

SCHEDULE B

APPLICATION NUMBER	CB/10/02067/REN
LOCATION	Central Bedfordshire College, Kingsway, Dunstable, LU5 4HG
PROPOSAL	Extension to the time limit for implementation of planning permission SB/OUT/04/0166 - Part demolition, alterations and extensions to existing college, including provision of amenity space and 192 parking spaces, and construction of residential development with associated parking, landscaping and public open space. (outline)
PARISH	Dunstable
WARD	Dunstable Downs
WARD COUNCILLORS	Cllrs Paul Freeman & Tony Green
CASE OFFICER	Mr C Murdoch
DATE REGISTERED	10 June 2010
EXPIRY DATE	09 September 2010
APPLICANT	Central Bedfordshire College
AGENT	Aragon Land and Planning UK LLP
REASON FOR COMMITTEE TO DETERMINE	Major application contrary to policy
RECOMMENDED DECISION	Rep PP - New Time Limit - Granted

Site Location:

Central Bedfordshire College is on the north-eastern side of the right-angled bend at the junction of Kingsway and Court Drive. The application site comprises the existing college buildings and their immediate surroundings, the greater part of an area of college-owned informal open space land and the main college car park. It has a maximum width of 166m, a maximum depth of 243m and an area of some 3.68ha. To the north west of the site is Go Bowling's car park and a small parcel of college-owned open space land that adjoins a larger public open space area associated with Dunstable Leisure Centre, to the north east is the former Luton to Dunstable railway line, the proposed route of the Luton Dunstable Busway, to the south east is the town centre link road and to the south west is Kingsway and the forecourt of Dunstable Leisure Centre.

The Application:

This is an application for a new outline planning permission to replace an existing outline planning permission in order to extend the time limit for implementation. The existing outline permission, reference SB/OUT/04/0166, was issued in September 2005 following the completion of a S106 Agreement.

As before, the current outline application, with all detailed matters reserved for future approval, seeks permission for the principle of refurbishment and redevelopment of the college buildings, replacement car parking and residential

development on the north-eastern part of the site, with some retention of some enhanced public open space. The residential development is seen by the College as 'enabling development' essential to the financial viability of its proposals to improve the Kingsway site. The new scheme, which would provide a higher quality facility for an improved curriculum offer and wider local participation in education would involve demolition and new build of some 2,000sqm, facade improvements and general refurbishment. The replacement 192-space car park would be provided on land between the College and the Go Bowling car park. Access to the new car park would be off the town centre link road and would serve both the residential site on its north-eastern side and the college site on its south-western side. The illustrative residential layout (brought forward from 2004) shows a development of 144 apartments in three to five storeys and incorporates 144 parking spaces of which 49 spaces would be undercroft parking.

RELEVANT POLICIES:

National Policies (PPG & PPS)

PPS1 - Delivering Sustainable Development.
PPS3 - Housing
PPS4 - Planning for Sustainable Economic Growth.
PPS9 - Biodiversity and Geological Conservation.
PPS10 - Sustainable Waste Management.
PPG13 - Transport.
PPG16 - Archaeology and Planning.
PPG17 - 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: Luton/Dunstable/Houghton Regis & Leighton-Linslade.
SS5 - Priority Areas for Regeneration: Luton/Dunstable/Houghton Regis.
SS6 - City and Town Centres.
E1 - Job Growth.
E2 - Provision of Land for Employment.
H1 - Regional Housing Provision.
H2 - Affordable Housing.
T4 - Urban Transport
T8 - Local Roads.
T9 - Walking, Cycling and other Non-Motorised Transport.
T14 - Parking.
ENV1 - Green Infrastructure.
ENV3 - Biodiversity and Earth Heritage.
ENV7 - Quality in Built Environment.
WM1 - Waste Management Objectives.
WM6 - Waste Management in Development.

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 25 - Infrastructure.

South Bedfordshire Local Plan Review Policies

SD1 - Sustainability keynote policy.

BE8 - Design and environmental considerations.

T4 - Public transport services along former Luton/Dunstable Rail Line.

T7/8 Controlling supply of public car parking.

T10 - Controlling parking in new developments.

T11 - Securing contributions for alternatives to parking.

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

H3 - Meeting local housing needs

H4 - Providing affordable housing.

R10 - Children's play area standard.

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

R12 - Protection of recreational open space.

Dunstable Town Centre Masterplan February 2011

Planning History

The main blocks were constructed between 1959 and 1973, with temporary hut accommodation following in the 1980s and 1990s.

