

Item No. 12**SCHEDULE B**

APPLICATION NUMBER	CB/09/06991/OUT
LOCATION	Former BTR site, London Road, Dunstable
PROPOSAL	Outline application for a mixed use development comprising a maximum of 64 dwellings, a hotel (Class C1) comprising a maximum of 120 bedrooms, offices (Class B1) with a maximum floor area of 880sqm and a specialised care home (Class C2) with a maximum of 75 bedrooms.
PARISH	Caddington
WARD	South East Bedfordshire
WARD COUNCILLORS	Cllr Ruth Gammons & Cllr Richard Stay
CASE OFFICER	Mr C Murdoch
DATE REGISTERED	21 December 2009
EXPIRY DATE	22 March 2010
APPLICANT	I C P Commercial (Dunstable) Ltd
AGENT	Pegasus Planning Group
REASON FOR COMMITTEE TO DETERMINE	Major Application, elements of which are a departure from Development Plans
RECOMMENDED DECISION	Outline Application - Granted

Site Location:

The site of the former British Tyre and Rubber (BTR) works is at the south-eastern edge of the built-up area of Dunstable, some 1.9kms from the town centre crossroads. It is rectangular in shape and extends to the north east away from the A5 London Road. The BTR site has a frontage width of 157m, a depth of 295m and an area of 4.12ha. To the north west are the replacement London Road flats currently under construction and garage blocks and dwellings in Southwood Road and Morcom Road, part of the Downside Estate. To the north east are dwellings served by a further section of Southwood Road, whilst to the south east are dwellings in Norfolk Road and part of the Streetfield Middle School grounds, beyond which are St. Mary's Lower School and Manshead Upper School. London Road and its junction with Beech Road lie to the south west, beyond which is Glenwood School on the north-western side of Beech Road and open countryside on the south-eastern side.

In August 2007, permission was granted for the redevelopment of 1.4ha of the BTR site for Class B1 (business) purposes comprising 8 units with the remainder of the land being landscaped pending future redevelopment plus associated highway works, landscaping and car parking (reference SB/TP/07/0716). The scheme was described as Phase 1 and involved the construction of an access road with two buildings on each side housing the 8 B1 units. The site of the current application excludes the access road proposed to serve Phase 1 plus that part of Phase 1 on its north-western side, an area of 0.74ha. The application site includes that part of Phase 1 on the south-eastern side of the estate road plus the remainder of the BTR land an area of 3.38ha. The extent of the site is identical to that of the proposal refused permission in June 2009 (reference SB/09/00214/OUT).

It should be noted that under an earlier permission granted in August 2007 (reference SB/TP/07/0716), the following highway works have already been completed – a site access road spur opposite Beech Road, improvements to the Beech Road junction and the installation of traffic lights at the newly created crossroads junction.

The BTR land is designated as a Main Employment Area in the adopted South Bedfordshire Local Plan Review. The open land opposite, to the south of the London Road/Beech Road junction, is within the boundary of The Chilterns Area of Outstanding Natural Beauty (AONB) and an Area of Great Landscape Value (AGLV). The schools complex to the south east of the site is also designated as an AGLV, whilst to the east and north east of the Downside Estate and the schools complex is Blows Downs, part of The Chilterns AONB.

The Application:

Outline permission is sought to redevelop the site for mixed employment and residential purposes with all matters reserved for future consideration.

The application is accompanied by a number of documents including:

- Indicative Masterplan
- Planning Statement
- Design and Access Statement
- Financial Viability Report
- Marketing Report
- Sustainability Appraisal
- Transport Assessment
- Flood Risk Assessment

The Indicative Masterplan illustrates how the proposed mix of uses would be accommodated within the site. On the south-eastern side of the previously approved access road and fronting onto London Road would be a hotel that would incorporate up to 120 bedrooms with associated landscaping and parking on a 0.66ha parcel of land. Immediately to the north east of the proposed hotel, again on the south-eastern side of the main access road, would be a specialised residential care home that would incorporate up to 75 bed spaces with associated landscaping and parking on a 0.52ha parcel of land. To the north east of the previously approved Phase 1 offices, on the north-western side of the main access road, would be an office building on a 0.26ha parcel of land. To the north and north east of these commercial uses would be a housing scheme comprising a maximum of 64 dwellings. Adjoining the north-eastern boundary of the site would be a 0.38ha are of public open space, the greater part of which is owned by the Council. It is proposed to construct a new footpath/cycleway to the north east across this open space in order to provide a link between the proposed housing scheme and Southwood Road.

RELEVANT POLICIES:

National Policies (PPG & PPS)

PPS1 - Delivering Sustainable Development.

PPG2 - Green Belts.

PPS3 - Housing.

PPS4 - Planning for Sustainable Economic Growth.
PPS10 - Planning for Sustainable Waste Management.
PPG13 - Transport.
PPG14 - Planning for Open Space, Sport and Recreation.
PPS22 - Renewable Energy.
PPS23 - Planning and Pollution Control.
PPG24 - Planning and Noise.
PPS25 - Development and Flood Risk.

Regional Spatial Strategy

East of England Plan (May 2008) Policies

SS1 - Achieving Sustainable Development.
SS3 - Key Centres for Development and Change.
SS5 - Priority Areas for Regeneration.
SS7 - Green Belt.
E1 - Job Growth.
E2 - Provision of Land for Employment.
E6 - Tourism.
H1 - Regional Housing Provision 2001 to 2021.
H2 - Affordable Housing.
T4 - Urban Transport.
T6 - Strategic and Regional Road Networks.
T8 - Local Roads.
T9 - Walking, Cycling and other Non-Motorised Transport.
T14 - Parking.
ENV2 - Landscape Conservation.
ENV7 - Quality in Built Environment.
ENG1 - Carbon Dioxide Emissions and Energy Performance.

