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David Hale
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Copies: Gary Alderson, Mid-Beds District Council, re: 08/00325/FULL

19th April 2008

Dear Mr. Hale,

Ref: Application No: SB/OUT/08/0230

CAST, the Campaign for A Sustainable Toddington (**Appendix 1**), **objects** to the above application due to the impact it would have on the communities of Harlington, Toddington and the wider community of Bedfordshire, its unsuitability in the greenbelt and its adverse impact on the environment.

This submission represents our official view, but it is not necessarily exhaustive of our views and we may make further submissions in the future.

Summary

We feel that the application is confusing as the precise nature of the relationship between the Developer and LTFC needs clarification before it can be considered.

This document discusses below 22 Key Issues why permission for this application should be refused by South Beds District Council. The Key issues are listed and summarised below and are fully discussed in the main text.

This discussion is supplemented by a number of Appendices that are referred to in the main text. In order to assist the reader, the content of the Appendices is described at the end of this Summary.

Key Issues (summary):

- **Regional Planning:** the Regional Planning Guidance does not identify a new stadium for Luton Town Football Club.
- **Very Special Circumstances:** we do not believe that the applicant has demonstrated the very special circumstances required to set aside greenbelt policy.
- **Need:** without LTFC2020's commitment to the project as part of a business plan for LTFC we fail to see how need can be demonstrated as, as it stands, the stadium aspect of the project has no client.
- **Viability:** we do not believe an acceptable case has been provided with regards to the viability of the community stadium, simply because, without the backing of LTFC, its viability cannot be considered.
- **Size of Development (land use):** we believe that the size and scale of the enabling development is inappropriate and possibly unnecessary.
- **Planning Policy:** the application is contrary to local, regional and national planning policy in particular PPS1, PPS6, PPS7 and PPG2.
- **Alternative Sites:** we do not accept the validity of the applicant's alternative sites assessment as it was carried out before November 2007.
- **Community Facilities:** it is remarkable is the applicant's contention at P.36 that his proposals are 'community-led'. The communities most concerned have made it quite clear that they do not want them.
- **Community Involvement:** we do not accept that the applicant has satisfactorily involved the community in the process leading up to its planning application.
- **Impact on Luton Town Centre Toddington and Harlington:** the applicant makes much of the benefit the development would bring in terms of the ability for Luton Borough Council to develop the existing LTFC stadium site, at Kenilworth Road. However, little or nothing is made of the potential benefits to Toddington and Harlington.
- **Visual Impact:** we do not accept that the visual impact of the development, either the warehouses or the stadium, could be mitigated by design as proposed.
- **Ecological Surveys and Wildlife aspects:** we believe it could be illegal to grant planning permission until far more information has been provided by the applicants on the impact of the proposed development on protected species.
- **Noise:** data supplied by the applicant suggests hundreds of traffic movements in and out of the development every day with 24/7 operation. Modelled on a 12 hour operational shift, some 3,000 vehicle movements are anticipated. Clearly this will lead to high levels of engine and tyre noise together with additional noise due to

- loading and unloading of vehicles. Harlington and Toddington already suffer from high noise levels.
- **Light Pollution:** the likely 24 hour operation of the warehousing development will create unacceptable levels of light pollution in this rural location.
 - **Road use:** the proposed development was not considered in the Bedfordshire and Luton local Transport Plan or in the Highways Agency's plans for the widening of the M1 between J10 and 13
 - **Train use:** there is very little information supplied by the applicant with regard to anticipated train use for events at the stadium.
 - **Cycling and walking:** the applicant makes various assertions with regards to visitors cycling to the facilities. We think this is unrealistic.
 - **Coach Travel:** while we accept that a percentage of away supporters may well use coaches to attend matches. However, we are concerned that this could lead to problems in Toddington in particular.
 - **Parking:** we do not accept that the small number of parking spaces proposed for the stadium will deter visitors from travelling by car.
 - **Comparators:** it is an important point that the proposed development is *much* bigger, in terms of land use, than any of the comparators presented.
 - **Sewage and Sewerage Disposal:** there are concerns that the local sewerage infrastructure is operating at full capacity.
 - **Archaeological Significance:** The survey has nevertheless found that the site is highly sensitive archaeologically and has the potential for multi period remains. In terms of the Hedgerow regulations 1997, the Site contains "important or historic" hedgerow. A line of established hedgerows and pollarded trees, identified during a recent site visit (DBA 1q), corresponds to the northern boundary of field number 70 (Lower meadow) identified on the enclosure map and award of 1797, and is therefore eligible for protection under the Hedgerow regulations.

List of Appendices:

(please note that a number of appendices are out of numerical order when they appear at the end of the document)

Appendix 1: About CAST

Appendix 2: Alternative Sites Survey

Appendix 3: LTFC – Application for Community Stadium

Appendix 4: Ecological Surveys

Appendix 5: CAST survey of Toddington Residents July 2007

Appendix 6: Issues on Applicant's Transport Assessment

Appendix 7: Further Issues Affecting Toddington and Surrounding Villages

Appendix 8: Wild Life report

Appendix 9: Chiltern Society Letter

Appendix 10 Issues on External Lighting

Applicant

It is confusing that the application appears to be on the behalf of Luton Town Football Club. This is referred to in various documents and the Club logo is used on several cover sheets. The conclusions of the Planning Statement (8.2) categorically state that the application is from LTFC.

It is our view that this is seriously misleading, as the preferred bidder and likely new owners of the football club (LTFC 2020) appears to have a neutral stance regarding relocation to the site identified in the application. Furthermore, LTFC 2020 have an open mind about any relocation and intend to carry out an independent feasibility study of a number of alternative sites, including that identified in the application.. We therefore, believe that the applicant should be asked by the Planning Authority to provide a formal statement to clarify their relationship with LTFC 2020 before the application is considered further.

Key Issues

CAST regards the following as the key reasons why permission for this application should be refused by South Beds District Council.

1. Regional Planning

Regional Planning Guidance does not identify a new stadium for Luton Town Football Club. We believe that a proposal of this scale must be considered through the Local Development Framework process and approval of the application would seriously undermine the proper planning needs of the region.

It is essential that the allocation of a new stadium is considered in the emerging core strategies for the area, considering the wider growth needs of the area to enable sensible infrastructure planning, ensuring amenities and jobs are close to core communities.

2. Very Special Circumstances

We do not believe that the applicant has demonstrated the very special circumstances required to set aside greenbelt policy. We do not accept the need case for warehousing as proposed, the lack of alternative sites or the case made for the 'community' stadium.

Though the release of the Kenilworth Road site may well be desirable - or even important -to the regeneration of the Bury Park area, we submit that, once again, this is simply a background statement of equal consideration to any alternative site might be under investigation, anywhere. Accordingly, we submit it is no special weight in assessing a case of 'very special circumstances' for development at J12.

3. Need

Given the availability of vacant warehousing in the area we do not accept the applicant's analysis of need.

With regards to the proposed stadium, we do not accept that this represents a benefit to the community because it does not have the support of the preferred bidders and likely new owners of Luton Town Football Club, LTFC2020. Without LTFC2020's commitment to the project as part of a business plan for LTFC we fail to see how need can be demonstrated as, as it stands, the stadium aspect of the project has no client.

Furthermore, without the participation of LTFC we fail to see how the applicant can assess how many seats and what facilities the stadium requires to make it suitable for the footballing aspirations and commercial plans of the likely new owners of LTFC. 20,000 seats seem disproportionately high when typical attendances at LTFC matches are less than 8,000. Further consideration should be taken of the recent relegation of LTFC from League Division 1 to League Division 2; where the fan-base may well be smaller and the need for seating may be even less.

4. Viability

We are concerned that the applicant will be unable to find clients for the warehouses as proposed. Without client commitment in place, the viability for the whole project is drawn into question.

We do not believe an acceptable case has been provided with regards to the viability of the community stadium, simply because, without the backing of LTFC, its viability cannot be considered.

The applicant has pledged a £25m contribution towards the cost of a stadium, but it is unclear how much of this would go towards the cost of building the stadium compared to any associated infrastructure and section 106 agreements. Without the support of LTFC there is no credible information on how much the stadium will cost in total, how the excess over £25m will be funded and whether this is viable commercially for the Club.

The applicant's cost advisors, Gleeds¹, claim that the stadium can be built for £26m, but no detailed costings are included and this figure varies enormously to the £70m sum being suggested by the outgoing management of LTFC in autumn 2007.

There is also no assessment of the possible effects of delay on the costs and viability of the stadium project.

5. Size of the Development (land use)

¹ J12 Stadium, Illustrative Financial Projections, Deloitte, page 6

Even if the very special circumstances required to be proven in terms of PPG2 guidance (see Planning Policy Issues below) could be shown to be provided by a stadium, we believe that the size and scale of the enabling development is inappropriate and possibly unnecessary. There are many examples of stadium developments which have not required such levels of land loss. The stadium itself, as proposed, requires only around 15 hectares

6. Planning Policy

The application is contrary to local, regional and national planning policy in particular PPS1, PPG2, PPS6 and PPS7 .

Appendix 3, prepared for CAST by Planning Aid, gives full details of an appraisal of the application's PPS6 Assessment.

In its Planning Statement, the applicant claims that the application 'would deliver significant planning benefits for the locality'. We object strongly to this misleading view.

7. Alternative Sites

We do not accept the validity of the applicant's alternative sites assessment as it was carried out before November 2007 when LTFC went into administration. LTFC2020 have made it clear that they intend to carry out an independent feasibility study to find the best site for a new home for LTFC once they have secured the Club. We do not believe that it would be appropriate to approve the application without consideration of this survey.

LTFC 2020 has stated that, since the applicant's assessment was carried out, it has become apparent that there are more possible options for a new stadium, many of which are within the boundaries of Luton. Clearly, this draws the applicant's survey into question.

We also question the applicant's stated survey of LTFC season ticket holders. We do not accept this survey as credible evidence of the views of supporters with regards to the J12 site compared with other alternative sites for various reasons. Firstly, it was carried out under the previous management of the Club, which was in favour of J12. The Club has been through so many changes since that time, that we don't think the survey carries any weight. Secondly, supporters were only given two options ; stay at Kenilworth Road, or move to J12. That research does not suggest support for J12 over other sites.

Our detailed views with regards to the applicant's Alternative Sites assessment are contained in **Appendix 2**.

8. Community Facilities

It is remarkable is the applicant's contention at P.36 that his proposals are 'community-led'. The communities most concerned have made it quite clear that they do not want

them. The applicant's real vision for J12 is patently one that is warehousing-led, with the 'community stadium' element affording him a bit of convenient leverage.

The community facilities outlined in the application are not appropriate for the location. A survey of Toddington residents carried out in June 2007 showed very little demand for such amenities in the local community (**Appendix 5**). In March 2008 in excess of 1500 individual letters of opposition against the development were sent by residents to South Bedfordshire District Council. Therefore, we believe such amenities are not required at Jn 12 and would be of much greater value in an urban setting close to the communities where they are required.

Notably, several community facilities (suggested at public exhibitions in summer 2007) have been dropped including a health centre and a crèche.

9. Community Involvement

We do not accept that the applicant has satisfactorily involved the community in the process leading up to its planning application. The applicant claims its consultation had four strands, the third strand being 'Undertaking extensive consultation with the local residents who will be affected by the proposals.'²

Public exhibitions in the local communities held in the summer of 2007 were not representative of the development because LTFC, in the guise of LTFC 2020, is no longer in support of the application. Consultation of Toddington residents was particularly poor and slipshod. Furthermore, the map issued by the Developers to guide residents to their exhibition wrongly identified the location. The newsletters provided a lack of detail on the warehousing almost to the extent that it appeared to be ignored.

The applicant states that all sections of the community would benefit from the development. We do not accept this and the results of our survey (**Appendix 5**) of residents supports this view.

