

**Item No. 07****SCHEDULE B**

<b>APPLICATION NUMBER</b>	<b>CB/09/06766/RM</b>
<b>LOCATION</b>	<b>Dukeminster Estate, Church Street, Dunstable, LU5 4HU</b>
<b>PROPOSAL</b>	<b>Erection of 172 dwellings, 300sqm of Class A1 retail and 513sqm of Class D1 accommodation (Reserved matters- outline permission SB/OUT/06/00884).</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>Mr C Murdoch</b>
<b>DATE REGISTERED</b>	<b>23 December 2009</b>
<b>EXPIRY DATE</b>	<b>24 March 2010</b>
<b>APPLICANT</b>	<b>Lionsgate Properties Ltd</b>
<b>AGENT</b>	<b>Levitt Partnership</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Members request (Development Management Committee 24/03/10)</b>
<b>RECOMMENDED DECISION</b>	<b>Reserved Matters - Granted</b>

**Site Location:**

The Dukeminster Estate, which has a total area of 6.823ha, is on the north side of Church Street some 580m east of the town centre crossroads. Fronting onto Church Street and excluded from the application site are four office blocks on two sites (either side of the estate access) that have a combined area of 1.43ha - from west to east, Venture House (3 storeys), Unit 4 (4 storeys), Unit 1 (6 storeys) and Unit 18 (5 storeys). The 5.393ha application site lies to the rear of the office blocks. Currently, a number of the 16 buildings that occupy the site are being demolished.

The site is bounded to the north-west by blocks of 3 storeys flats off The Mall, to the west by 2 storey terraced and semi-detached houses in The Mall, Kingsway and Bernard Close, to the south by the office blocks fronting Church Street and to the east and north east by the trackbed of the former Luton to Dunstable railway line, part of the proposed route of the Luton-Dunstable Busway. The north-western and western boundaries of the estate are defined by wooded embankments such that the existing industrial/warehouse units are at a higher level than residential properties in The Mall, Kingsway and Bernard Close.

The south-western corner of the site is in close proximity to the eastern boundary of the Conservation Area. The Dukeminster Estate is designated as a Main Employment Area in the adopted South Bedfordshire Local Plan Review.

**The Application:**

The application seeks approval of reserved matters pursuant to outline planning permission SB/OUT/06/0884 that was granted on appeal in December 2007

following a public inquiry in August 2007. The applicants' parallel application - reference CB/09/06759/REN - that sought a new outline permission to replace the extant outline permission (SB/OUT/06/0884) in order to extend the time limit for implementation was refused in March this year. The outline scheme comprises a residential development for up to a maximum of 458 dwellings (85 dwellings per hectare maximum) with associated parking and open space and up to a maximum of 300sqm of Class A1 floorspace and up to a maximum of 520sqm of Class D1 floorspace.

The Unilateral Undertaking associated with the outline permission includes the provision of affordable housing, the submission of a residential travel plan and the payment of contributions towards educational facilities, outdoor sports and built sports facilities, public art and a pedestrian/cycleway.

At outline stage, only access was determined, so the reserved matters for which approval is sought are appearance, landscaping, layout and scale. The new scheme would involve the erection of 172 dwellings, 300sqm of Class A1 retail and 513sqm of Class D1 accommodation. The dwellings mix would comprise 5 two bed flats above garage blocks, 24 two bed flats in part three/part four storeys above the ground floor Class A1 and Class D1 uses (beside the entrance to the site), 68 two bed semi-detached/terraced houses, 48 three bed detached/semi-detached houses and 27 four bed semi-detached/terraced houses.

## **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.

PPG15 - Planning and Historic Environment.

PPG16 - Archaeology and Planning.

PPG17 - Planning for Open Space, Sport and Recreation.

PPS23 - Planning and Pollution Control.

PPS24 - Planning and Noise.

PPS25 - Development and Flood Risk.

### **Bedfordshire Structure Plan 2011**

Policy 25 - Infrastructure.

### **South Bedfordshire Local Plan Review Policies**

BE8 - Design and environmental considerations.

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

T10 Controlling parking in new development.

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

H3 - Meeting local housing needs.

