

## **PLANNING, DESIGN AND ACCESS STATEMENT**

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PROPOSED ERECTION OF FIRST FLOOR AND TWO STOREY SIDE EXTENSIONS,  
AND CHANGE OF USE OF THE EXISTING BUILDING FOR USE AS CLASS E(G)(III)  
INDUSTRIAL PROCESSES AND A CONVENIENCE SHOP, CLASS E (A) DISPLAY OR  
RETAIL SALE OF GOODS AT KENNETH ROAD MUSEUM STORE KENNETH ROAD,  
LUTON, LU2 0LE.

**01 FEBRUARY 2024**

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## 1.0 THE APPLICATION SITE AND ITS LOCATION



**Figure 1:** Site Location Plan

- 1.1 The application site measures approximately 0.035 hectare 350m<sup>2</sup> and lies to the west of Kenneth Road on its outer curve. It is roughly triangular in shape, tapering towards the south and is bounded by Hitchin Road on the west, Kenneth Road on the east and a public open space on its north eastern side. The site comprises a disused single storey building commonly known as the Kenneth Road Museum Store whose last known use is believed to have been for storage or distribution (Class B8). The building fronts onto Kenneth Road and abuts an electricity substation on its north eastern boundary. The character of the immediate surroundings on Kenneth Road is predominantly residential whilst the character

on Hitchin Road is a mix of residential and commercial uses with a Neighbourhood Centre situated to the north within 50 metres of the site.

## **2.0 PLANNING HISTORY**

2.1 21/00087/FUL: Conversion and change of use from storage (Class B8) to cafe/restaurant (Class E) and external alterations with parking provision and access from Hitchin Road. Refused. (25.03.21).

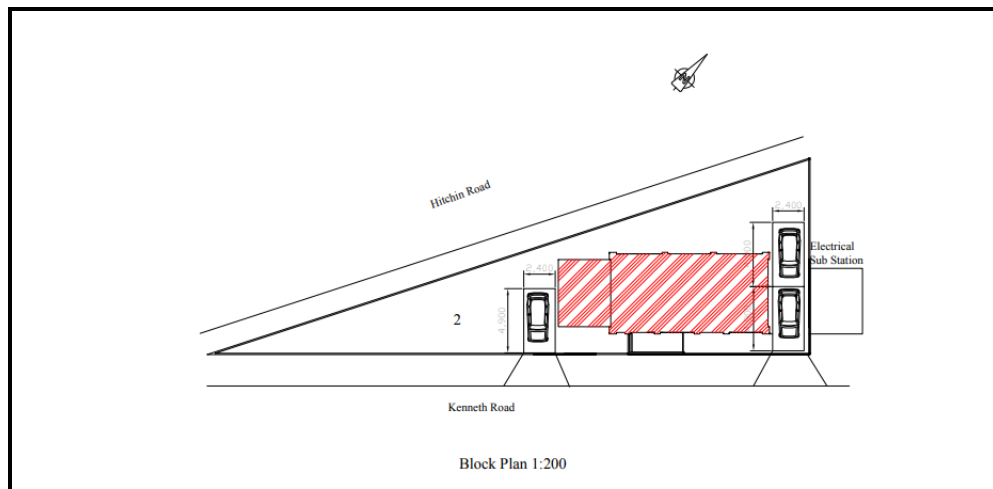
2.2 15/00420/FUL: Demolish the existing structure and erect 7 dwellings, one A1 unit and one D1 unit. Refused. (30.06.15).

## **3.0 THE PLANNING APPLICATION**

3.1 The application seeks planning permission for the re-development of the site involving the demolition of the existing building and erecting a replacement one on two floors. The ground floor unit would be occupied as a convenience shop and the first floor would accommodate offices for Class E(g)(iii) Industrial processes formerly Class B1(c)-Light industrial process.