A petition in opposition to the development representing 3,000 residents of Harlington and Toddington was presented in Parliament by Nadine Dorries MP on 20th February 2008.

10. Impact on Luton Town Centre Toddington and Harlington

The applicant makes much of the benefit the development would bring in terms of the ability for Luton Borough Council to develop the existing LTFC stadium site at Kenilworth Road. However, this 'benefit' would apply to any new site for a stadium and is not a unique advantage of the proposed site.

² Statement of Community Involvement, page 3

We also believe that the relocation of LTFC out of Luton would have adverse effects on the local economy in Luton resulting in job losses due to the impact on local retail and hotel businesses and reduced amenity for residents.

The applicant makes little or nothing of the potential benefits to Toddington and Harlington which may accrue with this proposed development.

11. Visual Impact

We do not accept that the visual impact of the development, either the warehouses or the stadium, could be mitigated by design as proposed. The visual impact on the area would be enormous, with the development clearly visible from parts of both Toddington and Harlington, from the railway line and from local roads.

It would have an enormous visual impact on the Chilterns AONB, as the hill on the site (which the developers propose to level out) is clearly visible for the AONB. We regard this as highly intrusive, threatening the enjoyment of the AONB by thousands of visitors. This aspect is covered in detail by Colin White (Planning Officer for The Chilterns Conservation Board) in **Appendix 9**.

12. Ecological Surveys and Wildlife aspects

We believe it could be illegal to grant planning permission until far more information has been provided by the applicants on the impact of the proposed development on protected species. Under the principles of PPS9 that, 'planning decisions should be based on up to date information about the environmental characteristics of their areas. These characteristics should include the relevant biodiversity and geological resources of the area', we believe that the applicant has failed to provide appropriate and up-to-date information on protected species, especially bats. This view is further supported by the Habitats Directive and the Conservation (Natural Habitats) regulations 1994 (amended 2007), regulation 3,(4).

Full details of advice we have received on this matter is contained in **Appendices 4 and 8**.

13. Noise

Data supplied by the applicant suggests hundreds of traffic movements in and out of the development every day with 24/7 operation. Modelled on a 12 hour operational shift, some 3,000 vehicle movements are anticipated. Clearly this will lead to high levels of engine and tyre noise together with additional noise due to loading and unloading of vehicles. Harlington and Toddington already suffer from high noise levels emanating from the M1 and an increase to this extent is inappropriate for a rural community.

Harlington is partially protected from excessive noise from the M1 by the hill on the proposed development site. The applicant intends to level this hill and we believe this will increase the noise levels in Harlington.

Furthermore, noise from stadium events would have a major adverse effect on the quality of life in the community. We do not accept that noise from event crowds or concerts can be mitigated to a reasonable level. Noise from these events would be in the evenings and at weekends which would have a major adverse effect on residents' amenity.

14. Light pollution

The likely 24 hour operation of the warehousing development will create unacceptable levels of light pollution in this rural location, through security lighting, outside operations lighting and vehicle lighting.

During stadium events, we do not accept that the effects of flood lighting can be mitigated through design and this is, therefore, likely to have a serious effect on light pollution in the area.

How light pollution may affect wildlife is discussed in **Appendix 10**

15. Road use

The proposed development was not considered in the Bedfordshire and Luton local Transport Plan or in the Highways Agency's plans for the widening of the M1 between J10 and 13, which is designed to deal with the problems already faced by increasing road use, and not to cater for increased traffic levels due to a new distribution and stadium development.

We believe that the applicant's transport assessment is unrealistic and that the majority of stadium visitors would drive to work/events. This view is borne out by the applicant's own survey of LTFC season ticket holders³ which suggests that 76% of supporters would drive to a J12 stadium. We think it is highly unlikely that supporters would choose to drive to one of the Luton train stations to take a train to Harlington, preferring instead to use local village roads or the M1, causing increased levels of congestion for considerable periods before and after events. Mid Week matches and Pop/Rock Concerts are a particular concern due to the surge of traffic generated going in and out of the stadium to the M1 and East and West through the villages in rush hour.

In addition we believe that the conclusions reached in the transport and access statement are not credible and we look into this in more detail in **Appendices 6 & 7**.

We do not accept that HGV traffic from the warehousing is likely to be split 50/50 between the north and south carriageways of the M1. It is more likely that HGVs will use the local roads for east west routes to the A5 in the west and the A1 in the east. This

³ Statement of Community Involvement, LTFC Fan Consultation, page 24

would have an enormous impact on Toddington, Westoning, Flitwick, Clophill, etc. This problem is adequately demonstrated by J13, where major problems exist on the east/west routes.

Recent announcements of possible changes to, delays and the increased costs of the M1 widening project may bring this into question and clearly, should the widening not go ahead or be delayed significantly, this development is further undermined. The applicant recognises the need for the planned improvements to the M1 and states that the development will be phased to ‘effectively link occupation of the proposals to the completion of a suitable programme of off-site highways improvements, including the widening of the M1 and new highways infrastructure at Junction 12⁴’.

This would suggest that any delay or postponement in the M1 widening or J12 project would delay or postpone the applicant’s plans.

16. Train use

There is very little information supplied by the applicant with regard to anticipated train use for events at the stadium, in particular.

In addition we believe that the conclusions reached in the transport and access statement are not credible and we look into this in more detail in **Appendix 6**.

We have not seen any assessment or response from First Capital Connect and no assessment of the use of the service from Luton stations in particular. Furthermore, we have not seen any response from Network Rail relating to the necessary expansion of Harlington Railway Station to accommodate the 1000s of fans the developers expect to arrive by rail. We believe this is an unacceptable omission from the application which could have serious implications.

It is unclear whether extra train services are available to transport thousands of extra passengers. There is no consideration of the likely impacts on the safety of passengers when supporters from rival teams are using the same train.

In many cases, use of rail by away fans could be minimal; indeed, we note that one of the assumptions made in the applicant’s *Transport Assessment (para. 6.19)* is that, on average, around 60% of away fans will arrive by coach. The T.A. then goes on to make the extraordinary assumption that the other 40% of away fans will all travel by rail, i.e. none whatsoever by car. Such an assumption is patently untenable, and is one of several issues seriously undermining the credibility of the Transport Assessment.

17. Cycling and Walking

⁴ Application letter from Simon Flisher, Barton Willmore, section 6: Section 106 agreement

The applicant makes various assertions with regards to visitors cycling to the facilities. We think this is unrealistic. Limitations to the transport of cycles on First Capital Connect services mean only a very small percentage of passengers would be able to cycle from the station to the stadium.

Furthermore, we have serious concerns about the safety and crowd management problems likely to be caused by the proposed walkway from the station to the stadium. This is a recipe for disaster if rival team supporters are forced into such a restricted area. There is no apparent mechanism in place to identify and to separate rival fans on the shuttle bus service from the railway station to the stadium.

18. Coach Travel

While we accept that a percentage of away supporters may well use coaches to attend matches. However, we are concerned that this could lead to problems in Toddington in particular, as away fans' coaches sometime come into and remain in the village to make use of its public house facilities before and after matches (**Appendix 7**)

We think it is very unlikely that Luton supporters would use coaches to get to the site and travelling by car would be much more convenient.

19. Parking

We do not accept that the small number of parking spaces proposed for the stadium will deter visitors from travelling by car. Similar to many stadia around the country, visitors will simply park in the residential areas of Harlington and walk to the stadium via the walkway. There are few parking restrictions in the village and it is our view that this will have an enormous adverse effect on residents on match days giving rise to serious road safety issues in residential streets as visitors search for parking space. Residents in Toddington in a survey are concerned that this will slow down and block emergency service access. Please see point 4 in **Appendix 5**.

20. Comparators

The applicant refers to various comparative examples, including the Brighton and Hove Albion stadium at Falmer.

It should be noted that there are many more examples of comparable developments and these should be considered. We draw your attention, in particular, to the Southend Stadium⁵ and the Salford Reds Stadium.⁶

It is an important point that the proposed development is *much* bigger, in terms of land use, than any of the comparators presented.

⁵ Communities and Local Government ref: D1590/V/07/1201353

⁶ Communities and Local Government ref: APP/U4230/V/06/1197821

The applicant makes much of the Secretary of State's decision in the recent Center Parks appeal, and claims this has established that, at least where CLG Growth Areas are concerned, 'the positive economic effect of a proposal within the Green Belt can constitute a very special circumstance in its own right'. In reality, as the applicant's own further quotations make clear, the Secretary of State simply stated that the economic and job creation potential of the Center Parcs proposal should be given 'substantial' weight, and it was only when this weight was combined with other benefits she had identified that she concluded there were sufficient very special circumstances to override the harm to the Green Belt in that case.

There is in any event a very clear distinction between the applicant's proposal and that of Center Parcs, namely that the latter does not require a vast amount of inappropriate enabling development to fund it. Accordingly, in our submission, the Center Parcs decision has little or no bearing on the matter of J12.

It should also be noted that in the Center Parcs case it emerged that the company envisages having to draw in employees from over a very wide area – up to a 25 mile radius - in order to fill the number of jobs being created. This clearly indicates that, following Center Parcs' take-up in the local labour market, the number of local people available to fill the 2609 warehousing jobs claimed to be created at J12 (see ***Sustainability Statement, para. 6-3***) is in reality likely to be minimal, and that personnel to fill them will have to be drawn from an area possibly even wider than that already envisaged for Center Parcs.

This situation appears to be confirmed by the fact that, for these 2609 warehousing jobs, the applicant proposes to provide 1250 parking spaces (see ***Design & Access Statement, p.75***). Given the fact that the warehousing activity will operate over the whole 24 hours, and thus spread over 3 shifts, it is clear that the envisaged proportion of employees using car transport, rather than local bus or rail, is going to be of a very high order indeed. It is ironic that this level of car parking provision is in context with in a section headed 'Green Travel Plan' – hardly a Green Travel Plan, we submit.

The applicant's suggestion that his proposal offers wholly beneficial economic impacts within the Growth Area is also questionable. He says little about the negative aspects of the proposal to Luton itself, where the economic and regeneration objectives of the Growth Strategy are of far greater relevance than in the area around J12. His ***PPS6 Assessment***, in the section on ***Impact & Scale (s.7.5)***, claims the health of Luton Town Centre would not be affected by the loss of pre-and post-match spending by home and visiting fans. No evidence is produced to support such a surprising assertion, except the remark that there are 'only' 23 home match days in the season. We say this comment is no substitute for proper research on such an important matter. Any proposal which takes away from the town one of its most important attractions for townspeople and visitors alike can hardly be compatible with the MK&SM Growth Area's key strategy of regenerating the economy of Luton.

In conclusion, it is our submission that the applicant's claim of 'very special circumstances' justifying his massively invasive proposals in the Green Belt at J12 are not made out, and that your Council should have no hesitation in rejecting them.

21. Sewerage and Sewage Disposal

There are concerns that the local sewerage infrastructure is operating at full capacity and without upgrading cannot sustain further large developments. Please see www.southbeds.gov.uk/local_plan/chapter10.html

22 Archaeological Significance

Goodmans International Limited (the Developer) Alternative Sites Study 1475/A5/080220 mentions that an Archaeological Desk Based Assessment (April 2006), prepared by Albion Archaeology mentions that the broad location of the site comprises an area of extensive archaeological activity, but also that the majority of the known sites lie outside of the intended development area. However, it does not quantify what is meant by the "broad location", or the "majority".

In 2008, Goodmans commissioned the Museum of London Archaeological Service (MoLAS) to carry out an archaeological desk-based assessment of the proposed development land in 2008.

According to MoLAS's report of this survey, it says that this survey forms an initial stage of archaeological investigation. It further says that the Site does not contain any nationally designated items such as Scheduled Monuments. The survey has nevertheless found that the site is highly sensitive archaeologically and has the potential for multi period remains.

