

Item No. 7

APPLICATION NUMBER	CB/11/04497/OUT
LOCATION	Dukeminster Estate, Church Street, Dunstable, LU5 4HU
PROPOSAL	Demolition of all buildings on the site and redevelopment for a mixed use scheme for up to: 203 residential dwellings together with a 75 bed care home; 568 sqm (GFA) of class A1 retail space; 505 sqm (GFA) of class A2 financial and professional services or class A3 restaurants and cafes space; 555 sqm (GFA) of class D1 non residential institutions space; 783 sqm (GFA) of B1 business space together with associated vehicular parking and landscaped areas.
PARISH	Dunstable
WARD	Dunstable Icknield
WARD COUNCILLORS	Cllrs McVicar & Young
CASE OFFICER	Vicki Davies
DATE REGISTERED	22 December 2011
EXPIRY DATE	22 March 2012
APPLICANT	Lionsgate Properties
AGENT	Planning Works Ltd
REASON FOR COMMITTEE TO DETERMINE	Departure from approved plan
RECOMMENDED DECISION	Outline Application - Granted

Site Location:

The 6.5ha Dukeminster Estate is a commercial enclave on a rectangle of land with a long history of industrial use having 2 boundaries to more recent residential development. The estate sits off the northern side of Church Street, just east of the Town Centre, and the land was levelled in the past by forming embankments up to 5m high to part of the north and west sides. The embankments were planted resulting in a mature wooded bank on these frontages to flats and houses in The Mall, Kingsway and Bernards Close. However, there are presently no fences at the top or bottom of the bank (except where it abuts private gardens, where a close boarded fence exists). The eastern boundary is to the formation of the former railway, being converted into the Luton to Dunstable Busway, with White Lion Retail Park and Sainsburys beyond. The margin to the Busway is colonised by scrub with a number of trees, especially self-set sycamore towards the north and incorporates a steep fall of 3m to the boundary at this end. The southern boundary is to Church Street which has been upgraded to a multi-lane highway in readiness for the busway. A central spine road runs through the estate from Church Street and many of the low-rise commercial buildings have now been demolished to slab level. The southern frontage was redeveloped in recent decades in the form of dark brick office

blocks ranging from 3 to 6 stories, more recently vacant and now in course of demolition.

The application site covers the whole estate, being different from the previous history which excluded the office blocks on the southern boundary. The southern part abuts the Dunstable Conservation Area to the west (taking the form locally of the grassed sward north of Church Street extending to Marshe Almshouses and beyond). The 1973 Tree Preservation Orders protect (a) trees in an Area which included the bank towards the NW corner of the site and (b) individual trees at the foot of the bank to the rear of Scotts Court and Earls Court.

A triangle of land to the south-east of the site is excluded from the application as it is required for new road access to the Busway and the Anglian Water underground floodwater holding tank.

The application:

The whole site apart from the tree belts would be cleared and redeveloped for residential-led mixed uses. All matters except access are reserved for subsequent approval. The total former floorspace (both demolished or still standing) to be replaced is 22,176m² (Note 1).

- The residential element has a suggested composition of 6 x 1-bed flats, 74 x 2-bed units (of which 30 would be houses), 106 x 3-bed houses and 17 x 4-bed houses totalling 203 dwellings. This may however be amended at reserved matters stage.
- The non-residential element would comprise:
 - 75-bed care home
 - 568m² Class A1 space (general retail, with preference for local convenience store)
 - 505m² Class A2 space (financial and professional) or A3 (restaurant and cafe)
 - 555m² Class D1 space (non residential institutions, childrens nursery)
 - 783m² Class B1 space (business)

In respect of the means of access the submitted drawing 319B shows a principle vehicle and pedestrian estate road entering the site at the point of the existing estate road, a secondary vehicle and pedestrian access towards the western end of the south frontage to Church Street, and pedestrian/cycleway accesses to The Mall and to the proposed Court Drive bus stop ('White Lion Retail Park') on the Busway. All points of access 'terminate' just into the site and no other highways are included at this stage.

For illustration purposes an indicative masterplan shows

- Block A - a 3, 4 & 5 storey linear block facing Church Street on the west side behind a landscaped car park which would contain retail space, A2 and A3 space, and a nursery on the ground floor; 8 flats and B1 offices on the first floor, 33 flats on the higher floors
- Block B - a 2/3storey 75-bed care home on 0.54ha on the eastern side of the site
- additional landscaped car parking and servicing behind Block A
- housing development with 3 play areas

- retention of the tree belts.

The buildings would be low carbon and energy efficient, with an emission rate 10% below current Building Regulations. The commercial element would aim for BREEAM excellent and residential for Code 4. Details of means of heating are not yet known but supplementary heating systems (such as photo-voltaic and solar energy panels) will be employed where possible. Water recycling would be considered and external areas would accommodate SUDs. Detailed advice would be provided to occupiers on sustainable practices.

The following documents have been submitted:

Public consultation statement

Phase I detailed desk-top study (contamination)

Ecological appraisal

Tree survey, arboricultural implications report and method statement

Flood risk assessment

Sewer network note

Environmental noise impact assessment

Design and Access Statement

Heritage statement

Building for Life appraisal

Energy statement

Affordable housing statement

Marketing report

Economic statement

Transport statement

Landscape strategy document

Planning Obligations statement

Note 1. Figures taken from 2007 appeal statement. The Lambert Smith Hampton Marketing report uses the figure 27,800m². Current application form uses figure of 19,028m² for 'existing floorspace', which, when demolished space is taken into account, appears to be closer to the LSH figure. In view of the appeal decision (see History section) not to place greater weight on loss of employment space, this difference is not considered to be significant. Furthermore, the strategic unit of measurement now tends to be site area rather than floorspace (see below).

