

PLANNING APPLICATION

2 GLOUCESTER ROAD

LUTON

LU1 3HX

FEBRUARY 2024

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## 1. INTRODUCTION

### 1.1 Purpose

- 1.1.1 This statement has been prepared by Tomas Furby MRTPI on behalf of the applicant, Amir Jaffer, to support a planning application for proposed demolition of the existing vacant building at 2 Gloucester Road, Luton, LU1 3HX ('the site'), and redevelopment as a 7-8-storey mixed use building with commercial space at ground and first floors and 15 No. residential 1-3 bed flats on floors 1-7.

### 1.2 Proposals

- 1.2.1 The site currently comprises the vacant building at 2 Gloucester Road. The property's VOA rating lists it as a warehouse and premises (332m<sup>2</sup>). The property has been vacant for some time and a new sustainable use is sought for the site which accords with changing local need and the development plan to ensure a long-term viable use and to assist in regenerating the area.
- 1.2.2 The existing building is proposed to be demolished due to its poor state of repair and lack of commercial interest in the current use. The proposals aim to replace the existing building (327m<sup>2</sup>) with a mixed-use scheme providing 327m<sup>2</sup> of higher quality Class E commercial accommodation to the ground and first floors, with this delivery supported by 15 No. 1-3 bed residential dwellings above.
- 1.2.3 The block will be sited within the footprint of the existing building, and will be similar in height, mass and scale to the immediately adjacent buildings at Fitzroy Court (north) and the wider university quarter, a step up from the height of Gloucester House (south), and stepping up 1-2 storeys from the recently consented scheme adjacent on Bolton Road.
- 1.2.4 The proposals would reflect a considerable regenerative impact on the immediate area and an optimised, efficient use of under-utilised edge-of-centre brownfield land to deliver a highly sustainable mixed-use scheme.
- 1.2.5 The scheme is proposed as parking free, due to its high connectivity and accessibility characteristics. All units will benefit from balconies of varying sizes. Fully policy compliant affordable housing delivery will be achieved onsite.

### 1.3 Structure of this Statement

1.3.1 This statement provides a summary of the site and proposals, relevant planning history and current planning policy context. A brief assessment of the proposed development is then undertaken having regard to this context.

1.3.2 The statement is therefore structured as follows:

**Section 2:** provides background information relating to the site including relevant planning history;

**Section 3:** details proposals for the site;

**Section 4:** sets out current planning policy and guidance in relation to the site and wider surrounding area;

**Section 5:** provides a brief assessment of the proposed development with reference to the site's history, adopted development plan, and national guidance;  
and

**Section 6:** sets out conclusions.

## 2. BACKGROUND

### 2.1 Introduction

2.1.1 This section of the statement contains a short description of the site and sets out its planning history.

### 2.2 The Site

2.2.1 **Site access:** The site covers an area of 0.04Ha and lies on the corner of Gloucester Road and Bolton Road, just north of Manor Road Park. The site is located adjacent to the town centre boundary to the immediate north and is accessed directly off Gloucester Road.

2.2.2 **Current use:** The site was advertised in 2017 as a light industrial unit with trade counter which accords with the VOA ratings information. The property is listed as occupied by Alfast Engineering Ltd online. The use was discontinued some time ago. The existing use of the premises appears to be light industrial (Class E), but it has been long-term vacant.

2.2.3 **Character of local area:** The immediate area is a collection of mixed uses, including student accommodation blocks, mixed-use commercial/residential blocks, Class E commercial uses. This largely reflects the historic policy approach of LLP14 as a Category B Employment Area allowing mixed uses where justified, and recent successful applications for mixed use blocks reflect this approach.

2.2.4 The immediately adjacent properties (Nos 4 and 12) are currently in Class E use while the property adjacent (2-10 Bolton Road) is currently Class E but benefits from consent granted under appeal ref APP/B0230/W/21/3275436 for 10 no. flats and 2 no. business suites (similar to the subject proposal).

2.2.5 Gloucester House at the south-west corner of Gloucester Road is an existing 5-storey mixed use scheme converted in 2012 from previously commercial units to residential flats with commercial units to the ground floor.

2.2.6 Immediately north of the site are large 5-11 storey blocks of student accommodation including Fitzroy Court, with buildings stepping up in height from south to north along Gloucester Road.

2.2.7 **Sustainability:** The site is considered 'edge of centre', directly adjacent to the Town Centre boundary defined in the local plan policies map. The local area is highly sustainable, with local amenities, shopping parades, public transport (Luton Station, bus stops within 10m), education (Parktown Preschool, Chiltern Academy, University of Bedfordshire), public green open space (Manor Road Park) and

Luton's main town centre area all within 500m of the site and highly accessible to pedestrians and cyclists.

2.2.8 **Site context:** The site is within the settlement limit and adjacent to the town centre as defined in the local plan policies map. It is not impacted by any flood zones, it is not a part of a conservation area, green belt, or AONB and is not impacted by any nearby heritage assets. It is identified in the local plan policies map as a Category B employment area.

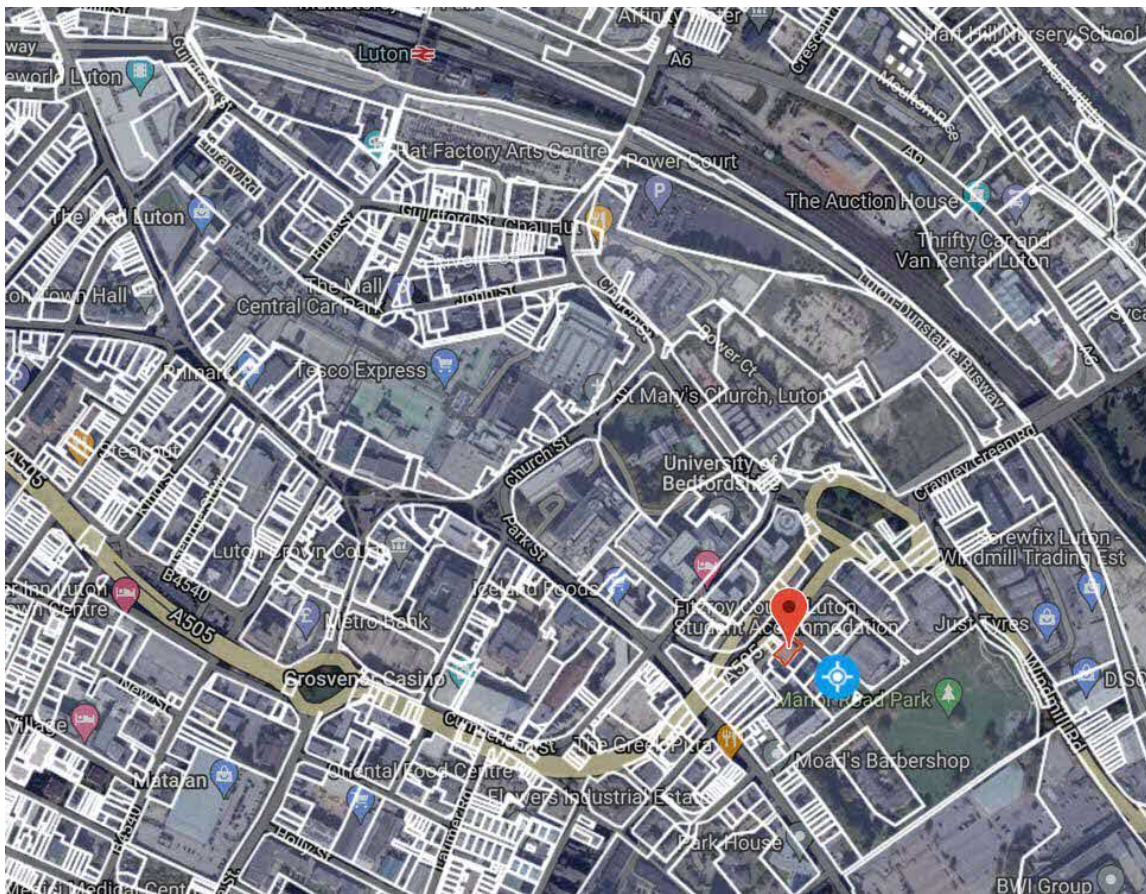


Fig 1. The site in context with its surroundings. Red marker indicates the site, public transport to the north and south-west, convenience to the west, 10 storey student accommodation blocks immediately north, 5 storey mixed use block to the immediate south, and public open space to the south.

## 2.3 Planning History

2.3.1 The site has a very limited recent planning history, with no documents available online due to the relative age of the consents and no applications impacting the site since the 1980s. Local searches have determined the following noted entries available to the council:

### Planning Applications (7)

- **ERECTION OF OFFICE & WORKSHOP AREA EXTENSION TO SIDE OF ELECTRICAL WIRING SYSTEMS AND COMPONENTS FACTORY**  
Ref. No: 80/00400/FUL | Status: Application Permitted
- **ERECTION OF EXTENSION TO REAR OF FACTORY BUILDING**  
Ref. No: 80/00401/FUL | Status: Application Permitted
- **ERECTION OF WAREHOUSE EXTENSION TO INDUSTRIAL PREMISES**  
Ref. No: 81/00413/FUL | Status: Application Permitted
- **USE OF LIGHT INDUSTRIAL BUILDING FOR THE REPAIR AND SERVICING OF MOTOR VEHICLES. (NO PANEL BEATING/SPRAYING)**  
Ref. No: 84/00403/FUL | Status: Application Permitted
- **DISPLAY OF AN INTERNALLY ILLUMINATED FASCIA SIGN**  
Ref. No: 85/00070/ADV | Status: Application Permitted
- **CONSTRUCTION OF A STORAGE COMPOUND FOR GAS BOTTLES**  
Ref. No: 86/01349/FUL | Status: Application Permitted
- **SECTION 53 DETERMINATION-USE OF PREMISES FOR STORAGE AND DISTRIBUTION**  
Ref. No: 89/00210/FUL | Status: Application Withdrawn

2.3.2 In terms of nearby precedent for similar uses, to the south Gloucester House noted previously is 50m away from the site in the same Category B employment area and comprises a 5-storey mixed-use block on the corner of Gloucester Road and Manor Road with commercial to the ground floor and residential above.

2.3.3 This was originally consented as a conversion from commercial units under application ref 11/00442/FUL as '*Conversion and Change of use of 17 commercial units (Use Class B1) to 8 one-bedroom flats and 9 studio flats (Use Class C3)*'. A subsequent application in 2018 allowed a further 5 flats to be added to the roof space, increasing the building's height (18/01200/FUL) and one ground floor flat was later converted back into Class E use in 2020 (20/01216/FUL).

2.3.4 To the north, several 8-11 storey student accommodation blocks were consented and amended in the 2009-2011 period under various planning references.

2.3.5 The site directly opposite the subject site, 2-12 Bolton Road, also sitting within the Category B Employment Zone, was consented for a mixed-use scheme including 10 apartments and 2 Class E units under appeal reference

APP/B0230/W/21/3275436. The appeal proposal was very similar to the current proposal, and as such this appeal is particularly noteworthy for specifically considering many of the policies core to this application (Schedule 2) as highlighted by officers during preapplication discussions.

- 2.3.6 Nearby 39-49 Manor Road was also consented recently for 105 residential units and commercial floorspace.
- 2.3.7 These sites comprise a substantial portion of the existing 'Category B employment zone', suggesting the area is currently undergoing regeneration into a mixed-use area. This accords with informal officer comment and the commentary in the Luton Employment Study 2015, which recognised the 'run down' nature of this 'island' between the Town Centre and University Quarter, which requires regeneration to be supported by mixed-use development to meet employment and housing strategic goals.