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

Strategic Policy 1: The Spatial Framework - Locations for Growth: Luton/Dunstable/Houghton Regis (with Leighton-Linslade).
Strategic Policy 3: Sustainable Communities.
Bedfordshire and Luton Policies 2(a) and 2(b): Luton/Dunstable/Houghton Regis and Leighton-Linslade.

Bedfordshire Structure Plan 2011

Policy 7 - Areas of Great Landscape Value.
Policy 25 - Infrastructure.

South Bedfordshire Local Plan Review Policies

SD1 - Sustainability keynote policy.
BE8 - Design and environmental considerations.
T10 - Controlling parking in new developments.
T11 - Securing contributions for alternatives to parking.
H2 - Making provision for housing via 'fall-in' sites.
H3 - Local housing needs.
H4 - Affordable housing.
E1 - Providing for B1-B8 development within Main Employment Areas (Category 1).
R10 - Children's play area standard.
R11 - Provision of new urban open space in new residential developments.

Planning History

SB/TP/05/01168	Permission for B1 development comprising 8 units (remainder of site being landscaped pending future redevelopment) with associated highway works, landscaping and car parking.
SB/TP/07/00716	Permission for B1 development comprising 8 units (remainder of site being landscaped pending future redevelopment) with associated highway works, landscaping and car parking.
SB/SCN/08/00656	Request under Regulation 5 of EIA Regulations for screening opinion in respect of approximately 5,500sqm of B1 office units, hotel comprising 120 bedrooms and residential development of approximately 2.2ha or maximum of 100 dwellings.
SB/09/00214/OUT	Refusal of outline permission for mixed use development comprising maximum of 95 dwellings (Class C3), hotel with maximum of 120 bedrooms and maximum of 880sqm of office floorspace (Class B1(a)).

Reasons for refusal:

1. The greater part of the site is designated in Policy E1 of the South Bedfordshire Local Plan Review 2004 as Main Employment Area wherein planning permission will not be granted for uses other than B1, B2 or B8 of the Use Classes Order 1987. The emerging Luton and South Bedfordshire Core Strategy supports a sequential approach to the redevelopment of employment sites to take account of changing business needs. The proposal comprises a scheme which offers less than 50% of the former employment land for employment purposes. The proposal would prejudice the successful implementation of the following Policies: SS1, E1 and E2 of the East of England Regional Plan, Strategic Policy 3 and Bedfordshire and Luton Policy 2(a) of the Milton Keynes and South Midlands Sub-Regional Strategy (both documents comprising the Regional Spatial Strategy), and Policy E1 of the South Bedfordshire Local Plan Review 2004.

2. The indicative layout in the Design and Access Statement does not provide an integrated assessment of parking and access requirements and includes standards which are not acceptable to the Highway Authority. In general insufficient information is provided with regard to the layout, scale and design of the development such that it has not been satisfactorily demonstrated that the site has the capacity to receive a well planned development of a maximum of 95 dwellings. The proposal would therefore prejudice the successful implementation of Policy ENV7 of the Regional Spatial Strategy and Policies BE8, R10 and R11 of the South Bedfordshire Local Plan Review 2004.

3. The Flood Risk Assessment submitted with the application does not comply with the requirements set out in Annex E, paragraph E3 of Planning Policy Statement 25. The submitted FRA does not therefore provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular the submitted FRA fails to demonstrate that the site can manage the necessary volumes of surface water runoff via infiltration. No infiltration testing has been undertaken for the site so it is not possible to determine whether surface water can be drained to ground satisfactorily without increasing flood risk. If infiltration tests cannot be undertaken at this stage, an alternative equally sustainable drainage scheme should be proposed as part of the FRA.

**Representations:
(Parish & Neighbours)**

Caddington Parish Council	Proposal considered to be acceptable.
Dunstable Town Council	No objection. Welcomes mixed use development and possible employment benefits for town.
Neighbours	No representations received.

Consultations/Publicity responses

Natural England	Site is within 400m of Blows Downs SSSI and although development would not have direct impact on SSSI, increase in already high visitor pressure may have detrimental effect on condition of protected area. To ensure that such impact is mitigated for, recommend that S106 Agreement requires financial contribution towards enhancement and protection of Blows Downs.
The Wildlife Trust	Owns and manages Blows Downs Nature Reserve. Due to its urban edge location and in order to mitigate for high visitor pressure, it requires additional management (removing rubbish, managing livestock, maintaining damaged fences, liaising with visitors and neighbours). Proposal will increase number of people visiting reserve, so recommend that proportion of public open space developer contribution be used to enhance and maintain Blows Downs. Such principle has already been established in other housing schemes in vicinity of reserve.
Environmental Health Officer	No objection. Recommend conditions.