RELEVANT POLICIES:

National Policy

National Planning Policy Framework

Superseded National Policies (PPG & PPS)

PPS1 - Delivering Sustainable Development; PPS3 - Housing; PPS4 - Planning for Sustainable Economic Growth; PPS5 - Planning for the Historic Environment; PPS6 - Planning for Town Centres; PPS9 - Biodiversity and Geological Conservation; PPG13 - Transport; PPG17 - Planning for Open Space, Sport & Recreation; PPS23 - Planning and Pollution Control; PPG24 - Planning & Noise

Regional Spatial Strategy

East of England Plan (May 2008)

SS1 Achieving Sustainable Development

SS3 Key Centres for Development and Change

SS5 Priority Areas for Regeneration
E2 Provision of Land for Employment
H1 Regional Housing Provision 2001 to 2021
H2 Affordable Housing
T2 Changing Travel Behaviour
T6 Strategic and Regional Road Networks
T14 Parking
ENV3 Biodiversity and Earth Heritage
ENV6 The Historic Environment
ENV7 Quality in the Built Environment
ENG1 Carbon Dioxide Emissions and Energy Performance
WAT4 Flood Risk Management
WM6 Waste Management in Development

Draft Luton and southern Central Bedfordshire Core Strategy: Pre Submission 2011-2026 (November 2010 as amended); endorsed for Development Management purposes

CS1 Development Strategy
CS3 Developer contributions for infrastructure
CS5 Linking places
CS6 Housing for all needs
CS8 Increasing access to quality social and community infrastructure
CS9 Quality of design
CS10 Delivering economic prosperity
CS12 Resource efficiency
CS13 Adapting to and mitigating flood risk

Bedfordshire Structure Plan 2011

25 Infrastructure

South Bedfordshire Local Plan Review Policies

BE8 Design and Environmental Considerations
E1 Main Employment Areas
H2 Fall-In Sites
H3 Local Housing Needs
H4 Affordable Housing
R10 Play Area Standards
R11 New Urban Open Space
T1 Location & Traffic Impact - Deleted (Refer to PPG13)
SD1 Keynote Policy
T10 Parking - New Development
T4 Translink Project

Luton to Dunstable Railway CWS

Borough of Dunstable Tree Preservation Order No.1/1973

Borough of Dunstable Tree Preservation Order No.2/1973

Supplementary Planning Guidance

Design in Central Bedfordshire - Guide for development
CBC Planning Obligations SPD (South)
Dunstable Town Centre Masterplan (May 2011)

Planning History

(* sites exclude offices at front of current site)

SB/06/00884/OUT*	Expired - Residential development for up to a maximum of 458 dwellings (85 dwellings per hectare maximum) with associated parking and open space and up to a maximum of 300 sq.metres of Class A1 floorspace and up to a maximum of 520 sq.metres of Class D1 floorspace. Refused but allowed at appeal.
CB/09/06759/REN*	Similar proposal - renewal. Refused and not appealed.
CB/09/06766/RM*	Expired - Erection of 172 dwellings, 300 sq.metres of Class A1 retail and 513 sq.metres of Class D1 accommodation (Reserved matters).
CB/11/02380/OUT*	Demolition of all existing buildings and redevelopment for up to 172 residential dwellings together with 300sqm (gfa) of Class A1 retail space and 513sqm (gfa) of Class D1 accommodation. Resolved to be granted subject to UU or S106 and not being called-in by Secretary of State. Not called in, but no legal agreement yet signed.
CB/11/03053/DEM	Approval - Prior Approval of Demolition: Demolition of: Unit 1 (6 storey office building), unit 4 (4 storey office building), unit 18 (5 storey office building), Venture House (3 storey office building), unit 2 (industrial/warehouse building), unit 3 (industrial/warehouse building), unit 5 (industrial/warehouse building - remaining part).

Representations: (Parish & Neighbours)

Dunstable Town Council	No objection.
Neighbours	<p>The Mall no.85, 86 and 42 Kingsway</p> <p>Objections:</p> <p>Quality of life will be reduced because of more traffic and noise.</p> <p>Negative effect on safety of residents of The Mall with the emergency access road becoming a through road, even if illegal; children can no longer play outside; the Mall cannot cope with more vehicles, especially speeding.</p> <p>Parking situation will get worse (with off-site workers already using street to avoid payment elsewhere) because the site has insufficient spaces and people will overflow to The Mall.</p> <p>Who would cut the grass on the bank, now that the Council have stopped doing it?</p> <p>No objection if emergency access was towards Sainsburys.</p> <p>Request a fence is erected along the tree line backing onto the dwellings on Kingsway to reduce any impact on the privacy and security of residents of these houses.</p>

Consultations/Publicity responses

Environment Agency	Should only be permitted if 6 planning conditions are imposed dealing with flood risk and contamination.
Environmental Health Officer	No objections. Contamination - Requests conditions. Noise - Requests conditions to mitigate against noise from the Busway, off-site supermarket servicing, and operational noise from the development. Any outdoor play area attached to the children's nursery should be provided with an acoustic fence. General informative requested. Air quality: No measures needed.
Highways Agency	Directs that a travel plan condition should be added to any planning permission granted
Highways Development Control	Has no objection to the proposal in principle but recommends that the previous conditions (attached to the previous application) should be included if permission is given. Has concerns with the indicative layout which can be addressed later. However, there are two issues which should be addressed at this point as follows. There appears to be inadequate parking on site and for that reason it would be considered appropriate to manage parking on the new highway. This can be dealt with by condition.
Local Plan Team	PPS/PPGs (Now superseded) - Sustainable development and high quality inclusive design; cohesive communities, natural environment, strong economy and good design; mix of housing type, consideration of long term benefits for Town Centre; draft NPPS echoes above sentiments. EEP - Policies will need to be adhered to until revoked. SBLP - Will need to adhere to Policies SD1, BE8, T4, T10, H2, H3, H4, E1, R10, R11. CS - Need to accord with Policies CS1, 3, 5, 6, 7, 8, 9, 11, 12, 19. DTC Masterplan - Opportunity to consider the site for comprehensive redevelopment with an element of the employment function retained. Recommendation - Residential element with some commercial has been approved in principle through the

2007 appeal. Loss of the employment element on the frontage now needs to be addressed. While Policy E1 strictly maintains the employment user, CS9 takes a flexible approach and broadens the range of job opportunities. The 2008 Employment Land Review graded this as a 'red' site largely on the basis of the 'sheds' behind. The uses proposed will generate job opportunities over a broader range and, even discounting construction jobs, at a higher number than present site employment.

Development will have an impact on the Town Centre which, in terms of losing the present unrefurbished office blocks, will be positive if a high quality of design is employed. It would be important not to increase the retail element so as to compete with town centre uses.