H4 - Providing 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/74/0186	Permission for construction of estate road, rehabilitation of existing industrial units, erection of new warehouses and ancillary office accommodation.
SB/TP/85/0933	Permission for generator and fuel storage tank (Unit 5).
SB/TP/86/1384	Permission for vehicle loading dock to existing warehouse and ancillary works (Unit 2-3).
SB/TP/88/1247	Permission for enlargement of five windows in rear elevation of second floor offices (Unit 5).
SB/TP/90/0190	Permission for continuation of warehouse use (Unit 12).
SB/TP/93/0801	Permission for change of use from warehouse to light industrial (Unit 11b).
SB/TP/94/0598	Permission for change of use of vacant compound area to car park (land adjacent Units 12, 13 and 14).
SB/CPD/95/0003	Lawful Development Certificate issued for proposed use of premises for Class B2 general industrial use (Unit 17).
SB/TP/95/0050	Outline permission for office development with parking (land adjacent Unit 18 and rear of Units 12, 13 and 14).
SB/TP/95/0580	Permission for use of land for car parking purposes (land adjacent Unit 15 and rear of Unit 18).
SB/TP/00/1057	Outline application for new industrial units - withdrawn (land adjacent Units 11b, 12, 13, 14 and 15).
SB/TP/00/1105	Permission for fitting of cladding to front elevations (Units 7-10).
SB/TP/02/0230	Permission for additional entrance doors in front and windows in side elevations (Unit 2).
SB/TP/03/0083	Outline application for 4 units for Class B1, B2 and B8 purposes - disposed of (land adjacent Units 11b, 12, 14 and 15).
SB/TP/04/1218	Application for use of site for B1, B2 and B8 purposes and erection of 18.5m high water tower, storage shed, sprinkler tank and pump house, underground water storage tank. Withdrawn.
SB/OUT/06/0884	Refusal for residential development for up to maximum of 458 dwellings (85 dwellings per hectare maximum) with associated parking and open space and up to maximum of 300sqm of Class A1 floorspace and up to maximum of 520sqm of Class D1 floorspace. Subsequent appeal allowed.
CB/09/06759/REN	Refusal for renewal of extant outline planning permission SB/OUT/06/0884 in order to extend time limit for implementation in respect of residential development for up to maximum of 458 dwellings (85 dwellings per hectare maximum) with associated parking and open space and up to maximum of 300sqm of Class A1 floorspace and up to maximum of 520sqm of Class D1 floorspace. Appeal lodged - public inquiry date pending.

## **Representations: (Parish & Neighbours)**

Dunstable Town  
Council

Objection.

The proposal would result in the loss of one of the last of the major employment sites in the town. The Town Council would welcome the development of light industrial units on this site which could be used for start-up businesses. The Town Council are concerned also that with the number of large residential developments in the town and the loss of such employment sites, there will be few opportunities for employment, leading to Dunstable becoming a dormitory town. In addition, the Council are concerned that the access and egress arrangements proposed for the new development are inappropriate and insufficient.

42 Kingsway

Objections, although scheme involving houses rather than flats is far better than previous proposal.

- 231 dwellings will add at least 300 more vehicles to already congested local roads.
- More air pollution and vehicle noise at rear of property from nearby road that runs around new estate.
- Loss of privacy due to elevated level of site in relation to Kingsway.
- Considerable amount of houses/flats built in town that are still empty - town needs places for work, light industry, not more new empty buildings.
- Proposal will drive away wildlife in existing tree belt at rear of Kingsway.

## **Consultations/Publicity responses**

Highways Officer

Given reduction in number of dwellings, current proposal for 172 units would generate less traffic than approved outline proposal for 458 units (SB/OUT/06/0884). Furthermore, revised layout and transport assessment take into account impact of new development on Luton-Dunstable Busway. Transport assessment concludes that there would be no material difference between current proposal and approved outline proposal. Can confirm therefore that new scheme overcomes highway reason for refusal in terms of both its impact on now-approved Luton-Dunstable Busway and its impact on traffic in Church Street. At Section 38 stage, minor alterations to service margins would be sought.  
Recommend conditions.

Conservation and  
Design Team Leader

Following detailed negotiations over issues of layout, house types and architectural detailing this scheme has been revised and is now considered acceptable to approve.  
Recommend conditions.

Anglian Water	Recommends informative in respect of assets affected.
	Foul sewerage system cannot accommodate flows from development, therefore substantial upgrades would be required. Should Council be minded to approve application, request that 'Grampian style' condition be imposed so that development is suitably phased in line with anticipated improvements to company's sewerage network.
	Foul drainage from development would be treated at Dunstable STW that at present has available capacity for these flows.
Highways Agency	No objection. Proposal will not adversely affect A5 at this location.
Environment Agency	No comment
Veolia Water Central	Site is located within groundwater Source Protection Zone of Periwinkle Lane Pumping Station - public water supply comprising number of chalk boreholes operated by company. Construction works should be carried out so as to significantly reduce groundwater pollution risk. Such works may exacerbate any existing pollution. If pollution is found, then appropriate monitoring and remediation will need to be undertaken.
Environmental Health Officer	No objection. Recommend conditions.
Joint Technical Unit (JTU)	JTU is currently updating Luton and southern Bedfordshire housing trajectory. Loss of Dukeminster site in its entirety from housing trajectory would make it very difficult indeed to demonstrate 5-year housing land supply. Indeed, losing 284 dwellings from housing trajectory by reducing total to be delivered from 458 to 174 would also have significant impact. Council's position would be greatly weakened at future appeals if it was unable to demonstrate 5-year housing land supply. Dukeminster site is therefore of considerable importance and JTU is keen to see delivery of as much housing as is deemed appropriate here.
Tree and Landscape Officer	No objection. General aims and principles of proposed landscape strategy and choice of planting are acceptable. Earlier concerns about siting of two dwellings in proximity to existing trees have been addressed by deletion from layout of these dwellings.
Sport England	No comments on amended plans.

