

**SOUTH BEDFORDSHIRE DISTRICT COUNCIL
MEMORANDUM**

From : John Eden Senior Planning Officer		To : Gill Claxton Senior Planning Officer <i>GC</i>		SOUTH BEDS. DIST. COUNCIL PLANNING SERVICES		COPY TO	
				<i>485981</i> 8 AUG 2008			
Please Contact :	Our Reference :	Your Reference :	REPLY BY	Date	REPLIED	FILE No.	
John Eden 0845 849 6063	MJE/80956	SB/OUT/08/0807		14 August 2008			

APPLICATION No. SB/OUT/08/0807
WHITE LION RETAIL PARK, BOSCOMBE ROAD, DUNSTABLE
ERECTION OF FOUR STOREY BUILDING COMPRISING 24 RESIDENTIAL UNITS.
CONSTRUCTION OF NEW ACCESS (OUTLINE)

I refer to your memo dated 30 July 2008 regarding the above application for planning permission.

I note that the applicant has submitted 6 documents in respect of land contamination, running to some 130 pages, which I cannot open. However the Department of Communities and Local Government has recently circulated model conditions for development on land affected by contamination. These are cited below and should be imposed should permission be granted. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 1 to 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied within relation to that contamination.

1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- i. A survey of the extent, scale and nature of the contamination;
- ii. An assessment of the potential risks to:
 - Human health
 - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
 - Adjoining land
 - Ground waters and surface waters
 - Ecological systems
 - Archaeological sites and ancient monuments



- iii. An appraisal of remedial options, and proposal of the preferred option(s)

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the management of Land Contamination, CLR 11'*.

2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

Reason (common to all):

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

I would ask that the following informatives be included with the above conditions:

- Where remedial measures are necessary, they should be managed with Part IIA of the Environmental Protection Act 1990 in mind. Encapsulation of any contaminants should be made on a risk-based assessment so that they are unlikely to be subject to future release to the environment.
- All ground investigations shall be risk based and have regard to *BS10175: 2001 Investigation of Potentially Contaminated Sites – Code of Practice* and *Environment Agency/NHBC R&D Publication 66 – Guidance for the Safe Development of Housing on Land Affected by Contamination*.
- Where analyses are undertaken analytical laboratories should be accredited to MCERTS and where appropriate laboratory methods should also be accredited to MCERTS.
- The applicants/agent's consulting engineers shall certify that decontamination and remediation of the site has been undertaken in accordance with any measures approved by the District Planning Authority.
- The applicant shall advise the District Planning Authority of commencement of the works.
- The applicant should also be made aware that the ownership of land shown to be contaminated may accrue legal and financial liabilities under Part IIA of the Environmental Protection Act 1990. Such liabilities are maximised when "pollutant linkages" engender "pathways" for the contaminants to reach "receptors".
- South Bedfordshire District Council has published its Contaminated Land Inspection Strategy in line with the Environmental Protection Act 1990: Part IIA and its definition thereof. No land within the district has yet been formally designated as being 'contaminated'. However, it should not be taken to imply that the property or adjoining land is free from contamination.

Applicants should be advised to contact the Environmental Health Service for any further information.

Where planning permission is granted for a site and the presence of contaminants is known or is suspected, a separate notice should be issued to the applicant informing him that the responsibility for safe development and secure occupancy of the site rests with the developer. The notice should also warn the applicant that the local planning authority has determined the application on the basis of the information available to it but this does not mean that the land is free from contamination.

I would ask that the Environment Agency also be consulted on this application and any condition that it recommends be imposed separately and in its entirety.

I have read the Planning Noise and Assessment report dated July 2008 submitted by Cole Jarman Associates and am surprised that no reference is made in respect of the adjacent

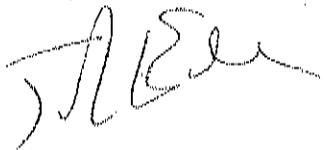
Pro Logis distribution site. The report assumes all noise to be transport related or from exhausts of the retail units. Transport and associated noise from within the curtilage of distribution depots is a continuing problem, especially as these depots tend to have 24 hour use and is treated differently to road traffic noise over which we have no statutory control. I do not have any information on deliveries to the White Lion Retail Park units and whether nighttime deliveries are permitted. Further clarification is needed with regard to noise levels and sources.

However as a generality to protect against intrusive externally generated noise, sound insulation and absorbent materials should be applied to all flats, internal corridors and staircases as is necessary to achieve as a minimum standard an internal noise level for bedrooms of 30dB(A)eq,1hour and for living rooms of 40dB(A)eq,1hour.

The good, rather than reasonable, reasonable standard internal standard for bedrooms is chosen as BS8233:1999 considers only anonymous noise, such as road traffic, when setting the design criteria for intrusive external noise. The British Standard acknowledges that noise from neighbours may trigger complex emotional reactions that are disproportionate to the noise level. The applicant should also identify any windows that need to remain closed in order for the internal noise environment to meet with this standard. Those windows should then by way of a planning condition be required to be fixed closed and not be openable. Alternative means of ventilation must then be provided for those rooms affected. It has been shown that where windows can be opened they will be and occupants may then be subject to noise of which they will complain. We would then have to investigate the complaint and take action where necessary against the existing uses. Where the noise is identified as arising solely from traffic and not than from industrial or commercial sources then the requirement for those windows to be fixed closed is removed.

Please inform me whether planning permission has or has not been granted.

Should you wish to discuss this further please do not hesitate to contact me.



John Eden