that there would be any inter connectivity between the proposed residential and employment areas.

An illustrative layout has been submitted which indicates the way in which the site could be developed. It shows a cul-de-sac of 18 houses and 6 flats with up to three service yards flanked by commercial units between 1500 and 1700 sq.m in floorspace with a number of frontage buildings to Tavistock Street. The Design and Access Statement states that there would be some flexibility in the parameter plan and this could include less commercial footprint if multiple storeys are used

It is proposed to incorporate a number of sustainability and energy efficiency measures in the design. A sustainable approach would be made to sourcing materials but recycling details would be drawn up at detailed stage.

In 2009 there were two separate applications for outline planning permission on discrete areas of the site which were withdrawn prior to determination. On the Bee Hire site a scheme for 8 dwellings was submitted (SB/OUT/09/00169) and on the remainder of the site for a mixed use development for up to 16 dwellings and up to 1500 sq.m of employment development (SB/OUT/09/00171). Following those withdrawals the applicant entered into discussions with officers about a comprehensive scheme for the two sites.

RELEVANT POLICIES:

National Policies (PPG & PPS)

- PPS1 - Delivering Sustainable Development
- PPS3 - Housing
- PPS4 - Planning for Sustainable Economic Growth
- PPS9 - Biodiversity and Geological Conservation
- PPS10 - Planning for Sustainable Waste Management
- PPG13 - Transport
- PPG16 - Archaeology and Planning
- PPG17 - Planning for Open Space, Sport & Recreation
- PPS22 - Renewable energy. Includes a companion guide
- PPS23 - Planning and Pollution Control
- PPG24 - Planning & Noise
- PPS25 - Development and Flood Risk

Regional Spatial Strategy

East of England Plan (May 2008)

- SS1 - Achieving Sustainable Development

SS5 - Priority Areas for Regeneration
E1 - Job Growth
H1 - Regional Housing Provision 2001 to 2021
H2 - Affordable Housing
T1 - Regional Transport Strategy Objectives and Outcomes
T2 - Changing Travel Behaviour
T4 - Urban Transport
T5 - Inter Urban Public Transport
ENV3 - Biodiversity and Earth Heritage
ENV7 - Quality in the Built Environment
WAT4 - Flood Risk Management
WM6 - Waste Management in Development

Bedfordshire Structure Plan 2011

Policy 25 - Infrastructure

South Bedfordshire Local Plan Review (2004) Policies

SD1 - Sustainability Keynote Policy
E1 - Main Employment Areas
BE8 - Design Considerations
T4 - Translink Project
T10 Parking - New Development
T11 - Contributions - Alt Parking
H2 - Fall-In Sites
H4 - Affordable Housing
R10 - Play Area Standards
R11 - New Urban Open Space

Dunstable to Luton disused railway County Wildlife Site adjacent to site.

Planning History

Direct Pallets site

SB/TP/96/00391	Temporary permission for the continued use of the land as a pallet recycling centre.
SB/TP/96/00558	Refusal of planning permission for outline residential development. Subsequent appeal dismissed. Unacceptable loss of employment land, unsatisfactory living conditions for residents particularly from noise.
SB/TP/00/00233	Temporary permission for the continued use of the site for the storage of pallets and stationing of three portakabins.
SB/TP/01/00170	Temporary permission for retention of four security cameras and 4 pole-mounted floodlights.
SB/TP/04/00631	Permission for the continued use of the site for the storage of pallets and re-siting of portakabin.
SB/OUT/09/00171	Withdrawn application for outline permission for mixed use development of up to 16 dwellings, together with up to 1500sqm of employment development.

Former Sellwood Plant Hire Yard

SB/TP/02/00828	Permission for continued use for storage, maintenance and distribution of construction plant and machinery and workshop building.
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CB/09/05172/FULL Permission for change of use from storage and distribution to car sales, MOT, car wash and workshop.

Bee Hire Yard

SB/TP/90/00573 Permission for use of land for vehicle parking and hire business plus retention of portakabin.

SB/TP/99/00790 Permission for use of land for vehicle parking and hire business and retention of portakabin.

SB/TP/02/00784 Permission for erection of maintenance building.

SB/OUT/09/00169 Withdrawn application for outline permission for residential development of up to 8 units.

Pre-application discussions for proposed Heritage Railway Centre on this site and adjacent former railway land.

**Representations:
(Parish & Neighbours)**

Dunstable Town
Council

In principle, no objection to much of the scheme. However, objects to the aspect of the development that relates to the establishment of storage/distribution units due to the increase in heavy goods traffic that this will generate. This will bring extra pressures to the A5 and Tavistock Street. The council would be more inclined to support further small businesses or starter units. The Council also has concerns regarding the adequacy of the proposed parking for the residential and business units.