Play and Open Space  
Officer

Although there is no on-site formal open space, financial contribution identified in 2007 Unilateral Undertaking is appropriate.

Given that perimeter tree belt was originally accepted as informal open space, no further informal open space contribution is sought.

Although layout plan indicates that there would be sufficient space on open space near site entrance to fit LEAP (250sqm 5-8yr olds) and LAP (100sqm 3-6yr olds) play areas, would prefer that applicant/developer provides just one full-size LEAP instead, that is, 400sqm for 5-8yr olds. This should be located as far away as possible from houses facing it. Whole open space should be fenced, not just LEAP.

South-western LAP is fine. It should be fenced and have three pieces of play equipment with appropriate safety surfacing plus seat and bin.

Northern LAP is fine, as there now appears to be sufficient buffer space between LAP and nearest houses.

With regards to indoor sports and leisure centres, financial contribution identified in 2007 Unilateral Undertaking is appropriate.

Waste Strategy and  
Policy Officer

Individual houses will need to be provided with access to rear of property to allow storage of Council's bin provisions. Communal bin stores serving blocks of flats will need to be approved by Council prior to residents taking up occupancy. Council's policy requires developers to pay for provision of bins for end user.

Bedfordshire Police ALO

Have concerns over perimeter footpath/cycletrack which would appear to create unnecessary connections and segregated routes, contrary to Bedfordshire Community Safety Supplementary Planning Guide.

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. Proposed number and mix of residential units would generate financial contribution of £36,888. Request that for all qualifying developments LPA include within S106 Agreement required financial contribution towards police's ongoing responsibility.

Project Team, Luton-  
Dunstable Busway

No objection.

## Determining Issues

The main considerations of the application are:

1. Previous refused application - CB/09/06759/REN
2. Town Council's consultation response
3. Design and layout
4. Other matters

## Considerations

### 1. Previous refused application - CB/09/06759/REN

As stated above, the previous application submitted in association with this current reserved matters application sought a new outline permission to replace the existing outline permission - SB/OUT/06/0884 - in order to extend the time limit for implementation. It was refused permission for the following reasons.

1. Circumstances have materially changed since the original grant of planning permission at appeal and the application is not supported by sufficient, up to date, information to demonstrate that increase in traffic flow on Church Street and the provision of the Guided Busway across the site access frontage would not result in traffic from the development creating unacceptable congestion and detriment to the free flow and safety of traffic in the locality.
2. Circumstances have materially changed since the original grant of planning permission at appeal in that Anglian Water advises that the foul sewerage system cannot accommodate flows from the proposed development and are not aware when capacity will become available, but confirm that this is unlikely to be within the standard timescales of a planning permission. If the development were to proceed before further capacity is provided, this may result in environmental and amenity problems downstream. The Environment Agency also confirm that the sewage treatment works is overloaded and that there is an existing problem with combined sewer overflows which this development would exacerbate in the absence of improvements to the sewer system and recommend that no development should commence until a scheme for the improvement and/or extension of the existing sewerage system has been approved. The Council do not consider that in these uncertain circumstances it would be reasonable to grant planning permission subject to a condition requiring the provision of an approved scheme for an adequate sewerage system before the commencement of development.

It is therefore necessary to assess whether or not the current application, which involves a proposal for significantly fewer dwellings, albeit predominantly family dwellings rather than apartments, overcomes these reasons for refusal.

With regards to the first reason for refusal, the Highways Officer advises that given the proposed reduction in the number of dwellings, the current proposal for 172 units would generate less traffic than the approved outline proposal for 458 units (SB/OUT/06/0884). Furthermore, the revised layout and transport assessment take into account the impact of the new development on the Luton-Dunstable Busway. He notes that the transport assessment concludes that

there would be no material difference between the current proposal and the approved outline proposal and confirms that the new scheme therefore overcomes the highway reason for refusal in terms of both its impact on the now-approved Luton-Dunstable Busway and its impact on traffic in Church Street.

In respect of the second reason for refusal, whilst Anglian Water advises that the foul sewerage system cannot at present accommodate flows from the proposed development and that substantial upgrades would be required, the company recommends the imposition of the following 'Grampian style' pre-commencement condition so that development is suitably phased in line with the anticipated improvements to the company's sewerage network.