3.2 The building occupies a footprint of approximately 97m<sup>2</sup> and would be 8 metres high.

3.3 Three off-street parking spaces would be provided on either side of the building.(Figure 2).



**Figure 2:** Proposed Site Plan

#### **4.0 RELEVANT PLANNING POLICIES AND EXPLANATORY**

##### **COMMENTS**

#### **4.1 National Planning Policy Framework (NPPF) (19 DECEMBER 2023)**

- Chapter 2: Achieving sustainable development
- Chapter 4: Decision Making
- Chapter 6: Building a strong, competitive economy
- Chapter 11: Making effective use of land
- Chapter 12: Achieving well-designed places

#### **4.2 Local Luton Plan (2011-2031) Adopted November 2017**

- LLP1: Presumption in favour of Sustainable Development
- LLP 14: Employment Areas
- LLP21: Centre Hierarchy
- LLP 25: High Quality Design
- LLP31: Sustainable Transport Strategy
- LLP32: Parking

## **5.0 PLANNING CONSIDERATIONS**

5.1 Section 38(6) of The Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined according to the development plan unless other material considerations indicate otherwise. This approach is repeated in the National Planning Policy Framework. The relevant development plan policies and national advice are listed in section 4.0 of this Statement.

5.2 The planning considerations relate to:

- The principle of the development
- Impact of the development on the character of the area
- Impact of the development on residential amenity
- Impact on highway safety

### 5.3 Principle of the development

5.4 Given that the proposed development involves two elements, viz, the provision of an employment use, Class E(g)(iii) Industrial processes and retail use, Class E (a) display or retail sale of goods, other than hot food, policies LLP 14 [B] and LLP 21 C are engaged. However, it is necessary to first establish what the lawful use of the site is in order to apply the correct policy tests.

#### 5.4.1 Lawful use of the site

5.4.2 The last known use of the site is believed to fall within Class B8 (Storage or Distribution). Nevertheless, the Applicant considers that this use has been abandoned as the property has not been in use at least since 2009 as shown on the Google timeline below:



**Figure 3:** Application property since 2009 (Courtesy of Google Maps)

5.4.3 The building has remained boarded up to this day and as such, it is considered that the site has a 'nil' use. That being the case, means that the proposed development needs to be considered on its own merits having regard to the development plan as a whole.

5.4.4 Notwithstanding the Applicant's suggestion that the site has a nil use, based on the last known use, it will be demonstrated that the proposal would not prejudice the LPA's employment and retail strategies hence conforming with LP policies LLP14 [b] and LLP 21C.

5.4.5 Impact on the LPA's employment strategy

5.4.6 LP Policy LLP14 [B] is permissive and seeks to control the redevelopment of employment sites and its objective is to retain employment sites within use classes B1(Now Class E), B2, B8 of the use classes order 1987 as amended. Policy LLP14[B] states that the redevelopment of existing unidentified employment sites is permitted subject to complying with clauses i to iii of part A reproduced below:

- i. it would not have unacceptable amenity or traffic implications; and
- ii. an appropriate size and range of units is provided; and
- ii. appropriate levels of parking are provided.

5.4.7 The policy also states that the redevelopment of an unidentified employment site will be permitted where it [i] can demonstrate that a suitable alternative accommodation at comparable rents is available and [ii] it can be demonstrated

that it is no longer suitable or viable for B1, B2 or B8 uses and where the site has been vacant, there is evidence of active marketing for a reasonable period.

5.4.8 In this case, the proposal seeks permission to redevelop the site to a mixed use that would retain an employment use in the former B1 class, now Class E. Additionally, the proposal seeks permission for a retail use, also falling within the Class E use class. As such, the proposal would not result in the loss of an employment use.

5.4.9 The proposal seeks to redevelop the site and change its use to a Class E(g)(iii) Industrial processes (previously Class B1) at first floor level. There would therefore be no loss of an employment site and hence no conflict with LP Policy LLP14 B.

5.4.10 Furthermore, under Class I (industrial and general business conversions) of the General (Permitted Development) Order 2015 as amended, planning permission is not required to change use from Class B8 to B1(Now Class E).

5.4.11 Impact on the retail strategy

5.4.12 NPPF Paragraph 91 states that 'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.'

The proposed convenience shop is a main town centre use which would be located outside an existing town centre hence the sequential test should be applied.



