

Committee:	Development Management		
Date of Meeting:	23 August 2022		
Application Ref:	21/00731/FUL		
Subject:	Erection of 90 dwellings consisting of (14 x 1-bed, 60 x 2-bed and 10 x 3-beds) flats within 4 and 7 storey building and (6 x 4 beds) within 3 storey houses with associated car parking, landscaping and amenity spaces after demolition of existing buildings. - Resubmission		
Address:	36 - 38 Crescent Road, Luton		
Applicant:	Mr Ishwinder Binning		
Report Author:	Head of Development Management		
Contact Officer:	Naila Malik		
Implications:	Legal ☒	Community Safety ☒	
	Equalities ☒	Environment ☒	
	Financial ☐	Consultations ☒	
	Staffing ☐	Other ☒	
Wards Affected:	High Town Road		

Purpose

1. To advise Members of a current application for planning permission and to seek their decision.

Recommendations

2. It is recommended to the Committee:
 - (i) That the reasons for approval set out in this report are agreed;
 - (ii) That planning permission is granted, subject to the conditions set out below ('Appendix 1');
 - (iii) That planning permission is granted, subject to the satisfactory completion of the necessary mechanisms to: secure the delivery of financial contributions towards Sustainable Transport, Waste Management, commuted Affordable Housing and Education contributions, subject to overage clause (viability review) with any additional contributions directed towards Affordable Housing; a mechanism to secure the delivery of local goods, services and labour and a legal agreement monitoring fee; and
 - (iv) That delegated authority is granted to the Head of Planning to make minor alterations to the conditions, including adding and deleting conditions, following any Committee resolution to grant permission (should any be required);
 - (v) That, following any grant of permission, delegated authority is granted to the Head of Planning to determine any subsequent planning applications related to this development seeking either minor material amendments (Section 73 applications) or minor variations to the accompanying legal agreement (Section 106A applications); and

- (vi) That if a Section 106 Agreement is not completed within 6 months from the date of Committee resolution, or such extended period as may be agreed in writing by the Head of Planning, then delegate the decision to the Head of Planning to REFUSE planning permission for the following reason:

“The proposed development, in the absence of Legal Agreement to provide appropriate improvement, benefits and monitoring that directly relate to the development, would fail to adequately mitigate the impact of the development to provide necessary social, environmental and physical infrastructure improvements arising directly from the development, contrary to the National Planning Policy Framework (2021) and Policies LLP1, LLP2, LLP16, LLP24, LLP31 and LLP39 of the Luton Local Plan 2011-2031 (2017).”

Conditions ('Appendix 1')

- (01) Period of Consent;***
- (02) Approved Plans and Documents;***
- (03) Construction Environmental Management Plan;***
- (04) Removal of PD Rights for Telecommunication Equipment;***
- (05) External Materials;***
- (06) Landscaping Scheme;***
- (07) Landscape Maintenance;***
- (08) Boundary Treatment;***
- (09) Management Plan;***
- (10) CCTV and Security;***
- (11) Refuse Stores;***
- (12) Climate Change;***
- (13) Travel Plan;***
- (14) S.78 Agreement;***
- (15) Phase 2 Site Investigation Report;***
- (16) Verification Report;***
- (17) Surface Water Drainage;***
- (18) Infiltration;***
- (19) Oil/ Water Receptors;***
- (20) SUDS Verification Report;***
- (21) Contamination Turbidity;***
- (22) Noise Insulation;***
- (23) Acoustic Design;***
- (24) Noise Mitigation;***
- (25) External Lighting;***
- (26) Fire Hydrants;***
- (27) Tree Protection***

Heads of Terms

- (01) Contributions towards Sustainable Transport, Waste Management, commuted Affordable Housing and Education;***
- (02) A Mechanism to Secure the Delivery of Local Goods, Services and Labour; and***
- (03) A Legal Agreement Monitoring Fee of £10, 000.***

Background

The Site

3. The application site is a rectangular shaped area of land, measuring 0.57 hectares in size. It currently accommodates a car and van rental facility, a warehouse in addition to a large area used for open storage. The site has two separate access points off Crescent Road. It is relatively flat with a steep tree covered embankment to the north east boundary where the housing in Hart Hill Drive is situated in an elevated position. Hart Hill and the land to the north and west lie in the Hart Hill Area of Local Landscape Importance.
4. The north-west boundary of the site is also lined with trees and is separated from the neighbouring block of flats in The Martindales by a public footpath that runs between Crescent Road and Hart Hill Drive. Along the north-west side of Crescent Road there are mainly blocks of flats ranging in height from 3 to 5 storeys. Many of the trees on the site and along the road frontage are protected by a Tree Preservation Order (TPO).
5. To the east lies a temple and two pairs of semi-detached housing and beyond this on the junction with Crawley Green Road are commercial properties. To the south of Crescent Road there are mainly commercial properties that back onto the main railway line.
6. In the Local Plan the site is designated as being within a Category B Employment Area, where Policy LLP 14 applies.

Fig. 1: Existing Site Aerial Image



Relevant Planning Site History

7. The site has relevant planning history with a pre-application enquiry submitted in 2019 (LPA REF: PREAPP/19/00191) for a similar scheme as currently proposed, which overall was considered to meet the objectives of the policies of the Luton Local Plan.
8. The site also had planning permission granted in 2008 (LPA REF: 08/01090/FUL) for the erection of three/four storey blocks to provide 74 residential dwellings with

associated parking and amenity space, which in design and layout terms was similar to the current scheme. This permission was never implemented.

The Proposal

9. Full planning permission is being sought for the redevelopment of the whole site to provide residential development consisting of 84 flats of which, 14 would be one bedroom (16%), 60 would be two bedroom (67%) mainly 2 bedroom 3 person units, 10 would be 3 bedroom (11%) and 6 would be four bedroom houses (6%). Considering the 2 bed, 3 bed and 4 bed units together, the proposed development would provide 84% family accommodation overall. This would be achieved through the erection of three blocks ranging from three, four and seven storey in height. There would be no studio flats within the scheme and all of the units within the development would be consistent with the nationally described space standards (NDSS).
10. Block A is the largest of the three blocks on the site and will be positioned on its north western corner. It would be 'U' shaped building that would be 7 storeys in height including the basement and reduced scale third and fourth floors that would be set back from the main frontage facing Crescent Road. This block would cover substantial part of the plot and would contain a concierge, gym, post room and swimming pool and public and private amenity space on the roof top. This block would also contain a car park with 39 spaces, 44 cycle spaces and refuse stores serving the residential accommodation on the upper floors. In total Block A will comprise of 71 flats.
11. Block B positioned on the south eastern corner of the site and would be smaller footprint and lower in height than Block A, being 4 storeys in height also fronting Crescent Road. It would mainly comprise of 13 flats with communal amenity area provided in the form of communal and private terraces on the fourth floor, bin storage, 7 parking spaces and 44 cycle spaces and
12. Block C is positioned to the rear of Block B in the north eastern corner of the site and consists of 6 three storey town houses with their own private amenity area and 13 allocated parking spaces situated to the front of the site.
13. All three blocks would predominantly utilise mixture of grey, buff and red brickwork to align with the historic 'Luton Grey' and red brick found in the surrounding area. Along with bricks Block A would also utilise metal cladding on the upper floor.
14. In total the proposal would provide 60 car parking spaces is entirely residential scheme that makes provision for 60 car parking spaces (providing a ratio of 0.6 spaces per residential unit. Majority of the parking (39 spaces) would be provided on the lower ground of Block A, with the remaining being located to the rear of Block B and in front of Block A. Both pedestrian and vehicle access to all three blocks would be from the main entrance off Crescent Road. The scheme also makes provision of 105 secure cycle parking spaces, which would incorporated within the lower and ground levels of Block A and B where they would be both secure and convenient for future occupiers.
15. Majority of the residential units would have access to their own private amenity space in the form of a private balcony, roof terraces and rear gardens. Additionally, communal amenity is provided in the form of communal terraces on the upper floors of Blocks A and B totalling 335m².