In terms of the Hedgerow regulations 1997, the Site contains "important or historic" hedgerow. A line of established hedgerows and pollarded trees, identified during a recent site visit (DBA 1q), corresponds to the northern boundary of field number 70 (Lower meadow) identified on the enclosure map and award of 1797, and is therefore eligible for protection under the Hedgerow regulations.

MoLAS's report has much to say regarding the archaeological potential for the Site. The Site has a high potential to contain archaeological remains dates to the prehistoric period, the Roman period, early medieval period, later medieval period, and to the post medieval period.

The report states that the main effect from the development proposals would be from preliminary topsoil stripping. Removal of the topsoil is an archaeological impact as it exposes any archaeology that may be present immediately below the topsoil, which is then damaged by subsequent movement of vehicles and plant involved in construction activities.

Proposed “terracing” of several platforms would remove archaeological remains to the maximum depth of the soil being removed.

Nineteenth century records refer to Anglo-Saxon burials being discovered about 3 feet below the top soil. Therefore, further burials would potentially be affected by stripping the site. Other factors related to the development may also compromise the archaeology on the Site.

MoLAS’s report concludes and recommends the following:

1. *This assessment has found that the site is highly sensitive archaeological. The following archaeological resources have been identified within the Site that would be affected by the development: an area of prehistoric activity represented by scatters of worked flint; Roman buildings; Anglo-Saxon burials; medieval deer park boundaries; a 16th century building described as “Nue Lodge”; a medieval ridge and furrow system; a historic hedgerow that appears on a map dated 1797; post-medieval quarries; and a post-medieval rifle range. In addition, the Site has the potential to contain possible, previously unrecorded, archaeological remains dating from the prehistoric period onwards.*
2. *The main impact from the proposals would arise from preliminary topsoil stripping across the whole Site, given that burials and other features were located immediately beneath the topsoil in previous investigations in the 19th century. Terracing the Site would remove archaeological remains to the maximum depth of the soil being removed. Terracing works would impact the northern higher part of the Site, where the remains in the southern lower areas (mainly crop marks of potential archaeological significance and quarry pits) that had survived the soil stripping would be covered up to create level surfaces. Any archaeological remains that had survived these works would be affected by piling. Remains within the footprint of each pile would be removed as the pile is driven downwards. There would be an additional impact to any surviving archaeological remains from groundworks for drains, lighting and other services, and temporary works.*
3. *In light of the known archaeological potential of the Site, further Site-specific investigation of the archaeological potential is recommended, in order to define the full extent of the known burial sites and clarify the likely effects of the development. Although the precise details would need to be agreed with the Local Authority archaeological adviser, a two-stage strategy is recommended. This would entail initially a non-intrusive geophysical survey of the Site, followed by a targeted archaeological field evaluation of sensitive areas.*
4. *The results of the evaluation would enable the local planning authority to make an informed decision in respect of an appropriate mitigation strategy for any significant archaeological remains on the Site (if required). The mitigation*

strategy could comprise of “Strip, map and record” in areas to be stripped of topsoil, targeting excavation, and a watching brief during site clearance and/or construction for remains of lesser significance, or for areas of low potential.

Planning Policy Issues

PPG2 – Green Belts

We do not accept, as argued above, that the development demonstrates the ‘very special circumstances’ required to set aside green belt policy. Only outdoor sports pitches would be deemed to be acceptable use of the green belt as an element of the proposals, but we believe these will be provided adequately elsewhere, most notably at the planned new Flitwick Leisure Centre.

Clearly, the development is contrary to 3.15 of PPG2 with regards to the visual amenity of the green belt which should not be injured by proposals for development which are visually detrimental.

We note that likely revisions to the green belt surrounding Luton, in particular, predominantly to cater for housing needs into the future, render it is even more important to preserve the existing green belt behind these areas.

One purpose of the South and Mid-Bedfordshire green belt is to prevent the coalescence of settlements within the area and it is clear that this development would undermine that purpose.

With reference to South Bedfordshire District Council Policy on Green Belts, pages 1, 2 & 3 set out an Introduction & Background including the principal aims of Green Belt policy culminating in Policy 24 which deals with development within the Green Belt. We may assume that any proposals that meet the criteria in Policy 24, within reason, stand a good chance of obtaining consent. Conversely proposals that do not meet the necessary criteria will not receive consent unless, of course, there are "very special circumstances". Policy 24 sets out 6 very specific circumstances where planning permission may be granted & these are set out under item 2.8 of "Introduction & Background". We believe that the Applicants' proposals do not meet any of these 6 circumstances.

Not even in their sporting aspirations involved in the proposal, because in the context of the needs of the rural communities of Toddington & Harlington, can the provision of a 25,000 seat stadium hardly seem appropriate to the vision or scope of the Local Plan as fulfilling item (ii) of Policy.

As stated above, the scale of the enabling development compared to land required for a stadium is large and without the support of LTFC and a convincing case for the need for such a big and expensive stadium, it is not possible to assess the need for such a large enabling development, over six times bigger than the land required for the stadium.

The disaggregation of the elements of the development is not considered appropriate by the applicant, but no detailed assessment has been carried out to consider this as a means

of reducing the loss of green belt land. We question whether individual components of the development could be as viable, or more viable, if situated elsewhere.

The Government Guideline Note advises that- "The essential characteristic of Green Belts is their permanence. Their protection must be maintained as far ahead as can be seen ahead" and that "detailed Green Belt boundaries defined in adopted Local Plans, or earlier Development Plans, should be altered only exceptionally."

PPS 7 – Sustainable Development in Rural Areas

We believe that the development is contrary to Paragraph (vi) of PPS7 which states that all development in rural areas should be well-designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness. These issues are not dealt with appropriately in the application.

CAST believes that the development would seriously affect local distinctiveness and is insensitive to the character of the surrounding countryside, in particular through its adverse visual impact on the AONB.

PPS1 – Sustainable Development

We believe that proposed development is at odds with the principles contained in PPS1, in particular, it is contrary to the protection of the ‘countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all’

PPS1 states that priority must be given to previously developed (brownfield) sites in preference to the development of Greenfield sites.

PPS1 promotes high and sustainable levels of economic growth and employment. We do not believe that this proposal demonstrates these principles accurately as the viability for the stadium project is questionable as it is not supported by LTFC2020 and the applicant’s assessment of need for the warehouses is weak given the vacant availability of warehouses in the area.

There are concerns and questions regarding the developer’s employment claims

- The number of jobs promised per green belt hectare taken is few.
- The job “creation” figures are questionable. Many of the jobs could just be shifted from one place to another and not genuinely “created”. This is because many of the promised jobs are likely to be the result of the loss of jobs in other locations. i.e. when warehouses close in other locations and activity is shifted to the applicants site. There is little consideration in the application of the consequence of this to the communities where these jobs will be lost.
- A large percentage of the jobs (including those in the stadium) are likely to be part time and low skilled and it is not clear whether they could support the cost of living in the area in a sustainable way without significant commutes to work.

The applicant makes much of the Secretary of State's decision in the recent Center Parks appeal, and claims this has established that, at least where CLG Growth Areas are concerned, 'the positive economic effect of a proposal within the Green Belt can constitute a very special circumstance in its own right'. In reality, as the applicant's own further quotations make clear, the Secretary of State simply stated that the economic and job creation potential of the Center Parks proposal should be given 'substantial' weight, and it was only when this weight was combined with other benefits she had identified that she concluded there were sufficient very special circumstances to override the harm to the Green Belt in that case.

There is in any event a very clear distinction between the applicant's proposal and that of Center Parks, namely that the latter does not require a vast amount of inappropriate enabling development to fund it. Accordingly, in our submission, the Center Parks decision has little or no bearing on the matter of J12.

It should also be noted that in the Center Parks case it emerged that the company envisages having to draw in employees from over a very wide area – up to a 25 mile radius - in order to fill the number of jobs being created. This clearly indicates that, following Center Parks' take-up in the local labour market, the number of local people available to fill the 2609 warehousing jobs claimed to be created at J12 (see *Sustainability Statement, para. 6-3*) is in reality likely to be minimal, and that personnel to fill them will have to be drawn from an area possibly even wider than that already envisaged for Center Parks.

This situation appears to be confirmed by the fact that, for these 2609 warehousing jobs, the applicant proposes to provide 1250 parking spaces (see *Design & Access Statement, p.75*). Given the fact that the warehousing activity will operate over the whole 24 hours, and thus spread over 3 shifts, it is clear that the envisaged proportion of employees using car transport, rather than local bus or rail, is going to be of a very high order indeed. It is ironic that this level of car parking provision is contexted within a section headed 'Green Travel Plan' – hardly a Green Travel Plan, we submit.

The applicant's suggestion that his proposal offers wholly beneficial economic impacts within the Growth Area is also questionable. He says little about the disbenefits to Luton itself, where the economic and regeneration objectives of the Growth Strategy are of far greater relevance than in the area around J12. His *PPS6 Assessment*, in the section on *Impact & Scale (s.7.5)*, claims the health of Luton Town Centre would not be affected by the loss of pre-and post-match spending by home and visiting fans. No evidence is produced to support such a surprising assertion, except the remark that there are 'only' 23 home match days in the season. We say this comment is no substitute for proper research on such an important matter. Any proposal which takes away from the town one of its most important attractions for townspeople and visitors alike can hardly be compatible with the MK&SM Growth Area's key strategy of regenerating the economy of Luton.

Removing a major community attraction such as a football stadium away from its central position in the LDHR conurbation and out into the countryside, and substituting a high proportion of access by walking or public transport with a high proportion of access by car, is fundamentally anti-sustainable in terms of its impact on road traffic levels

In conclusion, it is our submission that the applicant's claim of 'very special circumstances' justifying his massively invasive proposals in the Green Belt at J12 are not made out, and that your Council should have no hesitation in rejecting them.

PPS: Planning and Climate Changes sets out the importance of achieving carbon-savings alongside meeting community needs for new development. The applicant claims that the proposed development 'responds positively to the challenges of climate change and in particular incorporates proposals for carbon savings⁷'. We strongly refute this statement for the following reasons:

1. The enabling development is a distribution centre set to operate 24/7 generating at least 3,000 vehicle movements everyday. This will drastically increase the carbon use in the area.
2. There is no community benefit associated with the warehousing which is by far the biggest aspect of the development
3. It is likely (for reasons stated elsewhere) that many stadium users will choose to drive to the venue, drastically increasing the carbon footprint of the facility compared to its current town-centre location.

PPG17 – Open Space, Sport and Recreation

We regard the application as weak in various areas covered by PPG17. These are

1. It is not located on a site which contributes to town centre vitality and viability. In fact the opposite is true as it will adversely affect the vitality of Luton by taking the stadium to an out of town site
2. The development will result in loss of amenity to residents.
3. The development fails to use brownfield in preference to Greenfield

PPG 24: Planning and Noise

The development is contrary to this guidance as it will cause an unacceptable degree of disturbance. We do not accept that mitigation measures can protect residents from crowd noise and noise from concerts at the stadium. This is inappropriate in a rural setting.

PPS6 – Protecting the viability and vitality of town centres

A full analysis of our views on the applicant's PPS6 assessment is contained in Appendix 3.

⁷ Planning Statement, clause 4.2.19

We do not accept that the proposal promotes social inclusion as required in PPS6. On the contrary, an out-of-town location for the football stadium results in drastically increased costs and travel time for the majority of LTFC supporters based in Luton. We anticipate that rising travel costs and other cost increases due to the monopoly position of the retail facilities proposed will prove to be too expensive for many.

We additionally make the following points:

- There are inconsistencies in the information supplied, the approach adopted and the interpretation of the results.
- An innovative design proposal and improved business model could make an all-in-one site viable without the on-site B1 and B8 uses.
- The Stockwood allocation in Luton is too lightly dismissed as being inadequate.
- There are no grounds provided for avoiding disaggregation.
- A health check audit of the town centres has not been provided.
- There is no leisure impact assessment included
- There is a need for investment in retail and leisure facilities in both Luton and Dunstable town centres.
- There impacts of the proposed retail floor space is considered to be underplayed – although ancillary to the stadium, it is big enough to have a very significant effect on both town centres.
- The out-of-town location will prove unsustainable and remove associated footfall from the town centres.
- Both the retail/leisure out-of-town proposals represent a missed opportunity for helping to boost the vitality and viability of the town centres.