Palagan Ltd

Objection on the following grounds:

- The position of the residential access on Tavistock Street and the (separate) commercial access being opposite the main entrance into Palagan.
- Tavistock Street is narrow, one way with. It is the only access for Palagan production facility. Deliveries to Palagan are received on 45' trailers or tanker trucks which have difficulty accessing the site due to additional parking in Tavistock Street since the used car place opened.
- The scheme shows 24 parking spaces for 24 units. Residents and visitors may park on the street and deliveries would not reach Palagan. Ultimately this could put the company out of business.
- In excess of 30 people are employed by Palagan. While new housing is desirable this should not be at the expense of those employed nearby.
- If the building site access is pushed into Tavistock Street, this could also have implications for access to Palagan.
- Site may be contaminated due to past and present uses.

Occupier 33 Park Street Objection on the following grounds:

- Tavistock Street is one-way, although not all vehicle

users respect this. The one-way system takes vehicles down Park Street to High Street North.

- The scheme will increase the traffic in Park Street which already has a lot of passing vehicles. This will lead to increased potential for accidents and injuries or fatalities especially as cars take the corner too fast and lorries often have to mount the footpath when turning into Park Street.

Consultations/Publicity responses:

Environmental Health Officer	Requires conditions on contamination and requests informatives. For B8 units requests hours of operation limit condition to 0700 - 2300 Monday – Saturday, and no Sunday, Bank or Public Holiday working. Requests condition for internal noise standard for living and bedrooms in dwellings, which could include fixing certain windows closed.
Archaeologist	Requests condition requiring archaeological investigation.
Highways Agency	Requires conditions ensuring the closure of the access onto the A5, and travel plan.
Education officer	<p>Education contributions required of £140,141.76 toward nursery, lower, middle and upper school provision.</p> <p>Does not wish to agree a reduced contribution for education until such time as the Development Steering Group's work on the prioritisation of Section 106 Obligations between the Council's service areas is finished and agreement reached.</p>
Tree & Landscape Officer	<p>Concerned that a line of Field Maples on the A5 frontage would be removed. These trees are of a good shape and form and were planted as part of a planning condition when planning permission was granted for Bee Hire. They would soften any development and contribute to the greening of the street scene.</p> <p>Root Protection Zones identified on the Tree Protection Plan has not been adequately justified. The root spread of trees in the rear of properties fronting High Street North have been restricted by the close position of existing buildings and hardstanding and the area most conducive to root development is almost certainly within the application site. Therefore the position of protective fencing should extend further out into the application site.</p> <p>Shading constraint of some trees has not been fully assessed. This constraint should be measured and incorporated into the final design plan.</p>

Wildlife Trust	<p>The Dunstable to Luton Disused Railway County Wildlife Site (CWS) lies next to the site. It is an important habitat corridor which contains a mosaic of species rich calcareous grassland, neutral grassland and scrub habitats. Careful consideration should be given to the design of the site and a condition should be imposed which requires the submission and implementation of a scheme to protect the CWS particularly during construction.</p> <p>The proposal suggests creating a footpath along this corridor and the Phase 1 Habitat and Protected Species Scoping Survey states that the CWS has the potential to be affected by the development. The CWS north of the site is part of the biodiversity mitigation plans for the Busway. It is important the condition of the CWS does not deteriorate as a result of the development. To ensure that this does not occur careful consideration should be given to the design of the site, suitability of the footpath and a planning condition should be imposed to ensure that a plan is written and implemented to protect the CWS especially during the construction phase.</p>
Waste strategy, policy and performance	<p>Section 106 contributions are required toward household waste and recycling collection. Detailed application should show vehicle tracking using the Council's refuse vehicle specifications; access and storage for waste containers. A condition requiring the submission of a Waste Management Plan is recommended.</p> <p>Based on the viability argument put forward by the applicant, would be prepared to accept a reduced financial contribution figure based on the proportional distribution of the total sum available for financial contribution.</p>
Anglian Water	Recommend informatives.
Rights of Way	<p>No public rights of way likely to be affected by the development.</p> <p>Comments on who would be responsible for maintaining the pedestrian/cycle route.</p>
Environment Agency	Permission should only be granted if conditions requiring contamination investigation and remediation are imposed.
Luton BC (Asst Project Mgr - Busway)	The former railway land to the north forms part of the Busway project and is deemed as exchange land for public open space and would also be used to form a footway link to the A5. This land is still in the ownership of the British Railways Board Residuary but change of title and transfer to Luton Borough Council as part of the

Busway project is imminent. There would be no objection to the creation of a pedestrian/cycleway link from the application site to this land provided access by motorcycles is prohibited. Would seek financial contribution toward the Busway.

