

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Main Employment Area in the South Bedfordshire Local Plan (Policy E1) a subsequent appeal found this designation to be out of date and in the emerging Development Strategy for Central Bedfordshire, to which, in line with the National Planning Policy Framework, appropriate weight should be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.

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_{LAm}, 23:00-07:00 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. Unless otherwise agreed in writing by the Local Planning Authority 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 No more than 49 dwellings shall be occupied unless and until a 3.0m wide footway/cycleway with 0.15m clearance either side has been constructed between the new highway to the development and the existing carriageway of the Mall in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The said footway/cycleway shall also double as an emergency vehicle access for the development. Any Statutory Undertakers equipment or street furniture shall be resited to provide an unobstructed access.

Reason: In the interests of sustainability and to ensure free movement of traffic. (Policies: 24, 43 DS)

25. The detailed layout to be submitted shall include the provision of a 'Bring Site'.

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

(Policy: 44)

- 26 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.

[Note: Prior to consideration of the application the Committee were informed of an amendment to Condition 19 and the addition of conditions 24 and 25 as contained within the Late Sheet.]