It is important to evaluate the application in the light of current policy, emerging policy and the previous history of the site as well as the contribution the development can make in terms of delivering employment opportunities in the area and contributing to the local economy and how the comprehensive development of the site will contribute to sustainable ways of living in Dunstable. The redevelopment does provide a broadened range of employment opportunities and positively contributes to Dunstable. As such there are no objections provided the care home and commercial uses remain important elements of the proposal. Added comments after the publication of NPPF stating that the application seems to be in compliance with NPPF as it looks at alternative uses for the site as there is little prospect of it being redeveloped for solely employment use, the proposal also delivers a range of housing and takes account of future demographic trends of the area particularly in relation to the care home.

Housing Strategy	Would expect to see 35% affordable housing, being 71 units, to be split 69:31 in favour of social rent. Units should be dispersed throughout the site and integrated with market housing to promote community cohesion and tenure blindness. The units should meet Code 3 and all HCA design and quality standards.
School Places Officer	Will require a lower school and Early Years contribution. A calculation method can be used.
Sustainable waste officer	<ul style="list-style-type: none">• A 'bring bank' site will be required• Needs to see details of measures to ensure that bins would be stored away from frontages• Details will be needed at RM stage of commercial waste storage• Applicant is advised to inspect CBC online documents on Waste Storage and Management

- A Site Waste Management Plan will be required prior to commencement of development

Ecology Officer

The ecological assessment identifies the sites potential for reptile interest, particularly slow worms and a reptile survey of the woody boundaries of the site is recommended. The best time for such a survey is during April and May.

As this is an outline application the full details of landscaping are not fully known but opportunities for ecological enhancement of the site should be sought though the use of native species for planting schemes and with the inclusion of nest boxes for birds such as house sparrows on some buildings.

Trees on the boundaries of the site should be retained where possible. If a tree is to be removed it should first be checked by a suitably qualified ecologist for the presence of bats. Bats are known to roost in the immediate vicinity of the site. Any removal of trees / scrub should be done outside of the bird nesting season March to August inclusive.

The Badger report identifies a number of holes and two Badger setts. It is proposed to apply for a licence to close the secondary sett. This is to allow for construction works of a cycle / footway link to the north of the site. Natural England will need to approve this work and it is likely that there will be a requirement for an alternative sett to be provided. During the site visit with applicant and ecologist the positioning of this alternative was discussed. The only land available is not in the ownership of the applicant so an agreement with the landowner will be necessary to complete works on an artificial sett.

The current area of their (retained) sett is identified as a potential play area / open space. Badgers have adapted well to the urban context and it should be borne in mind that they will dig latrines and forage around their setts so there is a potential clash of interests in using this area as a play space. Suitable shrub planting should be undertaken around the area of the sett to prevent human and preferably dog access from causing disturbance. Further discussions will be necessary when detailed drawings are available.

Sport England

Non statutory response. In relation to outdoor sports there are no proposals for making on-site provision, however the Planning Obligations Statement acknowledges that the development is likely to generate a need for recreation facilities. Contributions towards

outdoor sports provision should be sought in line with the Central Bedfordshire Council Planning Obligations SPD. There is currently no commitment by the developer to make such a contribution and Sport England therefore object.

In relation to indoor sports provision there are no proposals for making on-site provision, however the Planning Obligations Statement acknowledges that the development is likely to generate a need for indoor recreation facilities. Contributions towards indoor sports provision should be sought in line with the Central Bedfordshire Council Planning Obligations SPD. There is currently no commitment by the developer to make such a contribution and Sport England therefore object.

Determining Issues

The main considerations of the application are;

1. Planning history
2. Policy position - introduction
3. Character of development in indicative masterplan
4. Policy position - conclusion
5. Access
6. Sewerage
7. Unilateral Undertaking
8. Conservation Area and protected habitats
9. Comments on objections
10. Other Issues

Considerations

1. Planning history

The site is allocated in the Local Plan as a Main Employment Area; relevant Policy E1 is still saved. On the greater part of the site Outline application SB/OUT/06/0884 for up to 458 dwellings (and 300m² retail/520m² Class D1) was refused planning permission in 2006 on grounds of loss of employment land, inadequate recreation provision, lack of Flood Risk Assessment, lack of Waste Audit, dominant relationship to existing residential properties/overdevelopment, risk to protected trees with proposed footpath link, inadequate affordable housing provision, inadequate Transport assessment. At the subsequent appeal, after satisfying himself that all matters were fully considered, the Inspector was minded to allow the appeal. The Secretary of State, in allowing the appeal (4th December 2007), agreed with the Inspector and noted that the proposal would provide new and additional housing in a sustainable location including a good quantity of affordable housing, and that there was evidence of sufficient employment land elsewhere. She also considered that the development would be compatible with local character, highway issues were overcome, infrastructure contributions were justified, no flood risk objections remained, conditions could overcome tree and waste concerns, and there need not be harm to residential amenity.

The Reserved Matters (RM) relating to this permission, but reduced to 172 dwellings, (CB/09/06766) were approved on 11th November 2010 however the permission as a whole expired on 11th November 2011 because of the time limits set by the Secretary of State and an outstanding impediment to commencement in the form of the Anglian Water study. Shortly before the submission of these RMs a further outline application (CB/09/06759) was lodged for the full 458 dwellings etc. Members were not satisfied with this submission because, since the appeal decision 2 and a half years earlier, traffic and foul water drainage conditions had again deteriorated and there was now a difference between the number of dwellings sought in the RMs and that sought in the new outline. The refusal was not appealed because the approval of RMs kept the permission alive. Another attempt to keep a permission alive, by submitting a new outline application but for the lower level of housing, was submitted last year (CB/11/02380). Although it did not succeed because the legal agreement had not been signed in time, the fact that CBC resolved to grant outline permission subject to a legal agreement means that the applicant is only a signature away from a valid permission.

The current whole-site proposal has been in gestation for some time and the Public Consultation Statement shows that, as well as holding a public exhibition (inviting those now consulted on the application), and setting up a website, the applicants have made a presentation to the Town Council. They intend to carry out further consultation at RM stage.

