

Item No. 07**SCHEDULE B**

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

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. 2429/100A 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 Save for the parking spaces to be provided in association with the proposed Class A1 and Class D1 units hereby permitted, 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 units for residential purposes and no trade or business shall be carried out therefrom.

REASON: To prevent the introduction of any commercial use within the residential areas of the site. (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. 2429/100A (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. 2429/100A (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 L_Amax (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.

[Notes:-

1. In advance of consideration of the application the Committee were advised of consultation received as set out in the Late Sheet attached to these Minutes.
2. In advance of consideration of the application the Committee received representations made in accordance with the Public Participation Scheme.

3. Condition 10 has been amended to read as above and conditions 5, 11 and 12 had their drawing no altered from 101A to 100A.]