2.1 PPS7 – Sustainable Development in Rural Areas

Although the applicant states in his *Planning Statement (p.25)* that issues arising from PPS7 are fully addressed in the *Design & Access Statement*, in reality no reference to PPS7 appears in the D & A Statement at all – it is not even listed in the Policy Context section at P.26 of that document. Nor is it listed in the Policy Context section of his *Sustainability Statement*. It is listed as a ‘relevant policy’ in the Landscape & Visual chapter of his *Environmental Statement (chap. 9)*, but there is then no direct reference to it in its text.

We find this situation highly unsatisfactory, given the very important bearing that PPS7 has on his proposals, particularly PPS7’s Key Principles Nos. (iv) and (vi). In our submission, the conflicts between the applicant’s proposals and Key Principles (iv) and (iv) are fundamental. One has to speculate whether the reason why the applicant fails to make any explicit attempt to reconcile his proposals with these key principles is because in fact he does not wish to draw attention to his difficulty in doing so.

Policy C2 - Draft Regional Spatial Strategy – The East of England

Policy C1 states that regionally or nationally significant leisure, sport, recreation, arts or tourism facilities must satisfy the sequential test.

Firstly we do not believe that the applicant has properly considered the sequential test for community sports facilities proposed.

Secondly, C2 states that a rural site may make it 'uniquely appropriate' only if the development proposal is 'regionally strategic'

This serves to reinforce our earlier point that this application cannot be considered in isolation and must be part of the wider planning process for the growth area.

The Sub-regional strategy also places Luton as the 'principal focus for...cultural activities...'. The development actually removes an important cultural activity (football) from the town.

The Bedfordshire Structure Plan 2011

We believe that the development fails to meet the expectations of the plan for a new stadium location for LTFC as it is not related to the primary catchment population (Luton) and it will have an adverse, and not positive, impact on the location environment as the land is greenfield and the wider community benefits from its openness.

Luton Local Plan

Land is allocated in the Stockwood Area of the town for a new stadium for LTFC. While the plan acknowledges the likely need of enabling development to support a new stadium, the need for this is now unclear as the financial and business plans for LTFC are not apparent.

Conclusions

CAST believes that this application should be rejected by South Bedfordshire District Council as it fails to establish need and viability, it is contrary to various national and regional planning policies and guidelines, it fails to deal appropriately with the ecological impact of the development, it's transport assessment is flawed and its impact on the region would be such that the need for and location of a new stadium and any enabling development must be considered as part of the local development framework to meet the growth requirements of area in the future.

Should you require any further information, please do not hesitate to contact me.

Yours sincerely

John Machin
Campaign Coordinator
On behalf of the Campaign for A Sustainable Toddington (CAST)

Thanks to CAST and CaSH Members, Friends Of the Earth, The Chiltern Society, The CPRE, Assistance from Planning Aid, The Toddington Council, for their assistance with this document

Appendices

Appendix 1: About CAST

The Campaign for Sustainable Toddington is a subgroup of the Toddington Residents Association and was formed in Summer 2007.

Its objects are:

- Ensure Toddington develops sustainability, with development which meets the needs of the present without compromising the ability of future generations to meet their own needs.
- Protect the green belt surrounding Toddington opposing any erosion of the green belt which would lead to a fundamental, irreversible change in the character of Toddington.
- Encourage the development of a new stadium for Luton Town Football Club, in a suitable urban location within the Borough of Luton.
- Raise awareness of the significant detrimental impact on the entire local area of a commercial development of the size proposed at Junction 12.

More information about CAST is available at

www.toddingtonresidentsassociation.co.uk/html/cast.html

Appendix 2: Alternative Sites Study Assessment

[An appraisal by CaSH and CAST prepared with assistance from Planning Aid](#)

Several of the alternative sites put forward for consideration would bring a variety of benefits, including:

- The chance to remediate existing contamination;
- Locate the stadium and associated development far closer than is proposed, to improve ease of access for the catchment support and communities that the complex is intended to serve;
- Use brownfield land and preserve the greenbelt;
- Provide opportunities to enable additional strategic highway improvements to serve the wider area and forthcoming growth through the LDF for the long-term.

General points about the alternative sites study:

1. Only general maps of the alternative site locations are associated with the document, so it is difficult to judge their full potential. (This applies to all sites except the submitted proposal, site B)
2. There are no precise figures given for the size of many of the sites considered (alternative sites C,E,F,G,H,I), which makes it difficult to judge the potential for

including all the uses on-site. The only sizes given are for those where the applicant considers the site to be too small for their current proposal.

3. A reason for objection at most of the sites includes the inability to acquire the land from its current owners (C,D,E,F,G,H,I). This is possibly a questionable as it is a current snapshot and negotiations could always prove successful given a different planning position at a future time. If the Councils consider this to be valid, the applicant should at least provide evidence that negotiations have been attempted and failed.
4. The applicant contends that a major obstacle to alternative sites C, D and E is the inability to secure strategic highway improvements to Junction 11A of the M1, despite Local Authority lobbying. They claim that this “prevents the implementation and occupation of a stadium at site X in the short-medium term.” However, this is a key, strategically important proposal and the planning solution should not take just a short-medium term view. Instead, plans should give more credence to the long-term impacts, for which a more appropriate location can enable an even better proposal and key strategic benefits for the wider area to come forward as a result, such as providing a new junction to serve other future developments. It is noted that no evidence has been supplied from the highways authorities to show that the improvements would not be possible or necessary if the stadium proposal was in such locations.
5. The applicant has suggested that for almost every alternative site (C,D,E,F,H) “Land, funding and supporting development are not available for a new stadium at site X, thereby rendering such a scheme unaffordable.” However, there has been no evidence that an alternative business model for development at these locations has been considered, and as such a proper assessment would have to include the business potential for all these possible alternative locations.
6. A number of sites have been ruled out on the basis that representations have been made for the land to be allocated for development through the emerging Local Development Framework (sites C,F,G,H). This does two things:
 - a. It adds weight to the need for the stadium relocation proposal to be postponed until it can be adequately planned for through the LDF.
 - b. It would follow that the land should be considered for stadium development if it is not considered suitable for other uses as determined by the LDF. To rule them out at this stage because there may be another preferable, but ultimately unfeasible, intention for the land is premature.
7. Many sites are apparently hampered by lack of public transport access and by being accessed largely by single carriageway rural roads (sites C,D,E,G,H). It is considered that this is not so different to the favoured site B which is surrounded by country lanes. The proposal will presumably have to widen roads anyway, and will require an on-site Park and Ride facility to be provided in order to comply with the development plan criteria. This will help ease congestion, particularly as

a Park and Ride network can be far more adaptable in site and route location and timetable scheduling than the train link to and from Harlington could be.

8. Many sites are thought to be hindered by close proximity to environmentally-valuable assets and habitats (sites D,E,F,G,H). However, there have been no assessments that these would actually be endangered, and that the species contained would be threatened. I suggest these matters could be overcome through innovative and sensitive designs, and even enhanced in some locations.

Individual site assessments

Site A (The Current Location within Luton):

- It is largely accepted that site A is not suitable in the long term. However in the short and medium term Luton Borough Council gave their full backing for the stadium to stay in Luton in a full council meeting on 21st January 2008. The following were taken from the minutes
- Recognises the importance to the town of maintaining a quality football club.
- Declares its commitment to do all it can to keep the Kenilworth Road stadium as the main home of football in Luton so long as there is a team to represent the town and until an alternative stadium has been provided.
-

Site B: (Jn12)

- This is the applicant's proposed site for development.

Site C

- This is very central and a brownfield location that would make best use of urban land.
- The concerns that a Zone of Visual Influence would arise have not been proven through the assessment, and in any event the landscape could be enhanced through innovative and modern environmentally-friendly designs.
- See general points 1-7.

Site D (M1 Junction 10)

- This site has been actively promoted through the Luton Local Plan (2006) and made into an allocation for the relocation of the football stadium. To relocate anywhere else would be contrary to the area's adopted development plan.
- It is within the urban area, and so close to the catchment population and communities that the associated development is intended to serve.
- The site's close proximity to the London Luton Airport will help to reduce congestion from travelling away fans who could travel by plane. The improved accessibility will make the matches and other stadium events a far more attractive proposition to a wider population, bringing business and custom to the whole area.

- This location will already be served by a high quality rail, bus, coach and park and ride facilities serving the airport, and shared arrangements for the car parking could minimise the space required for the stadium car parking.
- This location due to its proximity to the airport would be attractive to employment and industrial related enabling development.
- Suitable proof is needed that negotiations have taken place to try and acquire the land at marketable value, and these should be scrutinised by the Council to verify the claims that purchasing this allocated land is not a viable option.
- The size of the allocation is some 15ha. This is 5 times the size of the current Kenilworth Road location, so the applicant's claims that it is too small are questionable. In particular, the location and improved designs are likely to make this site a viable option for a range of alternative on-site enabling development schemes.
- The applicant is concerned that this site is close to the Public Safety Zone of the airport, however it is not inside the zone. It is not clear whether even under the very optimistic 3rd-year estimates for frequency of use (see planning statement page 22), a total use of 69 event days per year would really present a significant danger, disturbance or even inconvenience from conflicting uses with the airport.
- We do not accepted the Cll Roy Davis's comments that "Warehousing should not be considered in Luton Borough"
- Current topographic difficulties on site could be overcome through design.
- See also general points 1,3,4,5,7,8.

Site E (Junction 11a)

- Concerns about the existing electricity power lines and the impact of the stadium's dominance on the landscape could all be overcome through innovative and environmentally-sensitive designs.
- See also general points 1,2,3,4,5,7,8.

Site F: (Former Vauxhall Car Plant)

- This is an urban location, a lot closer to the catchment and communities to be served by the stadium and associated development (i.e. new leisure facilities).
- We do not accepted the Cll Roy Davis's comments that "Warehousing should not be considered in Luton Borough"
- Apparently the current landowners are "progressing" mixed-use regeneration of the site, but no details are supplied as to what stage this scheme is at, or whether the stadium or associated developments could form part of the general intentions for mixed-use development and regeneration. Clarification is sought, because if it is no more than a representation to the emerging LDF, then it is no more certain to take place than many of the other site proposals submitted.
- See also general points 1,2,3,5,6,8.

Site G: (Former Vauxhall vehicle test track accessed from the from the West via Chaul End Road, Hatters Way) The M1 is to the East of this site and Caddington to the South.

- Although located within a designated Area of Great Landscape Value, this does not preclude development and would only add to the applicant's recognition that the proposed complex needs an innovative and environmentally-sensitive design.
- Under PPS7 and the emerging Regional Spatial Strategy for the East of England, such designations of landscape quality should no longer be retained unless exceptional circumstances can be demonstrated. The replacement landscape character assessment criteria will instead allow designs to be a lot more progressive and require them to demonstrate a compatibility with the surrounding landscape.
- The applicant draws on the Landscape Character Assessment exercise covering the landscape context within which the J12 site lies, and comments that the District LCA places them in the 'moderate' category of landscape value and sensitivity. He then goes on to say that the landscape sensitivity of the site itself has been assessed as 'low-medium', from which he extrapolates that 'it is potentially tolerant of change and would benefit from a creation/restoration-based landscape strategy'. Even if one were to accept this hypothesis as correct, by no stretch of the imagination can a proposal to cover the whole area with warehouses and a football stadium be said to amount to a 'creation/restoration-based landscape strategy'. It is actually a strategy for total landscape destruction.
-
- See also general points 1,2,3,6,7,8.