Fig. 2: Proposed Site Plan



Policy Implications

National Planning Policy Framework (NPPF, or the Framework)

16. The revised National Planning Policy Framework (NPPF, or the Framework) was published in July 2021 and replaces the previous NPPF (2019). It provides guidance as to how the government's planning policies are expected to be applied. The core principle of the revised Framework is a "presumption in favour of sustainable development". However, this does not change the statutory status of the development plan as the starting point for decision making. Planning law requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions.
17. Paragraph 38 of the Framework advises that local planning authorities should approach decision making in a positive and creative way and should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible. Discussions have taken place with the applicant for a number of months to resolve issues relating to viability.

Planning Policy Guidance (PPG)

18. The guidance was published in March 2014 and has been maintained in support of NPPF policy.

Luton Local Plan 2011-2031

19. The site is allocated within Luton Town Centre on the Policies Map of the Luton Local Plan 2011-2031 as a Category B Employment Area. Accordingly, Policy LLP14 (Employment Areas) of the Local Plan would apply which seeks to protect existing employment sites. Part B sets out that the requirements that need to be met before

planning permission for non-employment uses will only be permitted on such sites. Other applicable policies relevant to the proposal are, LLP1, LLP2, LLP15, LLP16, LLP25, LLP27, LLP28, LLP29, LLP31, LLP32, LLP36, LLP37, LLP38 and LLP39. These policies are paraphrased as below:

- *Policy LLP1 (Presumption in Favour of Sustainable Development)*: sets out a sustainable development strategy for the Borough;
- *Policy LLP2 (Spatial Development Strategy)* sets out the spatial development strategy for the Borough, setting out objectives for housing delivery, job creation, retail provision and improvements to infrastructure associated with the development.
- *Policy LLP14 (Employment Areas)*: seeks to protect existing Category A and B employment sites for employment uses.
- *Policy LLP15 (Housing Provision)* relates to the provision of housing within the Borough;
- *Policy LLP16 (Affordable Housing)* considers the provision of affordable housing within the Borough;
- *Policy LLP25 (High Quality Design)* requires buildings and spaces to be of high quality design, with distinctive character. It seeks to have development enhance the character of an area, respond positively to the local context, minimise adverse amenity implications, optimise a site, achieve adopted standards and create attractive and safe spaces.
- *Policy LLP27 (Open Space and Natural Greenspace)* sets out the provision of open space and natural green infrastructure associated with new developments.
- *Policy LLP28 (Biodiversity and Nature Conservation)* seeks to protect existing habitats and avoid or mitigate impacts upon areas of nature conservation interest. It also supports development proposals that add to the net stock of wildlife habitats or where they help to deliver a net gain in the conservation and enhancement of sites.
- *Policy LLP29 (Landscape & Geological Conservation)* seeks to protect, conserve or enhance the character, setting and natural beauty of national and local landscape areas.
- *Policy LLP31 (Sustainable Transport Strategy)* sets out the sustainable transport strategy and stipulates that development will be permitted where it minimises the need to travel, reduces congestion and provides sustainable transport choices;
- *Policy LLP32 (Parking)* aims to secure sufficient car and cycle parking for the development.
- *Policy LLP36 (Flood Risk)* sets out the objectives for minimising the risk and impact of flooding within new developments.
- *Policy LLP37 (Climate Change, Carbon and Waste Reduction and Sustainable Energy)* is generally supportive of proposals which will contribute towards

mitigation and adaption to climate change through energy use reduction and efficiency and renewable and decentralised energy

- *Policy LLP38 (Pollution and Contamination)*: seeks to ensure that development does not have an adverse impact by reason of pollution or contamination on neighbouring development, adjoining land or the wider environment.
- *Policy LLP39 (Infrastructure and Developer Contributions)* seeks to ensure that development proposals provide or adequately contribute towards the infrastructure and services needed to support them. It is unlawful for a planning obligation to be taken into account when determining a planning application for a development that is capable of being charged Community Infrastructure Levy (CIL) if the obligation does not meet the following tests:
 - Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development;

In the context of this application, the development is in a category to which Regulation 122 applies. The requirement for financial contributions towards infrastructure improvements are matters which, if the development proposals are supported, would need to be secured by planning obligation. This is a proportionate obligation that is considered to comply with Regulation 122 and for which there is a clear policy basis either in the form of development plan policy or supplementary planning guidance.

Facts of the Application

Material Site Details

<i>Strategic Allocation:</i>	Category B Employment Site
<i>Conservation Area:</i>	N/A
<i>Setting of a Listed Building:</i>	N/A
<i>Flood Risk Zone:</i>	N/A
<i>Other:</i>	North/west boundaries of the site abut Hart Hill Area of Local Landscape.

Housing

<i>Mix of Dwellings:</i>	Studio: 0 (0%) One-bedroom: 14 (16%) Two-bedroom: 60 (67%) Three-bedroom: 10 (11%) Four-bedroom+: 6 (6%)
<i>Affordable Housing:</i>	No. 0 units
<i>Internal Space Standards:</i>	NDSS Compliant: Yes
<i>External Space Standards:</i>	Appendix 6 Compliant: Part

Non-Residential Uses

<i>Existing Use(s):</i>	Warehouse/ car rental/open storage	5768.5 m ²
<i>Proposed Use(s):</i>	Class C3	2577.5 m ² (footprint)

Sustainability

<i>Car Parking:</i>	Existing Provision:	0
	Proposed Provision:	60
<i>Cycle Parking:</i>	Existing Provision:	0
	Proposed Provision:	105
<i>Public Transport:</i>	Proximity of Train Station:	850m
	Proximity of Busway:	870m
<i>Parking Controls:</i>	Double and single yellow lines on Crescent Rd.	

Public Consultation

<i>Press Notice:</i>	Yes	
<i>Site Notice:</i>	Yes	
<i>Direct Consultation:</i>	Total Consulted:	57
	Support:	1
	Objection:	6
	Other:	1
<i>Statutory Consultation Date:</i>	27 June 2021	

Consultation Responses

Technical Consultation

20. The application was notified to many technical consultees and no significant issues have been raised towards the development. Conditions have been recommended and, where appropriate and reasonable, these have been incorporated into the conditions as set out at 'Appendix 1' and summarised above. The technical consultees, together with the responses received, are captured at 'Appendix 2' of this report.

Statutory Public Consultations

21. The application was notified to 57 properties, a site notice posted and a press notice issued. To date 6 representations have been received of which 6 are letters of objection and 1 a letter of support. The comments raised by the consultation exercise are captured at 'Appendix 3' of this report.

Report of the Officer

MAIN PLANNING CONSIDERATIONS

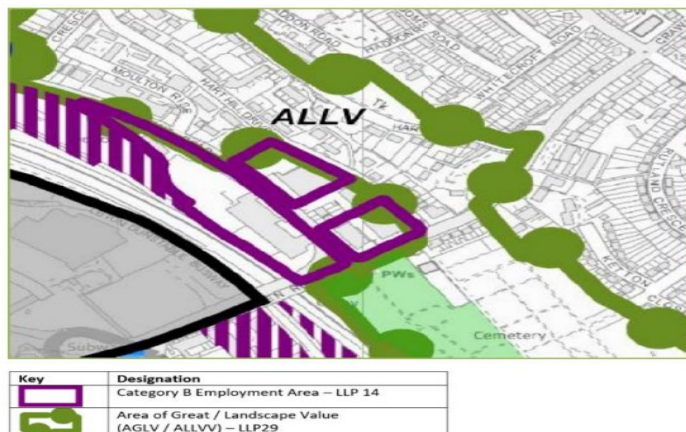
The main material planning considerations in this instance relate to the principle of development including the loss of the former employment use, housing provision/ mix; climate change; design and the impact on the character and appearance of the area; the layout and living environment to be created; the impact upon neighbouring amenity; transport and parking implications and issues related to biodiversity, impact on Chilterns Beechwoods Special Area of Conservation affordable housing, planning obligations, economic development and regeneration and other matters.

