

Item No. 18

APPLICATION NUMBER	CB/13/01368/OUT
LOCATION	Dukeminster Estate, (Central & North) Church Street, Dunstable, LU5 4HU
PROPOSAL	The demolition of all buildings on the site and redevelopment for up to 170 residential dwellings together with improvements to the existing access road, associated vehicular parking and landscaped areas
PARISH	Dunstable
WARD	Dunstable Icknield
WARD COUNCILLORS	Cllrs McVicar & Young
CASE OFFICER	Mr J Spurgeon
DATE REGISTERED	19 April 2013
EXPIRY DATE	19 July 2013
APPLICANT	Lionsgate Properties No. 1 and No. 2 Ltd
AGENT	Planning Works Ltd
REASON FOR COMMITTEE TO DETERMINE	Contrary to Development Plan
RECOMMENDED DECISION	Outline Application - Approval

Proposed Reasons for Granting

Although this site is designated a Main Employment Area in the South Bedfordshire Local Plan (Policy E1) a subsequent appeal found this designation to be out of date and in the emerging Development Strategy for Central Bedfordshire, to which, in line with the National Planning Policy Framework, appropriate weight should be given, the site is designated Main Employment Area lost to residential development. Nevertheless, employment uses are proposed or have been granted on other sites in the Estate. The proposed residential development follows a similar form to schemes which have previously been accepted, although no decisions have been issued, and would relate acceptably to its neighbours (Policy BE8). Conditions would reserve certain biodiversity and landscape matters for later detailing. A S106 Agreement would be the instrument to release adjacent land for development of an affordable Extra Care housing scheme and the viability of that scheme would depend on the reduction of infrastructure contributions and the deletion of affordable housing requirements in this scheme. The importance of Council objectives in affordable care for the older person in accordance with Policy 31 of the emerging Development Strategy justifies this decision. The site is brownfield land which would be remediated to a relevant degree and thus comprise regeneration of a significant site in Dunstable.

Site Location:

This site comprises the 4.65 ha. central and northern part of the 6.5 ha. Dukeminster Estate together with the estate road to Church Street (0.35ha.). This was until recently a commercial enclave on a rectangle of land half a mile east of Dunstable town centre with a long history of commercial use.

The Estate sits off the northern side of Church Street 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 overlooking flats and houses in The Mall, Kingsway and Bernards Close. However, there are presently no fences at the bottom or top of the bank (except where it abuts private gardens, where a close boarded fence exists). Part of the eastern boundary has an area of undergrowth, with young trees on a bank falling to the Busway under construction; White Lion Retail Park and Sainsburys superstore lie beyond to the east. To the south, the main site adjoins the sites of an approved care home (work yet to start on site) and an Extra Care scheme (application concurrent and which is closely related to the instant proposal). The estate road to Church Street runs between these other sites.

Whereas almost all of the buildings on the other sites have been demolished, the site still contains 2 groups of commercial units (one unit still trading) and the greater part of the open land, which comprises the concrete slabs of the earlier buildings, is being used as a construction depot and materials store for the Busway.

The 1973 Tree Preservation Orders protect (a) trees in an Area which includes the bank towards the NW corner of the site and (b) individual trees at the foot of the bank to the rear of Scott's Court, Kingsway, and Earls Court, The Mall. The Busway land is included in the Luton to Dunstable Railway County Wildlife Site (CWS).

As indicated above, it should be noted that application CB/13/01276 for an Extra Care facility on the adjoining part of the Estate appears elsewhere in the agenda.

The Application:

It is proposed to develop the site with up to 170 dwellings. An indicative range of types has been given as follows:

1-bed flats - 8; 2-bed flats - 20;
2-bed houses - 28; 3-bed houses - 87; 4+-bed houses - 27.

A total of 4764m² of remaining commercial floorspace would be demolished. The application is in outline with all matters except Access reserved for subsequent approval.

The following documents accompany the application:

- Planning application supporting statement
- (Architectural) Design and Access statement
- Building for Life 12 assessment
- Public consultation statement
- Planning obligations statement
- Energy statement

- Flood risk assessment
- Sewer network note
- Phase 2 intrusive investigation
- Noise report
- Ecological appraisal
- Badger report
- Tree survey, arboricultural implications assessment and arboricultural method statement
- Landscape strategy
- Transport review statement

The existing estate road would be narrowed slightly and provide the main means of access to the site. The indicative layout shows the internal layout being based on a series of nodes (marked by a speed table) from which run loops or short culs de sac. Housing would front these shared surfaces which would be designed to restrict speeds to 20mph.. A pedestrian and cycle link would be made to The Mall and another to the proposed Busway stop at College Road. Three small equipped open spaces would be provided and the peripheral tree and belts on the south-west and north-west boundaries would remain. A total of 516 parking spaces are indicated which amounts to an average of 3.1 spaces per unit including visitors'.