Bedfordshire Police ALO	<p>New link to Southwood Road is likely to significantly increase non-resident footfall through new estate which could increase victimisation levels amongst new residents. Any permission should be conditional on:</p> <ul style="list-style-type: none"> • Acceptable boundary treatments to commercial areas. Business crime is significant problem in much of locality. Opportunistic, out-of-hours offending can be largely deterred by restricting casual intrusion. • Acceptable lighting and CCTV to hotel car park. • Acceptable boundary treatment to care home. <p>In addition, Planning Obligations SPD advises that in order to meet demand for planned population growth for area, additional police facilities are considered essential in order to reduce crime and maintain community safety. Application does not include details of house types/number of bedrooms, but assuming generic average 2.4 person dwelling, this would generate financial contribution of £13,248.00 (64 x £207). Request that for all qualifying developments LPA include within S106 Agreement required financial contribution towards police's ongoing responsibility.</p>
Environment Agency	<p>Permission should only be granted if recommended conditions are imposed.</p>
Highways Agency	<p>Directs that condition be imposed on any permission.</p>
East of England Development Agency	<p>Regional Economic Strategy identifies Dunstable as being within Milton Keynes South Midlands Engines of Growth that are supported through East of England Plan Policy SS3 on Key Centres for Development and Change. Development of part of site for residential use is contrary to advice in Employment Land Review (ELR) and Local Plan. However, EEDA realises that site and sub-region needs to be attractive to market, that consents need to be deliverable and that proposed hotel and care home represent investment in site that has been vacant for some time. ELR identified substantial employment land gap generated by economic restructuring that has resulted in increased demand for B1 and B8 uses and reduced demand for B2 use together with poor state of current stock which was considered unsuitable for future demand. Should permission be granted, EEDA would support appropriate replacement provision elsewhere so that employment land gap is not further exacerbated and Central Bedfordshire is then able to meet its strategic employment objectives.</p>
Play and Open Space Officer	<p>Formal Open Space As no on-site provision is proposed, off-site contribution (£46,080) should be sought in lieu of on-site provision.</p>

Informal Open Space

Proposed 0.18ha would provide appropriate level of on-site informal open space. However, content/layout must ensure that it is both useable and pleasant space to serve residents.

Children's Play Areas

Having regard to Local Plan Review Policy R10, development of 64 dwellings should provide 595sqm of play area space. Appropriate buffer zone (15m+) between play area and nearest dwelling must be provided. If play area cannot be accommodated on site, off-site contribution (£33,000) should be sought in lieu of on-site provision.

Housing Strategy Officer

Site has been subject to extensive pre-application discussion. Applicants have engaged in open book approach to demonstrate difficulties (predominantly viability issues) scheme faces. Through this process interested parties have arrived at draft Section 106 Agreement which all are happy with.

Given massive financial pressures demonstrated on site, initial affordable contribution will be 8%. However, this 8% will consist of Council's priority dwelling types (family houses for social rent). Agreement also includes mechanism which allows affordable provision to increase to 26% (still below policy 35%, but again based on viability assessment evidence) and in turn provides wider range of tenures and unit types, ensuring current compromises can respond to future changes.

It should be noted that support for this application is exception. All relevant housing applications are still expected to provide 35% of dwellings for affordable housing, and this will only be deviated from in unusual cases with clear and robust evidence as part of compromise by all parties.

Highways Officer

Content with details within Transport Assessment. Any amendments required to be made to travel plan will not affect overall recommendation. Would expect 2.5m wide cycleway/footway to be provided into site - this can be conditioned.

Whilst appreciate that application is outline, there are issues that must be pointed out.

- Rear parking courts are not attractive and as a result are not fully used leading to cars being indiscriminately parked on highway and in turn leading to congestion and danger to users of highway.
- Whilst parking is not detailed, provision can be conditioned and should be in accordance with Council's Design Supplement 7 - 1.25 spaces for 1

bedroom, 2.25 spaces for 2 and 3 bedroom and 3.25 spaces for 4 bedroom dwellings. The housebuilder should be aware of this when submitting reserved matters application.

- Application shows approximately 17 parking spaces for 75 bed care home. This is standard for care home in relation to number of bedrooms, but does not make adequate provision for staff parking.
- There appears to be 8 units taking access from road that could not be adopted and needs to be reconsidered.
- Road fronting public open space is below standard and needs to be reconsidered.
- At 5m, roads are too narrow and footway/verges are not in all locations.
- Would expect cycling link between housing scheme and Streetfield Middle School.
- To achieve modal split from car to public and sustainable modes of transport there should be facilities for real-time information not only at bus stops but within proposed buildings. Contributions towards improvement of cycle infrastructure and introduction of real-time information should be included in S106 Agreement.

Determining Issues

The main considerations of the application are;

1. Loss of employment land
2. Section 106 Agreement
3. Design and layout
4. Other issues

Considerations

1. Loss of employment land

The greater part of the BTR land - 3.74ha - (including the Phase 1 offices, but excluding the 0.38ha proposed POS) is designated as Main Employment Area in the South Bedfordshire Local Plan Review, adopted January 2004. Main Employment Areas ('E1 land') are safeguarded by Policy E1 that states in the first paragraph:

"Within Main Employment Areas, defined on the Proposals Map, planning permission will not be granted for uses other than B1, B2 and B8 of the Use Classes Order 1987....."

The applicants contend that there are a number of material considerations such that the mix of uses proposed can be granted outline permission, notwithstanding the provisions of Policy E1.

(a) Viability and deliverability of development

The submitted viability appraisals (prepared by DTZ) illustrate the difficulties in

achieving a positive residual land value even with the proposed mix of uses. This is due to the considerable site abnormal costs (in particular, highway works, demolition and remedial works) that have been expended thus far in order to make any form of redevelopment of this site possible. Such costs have significantly undermined the viability of the site.