## 2.4 Appeal ref [APP/B0230/W/21/3275436](#)

- 2.4.1 This appeal was raised by officers as part of preapplication feedback and is particularly relevant to the subject site in its treatment of the tests outlined in policy LLP13 and LLP14 in particular. However it is noteworthy more broadly as a very similar and co-located proposal.
- 2.4.2 The below extract is therefore reproduced as relevant with respect to these criteria, particularly noting that where the property has been vacant for more than 12 months and provides a substantial amount of employment generating floorspace (identical quantity, but providing more jobs per m<sup>2</sup> than the existing, vacant light industrial floorspace). The policy may be considered satisfied even where some minor technical conflict exists with the procedure laid out in LLP14. The Inspector also considers there to be an internal logic conflict with some of the requirements of the policy which is worth considering; although in this case we note the distinction between providing modern flexible Class E accommodation compared with the specifically light industrial floorspace currently existing onsite.



5. The parties agree that the site is a category B employment site. Policy LLP14 of the Luton Local Plan states that where such sites have been vacant for at least twelve months:
- "a mixed use development that retains significant employment or alternative redevelopment to non B uses to meet identified needs will be permitted where:*
- (i) It can be demonstrated that 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 is vacant, there is evidence of active marketing for a reasonable period".*
6. Firstly, it is not disputed by the parties that the site has been vacant for over 12 months.
7. Secondly, it is necessary to consider whether the proposal retains significant employment. The policy is not clear as to whether 'significant employment' means floorspace or jobs. In terms of floorspace, the application forms state the floor area of the building is 235m<sup>2</sup>, of which, according to the planning statement, 200m<sup>2</sup> is useable. The proposal would provide 112m<sup>2</sup> of office space which, although would represent a loss of around 100m<sup>2</sup> of floor space, it is still a substantial amount of employment generating floor space.
8. In terms of jobs, it is reasonable to anticipate that an office use would generate more jobs per square metre than a general industrial use, and this is supported by the data in the appellant's appeal statement. From this, it is clear that even with a considerable reduction in employment floorspace, the proposal would be likely to generate an increase in the number of jobs. As such, for the purposes of the policy, I consider significant employment would be retained.
9. Thirdly, from the way the policy is written, it seems that criteria (i) and (ii) should both apply to the proposal. The appellant has not suggested there is suitable alternative accommodation elsewhere and has not demonstrated the site is unviable for employment use nor provided substantive evidence of active marketing. The proposal would therefore conflict with the policy in this regard.
10. However, the appellant contends that as significant Class B1 space would be provided, it would be illogical to show alternative employment generating accommodation or to seek to demonstrate that the site is no longer suitable for B1, B2 or B8. I agree. Indeed, theoretically, the policy would require a mixed-use scheme that retained all the previous employment floor space to consider alternative employment accommodation and demonstrate a lack of viability or suitability for its retained employment use. This consideration carries significant weight in my assessment.
12. Overall, a significant amount of employment generating land would be retained by the development and the development would not have an unacceptably harmful effect on the supply of employment generating land. Therefore whilst there would appear to be some conflict with some of the wording of the policy, the proposal would accord with policy LLP14 overall, and policy LLP13 which also supports the redevelopment of employment sites for mixed uses.

*Fig 2. Extract from noted appeal dealing with LLP13-14 matters.*

## 2.5 Application ref 17/00817/OUT

2.5.1 The officer's report for application ref 17/00817/OUT at nearby 39-49 Manor Road (Schedule 3) is also of assistance, considering the pragmatic application of policy LLP14 and LLP15:

50. In terms of current local policy, Policy LLP14(B) relates to Category B Employment Sites and indicates that where a building or site has been vacant for at least 12 months, a mixed use development which retains significant employment or alternative redevelopment to non B uses to meet identified needs will be permitted where: (i) it can be demonstrated that 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 is vacant there is evidence of active marketing for a reasonable period. An update of the Employment Land Review was undertaken in 2015 and the site retains its categorisation as an 'amber' site, as per the 2013 Employment Land Review. Amber sites are designated as '*sites of good or average quality, with some constraints*

*and /or opportunities for improvement, many with a continued role for meeting employment needs'*. When the 2015 application was determined it was highlighted that the site had been vacant for 5 years and the site has remained vacant since then and the building remains unfit for purpose. It is considered that the redevelopment of the site to a mixed use scheme would generally accord with the principles of Policy LLP14(B), and the principle of developing the site remains suitable.

51. With regards to providing housing on the site, this must be assessed against Policy LLP15(B), which supports residential development on sites not allocated for housing provided that it would not lead to a loss of other uses for which there is a recognised local need. It supports higher density residential schemes within Luton Town Centre but seeks to ensure that an appropriate mix of units is provided as informed by the latest housing market assessments. As previously highlighted the site has been vacant in the region of 8 years and a mixed use scheme is deemed appropriate. The housing needs within the Borough are acute and the proposal is considered to represent an efficient use of a vacant site that would appropriately contribute to meeting housing and employment needs in the Borough.

*Fig 3. Extract from officer's report for application 17/00817/OUT, giving a pragmatic example of how previous schemes have been determined in relation to LLP13-15.*

## 2.6 Preapplication advice

- 2.6.1 NPPF paras 39-43 promote the importance of good quality preapplication discussion and collaboration on new proposals.
- 2.6.2 Preapplication feedback was first sought via written opinion and meeting on a formative scheme on this site in 2022/23, with formal advice issued and noted at Schedule 1. Subsequent revisions in design were consulted on, with positive, proactive conversations between the local authority and the applicant.
- 2.6.3 The original design was for a 10 storey tower block reflecting the university quarter opposite the site.



*Fig 3. Initial 10 storey proposal.*

- 2.6.4 Initial preapplication guidance suggested the following:
- Unit mix recommended to increase number of 2+ bed units (c.60%) given SHLAA findings.
  - Limited demand for 1 bed units, consider increasing number of larger units in line with SHLA.
  - Detailed design of the site in isolation is considered good; but recommend greater consideration of the adjoining sites, or a small scale to reflect adjoining built form.

Recommend consideration of residential amenity of adjoining sites through overshadowing, noise and air quality assessment.

External amenity standards appear to be met.

Highways Authority accepts site is in a sustainable location, and lack of parking is acceptable. Recommends transport statement and plan; and drainage details.

10% of all energy should be from sustainable sources.

- 2.6.5 Proposals were amended to a 6 storey scheme following receipt of this feedback, with an improved unit mix.



*Fig 4. Revision to 7 storeys post-preapp 1.*

- 2.6.6 A subsequent preapplication meeting took place on these design revisions and to clarify points of query on the operation of LLP14 in light of the release of appeal decision APP/B0230/W/21/3275436.
- 2.6.7 During this meeting discussions took place on the pragmatic application of LLP14 in light of the noted appeal decision and also wider policy development regarding the subject Category B employment zone, sitting adjacent to the town centre boundary. Two salient points arose: firstly it was discussed that the area was being in the formative stages of being considered for mixed-use redevelopment in future policy. This is evident in the planning history of the area, with several larger mixed-use buildings already consented, and in the consultation Luton Town Centre design guide, which applies to a wider subject area in line with the below map extract, which extends the design guide to apply to the subject site which sits within the outer blocks.



*Fig 5. Plan of the town centre included in the draft Luton Town Centre design guide. This provides a slightly more accurate map to determine the precise boundary of the town centre area, which indicates the subject site sits directly on the border of the town centre area, and sits within the 'Design guide application area including outer blocks'.*

- 2.6.8 Secondly it was highlighted that the noted appeal decision provides further detail on the application of LLP14 and the pragmatic aims of the policy as protecting or enhancing needed employment spaces. Therefore the test of LLP14 requires demonstration of a lack of need for the existing employment uses where these are lost; protection or enhancement of employment uses; and some minor conflict with the policy's technical terms may be considered acceptable given the wider redevelopment proposals occurring within the immediate area, provided the primary aims of said policy are met.
- 2.6.9 It was noted that increasing the employment area available, and providing higher-quality employment floorspace to replace low quality employment floorspace, would be positive in this regard.
- 2.6.10 It was also noted that the 7 storey scheme straddled the border of the LLP16's affordable housing threshold, but that this created viability difficulties given the previous reduction in height. It was noted that a small increase in units via 1 additional storey would likely be acceptable if it cross-subsidised policy-compliant delivery of affordable housing at 20%.
- 2.6.11 The final major point made was that one elevation represented a largely unbroken brick wall which should be revised to provide a better outlook, while also having consideration for potential future neighbouring development.

2.6.12 Following this meeting proposals were revised to the current 8 storey iteration to cross-subsidise a fully policy compliant affordable housing delivery.



*Fig 6. Revision to 8 storeys following preapp 2.*

2.6.13 Final preapplication comments from the officer on the most recent scheme (Schedule 1a) noted:

The increase in height and massing considered acceptable.

The mix of units is now considered to accord with the SHLAA.

Balconies and space standards considered acceptable.

Some further concerns regarding yellow panels on windows and window positionings which should be amended.

All subject to adequate justification for the proposals under LLP13 and LLP14.

## 3. PROPOSALS

### 3.1 Proposals

- 3.1.1 The proposals are for demolition of the existing industrial unit and replacement with a stepped 6-8 storey block comprising ground floor Class E accommodation with 15 No. 1-3 bed apartments.



*Fig. 7. View of site in context with proposal to the rear.*

- 3.1.2 The scheme will maximise the use of this underdeveloped and long-term vacant site in a highly sustainable location. It will deliver a mix of uses including replacing the current low-quality light industrial use (which is noted as not currently in demand) with more, higher-quality flexible class E employment floorspace in line with the aims of the development plan. This delivery will be cross-subsidised by the residential floorspace delivered on the floors above.
- 3.1.3 The scheme will be parking free due to close proximity to public transport options and excellent pedestrian and cycling links, which has been confirmed as acceptable by the Highways Authority.
- 3.1.4 Each apartment will benefit from private balconies or terraces of various sizes and all will exceed national minimum space standards, which has been confirmed as acceptable during preapplication discussions.
- 3.1.5 The design, unit mix, height and massing has been noted as broadly acceptable in preapplication advice.

- 3.1.6 The proposals have been developed to respond to the context of recent consents for mixed-use residential/commercial blocks immediately adjacent to the subject site, to support a comprehensive regeneration of the area.
- 3.1.7 Extensive preapplication discussions have taken place on the site. All officer feedback has been reflected in the proposals.

### 3.2 Amount

- 3.2.1 The below table summarises the schedule of accommodation, reflecting a unit mix comprising over 60% >2b units in line with officer representations regarding local need.
- 3.2.2 The existing 327m2 of low-quality industrial units will be replaced by an identical floor area of higher quality Class E flexible business accommodation, technically generating more jobs per m2 compared with the existing vacant unit:

ACCOMMODATION SCHEDULE RESIDENTIAL GIA (M <sup>2</sup> )		ACCOMMODATION SCHEDULE COMMERCIAL GIA (M <sup>2</sup> )	
FLAT 1 (1 BED)	53.7	BUSINESS UNIT 1	137.1
FLAT 2 (3 BED)	97.2	BUSINESS UNIT 2	190.3
FLAT 3 (2 BED)	68.2	TOTAL PROPOSED	327.4
FLAT 4 (1 BED)	55.3	TOTAL EXISTING SPACE	327
FLAT 5 (3 BED)	97.2		
FLAT 6 (2 BED)	68.2		
FLAT 7 (1 BED)	55.3		
FLAT 8 (3 BED)	97.2		
FLAT 9 (2 BED)	68.2		
FLAT 10 (1 BED)	55.3		
FLAT 11 (1 BED)	53.7		
FLAT 12 (2 BED DUPLEX)	95		
FLAT 13 (3 BED)	96		
FLAT 14 (3 BED)	96		
FLAT 15 (3 BED)	116.1		
TOTAL	1172.6		

5no. 1-bed (33.3%)  
 4no. 2-bed (26.7%)  
 6no. 3-bed (40%)  
 15 total



- 3.2.3 3 No. 2 bed units will be provided as affordable dwellings (20%).
- 3.2.4 The amount of development proposed has been discussed with officers at length, with the current iteration providing a balance between viability of onsite affordable housing delivery, no net loss of employment floor space, and responding to the precedent of height and massing in the immediate area.