Site H: (East of the Leighton Buzzard settlement and including Leedon and Clipstone)

- Concerns about the existing electricity power lines and the stadiums possible dominance on the landscape could all be overcome through innovative and environmentally-sensitive designs.
- See also general points 1,2,3,5,6,7,8.

Site I: (MK Dons Stadium, Milton Keynes)

- Whilst it is regrettable that any necessary relocation to a shared facility at Site I would distance the football club's base from its traditional support catchment, and it would involve additional travel, it is contested that the position the shared arrangement "may introduce concerns in respect of the safety management of Home and Away fans for such fixtures." There are many instances where football clubs have had to share the same ground and played two Home and Away matches there in a season, but instances of trouble or compromised public safety are exceptionally rare. As this arrangement does not encounter problems at existing, larger clubs in England and elsewhere (including twice or more per season at one stadium in Milan, Italy, with around 80,000 supporters in attendance) I suggest that with proper scheme designs and liaison with policing authorities and clubs, that this particular concern can be easily overcome.
- See also general points 1,2,3.

We agree that some of the sites investigated by the applicant would not be suitable for a new stadium, but in our view his reasons for rejecting others, notably the potential sites at Junction 10 and at the proposed Junction 11a, are far from convincing.

At J10, much is made by the applicant of the argument that Public Safety Zone issues associated with a possible new runway at Luton Airport are a factor, but the proposal for this new runway was withdrawn by the airport's operator some time ago and there is no indication at the present time that such a proposal will feature in any future plans the operator may put forward.

At J11a, the applicant argues that uncertainties surrounding the timescale and configuration of the new junction preclude consideration of the prospective 'GM' site. We would submit, however, that these uncertainties are likely to be resolved within the relatively near future, and certainly well within the timeframe for expiry of LTFC's existing lease at Kenilworth Road (2013).

Even if both these sites do, for good reason, have in due course to be ruled out, such an outcome does not in itself make the J12 site 'suitable' for the new stadium. Indeed, it is quite clear that what makes the J12 site 'suitable' from the applicant's standpoint is its value to him as a strategic warehousing and distribution location – so valuable, in fact, that it would 'enable' him to finance the building of a stadium on the site. This does nothing to prove the suitability of the site from the standpoint of LTFC, or of the community and fan base from which the Club draws its support. J12 is at a distance from the Luton, Dunstable and Houghton Regis conurbation and, in spite of the applicant's emphasis on the potential role of Harlington rail station, is not conveniently located for access other than by road. In this regard, it is significant that out of the 1166 fans responding to a survey commissioned by the applicant less than 20% said they would travel to the J12 site either by rail (5%) or by 'multiple transport means' (19%), and that is assuming there is a rail element within the latter in all cases (see *Statement of Community Involvement, S.8*).

Furthermore, the question remains as to what extent the applicant's search has been truly exhaustive, or simply designed to point to his J12 site as the only solution. Confirmation that LTFC remains unconvinced as to J12's sole suitability can be found in the fact that the Club's incoming new owners are not supporting the current application, but are engaged in a fresh site search of their own.

Appendix 3: Appraisal of the application's PPS6 Assessment

An appraisal prepared for CaSH(The Campaign for a Sustainable Harlington)and CAST with assistance from Planning Aid

Main points arising from the appraisal if the applicant's PPS6 assessment:

- There are inconsistencies in the information supplied, the approach adopted and the interpretation of the results.

- An innovative design proposal and improved business model could make an all-in-one site viable without the on-site B1 and B8 uses. (9)
- The Stockwood allocation is too lightly dismissed as being inadequate. (11)
- There are no grounds provided for avoiding disaggregation. (12, 15)
- A health check audit of the town centres has not been provided. (16)
- There is no leisure impact assessment included (17)
- There is a need for investment in retail and leisure facilities in both Luton and Dunstable town centres. (20-36)
- There impacts of the proposed retail floor space is considered to be underplayed – although ancillary to the stadium, it is big enough to have a very significant effect on both town centres. (22, 33)
- The out-of-town location will prove unsustainable and remove associated footfall from the town centres. (37-38)
- Both the retail/leisure out-of-town proposals represent a missed opportunity for helping to boost the vitality and viability of the town centres. (39-41)

Overall concerns

1. The PPS6 assessment has only assessed the retail and community leisure facilities. The assessment (or application more widely) should also prove that the stadium, warehousing and distribution and the ancillary office uses are not suitable for inclusion as town centre uses.
2. A significant concern is that the PPS6 assessment and the application as a whole do not specify how significant the size of B1 class ‘ancillary office use’ is, for accompanying the warehousing and distribution uses (B8 class) at the site. Without a detailed split of uses being supplied, the PPS6 assessment can not make a reasonable judgement of the full impact of that part of the proposal. Any approval of permission should contain conditions to restrict the extent of office use to a small percentage of overall floor space, and to a certain mode of activity to ensure that the office use on site does not threaten the local town centres’ employment offer, now or in the future.
3. Para 3.3 of the PPS6 Assessment – acknowledges that the office proposals are town centre uses, but claims that their ancillary nature allows the applicant to overlook their possible impact. This approach is problematic as (i) it has not provided a quantified proposal for the extent of office use, and (ii) it still conducted impact assessments for the other ancillary retail and leisure uses, using its results to try to justify the acceptability of the retail and leisure aspects.
4. There is a perceived inconsistency as the community sports uses have been described as ancillary to the stadium, but the applicant has commissioned their own specific needs-assessment in this respect. However, such a needs assessment has not been made for the retail and office elements.

5. Para 4.21 - As the assessment rightly acknowledges, the possible benefits of regeneration and employment arising from a proposal should not constitute indicators of need around the proposed community stadium. In the same vein, however, the application should not make a judgement based on the potential redevelopment of Kenilworth Road, which is frequently advocated throughout the application, as this is a consequence of any separate future application.
6. Para 5.2 believes that PPS6 offers more weight to quantitative assessments of need over qualitative considerations – this is not considered to be correct.

Sequential Site Analysis

7. The PPS6 Assessment makes reference to the need to contain enabling development within Luton to help meet the capital costs for relocation. However, the Luton Local Plan (2006) has allocated a site in the Stockwood area (nominally assessed as site D in the alternative sites survey), presumably on the basis that relocation costs would be minimised, whilst the benefits of regeneration and the proximity to services and links to transport networks would have all been taken into account. Paras 4.57 and 4.58 even recognise that the Stockwood allocation has been made to include room for associated enabling developments. The Stockwood area allocation should not be overlooked and is as envisaged by the Local Plan.
8. Para 6.4 – The assessment tries to advocate the need for the associated warehousing and distribution uses to be on-site to make the proposal viable. This does not need to be the case because many business models for stadiums have proven viable as a community stadium alone (e.g. Walsall and Salford) where the centre is a facility for the wider area, sometimes used 300 times a year.
9. It is proposed that the stadium and the sports facilities and some additional, more-specific community use intentions could indeed prove viable without the B1 and B8 enabling uses on site, given an improved design and a more secure business model. Para 6.5 suggests that sites in the Central Area should be reserved for alternative uses including retail, civic and cultural facilities. However, it is not unreasonable that a reworked proposal could show the football stadium to contain such facilities, including a larger and modern retail element and other uses that would extend the Main Town Centre Shopping Area.
10. Para 6.6 states that the Luton Local Plan site-specific policies, other than Stockwood (Policy SA1), are unsuitable for the proposal but not why this is the case. Specifically, it does not consider that the policies will possibly change, or could possibly be changed through positive negotiation with the Local Planning Authority, through the process of the emerging Local Development Framework. Whilst there is a timescale to this, it is an important material consideration because such a strategic proposal should be fully integrated into the development plan for the future.
11. Paras 6.12 and 6.13 dismiss the Stockwood area allocation (Alternative Site D) as unfeasible because (i) the purchase of the land is not considered realistic, (ii) previous

negotiations with the current owners have failed, and (iii) the site is not considered large enough.

These are inadequate reasons, because:

- (i) The development plan has allocated this site, and as such has demonstrated its suitability through the most appropriate manner, including being open to public scrutiny. If Stockwood was not considered suitable for the stadium and some associated development, the Local Plan would not have been approved.
- (ii) Although deliverability of a site is an important consideration, this would have been accounted for through the Local Plan process, including any doubts as to Stockwoods viability. The attempted purchase negotiations should have been proven and made ‘open book’ for the Council to assess aspects of viability.
- (iiia) The site size could be better utilised if the design and use proposals were re-considered. There has not been an actual appraisal of how large the site for the stadium needs to be; the only size given is for the indicative proposals of this application.
- (iiib) The need for the enabling development proposed is not justified adequately, and indeed Stockwood is also adjacent to Junction 10 of the M1, which we can assume is also suitable for locating warehousing and distribution.

Disaggregation

12. Para 6.18 claims that disaggregating the individual elements of the scheme is “not considered appropriate”, and nor is a sequential site assessment for each element. This can be questioned as there is no evidence that the individual components could not be a success in their own right on more appropriate sites elsewhere. They could even be situated on the same site given a more innovative design approach.
13. Para 6.19 and 6.20 – If the retail element were rightly located within the main shopping centre of Luton it would be used all week round rather than just on 23 match days in a year. Disaggregating the retail from the stadium may not be ideal from the applicant’s point of view, but it is certainly not inappropriate in planning.
14. Para 6.22-6.23 – The applicant interprets the Bedfordshire and Luton Structure Plan to 2011 incorrectly. The policy encourages a new stadium to include a mix of recreation uses, but it does not preclude the recreation uses from being on different sites, merely that the proposed relocation strategy should include these features in its overall approach. The applicant claims that “it is not appropriate for these uses to be located elsewhere than the stadium itself”. This is not fully proven and it does not follow that this element can not be disaggregated from the main stadium. In Para 6.25 the applicant claims that the need for on-site enabling development is supported in the Luton Local Plan; this does not necessarily include sports facilities.

15. Para 6.27 – The applicant claims that “it has been demonstrated that the individual elements of the scheme are unable to be disaggregated and located on potentially smaller, more centrally located sites.” However there has not been any evidence provided to demonstrate that these uses can not be disaggregated and be viable individually in more central and publicly-accessible locations. In fact, development plan policies and the leisure facilities research both acknowledge a need for new community sports leisure facilities to be provided in central areas.

Impact and Scale

16. Para 7.2 – The applicant claims that “it is not considered that a full health check audit of these centres is necessary”. The applicant considers the ancillary retail element is not significant enough to necessitate a health check audit, and provides a ‘commentary’ instead. This approach is considered inadequate for such an important strategic proposal, and I would contend that a health audit would help to identify where the genuine need exists, particularly as the development plan envisages the relocation to be such a key driver for regeneration of the area. A health check audit for both aspects is necessary and particularly important for the leisure component, to ensure that the need for providing community sports facilities is met in the most appropriate locations.
17. Para 7.3 – This para recognises that PPS6 requires leisure proposals over 2,500 sq m to carry out an impact assessment against criteria in para 3.22 of PPS6. The leisure facilities are proposed to be at least 10,100 sq m in size, but the applicant has not provided an impact assessment to satisfy these criteria. To not provide an impact assessment, simply on the suggestion that these criteria might be difficult to apply to the proposals, is inadequate and indicates that the applicants intentions are at odds to the preservation and enhancement of town centre viability and vitality.
18. The inadequate and vague approach to assessing impact on the town centre is not consistent with the approach to the sequential site assessment which has been fairly comprehensive in order to try to prove that the proposed site is most suitable.

Impact on Luton Town Centre

19. The reports (in Appendices 2 and 3) provided from surveying the composition of Luton town centre are both 18 months old (dated November 2006). Recent market trends might suggest that the vacancy rates are likely to have risen since then.
20. Paras 7.5 and 7.6 acknowledge that the vacancy rates for both retail floor space (9.77%) and units (11.19%) are notably higher than the national average (see the Goad Centre Report, Appendix 2). This should be given greater credence when considering that the retail element should be located in the town centre.