SB/OUT/04/0166	Outline permission for part demolition, alterations and extensions to existing college, including provision of amenity space and 192 parking spaces and construction of residential development with associated parking, landscaping and public open space.
SB/ARM/08/0464	Approval of details of access (Reserved matter in respect of access pursuant to Condition 1 of SB/OUT/04/0166).
SB/ARM/08/0921	Approval of details of demolition of existing buildings and erection of new college building with associated parking (Reserved matters in respect of siting, design and external appearance pursuant to Condition 1 of SB/OUT/04/0166).
SB/ARM/08/0923	Approval of details of residential development comprising 123 dwellings (Reserved matters in respect of siting, design and external appearance pursuant to Condition 1 of SB/OUT/04/0166).
SB/ARM/08/0926	Approval of details of landscaping of open space and amenity areas (Reserved matters in respect of landscaping pursuant to Condition 1 of SB/OUT/04/0166).

**Representations:
(Parish & Neighbours)**

Dunstable Town Council	No objection in principle to college redevelopment subject to satisfactory traffic impact study and confirmation from Highways Officer as to adequacy of parking provision. No objection in principle to housing development to facilitate college scheme. However, concerned over suggestion that development will not include any affordable housing. In addition, would like detail of previously agreed S106 re-negotiated and would like to be involved in any appropriate discussions regarding S106 contributions. Expect detailed planning application to be made in accordance with Town Centre Masterplan.
Neighbours	No representations received.

Consultations/Publicity responses

Highways Officer	No objection - proposals will not adversely affect A5 at this location.
Environment Agency	No objection in principle; recommend condition and informatives.
Sport England	No comment.
Bedfordshire Police ALO	No objection.
Housing Development Officer	Acknowledge College's concerns with current economic difficulties and associated problems in housing market. But, if economically viable, would like to see provision of affordable housing within residential site. Council has great need for adapted units near town centres and should negotiate modest amount of affordable housing on each scheme that could be mobility standard. In scheme of 144 flats, four 2-bed ground floor accessible units for rent for elderly/disabled persons located in central Dunstable would be very useful. Such provision would still leave bulk of uplift in land value to College.
Education Officer	With regard to justification for contribution being sought, have recently undertaken detailed analysis of impact of known and approved developments in Dunstable/Houghton Regis area, as well as new applications that are being received, on education infrastructure over coming years. This has indicated that there will be increasing pressure on education provision in area and expected shortfall in places at lower and middle schools in Dunstable. Whilst some schools are already oversubscribed and few have large number of surplus places, cumulatively, it can be seen that spare

capacity at schools in latter category will be used by existing or expected overcapacity of others. Trend of falling rolls at upper school level means that, for time being, will not be seeking contributions from new development, as there is sufficient surplus capacity to cater for any additional pupil yield resulting from new housing.

Traditional basis upon which assessing need is established is through use of catchment areas, that is, looking at catchment of lower, middle and upper schools for given development using pre-defined catchment areas. In respect of this development catchment schools are Icknield Lower School, Priory Middle School and All Saints Academy (Upper School). However, in urban area such as Dunstable, catchment areas are not always most accurate basis for assessing need, as parental preference plays larger part and traditional 'catchment' areas for schools are not as relevant, particularly given crossover of catchment boundaries due to close proximity of schools and number of faith schools in town. This further justifies need to look at provision on cumulative basis or, at very least, splitting town into 'north' and 'south'. A505 and B489 running through centre of town are generally considered to constitute local 'boundary', with exception of few schools clustered around this 'divide' which attract children from both areas, for example, Ashton St Peters Lower School, Icknield Lower School and Priory Middle School. Houghton Regis must be considered separately, given its distance from Dunstable schools. However, All Saints Academy (on Dunstable/Houghton Regis boundary) is catchment upper school for pupils living in both Houghton Regis and parts of Dunstable.

Analysis gives breakdown of latest figures relating to school capacities and NOR (numbers on roll) forecasts by school and also a cumulative total for 'north' and 'south' Dunstable and Houghton Regis at lower and middle school levels. It should be noted that forecasts alone do not take into account impact of known or proposed developments in area and any resulting expected increase in pupil numbers. Analysis therefore also provides details of expected pupil yield to be generated by these developments, as well as any new development proposals that are in process of being considered.

Contribution is based on total of 144 two bed flats which equates to 72 'full product' units. Total contribution is £382,639.68 comprising £49,775.04 for early years education, £165,916.80 for lower schools and £166,947.84 for middle schools.