### 3.3 Context

- 3.3.1 The category B employment zone into which the site falls is located adjacent to the town centre boundary and next to a designated neighbourhood park, with the university campus directly to the north within the town centre boundary.

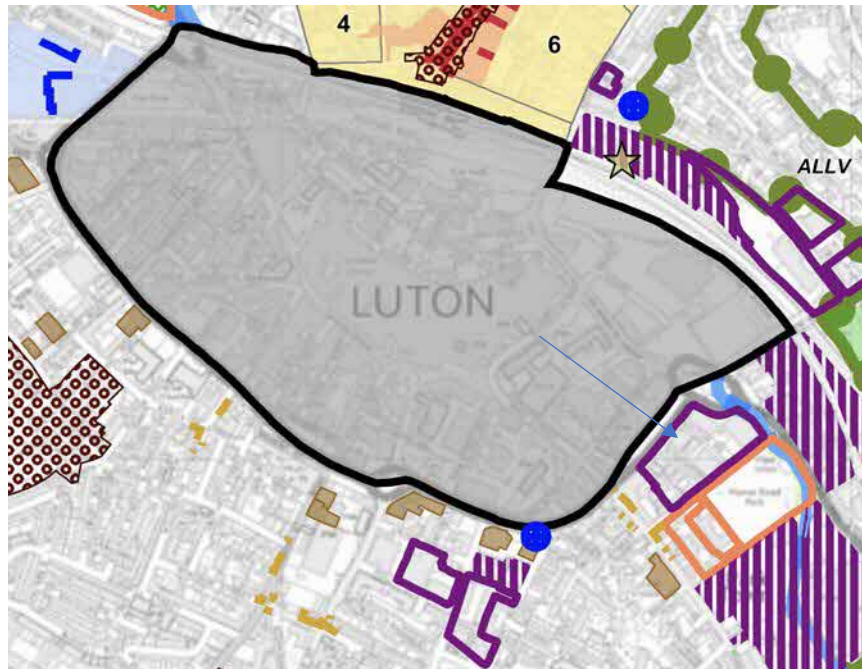
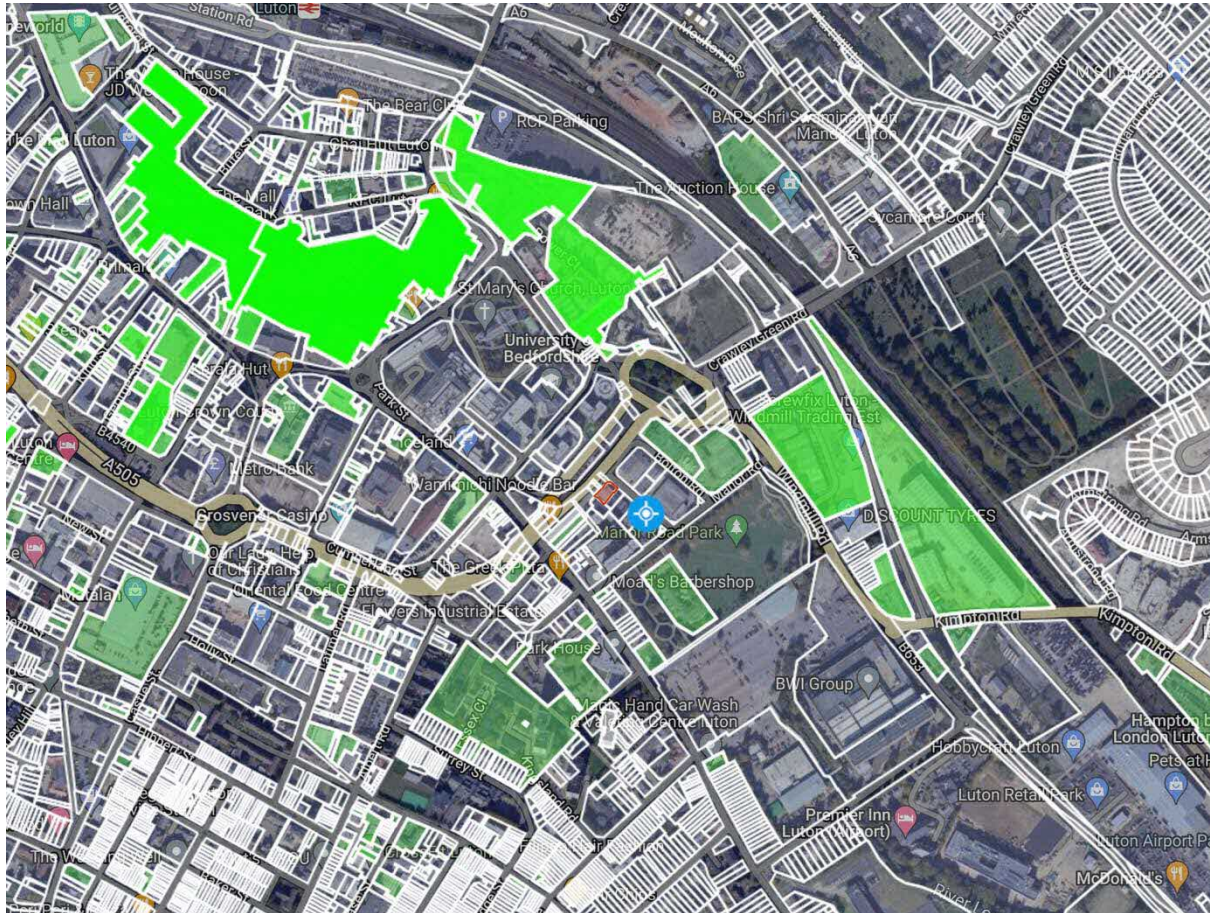


Fig. 8. Extract from the local plan policies map. Arrow indicates site location.



*Fig 9. Substantial vacant and/or derelict buildings were noted within 100m of the subject property within the established Category B Employment zone during walkthrough. The zone constitutes an underdeveloped island within a ring of mixed use redevelopment.*



*Fig 10. Indicative map of vacant buildings in the immediate area of the subject property, indicating an excess in supply.*

- 3.3.2 The established 'Category B employment zone' within which this site sits has been recognised as requiring regeneration within the 2015 Luton Employment Study. Comments specifically note that this is unviable without support by mixed uses and residential elements. Several recent consents for redevelopment of former light industrial uses with low demand to more modern mixed-use commercial and residential accommodation have been obtained, although not yet implemented, likely on viability grounds.
- 3.3.3 The existing property is set between the 5 storey Gloucester House (south) and 11 storey Fitzroy Court (north), and will sit between recent consents on Manor Road. The proposed block's height takes a stepped approach to the building line.
- 3.3.4 Significant local green space can be accessed at Manor Road Park, c.100m from the subject property.
- 3.3.5 Vicarage Street and Luton Uni Public Car Parks are directly to the north and north-east; Town Centre GP Surgery is within 500m of the site; Presentation Court bus stop is c.80m from the site, serviced by the 88 bus to Hitchin; Bailey Street

bus stop is c.200m from the site, serviced by the 3, 44, 45, 366, and 612; and the Mall and Luton rail station are within 500-600m of the property along with associated shops, restaurants, public houses and other amenities within walking distance, suggesting a highly sustainable location.

### 3.3.6 Pedestrian and cycle routes are available from the property to the town centre.



Fig 11. View of the properties nearby from south looking north, indicating the building line stepping up to 11 storeys. Pedestrian and cycle access through to the town centre.

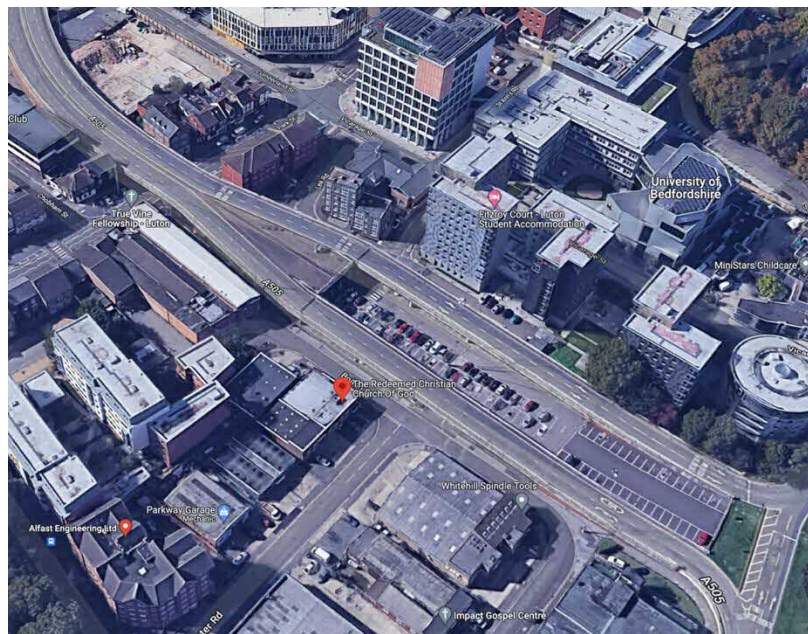


Fig 12. Contextual aerial view—the subject site is located at the red marker, with Gloucester House the bottom-left, several other blocks to the north of this and west of the subject site and Fitzroy Court and other blocks to the top of the image.

### 3.4 Sustainability

- 3.4.1 The proposal reuses an existing vacant brownfield site in a well-connected area with existing infrastructure and proximity to a dense urban area with existing tall buildings, providing a high level of base sustainability. The recent ministerial statement '*Build on brownfield now*' from DLUHC is therefore a material consideration.
- 3.4.2 There is significant public open space, education, public transport, pedestrian and cycling routes, and urban amenities/employment uses within 1km of the proposal.
- 3.4.3 In addition, the existing building is in a poor state of repair and of low energy efficiency. The proposed building will be both highly energy efficient and highly sustainable by comparison.
- 3.4.4 The proposed use will further provide a significant contribution to housing supply, including a policy compliant quantity of onsite affordable housing despite the viability challenges of local market conditions, further adding to its sustainability credentials.

### 3.5 Layout

- 3.5.1 The proposal extends slightly beyond the footprint of the existing building, maximising use of the existing forecourt to deliver additional residential and commercial space.
- 3.5.2 The floor plan varies as the building steps up in height, with 2 floors of primarily commercial space, three floors including 3 No. 1, 2 and 3b flats, then 3 further storeys partially stepping up in height providing further 1, 2 and 3 bed dwellings. The affordable dwellings are integrated with the wider open market units rather than clustered.
- 3.5.3 The commercial space, refuse stores, cycle store and substation will be located to the ground and first floors with separate entrances to the commercial unit and apartments to the north of the building.

### 3.6 Landscaping / public realm

- 3.6.1 As an existing brownfield site there is limited existing biodiversity or landscaping onsite. The proposals will improve the public realm to the frontage of the building and make use of green roofs and photovoltaics.

### 3.7 Appearance

- 3.7.1 The design approach taken is similar to that taken on application ref 21/00074/FUL, where preapplication and application discussions highlighted the design was *'a significant improvement and would provide for an attractive form of development that would enhance the quality of the built environment and amenities of the streetscape within the locality'* and *'The design solutions that have been identified to the significant challenges/constraints of the site are principally acceptable and well-worked'*.
- 3.7.2 The architecture, mass, scale and built form are designed to relate and respond to the existing built form on the site, and recent consents which may come forward in the near future, providing a more integrated proposal which reflects design elsewhere in the quarter.
- 3.7.3 Due to the siting, orientation and distance from nearby residential units, the building should have a limited impact on neighbouring amenity.
- 3.7.4 The design will refresh the existing property with a modern style and high quality design similar to recently consented blocks in the town centre area, and the style of the university quarter to the north. The site's potential will be maximised while responding to local precedent. The material palette has been replicated from the existing built context and reinterpreted in a contemporary fashion.
- 3.7.5 This approach displays the intention to create a building which is more delicately placed, sustainable, and provides significant benefits to the local community.
- 3.7.6 The scheme looks to relate to nearby context by means of detailing and proportion.