Surface water would go to SUDs notwithstanding existing surface water sewers serving the site. This would include permeable paving, cellular storage and soakaways (there will be more permeable surface than at present). The made-up ground to the north may dictate diversion of water away from infiltration. Anglian Water had previously imposed a condition for a foul water strategy in view of restrictions in the capacity of the network to the sewage treatment works. The application anticipates a similar condition which would involve connection with an offsite sewer with adequate capacity.

RELEVANT POLICIES:

National Planning Policy Framework (March 2012)

- 4 - Promoting sustainable transport
- 6 - Delivering a wide choice of high quality homes
- 7 - Requiring good design
- 8 - Promoting healthy communities
- 10 - Meeting the challenge of climate change, flooding and coastal change
- 11 - Conserving and enhancing the natural environment.

South Bedfordshire Local Plan Review Policies

- BE8 Design Considerations
- E1 Main Employment Areas
- H2 Making provision for housing vis 'Fall-in' sites
- H3 Local housing needs
- H4 Affordable housing
- R10 Children's play area standard
- R11 New urban open space
- T4 Public transport services along the former Luton/Dunstable rail line
- SD1 Keynote sustainability policy.

Development Strategy for Central Bedfordshire (pre-submission version Jan 2013)

Policy 1	Presumption in favour of sustainable development
Policy 7	Employment sites and uses
Policy 19	Planning obligations and the community infrastructure levy
Policy 20	Next generation broadband
Policy 21	Provision for social and community infrastructure
Policy 22	Leisure and open space provision
Policy 26	Travel plans
Policy 27	Car parking
Policy 28	Transport assessments and travel plans
Policy 29	Housing provision
Policy 30	Housing mix
Policy 31	Supporting an ageing population
Policy 32	Lifetime homes
Policy 34	Affordable housing
Policy 43	High quality development
Policy 44	Protection from environmental pollution
Policy 47	Resource efficiency
Policy 48	Adaptation
Policy 49	Mitigating flood risk
Policy 59	Woodlands, trees and hedgerows

Having regard to the NPPF, significant weight is given to the policies contained within the emerging development Strategy for Central Bedfordshire, which is consistent with the NPPF. The draft Development Strategy is due to be submitted to the Secretary of State in June 2013.

Supplementary Planning Guidance

Design in Central Bedfordshire - Guide for Development
Central Bedfordshire Local Transport Plan: App.F, Parking Strategy
CBC Planning Obligations SPD (South)
Managing waste in new developments SPD
Dunstable Town Centre Masterplan (May 2011)

Luton to Dunstable Railway CWS
Borough of Dunstable Tree Preservation Order No.1 1973
Borough of Dunstable Tree Preservation Order No.2 1973

Planning History

(key decisions, whole Dukeminster Estate)

SB/OUT/06/0884	Appeal permission 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 300m ² of Class A1 floorspace and up to a maximum of 520m ² of Class D1 floorspace.
CB/11/02380/FULL	Resolved to Grant - Demolition of all existing buildings and redevelopment for up to 172 residential dwellings together with 300m ² (gfa) of Class A1 retail space and 513m ² (gfa) of

	Class D1 accommodation. Section 106 Agreement not signed.
CB/11/03053/DEM	Demolition consent for removal of buildings.
CB/11/04497/OUT	Resolved to Grant - 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, 568m ² (gfa) Class A1 retail space, 505m ² (gfa) Class A2 financial and professional services or Class 3 restaurants and cafe space, 555m ² (gfa) Class D1 non residential institutions space, 783m ² (gfa) Class B1 business space together with associated vehicular parking and landscaping areas. Section 106 Agreement not signed.
CB/12/01114/SCN	Screening Opinion for current proposal - Not EIA Development.
CB/13/00710/FULL [land to south-east of site]	Permission - New build Class C2 care home facility and upgrade of existing access road.
CB/13/01276/FULL [land to south of site]	<u>Being considered at this Meeting</u> - Demolition of all existing buildings on the site and redevelopment for the construction of 83 Extra Care Flats for Older Persons with communal areas, support facilities and retail unit.

**Representations:
(Town & Neighbours)**

Town Council (22/5/13)	No objection to the redevelopment of the site but would prefer the proposed housing mix to exclude any flats and be replaced with one or two bed dwellings.
Neighbours	42 Kingsway (7/5/13) Concerns: <ul style="list-style-type: none"> • extra traffic on an already congested Church Street will make it very difficult exiting from Kingsway, • houses would face rear of property on land nearly 5m higher with potential overlooking, made worse by an intervening road with streetlighting, • development may affect range of wildlife on the bank, • requests that a wood fence be erected between the development and the bank.

Consultations/Publicity responses

Tree and Landscape Officer (14/5/13)	Concerned with loss of tree group along eastern boundary which are classed as B2 and are in good condition. They form a strong, linear greening element alongside the busway. The remaining trees should be
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retained and protected. Neither is there justification for the removal of a group of sycamore to the north of this belt, on the bank overlooking Earls Court. Therefore objects to the application on this basis. Notwithstanding this objection, recommends a tree protection plan for these trees should permission be granted, and that the approved tree protection plan (submitted with the application) be implemented.