21. The same Goad Centre Report also shows that the town centre has a significantly higher level of multiple outlets than the national average, and a lower level of comparison outlets. Both these values suggest that there is a considerable need for smaller, independent and local retail outlets to be introduced to the town centre, and thus any further out-of-town provision would only exacerbate the situation.
22. The retail unit proposed at the out-of-town stadium location is 514 sq m gross. According to Appendix 2, this may only be equivalent to 0.98% of the total comparison goods floor space in Luton Town Centre (52,100 sq m), but is equivalent to a significant 15.7% of the floor space for sports related goods (3,279 sq m), so it will compete with the town centre. This disproves the applicant's belief that because the retail offer is ancillary to the stadium it will not have a significant impact on the Luton town centre.
23. The Goad Category Report (Appendix 3) demonstrates that comparison sports goods outlets are considerably under-represented in the town centre. There are only 4 outlets in the town centre, forming 0.83% of retail units when compared against the national average of 0.92%.
24. Para 7.8 suggests that the retail unit would not compete with the existing stores in the town centre. However, this also represents a significant opportunity for a city-centre based retail outlet to thrive without a significant level of competition.
25. Para 7.8 says that the retail outlet would not compete with the town centre because it is only ancillary to the stadium. This is misleading, because impact is not concerned with its role within a proposal, only the size, scale and location. Further, a town-centre goods-selling retail outlet given permission outside the town centre would still remove some associated footfall from the town centre shops, purely on the basis that it will remove some "shopping event" trips made to the town centre.
26. Para 7.9 – Leisure provision in Luton Town Centre is limited. The report concedes that The Galaxy centre "provides the main leisure destination near to the defined town centre", but also identifies that it does not include sports facilities, and in fact is in a state of decline, given that the cinema has closed and remains vacant. Providing sport/leisure facilities here would help regenerate this accessible but declining centre.
27. Para 7.10 - The Goad Category Report (App. 3) suggests that there are 3 sports and leisure facilities within Luton's 'Leisure Services'. An impact assessment should have investigated the nature of these facilities and considered how the proposed facilities could complement the existing facilities and meet a demand amongst the communities in need if they were to be located more centrally where the catchment population can benefit from their provision.
28. Para 7.11 – By implication that there are no central sports and leisure facilities to compete with the proposals at the stadium site, it is clear that there is insufficient provision within the town at present, and so a suitable customer base must exist to make new central sites a viable concern.

29. It is also to be noted that Luton Borough Council, as landlords of the Kenilworth Road site and key stakeholder in any regeneration strategy for Bury Park, does not appear to consider J12 as an appropriate answer in this matter. Our understanding is that they are not supporting the J12 proposal. This is hardly surprising, given the Council's long-held aim of keeping the Club within the town, and its major contribution to the Borough's community life and economy. The Club was formed in 1885.

Impact on Dunstable Town Centre

30. The reports (in Appendices 4 and 5) provided from surveying the composition of Dunstable town centre are both over a year old (dated February 2007). Recent market trends might suggest that the vacancy rates are likely to have risen since then.
31. Para 7.20 – the vacancy rate of units in Dunstable town centre is greatly higher than the national average and would certainly welcome a more central retail outlet from the proposal. I would say that at 15.29% this is much more than “slightly above” the national vacancy average of 10.99%.
32. As with Luton town centre, the Goad Centre Report for Dunstable (Appendix 4) also shows that the town centre has a significantly higher level of multiple outlets than the national average, and a lower level of comparison outlets. Both these values suggest that there is a considerable need for smaller, independent and local retail outlets to be introduced to the town centre, and thus any further out-of-town provision would only exacerbate the situation.
33. The retail unit proposed at the out-of-town stadium location is 514 sq m gross. According to Appendix 4, this is equivalent to 3.1% of the total comparison goods floor space in Dunstable Town Centre (16,630 sq m). When compared against the current retail offer for sports related goods in Dunstable, the proposal would be 34.9% larger than the current total amount of floor space in the town (381 sq m). Thus the proposal will not only compete with the town centre but vastly overpower this small surviving element of the towns retail offer. This significantly disproves the applicant's belief that a retail offer ancillary to the stadium will not have a significant impact on Dunstable's town centre. When considered from another perspective, locating the football club store in the town centre could potentially greatly increase the vitality and viability of Dunstable's current town centre retail attraction.
34. Appendix 4 also shows that in Dunstable town centre, there are only 4 sports comparison goods outlets, totalling some 1.85% of the town centre units, compared to 2.40% nationally. In floor space terms, these comparison goods only account for 0.94% of the retail floor space, compared to 2.42% as a national average. These are significant shortcomings for the continued health of Dunstable town centre, and could be redressed with a centrally-located football club retail outlet, especially as the proposal would be 134.9% of the size of the current total floor space provision for sports comparison retail goods in Dunstable town centre.

35. Para 7.23 - The Goads Category Report for Dunstable (Appendix 6 of the report) identifies that there is only one sports and leisure facility in Dunstable, comprising only 0.36% of the area of Leisure Services. Consequently, the town would be far more viable if the leisure and sports elements of the proposal were to be located in Dunstable.
36. Para 7.26 – The applicant claims that Dunstable is “a vital and viable town centre”. I would contest this and say that a retail outlet vacancy of more than 15% is indicative of a town centre that needs more investment and a better retail offer to be viable.

Impacts of Location

37. Para 7.15 – The suggestion that trade at the stadium shop would only take place on 23 days of the year is misleading because there has been no confirmation that the shop would only be open on matchdays. It is assumed that the shop would be open for regular daily trading hours, in which case the number of car journeys made to the shop would be considerable.
38. Para 7.15 – If trade is intended to take place on a daily basis, the shop would need to be in a central, town centre location to increase and benefit from footfall in the town centre, and avoid unnecessary and unsustainable car journeys into the countryside. By being out of town, the stadium’s retail element will gradually and inevitably reduce footfall from the town centre and other shops. The health of the town centre may not be directly dependent on the additional trade from football supporters on match day, but there are likely to be considerable links given that the stadium is only 1km from the town centre at present. An out-of- town stadium and retail outlet will almost certainly cause a loss of ‘co-incidental’ trade from the town centre, and represents a considerable opportunity missed for increasing the vitality and viability and strength of the existing town centre retail offer in Luton.
39. Para 7.28 – The applicant claims that “the proposed retail and leisure uses are considered to be of an appropriate size and scale, in relation to the proposed stadium use.” There has been no evidence supplied to prove that the floor spaces proposed or the intended *modus operandi* is appropriate to the stadium. The evidence proves that, given their size and scale, their proposed location is may be inappropriate and dangerous to the health of the town centres of Luton and Dunstable.
40. Para 7.28 – The ancillary retail element may be considered a minor aspect of the overall stadium proposal, but its floor space size is certainly not minor when compared to the existing provision of similar goods in the town centres of Luton and Dunstable. The proposed out-of-town retail floor space is bigger than the existing floor space selling comparable goods in Dunstable town centre.
41. If it is to be believed that a new stadium will prompt an upturn in the clubs fortunes, and indeed an increase in crowd attendance, then this will only serve to increase the potential customer base for the club’s retail outlet. Consequently, it is even more important for this to become a feature of the town centre’s retail offer.

Conclusion

42. The conclusion put forward in the PPS6 Assessment has been questioned through this appraisal. The main factors are:
- Some aspects of the need assessment are misleading.
 - There are more sequentially-appropriate sites that should be developed instead of the proposed green-belt protected, out-of-town location.
 - The ‘town-centre uses’ have not been adequately proven to need an out-of-town location accompanying the stadium.
 - There are requirements of the PPS6 impact assessment that have not been covered by the applicant.
 - The proposals could lead to some potentially very damaging effects on the Luton and Dunstable town centres.
 - The proposal represents a missed opportunity to rejuvenate the area’s retail attraction and provide accessible sports facilities needed for the local area.
43. Overall, it is considered that the proposed development does not meet the requirements of Planning Policy Statement 6, and that the applicant’s PPS6 Assessment displays shortcomings that should be remedied.

Appendix 4: Ecological Surveys

A view prepared by South Bedfordshire Friends of the earth for CAST and CAST.

We would draw the attention of South Bedfordshire District Council and Mid Bedfordshire District council to the fact that we believe that it may be illegal for the planning authorities to grant planning permission without accurate and complete knowledge of protected species in the area. We contest that it would be illegal to grant planning permission until far more information on protected species has been granted.

1. Legal Background

A Local Planning Authorities’ legal duties relating to bats and the planning process is stipulated in the following:

Conservation (Natural Habitats, &c.) Regulations 1994 amended 2007.Regulation 3,(4).

“Without prejudice to the preceding provisions, every competent authority in the exercise of any of their functions shall have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.”

The definition of a Competent Authority is as follows:

Regulation 6.(1). *For the purposes of these Regulations the expression "competent authority" includes any Minister, government department, public or statutory undertaker, public body of any description or person holding a public office. The expression also includes any person exercising any function of a competent authority in the United Kingdom.*

Therefore, if a European Protected Species, such as a UK bat species, is affected by a planning proposal, the cited legislation requires the Local Planning Authorities to have regard for the tests of Article 16 of the Habitats Directive. The following tests should be considered before granting planning permission (i.e the exercise of their function) that would result in disturbance to a European Protected Species or damage or the destruction of its breeding or resting-place. The tests stated in Article 16, are outlined below:

- That the purpose of the derogation is for public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature....
- Derogation from the protection afforded to bats should not be authorised unless there is no satisfactory alternative.
- Derogation from the protection afforded to bats should only be authorised if the action will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status.

The Environmental Impact Assessment Regulations 1999 (Regulation 3), also places obligations on Local Planning Authorities with respect to Environmental information in that;

(2) The relevant planning authority or the Secretary of State or an inspector shall not grant planning permission pursuant to an application to which this regulation applies unless they have first taken the environmental information into consideration, and they shall state in their decision that they have done so.

In October 1999 Cornwall County Council granted planning permission to County Environmental Services (CES), a company wholly owned by the Council, to extend the largest landfill site in Cornwall. The site had been the focus of widespread public opposition for a number of years as a result of continued environmental pollution from the site, damage to a proposed World Heritage Site, and adverse impacts on protected species in the area.

Following the grant of planning permission, which would have extended the period of tipping by a further 10 years, a challenge to the permission was undertaken through judicial review proceedings against the County Council.

It was argued in the High Court that the Council had acted illegally in that they had failed to adequately survey the site for protected species, which was required by the Environmental Impact Assessment Regulations and the EU Directive. The Council (Cornwall County Council) argued that detailed surveys of flora and fauna could be dealt with by way of Section 106 Conditions following the grant of permission, a common practice with planning authorities.

Such surveys by way of conditions however would have the effect of excluding the public from participating in the process of environmental assessment, thus defeating the purpose of the Directive and the Regulations

Mr Justice Harrison concluding that;

"...the grant of planning permission in this case was not lawful because the respondent could not rationally conclude that there were no significant nature conservation effects until they had the data from the surveys. They were not in a position to know whether they had the full environmental information required by Regulation 3 before granting planning permission." Judgement para 73 (Source – Earthrights Solicitors).

In summary, whilst Natural England issue the formal derogation from the provisions outlined in Article 12 of the Habitat Directive (in the form of a licence issued under Regulation 44), Local Planning Authorities still have a legal undertaking under the Habitats Regulations 1994 and the Environmental Impact Assessment Regulations 1999. This legislation requires LPAs to fully consider European Protected Species (such as bats) whilst determining planning applications. This is an important issue, as the LPA may grant planning permission for a scheme that impacts on a protected species without adequate information, only to find that due to the rarity of the species concerned or the failure of one of the legal tests outlined above, Natural England are unable to issue a licence.