*"Notwithstanding the provisions of Sections 94, 98 and 106 of the Water Industry Act 1991, no development shall commence until details of a scheme, including phasing, for the satisfactory provision of sufficient capacity within the public sewerage system to meet the needs of the approved development have been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the scheme so approved unless otherwise approved in writing by the Local Planning Authority.*

*Reason: To prevent environmental and amenity problems arising from flooding."*

Anglian Water advises also that the foul drainage from the proposed development would be treated at Dunstable Sewage Treatment Works that at present has available capacity for such flows.

In that Anglian Water is now recommending a pre-commencement condition to address its concerns about the future adequacy of the foul sewerage system in the vicinity of the site, it is clear that the company's comments on the current reserved matters application are materially different from those on the refused renewal of outline application and that the current proposal, subject to the completion of the works required by the recommended condition, would overcome the previous reason for refusal in relation to foul water drainage. It should be noted also that the Environment Agency makes no comment on the application.

## **2. Town Council's consultation response**

With regards to the Town Council's objection, the following points are pertinent.

- The current application is not an application for planning permission. It is an application for the approval of matters reserved by conditions imposed on the existing outline permission - SB/OUT/06/0884.
- The application site is part of the Dukeminster Estate which is designated as a Main Employment Area in the South Bedfordshire Local Plan Review, adopted January 2004, Policy E1 of which seeks to safeguard land and buildings within Main Employment Areas for uses within Classes B1, B2 and B8. Whilst the current application is contrary to Policy E1, the loss of the greater part of the Main Employment Area at the Dukeminster Estate has been established by the grant of the existing outline permission on appeal. Furthermore, although a minor point, the current scheme would include a



small element of employment provision within the proposed retail shop and children's nursery and employment would be created during the construction phase of the new development.

- As indicated in 'Consideration 1' above in respect of application CB/09/06759/REN, when this application was determined by Committee in March this year it was refused on highway safety and foul sewerage grounds, not on the ground of loss of employment land/buildings.
- The Luton and South Bedfordshire Employment Land Review (ELR) was published in January 2008 and forms part of the evidence base for the Joint Luton and southern Central Bedfordshire Core Strategy. The ELR acknowledges the grant of the existing outline permission and in its 'traffic light' assessment of all the employment estates in the joint area, it identifies the Dukeminster Estate as a 'red' estate. 'Green' estates are to be retained in employment use, 'amber' estates are also to be retained in employment use, but require some form of intervention (for example, upgrading or redevelopment) and 'red' estates are considered suitable to be released from employment use. Although the Dukeminster site has locational advantages in terms of accessibility for employees, its position in relation to the town centre requires commercial vehicles to negotiate congested roads. As a consideration, this is likely to discourage a revival of manufacturing or distribution activity. Importantly, in terms of its potential to attract business occupiers, the Dukeminster site lies outside the wards in the town that benefit from Assisted Area status. In addition, there can be no certainty that, if approval of the reserved matters is refused, redevelopment for employment purposes would occur. Even if it did, evidence from recent and proposed developments nearby - at ProLogis Park, Boscombe Road and the Gazeley site (former Renault site) at Boscombe Place (within a ward that benefits from Assisted Area status) - suggests that a large distribution warehouse would be favoured. Issues relating to the site's proximity to existing residential properties to the west and north and its accessibility by commercial vehicles, perhaps exceeding past maximum levels of movement, would then need to be addressed.
- Since December 2007, by virtue of the outline permission granted, the Dukeminster site has been included in the joint Luton and southern Central Bedfordshire housing trajectory and joint strategic housing land availability assessment. The JTU is presently updating the housing trajectory and advises that the loss of the Dukeminster site in its entirety from the housing trajectory would make it difficult for the joint Councils to demonstrate a 5-year housing land supply. Should the current application be refused and, as a consequence, should the joint Councils be unable to demonstrate such housing land supply, this Council's position would be significantly undermined at any future appeals - for example, in respect of the proposed urban extension at West Linslade (Valley Farm, Soulbury) or the proposed urban extension at North West Dunstable.

Whilst the use of the site for largely residential development would result in the loss of the site's potential for employment use, it is considered that the underlying policy purposes of the Development Plan would not be compromised and any Development Plan conflict would be outweighed by the benefits to be derived from the residential development proposed, especially in terms of affordable housing.

### 3. Design and layout

The design and layout of the proposed development has been the subject of lengthy negotiations. As originally submitted, the application sought approval for 231 dwellings comprising 152 apartments in 4 five storey apartment blocks on the eastern side of the main loop road with the remainder of the site occupied by terraced and semi-detached houses. This scheme was unacceptable for a number of reasons.