Ecologist (1/5/13)	No objection to proposals. Updated surveys should be undertaken to ascertain site use by reptiles at an appropriate time of year and any necessary mitigation included. Insufficient detail has been provided of badger activity and further surveys/updated layouts will be necessary in order to gain a licence from Natural England.
Natural England (22/5/13)	Proposal unlikely to affect bats or great crested newts. [comments on European species only]
Minerals and Waste (26/4/13)	No objections.
Public Protection Officer - Contaminated land (7/5/13)	Requests condition to control remediation process.
Environmental Health Officer (1/5/13)	No objections to proposed development. Requests condition to protect dwellings from Sainsburys and busway noise.
Environment Agency (10/5/13)	Planning permission could be granted if 6 proposed conditions are attached. Otherwise the proposed development poses an unacceptable risk to the environment and objection would be made.
Anglian Water (30/5/13)	Asks for an informative relating the presence of AW assets within or close to the site. Dunstable STW presently has available capacity for foul water drainage from the development. But, because of the limitations on intervening connections a drainage strategy should be agreed to cover the procurement of the improvement works. Surface water is a matter for the EA.
Affordable Housing Officer (25/4/13)	The affordable housing element required will be delivered through the application CB/13/01276 which is at the front of the site.
Highways Officer (31/5/13)	Makes comments on indicative layout. Adjustment will be needed for shared space standard and in particular visibility on corners and accesses, and turning areas. A parking schedule to include visitor provision should be

provided with reserved matters submission. Parking courts are not popular, need more manoeuvring space and tend to be less well used. The link with the busway stop is best delivered through a S106 schedule, and it should not be crossed by private drives. requests conditions.

Highways Agency
(28/5/13)

No objection but gives direction for travel plan condition.

Education - school
places (16/5/13)

Would seek contributions at all levels for £807,804 as pupil levels are expected to increase with no surplus capacity. There is a strong argument to prioritise education when deciding how to divide the contribution which is available.

Leisure Services
(14/5/13)

- Formal Open Space (sports pitches) - No provision therefore £124,260 developer contribution required; this would be available for a skateboard park as identified by Town Council and ward member,
- Children's Play - 1 'LEAP' plus 2 'LAP' play areas required on-site; those shown on the indicative plan are acceptable and protect privacy of adjacent residents,
- Informal Open Space and GI - Small on-site informal open space is sought (where no other OS is provided) but remainder would be provided through standard developer contributions,
- Indoor Sports and Leisure Centres - Developer contribution of £123,447 required for provision/improvement of leisure centres in the Dunstable area.

Waste and recycling

Comments will be reported at the Meeting.

Sustainability and
Climate Change Officer
(10/5/13)

Welcomes commitment to Code 4 and to the extra reduction of carbon dioxide emissions. Electricity, as a heating fuel source, is a more carbon intensive fuel and could make it more difficult to achieve these savings. In the absence of a clear direction for water recycling it is suggested that the simplest and cheapest form is a garden water butt. Recommends planning conditions to ensure that the proposed sustainability standards (10% carbon reduction and a level 4 of the Code for Sustainable Homes (CfSH)) are achieved.

Determining Issues

The main considerations of the application are;

1. Planning history and policy

2. Site constraints and Design
3. Building for Life 12 assessment
4. Response to representations, conditions and conclusion

Considerations

Human Rights issues

The proposal does not give rise to known Human Rights issues.

Equality Act 2010

As the Building for Life 12 assessment bears out, the proposal has appropriate regard to issues of mobility so far as can be assessed at outline stage. No other issues of equalities are considered to arise in this case.

1. Planning history and policy

Together with the rest of Dukeminster Estate the site is allocated in the South Bedfordshire Local Plan as a Main Employment Area; relevant Policy E1 is still saved. The site is shown on the Policies Map for the pre-submission Development Strategy for Central Bedfordshire as 'Main employment area (category 1) lost to residential development'. In a pivotal appeal decision on the Estate, the Secretary of State, in allowing an appeal for 458 dwellings (and 300m² retail/520m² Class D1) in 2007 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.

Subsequent applications have been determined which relied on the steer given by the Secretary of State in respect of the employment land and which is still relevant. The most recent (11/04497) covering the whole Estate was resolved to be granted permission by Development Management Committee on 23rd May 2012 but the S106 Agreement remains to be signed. In that application most of the current site was indicated as the location for residential development of 162 houses but the southernmost part was part of a block containing 568m² A1 retail, 505m² A2 and A3 retail, 555m² D1 nursery, 783m² B1 office accommodation and 41 flats. It can therefore be seen that the current proposal is for a slightly higher number of dwellings on a slightly larger area. The density of residential development is roughly similar between the residential schemes at about 37 units/ha..

Dunstable Town Centre Masterplan coverage extends to this site, being part of the Dukeminster Estate. Reference is made only to the 11/02380 'planning permission' (see history above) because the 11/04497 submission was still being considered. The Masterplan states "There is an opportunity to consider the site for comprehensive redevelopment. However, an element of the site's original employment function would need to be retained in some form." The other 2 parts of Dukeminster Estate will provide care facilities and it is now generally accepted that employment uses can extend to care facilities; this aspiration can therefore be met overall at Dukeminster.