2. Policy position - introduction

At the time of writing this report, notwithstanding the Localism Act 2011 East of England Plan policies are still in place as a result of the Cala decisions. The planning authority is therefore expected to take a strategic cue from the EEP although, following the CBC Executive decision on 23rd August 2011, the draft Luton and southern Central Bedfordshire Core Strategy: Pre Submission will be taken as guidance for development management decisions. On 27 March 2012 the National Planning Policy Framework was published. Annex 1 of the NPPF sets out that where Local Plan policies were adopted in or before 2004 then due weight should be given to relevant policies according to their degree of consistency with the framework. Under this subject heading will also be considered the Dunstable Town Centre Masterplan.

3. Character of development in indicative masterplan

It was reported previously to the committee that the indicative layout submitted with the 2011 application needed further work on the 'emergency access' to The Mall to safeguard as many trees as possible, and the relationship of new housing to the bank in the same area. Conditions were to be imposed to facilitate discussions on final design details. There were ongoing discussions with the Busway Project to improve connections with the stop at the north of the site, which would provide a strong impetus to developing sustainable travel habits.

This application does not suggest that the pedestrian and cycle link to The Mall would need to function as an access for emergency vehicles. The applicant is however agreeable to providing a 3.6m wide footway/cycleway at this point which could if necessary be used as an emergency access. The final design of

this link can be determined at the final design stage when the reserved matters application is submitted.

The indicative residential access arrangement is now an offset tree-lined spine 'shared access' with arms left and right. Houses front both the spine and arms in a traditional way with the play areas located at the end of the arms next to tree belts. It is envisaged that there would be considerable tree planting and use of hedgerows. The masterplan proposes 162 dwellings in roughly the same part of the site as the previous 172 dwellings. This is a lower density and therefore any minor issues in layout should be easier to address at details stage in a lower density scheme. The typical relationship with the tree belts (which is generally improved) and garden size are 2 such considerations, in particular the eastern tree and scrub area where details will need to address the steep fall towards the eastern boundary. However, setting a maximum number of dwellings and recognising the lower density of this scheme means that this does not invalidate the principle of the development.

The Tree and Landscape Officer raises some concern regarding the loss of the grassed areas which surround the groups of trees on the Church Street frontage. The officer would like to see the grassed areas retained and it is considered that the retention of the grass would contribute to the character of the site and adjacent Conservation Area. Landscaping would be a matter to be dealt with at reserved matters stage and it is considered that a condition should be attached to prevent any trees being removed until the reserved matters applications have been assessed.

A Noise assessment addresses in particular traffic on Church Street, the Busway and servicing of Sainsburys and White Lion Retail Park. Satisfactory internal levels could be achieved in the care home and housing as well as their outdoor amenity areas with an appropriate condition. The Environmental Health Officer comments that a condition should be added to prevent unacceptable levels of noise arising from fixed plant which may be installed in connection with the commercial uses on the site. There is some concern that the servicing of the retail and commercial units has potential to cause noise and disturbance to the residents of the proposed flats. It is considered that this issue can be dealt with by appropriate conditions, such as restricting delivery times, which would be added to the commercial and retail uses at reserved matters stage.

Sustainability assessment is an implicit part of many areas of this report but the applicant has also specifically conducted a Building for Life assessment of the scheme. The proposals are well located, provide a good mix of accommodation size and tenure, is well related to public transport and would be built to high standards. The indicative design responds appropriately to the existing landscape features and heritage/biodiversity assets and provides opportunity for an individually designed scheme which relates well to its established neighbours. Routes give priority to pedestrians and cyclists with a natural calming effect from their form and arrangement. Security would be considered and the non-vehicle links to the north would be capable of being overlooked. Houses would be capable of internal alteration as family needs change (Lifetime Homes) and the care home would be equally adaptable.

4. Policy position - conclusion **National Planning Policy Framework**

The NPPF which was published on 27 March 2012 states in paragraph 22 that planning policies should avoid the long term protection of sites allocated for employment uses where there is no reasonable prospect of the site being used for that purpose. The application site has been allocated in the SBLP policy E1 as a main employment area. The policy has been in place for over 8 years during which time the employment uses of the site have declined and no proposal has been put before the Council suggesting that there is any interest in redeveloping the site for employment use.

Paragraph 38 of the NPPF sets out that for larger scale residential development in particular a mix of uses should be promoted in order to provide opportunities to undertake day to day activities on site. The application includes residential development, retail, offices, care home and a D1 use which would provide for everyday shopping needs and the potential for those living on site to work on site.

A wide choice of high quality homes should be delivered as well as opportunities to widen home ownership and create sustainable, inclusive communities, as required by paragraph 50 of the NPPF. It is considered that the application could deliver a variety of sizes and tenures.

Paragraph 59 of the NPPF sets out that Local Planning Authorities should consider using design codes where they could help deliver high quality outcomes. A condition on the previous application required the preparation of a design code for the site and it is considered that the same condition should be added to any consent granted for this application.

EEP/SBLP

Historically on this site the main issues have been loss of Main Employment Area, impact on local character, highway safety, foul water drainage and infrastructure contributions. Treating these separately and summarising the EEP/SBLP policy position today:

Employment Allocation of the Site

The acceptability of the loss of the greater part of the employment area has been established at appeal. The subsequent 2008 Luton and South Bedfordshire Employment Land Review (ELR) formed part of the evidence base for the Core Strategy and identified the site as 'red', which is considered suitable to be released from employment use. Indeed, the residential permission has also been included in the Strategic Housing Land Availability Assessment. Despite marketing there are only 2 remaining longer term lets¹. There will of course be the additional loss in this application of the frontage office floorspace (some 8,300m²).

It should however be noted that 783m² of office space is proposed, retail is increasingly being accepted as employment floorspace with 1073m² proposed, as are labour intensive uses such as care homes with a 75 bed facility proposed. Using recognised calculation methods the applicant estimates that up to 87 fte jobs (plus 300 for construction) could be created to offset the 53 to

be lost. Thus the proposed limited employment offer already outstrips the present whole-site employment. It will, however, be important to have early delivery of employment uses on this site.

The above approach would also be in line with the recently published NPPF which sets out that planning policies should avoid the long term protection of employment sites whether there is no reasonable prospect of them being used for that purpose.

Character of the Development

With respect to the analysis in the previous section the proposed development would still be compatible with the character of this part of Dunstable from the point of view of visual impact and density.