Principle of Development

22. The application site is brownfield land in a sustainable location within walking distance of the town centre amenities and transport links. The application is an allocated

Category B Employment site within the defined Proposal Map of the Luton Local Plan 2011 - 2031 (LLP). Accordingly, Policy LLP14 [B] applies which seeks to protect existing Category B employment sites from non-industrial/employment uses unless it can be demonstrated that the site has been vacant for at least 12 months, with evidence to show active marketing of the site; that suitable alternative accommodation at comparable rent is available and it can be established that the site is no longer viable for former B1, B2 and B8 uses.

Fig. 3 Local Plan Designation



Loss of Existing Employment Use

23. The site is a brownfield land in sustainable location within walking distance of the town centre. The site currently consists of a warehouse and a tiny portable office structure, with the remaining space being utilised for open storage. Although the site is not currently vacant, the applicants have provided a justification for the loss of employment use on the grounds that it has been challenging to retain current tenants and generate any additional interest from alternative employment uses due to the poor and deteriorated facilities provided on the site and its close proximity to residential properties.
24. To further support their case the applicants refer to the Employment Land review (ELR) (2015), which assessed 86 employment sites within the Borough and found that 36 including the application site, which were classified as "amber" sites that were deemed to be good or average employment sites.
25. While the majority of these "amber" locations were thought to perform effectively as employment sites to fulfil future employment needs, some were constrained and others required significant investment and upgrade to meet those goals. Due to its close proximity to residential properties, which hindered its ability to enhance employment use on the site, the application site was classified as a confined site within the ELR (2015).
26. Additionally, due to the poor condition of the existing structures on the property, a large amount of investment would be needed to upgrade the facilities to a level that would accommodate future employment. As a result there is justification to remove the land from employment use and put it to an alternative use because it has a limited capacity to satisfy the Borough's future employment needs. The NPPF aims to avoid providing long-term protection for sites designated for employment uses when there is no plausible chance that the site will be employed for that purpose, and in those circumstances, the site should be made available for alternative uses.

27. With respect to meeting the requirement of Policy LLP14, relating to alternative suitable accommodation at comparable rents the applicant in the planning statement (para. 5.8 to 5.12) has provided detailed information to evidence ample availability of alternative employment sites close to the site that are available to rent and are primarily situated within existing commercial areas.
28. In relation to the provision of other alternative employment uses being located on the site as discussed in the foregoing paragraphs owing to the poor state of the site and its close proximity to residential dwellings there is limited scope for alternative employment uses to be located on the site without causing harm to the amenities of the adjoining residential properties in terms of general noise and disturbance.
29. Additionally, planning permission for 72 flats on the site was granted in 2008 in a similar layout as the current proposal, which means that the principle of the loss of employment land and redeveloping the site for residential purposes has in the past been established on the site. This is a material consideration that does weigh in favour of the current proposal.
30. In light of the foregoing, whilst the proposal does not strictly meet all the objectives of Policy LLP14 it is evident that owing to its poor state, siting and relationship with the neighbouring residential properties it is not a site that it suitable or viable for future employment use and therefore should be made available for alternative use, in this case residential use.

In consideration of Policy LLP15 of the Local Plan and the loss of an existing employment use for which there is recognised local need, this has been justified in the foregoing paragraphs.

Provision of Housing

31. The development would provide 6 four bedroom houses and 84 flats of which 70 (78%) would be 2 and three bedroom, which meets an identified need within the Borough. Whilst 14 of the properties would be one bedroom flats, for which there has been over provision, it is considered that significant majority of policy compliant 2, 3 and 4 bedroom properties (89%) outweigh the general concern regarding the delivery of the one bedroom flats.
32. Despite the excellent mix offered, the Housing Policy Officer did note that the development needed more 2-bedroom/ 4-person flats. In light of these comments, the applicants re-examined the scheme and discovered that, in order to modify the layout to account for the change in the mix, the proposal would result in both the overall reduction in the number of 2 bedroom flats and an increase in both one-bedroom and studio apartments within the scheme which was ultimately deemed inappropriate, leading to the retention of the original housing mix. The residential offer is also thought to be reasonable given that the site is located conveniently close to the Luton Town Centre, Luton Train Station and Luton & Dunstable Busway Interchange.
33. Members have previously been advised that one bedroom flats are vital in providing value to a development from which developer contributions can be derived. This remains the case and whilst it is, of course, accepted that there is no identified need for one-bedroom flats as set out within the Luton Local Plan and its supporting evidence, it is considered that there is a need for one-bedroom flats in terms of delivering development, regenerating areas and delivering upon other Council objectives, such as improving education through contributions, eradicating poverty, providing families and

individuals with a high standard of living accommodation and delivering affordable housing.

34. For reasons that shall be furthered within subsequent sections of this report, the development is not considered to result in the over-development of the site.
35. In view of the foregoing, the scheme is considered to comply with the objectives of Policy LLP15 of the Local Plan.

Climate Change

36. Policies LLP1, LLP25 and LLP37 all recognise the significance of climate change and the desperate need to ensure that new development delivers upon its obligation to protect the environment for future generations. This principle is fundamental to the core thread of sustainability that runs through Sections 2, 12 and 14 of the NPPF.
37. The Council has declared a climate change emergency and Officers are acutely aware of the need to ensure that this issue is tackled at every opportunity. In relation to this issue an Sustainability and Energy Statement has been provided as part of this application, which seeks to address climate changes issues through utilising highly energy efficient building fabric, energy efficient lighting, natural ventilation, passive design measures to reduce energy demand for heating, cooling ventilation and lighting and photo-voltaic panels at roof level. This strategy would reduce the carbon dioxide emissions of the proposal which is welcomed. In addition, the proposal has been laid out and orientated to achieve a passive solar design, to maximise natural light and to achieve water efficiency. To achieve these objectives a suitably worded condition to provide for renewable energy production, the reduction of energy and water demand and conservation and best-use of generated resources is suggested to Members as Condition 12.
38. The requirements of Policies LLP25, LLP31 and LLP37 are shown to have been met and it is, therefore, considered that the development is acceptable in terms of climate change mitigation.

Design and Impact on the Character and Appearance of the Area

39. The application site is a relatively flat piece of land with a steep tree lined embankment along the north eastern edge of the site. It is located at the foot of the Hart Hill Estate, a prominent steeply sloping hill covered with trees that lies within an area designated on the Local Plan as a the Hart Hill Area of Local Landscape Importance.
40. The Hart Hill Estate is characterised by a variety of styles and types of buildings ranging from large Victorian/Edwardian dwellings to modern town houses and large flatted development. Many of the flatted developments are located on the north eastern side of Crescent Road to the north west of the application site and consist of a mixture of 3 to 5 storey blocks, mostly screened behind a line of trees. The south west side of Crescent Road is commercial in nature and directly opposite the site is Auction House, a 2 to 3 storey building. The site is located between Martindale's to the north west a 3 to 4 storey flatted development that sits on land about 2 metres above the ground level of the proposed development and a temple to the south east which is a converted former 1 to 2 storey warehouse and office building. The temple is sited well back from the main road and party to the rear of two pairs of semi-detached houses. To the south east on the corner of Crescent Road and Crawley Road are 2 and 3 storey commercial buildings. To the north east is Hart Hill Drive that sits on a higher level to the site.