The proposal accords with the emerging Development Strategy insofar as the new designation affecting the site recognises the substantial loss of the former employment function as a result of the appeal decision, yet employment

provision has or is intended to be made on other parts of the Estate. The National Planning Policy Framework recognises a degree of weight which can be attached to emerging development plans and this weight is considered to be significant.

PRESENT POSITION

There has been a recent major shift in the proposed regeneration of this Estate. Quantum Care has made much progress in its interest for the south-east quarter of the Estate and full planning permission was recently issued for a 75-room care home. The adjacent part of the estate road was included in the site and its upgrade was part of the permission. In addition, this Council has been in discussions with the 'owners' of the Estate whereby it would develop an Extra Care scheme on the south-west quarter, leaving the 'owners' the remainder of the Estate for residential development (this application). While a separate application in its own right, this application therefore relates to that scheme.

As the previous unsigned S106 Agreements bear witness, a residential scheme would normally involve substantial developer contributions towards infrastructure, under the CBC residential calculator (adopted 2009 - pending the introduction of CIL). Affordable housing would also have to be offered at a rate of typically 30%. At the pre-application stage it was calculated that infrastructure contributions for this phase would total £1.18 million. If the 'owner' was to remain liable to infrastructure contributions and affordable housing for its residential phase it would have to sell the land to CBC at a price which would make the Extra Care scheme unviable.

Recognising the effective contribution which Extra Care can make towards housing targets a S106 Agreement has been drafted whereby the Extra Care scheme would effectively 'comprise' the affordable housing element of the residential development. It would in fact not only provide shared ownership and rented homes for older people but the overall rate would rise to 33%. However, the infrastructure contributions would be considerably reduced to £689,000. The principle of this arrangement was approved by Executive on 5th February 2013:

*"That the proposal to construct an Extra Care Housing scheme at the Dukeminster site in Dunstable be approved; and
2. to delegate authority to the Director of Social Care, Health and Housing, in consultation with the Chief Finance Officer, the Deputy Leader and Executive Member for Corporate Resources and the Executive Member for Social Care, Health and Housing, to take such steps as were necessary to progress the scheme, including site acquisition and the award of a contract to construct the scheme in accordance with the Council's Code of Procurement Governance."*

The report to Executive is attached as an APPENDIX to application CB/13/01276 elsewhere on this agenda and gives further background to the proposal.

It will be for the Council to determine how to apportion spending of this sum, in accordance with the usual relevant tests, particularly in the areas of education, sustainable transport, leisure, social and waste.

EIA DEVELOPMENT

The current proposal has been screened and was found not to comprise EIA Development and thus an Environmental Statement is not required.

2. Site constraints and Design

ECOLOGY

The revised appraisal considers that the trees and buildings are not suitable for bats nor the ground for amphibians. The Busway embankment has the potential for slow-worms, which would need to be translocated, and other protected species and the site is affected by badger activity. Further survey work is recommended for reptiles. The proposed foot/cycleway link to the Busway would not be expected to have a significant effect on trees. The appraisal recommends that open space be included near the eastern boundary to reduce impact on protected species in the CWS, that cupressus be replaced by more wildlife-friendly species, and that planting/grassland uses information on locally native species. The Council's ecologist agrees with the need for further reptile surveys and would add that more work needs to be done in respect of badger activity.

SUSTAINABILITY

It is envisaged that the dwellings would be low carbon energy efficient to Code 4. Insulation would be 10% more efficient than under current Building Regulations. Where possible photo-voltaic and solar panels would supplement heating systems. Water recycling would be considered. The site would be better connected with the town centre through the proposed foot/cycle link with The Mall and thence to Court Drive and through the new Busway to Houghton Regis, east Dunstable and Luton (which would also have a parallel foot/cycleway). The Extra Care scheme to the south is intended to include a retail unit and the site is only a quarter mile from Sainsburys.

The recommendation by the Sustainability and Climate Change Officer is noted for conditions to set a level for carbon reduction and for CfSH but it is considered that, until emerging policies in the Development Strategy have been fully examined by the appointed inspector, there would be an understandable risk of successful challenge to such conditions.

STRATEGIC LANDSCAPE FRAMEWORK

The main perimeter tree belts on the north west and south west sides are fully safeguarded although provision will need to be made for the proposed low grade access to The Mall. These belts are significant features and no request has been received by neighbouring properties for their removal, especially - on grounds of light - the cypressus. The north east side is more problematic. Here, a broad margin of shrubs and young self-set trees has been cleared but the more mature trees on the bank with the busway, while retained, are shown for removal on the basis that they would not be of a suitable species to partner residential development (mainly sycamore). The indicative layout shows a new row of trees along this boundary, albeit with tight clearances. A similar arrangement was approved with the previous 2 'pending' schemes. Notwithstanding this background, it is disappointing with the proposed loss of these trees with no persuasive reason being advanced. Furthermore, with protected animal species activity in this area it would be risky to remove mature

trees wholesale and so we would propose to exclude the indicative layout from the status of parameter plan. This reinforces the fact that 170 dwellings is a maximum and would need to be proved in subsequent submissions. The fact that the layout would result in more vegetation than presently exists across the site would not make this exclusion disproportionate as it is important to provide a suitable filter of greenery for the development when seen from the busway to the east. Landscaping plans for the busway do not propose any new tree or shrub planting against this boundary. We would address any potential conflict between trees and the path to the busway stop when details are submitted.

