

## **Item No. 17**

<b>APPLICATION NUMBER</b>	<b>CB/13/01276/REG3</b>
<b>LOCATION</b>	<b>Dukeminster Estate, (South West Corner) Church Street, Dunstable, LU5 4HU</b>
<b>PROPOSAL</b>	<b>Demolition of all existing buildings on the site and redevelopment for the construction of 83 no. Extra Care Flats for Older Persons with communal areas, support facilities and retail unit</b>
<b>PARISH</b>	<b>Dunstable</b>
<b>WARD</b>	<b>Dunstable Icknield</b>
<b>WARD COUNCILLORS</b>	<b>Cllrs McVicar &amp; Young</b>
<b>CASE OFFICER</b>	<b>Mr J Spurgeon</b>
<b>DATE REGISTERED</b>	<b>15 April 2013</b>
<b>EXPIRY DATE</b>	<b>15 July 2013</b>
<b>APPLICANT</b>	<b>Central Bedfordshire Council</b>
<b>AGENT</b>	<b>Kyle Smart Associates Limited</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Contrary to Development Plan Regulation 3 application</b>
<b>RECOMMENDED DECISION</b>	<b>Regulation 3 - Approval</b>

### **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Main Employment Area in the South Bedfordshire Local Plan (Policy E1) a subsequent appeal found this designation to be out of date and in the emerging Central Bedfordshire Development Strategy, to which, in line with the National Planning Policy Framework, appropriate weight should be given, the site is designated Main Employment Area lost to development. Nevertheless, the proposal includes employment generating uses as well as significant affordable accommodation for the elderly. The building would be iconic and well designed (Policies BE8, 43) and act as an uplifting gateway development to the east of the town centre. Important existing landscaping is retained and the building would also safeguard the character of the adjacent Dunstable Conservation Area. The site is brownfield land which would be remediated to a relevant degree and thus comprise regeneration of a prominent site in Dunstable.

### **Recommendation**

That the Planning Application be APPROVED under Regulation 3 of the Town and Country Planning General Regulations 1992 subject to the following:

### **RECOMMENDED CONDITIONS**

- 1 The development shall begin not later than three years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 **No development hereby approved shall commence until a detailed 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 until satisfactorily established.**

**REASON: To ensure a satisfactory standard of landscaping. (Policies BE8 South Bedfordshire Local Plan Review (S.B.L.P.R); 43 Development Strategy for Central Bedfordshire (DS)).**

- 3 **No development shall commence, including ground clearance, until tree protection measures in accordance with the *Tree Survey, Arboricultural Implications Assessment Report and Arboricultural Method Statement (Ref. 2345.AIA.Dunstable.Reit)* and drawing 2345.TPP hereby approved have been implemented to the standard required by BS3998 '*Recommendations for Treework*' 2010.**

REASON: To ensure a satisfactory standard of landscaping by retaining important existing trees.  
(Policies: BE8 SBLPR; 43 DS).

- 4 If any underground services are required to be routed through the root protection areas of retained trees, such works shall be carried out in strict accordance with the guidance set out in the National Joint Utilities Group's publication *Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in proximity to Trees*.

REASON: To retain important existing trees.  
(Policies: BE8 SBLPR; 43 DS).

- 5 No removal of the low brick wall on the north-eastern side of the tree belt adjacent to western boundary of the site shall take place until details of the proposed treatment of the adjacent land have been submitted to and approved in writing by the Local Planning Authority.

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

- 6 **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).

**7 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).

- 8 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 7. (Environment Agency condition)  
(Policy: 44 DS).

- 9 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 7. (Environment Agency condition)  
(Policy: 44 DS).

- 10 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 7. 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).

- 11 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 7. 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).

- 12 **No development shall commence until a surface water drainage strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.**

REASON: To ensure satisfactory sustainable drainage for the site.  
(Policy: 44 DS).

- 13 **No development shall commence until samples of proposed facing materials, surfacing materials, and railings have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.**

REASON: To ensure a quality development in the context of its situation.  
(Policies: BE8 SBLPR; 43 DS).