Beds Police
Architectural Liaison
Officer

Objects to the application:

- the layout shows high levels of permeability and the potential impact of this on crime and perceived disorder. The layout includes two pedestrian links in addition to the primary vehicular entrance/exit which offer negligible benefit to potential residents but increases the crime risk disproportionately.
- The disused railway would be problematic in relation to anti-social behaviour and any link between it and residents can reasonably be expected to adversely impact on residents.
- The Design and Access Statement quotes selectively from national Secure by Design Guidance.
- Application is poor from a community safety perspective and, if approved, would increase victimisation levels amongst prospective residents.
- There are no crime prevention measures in respect of the proposed business development.

Leisure Services,
Recreation and Open
Space

- The development should meet the Local Plan requirements in terms of the provision of adequate on-site Formal and Informal Open Space together with the provision of the appropriate number, size, age group and quality for Children's Play Areas. On-site provision of a play area is required for developments in excess of 10 dwellings.
- If the required level of Open Space and Play Space is not provided with the development, a contribution to the provision / improvement of open space and play facilities locally should be sought.
- A development of 24 dwellings should provide 1,490sqm of on-site Formal Open Space i.e. playing pitches at the LP standard of 2.57ha/1000 pop. (using an average occupancy of 2.4 occupants per dwelling, 58 occupants).
- As no on-site Formal Open Space is provided, an off-site contribution should be sought in lieu of on-site provision.
- A development of 24 dwellings should provide 539sqm of on-site Informal Open Space at the LP standard of 0.93ha/1000 pop. (using an average occupancy of 2.4 occupants per dwelling).
- This space should both a children's play area (see below) and useable and pleasant informal space to serve the residents.
- SBDC Local Plan Policy R10 requires the

provision of play areas on new residential developments at the following ratio: 20-49 Houses to provide 340sqm of play area space.

- The play area should be accommodated on-site, however, if at detail stage it cannot be provided on-site, an off-site contribution in lieu of on-site provision should be sought toward the creation of new, or the improvement of existing play space locally.
- Require contribution for off-site informal open space of £25, 711.
- Require contribution for off-site formal open space at £367.41 per person (based on 2.4 person per dwelling, 58 occupants) £21,309.78.
- Based on the viability argument put forward by the applicant would be prepared to accept a reduced figure, based upon the proportional distribution of the total sum available for financial contributions.

Housing Strategy Officer

- PPS3 has been established as sufficient to support Local Authorities seeking affordable housing on sites of 15 dwellings or more. In this case, a total policy provision would be 8 affordable dwellings, 6 for social rent and 2 for intermediate tenures.
- The applicant originally made no firm proposals in terms of affordable housing. Specifically, Page 5 of the 'Planning Application Supporting Statement' states:
"Our clients have instructed us to indicate to you that they are prepared to consider requirements for a reasonable level of contributions, including affordable housing."
- We would expect these discussions to have happened, along with other services which seek planning contributions, before an application is submitted. It is difficult to comment without a clear proposal.
- This application does however seek to make a case regarding the site's economic viability, and that a full suite of contributions to all services, including affordable housing, would not be viable. This has been demonstrated now.
- Although 6 social rented houses were originally sought, would accept 4 in order to meet priority need having regard to the viability of the scheme.

Highway Engineer

Overall no objection to the application:

- To achieve the modal split envisaged in the Transport Assessment there will have to be more emphasis on public transport and for this there should be facilities for real-time information not only at the bus stops but within the residential and

commercial properties. This should be put into the section 106 agreement. The Section 106 agreement should include the following:-

Contributions of £1400 per dwelling and £1,000 per 100Sq.m of commercial development which would be put towards public transport infrastructure improvements and in particular the introduction of real time information at bus stops; a contribution to the Luton-Dunstable Busway plus cycling facilities.

- Separate contribution/provision should be secured for real-time bus information in the buildings.
- Raises concerns about the amount of parking provision. The Transport Assessment is not comprehensive about parking provision for the residential element. Further, with the information available, unable to determine if the appropriate parking provision could be achieved within the limits and at the density proposed. The applicant should also be made aware that there is a new Highway Development Design guide which will have to be complied with at the detailed stage and within this guide is a standard for car parking. The application does not show the level of parking for the commercial development and a level of parking should be sought in the region of 50 spaces. The residential situation could be dealt with by securing a residential parking scheme, if required, as part of the Section 106 Agreement.
- Suggests conditions for pedestrian and vehicular visibility splays for the Tavistock Street access(s)

Joint Technical Unit

Comments as follows:

- The housing element would not fully conform with Local Plan Policy E1 in that employment land would be taken. The benefits of the development must justify this loss.
- The 2008 Employment Land Study classified this site as 'green' whereby, having regard to occupancy level, sustainable location and especially redevelopment potential, it offered potential to meet employment needs of the area and should be safeguarded. The emerging Core Strategy supports this approach and, using a sequential basis, the first preference would be for complete 'B class' redevelopment.
- On the other hand, the site is small and offers only a limited contribution to employment opportunities and the proposal would improve the quality and appearance of the offer, even if at the cost of a housing element for viability. The proposal could be supported in policy terms but only if the employment part were developed. To this end a

condition should be attached which the employment part is developed in advance of, or alongside, the housing element. Full regard should also be had to the compatibility of the residential element with a full range of employment uses.