APPROACH TO DESIGN

The indicative layout is based on the submitted layout to the previously approved (outline) residential scheme but updated to take into account current highway design, parking and other factors. Being situated away from principal roads this site does not have immediate neighbours which influence a design approach. Nevertheless, it will become more prominent as the Busway will pass along one boundary where previously there was no public access since the days of the railway. Previous buildings on the site were modern commercial structures faced in brick and cladding and these have left no legacy worth replicating. Similarly, access to the site was functional, direct and largely vehicle-based, which would not sit well with modern approaches to residential design. On the other hand, a valuable border of trees and shrubs should be kept as far as possible both as an amenity and as a screen to development which would be on a higher level than most of its residential neighbours; this also has an ecological benefit.

It has been decided to keep the development low rise at mainly 2 storey with 3 storey buildings as focal points within the development. Its separation from surrounding residential areas enables its own sense of place reinforced by different architectural designs of a contemporary, timeless, character. Although it is claimed that local bricks would be used, these would probably have to be sourced from the Chilterns.

ACCESS

The Transport Statement concludes that trip generation would be lower than the 162 dwellings of the 'permitted' scheme, due to the fact that the new proposal incorporates some flats. When the whole Estate is taken into account, there would be considerably fewer movements overall. The highways officer points out certain deficiencies of the indicative layout and recommends conditions. It is considered that these limitations do not cast material questions on the proposed capacity of the site but reference to them can be made through an informative.

In line with current national policy the number of highway conditions has been reduced at this stage so that they can be more focussed on the details of the reserved matters in due course.

Further consideration is being given to the need for a pedestrian/cycle/emergency access to The Mall and an update will be given of this at the Meeting.

DRAINAGE

As with previous recommendations Anglian Water requests a condition to

ensure that foul water sewer runs between the site and the Sewage Treatment Works are capable of receiving the extra flow.

3. Building for Life 12 assessment

The scheme was assessed after receipt of consultation responses.

Criterion 1 (Connections) - Historically there has been only one means of access to the Estate and, while gradients and unsuitable adjacent streets preclude additional vehicle links, there would be 2 new pedestrian/cycle links opening up the site to the busway, college and central shopping/entertainment area. The scheme therefore improves connectivity. - Green.

Criterion 2 (Facilities and services) - No new facilities are provided in this scheme but the related Extra Care application proposes a small foodstore. As stated above, most of the range of town centre facilities are within a third of a mile on foot and half a mile by car. In particular, a foodstore would be within about 350m of most dwellings. Non-car access to facilities would be by low-use or traffic-calmed routes. Play areas would be appropriately related to houses in relation to the age range targeted. - Green.

Criterion 3 (Public transport) - No part of the indicative layout would be more than 350m from a bus stop served by a frequent bus service to the town centre, Luton (for trains) or Houghton Regis. The furthestmost part would be within 500m of a bus stop for Leighton Buzzard (for trains), Aylesbury and Milton Keynes. - Green.

Criterion 4 (Meeting local housing requirements) - The accommodation concentrates on 3-bed but with significant 2 and 4+ bed representation, appropriate for a town centre site which seeks to respond to the present over-supply of small flats. Because of the particular nature of this scheme (see above), there is no affordable housing but it is commonplace for individuals or companies to buy new open-market housing and release them as private lets, thus broadening the tenure base. - Amber +.

Criterion 5 (Character) - It is intended to use materials which 'reflect the local vernacular'. Otherwise, there are no appropriate cues in the immediate vicinity, which is early post-war and functional commercial in character. Some regard to local architectural styles was had with infill development in Church Street but the site would be separated from that area by proposed modern architecture on the Extra Care and care home sites. The applicant proposes a 'contemporary and timeless' quality which is considered reasonable in the circumstances. With a careful and imaginative approach to design at reserved matters stage (and the indicative layout suggests that this could be achieved) a distinctive identity could be achieved. - Green.

Criterion 6 (Working with the site and its context) - The important tree belts along 2 sides of the site were considered above and are retained. The reason for removing the line of trees adjacent to the busway is not persuasive and protected species would be affected; the indicative layout will be excluded and the matter can be revisited at details stage. Nevertheless, there is no reason to question the potential capacity of the site for 170 dwellings provided a different mix is offered; otherwise the total number may be slightly lower. A successfully

functioning scheme is thus unlikely to be achieved in the way shown on the indicative layout. The case for removal of other individual trees and groups is accepted and the site would finish with far more trees as a consequence. There are no other features to take into account although activity of badgers is found on the edges of the site in 2 places. This will need to be considered carefully prior to submission of reserved matters as it will influence layout. As stated above, the indicative layout would be excluded from this permission as a consequence. - Amber +.