- 41.** The proposed development seeks to erect 3 to 7 storey development arranged in 3 blocks A, B and C. Block A the main block is a 'U' shaped building that would be located along the western/north western corner of the site fronting Crescent Road. The second building situated along the road frontage on the south eastern corner of the site will be four storey in height (Block B) and of a smaller footprint than Block A. The third block (Block C) is located to the rear of Block B in the north eastern corner of the site, and consists of 6 three storey town houses.

Fig. 4 3D Layout of the Blocks



- 42.** The current scheme follows a similar layout to the residential scheme approved in 2008, with the main change being the increased height and massing of Block A and Block B along the Crescent Road frontage. The height of Block A ranges from 4 to 7 storeys including the basement. In street scene terms this block transitions from 4 to 6 storey in height with part of the upper two floors being set in from the external wall and parapet wall, helping to reduce both the massing of the built form and its visual prominence within the street scene. Local residents have raised concerns regarding the visual impact of this element on the street scene.
- 43.** Whilst it is acknowledged that this element by virtue of its increased height and massing would have an impact on the appearance of the surrounding area owing to its topography located against a steep embankment, its attractive design and the use of high quality materials, the development would not detract from the overall appearance of the surrounding area. With a design led approach, as indicated by national policy, it would be inappropriate to reject height and scale for their own sake. Where design is of sufficient quality and no additional harm is identified, height and scale is acceptable. In relation to the proposal, it is considered that the design is of an excellent standard and that the surrounding built form, emerging character and varied levels provide an appropriate context that justifies the design approach. For the reasons set out above, it is considered that the development would be consistent with the principles of high quality design found within Policy LLP25 of the Local Plan and Section 12 of the NPPF.

Fig. 5 Front and Rear Elevations of the Blocks



44. Block A by virtue of its increased height and massing would be visible from the adjoining Hart Hill Area of Local Landscape but owing to the significant level difference and the extensive tree cover along the embankment abutting Hart Hill Drive this element is not considered to materially detract from the character and setting of this area of local landscape.
45. Block B in comparison to Block A is a smaller 4 storey building which takes into account smaller building located to the south east of the site. Block C by virtue of its siting would not be visible from the street scene and therefore have limited impact on the visual amenities of the street scheme. Having regard to the diversity in the height and massing of the built form in the immediate surrounding area, the scheme has been designed provide a satisfactory transition between the taller buildings to the north west and the smaller buildings to the south east.
46. In design terms the proposal is seeking a flat roof design, which is in keeping with design of the surrounding flattened development in the area. With respect to the materials used throughout the development these would predominantly be a mixed grey, buff and red brickwork and some cladding on the upper floors of Block A to provide both visual interest and to help break the massing of this block. Blocks A and B elevations are divided vertically with different types of facing bricks and also have projecting brick elements to provide visual interest. The upper floors of Block A will be clad with using dark grey metal standing seam system to create a lightweight construction that is set back from the main external walls and parapet. Block C elevations are more, simple in appearance using one type of facing brick to distinguish the houses from the flats. The use of the materials indicated would give a high quality finish to the proposed buildings,

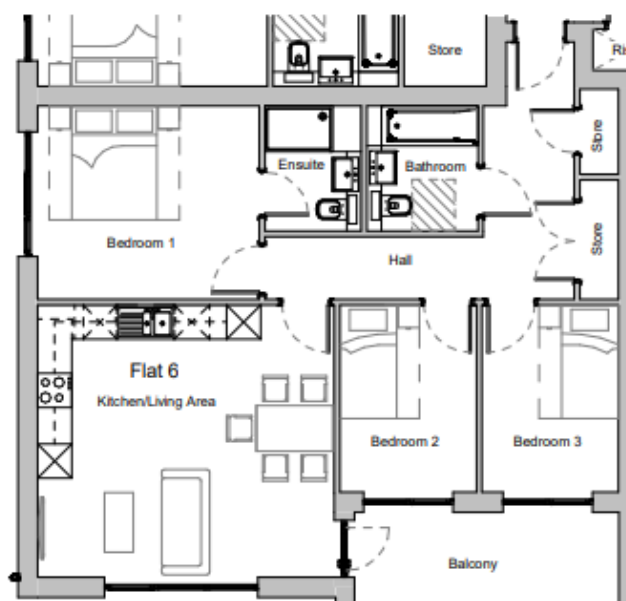
the specific materiality is to be required through a condition on any planning permission granted.

47. On the basis of the foregoing the height, scale, mass and design of the proposed blocks, which is not too dissimilar to the 2008 approved scheme, would not be unsympathetic with the character and appearance of the surrounding area nor would it detract from the character of the adjacent Hart Hill Area of Local Landscape importance complying with the requirements of Policies LLP25 and LLP29 of the Luton Local Plan.

Living Environment for Future Occupiers

48. Significant weight is attributed to the quality of the living environment that is to be provided to future occupiers of any development and this requirement is brought forward through the relevant criteria of Policies LLP1, LLP15 and LLP25 of the Luton Local Plan 2011-2031, together with Sections 2 and 12 of the NPPF.
49. All the flats and houses within the development would achieve an internal floor area consistent with the nationally described space standards (NDSS – MHCLG March 2015).
50. The proposed flats in Blocks A and B follow a simple rectangular or L shaped plan. Each unit has a living and dining spaces, bedrooms, bathrooms, built in storage and private external terrace space. The proposed houses in Block C are designed to spread across 3 floors within living areas on both ground and first floor and bedrooms on the upper floors. All habitable rooms within the development would benefit from appropriate degrees of both light penetration and outlook. The internal arrangements of each flat and house are logical and would provide for a good living environment for future occupiers.

Fig. 6 Typical internal arrangement of the flats in Block A and B



51. Additionally, Policy LLP25 of the Local Plan requires that new housing should be delivered in accordance with the external amenity space standards as set out in Appendix 6 of the Local Plan. Appendix 6 sets out that for flatted developments a minimum of 5 m² of private outdoor space should be provided for 1-2 person flats and maisonettes and an extra 1 m² provided for each additional occupant. Majority of the

flats within Block A and B would have the minimum requirement of 5m² of private amenity provision with some of the larger units having amenity areas ranging from 42 to 63 m². Additionally, the communal external amenity areas totals 335m². Accordingly, the overall amount of amenity space for all the flats is well in excess of the minimum requirement set out in the Local Plan. As such, all of these units meet the Local Planning Authority's standard in this respect

52. In relation to houses Appendix 6 of the Luton Local Plan requires 1-2 bedroom dwellings to have a garden area of not less than 45 m² and larger dwellings to have a garden area of not less than 90 m². However there is discretion for smaller enclosures being acceptable, having regard to the character of the area and design of the house. In this case owing to the close proximity of the embankment to the houses in Block C some of the rear gardens fell below the minimum amenity provision required under the Local Plan.
53. To address this issue the layout of these properties has been amended to include a roof terrace in addition to both the rear gardens and first floor balconies, which ensures that all the properties now have private amenity provision in excess of the minimum threshold. Whilst some of the houses would still have amenity provision that falls below the maximum standard, given the character of the area, which is mainly flats with communal amenity area rather than private gardens and the design of the dwellings it is considered that lower provision could be justified in this instance. Even with the reduced amenity provision, the future occupiers of these properties would benefit from appropriate amount of amenity provision to ensure good quality of living environment of the future occupiers.
54. By reason of the foregoing, it is considered that the resultant living environment for future occupiers would be acceptable, in accordance with Policies LLP1 and LLP25 of the Luton Local Plan 2011-2031 and the objectives of Section 12 of the Framework.

