

**Item No. 16****SCHEDULE B**

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

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; the parameter plan forms the basis for the application for approval of reserved matters; all dwellings meet the Code of Sustainable Homes Level 3 as a minimum; financial contributions to education, off-site open space, highways/sustainable transport measures; 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.

[Note:

- (1) In advance of the consideration of the application the Committee were advised of consultation received as set out in the Late sheet attached to these Minutes.
- (2) In advance of the consideration of the application the Committee received representations made under the Public Participation Scheme.]