Play and Open Space Officer	Have met Town Council Clerk and head of parks section to discuss S106 contributions. Grove House Gardens Play Area is meant to be NEAP, that is, neighbourhood sized play area and while it does not quite reach this standard, it is of reasonable size and condition. This play area will be closest for future occupiers of residential site and contribution still required to increase its facilities to cater for additional demand placed on it - contribution of £40,000 would be appropriate. With regards to recreational facilities in vicinity of development, contribution of £120,000 is still relevant and will fund improvements to sports pavilions at Luton Road Recreation Ground and Bennett Memorial Recreation Ground.
Environmental Health Officer	Recommend conditions in respect of (a) provision of sound insulation for housing against externally generated noise, (b) controlling noise from plant, machinery and equipment associated with college development, (c) controlling effluvia from cooking processes associated with college development, (d) investigation of ground conditions.
Tree and Landscape Officer	Wording of conditions imposed on existing permission needs to be improved because boundary planting alongside proposed busway is more strategically important following loss of tree cover within corridor of former railway and more adequate safeguards need to be implemented to ensure protection. Established tree and shrub planting along south-eastern site boundary abutting town centre link road should be protected by appropriately worded conditions.
Archaeological Officer	<p>Application site is very archaeologically sensitive. It is on edge of Dunstable's Roman and medieval town cores which are regionally important heritage assets. Proposed development will have negative and irreversible impact on any archaeological remains site contains and on significance of heritage asset. This impact was recognised in original planning permission for this development which contained condition (number 24) requiring implementation of approved scheme of archaeological investigation that would record and advance understanding of heritage assets of the Roman and medieval towns of Dunstable.</p> <p>No objection to renewal of this planning permission provided that archaeological condition (24) is attached to renewed permission.</p>
Assistant Project Manager Luton Dunstable Busway	No comment, although developer should provide indemnity against claims if dwellings are built and occupied prior to busway becoming operational.

Determining Issues

The main considerations of the application are;

1. Principle of the development and background to the current application
2. Section 106 Agreement

Considerations

1. Principle of the development and background to the current application

As stated above, this is an application for a new outline planning permission to replace an existing outline planning permission in order to extend the time limit for implementation.

The existing outline permission (SB/OUT/04/0166) was issued in September 2005. The reserved matter in respect of access (SB/ARM/08/0464) was approved in August 2008 and that in respect of landscaping (SB/ARM/08/0926) was approved in December 2008. Reserved matters in respect of the siting, design and external appearance of a new college building (SB/ARM/08/0921) and a residential development comprising 123 dwellings (SB/ARM/08/0923) were also approved in December 2008.

Further to these approvals, the College had a clear intention to sell part of the land as a residential site and thereafter commence construction of the new college building. Unfortunately, the College has encountered a number of difficulties that, to date, have prevented the replacement college scheme from going ahead. The Planning Statement submitted in support of the application sets out the background to the current proposal.

- Mindful of the requirement to continue to meet the needs of the local community by presenting a diverse and effective curriculum offer within a modern setting, the College first began examining the future plans for its estate in 2001-2.
- Student numbers have grown by 100% in the period since this first review - increasing by 32% alone in 2009. The challenge of delivering a quality educational experience in the ageing buildings is becoming increasingly difficult.
- A property strategy, approved by the Learning and Skills Council (LSC - the funding agency for the further education sector), originally allowed for a relatively modest refurbishment programme and would have been subject to an application to the LSC for capital funding.
- During the years 2002-2006, the LSC's Building Colleges for the Future (BCF) programme became more ambitious, with the LSC's Chief Executive instructing that refurbishment schemes would not be funded and only complete new build projects would be successful in attracting the support of the BCF programme.
- The College submitted an Application in Principle (AiP) in the summer of

2006 for a £34m demolition and new build project that involved clearance of the entire Kingsway site and construction of a new 12,000sqm college building. The AiP was approved in May 2008.

- The LSC's BCF programme collapsed in February 2008, although colleges were only informed of this in January 2009. In July 2009, the House of Commons' Public Accounts Committee described the LSC's handling of its college building programme as 'catastrophic mismanagement' of the capital process and associated funding. It resulted in a £2.7 billion debt, with 144 college building contracts having to be terminated abruptly, and leaving many colleges with huge financial penalties for breach of contract with civil engineering companies. Andrew Selous MP made representations on behalf of the College which is entirely blameless for this debacle.
- Although the College then entered into the LSC's prioritisation process for its remaining funds, it was not successful and was advised in July 2009 that its project could not proceed.
- The College then had to take stock and investigate what opportunities were available to secure alternative funding to replace the £27m LSC grant. In revising its property strategy a number of constraints needed to be taken into account - (a) The maintenance backlog - the College reduced maintenance because of the likely redevelopment. (b) The College's ability to borrow money has been impacted adversely by the LSC's actions and the banks' current approach to lending. (c) The likely income from the sale of the residential land. (d) The College's increasing educational commitments and the pressure on the existing buildings evidenced by a shortage of classrooms.
- The revised property strategy is estimated to cost in the order of £10m and the proposed works are likely to include demolition and new build of some 2,000sqm, facade improvements and general refurbishment.
- The college facilities are in desperate need of investment and it is imperative that the existing outline permission is renewed to allow the College more time to redevelop the Kingsway site.