Amenities of Adjoining Occupiers

55. The starting point in considering the implications for surrounding properties remains the position of the site in relation to the surrounding development and the level differences within the area generally.
56. To the north- west lies Martindale's a 3 to 4 storey flatted development, where the land is just over 2 metres higher than the ground level of the proposed Block A. There is approximately 22 metres gap between the two blocks, separated by a footpath with a row of mature protected trees on either side along the full length of the footpath. Despite the increased height and massing of Block A owing to the separation distance and the screening provide by the mature trees along the footpath the proposed development would not have a harmful impact on the living conditions of the occupiers of these flats in terms of loss light or outlook. With respect to overlooking, whilst there would be windows and balconies in the flank elevation of Block A facing the flank elevation of this flatted development, which also has openings in this elevation, as a result of the spatial distance and the screening provided by the trees the impact in terms of direct overlooking would be limited.
57. To the south east is a temple located to the rear of two pairs of semi-detached houses, No's 39 and 41 Crescent Road. As a result of spatial distance (over 20 metres), level differences and the relationship with Block A and B it is considered that the proposal would have little impact on the amenities of these properties in terms of light and outlook.

With respect to overlooking owing to the spatial distances the impact is not considered to be significantly harmful to warrant a reason for refusal.

58. To the north east of the site lies Hart Hill Drive, which as result of embankment sits at significantly higher level than the site and is sited between 30 to 40 metres away from the site. Three representations have been received from occupiers Hart Hill Drive highlighting concerns regarding the visual impact of Block A in terms loss of outlook and overlooking as a result of its increased massing and height. In response to these concerns the applicants have provided an section and elevation plan showing the relationship of this block with the properties in Hart Hill Drive, which clearly shows that the despite the increased height these properties would sit over the roof line of this element and there would still be spatial distance of over 30 metres between the properties.

Fig. 7 Relationship of development with properties in Hart Hill Drive



59. Directly opposite the site lies Auction House, which is conference and banqueting facility which again by virtue of the distance between the properties is unlikely to be adversely affected by the proposed development.
60. The intensification of use of the site would generate additional comings and goings that would generate noise and disturbance but owing to the location of the site and spatial distances between the site and the neighbouring properties the impact is not considered to be significant or harmful.
61. In light of the foregoing the proposed development would not result in material harm to the amenities of the adjoining properties or occupiers. No other properties are considered to be materially affected by the development.

Sustainable Transport, Parking and Highway Implications

62. Policy LLP31 sets out the sustainable transport strategy and is supportive of development that minimises the need to travel, provides sustainable model choice and reduces congestion. Policy LLP32 seeks to ensure that an adequate provision of parking is available as it relates to the development.
63. The application site is located on the outskirts of the town centre and is considered a sustainable location owing to its close proximity to Luton/Dunstable Busway and the Luton Train Station, both within comfortable walking distance. As sustainable methods of transport are more aggressively pursued to assist in the Council's stated objectives around carbon neutrality, it is considered that the excessive provision of car parking is

an outdated concept that is detrimental to both the climate and movements within the Borough. This is especially relevant within locations benefitting from such excellent transport connections and access to services and facilities, as is the case with the application site.

64. The proposal provides for 60 car parking spaces which would be situated within and around the 3 blocks. This equates to a ratio of 0.6 spaces per residential unit, which although below the maximum standards for car parking set out in the Local Plan is considered to be acceptable in this highly sustainable location. Although the proposal provides some provision of Electric Vehicle (EV) charging points, there is scope to increase this provision and this will be secured by way of a condition 14.
65. Cycle parking is to be provided at a ratio of 1.16 spaces per residential unit space equating to 105 spaces, which is significantly in excess of the Council's adopted standards which would only require 26 spaces under Appendix 2 of the Local Plan. Additionally, the cycle parking would be provided in secure and convenient areas in the lower ground floor area of Block A and the ground floor of Block B, in both cases with easy access off of Crescent Road. The amount, accessibility and facilities for cycling is welcomed.
66. Additionally, the Highway Authority has accepted the content of the Transport Assessment submitted with the application and has raised no concerns subject to conditions (which are included in Appendix A) and informatives to be added to any grant of planning permission. The Highway Authority has also requested a financial contribution of £10, 500 towards a car club to address the shortfall of parking on the site. With such conditions and requirements to be captured through legal agreements, the proposal is considered to be acceptable in highway and transport terms and also to comply with Policies LLP31 and LLP32 of the Local Plan.

Biodiversity

67. In terms of biodiversity, the site is not located within a statutory, proposed statutory, or non-statutory designated conservation site. Additionally, given that the site is dominated by hardstanding, it is considered to have low ecological value.
68. The proposed development would meet the requirements of Policy LLP28 of the Local Plan which seeks to protect and improve the landscape and biodiversity of the Borough by ensuring new developments contribute to an improvement in the landscape and biodiversity. The proposed development would not only retain majority of the existing trees along the north west boundary of the site but would also provide a number of areas of soft landscaping within the development to support and encourage new wildlife habitats. In this regard the proposal would improve the landscape and biodiversity of the site in accordance with Policy LLP28.

Chilterns Beechwoods Special Area of Conservation

69. In March 2022, the Chilterns Beechwoods Special Area of Conservation (CBSAC), located within Dacorum Borough Council, was declared. Broadly speaking, the declaration of the CBSAC was a response to the increased visitation of the area in recent years, in part through the influence of COVID-19 and people making greater use of localised natural resources. The declaration includes the CBSAC, as well as a 'Zone of Influence' (ZOI) that extends to a radius of 12.6km from Ashridge Estates, which is the busiest part of the CBSAC. The ZOI affecting the CBSAC is informed by a survey of the postcodes of the most frequent visitors to Ashridge Estates. The authorities that

are provided as also being directly affected by the CBSAC because of their visitation numbers are St. Albans City and District Council, Buckinghamshire Council, and Central Bedfordshire Council.

70. Certain planning applications are not to be permitted without providing mitigation for impacts that they could be expected to generate upon the CBSAC through an increase in the number of visitors to the CBSAC. In practice, this overwhelmingly relates to any net increase in the number of dwellings provided at any given application site.
71. Luton Borough Council is not named as being a major source of visitation to the CBSAC, however, the south and the west of the Borough are captured within the 12.6km ZOI. This includes Luton Town Centre and land to its south and west. The application site falls within this area and, therefore, the proposal's impact upon the Page 71 of 224 CBSAC is relevant to the consideration of this planning application. As the application proposes to introduce a net gain in the number of dwellings at the site, it is especially relevant.
72. As noted previously, the declaration of the CBSAC is driven by the increased visitation of the area. This is, therefore, a useful starting point in considering the implications of the development upon the CBSAC. Travelling to Ashridge Estates could be achieved by various modal choices. Types, distances and travel times are as follows: • Private vehicle: 20.1km, 30 mins (approx.); • Public transport: 2 hours and 30 mins (approx.); • Bicycle: 20.3km, 1 hour and 11 mins (approx.); and • Walking: 19.9km, 4 hours and 10 mins (approx.).
73. The proposal seeks planning permission for the creation of 90 units with a ratio of approximately 0.6 car parking spaces per residential unit. Firstly then, there is limited parking provision on-site with not all units having access to a parking space. Secondly, the proposal has been developed to provide a good amount of both private and communal amenity space within the development to create a suitable living environment. Thirdly, there is good access to local parks within Manor Road and Wardown Park being within walking distance of the site. Finally, it is noted that Luton benefits from direct access to far more convenient natural features, such as Barton Hills, Pegsdon Hills and the Sharpenhoe Clappers. Whilst then there could, in theory, be visitation to the CBSAC from future residents of this development, given the factors set out above coupled with the distance to the site, the proposal is likely to result in a negligible number of visitors from this development specifically. It is reasonable to consider that future occupiers of the development would be much more likely to access alternate natural features before considering the CBSAC.
74. Further, the use of public transport would necessitate a 5 hour (approx.) round trip via Hemel Hempstead and Berkhamsted, whilst walking would require a commitment in excess of 8 hours (approx.). Consequently, both of these modal choices are also considered to be highly unlikely.
75. Cycling could be considered as a possible form of travel to the CBSAC, though this would require an individual's personal confidence in travelling over such a distance on public highways. The number of individuals who would be prepared to travel this distance on a bicycle is considered extremely limited and the implications of this are furthered by the bicycle (generally) being a mode of transport for a single person.
76. For these reasons, it is considered that the development would not have a material impact upon the CBSAC. Natural England have been consulted on the planning application, however, they have not provided a response at the time of preparing this

report. It is, therefore, considered that there would be no justification for the provision of mitigation for implications for the CBSAC and that the application can be fully considered and determined.