Criterion 7 (Creating well defined streets and spaces) - This application is submitted in outline only and the means of access does not extend beyond the first 100 m of the access road. Although not required to do so by recent legislation, an indicative layout has been provided which shows that public circulation space would be enclosed and overlooked by buildings. This space would provide shared surfaces of which the principal corridors would be planted with trees in the form of an avenue. - Green.

Criterion 8 (Easy to find your way around) - The same layout suggests that a visitor would easily be able to locate themselves by reference to Blows Downs and the Extra Care building to the south, tree belts to the north and west and 3-storey buildings strategically placed in the development (as proposed in the submissions). The only remaining commercial buildings near or on the site would be the rear of White Lion retail park and thus be recognisable. At details stage, further works and interventions are proposed by the applicant within the layout to distinguish locations within the layout. - Green.

Criterion 9 (Streets for all) - Although a detailed response has still to be provided by the Highways Officer, informally it is clear that the indicative layout includes the components of a pedestrian friendly access network with shared surfaces and speed limiting components. - Amber +.

Criterion 10 (Car parking) - The indicative layout was drawn on the basis of a full compliance with the new parking standards. This gives an overall parking ratio of 3 spaces per dwelling. There are few rear parking courts, which are small, and parking provision is represented across the usual range of on-plot, onstreet and court, where they may be overlooked, or in garages which do not dominate the street scene. - Amber +.

Criterion 11 (Public and private spaces) -The indicative layout shows that the appropriate standard of children's play provision can be achieved and that larger scale provision is best addressed by developer financial contributions. The fact that this scheme will deliver a fraction of the infrastructure costs due is not a reason to mark down this scheme. Management arrangements have not yet been made clear. - Amber +.

Criterion 12 (External storage and amenity space) - The submitted Building for Life report states that the layout was based on the larger size of garage now sought by the Council which would include storage for cycles. Waste collection bins would be stored in the garden and moved to collection points at the back of the highway. Of course, this is only a outline application and details cannot be expected to be fully worked through at this stage. - Amber +.

The scheme thus provides an acceptable score. Amber+ scores mean that a green score could not be obtained for reasons beyond the scope of this application (for example, the fact that the evidence would be in details which are not available until the reserved matters application).

4. Response to representations, conditions and conclusions

The indicative layout has no formal standing in any permission that may be issued and it is considered that the eastern part in particular would need significant amendment to adequately reflect existing constraints, notwithstanding previous permissions. The wooded bank behind Kingsway provides a significant filter to views across the boundary between dwellings a minimum of 45m apart. Although we find nothing to suggest that this would be an unacceptable relationship, fine tuning of the layout can take place at pre-application stage of the details. That would also be the right time to consider the appropriateness of fencing details. According to the ecological report the wooded belts do not have an unusual wildlife significance. As remarked in BfL Criterion 6 above, there is sufficient assurance overall that 170 dwellings could be achieved at an appropriate density while meeting the parking standards.

The Town Council raises matters of dwelling type and mix. The indicative layout only shows one possible way of developing the site and neither the layout, nor indicative mix, is hereby recommended for approval. Indeed, any housebuilder would carefully research the demands of the local housing market before putting forward the reserved matters proposal. Nevertheless, we recommend an informative to advise the developer to consider in particular local housing demand when determining the final mix.

The site is included in a previously approved mixed-use scheme and those conditions have been reviewed. Regards has been had to the Extra Care scheme application to ensure that the approach is consistent. Clearly, more work is needed to safeguard protected species and an informative advises careful consideration of the eastern boundary where we are not persuaded, on wildlife or landscape grounds, that the tree belt should go. Contamination remediation works may affect finished ground levels and such levels information should be provided. The previously required emergency and pedestrian/cycle access to The Mall is proposed to be included, subject to any updated comments by the Highways Officer at the Meeting.

The scheme overall continues to represent an acceptable re-use of this site and employment uses on the other 2 phases are considered sufficient to offset the pure residential character of this site. The draft Development Strategy recognises this transition and the proposal, well located near the centre of a town, accords with the tenor of the NPPF which supports sustainable development. The proposal would represent the regeneration of a significant site in the town and the residential development should be capable of early delivery. The reduced S106 contributions and lack of affordable housing on this scheme has been justified as part of the requirement to provide for the transfer of land for the Extra Care scheme.

Recommendation

That, subject to the satisfactory completion of a Planning Agreement under S106 of the Act to secure terms for the offer of land to this Council, the provision of a pedestrian and cycle link to the Luton and Dunstable Busway and an infrastructure contribution related to the proposal, the Application be APPROVED subject to the following:

RECOMMENDED 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 **No development shall begin until a detailed landscaping scheme to include any hard surfaces and earth mounding has been 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 until satisfactorily established.**

REASON: To ensure a satisfactory standard of landscaping. (Policy BE8 South Bedfordshire Local Plan Review (SBLPR); 43 Development Strategy for Central Bedfordshire (DS)).