2. Situation as regards the Mid Beds Planning Application

The application to Mid Bedfordshire District Council contains no survey information on bats. We therefore support English Nature's comments. "Based on the information provided, **Natural England objects** to the proposed development. We recommend that the local planning authority refuse planning permission on the grounds that the application contains insufficient survey information to demonstrate whether or not the development would have an adverse effect on legally protected species."

It would be illegal for the planning authority to grant planning permission until the full environmental information has been given to the authority and members of the public and stakeholders have had the opportunity to comment.

3. Situation as regards the South Beds Planning application.

We believe that the applicant has not given sufficient information in order for the planning authority to legally be in a position to grant planning permission.

3.1 Goodmans state in the appendices to the environmental statement on protected species surveys that there is good potential for bat roosting in the barns and outbuildings of Old Park Farm. However they have not been able to access these barns and so no surveys in area which has high potential for bat roosts have been carried out.

Extract from the ES appendices on protected species surveys below

3.2.2 Initial Survey Results

At the time of compilation of this report access was not possible to Old Park Farm, and its associated outbuildings and environs. However, reference to the Extended Phase I Habitat Survey (Middlemarch Environmental Ltd Report Number RT-MME-4346-01) indicates that these buildings are liable to provide optimal bat roosting habitat.

Therefore in an area which could provide optimal bat roosting habitat no surveys have been done.

3.2 The appendices also state that there are several mature trees on the application site which have bat roosting potential see below.

Extract from the ES appendices on protected species surveys below 3.2.2

The trees on site were predominantly immature, and therefore unlikely to be of any value to bat species. However, towards the northern extent of the site exists an internal hedgerow feature composed of mature, dense blackthorn, within which is located a number of mature specimens of oak and ash. A number of cracks and fissures were noticeable within the trunk and branches of these mature trees, especially the ash, and as such they were deemed to provide good potential bat roosting habitat.

In addition, towards the southern extent of the site exists a second large internal hedgerow comprising a mosaic of mature blackthorn, hawthorn, dogwood and crack willow. Located within this stretch of hedgerow are three large, mature oak trees. As before, numerous cracks and fissures were identified within the body of these trees, giving them good bat roosting potential.

To the west of this second boundary feature exists a single mature crack willow, which was deemed to provide good bat roosting potential due to the presence of cracks, fissures and splits within the bark.

3.3 However despite this potential for bat roosting only two bat surveys took place and they were both in August and they were of different areas, ie each area had only one survey.

3.4 I would draw the planning authority's attention to the English Nature guidelines on Bat Mitigation which are referred to on Natural England's website in the section on applying for the licences for protected species.

3.5 It has to be remembered that information is not only needed on the actual roost itself but on the area around it, i.e a roost may remain but if all the foraging ground around it has been destroyed the roost will not longer be viable. The Habitats Regulations amended 2007 section 39 states that it is a criminal offence to disturb or destroy a bat roost. A person commits an offence if he

(b) deliberately disturbs wild animals of any such species in such a way as to be likely significantly to affect—

(i) the ability of any significant group of animals of that species to survive, breed, or rear or nurture their young; or

(ii) the local distribution or abundance of that species;

or

(d) damages or destroys a breeding site or resting place of such an animal.

3.6 These Guidelines from Natural England recommend much more detailed and complete surveying. Bats hibernate from October to April and then form maternity roosts from May into July/August which they then leave and form mating/swarming roosts from August until October. Bats also are known to use roosts for a short period of time and then leave them for a while and then return. These means that a series of surveys from May to September are needed in order to have a full picture of the bat usage of the site and identify roosts.

3.7 The guidelines do understand that survey requirements differ but provide this example of the requirements on page 25. "The following specification is recommended in relation to development proposals of 1ha or more within 4km of greater horseshoe bat roosts. Surveys should be carried out on two separate evenings each month from May to September, as the bats' favoured foraging areas may alter across the summer period."

3.8. The applicants quote existing records of the wider area but it appears that the Bedfordshire Bat group has not done surveys of the area, so these records are very minimal and thus should not be held as true indication of the situation.

3.9. The questions on an application for a bat licence include "how many animals are likely to be affected by the proposed work" and "explain briefly how you will maintain an equivalent population at or near to the site" The applicant is not in any position to be able to answer these questions.

4. We disagree with English Nature's comments.

We do disagree with English Nature's comment on the application that the lack of surveys can be remedied by planning condition. *"Natural England recommends that further emergence surveys are undertaken prior to the removal of any trees with bat potential, and that this is assured through the use of a suitably worded planning condition."*

We believe that using planning conditions is not sufficient and that the planning authority would be acting illegally if it were to grant planning permission without possession of the full environmental facts. We refer back to the case of Cornwall County council which we explained at the start of the document.

5 Granting planning permission would be contrary to PPS9.

The planning authority would also be acting contrary to PPS9

PPS9 section1(i) states, *"Planning decisions should be based on up to date information about the environmental characteristics of their areas. These characteristics should include the relevant biodiversity and geological resources of the area."*

In this application there is no up-to-date information on protected species especially bats.

Appendix 5: CAST Survey of Toddington Residents , July 2007

536 visitors to the applicant's public exhibition on 6/7th July 2007 in Toddington filled in a survey form.

Copies of the forms returned are available from CAST on request.

The responses were as follows:

1. Do you think that the local community requires the facilities suggested by the developer ?
490 (91.5%) said No, 2% abstained
2. Do you think this is an appropriate place for Luton Town Football Club and a large distribution centre to be situated
502 (94%) respondents said 'No', 1% abstained
3. Do you believe the employment opportunities proposed as part of the development would be of interest to you or of benefit the local community
446 (83%) respondents said 'No', 3% abstained
4. Would you anticipate use of the proposed development to have any health and safety implications for local residents such as emergency service access, road safety and /or crowd control?
479 (89%) said "Yes", 1.5% abstained
5. Do you think that this is an appropriate use of greenbelt land?
490 (94.5%) said no, 0% abstained

n.b the facilities were based on those being suggested by the applicant at that time.

Appendix 6: Issues on the Applicants Transport Assessment (chap. 14. p. 265)
- Transport & Access (chap. 14. p. 265)

This section comes to the scarcely credible conclusion at Para. 14.32 that ‘No adverse effects are thus expected to be produced by the proposed development on any of the surrounding roads.....the overall effect of the proposed development when completed can thus be described as negligible’. Para. 14.34 states that in view of this negligible impact ‘no mitigation works are required’. Para. 14.35 then refers to the proposed access routing strategy for HGVs, on which we have already commented as to its enforceability.

The assertion at Para. 14.32 that the overall impact on completion will be ‘negligible’ is then supplanted by the even more startling assertion at Para. 14. 41 that, in the light of the applicant’s ‘sustainable travel initiatives’, the residual legacy of the development on local roads will actually be ‘minor beneficial’. This is scarcely borne out by the **Transport Assessment, S.6**, where from Paras. 6.20 onwards some very significant increases indeed are forecast on local roads, but are apparently seen as acceptable because they are within the ‘theoretical capacity’ of the roads concerned!

We await the comments of Bedfordshire County Council and the Highways Agency on these assertions with interest, but in the meantime would raise some further significant issues concerning the applicant’s approach to the subject of traffic impact.

(1) He states at Para. 14.33 that, given the ‘very low’ effect of his development, ‘cumulative effects involving other sites are unlikely to be significant. As a result these have not been considered further in this report’. This remark appears to follow on from that in the supporting **Transport Assessment** at Para.6.11, where it is stated ‘There are no known committed developments that are likely to significantly alter traffic flows in the vicinity’.

Assuming the applicant’s consultants are aware of the Center Parcs scheme, which surely has to be treated as a ‘committed development’, they seem to have assumed it will have no significant impact on traffic flows in the area. We do not accept this assumption to be valid.

(2) As the **Transport Assessment** makes clear at Paras. 6.9 & 6.10, there are considerable problems with the available H.A. data for the post M1-widening traffic situation at J12, and indeed no Saturday data at all, as a result of which the consultants have had to engage in considerable improvisation. In our opinion, the revised H.A. data, and H.A. data for Saturdays, has to be awaited before the applicant’s Transport Assessment can be taken as soundly-based.

(3) At Para. 6.19 of the **Transport Assessment** the consultants set out the completely unrealistic assumption, that all away fans not arriving at the J12 stadium by coach will arrive by rail. As a result of this patently absurd assumption, the validity of the applicant's Transport Assessment is even further compromised.

(4) Also at Para. 6.19 of the **Transport Assessment**, the consultants state their calculations to be based on the assumption that the 'typical' gate at J12 matches will be around 15,000. In our submission, this approach is wholly flawed. The traffic impact situation needs to be tested against a capacity gate of 20,000, not some lower figure which is being subjectively suggested as 'typical'.

In the light of the above, our view is that the basis on which the applicant asserts his development will have negligible impact on the local road network has no credibility.

Appendix 7 Further Road Issues Affecting Toddington and Surrounding Villages

There are further local issues with the application in Toddington and surrounding villages.

Toddington has narrow streets and there are issues with vehicles passing each other. Two HGV vehicles on opposite sides of the road cannot pass each other on Station Road.

Residents have expressed anxiety concerning the safety of children walking to and from the local schools and also on elderly pedestrians. This situation may lead to more persons using their cars instead of walking or cycling.

Consideration must be given to the effects of increased traffic, especially HGV, may have on the foundations and structure of buildings, included listed buildings, in Toddington.

We understand that one HGV is due to leave the distribution depot every two minutes according to the applicant's proposal if movement is on a 24 hour basis. The applicant maintains that a lorry ban will prevent vehicles moving east or west. However, it is far from certain that a lorry ban would be allowed. The Parish Council have been lobbying for this for many years without success. A lorry ban would certainly not be granted until the A5 M1 link road is built.

Even if a lorry ban was granted, there would be major issues when the M1 is closed and traffic is forced East to Westoning and Harlington or West to Toddington. This extra Warehouse traffic is on top of the extra traffic from other developments in the area (Nirah, the new houses of the growth area and Center Parks). It would cause major congestion incidents East and West through many villages.

There is little detail in the proposal as how the lorry ban would be enforced, what policing the developer is funding to ensure that the enforcement would be effective, and

the level of fines that would be imposed. If the proposed scheme is along the lines of the London congestion charging, some lorry drivers may be prepared to accept the fine and go through the villages as this may save them time and money having taken fuel cost and the of a late delivery into account. There is no consideration for the HGV drivers who are foreign, not be able to read English, relying on SatNav to direct them to their destinations. It is not clear how they would understand the lorry ban system.

It is also unclear how the developer would take responsibility for this scheme in the event that it does not work. What financial penalties could be imposed on the developer if the scheme breaks down and the extra traffic kills a driver or pedestrian for example by two vehicles colliding on the narrow roads?

Appendix 10: Issues on the External Lighting
- External Lighting (Chap. 15, p.278)

In his review of the Policy Context, the applicant includes reference to PPG17, South Beds Local Plan Policies BE8(x) and NE11, and Mid-Beds Local Plan Policy PHS5. We submit that the applicant's proposals are in conflict with all these Local Policies, as well as PPG17 which also clearly states that floodlighting of sports facilities should not harm local amenity, nor the openness of the Green Belt and the character of the countryside.

The applicant assesses the detriment from his proposed site amenity lighting and floodlighting as 'Negligible' overall, with 'Minor Adverse' for certain adjacent receptors (see Table 15.3). This conclusion appears to be reached on the basis that 'all views are already compromised by the M1 motorway and associated Toddington Services' (see Para. 15.37). We do not consider this approach to assessment of the development's lighting impacts to be acceptable. Contrary to the applicant's assertions, the Toddington Services area, though extensive and heavily-lit, is relatively well screened from a number of available viewpoints. In any event it is clearly no answer to say that because there is already one area of intrusive lighting this means that the detriment caused by an adjoining development becomes 'negligible'. Carried to its logical conclusion that would become an argument for never-ending expansion of development across the whole of the country.