Economic Development and Regeneration

77. The importance of bringing forward development to bring about much-needed regeneration and associated economic development is an important consideration in the assessment of the proposal and should be granted significant weight in the decision making. This is a particularly important consideration on this site which by virtue of its poor state and limited use has not only had a detrimental impact on the visual appearance of the area but has also not provided any significant economic benefit to the area.
78. The current proposal brings forward 90 units and therefore more potential residents within the area, as well as being able to provide for some developer contributions towards affordable housing, education, waste management and sustainable transport. The greater number of residents would contribute to Luton Town Centre, providing greater footfall and commerce for the businesses in these areas.
79. It is considered that the development comprising a high quality design, excellent mix of housing and a commitment to utilise local labour, goods and services both in construction and operation constitutes a significant benefit to the local economy.

Affordable Housing and Developer Contributions

80. *Policy LLP39 (Infrastructure and Developer Contributions)* considers the need for planning obligations and, in this instance, education and sustainable transport contributions have been requested and they are as follows:
 - Primary Education contribution of £421, 253;
 - Secondary Education contribution of £154, 142 ;
 - Waste Management contribution of £3, 319.68;
 - Sustainable Transport: £10, 500

Total: £589,214

81. In addition to these amounts, it is also necessary to secure agreements in relation to:
 - The provision of local labour, goods and services; and
 - A Section 106 monitoring fee of £10,000.
82. These contributions generally meet the requirements of Policy LLP39 of the Local Plan and the Planning Obligations SPD (2007). Additionally, Local Plan Policy LLP16 requires 20% affordable housing on all developments. There would therefore be a usual requirement for the current proposal to provide at least 18 affordable units within the development. To address these issues the applicant has provided a viability appraisal by Optimis Consulting dated August 2021.
83. The current application's viability appraisal has been robustly tested by the Council's Independent Assessor. In this instance the scheme is unable to provide the full amount of developer contributions or affordable housing but can provide a developer contribution of £517, 745 towards both commuted affordable housing and planning contributions. Evidently, this does not cover the full amount of contributions and affordable housing provision requested above but it is considered that this contribution amount could cover the sustainable transport and waste management contributions in

full, with the remainder going towards commuted affordable housing and education purposes. Accordingly, Officers advise that the Sustainable Transport and Waste Management Contributions are provided for in full which would leave £503, 925. 32 for affordable housing and education purposes.

84. Whilst the lack of affordable housing on the site is disappointing and the level of contributions is below the relevant Services' requests, the scheme's viability has been independently scrutinised and this is the conclusion reached. A viability review mechanism is to be included as part of the S106 agreement to capture any improvements in viability before final occupation with any future monies going towards affordable housing and then education.
85. It is recognised that the application site is impacted by contamination issues synonymous with its previous industrial uses. As discussed in the preceding sections of this report the site is in poor state and underutilised and it is considered that the advice of the Council's Independent Assessor should be followed in this instance to secure a quality form of built development that would significantly improve the visual appearance of this area

Other Matters

86. The application site is surrounded by trees including protected trees along mainly its northern, western and southern boundary of the site. The protected trees are covered by the Hart Hill Drive TPO 1986 (E107/63). According to the Arboricultural Report submitted 11 individual trees and 4 group of trees could be potentially affected by the development. The only trees recommended for removal are self-set trees located on the embankment, which are considered low quality or unremarkable trees with low amenity value as they are seen against mass of vegetation rather than as distinct or individual trees. None of the protected trees are recommended for removal at this stage. Some pruning work recommended for some of the trees. The report also sets out Root Protection Areas (RPAs) for the trees to ensure that the trees are not damaged during the construction phase of the development. The Parks department have been consulted on the planning application, however, they have not provided a response at the time of preparing this report. On receipt of their comments a suitably worded condition to be imposed seeking the protection of the trees will be provided by way of an update at the meeting.

Concluding Remarks

87. For those reasons set out within this report, it is considered that the development comprises a sustainable and high quality form of development that would not only improve the appearance of the surrounding area but provide much needed family accommodation making an important contribution towards the regeneration of this area. On that basis, it is recommended that planning permission is granted subject to the conditions as set out in Appendix A and the completion of a S106 agreement as set out in this report.

Appendix

- Appendix 1: Conditions and Reasons
- Appendix 2: Technical Consultation Responses
- Appendix 3: Public Consultation Responses

List of Background Papers – Local Government Act 1972, Section 100D

- 88. Luton Local Plan 2011-2031 (2017)
- 89. Planning Obligations SPD (2007)
- 90. Luton Town Centre Masterplan Framework 2020-2040 (2021)
- 91. National Planning Policy Framework (*NPPF, or the Framework*)
- 92. National Planning Practice Guidance (*NPPG*)

Determination of Planning Applications

- 93. The Council is required in all cases where the Development Plan is relevant, to determine planning applications in accordance with policies in the Development Plan, unless material considerations indicate otherwise.

Human Rights Act 1998

- 94. The determination of the application which is the subject of this report is considered to involve the following human rights:
 - 1. Article 8: Right to respect for private and family life; and
 - 2. Article 1 of the First Protocol: Protection of Property.
- 95. The report considers in detail the competing rights and interests involved in the application. Having had regard to those matters in the light of the Convention rights referred to above, it is considered that the recommendation is in accordance with the law, proportionate and balances the needs of the Applicant with the protection of the rights and freedoms of others in the public interest.

Section 17: Crime and Disorder Act 1998

- 96. In reaching the recommendations set out in this report, due regard has been given to the duty imposed upon the Council under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in its area.

Equality Act 2010

- 97. In reaching the recommendation set out in this report, proper consideration has to be given to the duty imposed on the Council under the Equality Act 2010 to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by that Act; to advance equality of opportunity and to foster good relations between persons who share relevant protected characteristics and persons who do not share it. The protected characteristics under the Act are a person's age, sex, gender assignment, sexual orientation, disability, marriage or civil partnership, pregnancy or maternity, race, religion or belief. In this case, no disproportionate effect on people with protected characteristics has been identified.

Conditions and Reasons

The Development

- (01) *The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission.*

Reason: To limit the duration of the permission in accordance with the provisions of Sections 91-96 of the Town and Country Planning Act, 1990.