- 4 **No development shall commence, including ground clearance, until a Tree Protection Plan has been submitted incorporating the tree protection measures contained in the Tree Survey, Arboricultural**

Implications Assessment Report and Arboricultural Method Statement (Ref. 2354.AIA.Dunstable.Reit) and drawing 2354.TPP hereby approved, together with tree protection measures to safeguard selected trees in Group J. A schedule of the trees in Group J to be protected shall be submitted to and approved by the Local Planning Authority prior to the submission of the Tree Protection Plan. These measures shall be implemented to the standard required by BS3998 'Recommendations for Treework' 2010.

REASON: To ensure a satisfactory standard of landscaping by retaining important existing trees. The appropriateness of removing all trees within Group J has not been demonstrated.
(Policies: BE8 SBLPR; 43 DS).

- 5 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 retain important existing trees.
(Policies: BE8 SBLPR; 43 DS).

- 6 The low brick wall on the north-eastern side of the tree belt adjacent to 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 and length and no sections of the wall shall be removed without the prior written approval of the Local Planning Authority.

REASON: To safeguard trees screening the site.
(Policies: BE8 SBLPR; 43 DS).

- 7 All excavations and trenches, where they pass under the canopy of any tree, shall 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: BE8 SBLPR; 43 DS).

- 8 Prior to the submission of any reserved matters application a scheme of mitigation in relation to badgers, drawing on a suitably up-to-date survey, shall be submitted to 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.

REASON: To ensure adequate protection of protected species.
(Policy: 57 DS).

- 9 **No development shall commence, including site clearance, unless and until a survey of reptiles has taken place on the site and appropriate mitigation provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.**

REASON: The previous surveys will be out of date by the time development commences.

(Policy: 57 DS).

- 10 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.

(Policies: BE8 SBLPR; 43 DS).

- 11 **No development hereby approved shall begin until the following have been submitted to and approved in writing by the Local Planning Authority:**
- (a) a Phase 3 Remediation Method Statement containing a detailed scheme, including site plans, for remedial works and measures to be taken to mitigate any risks to human health, groundwater and the wider environment, as recommended by the previously submitted Curtins Consulting Phase 2 Site Investigation Report of July 2011.**
 - (b) a Phase 4 Validation Report demonstrating the effectiveness of the Phase 3 scheme (to incorporate photographs, material transport tickets and excavation-wall chemical validation sampling), unless an alternative period is approved in writing by that Authority. Any such validation should include responses to any unexpected contamination discovered during works.**

Any works which form part of the Phase 3 scheme approved by the Local Planning Authority shall be completed in full before any part of the proposed building is occupied. The British Standard for Topsoil, BS 3882:2007, specifies requirements for topsoils that are moved or traded and shall be adhered to.

REASON: To protect human health and the environment.

(Policies: 43, 44 DS).

- 12 **No development shall begin until a detailed surface water drainage scheme for the site, based on the agreed Flood Risk Assessment (FRA) prepared by Cannon Consulting Engineers Ref: CCE/H971/01/FRA Issue No 2 dated April 2013 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 on-site surface water management as outlined in the Section 3.4 of the FRA.

REASON: To prevent the increased risk of flooding, to improve and protect water quality, and improve habitat and amenity. (Environment Agency condition).

(Policy: 49 DS).

- 13 **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 until the works have been carried out in accordance with the foul water strategy so approved.**

REASON: To prevent environmental and amenity problems arising from flooding. (Anglian Water condition)

(Policy: 49 DS)

- 14 **No development approved by this planning permission shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site has each be submitted to and approved, in writing, by the Local Planning 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 results of the site investigation and detailed risk assessment referred to in (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 the remediation strategy 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 written consent of the Local Planning Authority. The scheme shall be implemented as approved.

REASON: To protect and prevent the pollution of controlled waters (particularly the underlying Principal aquifer) from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF; paragraphs 109, 120, 121). (Environment Agency condition)
(Policy: 44 DS).

- 15 No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of 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. The long-term monitoring and maintenance plan shall be implemented as approved.

REASON: as Reason 13. (Environment Agency condition)
(Policy: 44 DS).

- 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 a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

REASON: as Reason 13. (Environment Agency condition)
(Policy: 44 DS).

- 17 No infiltration of surface water drainage into the ground at the site 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 approved details.

REASON: as Reason 13. The water environment is potentially vulnerable and there is an increased potential for pollution from inappropriately located and/or designed infiltration Sustainable Drainage Systems (SuDS) such as soakaways, unsealed porous pavement systems or infiltration basins. (Environment Agency condition).
(Policy: 44 DS).

- 18 Piling or any other foundation designs using penetrative methods shall not be 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 groundwater. The development shall be carried out in accordance with the approved details.

REASON: as Reason 13. Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater. (Environment Agency condition)
(Policy: 44 DS).