5.4.13 LP Policy LLP 21C states that the Council will grant planning permission for retail development, provided it is demonstrated that:

- i. retail proposals meet the sequential test; and
- ii. the vitality and viability of the town centre, and individually, each District and Neighbourhood centre in the borough would not be significantly adversely affected by the development either on its own or in combination with other proposals or commitments.

5.4.14 Paragraph 7.17 states that ‘When considering edge of centre and out of centre sites preference will be given to sites that are or will be connected to the nearest centre. To facilitate this it is expected that both applicants and the Council will be flexible on issues such as format or scale. The sequential test will consider the extent of the catchment area likely to be served by the proposal, identifying alternative sites located in and near to existing centres within that catchment. Where no centres exist within the catchment (e.g. a small newsagent proposed within a residential area), the closest centres must be considered. When considering the need for development to be located in a specific area, this must be based on an understanding of any deficiencies in the range of existing facilities. Purely commercial objectives are not an appropriate basis. Where mixed uses are proposed, the sequential test must consider whether sites in designated centres are able to accommodate any of those uses individually or collectively.’

5.4.15 NPPF Annex 2: Glossary defines Edge of centre as follows:

*For retail purposes, a location that is well connected to, and up to 300 metres from, the primary shopping area. For all other main town centre uses, a location within 300 metres of a town centre boundary. For office development, this includes locations outside the town centre but within 500 metres of a public*

*transport interchange. In determining whether a site falls within the definition of edge of centre, account should be taken of local circumstances.*

A 'Primary shopping area' as follows:

*Defined area where retail development is concentrated.*

In this case, the application site lies within 50 metres of a neighbourhood centre situated at the junction of Hitchin Road, Ramridge Road and the A5228 which, by definition, is considered an edge of centre location.



**Figure 4:** Application site in relation to the Neighbourhood Centre Frontage

5.4.16 NPPF Paragraph 92 goes on to say that 'When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale,

so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.'

The application site is situated in a highly sustainable location close to a bus route along Hitchin Road which provides a direct link to Luton town centre and is also highly accessible on foot and by cycling.

5.4.17 Due to the limited floor space to be occupied by the convenience shop, the proposed development would not likely result in a significant adverse impact on the vitality and viability of the Neighbourhood Centre either on its own or in combination with other proposals. There are no other known proposals of a similar nature within the catchment of the Neighbourhood Centre.

5.4.18 Taking these factors into account, it is considered that the proposed development would not conflict with the LPA's retail strategy and as such would conform with LP LLP 21C and national advice within the NPPF.

5.5 Effective use of land

5.6 LP Policy LLP25 (v) states, in part that developments should optimise densities. Paragraph 9.9 supports the efficient use of land and states that land within the Borough is a finite resource and as such, should be used efficiently and effectively to meet demand. Generally, the policy supports developments that seek to optimise the use of land and buildings. The existing building is of single storey construction hence the proposed additional floor would optimise the use of the site.

5.7 This policy thrust finds support in the NPPF Chapter 11. Paragraph 120 e) specifically encourages extensions above existing commercial buildings. In particular, upward extensions should be allowed where the development would be consistent with the prevailing height and form of neighbouring properties and

the overall street scene, is well-designed (including complying with any local design policies and standards) and can maintain safe access and egress for occupiers. In this case, it will be demonstrated that at a height of two storeys, the proposed building would complement the prevailing scale of development in the street scene.

5.8 Character and appearance of the surrounding area

5.9 Policy LLP25 requires all developments to achieve a high-quality design and enhance the distinctiveness and character of the area by responding positively to the townscape, street scene, site and building context, form, scale, height, pattern and materials, distinctiveness, and natural features including biodiversity.

5.10 The character of the area is typified by two-storey residential buildings and hence, at a single storey height, the existing building appears incongruous in the street scene.

5.11 The building has been boarded up for several years and is a detraction to the character and appearance of the area. The proposed development would therefore represent an enhancement of the site in the street scene. The design, scale and form of the proposed building would be sympathetic to the neighbouring properties, largely replicating their design and proportions, and would sit unobtrusively within the street scene.