- There was an unsatisfactory physical divide between the houses in the west and north and the apartment blocks in the east and these elements failed to tie the site together.
- Generally, whilst variation in building heights and details adds texture to streetscape views, the close proximity of two storey houses and five storey apartment blocks was jarring.
- The apartment blocks had no private communal outdoor open space and it was unclear whether the amenity space adjoining the apartment blocks was public or private space. Where such confusion exists, space is often unused and prone to neglect.
- Car parking was relegated to the rear of the buildings on both sides of the main loop road. The parking courts were poorly landscaped with large areas of tarmac. Some were inadequately overlooked because properties backing onto the parking courts had high boundary fences. The unwelcoming nature of the parking courts was likely to give rise to inconsiderate on-street parking.
- There were other elements within the layout that increased the development's vulnerability to crime - footpaths and access routes to rear parking areas that adjoin rear gardens were likely to facilitate intruder access.

In the revised proposal, approval is sought for 172 dwellings. The 4 five storey apartment blocks on the eastern side of the main loop road have been deleted from the scheme. With the exception of the 24 apartments that would occupy the upper floors above the ground floor retail/children's nursery of the part four/part five storey building beside the site entrance and the 5 flats above garage blocks, the majority of the new dwellings would be two storey two and three bed houses.

The amended proposal indicates an enhanced street and building layout where the buildings adequately enclose the streets and green spaces and the various elements are better integrated. In that the fronts of the buildings would face the street and for the most part the backs of properties would be inaccessible, the new scheme would better define public and private space and reduce opportunities for intruder access to rear gardens. The large rear parking courts of the original proposal have been eliminated from the layout. Where possible, parking would be accommodated on plot; elsewhere garage blocks and grouped parking areas, both at the front and rear of properties, would be small and adequately overlooked. In response to the Highways Officer's initial comments and in order to address any potential problems associated with inconsiderate on-street parking, the revised layout incorporates 48 unallocated visitor parking

spaces. Whilst it is acknowledged that the layout of the current scheme is constrained by the road layout of the permitted outline proposal, it is nonetheless acceptable. Earlier concerns about the appearance and architectural detailing of the proposed house types and apartments block have been addressed such that the Conservation and Design Team Leader considers that the proposal is acceptable.

Local Plan Review Policy H3 states that the proportion of one or two bedroom dwellings to be provided in residential development should be not less than 33% of the total dwelling provision. Given that 56% of the total dwelling provision would be two bedroom dwellings, the proposal clearly accords with Policy H3.

The residential element of the existing outline permission comprises up to 458 dwellings which would be provided at a density of up to 85 dwellings per hectare. In the current reserved matters scheme, 172 dwellings are proposed and these would be provided at a significantly reduced density of 32 dwellings per hectare.

With regards to the impact of the new development on neighbouring residents in terms of loss of privacy, whilst there would be some three storey houses in the northern corner of the layout, the majority of the dwellings near the northern and western boundaries would be two storey houses. In addition, the existing tree belt should offer some screening, particularly when the trees are in full leaf.

#### **4. Other matters**

##### Boundary planting

In response to the Tree and Landscape Officer's comments, the dwellings proposed for Plots 94 and 107 have been deleted from the scheme. It follows that in terms of its impact on existing trees adjacent the western boundary of the site, the amended layout is now acceptable.

##### Public Open Space/Recreation

The Unilateral Undertaking associated with the outline permission includes the payment of contributions towards outdoor sports and built sports facilities. The Play and Open Space Officer notes that such payments would be calculated from a formula based on the number of dwellings within the reserved matters scheme and advises that these arrangements are appropriate. The Play and Open Space Officer advises further that the proposed play space provision is acceptable. With regards to the play space near the site entrance, the previously proposed LAP and LEAP would be replaced by a full size (400sqm) LEAP for 5-8 year olds.

##### Waste Management

The outline permission includes a standard condition (set out in the Bedfordshire and Luton SPD, "Managing Waste in New Developments") that requires the submission of a detailed waste audit to manage the waste anticipated during the construction and subsequent occupation phases of the proposed development. At this reserved matters stage, a condition is recommended that would require the submission of details of bin storage and collection points within the new estate.

##### Crime reduction

In response to the Police ALO's comments, the perimeter footpath/cycletrack

that ran adjacent to rear gardens and rear parking courts in the originally submitted scheme has been deleted from the revised layout. With regards to the request for a financial contribution to be made towards the Police's ongoing crime reduction responsibilities, it should be noted that 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 application seeks approval of the reserved matters, the proposed use of employment land for residential purposes having been established by the grant of the existing outline permission. In terms of the layout of the new development and its design, scale, density and overall appearance, the proposal conforms to the relevant Development Plan policies.