Determining issues:

The main considerations in the determination of the application are:

1. Principle of development and impact on employment land availability
2. Form of development and visual impact on the character and appearance of the area and residential amenity
3. Highway access and sustainability of location
4. Impact from other local uses on residential element
5. Bio-diversity value of the site and impact on adjacent County Wildlife Site
6. Provision of Affordable Housing, provision of infrastructure contributions and viability
7. Other matters

Considerations

1. Principle of development and impact on employment land availability

The majority of the site (excluding the van hire yard), together with the commercial area south of Tavistock Street, is designated in the South Bedfordshire Local Plan Review as a 'Main Employment Area' where Policy E1 states that permission will not be granted for uses other than B1, B2 or B8 uses. About half of the site is envisaged for employment uses and the applicant has made a case for the mixed residential/commercial development proposed. This is focused on the view that:

- The Halcrow review has concluded that the Joint Area will need to increase its employment land supply to meet Regional Spatial Strategy targets;
- Demand requirements are likely to be focussed toward B1 and B8 uses;
- The nature of demand among these uses would be likely to be dominated by the needs of small to medium sized businesses. There is also a strategic need to foster an entrepreneurial culture and start-up businesses in order to meet employment growth targets.
- Historically the quality of the employment offering in this location has been poor and the area has tended to attract occupiers trading in lower value products and services. Rental values have reflected this. The area is not attractive for speculative commercial development. The rental income from current occupiers is unreliable and does not provide a sound financial basis for further investment in improved facilities.
- Approximately 50% of the site has remained vacant in excess of 20 years.
- With rental values and yields at current levels, new employment development in the Tavistock Street area will remain unviable unless it is part funded by enabling development in the form of housing.
- The scheme would result in an improved employment offering, with higher quality development and increasing the current permanent built development from 194 sq.m by at least 1300 sq.m (675%).

- This scheme would deliver the type of employment development to which the Council aspires.
- The residential element would not prejudice delivery of employment and improvements to the quality of employment unit stock.
- The Joint Technical Unit has previously raised no objection to the principle of the development proposal subject to mechanisms being in place to ensure delivery of the employment element of the scheme.
- The applicant agrees that there shall be no occupancy of any of the dwellings until such time as not less than 50% of the employment development has been completed and is prepared to accept and condition/clause in a Section 106 Agreement in this regard with a phasing plan.

The Joint Technical Unit generally concurs with the applicant that this application offers a good possibility of delivery of quality employment space in this location, even if at the cost of part residential. The Unit do not object to the application provided the employment space is delivered no later than concurrently with the residential and that due regard is had to the practical relationship of the two elements. Therefore it is considered that the development is acceptable in principle.

Aside from the employment land designation issue, the site is reasonably described as previously developed land (although not strictly meeting the definition in PPS3) and using the Local Plan's Development Strategy sequential table it falls within the first category of development. It is, therefore, suitable for development and, being located in a mixed employment/residential area within good reach of sustainable transport choices, the proposed development would be acceptable subject to site-specific details. These will be considered below.

2. Form of development and visual impact on the character and appearance of the area and residential amenity

The site presently makes no positive contribution to the character of the area and redevelopment would offer a good opportunity to make a significant difference. The means of vehicular access being to and from Tavistock Street should not reduce this potential, even if from several points, subject to detailing. The specified height parameters should also give sufficient flexibility having regard to the constraints of perimeter trees, the CWS on the railway embankment and surrounding development fronting High Street North.

The indicative layout does show frontage development to Tavistock Street and we consider that this should be carried forward into the detailed scheme. This would avoid a repeat of the present lengths of palisade fencing along this frontage which do not contribute positively to the streetscape.

The residential development in the indicative layout seeks to address the frontages to High Street North, the railway embankment and to a lesser extent Tavistock Street and creates an internal street scene with a focal point around the public space.

Although the Tree and Landscape Officer is concerned about the loss of Field Maple on the High Street North frontage, these trees were planted to offer screening of the vehicle hire business. In urban design terms it would be preferable to have this frontage enclosed by built development and both the

combined parameters plan and indicative layout show buildings here, including a feature building adjacent to the railway embankment land.

The railway embankment is also designated in the Local Plan as a part of the Luton Dunstable Busway with an access point to the A5. It is now proposed that this tract of the route become a landscaped cycle/footway, offering potential for links to the site but presenting no material constraint on development of the site.

There would be no on-site provision for informal or formal open space and a financial contribution toward off-site provision is recommended.