### 3.8 Access, Highways & Parking

- 3.8.1 Pedestrian footpaths run along Gloucester Road and link through to the town centre. The site benefits from several bus stops within 100m on Manor Road and Park Street. Cycle lanes run down Park Street through to the centre. The property currently benefits from a forecourt for some limited vehicular access and parking but this will be removed in favour of a car-free development given the site's sustainability potential. There are several large public car parks to the immediate north (Vicarage Street) and north-east (Luton Uni Car Park) which could service visitors.

- 3.8.2 Cycle storage will provided in line with the local plan's minimum requirements, exceeding the minimum cycle parking spaces suggested by policy LLP31 and Appendix 2. A car free development will be provided based on the highly sustainable location in line with policies LLP31-32.
- 3.8.3 In line with LLP31, the proposed development would therefore have a negligible impact on highway and pedestrian traffic in the area.

## 5 PLANNING POLICY CONTEXT

### 5.1 Introduction

5.1.1 In considering the suitability of the development proposals at the site it is noted that following s38(6) Planning & Compulsory Purchase Act 2004 planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. This section summarises the key policies of the development plan, the weight to be afforded it at the current time, and other material considerations.

### 5.2 Local Policy Context

5.2.1 The Luton statutory development plan, so far as it relates to the site, currently comprises:

The adopted Luton Local Plan 2011-2031 (2017)

Luton Local Plan Policies Map

Luton Local Plan Town Centre Inset Policies Map

5.2.2 Other material considerations include the Affordable Housing SPD (2007), Strategic Housing Market Assessment (2019) and subsequent updates, the Luton Employment Study (2015), the most recent Housing Delivery Test (2022), and the recent Ministerial Statement '*Build on Brownfield Now*' from DLUHC.

5.2.3 There is no substantially advanced draft local plan to consider at the current date.

5.2.4 We have therefore had regard only to the adopted development plan documents in this statement.

#### The Development Plan

5.2.5 The weight that can be applied to the policies in the adopted local plan depends upon the extent to which these are aligned with the NPPF following Annex 1. Policies cannot be automatically considered outdated simply based on age.

5.2.6 The subject site sits adjacent to the Luton town centre boundary, in an edge-of-centre identified Category B employment zone which allows mixed use development. The principle of development appears to be broadly in line with core policies LLP1, LLP2, LLP3 and LLP14 in particular.

5.2.7 Given the precise proposals, the following policies are the most relevant:



**LLP1 Presumption in Favour of Sustainable Development:** applications will be granted where according with local plan policies, and where contributing to a sense of place, preserving or improving the character of the area. Proposals must be for sustainable development.

**LLP2 Spatial Development Strategy:** lays out the general strategy of development including required housing numbers at A, employment requirements at B, referencing LLP21 Centre Uses hierarchy at C, referencing the Infrastructure Delivery Plan requirements at D, and the protective policies of LLP27-30 regarding historic and natural environment at E.

**LLP3 Luton Town Centre strategy:** this notes the town centre as a mixed-use area with excellent connectivity strongly contributing towards economic and residential growth, improved natural and built environment. Proposals within the town centre as defined in the Policies Map should significantly contribute towards residential growth in the borough; contribute towards job creation; maximise density; take advantage of opportunities for car-free development; contribute towards a mixed-use area; contribute towards economic regeneration; deliver a high quality safe, accessible and well connected pedestrian environment; and enhance existing built environment. The recent consultation Town Centre Design Guide expands the Town Centre area to include the subject site and immediate surroundings for design purposes.

**LLP14 Employment Areas:** defines the Category B employment sites and notes that circumstances in which conversion from existing employment space to mixed use are appropriate.

**LLP15 Housing Provision:** notes that housing provision should reflect the findings of the SHMA. Permission for residential development will be granted on unallocated sites provided this does not result in any loss of other uses for which there is an identified need. Higher densities will be encouraged within Luton Town Centre but should not result in over-intensification. A mix of housing size, type and tenure is encouraged.

**LLP16 Affordable Housing:** states that 20% affordable housing should be provided on sites of 11 units or more, or 10 units with a combined floorspace over 1,000m<sup>2</sup>.

**LLP21 Centre Hierarchy:** suggests town centre uses including retail, office and leisure should be directed towards town centres through use of the sequential test.

**LLP25 High Quality Design:** buildings and spaces must be high quality, distinctive character and safe/accessible.

**LLP27 Open Space & Natural Greenspace:** open space contributions must be made in line with Appendix 11 either onsite, offsite or contribution in lieu. Where open space lost this will be replaced.

**LLP28 Biodiversity & Nature Conservation:** any proposals which adversely impact statutory or designated sites must follow a sequential avoid, justify, mitigate and compensate approach. Where there is a reasonable expectation of having an adverse effect on biodiversity or wildlife the applicant must provide an ecological assessment including phase 1 habitat survey.

**LLP29 Landscape & Geological Conservation:** proposals will be supported where they protect or enhance national and local landscape areas.

**LLP30 Historic Environment:** development proposals must take into account local assets and protect, conserve and enhance historic environment, particularly in the historic town centre, avoiding or minimising harm and demonstrating that benefits clearly outweigh that harm.

**LLP31 Sustainable Transport Strategy:** aims to reduce congestion, promote sustainable modes of transport, improve accessibility and connectivity for a more pedestrian friendly town centre. Permission will be granted for developments which minimise the need to travel and promote sustainable transport choices.

**LLP32 Parking:** proposals for car free or reduced on-street parking will be considered provided impact on residents is minimised and a travel plan provided.

**LLP39 Infrastructure Contributions:** the LPA will support developments which contribute towards infrastructure requirements, ideally onsite but otherwise offsite or as financial contribution in lieu, achieved through planning obligations, conditions or CIL.

## Material Considerations

- 5.2.8 The two main material considerations are the NPPF and council strategy documents in relation to need for the proposed use, which inform its appropriateness.
- 5.2.9 The recent ministerial statement '*Build on Brownfield Now*' from DLUHC is also relevant insofar as reinforcing the NPPF's encouragement of a '*brownfield first*' approach. The current consultation '*Strengthening planning policy for brownfield development*' further suggests a further presumption in favour of brownfield development and giving significant weight to delivering homes.

## NPPF

5.2.10 National policy is provided by the National Planning Policy Framework ('the NPPF') and supported by the National Planning Policy Guidance ('the NPPG').

### Presumption in favour of sustainable development

5.2.11 Para 8 of the NPPF establishes the three overarching objectives of sustainable development: economic, social and environmental objectives. The NPPF reinforces that these three objectives are inter-dependent and must be pursued in mutually supportive ways to achieve net gains.

5.2.12 Para 11 sets out the presumption in favour of sustainable development, whereby proposals which accord with the development plan should be approved without delay. Where the development plan is not considered up to date for any reason, or no policies exist, the proposal should be approved unless there is a clear reason for refusal or the adverse effects outweigh any benefits as considered against NPPF policies as a whole.

5.2.13 Para 12 clarifies that this does not change the statutory status of the development plan as the starting point for decision making, but local authorities can make decisions which depart from an up-to-date plan should material considerations indicate that the plan should not be followed.

### Other relevant national policy

5.2.14 Paras 39-43 encourage the use of preapplication discussions as early engagement to take an early, positive and proactive approach, improving applications and reduce costs and delays.

5.2.15 Para 60 emphasises the importance of sufficient land coming forward to deliver for the needs of groups with specific housing requirements.

5.2.16 Para 61 suggests that the local housing need assessment is considered to be the 'starting point'.

5.2.17 Para 64-66 emphasise the importance of affordable housing delivery on major development sites.

5.2.18 Para 70 suggests small and medium sites can provide important contributions towards meeting such need and that the development of windfall sites must be supported –giving great weight to the benefits of suitable sites.

- 5.2.19 Para 85 states that decisions must help create the conditions in which businesses can invest and significant weight should be placed on the need to support economic growth.
- 5.2.20 Para 86 notes that policies should be flexible enough to accommodate events not anticipated in the plan, allow for new practices and enable rapid responses to changes in economic circumstances.
- 5.2.21 Para 90 notes that town centres should be supported.
- 5.2.22 Para 92 suggests that edge of centre proposals with strong accessibility and connectivity to the town centre should be given preference and flexibility shown to ensure the potential of such sites is maximised.
- 5.2.23 Para 123 gives substantial weight to reuse of brownfield land and supports development of under-utilised land and buildings. Multiple benefits should be encouraged and mixed uses explored wherever possible.
- 5.2.24 Paras 124-125 encourage the efficient use of under-utilised land, giving substantial weight to utilising and remediating brownfield land, and supporting opportunities to utilise airspace above existing commercial property for residential development.
- 5.2.25 Para 126 further considers that planning policies and decisions should reflect changes in demand for land.
- 5.2.26 Section 12 supports the creation of well-designed places, such that improvement of design should always be a key goal.
- 5.2.27 Section 14 emphasises the importance of meeting the challenge of climate change through energy and resource efficiency, reuse of existing resources, and a low carbon approach.
- 5.2.28 Section 15 encourages conservation and enhancement of the natural environment, habitats and biodiversity.

## 6 ASSESSMENT OF PROPOSAL

### 6.1 Introduction

6.1.1 This section of the statement sets out a brief assessment of the proposal in the context of the planning history of the site, current planning policy and allocations alongside material considerations, looking specifically at the key matters outlined above.

### 6.2 Principle of Development

- 6.2.1 The proposal consists of demolition of the existing vacant building and replacement with a densified block including replacement higher quality Class E units to the ground and first floor and 15 No. C3 residential apartments to floors 1-7 including 20% affordable housing (fully complying with LLP16). Replacement of the commercial element with higher quality accommodation and intensification into a mixed-use development is in line with the terms of LLP14 regarding Category B employment zones where the building has been vacant for some time, there is no demand for the existing use and no loss of employment uses.
- 6.2.2 A separate 'Change of Use' statement considers the precise operation of LLP13-14 in greater detail as requested by officers during preapplication consultation; however, in summary: there is no loss of employment floorspace; the higher quality business units proposed will generate more jobs per m2 and should therefore be considered an intensification; the change from low quality vacant light industrial to high quality flexible class E floorspace is supported by the most recent need data (Employment Land Review 2015); in order for the improvement of this floorspace to be achieved viably it must be cross-subsidised by residential development as recognised in Luton Employment Land Review (2015) which specifically studied this location; and finally, the recent Manor Road appeal decision (Schedule 2) and Manor Road officer's report (Schedule 3) supports the interpretation that all of the above strongly accords with the aims and intentions of LLP14, and a certain degree of flexibility can be applied.
- 6.2.3 In policy terms, the site is within the settlement boundary in an area adjacent to the town centre which is emphasised in LLP3 as a '*focus for economic and residential growth*'. In line with LLP3, the site would significantly contribute towards residential growth in the borough (targeting 2,100 homes); contribute towards job creation (replacing a vacant underused industrial unit with high quality Class E

- accommodation); contribute towards retail and other commercial uses (Class E units); maximise density; take advantage of opportunities for car-free development; contribute towards a mixed-use area; contribute towards economic regeneration; deliver a high quality safe, accessible and well connected pedestrian environment; enhance the existing built environment and public realm; and consider inclusivity through the delivery of onsite affordable units. The NPPF supports edge of centre sites such as this one in the same way as town centres and suggests where these are highly sustainable, connected and accessible they should be supported.
- 6.2.4 LLP2 and LLP21 emphasise the overall strategic importance of delivering both commercial and residential development and that this should be directed towards central Luton. The NPPF gives significant weight to the efficient reuse and optimisation of brownfield land in town centre and edge of centre locations to deliver mixed use developments which support both economic and housing growth; and this has been strongly reiterated in the government's latest directions and consultations, which proposed a '*brownfield first*' approach, and '*presumption in favour of brownfield development*'.
- 6.2.5 In line with the NPPF's definition of sustainable development at para 11, the proposal contributes towards a social objective, through contributing towards assessed need for residential and affordable accommodation in different groups, providing a healthy, safe and inclusive place; it contributes to an environmental objective, through improvement of energy efficiency and prioritising development of under-utilised brownfield land and buildings; and it contributes to an economic objective through regeneration, reuse and optimisation of vacant and underutilised brownfield land in an edge-of-centre location.
- 6.2.6 More broadly, the proposals have had regard to the most recent consents neighbouring the site, and the natural intensification and change of use which has been occurring in reaction to both demand and viability requirements for required regeneration in this area (previously noted in the local plan employment study). Therefore they are considered to comply with the NPPF's general direction towards meeting changing demand and economic circumstances which are material considerations in the application of policy.
- 6.2.7 Overall, the proposals are for a sustainable, mixed use, high-quality building which strongly accords with the strategic aims and specific policies of the adopted development plan. It will assist in an ongoing regeneration of an area suffering from extensive vacancy and under-utilisation, which is much needed. It has regard to wider

plans and consents for the area, and will provide higher-quality employment floorspace cross-subsidised by residential development above in line with the local plan evidence base's findings.