### **Recommendation**

That APPROVAL be granted pursuant to Outline Planning Permission SB/OUT/06/0884 in respect of the Reserved Matters referred to subject to the following:

- 1 **The plans and particulars to be submitted in accordance with Condition 5 of Outline Planning Permission SB/OUT/06/0884 shall be submitted before development commences and shall include:**
  - (a) **a plan, to a scale and level of accuracy appropriate to the proposal, showing the position of every tree on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating which trees are to be removed;**
  - (b) **and in relation to every tree identified a schedule listing:**
    - **information as specified in Paragraph 4.2.6 of British Standard BS 5837 : 2005 (*Trees in Relation to Construction - Recommendations*);**
    - **any proposed pruning, felling or other work;**
  - (c) **and in relation to every existing tree identified to be retained on the plan referred to in (a) above, details of:**
    - **any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area (see Paragraph 5.2.2 of BS 5837 : 2005);**
    - **all appropriate tree protection measures required before and during the course of development (see Condition 2 below);**
  - (d) **areas of existing landscaping to be protected from construction operations and the method of protection (see Condition 2 below).**

**REASON: To safeguard the existing trees on the site in the interests of visual amenity.**

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

2        **Development shall not commence until a tree protection plan, which clearly shows the position and build specification of tree protection, with the purpose of enclosing an area around the canopy spread of all retained trees, has been submitted to and approved in writing by the Local Planning Authority. The fencing shall form a construction exclusion zone (as specified in Section 9 of BS 5837 : 2005) which shall be demarcated by protective barriers (as specified by Figure 2 of BS 5837 : 2005). These measures shall be for the purpose of avoiding localised compaction of the rooting medium and preventing damage to the natural canopy spread by avoiding branch encroachment by plant and machinery.**

**REASON: To safeguard the rooting medium, natural canopy spread and health of trees marked for retention on the site layout plan and which are considered to be strategically important.**

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

3        **No works or development shall take place until a scheme of supervision for the tree protection measures required by Conditions 1 and 2 above has been submitted to and approved in writing by the Local Planning Authority. This scheme of supervision shall be appropriate to the scale and duration of the works, shall be administered by a qualified arboricultural consultant instructed by the applicant/developer and approved by the Local Planning Authority and shall include details of:**

- **the arrangements for holding a pre-commencement site meeting to be attended by the site manager, the arboricultural consultant instructed by the applicant/developer and the Council's arboricultural officer to agree all aspects of the tree protection measures and aspects of their implementation and sequencing;**
- **the identification of individual responsibilities and key personnel;**
- **the timing and methods of site visiting and record keeping, including updates; and,**
- **procedures for dealing with variations and incidents.**

**The scheme of supervision shall be carried out as agreed.**

**REASON: To establish a system that will ensure that acceptable tree protection measures are implemented and maintained thereafter.**

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

4        **If any underground services are required to be routed through the root protection areas of retained trees, such works shall be carried out in strict accordance with the guidance set out in the National Joint Utilities Group's publication "*Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees*".**

**REASON: To safeguard the integrity of the rooting medium within the root protection areas of retained trees.**

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

5        **Before the development is first occupied or brought into use, the parking spaces, servicing and unloading areas shown on Drawing No. 2429/101A**

shall be completed and thereafter retained for this purpose.

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

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

- 6 **Development shall not commence until a scheme for screen fencing and/or screen walling has been 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.).**

- 7 **Development shall not commence until samples/details of the materials to be used in the construction of the following elements of the proposed development have been submitted to and approved in writing by the Local Planning Authority.**

- **Samples of materials to be used for the external walls and roofs of all new buildings.**
- **Scaled drawings indicating details of all windows and doors and their surrounds, to include details of their materials and methods of opening.**
- **Details of canopies, balconies and roof terraces including their railings.**
- **Details of the size and location of and materials to be used for the rainwater goods.**
- **Details of the boundary treatments for all house plots and for the Class A1 and Class D1 units.**
- **Materials palette for the public realm, to include both adopted and unadopted areas, all street furniture and the parking courts.**
- **Details of all external lighting.**
- **In respect of the proposed play spaces, details of the play equipment and boundary fences; with regards to the play space that would incorporate a LEAP, such fencing shall enclose the entire play space.**
- **Scaled drawings indicating details of the shop front(s) of the proposed Class A1 unit, details of the refuse bin and cycle storage areas serving the proposed building comprising Plots 149-172 and the Class A1 and Class D1 units.**

**The development shall thereafter be carried out in accordance with the approved samples/details.**

**REASON: To control the appearance of the development and to avoid doubt.**

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

- 8 **Development shall not commence until details of the existing ground levels within and adjoining the site and details of the finished floor levels of each building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details of levels.**