There is existing residential development along the High Street North frontage, particularly above ground floor level. This would be closest to the residential element of the proposals but there is sufficient space within the site to design a scheme that would ensure that there would be no adverse impact on residential amenity in terms of overbearing effect, overlooking, loss of sunlight or daylight.

3. Highways, access and sustainability of location

This application proposes access from Tavistock Street with the closure of the existing Bee Hire access on the A5. The Highway Engineer is satisfied with the scheme in terms of traffic generation onto Tavistock Street, Gilpin Street and Park Street. It is recommended that financial contributions be paid toward sustainable means of transport and real time bus information.

The Highway Engineer raises some concerns about the level of car parking provision. However, the site is in a sustainable location with regard to proximity to bus services along High Street North and is close to the National Cycle Network. There is also a reasonable sub-network of cycle routes locally and a connection to the proposed path along the embankment would open up cycle and pedestrian links as well as making the Portland Ride Busway stop within a few hundred metres. Policy T10 of the South Bedfordshire Local Plan Review provides for a reduction in car parking standards in areas of high accessibility such as this to a rate no higher than 1 space per dwelling and visitor parking at 1 space per 6 dwellings.

However the Highway Engineer states that the new residential car parking research document recognises that certain types of dwelling generate a particular degree of parking demand. In urban areas this is 1.2 vehicles per dwelling. If car parking spaces are to be allocated this would translate to 2.3 spaces per dwelling. The layout submitted with the application is for illustrative purposes only. The final car parking arrangements will be dealt with at the detailed stage. If on-site provision does not meet the demand he advises that it has to be managed in another way. That would be through the use of residential parking schemes, which can be sought through the Section 106 Agreement. He recommends that provision is made in the Section 106 Agreement for this if it should be required.

4. Impact from other local uses on residential element

A previous appeal in the mid-1990s was dismissed because the Inspector concluded that living conditions for occupiers of new properties would not be acceptable, especially at night, because of noise from local industrial premises. His analysis noted the hours which adjacent industrial premises operated, which included nights, and accepted the evidence of the Council at that time against

the claim that conditions could be imposed. The Noise Assessment accompanying this application identifies traffic on High Street North and existing industrial units as the main source of noise to the site (in the event of existing on-site uses ceasing). It concludes that the site falls within Class B which requires that noise be taken into account, and that industrial noise is not a significant factor. The Environmental Health Officer raises no objection to the scheme and advises that the acoustic performance of buildings, limitations on delivery times and external plant should be conditioned. On the basis of his advice we are satisfied that any issues relating to noise can be adequately covered by condition.

5. Bio-diversity value of the site and impact on adjacent County Wildlife Site

The railway embankment to the north of the site is also indicated in the Local Plan as a County Wildlife Site (CWS). Following a scoping and phase 1 survey it was recommended that badger and reptile surveys were carried out. These found no reason to constrain the proposed development, although habitat modification prior to development should discourage reptiles from occupying the site. It also considered there to be suitable bat foraging areas (but not roosting) on the site. No other protected species or species of biological importance have been recorded on the site and it is of limited ecological importance. The Phase 1 study considered that development would produce no impacts on the CWS. We agree with the Wildlife Trust that a condition should be imposed for a scheme to handle the relationship between the site and the CWS, particularly during construction.

The tree survey indicates that the trees worthy of retention are at the rear of the High Street North properties or on the embankment. However, a group of birch nearer the middle of the site has potential and their retention is stated to be desirable. Apart from the latter, the other good trees would mainly affect the edge of the site where there is flexibility over development edges. However, further refinement is needed in relation to the root-protection zones of some of the trees as identified by the Tree and Landscape Officer and this can be regulated by condition.

As a result of the consultation responses, it is considered that there are no significant biodiversity factors that prevent redevelopment of the site in the manner proposed and details could be produced which accommodate those interests.

6. Provision of Affordable Housing, provision of infrastructure contributions and site viability

The Housing Strategy Officer confirms that affordable housing would be required on this site in line with guidance in PPS3 which seeks provision on developments of 15 or more dwellings. This supersedes the retained South Bedfordshire Local Plan policy H4 which would have required affordable housing provision on sites of 25 dwellings or more. Where affordable housing is required the Housing Needs Strategy requires that 35% of the units are affordable. In this case that would equate to eight units: 6 family houses for social rent and two flats of intermediate tenure. The Housing Strategy Officer has confirmed that the priority need is the 6 social rented houses. He is prepared to forego the two flats in order to apply some flexibility and in recognition of the applicant's pre-application negotiations with planning officers which sought to combine the sites of the two previous outline applications (SB/OUT/09/00169 and

SB/OUT/09/00171) to secure a comprehensive development. Had the scheme remained as two proposals, the Bee Hire site would not have generated an affordable housing requirement.