The concept of the original 2004-5 scheme was to secure a value from the residential development that could then be used in conjunction with other funding sources to deliver the redevelopment and enhancement of college facilities. The funding difficulties experienced by the College have prompted a need to revisit the existing outline permission and extend the period for its implementation. However, the fundamentals of the scheme are in essence the same - residential development part funding refurbished and new build college facilities. Whilst national, strategic and local policies have evolved since the existing outline permission was granted, such policies are not so different that the principle of the proposed development is no longer acceptable.

The current application reflects the College's revised property strategy and acknowledges the difficulties the College has faced in funding the regeneration of the Kingsway site. It should be noted that the College site forms part of a wider area proposed for renewal in the Dunstable Town Centre Masterplan.

There is therefore no objection in principle to the proposal to extend the time limit for implementing the existing outline permission.

2. Section 106 Agreement

This existing permission was issued following the completion of a S106 Agreement, the details of which are as follows.

- Delivery of college redevelopment
- College transportation contribution - £44,000
Residential transportation contribution - £22,000
- Provision of college open space land and art display
- Provision of footpath link between town centre link road and college open space land
- Public art contribution - £10,000
- Recreational facilities contribution - £120,000
- Grove House Gardens play area contribution - £80,000
- Education contribution - £20,000
- Landscaped amenity areas contribution - £ depends on area and use of per sqm multiplier

With regard to applications to extend the time limit for implementing existing permissions, the DCLG publication "Greater flexibility for planning permissions" (November 2009) advises that

"As most s.106 agreements/unilateral undertakings are linked to a particular named planning application, there may be a need to consider a simple supplementary deed to link the obligation to the new permission. It may be the case that the LPA or the applicant may seek changes to the obligation in order to make the proposal acceptable in changed circumstances. If a fresh obligation is necessary, this is possible, as long as the requirements set out in primary legislation and the guidance set out in Circular 05/2005 is followed."

(Note: Circular 05/2005 sets out national guidance on planning obligations/S106 Agreements.)

The S106 Agreement attached to the existing 2005 outline permission reflects the corporate priorities of the former South Bedfordshire District Council. With respect to the current application, whilst the policy considerations are for the most part unaltered, the 2011 local government financial landscape within which the unitary authority must deliver its services is significantly different. In changed circumstances any new S106 Agreement needs to reflect Central Bedfordshire Council's corporate priorities. In this regard the following developer contributions are sought.

- Delivery of College redevelopment.
- Affordable housing - four 2-bed ground floor accessible units for elderly/disabled persons.
- Education - £382,639.68
- Improvements to Grove House Gardens play area - £40,000
- Improvements to sports pavilions at Luton Road Recreation Ground and Bennett Memorial Recreation Ground - £120,000
- College transportation contribution - £44,000
Residential transportation contribution - £22,000
- Provision of college open space land and art display
- Provision of footpath link between town centre link road and college open space land
- Public art contribution - £10,000
- Landscaped amenity areas contribution - £ depends on area and use of per sqm multiplier

The College advises that whilst its priority is to develop and improve facilities at the Kingsway site, such improvements will depend on:

- A capital receipt from the sale of the residential site
- Utilising all available funds
- Possible borrowings

As mentioned above, total expenditure on the proposed redevelopment scheme will be in the order of £10m. The land sale will provide around £4-5m. The College argues that whilst some of the funding shortfall could be borrowed, the gap between the build/regeneration costs and the income is only too apparent. Moreover, in the current financial/lending market it is essential that the value of any loan is limited. In other words, the capital receipt from the land sale needs to be as high as possible.

The College strongly takes issue with the level of S106 contributions currently being sought in comparison with those sought in 2005 in association with the existing outline permission and wishes to draw the Council's attention to the following points.

- The planning system has a role to play in supporting economic development and providing the conditions for economic recovery. The importance of the redevelopment of the College purely in terms of its economic benefits is a material consideration that should be afforded significant weight.