Appendix 8: Wildlife Report From John Pitts (a council member of the local natural history society, a member of the local Wild Life Trust and a member of the **Wadelowes Nature Reserve management committee** (this reserve adjoins the J12 site at the NW corner and is mentioned in table 10/7 of the Ecology Issues under the description "Poplars Nursery CWS") and a member of as well as a member of the Beds Bat Group I am extremely worried about various environmental issues brought up by this application.

1. That an exceptional rainfall event in the development area will overcome any SUDS provision on the site and cause flooding downstream along the Flit Valley with big implications for the villages and the nationally important wet woodland

We have grave concerns for the environmental impact and implications of this vast development that will dwarf the villages of Harlington and Toddington and no doubt lead to further detrimental development in an area that has great amenity use for the wider and very considerable members of the public in the Chilterns and Central Bedfordshire areas.

We are extremely worried about various environmental issues brought up by this application.

SSSI at Flitwick Moor. *This is ecologically one of the most important sites in south-east England with a rich higher plant and bryophyte flora, many interesting fungi and a huge diversity of insects. In 2007 the 500th fungus species for the site was recorded! (Alan Outen)* The unique flora and fauna owes a lot of its amazing diversity to the delicate balance between acid water percolating up from the Greensand and alkaline water from the River Flit which rises in the chalk hills south of the J12 site. Any excess water or pollution carried down stream from the new development could have disastrous results for the villages and the important nature reserves and the Flit Vale green wildlife corridor. I imagine that Graham Bellamy of the local Wild Life Trust will have said something similar to support my concerns.

- a. The local IDB has still to complete work at FM so any increase in the problem from J12 development will only exacerbate this need.
 - b. Water Level Management Plans have been completed for all hydrologically-sensitive SSSIs within the Drainage District. These are Flitwick Moor, Fancott Woods and Meadows and Tebworth Marsh. The latter two sites were in satisfactory hydrological condition and required the maintenance of the *status quo* but Flitwick Moor requires technically demanding solutions to deal with the problems of nutrient-rich flood waters entering typically low-nutrient areas. Replacement of structures is required together with in-channel works and creation of a flood storage area.
2. The development will increase the already heavily light polluted area with serious results for wildlife and the human population. I set out here several comments relevant to the issues involved that I have noted at :
<http://www.lightpollution.org.uk> (see attachment for details)
 3. As there may be various **species of bat on the** development site and adjoining lands (including Wadelowes Nature Reserve and Old Park Farm House) I am concerned that the developers may only pay lip service to what are now stringent regulations. A full survey must be conducted and the appropriate directives followed. **See attachments.** Assume this relates to bat surveys mechanisms?
 4. The implications of a big industrial site and public amenity adjoining the Wadelowes Nature Reserve are disturbing. WNR is an isolated pocket of land and wetland and any wildlife there will inevitably forage over the J12 site. This is

- currently farmland, albeit farmland that has been allowed to fall into a pitiable state. Removing this foraging space and green corridor from “Green Belt” will change the sustainability of the NR. We believe that there are nesting Barn and Tawny Owls on the WNR site and have confirmed Kestrels are breeding. There are several ancient pollarded willows and other trees on the WNR site that may house bat colonies that will also need to forage over the development site. (The developers do not appear to be willing to mitigate for Kestrels and Buzzards table 10.7).
5. Evidence of otters has been seen upstream towards Fancott Meadows SSSI and an artificial holt constructed at Wadelowes to provide encouragement. If the plans proceed in any form I would like to see that any development plans will be totally sympathetic to otters and of course the River Flit habitat generally.

Below are three views of the site as it is today:



View looking towards M1, J12 site & Sharpenhoe Clappers from Toddington
TL019291



View from Toddington on the Icknield Way towards J12 site and Sharpenhoe Clappers beyond.
TL017290



View from SP989302 NW of Toddington across Toddington Manor to J12 site and Sharpenhoe Clappers and Sundon Hills.

Appendix 9: Impact of Development on ANOB From Colin White

**The Chilterns
Conservation Board**

Chilterns AONB Office
The Lodge
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28th March 2008

David Hale
Development Control



Chairman: Sir John Johnson
Vice Chairman: Cllr Bill Storey
Chief Officer: Steve Rodrick

Gary Alexander
Director of Environmental and Planning Services

South Bedfordshire District Council
The District Offices
High Street North
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Mid Beds District Council
Priory House
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BY E-MAIL

My Ref.: Plan Apps/S Beds/170-07 Luton Town FC 280308
Your Ref.: SB/OUT/08/0230 and 08/00325/FULL

Dear David and Gary,

Community stadium, outdoor sports pitches, community facilities, five warehouse/distribution units (Class B8), access enhancements and associated bus link infrastructure, road infrastructure, parking and service areas and new landscaping – land east of M1, south of A5120 and north of Toddington service area, Harlington Road, Toddington and Harlington parishes

Thank you for consulting the Chilterns Conservation Board (CCB) about the planning application detailed above. We have examined the details that were sent with interest and have the following comments to make by way of response.

The Board objects to the planning application for the reasons set out in detail below. These relate to the impact the proposed development would have on the visual amenities of the countryside and settlements in general in the vicinity of the application site, the whole of which is within the South Bedfordshire Green Belt, and in particular on the Chilterns Area of Outstanding Natural Beauty (AONB) (which extends to within 500m of the application site) and its setting.

The CCB is charged with a statutory duty to conserve and enhance the natural beauty of the AONB and, amongst other things, to increase the public's enjoyment of its special qualities. The CCB discharges this duty by advising Local Planning Authorities on development proposals within and near to the AONB, and, where appropriate, urging them to resist proposals likely to have an unacceptable impact on the natural beauty of the Chilterns and the public's enjoyment of it. In this case the proposed development would be located close to, and be readily visible from, publicly accessible areas within the AONB.

Summary of Representation

1. The CCB considers that, in view of its scale, character and location, the proposed development would have a significant adverse impact on the natural beauty of the AONB and its setting, would appear as an inappropriate urban feature in this rural area, especially when viewed from the Chiltern scarp to the south east, and be likely to seriously diminish the public's enjoyment of this part of the AONB, contrary to National, Regional, Strategic and Local planning policy. The CCB does not consider that the visual impact

of the proposed development, given its scale and nature, could be made acceptable by landscaping.

2. It therefore **recommends** that planning permission should be **refused** for these proposals.
3. The CCB is aware that the application proposals conflict with many other planning principles, objectives and policies. These are not dealt with in detail below. However the CCB may wish to add to this representation at a later date if it considers that key issues are not being covered by others. These include policy relating to biodiversity, noise and other forms of environmental pollution, and the need to move towards more sustainable patterns of development.

Policy Context

4. Parts of South Bedfordshire and Luton are defined as a growth area in the Milton Keynes and South Midlands Sub Regional Strategy. The Strategy recognises that development proposed will not all be accommodated on existing urban sites and through recycling of previously developed land. It therefore provides for a review of the South Bedfordshire Green Belt to enable sufficient land to be identified for urban extensions. The areas for green belt review are defined in the Strategy. Specific safeguarding for the AONB is also specified. The application site is beyond the area shown as subject to green belt review on the Strategy Spatial Diagram.
5. The key sources of national planning policy relevant to this application are set out in PPG 2, Green Belts and PPS 7, Sustainable Development in Rural Areas. This guidance was reflected in Local Plans and the Bedfordshire Structure Plan until deleted. The principles which underlay these policies remain applicable and of relevance in the consideration of this application.
6. All of these sources of planning guidance and policy make reference to the special need to protect the visual amenities of green belts, the countryside in general and AONBs in particular from harmful development and to ensure that development proposals which might be visually detrimental are not permitted.
7. The proposed development is “inappropriate” in a green belt, and in accordance with policy, should only be permitted if very special circumstances exist to justify an exception being made to the restrictions which apply to most built development in green belts. In this case the CCB does not consider that such very special circumstances have been demonstrated.
8. The principle set in PPG 2 regarding the potential for development outside a green belt to have an adverse effect on its visual amenities applies also to AONBs and this is fully reflected in the South Bedfordshire Local Plan, which highlights the importance of taking into account views into and out from the AONB. The impact on the AONB of proposals outside but close to it (as is the case here), is an important material consideration.

Visual Impact

9. The site can be clearly seen from a wide range of publicly accessible locations in the surrounding countryside and from the M1 and railway. The hill is a particularly prominent feature in the landscape, including the Chilterns AONB. It follows from this that the proposed development will also be prominent, visible and highly intrusive. Significant landscaping is also proposed. However, these measures will have little effect in mitigating the visual impact of the new development.
10. The proposal involves substantial regrading and levelling on site which will reduce the height of the northern part of the site and raise ground levels on the southern part. On these new levels will be superimposed the new structures. The top of the stadium and the warehouses will be only marginally below the highest point of the existing hill on the northern part of the site (and floodlighting masts may be higher).
11. The large warehouses and the stadium will remain a highly visible and visually intrusive element in the landscape, and will significantly diminish the quality of the experience of a visit to this part of the Chilterns. The rural setting of this part of the AONB will be permanently and adversely affected by the development.
12. The CCB is aware of the findings of the Landscape and Visual section of the Environmental Statement submitted with the application. However, given the scale, character and location of the proposed development, its proximity to and prominence when viewed from the AONB, and the extensive removal of significant landscape features on the site, it cannot accept the study conclusions.
13. In the very limited time available before the closing date for representations set out in the consultation letters, it has not been possible for the CCB to carry out a detailed landscape assessment of its own. It may, therefore, wish to add to this representation before the matter is reported to the relevant committees of the two Local Planning Authorities.

Other Relevant Issues

Need

14. Whilst there is an acknowledged need for Luton Town FC to relocate from its current ground in Luton, this need does not represent a very special circumstance for the location of a replacement stadium in this part of the green belt.
15. Further, there is no established need, in this location, for warehousing development on the scale proposed. The possibility that there might be market demand for warehousing is not a very special circumstance, nor is the suggestion that enabling development is needed on the scale proposed to help fund the construction of the football stadium.

Alternative Sites

16. A new football stadium on its own, together with parking and circulation and any essential ancillary activities, would require a site much smaller than the 84 hectares needed for the application proposals. The stadium and associated car and coach parking occupies no more than 15 hectares of the application site, and a site of this size could readily be identified in the forthcoming review of the South Bedfordshire Green Belt provided for in the MKSMSRS.
17. It is important to note that a site at Stockwood, within Luton Borough, is allocated for a new ground for Luton Town FC in Policy SA1 of the Borough of Luton Local Plan.
18. In this context it is not considered that the applicant's search for alternative sites is sufficiently thorough and flexible in terms of its criteria for site selection. In these circumstances there seems to be no need for the replacement ground to be located in a sensitive rural area within the setting of the AONB, well beyond the existing built up area of Luton, and beyond the likely extent of any future urban extension.

Green Belt openness and the coalescence of settlements

19. The purpose of including land within the South Bedfordshire Green Belt is to contain "the outward growth of Luton, Dunstable and Houghton Regis; Leighton-Linslade; and Ampthill and Flitwick and to prevent the coalescence of settlements within that area" and this is achieved by maintaining the openness of the green belt by resisting inappropriate development.
20. The application proposal would significantly reduce the openness of this part of the green belt, and in particular reduce the extent of open land between Toddington and Harlington. In doing so it directly conflicts with the purpose of this green belt.

Traffic and transport

21. The CCB is convinced that the development will lead to a significant increase in all types of traffic, and particularly HGVs, on roads within and adjacent to the AONB to the detriment of the special qualities of the AONB and those seeking to enjoy the AONB (both local people and visitors alike).

Should you require any further information do not hesitate to contact us.

Yours sincerely,



**Colin White MRTPI
Planning Officer
For and on behalf of the Chilterns Conservation Board**