### 6.3 Detailed considerations

#### Design & Housing Mix

- 6.3.1 The proposal is for 15 apartments of 1-3 bed size. The proposed size of all dwellings exceeds national minimum space standards (following LLP25). Further, the mix of dwellings has had regard to LLP15 and the SHMA's recommendations regarding housing need, and seeks to meet these wherever possible within the constraints of the site by providing more larger units. The final preapplication guidance comments recognises this ambition has been met.
- 6.3.2 A policy compliant 20% onsite affordable housing will be delivered onsite (3/15 dwellings, LLP16). The proposed density, height and massing is required in order to viably deliver these affordable units due to local market conditions, which is recognised in LLP16. Any reduction in height is likely to negatively impact the viability of this proposed delivery. The preapplication guidance final comments noted the height, massing, and internal/external space standards were acceptable.
- 6.3.3 The maximum number of larger 3 bed units has been achieved subject to viability constraints, having regard to the aims of the SHMA regarding housing need (LLP2, LLP15).
- 6.3.4 The design seeks a creative solution to maximising the potential of a highly constrained site in line with LLP25. The proposed development would considerably improve the public realm, responds well to the surrounding existing and consented built environment, and is located in a highly sustainable area. It provides a significantly more attractive form of development and quality of urban environment compared with the existing building and would aid in the continuing regeneration of this area, providing both higher-quality commercial floorspace and supporting residential floorspace, maximising viability, deliverability and sustainability.
- 6.3.5 Open outdoor amenity space is provided through private balconies and roof terraces exceeding the minimum standards laid out in Appendix 11 and policy LLP7. The site is located in close proximity to Manor Road Park, providing access to further high-quality public green space.
- 6.3.6 Density has been maximised without overdevelopment of the site. As noted in the D&A, the proposed building is in line with the precedent in the surrounding built

environment, providing a midway stepping point between the identified heights at either end of Gloucester Road. The massing and location of the building are considered to be in line with LLP25 and do not affect any nearby heritage assets. The commercial elements of the site have been maintained in line with LLP2, LLP3 and LLP14 while providing additional benefits in line with LLP14, LLP15 and LLP16. The preapplication guidance has confirmed this.

### Transport & Parking

6.3.7 The development will be car-free following policy LLP31 and LLP32, taking advantage of a highly sustainable location with access to significant public transport and pedestrian networks. Bike storage spaces will exceed the minimum provision outlined under LLP32 and Appendix 2. Preapplication consultation with Highways has confirmed this as acceptable.

### Sustainability & Infrastructure

6.3.8 The proposals will ensure this vacant and under-used brownfield site is brought back into use long-term in line with the ambitions of NPPF and government guidance with regards to guiding development towards reuse and optimisation of small-medium vacant brownfield sites.

6.3.9 The location is a highly sustainable, well-connected, edge-of centre site with considerable infrastructure in place. The nature of the area as a highly sustainable, well-connected and accessible location makes it perfect for the proposed mixed use development, and this is in line with recent precedent nearby and following LLP1 and LLP2.

### Conclusion

6.3.10 Overall, the proposal accords with the high-level strategic objectives of LLP1 which note that applications will be granted where according with local plan policies, and where contributing to a sense of place, preserving or improving the character of the area, and where representing sustainable development.



## 7 CONCLUSIONS

- 7.1.1 This statement supports a planning application for proposed demolition of the existing vacant building at 2 Gloucester Road, Luton, LU1 3HX ('the site'), and redevelopment as mixed-use block of Class E units and 15 1-3 bed apartments.
- 7.1.2 The site has been vacant for some time but is considered to have previously fallen into Class E. The site is currently vacant and under-utilised, sitting within an area that suffers widespread vacancy and poor-quality light industrial building, so requires comprehensive redevelopment and optimisation to ensure a long-term viable and sustainable use which accords with the development plan, local demand, wider precedent and future plans for the area, and helps regenerate the area.
- 7.1.3 The above assessment suggests that the proposals constitute highly sustainable development which is in line with the adopted development plan and would actively contribute towards the council's key objectives as outlined in LLP1, LLP2, and LLP13/14.
- 7.1.4 These proposals have had regard to both national and local policy, and it is considered that the site offers the opportunity to improve design quality and the public realm, maximise and optimise the site, and contribute to sustainability in the local area.
- 7.1.5 In line with para 11 NPPF it is considered the proposals accord with the development plan and therefore constitute sustainable development.

## SCHEDULE 1



**Luton Borough Council**  
**Development Management**  
Town Hall,  
Upper George Street,  
Luton,  
Bedfordshire  
LU1 2BQ

Florian Winkler

Abi Chapman

By e-mail only:



E: [REDACTED]  
W: [www.luton.gov.uk/planning](http://www.luton.gov.uk/planning)

9<sup>th</sup> November 2022

Reference: PREAPP/22/00126

**WITHOUT PREJUDICE**

Dear Florian

**PREAPP/22/00126 – 2 Gloucester Road, Luton, LU1 3HX**

**Seven to ten storey mixed use building with commercial space and 25 residential flats**


This proposal seeks the removal of a light industrial unit and the erection of a 7 to 10 storey building with commercial space and 25 residential flats. The proposed flats are a mixture of 1, 2 and 3 bedroom. There are 12 one bedroom, 10 two bedroom and 3 three bedroom flats proposed. The ground floor includes 147 m<sup>2</sup> of commercial space, refuse store and cycle storage. Each individual flat proposed has a private balcony and there is zero parking provision proposed.

The submitted documents include a site location plan, proposed site plans, floor plans and elevations.

**Site Description**

The application site falls within Manor Road category B employment site, which is a 1.6 ha existing industrial estate. The industrial estate suffers from a high number of vacancies and some units are in poor condition.

Planning permission was granted for the erection of a six storey mixed use development comprising of 2 office suites on ground floor and 10 two bedroom flats on upper 5 floors with associated landscaping, parking and amenity areas, after demolition of existing building at 2-10 Bolton Road which lies immediately to the



north of the application site. The Chapel viaduct with a public car park lies to the west and industrial units to the south and east.

## Recent Planning History

The most recent planning history is in 1981 for an extension to the light industrial use which has permission on the site. The extension was implemented but it appears over time the building was split in half so that the extension now forms an individual industrial unit.

A sign on the building indicates that it has been used as a church, however, a planning application was not submitted to regularise this use as such the lawful use of the application site remains for the purposes of light industry.

## Development Plan

The application site is situated within the Town Centre Area and Category 'B' Employment Area therein. Policies within the Luton Local Plan 2011- 2031 of relevance to the proposals are policies, therefore, LLP1, LLP2, LLP3, LLP13, LLP14, LLP15, LLP16, LLP25, LLP31, LLP32, LLP36, LLP37, LLP38 and LLP39.

- Policy LLP1 sets out the broad policy of the plan which is the presumption in favour of sustainable development.
- Policy LLP2 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 development.
- Policy LLP3 considers development occurring within the Town Centre Area.
- Policy LLP13 forms the strategy for ensuring there is economic growth in Luton
- Policy LLP14 relates to the protection of key employment sites, in this instance a Category 'B' Employment Area.
- Policy LLP15 relates to the provision of housing within the Borough.
- Policy LLP16 relates to affordable housing provision identifying that the Council will require a provision of 20% affordable housing units (or equivalent financial contribution) on all schemes that deliver a net gain of 11 dwellings.
- Policy LLP25 requires buildings and spaces to be of high quality design, with distinctive character. In particular, development should make provision to enhance the 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. In addition, the policy seeks to optimise higher densities and optimise and improve accessibility to walking and cycling and connections to public transport and community services and facilities.
- Policy LLP30 concerns the historic environment and seeks to protect, conserve and enhance historic assets.
- Policy LLP31 requires, amongst other things that new development minimises the need for travel, reduces road congestion, reduce safety risk to motor and non-motor users and ensures the quality of the local environment is not compromised.

- Policy LLP32 considers the parking requirements of development, stipulating expected provisions and highlighting the sustainability of the Town Centre location.
- Policy LLP36 reflects upon flooding issues within the Borough.
- Policy LLP37 is concerned with climate change, carbon and waste reduction and sustainable energy proposals, and 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, with specific regard to the development, deals with the possibility of land being contaminated and requires assessment and potentially remediation prior to development being commenced.
- Policy LLP39 seeks the provision of financial contributions made necessary by the development.

## Planning Application Supporting Information

I would expect a planning application may need to be accompanied by a range of supporting information, including:

- Air Quality Assessment
- Ground Contamination
- Flood Risk Assessment
- Sustainable Urban Drainage Scheme
- Ecological Survey and Statement
- Planning Statement
- Design and Access Statement
- Transport Assessment
- Travel Plan
- Landscape Details
- Energy Statement
- Daylight and Sunlight Assessment
- Noise Impact Assessment
- Foul Sewage and Utilities Assessment
- Sustainability Statement
- Refuse and Recycling Disposal Details

Your attention is also drawn to the guidance set out in Luton Borough Council's Planning Obligations Supplementary Planning Document and Validation Requirements for Planning Applications guidance, which are available on the Council's web site.

## Main Planning Considerations

### Principle of Development

The application site lies on land designated under the current Luton Local Plan as a Category B Employment Area therefore Local Plan Policies LLP13 and LLP14 are of relevance.

Policy LLP13 provides the starting point for determining whether the redevelopment of the site is acceptable.

Policy LLP13 (c) states that 'Employment Areas (Category A & B) allocated on the Policies Map .. will be protected to retain and deliver jobs in the borough'. Policy LLP13 (d) further indicates that provided category B sites satisfy criteria as set out in policy LLP14 section B, they may be redeveloped for employment, mixed use or other needs accordingly'

Policy LLP14 states that 'Where a building or site within a category B employment site has been vacant for at least twelve months, a mixed use development that retains significant employment or alternative redevelopment to non B uses to meet identified needs will be permitted where; i. it can be demonstrated that 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 is vacant there is evidence of active marketing for a reasonable period'


This submission does not include any evidence that suitable alternative accommodation at comparable rents is available, that the site is no longer suitable or viable for B1, B2 or B8 uses and furthermore there has been no evidence submitted of active marketing of the site for a reasonable period. In order for the principle of the loss of the light industrial unit to be acceptable in planning terms evidence demonstrating compliance with the above criteria is required.