- The impact of requiring the provision of affordable housing is that it will suppress the value of the residential site. At the time the existing S106 was being negotiated, whilst the Development Plan had a requirement for affordable housing, the former South Bedfordshire District Council accepted that the redevelopment of the College was a corporate priority and no affordable housing needed to be provided.
- In Circular 05/2005, the Secretary of State advises that planning obligations may only be sought where they meet certain specified tests. Such tests require, amongst other things, that planning obligations must be "*fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects.*" The requirement for a contribution towards educational facilities is likely to thwart the longer term development of the College site and the investment that the College makes in education. In the event that this prevents the College redevelopment from going ahead then such requirement could be deemed unreasonable. It needs to be recognised that even if there is no education contribution, the College will still spend money on education and invest in the local community. It is questioned whether the education contribution, when set against this 'fall back' position, is actually reasonable or necessary.

The educational and economic benefits that will accrue from the proposed redevelopment of the College site are not in dispute. However these benefits need to be weighed against the need to provide some affordable housing and the need to ensure that the educational requirements of the pupil yield derived from the new housing is adequately catered for.

A key housing priority for the Council is to deliver as many two bed accessible wheelchair/mobility standard homes as possible each year. These can be ground floor flats. The affordable housing requirement in the current application - four two bed ground floor accessible units - is modest and acknowledges the economic viability case submitted by the applicants. The Housing Development Officer advises that such provision would still leave the bulk of the uplift in land value to the College.

With regards to the education contribution, the Education Officer argues that the Council cannot be seen to look favourably on an application and entertain the possibility of waiving or reducing contributions simply because the development site is owned by the College. The School Organisation and Capital Planning Team have undertaken a detailed analysis of the impact on education infrastructure over the coming years of known and approved developments in the Dunstable/Houghton Regis area, as well as new proposals being received. This indicates that there will be increasing pressure on education provision in the area and an expected shortfall in places at lower and middle schools in Dunstable. Whilst some schools are already oversubscribed and a few have a large number of surplus places, cumulatively, it is clear that the spare capacity at schools in the latter category will be used by the existing or expected overcapacity at schools in the former category. The trend of falling rolls at upper school level means that, for the time being, contributions towards the provision of upper school places will not be sought as there is sufficient surplus capacity to cater for any additional pupil yield as a result of new housing.

The College has questioned why the education contribution sought as part of the

current application - £382,000 - has increased so markedly over and above that sought as part of the existing outline proposal. Although the financial contribution of £20,000 was a reduced contribution, the then County Education Authority accepted a contribution in kind valued at £317,000 for the provision of new teaching space at the Kingsway site for fifteen 16-19 year olds, the provision of new vocational training places in construction trades at the Kingsland, Houghton Regis site for 14-16 year olds and increased rental income as a result of the growth at the Kingsland site. It should be noted that the College is a private concern and if the impact of the proposed residential development on lower and middle school infrastructure in the Dunstable/Houghton Regis area is not mitigated by an adequate financial contribution towards additional school places, such educational facilities would have to be paid for from the public purse.

In respect of public open space, whilst the Kingsway site is private land, the college open space, which amounts to some 1.72ha, was designated as public open space on the Luton and Dunstable Town Map (April 1965). In addition, evidence suggests a playing field use on part of the land until the mid-1980s. The college open space is functionally part of the open space adjoining Dunstable Leisure Centre, with no discernible boundary.

Local Plan Review Policy R12 states that *"...planning permission will not be given for the development of open space for non-open recreational purposes. Exceptions to this policy will only be considered where the proposed new development is essential for the improvement, enhancement or enlargement of an existing open space or area for sporting or recreational use and where only a small part of the existing open space will be lost."*

The proposed residential development does not meet the above policy exception and would therefore be contrary to Policy R12. PPG17 *'Planning for Open Space, Sport and Recreation'* makes provision for cases where some development could be acceptable if it leads to an overall improvement in the quality of open space. The nearby Grove Theatre development, for example, resulted in a qualitative improvement to formal and informal open space provision and was deemed acceptable as an exception to Policy R12 on this basis. The Play and Open Space Officer, in consultation with the Town Council, recommends that the new S106 Agreement should require contributions to be made towards improvements to facilities at Grove House Gardens Play Area and improvements to the sports pavilions at Luton Road Recreation Ground and Bennett Memorial Recreation Ground. Such contributions would be appropriate as mitigation for the loss of part of the college open space as a result of the proposed residential development.

Recommendation

That Planning Permission be GRANTED subject to the completion of an Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the following planning obligations:

- Delivery of College redevelopment.