When the current application was submitted the applicant used the Homes and Community Agency (HCA) Economic Appraisal Tool to assess the viability of the scheme. The likely contributions for things such as highways/sustainable transport, education and off-site open space were estimated based on those requested in the previously withdrawn outline applications. There was no stated provision for affordable housing although the applicant indicated a willingness to provide some, but not necessarily the full policy requirement, on site or pay a financial contribution toward off-site provision. The Housing Strategy Officer has confirmed that on-site provision is required and that the Council would not be seeking financial contributions toward off-site provision.

The application was registered before the Planning Obligation Supplementary Planning Document for Southern Bedfordshire became effective on 05 January 2010 and the SPD is not, therefore, applicable to this application. Requests for financial contributions from education, highways/sustainable transport, open space and refuse and recycling based on the pre-SPD situation have now been received. The applicant has run the HCA viability model again with the affordable housing requirement and the contribution figures: 6 affordable housing units for social rent and a total contributions sum of approximately £265,000. We are satisfied that the applicant has demonstrated that this scheme is not viable with the full affordable housing requirement and financial contributions regime, in the current economic climate.

The applicant has also run the HCA model a further time in order to demonstrate what level of affordable housing provision and financial contributions can be offered that would produce a viable scheme. The result of that exercise shows that four affordable housing units and a total contributions sum of £195,150 can be offered. The Housing Strategy Officer has indicated that he will accept four units for social rent rather than the six he was originally seeking.

In the current economic climate it is considered that the viability of the scheme is a material consideration in the determination of the planning application in order to ensure development is carried out in a timely fashion. The applicant's viability assessment and proposed affordable housing and financial contributions offer are considered acceptable, having regard to the particular circumstances of the case in relation to the enabling effect of the housing element to deliver the employment generating uses. In order to determine the way in which the financial contributions sum is distributed it is suggested that, as none of the relevant consultees have a specific need or project that should take priority, they each receive a percentage amount equal to that which their originally requested sum represented of the total requirement. The Open Space, Household Waste and Recycling and Highways Officers have confirmed that they would accept this reasoned approach and the reduced financial offer.

Under the subdivision mechanism suggested above, Education would still received the greater share of the reduced sum available. However, the Education Officer is not prepared to accept this argument and the reduced figure at the present time pending wider consideration by the Council of the prioritisation of Section 106 contributions between service areas in the current

economic climate. It is not considered that the determination of the application can be delayed for a number of reasons: it is important that development schemes are implemented in timely fashion in order to help stimulate the local economy and the residential element of the scheme would deliver housing, including affordable housing of priority need and would ensure that the commercial units are brought forward. The scheme is otherwise acceptable and it is not considered that it would be appropriate to recommend the refusal of planning permission on the grounds that the scheme is not delivering the full amount of financial contributions, having regard to relatively small number of dwelling units being proposed and the particular circumstances of the case.

7. Other matters

The concerns of the Police Architectural Liaison Officer are noted. However, the application is in outline form with all matters reserved for future consideration. The submitted layout is illustrative only. However, it would not be possible to eliminate all permeability from the residential layout as it is important that the site provides access to the footpath/cycleway on the former railway embankment. The layout can be designed so that the dwellings provide frontage development and therefore surveillance to roads and footpaths. Secure by Design measures can be dealt with at the detailed stage.

Matters in respect of archaeology, potential site contamination and remediation, submission of a Site Waste Management Plan can be regulated by condition.

Measures to ensure that the development achieves an appropriate level of sustainability in terms of the built development would be addressed at the detailed stage.

Reasons for Granting

The development is in accordance with regional and national guidance and would not prejudice the objectives of Policy E1 of the South Bedfordshire Local Plan Review in terms of the delivery of employment-generating development. The residential element would act as enabling development for the commercial aspects of the scheme. The application would secure visual improvements to the character and appearance of the locality, would have no adverse impact on residential amenity, highway safety or biodiversity interests. The amount of affordable housing and financial contributions is considered acceptable having regard to the viability considerations demonstrated by the applicant in this particular case.

RECOMMENDATION:

That Planning Permission be granted subject to the completion of a legal agreement under Section 106 of the Town & Country Planning Act 1990 (as amended) to ensure provision of the affordable housing, delivery of not less than 50% of the commercial units before occupation of any of the dwellings; financial contributions to education, off-site open space, highways/sustainable transport measures including the Luton-Dunstable Busway and Real Time Bus Information; household waste and recycling collection and the payment to make Traffic Regulation Orders for a residential parking scheme, if required and the following:

- 1 Before development begins, the approval of the Local Planning Authority shall be obtained in respect of all the reserved matters, namely the**

- access
- appearance
- landscaping
- layout; and
- scale, within the upper and lower limit for the height, width and length of each building stated in the application for planning permission in accordance with Article 3(4).

REASON: To comply with Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 (as amended).