Residential Amenity

The scheme would not unacceptably impact residential properties off-site.

Highways

Following the appeal decision, the lack of a highways objection was conditional on the adoption of a residential travel plan and the creation of a pedestrian/cycle link with existing roads to the north, which are again proposed. The Highways Agency has no objection to the proposal subject to a travel plan condition and the Council's Highways Development Control Officer is satisfied that the accesses to the site are acceptable. The Highways Development Control Officer is however not satisfied with the indicative layout of the site, the detailed layout of the scheme would however be considered at reserved matters stage.

Foul Sewerage

A Grampian condition will be imposed to accommodate the Anglian Water foul sewerage concerns; this will also be considered further below.

Developer Contributions

The application sets out that financial contributions or on-site provision towards affordable housing, recreation, health, travel plan, education, public art, community, sustainable transport, waste and emergency services will be required.

Draft Core Strategy

There remains a requirement to deliver a high number of dwellings with Dunstable as part of the focus for new development. Policy CS9 applies a sequential approach to redevelopment of employment land and accommodates the possibility of non-B use class uses. Policy CS3 refers to a new SPD setting out a structure for developer infrastructure contributions, this will be considered below. Policy CS7 makes clear that this applies also to community and social infrastructure. Policy CS5 (linking places) supports the assessment of access requirements and CS6 (housing for all needs) sets the rate for affordable housing at 35% and expects consideration of Lifetime Homes standards.

While the weight to be accorded to this document remains to be established, we consider that these policies do not generally introduce matters which the scheme does not or cannot embrace.

Dunstable Town Centre Masterplan

Although not within the Town Centre (as defined) the site is within the Masterplan area. It seeks 'an element of the site's original employment function' to be reinstated in some form. It is considered that, for reasons given at the head of this section, the proposal satisfactorily addresses this objective.

In conclusion, the proposal accords with the recent approval of reserved matters and, provided the original outline conditions and obligations are reviewed and applied as appropriate, the proposal continues to satisfy the present state of national and local planning policy. In terms of physical impact the scheme would indeed have far less impact on local roads and to local residents than the previously approved scheme which has double the number of dwellings. This reduction would make the scheme more in tune with present market conditions and thus make it more deliverable.

¹ Since 2009 Lambert Smith Hampton have 'marketed' the remaining vacant units on an internet based property information system linked into their UK and Irish offices. Five current lettings expire by October 2013 and Units 3 and 12 are the only longer-term occupancies remaining. Dunstable is poorly placed in a weak market for secondary-grade office space, and the warehouse/industrial market is challenging in the present climate: only 3 deals were done on this estate since 2006. LSH considers that Dukeminster has reached, or is reaching, obsolescence with little prospect of securing tenants other than on short-term discounted rents.

5. Access

The main vehicular access to the site would be from Church Road, a secondary vehicular access is also proposed from Church Road to serve block A only. A pedestrian and cycle link is proposed between the site and The Mall. Further discussion on this point can be found above. The final access would be between the most northly corner of the site and the bus way. The access would be for pedestrians and cycles and allow people to access the bus way stop to the north of the site and to cross the bus way to access the cycleway which runs along the opposite side of the bus way to the site. The applicant has advised that there have been discussions with the bus way company and that they are willing to accommodate the proposed link.

The Highways Development Control Officer is satisfied that the proposed accesses to the site are acceptable subject to conditions.

The pedestrian and cycle access to The Mall and the busway stop would be secured via the s106 agreement.

6. Sewerage

Anglian Water (AW) have previously commented that the foul water system cannot accommodate flows from a redevelopment of Dukeminster Estate. This particularly affects the north western part of the site. The applicant, at his own cost, has arranged for Anglian Water to undertake a study of the foul water system which has concluded that:

- foul capacity for the whole development is available in the existing network and that capacity also exists to treat the flows at the Dunstable Sewage Treatment Works and
- the connection to the foul system could be made to the north of the site but also that sufficient capacity exists in Church Street (where current flows from

the development discharge) to allow connection for the “frontage” development.

Anglian Water previously recommended a condition be attached to any planning permission granted requiring the submission of details dealing with foul water disposal. It is considered that a similar condition should be attached to any permission granted on this proposal.

No response has yet been received from Anglian Water making comment to the planning application, however it is expected before the Committee meeting. An update on this issue will be provided on the late sheet.

7. Conservation Area and protected habitats

The eastern limit of the Dunstable Conservation Area abuts the office development to the south of the site, taking the form of a greensward beside the main road. The existing office blocks intrude into a nominal eastwards extension of this greensward corridor and thus impact on views towards the historic core of the town, albeit this impact is reduced by the trees. The indicative masterplan shows the linear mixed use block set back behind the visual extension of the greensward, where it falls from 5 to 3 stories at the western end. However, there would be changes to the landscaping of the front car park. Nevertheless the proposal would not have an adverse impact on the setting and character of the Conservation Area and there would be a slight improvement with the removal of the 'intrusion'.

The site abuts the County Wildlife Site (CWS) on the former railway line. The Ecological appraisal recommends further work on reptiles in the wooded areas, and slow worms near the CWS may need relocation. Bird boxes may be provided and communal new planting should preferably include native species only, especially to the east. Non-amenity planting should relate to former grassland species to the east. Badger activity is reported, originating from the CWS. Bats are unlikely and no further surveys are considered needed. Clearance of vegetation should not take place during the bird nesting season.

The Badger report identifies a number of holes and two Badger setts. It is proposed to apply for a licence to close one of the setts. This is to allow for construction works of a cycle / footway link to the north of the site. Natural England will need to approve this work and it is likely that there will be a requirement for an alternative sett to be provided. The positioning of this alternative sett has been discussed with the applicant however the only land available is not in the ownership of the applicant so an agreement with the landowner will be necessary to complete works on an artificial sett. The land is currently in the ownership of the bus way project however it is expected to be returned to the original landowner when the bus way works are complete. It is considered that a condition can be added to any planning permission granted requiring the submission of a scheme detailing mitigation works in relation to Badgers including the provision of an artificial sett.