The applicants note that there is a general expectation that as the economy recovers the housing market will be one of the first to pick up. The significance of this is that the residential element of the scheme would form the catalyst for achieving a positive land value and would help deliver development on part of the site. The applicants advise that in parallel with this they are in advance discussions with operators for both the hotel and care home. Such interest, if genuine, would provide an incentive to commence development on site.

In respect of the proposed office use, the viability appraisals clearly illustrate that this component of the scheme would be the least viable. The applicants submit that realistically there is little prospect of either the office element in this application or the proposed offices that will remain on the Phase 1 land proving viable for some time to come. The applicants are only prepared to include office development on the BTR land on the basis that the hotel, care home and residential should stimulate interest in the site from potential B1 occupiers.

Under the circumstances of this site, it is almost certain that development solely for one of the Class B uses would not represent a viable option, given the lack of market interest (referred to below). The applicants argue that where there is no realistic prospect of the site being developed for Class B uses then it is reasonable to consider more viable alternatives even if the site is safeguarded for employment use under Policy E1.

(b) Demand for the site for B1, B2 and B8 uses

The submitted marketing report (prepared by Lambert Smith Hampton) describes the marketing campaign undertaken since 2005 to attract B1, B2 and B8 uses. No significant interest has materialised from the B2 and B8 sector. Whilst there remains some interest from two potential B1 operators, this is only for a very small amount of floorspace that could be comfortably accommodated on the Phase 1 office area. The report makes it clear that there is not sufficient demand from the B1 market to justify speculative office development in Dunstable. Furthermore, the conclusions of the report contend that the relationship of the site with neighbouring residential properties is likely to be the principal reason for the B2 and B8 market not progressing past enquiry stage. It is likely that a proposal involving B2 or B8 use would be subject to conditions restricting operations in order to preserve residential amenity. There are also other issues such as the topography of the site which does not lend itself readily to use by a B8 operator. Demand for large warehouse footprints, that must be level, would mean that any potential B2 or B8 'big shed' would be much higher than surrounding properties especially at the north-eastern boundary where the floor level would be significantly above the existing ground level, to the detriment of the visual amenity of neighbouring residents.

(c) PPS4 - Planning for Sustainable Economic Growth

PPS4 (issued December 2009) defines economic development as development within the B Use Classes, public and community uses and main town centre uses (such as hotels). The policies in the PPS also apply to other development

(excluding housing) which achieves at least one of the following objectives:

- provides employment opportunities,
- generates wealth, or
- produces or generates an economic output or product.

Clearly, the proposed hotel and care home uses are not Class B uses, but would provide employment opportunities.

Policy EC2 states that existing site allocations should not be carried forward from one version of the development plan to the next without evidence of the need and reasonable prospect of their take up during the plan period. If there is no reasonable prospect of a site being used for the allocated economic use, the allocation should not be retained, and wider economic uses or alternative uses should be considered. Whilst this advice is directed more specifically to local authorities in the context of plan making, the applicants argue that the underlying objectives of the policy can be applied to the current proposal for the BTR site.

Policy EC10 advises that local planning authorities should adopt a positive and constructive approach towards planning applications for economic development and that applications that secure sustainable economic growth should be treated favourably. In determining applications for economic development other than for main town centre uses which are not in accordance with the development plan, Policy EC11 urges local planning authorities to:

- weigh market and other economic information alongside environmental and social information,
- take full account of any longer term benefits, as well as the costs, of development, such as job creation or improved productivity including any wider benefits to national, regional or local economies, and
- consider whether the proposals help to meet the wider objectives of the development plan.

In respect of each of these criteria the applicants contend that the proposal performs favourably and that whilst the application may not wholly accord with Policy E1, there are material factors (referred to above) that support the application such as the demonstrable viability issues and lack of market interest for the allocated land uses (B1, B2 and B8). In addition, there are other considerations to be taken into account - the physical constraints of the site and the benefits that the proposed mix of uses would offer including significant employment opportunities as well as social benefits that both the care home and housing would provide. The applicants submit that these are all factors which weigh in the application's favour when assessed against Policy EC11.

The hotel element of the proposal constitutes a main town centre use and in considering applications for such uses that would not be in a centre and not in accordance with an up-to-date development plan, Policy EC17 requires proposals to comply with the sequential assessment procedure set out in Policy EC15. With regard to the sequential approach to site selection, in order for an alternative site to be considered, it must be available, suitable and viable to accommodate the proposed development. The prospective hotel operator has a specific requirement for a building for up to 120 bed spaces and associated

parking. Essentially, the hotel would require 0.66ha of land and when applying the sequential approach any alternative sites would need to meet these requirements in order to be considered suitable for the hotel. Given the scale of the proposed hotel, there are unlikely to be available sites that are suitable and viable in the town centre. The applicants argue that the costs associated with assembling 0.66ha of land within the town centre would be significant making any proposal involving just a hotel unviable. Again, whilst the Dukeminster Estate, an edge-of-centre site, is currently awaiting redevelopment, the fact that the greater part of this site has an extant outline permission for residential use would have a significant bearing on the land values. Moreover, the site is also unlikely to be available for piecemeal development. Having regard to the apparent lack of available, suitable and viable sites for the proposed hotel within and adjoining the town centre, a less central site such as the edge-of-town BTR site is considered to be acceptable in terms of Policies EC15 and EC17.