- 2 Application for the approval of the reserved matters shall be made to the Local Planning Authority within three years from the date of this permission. The development shall begin not later than two years from the final approval of the reserved matters or, if approved on different dates, the final approval of the last such matter to be approved.
REASON: To comply with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 3 **Before development begins, samples of the materials to be used for the external walls and roofs of all new buildings shall be 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: To control the appearance of the buildings.
(Policy BE8, S.B.L.P.R).
- 4 **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).
- 5 Commercial vehicles, including fork-lift trucks, shall only be started up, manoeuvred, operated, loaded or unloaded between 07:00 hours and 23:00 hours Monday to Saturday and at no time on Sundays, Bank or Public Holidays without the prior agreement in writing of the Local Planning Authority.
REASON: To safeguard the amenities of the area.
(Policy BE8, S.B.L.P.R).
- 6 For the residential part of the development, to protect against intrusive externally generated noise, sound insulation and absorbent materials shall be applied to all rooms, internal corridors and staircases as is necessary to achieve as a minimum standard an internal noise level for bedrooms of 30dB(A)eq, 8hour (23:00-07:00) and for living rooms of 40dB(A)eq, 16hour (07:00-23:00).
REASON: To protect occupants from externally generated traffic noise.
(Policy BE8, S.B.L.P.R).
- 7 **Prior to the commencement of development for any phase approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the**

following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority for that phase:

1. A preliminary risk assessment which has identified:
 - all previous uses.
 - potential contaminants associated with those uses.
 - a conceptual model of the site indicating sources, pathways and receptors.
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

REASON: To protect groundwater. The report submitted with the application entitled "Phase 1 Desk Study Report - Land at Tavistock Street, Dunstable, Bedfordshire (Ref: JER3933 vers. 0, December 2007) recommends a site investigation. There have been historic as well as recent contaminative uses and the Chalk aquifer is a sensitive receptor. The desktop study submitted does not fully cover the information requirements and any future submission should be updated and a more detailed conceptual model developed. The potential risks from the proposed development, for example: drainage, services or contaminative uses should be considered.

- 8 Prior to the use of any phase, a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

REASON: To protect groundwater. There have been historic as well as

recent contaminative uses and the Chalk aquifer is a sensitive receptor and the planning application indicates that this development may be carried out in a phased manner.

- 9 Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.
REASON: To protect groundwater. There have been historic as well as recent contaminative uses and the Chalk aquifer is a sensitive receptor.
- 10 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.
REASON: To protect groundwater. There have been historic as well as recent contaminative uses and the Chalk aquifer is a sensitive receptor. Contamination found in the soils is likely to prohibit the use of drainage using infiltration to ground.
- 11 If, during the development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
REASON: The nature of soil and groundwater contaminating is such that even where comprehensive site investigation is undertaken on site, some unsuspected contamination may exist between sample locations. This condition allows a reactive mechanism for the control of the way in which such contamination is treated, should it be discovered.
- 12 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
REASON: To protect groundwater. There have been historic as well as recent contaminative uses on site and the Chalk aquifer is a sensitive receptor. At this stage the design of the foundations is not known and should contamination be found in the soils, this needs to be considered in the foundation proposals.
- 13 **Notwithstanding the information submitted with the application, before development commences a Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. The purpose of the protective fencing shall safeguard a sufficient area of rooting medium that will sustain the health of the trees known as the Root Protection Area. The fencing shall be erected before development**

commences and shall remain in place throughout the whole construction process. All operations potentially damaging to the trees shall be excluded from the area thus fenced (the Construction Exclusion Zone) including excavation, changes to levels, temporary access, vehicle parking, vehicle movement, fires and storage, disposal or mixing of materials and chemicals.

REASON: To protect important trees within and on the boundary of the site.

(Policy BE8, S.B.L.P.R).

- 14 Before development commences details of the footpath/cycleway link to the Dunstable-Luton Disused Railway County Wildlife Site shall be 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: To safeguard the amenity of the area.

- 15 Before development commences details shall be submitted to and approved in writing by the Local Planning Authority to safeguard the adjacent Dunstable-Luton Disused Railway County Wildlife Site during the construction of the development and thereafter. The development shall be carried out in accordance with the approved details.

REASON: To safeguard the amenity of the area.

- 16 Before development begins, a landscaping scheme 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).

- 17 No development shall commence unless and until full design details relating to the permanent closure of the access onto the A5 have been submitted to and approved in writing by the Local Planning Authority.

REASON: To safeguard the safe operation of the A5 trunk road.

- 18 No part of the development shall be brought into use unless and until the highway access off the A5 has been permanently closed to the satisfaction of the Local Planning Authority, in accordance with the details to be agreed in connection with Condition 17 above.

REASON: To safeguard the safe operation of the A5 trunk road.