The current area of their (retained) sett is identified as a potential play area / open space. Badgers have adapted well to the urban context and it should be borne in mind that they will dig latrines and forage around their setts so there is a potential clash of interests in using this area as a play space. Suitable shrub planting should be undertaken around the area of the sett to prevent human and

preferably dog access from causing disturbance. The detailed layout and landscaping of the play area/open space can be dealt with at the reserved matters stage.

Tree Preservation Orders cover a small length of the western tree belt and 3 isolated trees towards the north of the site. Two of the latter are off-site and not affected. The other protected trees are safeguarded by the proposal. A condition will be added to any planning permission granted to ensure that no trees are removed prior to the approval of the reserved matters submissions.

8. Unilateral Undertaking

The Residential Calculator has been applied to the housing element and separately to the flats in Block A. The Commercial Calculator has been applied to the commercial element with the exception of the care home, but produces a nil requirement in view of the floorspace loss.

The provision of 71 affordable housing units is required in line with the Planning Obligations Strategy. The applicant is agreeable to the proposed affordable housing level and other financial contributions but requests that a clause is inserted into the legal agreement allowing for a viability assessment to be undertaken prior to the commencement of development.

The legal agreement would also secure the submission and implementation of a travel plan and the provision of the pedestrian and cycleway links to The Mall and the busway stop.

The applicant has agreed contributions to education and leisure, recreational open space and green infrastructure based on the formula set out in the SPD. The contributions would be calculated on the formula at reserved matters stage when the exact number of each size of dwelling is known. The applicant has made this request as the formula is based on the number of bedrooms or people per dwelling. Based on the information in the application the education contribution would be £542,251 and the leisure, recreational open space and green infrastructure contribution would be £288,666.

The other contributions would be:

Health Facilities - £243,600

Social and Community Infrastructure - £142,912

Waste Management - £19,488 plus the provision of a bring site within the development and a contribution of £3528 for the signage and containers for the bring site

Emergency Services - £42,021

Public Realm & Community Safety - £44,868

Sustainable Transport - £30,000

The proposed level of contributions is therefore £1,627,329 subject to change at reserved matters stage when the exact mix of housing is known.

Sport England have objected to the application on the basis that the required contributions to indoor and outdoor sports provision have not been secured. The applicant is willing to enter into a legal agreement which would secure the level of contribution based on the formulas in the Planning Obligations calculator.

9. Comments on objections

Objectors raise concern that their quality of life will be reduced as a result of additional traffic and noise. The application site has been in use for many years and it is not considered that the redevelopment for mainly residential purposes would lead to an unacceptable level of noise and disturbance.

Concern has been raised that the link to The Mall would become a through road to the detriment of the safety and amenities of residents of The Mall. This application proposes that the link to The Mall would only be for pedestrians and cyclists. However if it were decided that the link needed to be used as an access for emergency vehicles a suitable barrier such as bollards would be installed to prevent unauthorised access.

Some objectors comment that the parking situation will get worse. The level of parking for the proposed dwellings, offices, retail etc will be dealt with at reserved matters stage. It is however considered that the site is large enough to accommodate the proposed level of development and the necessary level of parking provision.

With regard to grass cutting the Local Authority is not responsible for this site and therefore a management plan for such works would need to be in place.

A resident of Kingsway requested that a boundary fence be erected between their properties and the application site. The details of boundary treatments will be included in the plans prepared at reserved matters stage.

It is not considered that any of the objectors comments raise matters that cannot be resolved at reserved matters stage or by conditions.

10. Other Issues

The proposal is technically in conflict with the South Bedfordshire Local Plan policy E1 and therefore has been advertised as a departure to the development plan. It is therefore important to note that should the Council be minded to approve this application as set out in the recommendation, the application will need to be referred to the Government Office to establish whether they wish to call-in the application for determination by the Secretary of State.

Recommendation

That Outline Planning Permission be granted subject to the following conditions:

- 1 Before development begins, the approval of the Local Planning Authority shall be obtained in respect of all the reserved matters, namely the**
 - 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 Application for the approval of the reserved matters shall be made to the Local Planning Authority within three years from the date of this permission. The development shall begin not later than 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 begins, a landscaping scheme 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 development (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained for a period of five years from the date of planting and any which die or are destroyed during this period shall be replaced during the next planting season and maintained for a period of five years until fully established.**

**Reason: To ensure a satisfactory standard of landscaping.
(Policies ENV7 RSS; BE8, S.B.L.P.R).**

- 4 The plans and particulars to be submitted in accordance with Condition 3 above 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.

(Policies ENV7 RSS; BE8, S.B.L.P.R.).

- 5 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.

(Policies ENV7 RSS; BE8, S.B.L.P.R.).

- 6 No works or development shall take place until a scheme of supervision for the tree protection measures required by Conditions 4 and 5 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.
(Policies ENV7 RSS; BE8, S.B.L.P.R.).**

- 7 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.
(Policies ENV7 RSS; BE8, S.B.L.P.R.).

- 8 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.
(Policies ENV7 RSS; BE8, S.B.L.P.R.).

- 9 All excavations and trenches, where they pass under the canopy of any tree, be hand dug so as to minimise damage to its root system; a minimum of 10 days notice shall be given in writing to the Local Planning Authority of an intention to commence such excavations or trenching.

Reason: To safeguard trees screening the site.
(Policies ENV7 RSS; BE8 S.B.L.P.R.).

- 10 Prior to the submission of any reserved matters application a scheme of mitigation in relation to badgers, including details of the provision of a replacement artificial sett, shall be submitted and approved in writing by the Local Planning Authority. The scheme shall then be implemented prior to the commencement of the development and thereafter retained in accordance with the approved scheme.

Reason: To ensure the adequate protection of protected species.

- 11 Prior to the submission of any reserved matters a Design Code shall be submitted to and approved in writing by the Local Planning Authority. The Code shall address and codify the following matters:
- (a) Spatial arrangement of dwellings and roads
 - (b) Scale
 - (c) Building form and height
 - (d) Architectural composition
 - (e) Private amenity space, arrangements for storage and collection of refuse and recyclables and arrangements for cycle parking
 - (f) Public realm including public art
 - (g) Privacy
 - (h) Phasing of development

Reserved matters applications and the implementation of the development shall thereafter accord with the approved Design Code details.

Reason: To ensure a satisfactory quality of urban design in this significant site.