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

- 9 **Construction works in respect of each phase of the development hereby permitted shall not commence until the positions of the buildings, roads, footpaths and parking spaces that are proposed adjacent the site boundaries are pegged out on site and their positions approved in writing by the Local Planning Authority.  
REASON: To enable consideration to be given to the precise layout of the development.  
(Policy BE8, S.B.L.P.R.).**
- 10 Any garage, drive through garage, car port and parking space and any access thereto shall only be used for purposes incidental to the use of the dwelling for residential purposes and no trade or business shall be carried out therefrom.  
REASON: To prevent the introduction of any commercial use.  
(Policy BE8, S.B.L.P.R.).
- 11 No goods, waste, materials or equipment shall be deposited or stored on the site in the open where it would obstruct use of the parking, servicing and unloading areas associated with the proposed Class A1 retail shop and Class D1 children's nursery uses hereby permitted and indicated on the 'Site Plan', Drawing No. 2429/101A (or on any appropriately endorsed revised site plan).  
REASON: To protect the amenities of the area and to ensure that vehicle parking, servicing and unloading areas are available for those purposes at all times.  
(Policy BE8 S.B.L.P.R.).
- 12 The ground floor of the part four/part five storey building comprising Plots 149 to 172 shall only be used for Class A1 retail and Class D1 children's nursery purposes and for no other purpose in Part A and Part D of 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). The configuration and extent of the Class A1 and Class D1 uses shall be as indicated on Drawing No. 2429/101A (or on any appropriately endorsed revised plan).  
REASON: To define the extent of the non-residential elements of the proposed development and to avoid doubt.  
(Policy BE8, S.B.L.P.R.).
- 13 **Notwithstanding the provisions of Sections 94, 98 and 106 of the Water Industry Act 1991, no development shall commence until details of a scheme, including phasing, for the satisfactory provision of sufficient capacity within the public sewerage system to meet the needs of the approved development have been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the scheme so approved unless otherwise approved in writing by the Local Planning Authority.  
REASON: To prevent environmental and amenity problems arising from flooding.**

- 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 the building envelope of the houses and flats hereby permitted 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 outdoor amenity areas. Unless otherwise agreed in writing, the effectiveness of the noise attenuation measures shall be demonstrated through validation noise monitoring with the results submitted to and approved in writing by the Local Planning Authority before any dwelling is occupied. Furthermore, the applicant/developer shall identify any windows that need to remain closed in order for the internal noise environment to meet the required standards. Such windows shall be fixed closed and be non-openable with alternative means of ventilation provided for those rooms affected.

**REASON: To protect occupants from externally generated noise.**

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

- 16 **Development shall not commence until detailed plans and sections of roads proposed within the site, including the emergency access and including information on gradients, have been submitted to and approved in writing by the Local Planning Authority and no building shall be first occupied until the roads providing access to it from the public highway have been constructed and completed in accordance with the details approved, apart from final surfacing.**

**REASON: To ensure that the proposed roadworks are constructed to**



**an adequate standard.**

- 17 **Development shall not begin until details of the improvements to the junction between the proposed estate road and the highway have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until the subject junction has 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 estate road.**
- 18 No dwelling shall be occupied until triangular vision splays have been provided on each side of all accesses on to the new roads. Such vision splays shall measure 1.8m along the fence, wall, hedge or other means of definition of the front boundary of the site, and 1.8m measured into the site at right angles to the same line along the side of the new access drive. The vision splays so described and on land under the applicant's / developer's control shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway level.  
REASON: To provide adequate visibility between the existing highway and the proposed accesses, and to make the accesses safe and convenient for the traffic which is likely to use them.
- 19 The development shall not be occupied until a residential travel plan has been submitted to and approved in writing by the Local Planning Authority. Such travel plan shall include:
- Details of predicted travel to and from the site and targets to reduce car use;
  - Details of existing and proposed transport links, to include links to both pedestrian, cycle and public transport networks;
  - Proposals and measures to minimise private car use and facilitate walking, cycling and use of public transport;
  - A timetable for implementation of measures designed to promote travel choice;
  - Plans for monitoring and review, annually for a period of 5 years at which time the obligation will be reviewed by the planning authority;
  - Details of provision of cycle parking in accordance with Council guidelines;
  - Details of marketing and publicity for sustainable modes of transport to include site specific welcome packs. Such welcome packs shall include walking, cycling, public transport and rights of way information;
  - Details of the appointment of a travel plan co-ordinator.

No part of the development shall be occupied prior to implementation of those parts identified in the approved travel plan as capable of being implemented prior to occupation. Those parts of the approved travel plan that are identified as being capable of being implemented after occupation

shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

REASON: To promote the use of sustainable modes of transport.