- (02) *The development hereby permitted shall not be carried out other than in complete accordance with the approved plans and specifications as set out on Luton Borough Council plan and document Nos.: S19-016- PL001 REV A, S19-016- PL002 REV A, S19-016- PL003 REV A, S19-016- PL004 REV A, S19-016- PL005 REV A, S19-016- PL006 REV A, S19-016- PL007 REV A, S19-016- PL008 REV B, S19-016- PL009 REV B, S19-016- PL010 REV A, S19-016- PL011 REV B, S19-016- PL012 REV C, S19-016- PL013 REV C, S19-016- PL014 REV B, S19-016- PL015 REV B, S19-016 REV C, S19-016- PL003 – REV C, DC01, DC02, DC03, DC04, DC05, DC06, DC07, DC08, DC09, DC10, DC11, DC12, DC13, DC14, DC15, DC16 and DC17.*

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

- (03) *No development, including any works of demolition, shall take place until a Construction Environmental Method Plan (CEMP) has been submitted in writing to the Local Planning Authority for approval. The approved Statement shall be adhered to throughout the demolition/construction period. The Statement shall provide for:*

- (i) Operating hours: No demolition, construction or contaminated land remediation activities, movement of traffic, or deliveries to and from the premises, shall occur other than within the hours agreed with the Local Planning Authority. Any proposed extension to these agreed hours, other than for emergency works, shall be agreed with the Local Planning Authority before work commences;*
- (ii) the parking of vehicles of site operatives and visitors;*
- (iii) a dilapidation survey demonstrating the condition of the highway, inclusive of crossovers, kerbs and pedestrian footways, prior to the commencement of demolition and construction to be used for comparison following the completion of works and first operation of the development;*
- (iv) loading and unloading of plant and materials;*
- (v) storage of plant and materials used in constructing the development;*
- (vi) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;*
- (vii) wheel washing facilities;*

- (viii) measures to, where appropriate, manage the safe removal and disposal of asbestos material;*
- (ix) measures to control the emission of dust and dirt during construction and to monitor air quality from construction/demolition activities; and*
- (x) a scheme for recycling/disposing of waste resulting from demolition and construction works.*

The development shall then proceed only in strict accordance with those approved details.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area during construction.

- (04) Notwithstanding the submitted plans and the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no electronic communications installations/equipment shall be erected, constructed, installed or placed on or the development hereby permitted without the prior permission of the Local Planning Authority.*

Reason: To prevent adverse implications upon the high quality design of the development to the detriment of the amenities of the surrounding area and heritage assets.

High Quality Design

- (05) Prior to the commencement of above-ground works, full details of the materials to be used in the construction of the external elevations of the development shall be submitted in writing to the Local Planning Authority for approval. Submitted details shall include:*

- A sample panel of brickwork of not less than 1m x 1m showing mortar mix, bonding and pointing type shall be constructed for the Local Planning Authority to inspect and approve and shall be retained on site until completion of the works, and the brickwork shall be constructed in accordance with the approved panel(s);*
- Cladding;*
- Windows frames (inc. depth of window reveals);*
- External doors;*
- Balustrades;*
- Privacy screens; and*
- Rainwater goods.*

The development shall be carried out only in full accordance with those approved materials and shall be retained as approved thereafter.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

- (06) *Within six months of commencement of above ground works, full details of a landscaping scheme to include all hard surfaces, grassed areas, tree and shrub plantings and the proposed times of planting, shall be submitted in writing to the Local Planning Authority for approval. All grassed areas shall be laid out and all tree and shrub planting shall be carried out in accordance with those details and at those times. Within one month of the completion of the landscaping scheme written confirmation of the completion date shall be submitted to the Local Planning Authority. If within a period of five years from the initial date of planting of any tree or shrub, any such plant is removed, uprooted or destroyed or dies, or becomes in the opinion of the Local Planning Authority, seriously damaged, diseased or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.*

Reason: Further details pursuant to the submitted planting/landscaping scheme are required to ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

- (07) *A landscape management plan, setting out management and maintenance responsibilities, including timetables for implementation, for all hard and soft landscape areas, shall be submitted in writing to the Local Planning Authority for approval prior to the occupation of the development for its permitted use. The landscape management plan shall be carried out as approved and shall remain in force for as long as the development remains in existence.*

Reason: To ensure a satisfactory standard of development and in the interests of visual amenity.

- (08) *Prior to first occupation of the development hereby permitted, full details of the boundary treatment of the site shall be submitted in writing to the Local Planning Authority for approval. Those approved details shall be installed prior to the first occupation of the development and retained thereafter.*

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

Management of the Development

- (09) *Prior to first occupation of the development, a management plan, including management responsibilities and maintenance schedules for all internal, external and shared/common areas of the development hereby permitted, shall be submitted in writing to the Local Planning Authority for approval. The management plan shall be carried out as approved from first occupation and retained for the lifetime of the development.*

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

- (10) *Prior to the first occupation of the building, a comprehensive scheme of site security measures, to provide for matters of CCTV and secure entry systems, in addition to including details of the ongoing management and maintenance thereof, shall be submitted in writing to the Local Planning Authority for*

approval. The scheme thereby approved shall be installed prior to first occupation and retained thereafter for the lifetime of the development.

Reason: In the interests of crime prevention, to ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

- (11) Prior to first occupation of the development, a refuse and recycling management plan, including management responsibilities, cleaning and maintenance schedules and security measures for all processes and relevant areas shall be submitted in writing to the Local Planning Authority for approval. The refuse and recycling management plan shall be carried out as approved from first occupation and retained for the lifetime of the development.**

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

Transportation and Sustainability

- (12) The development hereby permitted shall proceed only in full accordance with the recommendations of the 'Sustainable & Energy Statement' prepared by SHA Environmental dated November 2021, whereby all strategies shall be implemented prior to first occupation of the development and endure thereafter.**

Reason: In the interests of sustainability and the mitigation of climate change.

- (13) The development shall not be occupied until off-site highway works comprising of removal of redundant crossovers and the full reconstruction of the footway along the entire site frontage together with any necessary repairs to the carriageway have been incorporated into a Section 278 Agreement submitted to the Local Planning Authority for approval in conjunction with Local Highway Authority.**

Reason: In the interest of highway and pedestrian safety.

- (14) No part of the development hereby approved shall be brought into use until a detailed Travel Plan has been submitted in writing to the Local Planning Authority for approval. The Travel Plan shall be in line with the prevailing policy and best practice and shall include as a minimum: -**

- A car park management strategy, which shall include provision for the monitoring of the use of Electric Vehicles (EV) at the site and a strategy to increase the number of EV charging points in line with increases in EV use;**
- The identification of targets for trip reduction and modal shift;**
- The methods to be employed to meet these targets, including but not limited to, discounts on cycling equipment, discounted bus and rail tickets, the setting up and running of a car/lift sharing scheme offering priority parking spaces and the provision of a sustainable travel information pack for any occupiers;**
- The mechanisms for monitoring and review;**
- The mechanisms for reporting;**
- The penalties to be applied in the event that the targets are not met;**
- The mechanisms for mitigation; implementation of the Travel Plan to an agreed timetable and its operation thereafter; and**

- Mechanisms to secure variations to the Travel Plan following monitoring and review. The Travel Plan shall be implemented as approved before occupation of the development.

Reason: To avoid the creation of traffic congestion on the highway in the interest of safety and convenience of pedestrians and other road users.

Contamination and Drainage

(15) Prior to the commencement of works on site a scheme to deal with contamination of land, ground gas and controlled waters as required, as well as asbestos within structures existing on the site and on the ground has been submitted to in writing to the Local Planning Authority for approval. The scheme shall include all of the following measures, unless the Local Planning Authority dispenses with any such requirement specifically in writing:

- (i) Phase 2 intrusive site investigation report detailing all investigative works and sampling on site together with results of the analysis undertaken in accordance with BS 10175:2011+A2:2017 "Investigation of potentially contaminated sites Code of practice".**
- (ii) Remediation Strategy setting out a timetable of works and the proposed means of dealing with any contamination on site including provisions for monitoring any specified actions and a report detailing any post remediation sampling and analysis. The development shall then proceed in strict accordance with the approved remediation strategy.**
- (iii) If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the Local Planning Authority.**

Reason: To protect the water environment and other sensitive receptors.

(16) Following completion of any remediation works, the developer should submit a Verification Report in writing to the Local Planning Authority for approval prior to occupation of any of the units. The Verification Report should provide confirmation that all measures outlined in the approved Remediation Strategy have been completed including where appropriate validation testing.

Reason: To ensure adequate safeguards are taken during construction of the development and to prevent pollution of the water environment and risk to other receptors.