- Affordable housing - four 2-bed ground floor accessible units for elderly/disabled persons.
- Education - £382,639.68
- Improvements to Grove House Gardens Play Area - £40,000
- Improvements to sports pavilions at Luton Road Recreation Ground and Bennett Memorial Recreation Ground - £120,000
- College transportation contribution - £44,000
Residential transportation contribution - £22,000
- Provision of college open space land and art display
- Provision of footpath link between town centre link road and college open space land
- Public art contribution - £10,000
- Landscaped amenity areas contribution - £ depends on area and use of per sqm multiplier

and subject to the following:

- 1 **Before development of the College Phase or the Residential Phase begins, the approval of the Local Planning Authority shall be obtained in respect of all the reserved matters, namely the**
 - **access**
 - **appearance**
 - **landscaping**
 - **layout; and**
 - **scale, within the upper and lower limit for the height, width and length of each building stated in the application for planning permission in accordance with Article 4.**

Reason: To comply with Article 4 of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

- 2 (a) Application for the approval of the reserved matters for the college phase or the residential phase shall be made to the Local Planning Authority within three years from the date of this permission.

(b) The development shall begin not later than whichever is the later of following dates:

 - five years from the date of this permission, or
 - two years from the final approval of the reserved matters or, if approved on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3 **Before development of the College Phase or the Residential Phase begins, a landscaping scheme for that phase to include any hard surfaces and earth mounding shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented by the end of the full planting season immediately following the completion and/or first use of any separate part of the relevant development phase (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.)**

- 4 **Before development of the College Phase or Residential Phase begins, a Tree Survey and Arboricultural Implication Assessment shall be carried out and submitted to the Local Planning Authority, conforming to the requirements of BS 5837 : 2005 "*Trees in Relation to Construction*", identifying the importance of the boundary planting along the northern and south-eastern boundary, and which calculates the Root Protection Areas (RPA) and existing canopy clearance needed to prevent damage to the retained trees.**

**Reason: To accurately identify and make provision for adequate protection measures on all strategically important boundary trees.
(Policy BE8, S.B.L.P.R.)**

- 5 **Before development of the College Phase or the Residential Phase begins, a Tree Protection Plan shall be submitted which clearly shows the position and design specification of protection measures of all retained trees on the northern and south-eastern boundary of the site. The protection measures shall enclose the area of root protection (RPA) and canopy spread, as identified in the Tree Survey and Arboricultural Implication Assessment, thus creating a Construction Exclusion Zone. The protection measures shall conform with British Standard 5837 : 2005 "*Trees in Relation to Construction*" (Section 9) and built to the specification shown in Figure 2 of this Standard.**

**Reason: To ensure the adequate protection of the rooting medium and canopy of strategically important trees.
(Policy BE8, S.B.L.P.R.)**

- 6 **Before development of the College Phase or the Residential Phase begins, a planting scheme shall be submitted to the Local Planning Authority for approval, which clearly shows the species and sizes of appropriate trees and shrubs suitable for the size and scale of the development, along with the appropriate planting and maintenance specification.**

**Reason: To ensure the satisfactory replacement of trees felled in the course of the development and to visually soften and integrate the scheme into the urban landscape.
(Policy BE8, S.B.L.P.R.).**

- 7 **Before development of the College Phase or the Residential Phase begins, a scheme for the parking of vehicles associated with that phase shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall comply with the standards of the Local Planning Authority and shall be fully implemented before development on the relevant phase is first occupied or brought into use and thereafter retained for this purpose.**

**Reason: To ensure provision for car parking clear of the highway.
(Policy T10, S.B.L.P.R.).**

- 8 **Before the development of the College Phase or the Residential Phase is first occupied or brought into use, space shall be provided within the site of that phase for the loading, unloading and parking of vehicles in accordance with the standards of the Local Planning Authority 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.).**

- 9 **Before development of the College Phase or the Residential Phase begins, a scheme for screen fencing and/or screen walling for that phase shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the relevant phase of 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.).**

- 10 **This permission does not extend to the sketch layout and/or elevations submitted with the application.**

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

- 11 **The overall density of housing on the Residential Phase shall be not exceed 144 one or two bedroom units in total and shall not exceed five storeys in height, including any undercroft parking, unless otherwise approved by the express permission of the Local Planning Authority.**

**Reason: To ensure that the residential development takes place at no higher a density than is compatible with the characteristics of the site and its surroundings.
(Policy BE8, S.B.L.P.R.).**

- 12 **Before development of the College Phase or the Residential Phase begins, samples of the materials to be used for the external walls and roofs of all new buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.**

**Reason: To control the appearance of the buildings.
(Policy BE8, S.B.L.P.R.).**

- 13 **Before development of the College Phase or the Residential Phase begins, details of the arrangements to be made for the collection, storage and disposal of solid waste emanating from the college premises and from the residential units shall be submitted to and approved in writing by the Local Planning Authority.**

**Reason: To ensure control over the development in the interests of amenity and public safety.
(Policy BE8, S.B.L.P.R.).**

- 14 No external lighting systems for either phase of development shall be installed without the prior written approval of the Local Planning Authority.