Policy LLP15 of the Luton Local Plan 2011-2031 (Housing Provision) relates to the provision of additional housing on unallocated sites and states that permission should be granted for additional dwelling(s) provided that it would not lead to the loss of a use for which there is a recognised local need, that the development would not result in the over-development of the site, and that the proposed accommodation met the identified requirements within the Luton Housing Market Area (LHMA) set out within the Strategic Housing Market Assessment (SHMA).

The proposed development will result in the loss of designated employment floorspace and as such the proposed development will lead to the loss of a use for which there is a recognised local need. The development will therefore run contrary to policy LLP15 of the Luton Local Plan 2011 –2031. In regard to meeting the identified requirements within the LHMA detailed in the table below is the identified need against the historic delivery per housing type from the latest Strategic Housing Land Availability Assessment (SHLAA –November 2019).

Table 1: SHLAA Data (November 2019)

<i>Unit Size</i>	<i>Identified Need (2011 to 2031)</i>	<i>Historic Delivery (2011/12 to 2018/19)</i>
<i>1-bed</i>	420	2,307
<i>2-bed</i>	3,880	1,285
<i>3-bed</i>	10,910	383
<i>4+bed</i>	2,590	402



This development proposal includes 25 units, 12 x 1 bedroom (48%) and 13 x two bedroom plus units (52%). The housing mix proposed does not meet the identified housing need within Luton, the SHLAA identifies that there has been a clear over provision of 1-bed units in Luton over the plan period with an identified need for larger family housing. In locations outside of the town centre the provision of 1 bedroom units is not considered acceptable, however, given the location of this application site in close proximity to the town centre the provision of a small number of 1 bedroom units is still considered to meet policy LLP15. However, I would recommend that the proposal should be amended so that at least 60% of the units proposed are 2 bed or larger.

This proposal will result in a reduction of employment space and it has not been demonstrated that the building in its current form is no longer suitable for class B or E uses. Further to this as identified within the SHLAA (table 1) there is no identified need for 1 bedroom flats within Luton and the submission does not identify that the housing will meet social needs. It is therefore considered that the proposal will fail to comply with policy LLP14 part B which sets out the criteria for alternative redevelopment to non B uses.

It is therefore considered that the proposal in its current form will conflict with policy LLP13, LLP14 and LLP15 of the Luton Local Plan 2011 –2031.

#### Affordable Housing Provision

The policy compliant position is for the provision of 20% affordable housing on site in cases such as this. There is currently no demand for 1 bedroom affordable units due to the over provision of these units in the last few years. If you choose to pursue the current scheme the affordable housing will need to be the larger units. I have attached the Council's Affordable Housing SPD at appendix (a) for your information.

#### Planning Obligations

The Council does not have an adopted Community Infrastructure Levy charging schedule.

Local Plan Policy LLP39 (Infrastructure and Developer Contributions) seeks the provision of financial contributions made necessary by the implementation of development proposals. Detailed guidance regarding the planning obligations that are likely to be sought in conjunction with the proposed development: including the provision of affordable housing and financial contributions towards education, transport, waste management, libraries, museums and open space; are set out in the Council's Planning Obligations Supplementary Planning Document (September 2007).

Please note that the information in the Planning Obligations Supplementary Planning Document about DCFS Cost Multipliers was updated in 2009. The 2009 Primary Multiplier is £12,257 and the 2009 Secondary Multiplier is £18,469.



## Design and Site Layout

Policy LLP25 seeks to ensure development enhances the character of an area, respond positively to the local context, minimise adverse amenity implications, optimise a site and create safe and attractive places.

The Manor Road category B industrial estate suffers from a high number of vacancies and some units are in poor condition. There have been a number of permissions granted on the industrial estate for residential dwellings including the site which is adjacent to this at 2-10 Bolton Road which was granted permission on appeal (planning ref: 20/00696/FUL). I have concerns that this proposal does not take into consideration the permission granted at 2-10 Bolton Road, indeed the development does not respect the character or appearance of the approved building or consider the impact of this proposal with the approved building at Bolton Road. Whilst not built, as the planning permission at 2-10 Bolton Road is extant it is a material planning consideration.

It is considered that the detailed design of the proposed building in isolation is good, however, the relationship with surrounding buildings has not been significantly considered. Not only is the relationship with 2-10 Bolton Road of concern, but I also consider that the proposal will have a poor relationship with No. 4 Gloucester Road adjacent to the site. As advised previously this building was originally an extension to the existing building at 2 Gloucester Road and this extension will remain if the proposal is implemented. The resulting development will appear incongruous within the streetscene, with half a two storey functional industrial building adjoining a 10 storey building modern in form and design.

The redevelopment of the area needs to be considered in its entirety, the piecemeal redevelopment of this site which is small in size is considered to result in a development with an awkward and contrived relationship with the existing and approved built form surrounding the site. I would recommend that the redevelopment of the application site is considered with the adjoining sites, or alternatively a proposal much smaller in scale and size which respects the scale of the adjoining built form is proposed.


## Impact on Residential Amenity

Policy LLP1 of the Adopted local plan and paragraph 17 of the NPPF seek to secure good standard of amenity for all existing and future residents.

As advised previously I have concerns that the proposed development does not take into consideration the flats recently approved on appeal at the adjacent site at 2-10 Bolton Road. The proposal will cause significant overshadowing of the flats approved at 2-10 Bolton Road as well as having an overbearing impact which will be to the detriment of the amenity of the potential neighbouring occupiers. Subsequently I consider that the development is in conflict with policy LLP1 of the LLP in its current form.

The Environmental Protection Officer has advised that a noise risk assessment and an air quality assessment will need to be submitted with any application.





## Layout and Living Environment Created

The proposed development will need to comply with the national described space standards in order to provide adequate living conditions for proposed residents and details of each unit specified in any formal application.

Appendix 6 External Amenity Space Standards of the Luton Local Plan 2011-2031, requires a minimum of 5 sq. m of private outdoor amenity space to be provided for 1-2 person flats and maisonettes and an extra 1 sq. m to be provided for each additional occupant. It appears from your submission that these standards have been met.

## Transportation Considerations

Local Plan Policy LLP31 (Sustainable Transport Strategy) states that planning permission will be granted for developments that meet the criteria below where they are relevant to the proposal:

- Minimises the need to travel;
- Provides a sustainable transport choice with priority for buses, pedestrians and cyclists;
- Reduces road congestion particularly at peak times;
- Reduces the safety risk to motor vehicles, non-motorised and vulnerable users;
- Provides cycle parking / storage; and
- Ensures the quality of the local environment is not compromised.

Local Plan Policy LLP32 (Parking) 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 however, within those standards, sufficient parking should be provided to help ensure that adverse effects on highway safety and the convenience of nearby residents and users are avoided;
- Minimum cycle parking standards set out in Appendix 2 is provided for non-residential developments;
- Cycle storage of an appropriate standard is provided for residential developments;
- Parking standards shown in Appendix 2 are minimised in identified areas demonstrated to be of high accessibility.

The Council's Highways Engineer has made the following comments on the scheme;


*The highway authority accepts that the site is in a sustainable location and as such the lack of parking provision is acceptable. We would require a transport statement and a travel plan for this site. Details of drainage proposals should be submitted as part of any application.*

- *Given the constrained nature of the application site, the construction works will inevitably have an impact on the surrounding public highway, therefore any grant of permission should be conditional upon the submission and approval of a Construction Method Statement before works commence. The Statement must include provision for the Applicant, in conjunction with the Highway Development Control Manager Chris Godden (tel 07395600003), to carry out a dilapidation survey of the roads and footways adjoining the site before any works, including demolition, commence. The Applicant will be responsible for repairing or meeting the costs of repairing any defect identified as a result of the construction works.*
- *Secure covered cycle storage should be provided to meet the minimum requirements laid down in the Borough of Luton Local Plan.*
- *The Applicant is advised that under the provisions of the Highways Act 1980, no part of any structure, including caves, foundations, roofs and surface water hardware shall be erected or installed in, under or overhanging the public highway and no window, door or gate shall be fixed so as to open outwards into or over the highway.*
- *The Applicant is again advised that under the provisions of the Highways Act 1980, surface water from roofs or other areas must not be discharged into or onto the public highway or any highway drain. Path pipes are not permitted.*
- *No works shall be carried out within the confines of the public highway, including the erection of traffic management, scaffolding, hoarding, excavation and placing of skips or materials, without the necessary licence under the Highways Act or New Road and Street Works Act from the Highway Authority. The applicant is advised that such licences will be conditional upon the applicant fully funding the reinstatement or reconstruction of any area of Public Highway affected by the works as determined by the Highway Authority and such funding will be secured by the deposit of a cash bond from the applicant with the licence application. The applicant is further advised that the Highway Authority will not permit the closure or occupation of any part of the carriageway.*
- *Balconies must be designed such that objects cannot fall or roll off them onto the adopted highway for obvious safety reasons.*
- *The Highway Authority considers that given the development is promoted as a car free development, a contribution towards improving sustainable travel infrastructure is warranted. In this respect, it is considered that based on previous contribution levels of £350 per unprovided parking space, a contribution of not less than £8750 is appropriate. The contribution should be secured by planning obligation.*
- *All residents must bring their bins to the kerbside of the nearest adopted highway for collection. Consideration needs to be given to the maximum distances bins can be moved by both residents and the collection crews. These are stated below:-*

***NB: Residents need to be made fully aware when they purchase their property that they are expected to bring their bins to the kerbside of the nearest adopted highway for collection.***

***NB: The distance that residents can take their bins for kerbside collection must not exceed 30 metres and the distance that waste collection crews can walk to collect bins for emptying must not exceed 25 metres.***

*Storage areas should be conveniently located with easy access for residents - residents should not have to take their waste and recycling more than 30 metres to*



*a bin storage area, or take their waste receptacles more than 25 metres to a collection point, (usually kerbside) in accordance with Building Regulations Approved Document H Guidance.*

*If a development is of a mixed nature (e.g. commercial and residential) separate storage facilities and collection arrangements must be made and there should be a clear separation between the areas designated for commercial waste and those designated for residential waste. This will ensure that commercial waste does not enter the domestic waste stream. The primary reason for this is that commercial waste that enters the municipal waste stream becomes the responsibility of the local waste disposal authority and will impact on their performance targets, particularly with regard to LATS.*

### Sustainability and Climate Change

In terms of ensuring that the development helps to contribute to reducing climate change 10% of all energy for the development will need to be secured through renewable energy sources and details of this should be provided as part of the submission.

### Other Issues

The site lies within flood zone 1 and is within Chapel Street critical drainage area. I have forwarded comments from the Local Lead Flood Authority in a separate email.

This letter is written in the a spirit of helpfulness and is without prejudice to any decision that the Borough Council may make in respect of the determination of any subsequent planning application that may be submitted.

If you wish to discuss the content of this letter please do not hesitate to contact me.

Yours sincerely



Abi Chapman  
Planning Consultant

On Wed, Jan 18, 2023 at 1:20 PM Chapman, Abigail

<[REDACTED]> wrote:

Hi Florian

Thank you for your plans which show further revisions. The increase in height and massing is considered acceptable and the mix of units which includes 5 x 1 bed, 4 x 2 bed and 6 x 3 bed is considered to accord with the SHLAA. The introduction of the green living system will add greening to the development and does not preclude the further redevelopment of the adjacent site as such this is considered to be consistent with the objectives of policy LLP25 of the LLP. In terms of the size of the balconies this is acceptable and I note your commitment to ensure that the flats meet the NDSS. I note your comments on proposed materials, this can be dealt with via condition. I do, however, have some concerns with regard to the yellow panels on the windows and do not think that this further detail is necessary, given the interest in terms of the different brickwork. In addition I would also suggest that the windows in the northwest elevation are uniform in positioning rather than adopting a staggered pattern.

As per our discussion at our recent meeting 20% of the flats will need to be affordable and these will need to be 2 or 3 bed units as there is no requirement for 1 bed flats. Please see the [developer contributions SPD](#) which provides details of the developer contributions required for the proposed development.