(17) No development shall take place, excluding demolition, until a surface water drainage scheme for the site using sustainable drainage methods has been submitted in writing to the Local Planning Authority for approval in consultation with Thames Water. The drainage scheme should demonstrate that the surface water run-off generated by critical storms up to and including the 100 year + 40 % climate change uplift storm will not exceed the drainage capacity of the site.

Reason: To prevent an increased risk of flooding and surface and ground water pollution.

- (18) *Prior to the commencement of the development, details of a surface water drainage scheme that does not include infiltration shall be submitted in writing to the Local Planning Authority for approval in conjunction with Affinity Water.*
- (19) *Prior to the commencement of the development, details of a drainage scheme, confirming the use of an oil/water interceptor shall be submitted in writing to the Local Planning Authority for approval in conjunction with Affinity Water.*

Reason: To prevent the increased risk of contamination of ground/ surface water.

- (20) *Prior to first occupation a verification report (appended with substantive evidence demonstrating the approved construction details and specifications have been implemented in accordance with the surface water drainage scheme) shall be submitted in writing to the Local Planning Authority for approval. The verification report shall include photographs of excavations and soil profiles/ horizons, any installation of any surface water structure and control mechanism.*

Reason: To prevent the increased risk of flooding and to improve and protect water quality.

- (21) *No works involving excavations (e.g. piling or the implementation of a geothermal open/closed loop system) shall be carried out until the following has been submitted in writing to the Local Planning Authority for approval in conjunction with Affinity Water:*
- (i) An Intrusive Ground Investigation to identify the current state of the site and the appropriate techniques to avoid displacing any shallow contamination to a greater depth;*
 - (ii) A Risk Assessment identifying both the aquifer and abstraction point (s) as potential receptors of contamination including turbidity;*
 - (iii) A Method Statement detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (e.g. turbidity monitoring appropriate piling design, off site monitoring boreholes etc.) to prevent and/or minimise any potential migration of pollutants including turbidity or existing contaminants such as hydrocarbons to public water supply. Any excavations must be undertaken in accordance with the terms of the approved method statement.*

The developer shall notify Affinity Water of excavation works 15 days before commencement in order to implement enhanced monitoring at the public water supply abstraction and to plan for potential interruption of service with regards to water Supply.

Reason: To protect the water quality.

Other Environmental Matters

- (22) *No above-ground works shall commence until a further noise impact assessment has been undertaken and submitted in writing to the Local Planning Authority for approval. The noise assessment shall identify all potential sources of noise likely to impact on the site including road, railway and premises and all potential noise sources on the site likely to impact on neighbouring dwellings and property and shall assess them to the satisfaction of the Local Planning*

Authority. *The noise impact assessment shall recommend mitigation to comply with the Local Planning Authority's noise limits.*

Reason: *To safeguard the amenities of the adjoining occupiers.*

- (23)** *No above-ground works shall commence until an acoustic design has been undertaken for including impacts of road traffic and mechanical and equipment noise. The acoustical design shall be submitted in writing to the Local Planning Authority for approval and shall detail and demonstrate suitable measures to control noise impacts on the future occupiers of the development and neighbouring property to comply with the Local Planning Authority's noise limits. Where and if closed windows are necessary to achieve the Local Planning Authority's internal noise limits, a mechanical ventilation system shall be installed with heat recovery and summer time bypass (System 4 according to Approved Document F of the Building Regulations) and having regard to the self-noise of any proposed system. The development shall be carried out only in accordance with the approved acoustical design, and the approved noise mitigation scheme shall be retained thereafter for so long as the development remains in existence.*

Reason: *To safeguard the amenities of existing and future residents.*

- (24)** *Prior to the first occupation, a sound insulation and noise mitigation scheme shall be installed for the protection of the living environment for future occupiers and neighbouring property. The scheme shall be in accordance with the acoustic design. The development shall not be used until the scheme has been implemented as reported and has been demonstrated to be effective by acoustic testing and measurement to achieve the required noise levels to the satisfaction of the Local Planning Authority. The approved scheme shall be retained in accordance with those details thereafter.*

Reason: *To safeguard the amenities of existing and future residents.*

- (25)** *Prior to the first occupation of the development an external lighting scheme shall be submitted in writing to the Local Planning Authority for approval. The scheme, lighting equipment and levels of illumination shall comply with guidance issued by the Institution of Lighting Engineers in their publication "The ILE Outdoor Lighting Guide" and shall be accompanied by a statement from the developer confirming that compliance. The scheme shall be implemented prior to the occupation of the development and be retained and maintained for so long as the development remains in existence and shall not be varied without the prior written permission of the Local Planning Authority*

Reason: *In the interests of site security and to safeguard the amenities of existing and future residents.*

- (26)** *Prior to the first occupation of the development hereby permitted, the location of a fire hydrant or hydrants to serve this development must be agreed with the Local Planning Authority in consultation with Building Control and the Bedfordshire Fire and Rescue Service. The hydrant should be installed prior to the occupation of any part of the development.*

Reason: *To provide necessary fire fighting infrastructure.*

Technical Consultation Responses

- **LBC Highways:** The content of the Transport Assessment and Framework Travel Plan are noted and accepted. A section 278 agreement will be required for the removal of redundant vehicle crossovers and other highway works. Construction Method Statement and Travel Plan condition recommended. The car club contribution of £10, 500 should be secured by planning obligation.
- **Leads Local Flood Authority:** Conditions requires relating to surface water drainage and verification report.
- **Environmental Protection:** Conditions are required for demonstration of the sound insulation, ventilation system and fixed plant. Further conditions relating to contamination, lighting and construction are also recommended. In relation to air quality specifically, no concerns raised. The Travel Plan should formalise the requirement to provide additional electric vehicle charge points.
- **LBC Environmental Protection (Air Quality):** No issues identified in relation to air quality.
- **Bedfordshire Fire & Rescue:** Condition recommending fire hydrants to be installed.
- **Thames Water:** No objection with regard to surface water and sewerage.
- **Affinity Water:** Objection now removed subject to the imposition of pre-development conditions relating to contamination including turbidity, contamination during construction and infiltration.
- **LBC Children & Learning:** The development could yield 32 primary school age children and 8 secondary school age children. As such an education contribution of £575, 396 is requested which would comprise £421, 253 as a primary school contribution and £154, 142 as a secondary school contribution.
- **Climate Change Officer:** No objection raised in relation to the details submitted.
- **LBC Housing Policy Officer:** Scheme should generate 18 affordable units (13 rent and 5 shared ownership). The scheme should include greater number of 2 bed/ 4 person units.
- **LBC Public Health:** The application is supported by a Health Impact Assessment using the NHS Healthy Urban Development Unit Rapid Tool. This assessment takes into consideration the key determinants of health and, where an impact is identified, actions and measures are recommended to mitigate adverse impacts or secure beneficial impacts. No negative impact identified.
- **LBC Waste:** The S106 contribution for this application would be £3, 319.36.
- **LBC Libraries & Museums:** No response received.

- **PALO:** No response received.
- **LBC Building Control:** No response received.
- **LLA :** No response received.
- **LBC Parks (Landscaping):** No response received.
- **Health & Safety Executive:** Comments awaited and any comments received will be reported to Committee.
- **LBC Parks :** Comments awaited and any comments received will be reported to Committee.

APPENDIX 3

Public Consultation Responses

Objectors

- Issue: Loss of views/outlook, loss of light, visual intrusion, overlooking, and loss of privacy, increased noise and disturbance, height and massing of development unsympathetic with the surrounding built form.
 - *Officer Consideration: Addressed within body of the report.*
- Issue: Inadequate parking, increased demand for parking in the surrounding area leading to congestion. Maintenance and upkeep issues relating to the adjoining footpath.
 - *Officer Consideration: Parking addressed within body of the report. In relation to the upkeep of the footpath this could be dealt by way of condition.*

Supporter

- Issue: Proposal will help improve cycle and walking connections and appearance of the surrounding area.