(d) Regional and sub-regional strategic context

The Milton Keynes and South Midlands Sub-Regional Strategy (MKSM SRS) set an indicative employment target of 12,600 new jobs to be provided over the period 2001-2021. However, these figures have since been superseded by the East of England Plan (EEP) which now sets an indicative target of 23,000 jobs to be provided in the Luton and southern Bedfordshire area during the same period. Policy E2 of the EEP makes clear that local planning authorities should ensure that an adequate range of sites/premises is allocated to accommodate a full range of employment requirements. However, in the supporting text to Policy E2 it emphasises the importance of identifying land of suitable quality to attract inward investment and that surplus employment land may be released for housing or other pressing development needs.

The mix of uses proposed is considered to be appropriate and in accordance with Bedfordshire and Luton Policy 2(a) of the MKSM SRS, as it provides both employment opportunities and an element of residential use in keeping with the prevailing character of the area. The applicants contend that it is also relevant that the policy states that local planning authorities should provide an adequate choice of high quality employment sites, *'making a realistic assessment of the prospects for continuing use of older sites and recycling suitable sites for other uses, including housing and mixed use development'*.

(e) Emerging Luton and southern Bedfordshire Core Strategy

The applicants submit that the Core Strategy Preferred Options document (April 2009) gives a new context to the determination of the current application. In particular, Preferred Option CS9 - Providing a Supporting Framework proposes a policy approach that is less rigid in the control of changes of use of land that is currently identified as Main Employment Area in Local Plan Review Policy E1. The preferred option seeks to enable the delivery of the additional 23,000 jobs to 2021 by, amongst other measures, monitoring the quantity and quality of existing employment sites and allocations in the light of job creation and their suitability for modern business needs, adopting a flexible sequential approach to the redevelopment of employment sites to take account of changing business needs and considering favourably proposals which provide new job opportunities in retail, cultural and leisure facilities, tourism and other employment generating activities, particularly in town centres, where it accords with and complements other aspirations and does not adversely impact on the environment.

Conclusions on this issue

In the earlier refused application (reference SB/09/00214/OUT) the proportion of 'E1 land' (including the Phase 1 offices) in employment uses - offices and hotel - would have been only 44%, whilst that in residential use would have been 56%. Having regard to the first reason for refusal, the current proposal would involve a significant increase in the proportion of 'E1 land' in employment uses. In the new scheme, the offices, hotel and care home would occupy 58% of the 'E1 land', whilst residential use would occupy 42% of the E1 land. Furthermore, the proposed mix of uses would provide a significant number of employment opportunities that would contribute to the EEP jobs growth target. It is anticipated that the Class B1 offices to be developed on the BTR land could generate approximately 172 jobs. An additional 60 jobs would be provided by the hotel as well as a significant number of jobs created by the care home.

In the current economic climate the financial viability of the proposed scheme is an important material consideration in the determination of the planning application in order to ensure development is carried out in a timely fashion. The applicants' viability appraisal is considered acceptable, having regard to the particular circumstances of the case in respect of the enabling effect of the housing element to deliver the employment generating uses. Moreover, the applicants' evidence of a lack of market demand for Class B uses and their arguments in respect of recent changes to the national, regional and emerging local policy context to the determination of the application all weigh in favour of support for the mix of uses proposed for the site.

2. Section 106 Agreement

The Agreement would be designed to ensure that employment uses are prioritised and would define a total pooled contribution for education and public open space and a % and mix of affordable housing which would represent the maximum level of infrastructure contributions that the proposed housing scheme would provide and would be informed by the applicants' financial viability appraisal using the Homes and Communities Agency (HCA) Economic Appraisal Toolkit. Although the viability appraisal does not support any contributions at present, the applicants agree that it is reasonable for the housing scheme to contribute a base level of contributions in respect of affordable housing, education and public open space. In the first instance, the proposed hotel would be constructed to a stage where it would be complete externally and ready for fitting out. This would be take place before the occupation of any of the proposed open market housing.

The challenges to the viability of the proposal are such that a balance needs to be reached between seeking maximum infrastructure contributions and deliverability. In accordance with national advice and provisions in the Planning Obligations SPD, it is recognised that the maximum level of infrastructure contributions have to be reviewed if the new development is to go ahead. This would be done in three ways. Firstly, the maximum infrastructure contributions would be reduced; secondly, a minimum base level of infrastructure contributions would be guaranteed; thirdly, any uplift in the value of the housing scheme from its November 2009 valuation at the point of commencement would deliver an additional contribution towards the maximum level of contributions.

The Housing Strategy Officer advises that the initial affordable housing

contribution would be 8%. However, this would consist of the Council's priority dwelling type - family dwellings for social rent. As stated above, the Agreement would include a mechanism that would allow the affordable housing provision to increase to 26% (still below the required 35%, but again based on viability appraisal evidence) and in turn would provide a wider range of tenures and dwelling types.

3. Design and layout

The application is in outline form and is accompanied by an Indicative Masterplan. The Indicative Masterplan and the Design and Access Statement describe a number of design parameters that include the following.

Use and amount

- Hotel element anticipated to provide 120 bedrooms and associated landscaping and parking on 0.66ha. The detail of the precise layout would be addressed at reserved matters stage.
- The development would accommodate up to 64 dwellings on 0.56ha which equates to a density of 41 dwellings per hectare.
- Public open space covering an area of approximately 0.38ha.
- Office employment element with maximum floorspace of 880sqm and associated landscaping and parking on 0.26ha.
- Care home with up to 75 bed spaces on 0.52ha.