We have discussed at length the requirement to comply with policies LLP13 and LLP14 of LLP and this is explained in detail in my previous correspondence.

I hope that this is useful, If you require further advice please submit a further pre-application submission

Kind Regards

Abi

Abi Chapman  
Planning Consultant  
Development Management  
Sustainable Development

On Thu, Nov 10, 2022 at 3:14 PM Chapman, Abigail [REDACTED]

wrote:

Hi Florian

Policy LLP14 refers to a mixed use development or redevelopment to non B uses, it is the mix of uses that triggers the requirement to provide marketing evidence for the existing building so if you were to provide additional employment floorspace this would not make the scheme acceptable in terms of policy LLP14.

Thanks

Abi

Abi Chapman  
Planning Consultant  
Development Management  
Sustainable Development

Please note that I work part time hours, if I am not in the office at the time of your email I will get back to you as soon as possible

Luton Council, 2nd Floor Town Hall, George Street, Luton, Beds, LU1 2BQ  
[LBCplanning@luton.gov.uk](mailto:LBCplanning@luton.gov.uk)

**From:** Florian Winkler <[REDACTED]>  
**Sent:** 10 November 2022 15:04  
**To:** Chapman, Abigail <[REDACTED]>  
**Cc:** AMIR JAFFER <[REDACTED]>; Tomas Furby <[REDACTED]>; robin furby <[REDACTED]>  
**Subject:** Re: PREAPP2200126 - Gloucester Road

**<CAUTION: This email came from an external source - only open links and attachments you are expecting>**

Dear Abi,

Thank you for your detailed response.

If we provided an amount of employment space in the proposal that would either be equal to or exceed the amount in the existing building, would this make the scheme acceptable without the need for further evidence of marketing?

Kind Regards,

Florian.

## SCHEDULE 2



## Appeal Decision

Site visit made on 19 January 2022

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 March 2022

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Appeal Ref: APP/B0230/W/21/3275436

2-12 Bolton Road, Luton LU1 3HR

The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.

The appeal is made by Mr M Sidhu against the decision of Luton Borough Council.

The application Ref 20/00696/FUL, dated 17 June 2020, was refused by notice dated 18 February 2021.

The development proposed is demolition of existing building and provision of 10 no. two bedroom flats and 2 no. office suites with associated landscaping, parking and amenity areas.

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### Decision

1. The appeal is allowed and planning permission is granted for demolition of existing building and provision of 10 no. two bedroom flats and 2 no. office suites with associated landscaping, parking and amenity areas at 2-12 Bolton Road, Luton, LU1 3HR in accordance with the terms of the application, Ref 20/00696/FUL, dated 17 June 2020, subject to the conditions in the attached Schedule.

### Procedural matter

2. In September 2020 amendments to the Town and Country Planning (Use Classes) Order 1987 were made. This deleted Class B1 and all the uses which previously fell into that class, including offices, are now within Class E. For consistency, when referring to Local Plan policies which pre-date this change, I have referred to Class B1. However, the condition which relates to the use of ground floor of the development refers to Class E of the amended Order.

### Main Issues

3. The main issues are:
  - i) the effect of the development on the supply of employment land;
  - ii) the effect of the development on the character and appearance of the area; and
  - iii) whether it is necessary for the development to provide contributions towards education, museums, open space, libraries, waste and a car club, and if so whether an appropriate mechanism for securing these has been provided.

## Reasons

### Employment land supply

4. The appeal site accommodates a building which currently appears vacant but, I understand, was previously in industrial use as a bakery until a few years ago.
5. The parties agree that the site is a category B employment site. Policy LLP14 of the Luton Local Plan states that where such sites have been vacant for at least twelve months:

"a mixed use development that retains significant employment or alternative redevelopment to non B uses to meet identified needs will be permitted where:

  - (i) It can be demonstrated that 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 is vacant, there is evidence of active marketing for a reasonable period".
6. Firstly, it is not disputed by the parties that the site has been vacant for over 12 months.
7. Secondly, it is necessary to consider whether the proposal retains significant employment. The policy is not clear as to whether 'significant employment' means floorspace or jobs. In terms of floorspace, the application forms state the floor area of the building is 235m<sup>2</sup>, of which, according to the planning statement, 200m<sup>2</sup> is useable. The proposal would provide 112m<sup>2</sup> of office space which, although would represent a loss of around 100m<sup>2</sup> of floor space, it is still a substantial amount of employment generating floor space.
8. In terms of jobs, it is reasonable to anticipate that an office use would generate more jobs per square metre than a general industrial use, and this is supported by the data in the appellant's appeal statement. From this, it is clear that even with a considerable reduction in employment floorspace, the proposal would be likely to generate an increase in the number of jobs. As such, for the purposes of the policy, I consider significant employment would be retained.
9. Thirdly, from the way the policy is written, it seems that criteria (i) and (ii) should both apply to the proposal. The appellant has not suggested there is suitable alternative accommodation elsewhere and has not demonstrated the site is unviable for employment use nor provided substantive evidence of active marketing. The proposal would therefore conflict with the policy in this regard.
10. However, the appellant contends that as significant Class B1 space would be provided, it would be illogical to show alternative employment generating accommodation or to seek to demonstrate that the site is no longer suitable for B1, B2 or B8. I agree. Indeed, theoretically, the policy would require a mixed-use scheme that retained all the previous employment floor space to consider alternative employment accommodation and demonstrate a lack of viability or suitability for its retained employment use. This consideration carries significant weight in my assessment.
11. The Council suggest that there must a demand for the site as the viability assessment considers the site has significant land value and calculates a yield



of 5%. However the viability assessment merely calculates its value based on an average of rental values of similar sites around Luton and average yields. This does not suggest there is a demand for this building specifically in its current form in this location.

12. Overall, a significant amount of employment generating land would be retained by the development and the development would not have an unacceptably harmful effect on the supply of employment generating land. Therefore whilst there would appear to be some conflict with some of the wording of the policy, the proposal would accord with policy LLP14 overall, and policy LLP13 which also supports the redevelopment of employment sites for mixed uses.

#### Character and appearance

13. The site currently accommodates a rather squat single storey building. It faces a viaduct, which is higher the roof level of the building, which conceals it from most viewpoints aside from those from Bolton Road directly in front of it, and the public car park under the viaduct.
14. The neighbouring buildings are similarly functional in design, of limited height and appear to accommodate industrial uses. However, in the wider context there are a number of taller buildings. Most prominently these are on the opposite side of the viaduct and are part of the University of Bedfordshire. These buildings are several storeys taller than that proposed and are finished in a range of coloured sheet metal cladding. Also on that side of the viaduct there is a five-storey building finished in grey/brown brick with significant amounts of glazing. There is also a four-storey red brick building very close to the viaduct and further west along the viaduct there are more tall buildings around a roundabout junction.
15. To the east side of the viaduct there are some buildings of similar height to that proposed including two buildings behind the site; one finished in red brick and the other rendered in grey but with some brightly coloured detailing around some of the windows. There are other tall residential tower blocks in the distance to the east. Nonetheless, due to its proximity to the viaduct, it is considered that from positions along the viaduct, the development would appear as the most prominent building to the east, particularly as from some positions it would obscure views of the similarly heighted buildings to its rear. However, this would not necessarily render it harmful to its context. It is not unexpected that the buildings on the west side of the viaduct, whether part of the University or not, are taller as they are closer to the centre of Luton. The development's 6 storey height is comparable to other buildings on this east side of the viaduct and it would represent a more gradual decrease in heights moving away from the town centre than the current severe drop. Indeed, it would weaken the visual constriction to the town centre provided by the viaduct.
16. In terms of its design, the plans show that the rear part of the building would be finished in three equal bands of material (ivory render and two types of brick) with the front part wholly in ivory render. The use of render would reflect that of the 6-storey building to the rear and when mixed with brick would represent an acceptable finish.
17. Fenestration would be a series of square windows with the living room and primary bedroom in each flat having a balcony. Though there are sections of

wall which are devoid of windows or balconies, overall the building has sufficient openings such that no elevation would appear bland or featureless. Furthermore, the mixture of opening sizes provided by the windows and balconies adds interest, and differentiates it from some of the other buildings nearby, including those at the university, which contain elevations with many windows all of a uniform shape and regular placement. The balconies, whilst not particularly innovative, are simple features in their own right which do not detract from the appearance of the building.

18. Overall, I find nothing in the buildings design that would represent poor quality and it would represent an improvement on the existing building. It would be an appropriately positive response to its context and in this prominent location would not detract from the character and appearance of the area. It therefore would accord with Luton Local Plan policies LLP1 and LLP25 which both seek to ensure development enhances and improves the character of the area. As the site appears to be outside the town centre, policy LLP3 as referred to in the decision letter, would not appear to be relevant.

#### Planning obligations

19. To address the Council's third reason for refusal, a completed unilateral undertaking has been submitted during the course of the appeal. This aims to provide contributions towards education, open space, libraries, museums, waste collection and a car club scheme.
20. The Council's Planning Obligations Supplementary Planning Document (2007) (SPD) provides the justification for the scale and nature of the majority of the contributions. However as the SPD is 15 years old some of the values currently sought are, understandably, greater than that suggested by the SPD.
21. Notably the figure requested for the education contribution towards the local primary school on Surrey Street is markedly higher than as suggested by the SPD. However, conversely, the figure required for the secondary school at Stockwood Park Academy is less than would be generated using the formula in the SPD. Nonetheless, I consider the values are reasonable, directly related to the development and are necessary. The obligation therefore meets the tests as set out in Regulation 122 of the Community Infrastructure Levy Regulations.
22. The open space contribution is largely in line with the calculation provided in the SPD and in light of the very limited outdoor space that would be provided on site and lack of much public open space nearby, this contribution is also reasonable and necessary.
23. Contributions to libraries, museums and waste are in line with the SPD in terms of their scale and the scale of the development and also meet the tests in Regulation 122.
24. The Council's highway engineering consultee commented that as the development provides no on-site parking for the dwellings, a contribution of £3500 to the Luton Car Club scheme would be required. However, the provision of contributions to car clubs is not referred to in the SPD and I have no other justification before me to explain why a contribution of this scale would be necessary. As a result, this obligation does not meet the tests set out in Regulation 122 and it carries no weight in my consideration of the appeal.

25. Nonetheless the other obligations do all meet the aforementioned tests. The proposal therefore would accord with Luton Local Plan policy LLP39 which seeks to ensure development adequately contribute to the infrastructure needed to support them.

#### Conditions

26. The Council have not suggested any conditions, but several are recommended in responses to the application from consultees. Where necessary, and in the interests of clarity and precision, I have slightly altered the recommended conditions to more closely reflect the advice in the National Planning Policy Framework and the Planning Practice Guidance. I have also added other conditions I consider to be necessary.
27. I have attached the standard conditions relating to the commencement of the development and the approved plans in the interests of certainty. For the same reason, I have added a condition to restrict the use of the ground floor to offices, as proposed.
28. The condition relating to the construction method statement is necessary to protect the residential amenity of nearby residents, while conditions relating to contamination and noise protection are necessary to ensure a satisfactory residential environment is provided for future occupiers of the development.
29. Two conditions, relating to visibility splays and the provision of parking, are necessary in the interests of highway safety, and the condition relating to surface water ensures the satisfactory drainage of the site and the prevention of flooding on the highway.
30. The conditions relating to a landscaping scheme, finishing materials, cycle and bin storage and lighting are necessary in order to protect the character and appearance of the area.
31. Some conditions require details to be submitted before the commencement of development. This is to ensure the effects of the proposal are properly mitigated.

#### Conclusion

32. The development accords with the development plan taken as a whole and there are no other material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given above and having had regard to all other matters raised, the appeal is allowed.