- 12 The detailed layout to be submitted shall include the provision of a 'Bring-bank' site.

Reason: To provide a satisfactory scale of recycling opportunities within the development.

- 13 Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include details of how the scheme shall be maintained and managed after completion.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, to improve habitat and amenity, and to ensure future maintenance of the surface water drainage system. Environment Agency condition.

- 14 **Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by that Authority:**

- 1) **A preliminary risk assessment which has identified:**
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
- 2) **A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.**
- 3) **The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.**
- 4) **A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term**

monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: The preliminary risk assessment report indicates that contamination may be present at the site as a result of historical activities. Site investigation and detailed risk assessment is required to determine if contamination is present at levels that a pose a risk of polluting the groundwater (which is used to provide drinking water to the public).

- 15 Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to that Authority.

Reason: To confirm that any remediation (if required) is completed to an acceptable standard. This is to ensure that the groundwater below the site (which is used to provide drinking water to the public) is not polluted.

- 16 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To confirm that any contamination identified during the development works is dealt with appropriately. This is to ensure that the groundwater below the site (which is used to provide drinking water to the public) is not polluted.

- 17 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To ensure that the groundwater (which is used to provide drinking water to the public) below the site is not polluted.

- 18 The development hereby permitted shall not be commenced until such time as a scheme to dispose of foul and surface water (Drainage plan) has been submitted to, and approved in writing by, the Local Planning Authority. The

scheme shall be implemented as approved.

Reason: To prevent pollution to watercourse and to improve water quality.

- 19 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.
(Policies ENV7 RSS; BE8, S.B.L.P.R.).

- 20 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.
(Policies ENV7 RSS; BE8, S.B.L.P.R.).

- 21 **No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied unless the works have been carried out in accordance with the foul water strategy so approved unless otherwise agreed in writing by that Authority.**

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

- 22 **Development shall not commence until a detailed waste audit addressing issues in respect of waste generated by the construction phase and subsequent occupation phase of the development has been submitted to and approved in writing by the Local Planning Authority. The waste audit shall include details of:**
- 1. The anticipated nature and volumes of waste that the development will generate;**
 - 2. Measures to maximise the re-use on-site of waste arising from demolition, engineering and landscaping;**

3. Steps to be taken to ensure effective segregation of wastes at source during demolition and subsequent construction of the development including, as appropriate, the provision of waste sorting storage and recovery and recycling facilities;
4. Any other steps to be taken to minimise the generation of waste throughout any required demolition and during construction of the development;
5. Provision within the proposed development to encourage occupiers to manage their waste effectively and sustainably. This may include provision for waste and recycling storage areas, road and development layouts which allow waste and recyclables to be collected effectively, and provision of community recycling facilities;
6. Provision for monitoring the implementation of steps 1 to 5 above; and,
7. A timetable for implementing steps 1 to 6.

Reason: To ensure that waste is managed sustainably during the lifetime of the development in accordance with the objectives of Policy WM6 of the East of England Plan and Policies W5 and W6 of the Bedfordshire and Luton Waste Local Plan 2005.

- 23 **Development shall not begin until details of the improvements to the junction between the proposed estate roads and the highway have been approved by the Local Planning Authority and no building shall be occupied until those junctions have 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 roads.

- 24 **Development shall not begin until the detailed plans and sections of the proposed road(s), including gradients and method of surface water disposal have been approved by the Local Planning Authority and no building shall be occupied until the section of road which provides access 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.

- 25 **No dwelling shall be occupied until all triangular vision splays are provided on each side of all accesses on to the new road and 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 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.

26 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.

27 Before the premises are occupied all on site vehicular areas 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 premises.

28 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.

29 **No development shall commence until a wheel cleaning facility has been provided at all site exits in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The wheel cleaner(s) shall be removed from the site once the roadworks necessary to provide adequate access from the public highway have been completed (apart from final surfacing) to the satisfaction of the Local Planning Authority.**

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.

30 **Before development begins, a scheme for the parking of cycles on the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before the development 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.

31 Details of bin storage/collection point shall be submitted to and approved by the Local Planning Authority prior to the occupation of any dwelling.

Reason: In the interest of amenity.

32 Visibility splays shall be provided at all road junctions and vehicular access points 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 25m 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.

- 33 **Development shall not begin until the detailed plans of the proposed highway lighting, using light emitting diodes (LED) within the development has been approved by the Local Planning Authority and no building shall be occupied until that lighting has been installed in accordance with the approved details.**

Reason: To ensure that the proposed highways are adequately lit.

- 34 **Development shall not begin until a scheme to restrict the speed of traffic on the estate road has been approved by the Local Planning Authority and no building shall be occupied until that scheme has been implemented in accordance with the approved details.**

Reason: In the interests of road safety.

- 35 **Development shall not commence until a scheme detailing provision for on site parking for construction workers for the duration of the construction period has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented throughout the construction period.**

Reason: To ensure adequate off street parking during construction in the interests of road safety.

- 36 **Development shall not begin until a scheme to include details of Traffic Regulation Orders and parking restrictions on the proposed roads have been approved by the Local Planning Authority and no building shall be occupied until that scheme has been implemented in accordance with the approved details.**

Reason: To manage on-street parking and thereby safeguarding the interest of the safety and convenience of road users.

- 37 **Before any emergency access which may be provided to and from the site is brought into use, details of a scheme incorporating a control mechanism to prevent its unauthorised use shall be submitted to and approved in writing by the Local Planning Authority; the details shall include information on any repositioning of street furniture or statutory undertakers' equipment that might be required to avoid obstructing the access.**

Reason: To avoid excessive use of an access which may not be engineered for general use and to safeguard amenities of local residential properties.

- 38 The permission shall authorise the erection of no more than 203 dwellings plus a 75 bed care home.

The gross floor area of each Use Class shall be restricted as follows:

Class A1 shall not exceed 568sqm

Class A2 and/or Class A3 shall not exceed 505sqm

Class D1 shall not exceed 555sqm

Class B1 shall not exceed 783sqm.

Reason: For the avoidance of doubt.

- 39 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 2429/222A and 224A. This permission does not extend to the details shown on drawing 2429/100C.

Reason: For the avoidance of doubt.