Access and circulation

- The principal vehicular and pedestrian access will be by way of a new access road from the recently constructed spur off London Road. This access would comprise a 7.5m carriageway width with 2m footways either side. Within the residential area the design principles established in *Manual for Streets* would apply. The road width would generally be 5.5m and then down to 4.8m at that part of the site most distant from London Road. Shared surfaces would be provided at junctions or where pedestrians need to cross. Two metre footways would be provided throughout the site as higher category roads and a new footpath link across the north-eastern boundary would provide pedestrian access to Downside. The pedestrian network would provide easy access for residents/employees to/from bus stops on London Road and Southwood Road.
- Within the residential area the design would aim for a speed limit of 20mph - to be achieved through changes in priority and the horizontal and vertical deflection of the carriageway (although speed humps would be avoided).
- In respect of residential parking, a number of potential parking solutions are under consideration - coach house parking, on-plot and garage parking, secure courtyard parking, undercroft parking and on-street parking.

Layout

- The rectangular nature of the site suggests a rectilinear street pattern which reflects the street pattern found within the surrounding area. The residential streets would be overlooked by houses on both sides and would help to form perimeter blocks.
- The footprint of the care home arises from the internal operational requirements of the intended occupier with each wing of the building permitting care and supervision from staff positioned within the central 'linking' section of the building.

Scale, massing and appearance

- Given the different uses proposed, there would be a distinct variation in the scale of the new buildings.
- The hotel would be 4/5 storeys with a maximum height of 17m. Its scale and mass would reflect that of the approved office buildings and the London Road flats currently under construction and would provide a strong elevation to London Road and a gateway building at the entrance to the built-up area of the town. Where the building adjoins the school land to the south east, a reduction in the height of the upper storey would limit its impact on the wider landscape.
- The office element would be 2 storeys and would be 12-13m in height.
- The south-western section of the care home would be 3 storeys with a maximum height of 16m, whilst the north-eastern section, adjacent existing dwellings in Norfolk Road, would be 2 storeys with a maximum height of 13m.
- Adjacent the site boundaries the proposed dwellings would be 2 storeys and then 3 storeys in the central part of the housing scheme. The maximum height of the dwellings would vary between 12m and 14.5m. Their elevational treatments may include elements of the local vernacular.

In respect of the Highways Officer's comments on the indicative layout, the applicants make the following points.

- The access to the site from London Road was approved as part of the Phase 1 office scheme and has now been implemented. Given the considerable costs incurred on improving the junction and installing the access, it would be unreasonable to expect the applicants to now install a cycleway. Had the County Highways Department wanted a cycleway to serve the site, it should have requested that it form part of the earlier scheme for the office development.
- The indicative layout is significantly different from the previous refused application. It proposes a lower number of dwellings and illustrates individual plots and parking spaces for each property. Careful consideration has been given to garden sizes and separation distances between proposed and neighbouring properties.
- Design Supplement 7 sets out good practice guidance for parking arrangements and states that the use of rear parking courtyards should support on-street parking. This advice is consistent with *Manual for Streets*.
- The indicative layout proposes 2 spaces per dwelling plus there is potential for on-street parking for visitors. Such provision would seem an appropriate level of parking for 64 dwellings. At reserved matters stage it would be possible to prescribe individual spaces when the exact number and mix of dwellings will be known and the Highways Officer will be able to assess whether parking levels are appropriate.
- The care home has been designed to meet the specific requirements of a care home operator who has expressed a real interest in occupying the site. The business successfully operates a number of care homes with similar bed space to parking ratios as that proposed across the south of England. Given the specialised nature of the care home proposed, residents are unlikely to still use private cars. Spaces provided will be primarily for staff and visitors. PPG13 acknowledges that developers should not be required to provide more spaces than they themselves wish. The applicants consider a condition requiring a travel plan for the care home to be reasonable.
- The roads fronting the public open space have been designed to a width of

4.8m. Design Supplement 7 would classify these roads as 'Minor Ways', that is, roads serving up to 25 dwellings. The detailed design guidance for this type of road makes clear that 4.8m is appropriate. Furthermore, it states that shared surfaces are also appropriate for this type of road. It would be possible to impose a condition requiring the approval of reserved matters to be in accordance with the Design and Access Statement with any variation requiring the submission of a revised Design and Access Statement.

- The indicative layout shows road widths ranging from 5.5m to 4.8m and is consistent with Design Supplement 7.

With regard to the Highways Officer's request for infrastructure contributions towards a cycling link between the housing scheme and Streetfield Middle School and the introduction of real-time information facilities, it should be noted that the proposed S106 Agreement, as currently drafted, does not specifically refer to a transportation contribution. As stated above, the Draft Agreement defines a total pooled contribution which would represent the maximum level of infrastructure contributions that the proposed housing scheme would provide. If improvements to sustainable modes of transport are required, then the Draft Agreement could be amended to include highway works as part of the pooled contribution, provided the total sum agreed remains the same. This would allow for the pooled contribution to be spent on whatever the Council sees fit.

In respect of parking provision, the final car parking arrangements would be dealt with at reserved matters stage. If on-site provision does not meet the demand, such demand would have to be managed in another way, for example, through the use of a residential parking scheme. This was the approach recommended when permission was granted recently for a mixed commercial and residential development at Tavistock Street, Dunstable.

As stated above, this is an outline application with all matters reserved for future consideration. Given the Highways Officers' concerns about parking and road widths, the applicants have suggested a condition that excludes the Indicative Masterplan from any permission granted. Such condition is considered to be acceptable. The Highway Officers' further comments and recommended conditions will be reported at the meeting.

4. Other issues

Flood risk

The previous refused application included a reason for refusal in respect of an inadequate flood risk assessment (FRA). With regard to the current application, the Environment Agency raise no objection to the submitted FRA and recommend a condition requiring the applicants to submit details of a scheme for surface water drainage.