- 19 Before any part of the development is first brought into use Travel Plans for residential and commercial uses shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plans shall be implemented in full within 6 months of any of the buildings being occupied. Thereafter, the Travel Plans shall be monitored and reviewed annually, with a written report to be submitted to and agreed in writing by the Local Planning Authority which updates the plan and monitors the progress in

meeting the agreed targets for reducing car journeys

REASON: In the interests of highway safety, to reduce traffic impact on the A5 and the local highway network and to promote the use of sustainable modes of transport.

- 20 **Development shall not begin until details of the junction(s) between the proposed development and the highway have been approved by the Local Planning Authority and no building shall be occupied until the junction(s) have been constructed in accordance with the approved details.**

REASON: In order to minimise danger, obstruction and inconvenience to users of the highway and of the proposed junction(s).

- 21 The detailed layout plans to be submitted for approval of reserved matters in connection with this development shall illustrate a refuse vehicle turning area within the residential element of the development.

REASON: To enable refuse vehicles to draw off, park and turn outside the highway limits thereby avoiding the reversing of vehicles on to the highway.

- 22 **Before development begins a scheme for the secure 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 any part the development is first occupied or brought into use and thereafter retained for this purpose, unless otherwise agreed in writing with the Local Planning Authority.**

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.

- 23 **Before the development is first occupied or brought into use, details of the vehicle parking spaces, servicing, loading and unloading areas shall be submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be completed prior to the occupation of the development and thereafter retained for these purposes.**

REASON: To ensure provision for car parking and servicing clear of the highway.

(Policy T10, S.B.L.P.R).

- 24 **Before development begins, details of the existing and proposed ground levels and finished floor levels of the building shall be submitted to and approved in writing by the Local Planning Authority, and 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).

- 25 **Before development begins, a Waste Audit and Waste Management Plan which shows how opportunities for the reduction, recycling and re-use of waste during construction and occupation of the development will be taken account of shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be carried out and completed in accordance with the approved details.**

REASON: In the interests of sustainable waste management.

(Policies W5 and W6 Bedfordshire & Luton Waste Local Plan).

- 26 **Before development commences details for the external lighting of the buildings and grounds shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be carried out, completed and retained in accordance with the approved details before the occupation of the development.**
REASON: In the interests of amenity and highway safety.
(Policy BE8, S.B.L.P.R).
- 27 **No development shall take place within the site until the applicant or developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.**
REASON: To ensure that remains of archaeological importance likely to be disturbed in the course of the development are adequately recorded.
- 28 This permission relates only to the details shown on the Site Location Plan received 20/11/09 and Combined Parameters Plan (JMA3008) received 19/11/09 or to any subsequent appropriately endorsed revised plan.
REASON: To identify the approved plans 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

SS5 - Priority Areas for Regeneration

E1 - Job Growth

H1 - Regional Housing Provision 2001 to 2021

H2 - Affordable Housing

T1 - Regional Transport Strategy Objectives and Outcomes

T2 - Changing Travel Behaviour

T4 - Urban Transport

T5 - Inter Urban Public Transport

ENV3 - Biodiversity and Earth Heritage

ENV7 - Quality in the Built Environment

WAT4 - Flood Risk Management

WM6 - Waste Management in Development

Bedfordshire Structure Plan 2011

Policy 25 - Infrastructure

South Bedfordshire Local Plan Review (2004) Policies

SD1 - Sustainability Keynote Policy

E1 - Main Employment Areas

BE8 - Design Considerations

T4 - Translink Project

T10 - Parking - New Development

T11- Contributions - Making Provision for Alternatives to Parking

H2 - Fall-In Sites

H4 - Affordable Housing

R10 - Play Area Standards

R11 - New Urban Open Space

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. The applicant/developers attention is drawn to the attached letter from Anglian Water Services Ltd.
5. In connection with Condition 13 above, it is noted that the Tree Protection Plan submitted with the application indicates a position of protective fencing for Trees T21, T31, T37, T38 and T40 that is less than the radius of the given Root Protection Area (RPA) for each respective tree. Although it is accepted that BS5837 allows the change of shape of the RPA to be undertaken provided that the total RPA area remains unchanged, it is not clear in the reports on how this has been justified, especially in recognition that the root spread of trees in the rear of properties along High Street North have been restricted by the close position of existing buildings and hardstanding. In these cases. it is estimated that the area most conducive to root development is almost certainly within the application site, and therefore the position of the fence should probably extend further out rather than be reduced. For other cases, it should be demonstrated (graphically) that the integrity of the RPA for each tree has been provided, even though there may be no requirement for all-round fencing. In addition it appears that the shading constraint of Trees T21, T37 and T38 have not been fully assessed and that this above ground constraint should be measured (Ref. Section 5.3 of BS 5837 : 2005) and incorporated into the final design plan.

DECISION

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