- 14 **Development shall not 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**
- 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.

- 15 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<sub>LAeq</sub>, 23:00-07:00 and 45dB<sub>LAm</sub>, 23:00-07:00 for bedrooms and 35dB<sub>LAeq</sub>, 07:00-23:00 for habitable rooms. External noise levels from road traffic noise sources shall not exceed 55dB<sub>LAeq</sub>, 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).

- 16 Fixed plant associated with the proposed development must be designed to a level which is at least 5dB(A) below the existing L<sub>A90</sub> background noise level as measured during the relevant time period. Any tonal, impulsive and/or irregular noise should 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 1 metre from the closest affected window of the relevant noise sensitive dwelling unit.

REASON: To prevent nuisance from noise and to safeguard the amenities of the area.  
(Policies: BE8 SBLPR; 44 DS).

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

REASON: To safeguard sensitive receptors from unacceptable levels of odour pollution.  
(Policies: BE8 SBLPR; 44 DS).

- 18 Before an access onto the estate road or Church Street is first brought into use, a triangular vision splay shall be provided on each side of the access and shall be 2.8m measured along the back edge of the highway from the centre line of the anticipated vehicle path to a point 2.0m measured from the back edge of the footway into the site along the centre line of the anticipated vehicle path. The vision splay so described and on land under the applicant's control shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway level.

REASON: To provide adequate visibility between the existing highways and the proposed accesses, and to make the accesses safe and convenient for the traffic which is likely to use them.  
(Policy: 43 DS).

- 19 Before an access onto the estate road or Church Street is first brought into use, a triangular visibility splay shall be provided on each side of the access and shall be 2.4m measured along the centre line of the access from its junction with the channel to the through road and 25m measured from the centre line of the access 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.  
(Policy: 43 DS).

- 20 No part of the development hereby approved shall be brought into use until a staff 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 The maximum gradient of all vehicular accesses onto the estate road or Church Street shall be 10% (1 in 10).

REASON: In the interests of the safety of persons using the access and users of the highway.  
(Policy: NPPF par. 32).

- 22 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.  
(Policy: 43 DS).

- 23 The proposed retail unit shall not be brought into use unless and until full servicing and customer vehicular access can be obtained along that length of the estate road between Church Street and the delivery and retail parking provision hereby approved.

REASON: To ensure adequate off-street parking and servicing facilities for the retail unit in the interest of road safety.  
(Policy: 43 DS).

- 24 **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.  
(Policies: BE8 SBLPR, 43 DS).

- 25 **No development shall commence until details of the parking of cycles on the site, including stands and structures have been 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.  
(Policy: 24 DS).

- 26 **No development shall 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.  
(Policy: NPPF par. 32).

- 27 This permission relates only to the details shown on drawings 12050wd2.001, 002, 011 – 017, 019 – 021, 023 – 026 received 15/4/13; 2345.TPP, 2345.AIA received 15/4/13; 78310R1 received 15/4/13; 12050wd2.022A received 30/4/13; 12050wd2.010 rev.B received 10/5/13.

REASON: To identify the approved plans and to avoid 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 applicant is advised that if it is the intention to request the Central Bedfordshire Council as Local Highway Authority, to adopt the proposed highway as maintainable at the public expense then details of the specification, layout and alignment, width and levels of the said highway together with all the necessary highway and drainage arrangements, including runoff calculations shall be submitted to the development Planning and Control Group, Central Bedfordshire Council's Highway Help Desk, PO 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.
4. Precautions should be taken to cover open excavations at night as badgers are known to be active in the area.
5. 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).
6. Contact should be made with Andrew McWha, Central Bedfordshire Council (0300 300 8000) prior to completion of the development in order to organise provision of waste bins.

**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 positive engagement with the applicant at the pre-application stage and during the determination process 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.

[Note: Prior to consideration of the application the Committee were advised of a correction to the Planning Application No. on page 5 of the agenda should read: CB/13/01276/REG3.]