Police ALO's comments

The concerns of the Police Architectural Liaison Office are noted. As stated above, this is an outline application with all matters reserved for future consideration. The Indicative Masterplan is illustrative only. However, it would not be possible to eliminate all permeability from the layout and there is a need to ensure that residents/employees of the development can access local services by foot and the proposed linkages are considered to be acceptable.

The application was submitted before 5th January this year and is therefore not subject to the provisions of the Planning Obligations SPD.

Reasons for Granting

The development is in accordance with national and regional 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 elements of the scheme. The application would secure visual improvements to the character and appearance of the locality and would have no adverse impact on residential amenity. 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 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to ensure provision of the affordable housing, the practical completion of the proposed hotel building before occupation of any of the market housing and pooled financial contributions towards education and public open space, and subject to the following:

CONDITIONS:

- 1 **Before development begins on any phase of the development hereby permitted, the approval of the Local Planning Authority shall be obtained in respect of all the reserved matters for that particular phase, 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 Plans and particulars of the reserved matters for each phase of the development hereby permitted, referred to in Condition 1 above, shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out only as approved.
REASON: To comply with Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 (as amended).
- 3 Application for approval of the reserved matters for each phase of the development hereby permitted shall be made to the Local Planning Authority before the expiration of three years after the date of this permission.
REASON: To comply with Section 92 of the Town and Country Planning Act 1990.
- 4 The development hereby permitted shall begin either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with Section 92 of the Town and Country Planning Act 1990.

- 5 **Development on any phase of the development hereby permitted shall not commence until a landscaping scheme for that phase (or a comprehensive landscaping scheme for the whole site) - to include any hard surfaces and earth mounding - has been 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 the relevant phase 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.).**

- 6 **Development on any phase of the development hereby permitted shall not commence until a scheme for screen fencing and/or screen walling for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the relevant phase of 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.).**

- 7 This permission does not extend to the Indicative Masterplan submitted with the application.

REASON: To avoid doubt.
(Policy BE8, S.B.L.P.R.).

- 8 **Development on any phase of the development hereby permitted shall not commence until samples of the external materials to be used for the walls and roof(s) of the new building(s) to be erected on the site of that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.**

**REASON: To control the appearance of the proposed building(s).
(Policy BE8, S.B.L.P.R.).**

- 9 **Development on any phase of the development hereby permitted shall not commence until details of the levels of the proposed building(s) to be erected on the site of that phase have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development on the relevant phase shall be implemented in accordance with the approved details.**

**REASON: To produce a satisfactory relationship between the various elements of the scheme and adjacent properties.
(Policy BE8, S.B.L.P.R.).**

- 10 There shall be no beneficial occupation of any phase of the development hereby permitted until details of a scheme for all external lighting for that phase has been submitted to and approved in writing by the Local Planning

Authority and until the scheme has been implemented in accordance with the approved details and is operational. There shall be no departure from or variation to the approved lighting scheme for the relevant phase without the prior approval in writing of the Local Planning Authority.

REASON: To protect the amenity of the surrounding area and highway safety.

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

- 11 The site of each phase or element of the development hereby permitted shall only be used for the purposes described in the application and for no other purpose in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order with or without modification).

REASON: To define the extent of the permission and to avoid doubt.

- 12 **Development on any phase of the development hereby permitted shall not commence until details of a surface water drainage scheme for that phase (or a comprehensive surface water drainage scheme for the whole site), based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development and including details of how the scheme shall be maintained, have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the drainage scheme for the relevant phase of the development (or the whole site) shall be implemented in accordance with the approved details before that phase is completed.**

REASON: To ensure that any increased risk of surface water flooding is prevented, to improve and protect water quality, improve habitat and amenity and ensure future maintenance of the surface water drainage system.

- 13 **Development on the residential phase of the development hereby permitted shall not commence until details of a scheme to ensure potable water supply for that phase meets Code Levels 3/4 in the Code for Sustainable Homes, where water consumption is 105l/p/d, have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the residential phase of the development shall be implemented in accordance with the approved details.**

REASON: To ensure that in an area where there are high levels of stress on water resources (acknowledged by the applicants in Section 5 of the submitted Sustainability Appraisal) a target to reduce water consumption is established.

- 14 **Prior to the commencement of any phase of development approved by this planning permission, the developer shall submit to the Local Planning Authority, in both paper and electronic form where possible:**

(a) A Phase 1 desk study incorporating a site walkover, site history, maps and all further features of industry best practice relating to potential contamination.

(b) Where shown to be necessary by the Phase 1 desk study, a Phase 2 site investigation report further documenting the ground conditions of the site with regard to potential contamination, incorporating appropriate soils and gas sampling.

(c) Where shown to be necessary by the Phase 2 site investigation, a

Phase 3 detailed scheme for the remedial works and measures to be taken to mitigate any risks to human health, groundwater and the wider environment.

- (d) On completion of the development, the developer shall provide written confirmation that any and all works have been completed in accordance with the agreed remediation scheme in the form of a Phase 4 validation report to incorporate photographs, material transport tickets and sampling.**

Any remediation scheme and any variations shall be agreed in writing by the Local Planning Authority prior to the commencement of works. This should include responses to any unexpected contamination discovered during works.

The British Standard for Topsoil, BS 3882:2007, specifies requirements for topsoils that are moved or traded and shall be adhered to.

REASON: To protect human health and the environment.