Reason: To protect the amenity of the locality and of neighbouring properties and highway safety.
(Policy BE8, S.B.L.P.R.).

- 15 The college premises hereby permitted to be altered and extended shall only be used for the purposes of non-residential education and training and ancillary purposes and for no other purpose in Class D 1 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).

Reason: To define the extent of the permission and to avoid doubt.
(Policy BE8, S.B.L.P.R.).

- 16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions to the dwellings hereby permitted shall be carried out without the grant of further specific permission from the Local Planning Authority.

Reason: To control the external appearance of the buildings in the interests of the amenities of the area.
(Policy BE8, S.B.L.P.R.).

- 17 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), the provision within the curtilage of any dwelling within the Residential Phase of any building or enclosure, swimming or ornamental pool required for purposes incidental to the enjoyment of the dwelling, or the alteration of such a building, enclosure, swimming or ornamental pool, shall not be carried out without the grant of further specific permission from the Local Planning Authority.

Reason: To control the development in the interests of the amenities of the area.

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

- 18 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the Residential Phase without the prior written approval of the Local Planning Authority.

Reason: To control the development in the interests of the amenities of the area.

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

- 19 **Before development of the College Phase or the Residential Phase begins, details of the proposed surface and foul water drainage systems for the relevant phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the drainage works shall be constructed in accordance with the approved details before that phase of the development is first occupied or brought into use.**

Reason: To prevent pollution of the water environment.

- 20 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.).

- 21 In respect of the College Phase, equipment shall be installed to effectively suppress and disperse fumes and/or odours produced by cooking and food preparation, and the equipment shall be effectively operated for so long as the commercial food use continues. Full details of the method of odour abatement equipment to be used, including predicted noise levels of the equipment in operation, shall be submitted to and approved by the Local Planning Authority prior to the installation of the equipment. The approved equipment shall be installed and in full working order to the satisfaction of the Local Planning Authority prior to the use hereby permitted commencing.

Reason: In order to prevent the adverse impact of odours arising from cooking activities on the amenity of nearby residents.

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

- 22 The kitchen ventilation system approved in accordance with Condition 21, together with any other external plant, machinery and equipment installed or operated in connection with this permission, shall be so enclosed, operated and or attenuated that noise arising from such plant shall not exceed a level of 5dBA below the existing background level (or 10dBA below if there is a tonal quality) when measured or calculated according to BS4142:1997, at the boundary of any neighbouring residential dwelling. The applicant shall clearly demonstrate that noise from the installed plant achieves the required noise standard, prior to the use hereby permitted commencing.

Reason: To protect neighbouring residents from any adverse impact from noise arising from the kitchen extract ventilation system or other external plant on the premises.

- 23 **Prior to the commencement of the College Phase or the Residential 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 I 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 I Desk Study, a Phase II 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 II investigation, a Phase III detailed scheme for 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 IV 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 should be adhered to.

Applicants are reminded that, should groundwater or surface water courses be at risk of contamination during or after development, the Environment Agency should be approached for approval of measures to protect water resources separately, unless an Agency condition already forms part of this permission. The site is located on a major aquifer and therefore the Environment Agency should be consulted.

Reason: To protect human health and the environment.

24 **No development of the College Phase or the Residential Phase shall take place within the site of the relevant phase until the applicant or developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should be undertaken by the Local Authority Archaeological Service or other competent archaeological organisation approved by the Local Planning Authority.**

Reason: To ensure that remains of archaeological importance likely to be disturbed in the course of the development are adequately recorded.

25 **No development of either the College Phase or the Residential Phase shall begin until details of the junction between the proposed estate road and the highway have been approved by the Local Planning Authority and no building on either phase shall be occupied until that 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.

26 Visibility splays shall be provided at all road junctions within the site. The minimum dimensions to provide the required splay lines shall be 2.4m measured along the centre line of the side road from its junction with the channel to the through road and 33m measured from the centre line of the side road along the channel of the through road. The vision splays required shall be provided and defined on the site by or on behalf of the developers and be entirely free of any obstruction.

Reason: To provide adequate visibility at road junction in the interest of road safety.

27 **No development of either the College Phase or the Residential Phase shall begin until the detailed plans and sections of the proposed road(s), including gradients and method of surface water disposal for that phase have been submitted to and approved in writing by the Local Planning Authority and no building on either phase shall be occupied until the section of road which provides access thereto has been constructed (apart from final surfacing) in accordance with the approved details.**

Reason: To ensure that the proposed roadworks are constructed to an adequate standard.