- 20 The maximum gradient of the vehicular access shall be 10% (1 in 10).  
REASON: In the interests of the safety of persons using the access and users of the highway.
- 21 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, or any amendments thereto, the garage accommodation on the site shall not be used for any purpose other than as garage accommodation, unless permission has been granted by the Local Planning Authority on an application made for that purpose.  
REASON: To retain off-street parking provision and thereby minimise the potential for on-street parking which could adversely affect the convenience of road users.
- 22 The driveway length in front of the garages shall be at least 6.0m as measured from the garage doors to the highway boundary.  
REASON: To ensure that parked vehicles do not adversely affect the safety and convenience of road users by overhanging the adjoining public highway.
- 23 If the proposed road is not constructed to the full length and layout illustrated on the approved plan, a temporary turning space for vehicles shall be constructed within the site in a position to be approved in writing by the Local Planning Authority before any building taking access from the road is occupied.  
REASON: To avoid the need for vehicles to reverse into or from the highway in the interest of road safety.
- 24 **Development shall not commence until details of a scheme for the parking of cycles on the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before each phase of the development hereby permitted is first occupied or brought into use and thereafter retained for this purpose.**  
**REASON: To ensure the provision of adequate cycle parking to meet the needs of occupiers of the proposed development in the interests of encouraging the use of sustainable modes of transport.**
- 25 Details of bin storage/collection points shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling.  
REASON: In the interest of the amenity of the area.
- 26 **Development shall not commence until details of a scheme for the provision of highway lighting within the site, to incorporate the use of light emitting diodes (LED lighting), has been submitted to and approved in writing by the Local Planning Authority. No building within any phase of the development hereby permitted shall be occupied until the highway lighting serving that phase has been installed in accordance with the approved details.**  
**REASON: To ensure that the proposed highways are adequately lit.**

- 27 **Development shall not commence until details of a scheme to restrict the speed of traffic on the estate roads have been submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the scheme has been fully implemented in accordance with the approved details.**  
**REASON: In the interest of road safety.**
- 28 Fixed 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 shall 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.  
REASON: To prevent nuisance from noise and to safeguard the amenities of the area.  
(Policy BE8, S.B.L.P.R.).
- 29 **Development shall not commence until details of the treatments proposed for the boundaries of the site with adjoining residential and commercial land uses have been submitted to and approved in writing by the Local Planning Authority.**  
**REASON: To control the appearance of the proposed development in the interests of safeguarding the amenities of the surrounding area.**  
**(Policy BE8, S.B.L.P.R.).**
- 30 The low brick wall on the north-eastern side of the tree belt adjacent the western boundary of the site shall be retained in its existing position and at its existing height and length. There shall be no reduction in its height or length and no sections of the wall shall be removed without the prior written approval of the Local Planning Authority.  
REASON: To safeguard existing trees on the site.  
(Policy BE8, S.B.L.P.R.).
- 31 In respect of the building comprising Plots 149 to 172 and the Class A1 and Class D1 units, no tanks, structures, extractor flues and vents, air conditioning units, telecommunications masts and aerials and satellite dishes shall be installed on the roofs or walls of the building without the prior written approval of the Local Planning Authority.  
REASON: To control the appearance of the building in the interests of the amenity of the area and to avoid doubt.  
(Policy BE8, S.B.L.P.R.).
- 32 Notwithstanding the details submitted with the application, further particulars of the hours of opening of the proposed Class A1 and Class D1 units and the arrangements for servicing the units shall be submitted to and approved in writing by the Local Planning Authority.  
REASON: To control the development in the interests of the amenity of the area.  
(Policy BE8, S.B.L.P.R.).
- 33 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans numbered 100A, 101A, 102, 103, 104, 105, 106, 107, 108, 109A, 110A, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126,

127, 128, 129 and 130.

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

## **Notes to Applicant**

1. In accordance with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the Council hereby certify that the proposal as hereby approved conforms with the relevant policies of the Development Plan comprising of the 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:

### **Bedfordshire Structure Plan 2011**

Policy 25 - Infrastructure.

### **South Bedfordshire Local Plan Review Policies**

BE8 - Design and environmental considerations.

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

T10 Controlling parking in new development.

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

H3 - Meeting local housing needs.

H4 - Providing 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 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the reason for any condition above relates to the Policies as referred to in the 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. Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. The site layout should therefore take this into account and accommodate those assets within prospectively adoptable highways or public open space. If this is not practicable, then the applicant/developer will need to ask for assets to be diverted under Section 185 of the Water Industry Act 1991 or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.
5. The applicant/developer is advised that the requirements of the New Roads and Street Works Act 1991 will apply to any works undertaken within the limits of the existing public highway. Further details can be obtained from

the Central Bedfordshire Council's Highway Help Desk, P.O. Box 1395, Bedford, MK42 5AN.

- 6. The applicant is advised that if it is the intention to request Central Bedfordshire Council as Local Highway Authority, to adopt the proposed highways as maintainable at the public expense then details of the specification, layout and alignment, width and levels of the said highways together with all the necessary highway and drainage arrangements, including run-off calculations shall be submitted to the Development Planning and Control Group, Central Bedfordshire Council's Highway Help Desk, P.O.Box 1395, Bedford MK42 5AN. No development shall commence until the details have been approved in writing and an Agreement made under Section 38 of the Highways Act 1980 is in place.
  
- 7. All roads to be constructed within the site shall be designed in accordance with Central Bedfordshire Council's publication "*Design in Central Bedfordshire: A Guide to Development - Design Supplement 7: Movement, Streets and Places*" and the Department for Transport's "*Manual for Streets*", or any amendment thereto.

**DECISION**

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