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

- 15 To protect against intrusive externally generated noise, sound insulation and absorbent materials shall be applied to all dwellings as is necessary to achieve as a minimum standard an internal noise level of 30dB LAeq, 23.00 to 07.00 and 45dB LAmax, 23.00 to 07.00 for bedrooms and 35dB LAeq, 07.00 to 23.00 for habitable rooms. External noise levels from road traffic noise sources shall not exceed 55db LAeq, 1hr in garden areas. Any works which form part of the noise attenuation scheme approved by the Local Planning Authority shall be completed and the effectiveness of the scheme shall be demonstrated through validation noise monitoring with the results reported to the Local Planning Authority in writing before any permitted dwelling is occupied unless an alternative period is approved by the Local Planning Authority.

REASON: To protect occupants from externally generated noise.

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

- 16 Fixed operational plant 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 1m from the closest affected window of the relevant noise sensitive property.

The applicants/developers/occupants of the site shall clearly demonstrate that noise from the installed fixed operational plant achieves the required noise standard prior to the use of the plant.

REASON: To prevent nuisance from noise and to safeguard the amenities of the area.

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

- 17 Before any part of the development hereby permitted is occupied, details of a revised Travel Plan, as set out in the Transport Assessment prepared by RPS to support the application, to mitigate against the additional traffic generation onto the A5 London Road, Dunstable, shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Agency. Thereafter, the Travel Plan shall be implemented in accordance with the approved details.

REASON: To ensure that car travel generated by the proposed development

is reduced in the interests of highway safety and to encourage the use of sustainable modes of transport.

- 18 Before development on any commercial phase of the development hereby permitted commences, details of the proposed boundary treatments on the site of that phase, to include particulars of security fencing, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the proposed site boundary treatments of the relevant commercial phase shall be carried out in accordance with the approved details.

REASON: To control the appearance of the proposed development in the interests of the amenities of the surrounding area.

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

- 19 The application for the approval of the reserved matters in respect of any phase of the development hereby permitted shall be in accordance with the parameters described in the Design and Access Statement submitted with the outline application. Should the submitted reserved matters scheme not comply with this Design and Access Statement, a revised Design and Access Statement shall be submitted with the reserved matters application.

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

- 20 **Before development begins on any phase of the development hereby permitted, a Waste Audit and Waste Management Plan for that phase, indicating how opportunities for the reduction, recycling and re-use of waste during construction and occupation of that phase will be taken account of, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, development on the relevant phase shall be carried out and completed in accordance with the approved Waste Audit and Waste Management Plan.**

REASON: In the interests of sustainable waste management.

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

- 21 **No development on any phase of the development hereby permitted shall commence until wheel cleaning facilities have been provided at all site exits in accordance with a scheme for that phase submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be installed and made operational before development on the relevant phase commences and the Site Developer shall ensure that all vehicles exiting the site use the approved wheel cleaning facilities. The wheel cleaning facilities shall be retained until the development on the relevant phase has been substantially completed or until such time as the Local Planning Authority is satisfied that the roadworks necessary to provide adequate and clean access to and from the public highway have been completed (apart from final surfacing).**

REASON: In the interests of the amenity and to prevent the deposit of mud or other extraneous material on the highway during the construction period.

- 22 Before development on any phase of the development hereby permitted is first occupied or brought into beneficial use, details of a travel plan for that

phase shall be submitted to and approved in writing by the Local Planning Authority. The recommendations of the travel plan for the relevant phase shall be implemented in full within 6 months of the development being first occupied or brought into beneficial use. Moreover, the travel plan for the relevant phase shall be monitored and the results of this monitoring be reviewed on an annual basis. Further recommendations for improvements to the travel plan for the relevant phase shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To reduce reliance on the private car by promoting public transport and sustainable modes of transport.

- 23 This permission relates only to the details shown on the Site Location Plan and Drawing Nos. JKK4575/100A and JKK4575/101A received 17/12/09 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) Policies

SS1 - Achieving Sustainable Development.

SS3 - Key Centres for Development and Change.

SS5 - Priority Areas for Regeneration.

SS7 - Green Belt.

E1 - Job Growth.

E2 - Provision of Land for Employment.

E6 - Tourism.

H1 - Regional Housing Provision 2001 to 2021.

H2 - Affordable Housing.

T4 - Urban Transport.

T6 - Strategic and Regional Road Networks.

T8 - Local Roads.

T9 - Walking, Cycling and other Non-Motorised Transport.

T14 - Parking.

ENV2 - Landscape Conservation.

ENV7 - Quality in Built Environment.

ENG1 - Carbon Dioxide Emissions and Energy Performance.

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

Strategic Policy 1: The Spatial Framework - Locations for Growth: Luton/Dunstable/Houghton Regis (with Leighton-Linslade).

Strategic Policy 3: Sustainable Communities.

Bedfordshire and Luton Policies 2(a) and 2(b): Luton/Dunstable/Houghton Regis and Leighton-Linslade.

Bedfordshire Structure Plan 2011

Policy 7 - Areas of Great Landscape Value.

Policy 25 - Infrastructure.

South Bedfordshire Local Plan Review Policies

SD1 - Sustainability keynote policy.

BE8 - Design and environmental considerations.

T10 - Controlling parking in new developments.

T11 - Securing contributions for alternatives to parking.

H2 - Making provision for housing via 'fall-in' sites.

H3 - Local housing needs.

H4 - Affordable housing.

E1 - Providing for B1-B8 development within Main Employment Areas (Category 1).

R10 - Children's play area standard.

R11 - Provision of new urban open space in new residential 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.

DECISION

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