28 A 3.0m wide footway/cycleway shall be constructed into and through both the College Phase and the Residential Phase of the site in accordance with a scheme to be submitted to and approved by the Local Planning Authority, prior to the first occupation of any building on either phase. Any statutory undertakers' equipment or street furniture shall be re-sited to provide an unobstructed footway.

Reason: In the interests of road safety and to promote sustainable modes of transport.

- 29 Before any building on the College Phase or the Residential Phase is first occupied all on site vehicular areas for the relevant part of that phase shall be surfaced in a manner to the Local Planning Authority's approval so as to ensure satisfactory parking of vehicles outside highway limits. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

Reason: In order to minimise danger, obstruction, and inconvenience to users of the highway and of the buildings/site.

- 30 If any proposed main distributor road for either the College Phase or the Residential Phase is not constructed to the full length and layout to be approved, 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.

- 31 The detailed layout plans to be submitted for approval of reserved matters in connection with the development of either the College Phase or the Residential Phase shall illustrate a vehicular turning area within the curtilage of all buildings taking access directly from the public highway.

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

- 32 **No development of either the College Phase or the Residential Phase shall commence until wheel-cleaning facilities have been provided at all site exits for the relevant phase in accordance with a scheme submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be installed and made operational before development of the relevant phase commences and the site developer(s) shall ensure that all vehicles exiting the site use the approved wheel cleaning facilities. The wheel cleaning facilities shall be retained until the relevant phase of the development 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.

- 33 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted Site Location Plan, Drawing No. 1038/10/1.

Reason: For the avoidance of doubt.

Reasons for Granting

The proposed refurbishment and enhancement of facilities at Central Bedfordshire College's Kingsway site represents a welcome investment in the community infrastructure of Dunstable and the surrounding area. The proposed residential scheme is acceptable as 'enabling development' to part fund the improvements to the College. The consequent loss of open space will be mitigated by improvements to recreational facilities within the local area and therefore constitutes an acceptable exception to national guidance and Development Plan policy.

Notes to Applicant

1. For the avoidance of doubt the College Phase includes the part demolition, alterations and extensions to the existing college, including the provision of amenity space and 192 parking spaces; and the Residential Phase includes the construction of residential development with associated parking and landscaping and public open space.
2. 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 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:
Luton/Dunstable/Houghton Regis & Leighton-Linslade.

SS5 - Priority Areas for Regeneration: Luton/Dunstable/Houghton Regis.

SS6 - City and Town Centres.

E1 - Job Growth.

E2 - Provision of Land for Employment.

H1 - Regional Housing Provision.

H2 - Affordable Housing.

T4 - Urban Transport

T8 - Local Roads.

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

T14 - Parking.

ENV1 - Green Infrastructure.

ENV3 - Biodiversity and Earth Heritage.

ENV7 - Quality in Built Environment.

ENG1 - Carbon Dioxide Emissions and Energy Performance.

ENG2 - Renewable Energy Targets.

WM1 - Waste Management Objectives.

WM6 - Waste Management in Development.

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 25 - Infrastructure.

South Bedfordshire Local Plan Review Policies

SD1 - Sustainability keynote policy.

BE8 - Design and environmental considerations.

T4 - Public transport services along former Luton/Dunstable Rail Line.

T7/8 Controlling supply of public car parking.

T10 - Controlling parking in new developments.

T11 - Securing contributions for alternatives to parking.

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

H3 - Meeting local housing needs

H4 - Providing affordable housing.

R10 - Children's play area standard.

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

R12 - Protection of recreational open space.

3. 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 Regional Spatial Strategy (RSS), Bedfordshire Structure Plan 2011 (BSP) and the South Bedfordshire Local Plan Review (SBLPR).
4. 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.
5. Under the terms of the Water Resources Act 1991, the prior written consent of the Environment Agency is required for any discharge of sewage or trade effluent into controlled waters (e.g. watercourses and underground waters), and may be required for any discharge of surface water to such controlled waters or for any discharge of sewage or trade effluent from buildings or fixed plant into or onto ground or into waters which are not controlled waters. Such consent may be withheld.
6. Under the terms of the Water Resources Act 1991, the prior written consent of the Environment Agency is required for any discharge of sewage or trade effluent onto or into ground and for surface runoff into groundwater. Such consent may be withheld. If there is an existing discharge consent the applicant should ensure that any increase in volume is permitted under the present conditions.
7. Under the terms of the Water Resources Act 1991, the prior written consent of the Environment Agency is required for dewatering from any excavation or development to a surface watercourse.

For Informatives 5, 6 and 7 please contact the Water Quality Consents Team on 01707 632300 for further details.

DECISION

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