**Figure 4:** Application property and the surrounding area

5.12 Having regard to the preceding appraisal, the Applicant considers that the proposed development would not appear incongruous. Furthermore, the development would meet the aspirations of both local and national policies in respect of using land effectively.

5.13 It has been demonstrated that the proposed development would enhance the character and appearance of the street scene and as such, would represent good design. Given the emphasis in the NPPF on good design, the LPA is requested to give this consideration substantial weight in the overall planning balance<sup>1</sup>.

5.14 Having regard to the foregoing appraisal, it is considered that the proposed development would not conflict with LP policies LLP1, LLP19 and LLP25.

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<sup>1</sup> NPPF paragraph 131: 'Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.'

5.15 Impact on residential amenities

5.16 The application site does not abut residential properties and is separated from the closest dwellings by a road and a public open space in the southeast and northeast, respectively.

5.17 The Applicant considers that the proposed development would result in an overall improvement in residential amenity. This is because if the last known lawful use of storage or distribution were to resume operations, it would generate more noise and disturbance than the proposed uses. The use classes order accepts that Class E uses are compatible with, and appropriate in residential areas. Secondly, given the limited floor area of the building, it is highly unlikely to generate activity such as would cause detrimental harm to residential amenities. Thirdly, the last known lawful use was not subject to any planning restrictions regulating the hours of operation. The current proposal therefore, provides an opportunity to control the operations on this site through a planning condition to ensure that residential amenities are not harmed. Overall, the proposed Class E(g)(iii) and Class E retail uses would generate less noise and disturbance compared to a Class B8 use.

5.18 Taking these factors into account, the Applicant considers that the proposal would improve residential amenity and as such, would not conflict with LP policies LLP1 and LLP25.

5.19 Impact on parking and highway safety

5.20 Paragraph 11.11 of the adopted Local Plan states that in areas highly accessible by public transport and in certain other circumstances, the amount of parking in new developments will be restricted to levels below the maximum parking standards (e.g., car free housing if a demand is demonstrated).

- 5.21 Policy LLP 32 B. i is permissive and states that development will be permitted providing that car parking provision should not exceed the maximum standards set out in Appendix 2 in order to promote modal shift provided that within those standards, sufficient parking is provided to help ensure that adverse effects on highway safety and the convenience of nearby residents and users are avoided. Paragraph iv confirms that the parking standards shown in Appendix 2 are minimised in identified areas demonstrated to be of high accessibility.
- 5.22 Appendix 2 requires a maximum provision of 1 space per 30sqm of floor space for a Class B1 use. Class A1, now Class E parking provision is to be determined on individual merit. In this case, the total floor area for the B1 use is 97m<sup>2</sup>, hence the maximum parking provision required is 3. The scheme provides 3 parking spaces which could be secured by a planning condition.
- 5.23 The application site is situated in a highly sustainable location close to a bus route along Hitchin Road which provides a direct link with Luton town centre where there is a wide range of travel modes. The site is also within walking distance of High Town and the Luton Train Station. The convenience shop would mostly cater for the local residents who would access the site on foot or bicycles.
- 5.24 Furthermore, the proposed mixed-use development would generate less traffic than a Class B8 use.
- 5.25 Having regard to the foregoing appraisal, it is considered that the proposal complies with LP Policy LLP32 and the associated parking standards in Appendix 2. Furthermore, national advice within the NPPF at Paragraph 115 stresses that, 'Development should only be prevented or refused on highways



grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'

## **6.0 CONCLUSIONS**

6.1 The proposal satisfies the requirements of LP policies LLP1, LLP19, LLP14[B] and LLP21C and as such, is acceptable in principle.

6.2 The proposed redevelopment of the site would enhance the character and appearance of the area by bringing back to life a site that has been derelict for many years and is a detraction to the street scene.

6.3 The proposal would not cause harm to other matters of acknowledged planning interest including residential amenity and highway safety thus complying with LP policies LLP 25 and LLP32.

6.4 The proposal constitutes sustainable development and hence, the NPPF advises that there should be a presumption in favour of approving such developments.

6.5 In light of the foregoing the LPA is requested to approve the application.