- 19 To protect against intrusive externally generated noise, sound insulation and absorbent materials shall be applied to all dwellings as is necessary to achieve as a minimum standard an internal noise level of 30dB_LAeq, 23:00-07:00 and 45dB_LAmax, 23:00-0700 for bedrooms and 35dB_LAeq, 07:00-23:00 for habitable rooms. External noise levels from road traffic noise sources shall not exceed 55dB_LAeq, 1hr in outdoor amenity areas. The effectiveness of the scheme shall be demonstrated through validation noise monitoring, with the results submitted to and approved in writing by the Local Planning Authority before any permitted dwelling unit 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 (other than for road traffic noise). Such windows shall be fixed closed and be non-openable with alternative means of ventilation provided for the rooms affected.

REASON: To protect occupants from externally generated noise.
(Policies: BE8 SBLPR; 44 DS).

- 20 No part of the development hereby approved shall be brought into use until a Travel Plan has been approved in writing by the Local Planning Authority. The Travel Plan shall be in line with prevailing policy and best practice and shall include as a minimum:
- The identification of targets for trip reduction and modal shift
 - The methods to be employed to meet these targets
 - The mechanisms for monitoring and review
 - The mechanisms for reporting
 - Details of mitigation measures to be applied should targets not be met
 - Implementation of the travel plan to an agreed timescale or timetable and its operation thereafter
 - Mechanisms to secure variations to the Travel Plan following monitoring and reviews.

No part of the development shall be occupied except in accordance with the provisions and timetabling of the Travel Plan.

REASON: To ensure the A5 trunk road will continue to be an effective part of the strategic Road Network in accordance with Circular 02/07 Planning and the Strategic Road Network. (Highways Agency direction).
(Policy: 26 DS).

- 21 **No development shall commence until a detailed waste audit addressing issues in respect of waste generated by the site clearance, construction 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:

- a. the anticipated nature and volumes of waste that the development will generate,
- b. measures to maximise the re-use of on-site waste arising from demolition, engineering and landscaping,
- c. 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 and recovery and recycling facilities,
- d. any other steps to be taken to minimise the generation of waste throughout any required demolition and during the construction of the development,
- e. provision within the proposed development to encourage the occupier to manage waste effectively and sustainably,
- f. provision for monitoring the implementation of steps (a) to (e) above, and
- g. a timetable for implementing the above steps.

REASON: To ensure that waste is managed sustainably during the lifetime of the development in accordance with the objectives of saved policies W5 and W6 of the Bedfordshire and Luton Waste Local Plan 2005.

- 22 **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 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.

(Policy: 43 DS)

- 23 If the proposed road is not constructed to the full length and layout illustrated on the approved plan, a temporary turning space for vehicles shall be constructed within the site in a position to be approved in writing by the Local Planning Authority before any building taking access from the road is occupied.

Reason: To avoid the need for vehicles to reverse into or from the highway in the interest of road safety.

(Policy: 43 DS)

- 24 *[Possible condition for access to The Mall - update at Meeting]*

- 25 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 2429/409 rev.A, 410 rev.A, M10026-A-003 rev.D, received 19/4/13, but excluding the indicative master plan 2429/407 rev.A, received 19/4/13.

Reason: For the avoidance of doubt.

Notes to Applicant

1. 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.
2. With respect to the construction phase reference should 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. 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.

3. The site is located within the groundwater Source Protection Zone of Periwinkle Lane Pumping Station, a public water supply operated by Affinity Water Ltd.. Construction works and operation of the proposed development site should be done in accordance with the relevant British Standards and Best Management Practices, thereby significantly reducing the groundwater pollution risk. (Affinity Water advice - 01707 268111).
4. Further to condition 8, the submitted Badger Report highlights the presence of badgers in respect of the site. Being a protected species any development

which affects them will also require a licence from Natural England. Such development would likely include any proposed removal of trees on the eastern boundary. Both to provide a realistic detailed layout and to obtain a licence further survey work will be necessary in due course. It is recommended that discussions take place with the Council to guide the layout options in the most sensitive areas. The developer is also advised to cover open excavations at night.

5. The reserved matters application should be accompanied by an existing and final ground levels drawing to take account of any increase in levels following remediation or movement of contaminated soils.
6. The developer is strongly recommended to consider local housing demand when considering the final mix of accommodation in order that the development may address the needs of the local community as a first priority.
7. In line with national policy guidance the number of conditions relating to highway and transport matters has been reduced at outline stage from the previous decisions relating to the site. However, it is important to address current Local Planning Authority guidance and policy when drawing up the detail. In particular the indicative layout as submitted does not reflect current standards as concern shared space, vehicle and pedestrian visibility, free movement of vehicles in squares and some turning areas, use of and manoeuvrability in rear parking courts, and private accesses crossing a pedestrian link. The allocation and provision of parking spaces is also unclear in this submission.

Statement required by the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 - Article 31

It is recommended that planning permission be granted for this proposal. The Council acted pro-actively through early engagement with the applicant at the pre-application stage which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.

DECISION

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