Reasons for Granting

A similar scheme but with more than double the number of dwellings was approved at appeal in 2007, the Inspector having determined that there was not an overriding need to retain the land in employment use having regard to the benefits of residential development and the availability of existing and proposed employment land elsewhere. This situation has not changed materially in the meantime, the residential potential of the site having now secured it a place in the Council's list of deliverable sites, and there would still be some employment floorspace in the proposal. The policy situation has been reviewed and there appear to be no material changes to make a permission inappropriate. On the other hand, policy changes deliver a more up to date list of infrastructure contributions including towards local recreation projects. Finally, the proposal would enable a timely regeneration of this large site near to Dunstable town centre and deliver affordable housing. The proposal is in accordance with the National Planning Policy Framework, relevant policies of the East of England Plan, South Bedfordshire Local Plan and draft Core Strategy and Design in Central Bedfordshire: A Guide for Development and Planning Obligations SPD.

Notes to Applicant

1. 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).
2. 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.

3. Contamination Assessment The Environment Agency recommends that groundwater monitoring wells are installed and sampled as part of the proposed site investigation. They also recommend that developers should:
1. Follow the risk management framework provided in CLR11, '[Model Procedures for the Management of Land Contamination](#)', when dealing with land potentially affected by contamination;
 2. Refer to their '[Guiding Principles for Land Contamination](#)' documents for the type of information that should be included in a site investigation report;
 3. Refer to their '[Groundwater Protection: policy and practice \(GP3\)](#)' documents.

Site Drainage

Of the drainage options for a site, infiltration techniques (primarily soakaways) pose the highest risk of polluting the groundwater. Any drainage design must be protective of the groundwater and in line with our '[Groundwater Protection: policy and practice \(GP3\)](#)' for the use of infiltration techniques to be approved. Some general information is provided below in relation to the use of infiltration techniques.

- If contamination is present in areas proposed for infiltration, they will require the removal of all contaminated material and provision of satisfactory evidence of its removal;
 - The point of discharge should be kept as shallow as possible. Deep bored infiltration techniques are not acceptable;
 - The distance between the point of discharge and the groundwater table should be a minimum of five metres;
 - Only clean, uncontaminated water should be discharged into the ground.
4. The Environment Agency has requested that the applicant be made aware that:

Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hard standings susceptible to oil contamination shall be passed through an oil separator designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Subject to the approval of the Local Authority, a percolation test should be undertaken to ensure that soakaways will work adequately in adverse conditions. If, after tests, it is found that soakaways do not work satisfactorily, alternative proposals should be submitted.

Any above ground oil storage tank(s) should be sited on an impervious base and surrounded by a suitable liquid tight bunded compound. No drainage outlet should be provided. The bunded area should be capable of containing

110% of the volume of the largest tank and all fill pipes, draw pipes and sight gauges should be enclosed within its curtilage. The vent pipe should be directed downwards into the bund. Guidelines are available from the Environment Agency.

In England, it is a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than £300,000. The level of detail that your SWMP should contain depends on the estimated build cost, excluding VAT. You must still comply with the duty of care for waste. Because you will need to record all waste movements in one document, having a SWMP will help you to ensure you comply with the duty of care. Further information can be found at <http://www.netregs-swmp.co.uk>

If any waste is to be used on site, the applicant will be required to obtain the appropriate exemption or authorisation from us. We are unable to specify what exactly would be required if anything, due to the limited amount of information provided. If the applicant wishes more specific advice they will need to contact the Environment Management Team at our Hatfield office on 03708 506 506 or look at available guidance on our website <http://www.environment-agency.gov.uk/subjects/waste>.

Refer applicant to Pollution Prevention Guidance for working at Construction and Demolition Sites (PPG6).

5. With respect to the construction phase it is recommended that reference be made to the Mayor of London's Best Practice Guidance (BPG) *The control of dust and emissions from construction and demolition*. The impacts upon air quality are likely to be in the "High Risk" category and mitigation measures will be required, which should also include solid barriers to the site boundary.

Normal working hours should be 08:00-18:00 Monday to Friday, 08:00-13:00 Saturday and no working on Sunday, Bank Holidays and Public Holidays.

The Council does not specify permitted noise levels, instead contractors shall employ the "best practicable means" as defined in the Control of Pollution Act 1974 to minimise noise and vibration resulting from their operations and shall have regard to British Standard BS 5228:2009 Code of Practice for Noise Control on Construction and Open Sites.

Measures would include contractors taking all reasonable steps to minimise noise and be reasonable in the timing of any high noise level activities. These steps would include noise mitigation measures such as temporary screening or at source insulation may have to be utilised, all vehicles, plant and machinery used during the operations are fitted with effective exhaust silencers and that all parts of such vehicles, plant or machinery are maintained in good repair and in accordance with the manufacturer's instructions and are so operated and orientated so as to minimise noise emissions. Where possible the use of generators should be avoided and mains electricity used. All compressors used shall be "noise reduced" models fitted with properly lined and sealed acoustic covers which shall be kept closed when the machines are in use. Where other alternatives are proposed these should be approved by the Local Authority. All ancillary pneumatic percussive tools should be fitted with approved mufflers or

silencers of the type recommended by the manufacturers. All of these items must be kept in good repair and any machinery used intermittently should be shut down when not in use or, where this is impracticable, should be throttled back to a minimum.

6. The reserved matters application should include further details (a) exploring the use of heating systems which have lower carbon emissions than electricity, (b) how photo-voltaic and solar energy panels would be used to supplement heating systems, and (c) to show that BREEAM excellent would be achieved in the non-residential element.
7. Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developer's expense under S185 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.
8. The applicant 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.
9. The applicant is advised that if it is the intention to request the Central Bedfordshire County 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.
10. The applicant is advised that in order to comply with Condition 24 of this permission it will be necessary for the developer of the site to enter into an agreement with Central Bedfordshire Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. Further details can be obtained from the Development Planning and Control Group, P.O.Box 1395, Bedford, MK42 5AN.
11. All roads to be constructed within the site shall be designed in accordance with Central Bedfordshire Council's publication "Design in central Bedfordshire (Design Supplement 7 – Movement, Street and Places" and the Department of the Environment/Department of Transport's "Manual for Streets", or any amendment thereto.

12. This decision is subject to a Section 106 Unilateral Undertaking by the applicant.

DECISION

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