*Andrew Owen*

INSPECTOR

### Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 18-929-P-01 Rev A and 18-929-P-02 Rev D.
- 3) No development shall commence until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved sample details.
- 4) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - i) the construction programme and phasing;
  - ii) delivery, demolition and construction working hours;
  - iii) storage of plant and materials used in constructing the development;
  - iv) the parking of vehicles of site operatives and visitors;
  - v) loading and unloading of plant and materials;
  - vi) details of hoarding;
  - vii) management of traffic to reduce congestion;
  - viii) measures to control the emission of dust and dirt during construction;
  - ix) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - x) details of consultation and complaint management with local businesses and neighbours;
  - xi) mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour;
  - xii) details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 5) No development shall commence until a scheme for the protection of the dwellings hereby permitted from noise arising from road & air traffic sources and from nearby industrial/commercial and community-use units has been submitted to and approved in writing by the local planning authority. The scheme shall be supported and informed by a noise impact assessment carried out in accordance with relevant technical standards. None of the dwellings shall be occupied until such a scheme has been implemented in accordance with the approved details, and the scheme shall be retained as such thereafter.
- 6) No development shall commence until a Phase 2 investigation report, as recommended by the previously submitted Paddock Geo Engineering Preliminary Contamination Risk Assessment dated April 2020 (Ref: P20-

042pra), has been submitted to and approved in writing by the local planning authority. Where (following the Phase 2 investigation report) land affected by contamination is found which poses risks identified as unacceptable in the Phase 2 investigation report, no development shall take place until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option, the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including a validation plan.

- 7) The approved remediation scheme shall be carried out and upon completion a validation report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 8) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority before development recommences. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority before the development is occupied. These approved schemes shall be carried out before the development is occupied.
- 9) No development shall commence until there shall have first been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include details of proposed boundary treatment.
- 10) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 18-929-P-01 Rev A for 10 bicycles to be parked and for the storage of waste bins. Those spaces shall thereafter be kept available for those purposes.
- 11) The development shall not be occupied until space has been laid out within the site in accordance with drawing no. 18-929-P-01 Rev A for two cars to be parked and those spaces shall thereafter be kept available at all times for the parking of vehicles.
- 12) Before the occupation of the development, visibility splays measuring 1.8 metres from the edge of each parking space as shown on drawing no. 18-929-P-01 Rev A, and 1.8 metres back from the nearside edge of the carriageway shall be provided. No shrubs, trees or other vegetation shall be allowed to grow above 0.6 metres in height, and no structure or erection exceeding 0.6 metres in height shall be placed, within the visibility splays.
- 13) The development shall not be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage

systems (or any subsequent version). No surface water shall be allowed to drain onto the public highway.

- 14) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the development is first occupied. Development shall be carried out in accordance with the approved details.
- 15) The ground floor of the building shall be used for offices and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

## SCHEDULE 3

**COMMITTEE:** DEVELOPMENT CONTROL

**DATE:** 25 APRIL 2018

**SUBJECT:** 39-49 MANOR ROAD, LUTON – OUTLINE PLANNING PERMISSION FOR DEMOLITION OF EXISTING BUILDING AND ERECTION OF NEW 3, 4, 5 + 6 STOREY BUILDING, ACCOMMODATING 105 RESIDENTIAL FLATS (USE CLASS C3), COMMERCIAL UNITS (FLEXIBLE MIX OF B1A, B1B AND / OR B1C), ACCESS AND ASSOCIATED UNDERCROFT CAR PARKING.  
(APPLICANT: GARNEST LTD.)  
(APPLICATION NO: 17/00817/OUT)

**REPORT BY:** DEVELOPMENT CONTROL MANAGER

**CONTACT OFFICER:** CAROLINE ELLIS 546317

**IMPLICATIONS:**

LEGAL

COMMUNITY SAFETY

EQUALITIES

ENVIRONMENT

FINANCIAL

CONSULTATIONS

STAFFING

OTHER

**WARDS AFFECTED:** SOUTH

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**PURPOSE**

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

**RECOMMENDATION(S)**

2. It is recommended that planning permission is granted, subject to the satisfactory completion of a planning obligation to secure affordable



housing provision with an overage clause and financial contributions for waste management, education and a car club, and subject to the following conditions:-

(01) In the case of any matter hereinafter reserved for the subsequent approval of the Local Planning Authority, application for this approval shall be made not later than the expiration of two years beginning with the date of this permission and the development hereby permitted shall be begun not later than whichever is the later of the following dates:

(a) The expiration of three years from the date of this permission

or

(b) The expiration of one year from final approval of the matters hereinafter for the subsequent approval of the Local Planning Authority or in the case of approval on different dates, the final approval of the last such matter to be approved.

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

(02) Full details and particulars of all buildings and other works hereby permitted in respect of the landscaping of the site/development shall be submitted to and approved by the Local Planning Authority before any development is commenced.

*Reason: To enable the Local Planning Authority to exercise proper control over the details of development in the case of an outline planning permission granted under Part 2, paragraph 4(1) of the Town and Country Planning (Development Management Procedure) Order, 2010.*

(03) No works or development shall take place until full details of a landscaping scheme to include all hard surfaces, grassed areas, tree and shrub plantings and the proposed times of planting, has been approved in writing by the Local Planning Authority, and 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: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policy LLP1 of the Luton Local Plan.*

- (04) A management plan, including management responsibilities and maintenance schedules, for all external and shared/common areas of the development shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development for its permitted use. The management plan shall be carried out as approved.

*Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policy LLP1 of the Luton Local Plan.*

- (05) Before the development hereby permitted is commenced a scheme detailing security measures across the site shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented in advance of the occupation of the building and shall be retained thereafter.

*Reason: To ensure a satisfactory standard of development and in the interests of security and the prevention of crime. To accord with the objectives of Policies LLP1 and LLP25 of the Luton Local Plan.*

- (06) Notwithstanding the submitted plans, triangular pedestrian safety visibility splay(s) of 1.8 metres x 1.8 metres shall be provided on each side of the vehicle access points to the site. The splay(s) shall be positioned within the site at right angles to the highway (measured at the highway/site boundary). The visibility splay(s) so described shall be installed before the development hereby permitted is occupied and at all times shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the existing ground level.

***Reason: In the interests of highway and pedestrian safety. To accord with the objectives of Policies LLP1 and LLP31 of the Luton Local Plan.***

- (07) The identified parking area shall be laid out and ready for use prior to the occupation of the building hereby permitted.**

***Reason: To ensure that adequate provision is made for vehicles to park clear of the highway in the interest of road safety. To accord with the objectives of Policies LLP1 and LLP32 of the Luton Local Plan.***

- (08) A management scheme for the car parking areas of the development shall be submitted to and approved by the Local Planning Authority and the scheme thereby approved shall be installed before the occupation of the first residential unit and maintained for so long as the development remains in existence.**

***Reason: To ensure a satisfactory standard of development. To accord with Policies LLP1 and LLP25 of the Luton Local Plan.***

- (09) Full details of the materials to be used in the construction of the elevations, roofs, balconies and balustrades of the building shall be submitted to and approved by the Local Planning Authority before the development is commenced. The development shall be carried out using the approved materials unless otherwise agreed in writing by the Local Planning Authority.**

***Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policies LLP1 and LLP25 of the Luton Local Plan.***

- (10) No development shall take place until a written scheme of archaeological investigation; that includes post excavation analysis and publication, has been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall only be implemented in full accordance with the approved archaeological scheme.**

***Reason: To record and advance understanding of the heritage assets with archaeological interest which will be unavoidably***

*affected as a consequence of the development. To accord with Policies LLP1 and LLP30 of the Luton Local Plan.*

- (11) No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority: 1) A site investigation scheme, based on the previously submitted Preliminary risk assessment by RSK (ref 27000-069 R01 (01) dated March 2015) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. 2) The results of the site investigation and detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. 3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

*Reason: To protect the water environment from pollution. To accord with Policies LLP1 and LLP38 of the Luton Local Plan and guidance in the National Planning Policy Framework.*

- (12) No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

***Reason: To protect the water environment from pollution. To accord with Policies LLP1 and LLP38 of the Luton Local Plan and guidance in the National Planning Policy Framework.***

- (13) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

***Reason: To protect the water environment from pollution. To accord with Policies LLP1 and LLP38 of the Luton Local Plan and guidance in the National Planning Policy Framework.***

- (14) No infiltration of surface water drainage into the ground at this site is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

***Reason: To protect the water environment from pollution. To accord with Policies LLP1 and LLP38 of the Luton Local Plan and guidance in the National Planning Policy Framework.***

- (15) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

***Reason: To protect the water environment. To accord with Policies LLP1 and LLP38 of the Luton Local Plan and guidance in the National Planning Policy Framework.***

- (16) No impact piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the

potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

*Reason: To protect the water environment and utilities. To accord with Policies LLP1 and LLP38 of the Luton Local Plan and guidance in the National Planning Policy Framework.*

- (17) Development shall not commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydroecological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details of how the scheme shall be maintained and managed after completion.

*Reason: To prevent increased risk of flooding and surface and ground water pollution and to ensure the long term maintenance of sustainable drainage systems. To accord with the objectives of Policy LLP36 of the Luton Local Plan and guidance in the National Planning Policy Framework.*

- (18) Full details of a scheme for the installation of petrol/oil interceptors to be fitted in all car parking/washing/repair facilities within the development shall be submitted to and approved by the Local Planning Authority prior to the commencement of above ground works.

*Reason: To prevent pollution of groundwater. To accord with the objectives of Policies LLP1 and LLP38 of the Luton Local Plan.*

- (19) Prior to commencement of development details of a scheme of measures to mitigate the impacts of climate change and to deliver sustainable and resource efficient development through energy use reduction and efficiency and renewable and decentralised energy shall be submitted to and approved by the Local Planning Authority. The scheme should achieve the 2013 Building Research Establishment Environmental Assessment Method (BREEAM) 'Good' status. The scheme thereby approved shall be installed before occupation of the development and shall be used, retained and maintained

thereafter for so long as the development remains in existence.

*Reason: In the interests of sustainability. To accord with the objectives of Policies LLP1, LLP25 and LLP37 of the Luton Local Plan.*

- (20) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for: i). the parking of vehicles of site operatives and visitors; ii). loading and unloading of plant and materials; iii). storage of plant and materials used in constructing the development; iv). the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; v). wheel washing facilities; vi). measures to control the emission of asbestos, dust and dirt during construction; vii). a scheme for recycling/disposing of waste resulting from demolition and construction works; viii) highway dilapidation survey of all the footpaths and roads abutting the site.

*Reason: To safeguard the amenities of the surrounding area and in the interests of highway safety. To accord with Policies LLP1 and LLP31 and LLP38 of the Luton Local Plan.*

- (21) Notwithstanding the submitted details, no development shall take place until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority in conjunction with the Highways Agency. The Travel Plan shall include the following: i) The identification of targets for trip reduction and modal shift; ii) The methods to be employed to meet these targets; iii) The mechanisms for monitoring and review; iv) The mechanisms for reporting; v) The penalties to be applied in the event that targets are not met; vi) The mechanisms for mitigation; vii) Implementation of the travel plan to be agreed timescale or timescale and its operation thereafter; viii) Mechanisms to secure variations to the travel plan following monitoring and reviews. The completed development shall be occupied in accordance with the approved travel plan which shall be retained in place thereafter unless otherwise amended in accordance with a review to be agreed in writing by the Local Planning Authority in conjunction with the Highways Agency. Before the

development is brought into use the Travel Plan is to be reviewed by the planning authority in consultation with the Highways Agency to take on board conditions prevailing at the time and adjustments made to accommodate them.

*Reason: In the interests of highway and pedestrian safety and sustainability. To accord with the objectives of Policies LLP1 and LLP31 of the Luton Local Plan and the guidance of National Planning Policy Framework.*

- (22) Full details of the design, appearance and materials of the vehicular and /or pedestrian access gates into the site shall be submitted to and approved by the local planning authority prior to the commencement of development. The details as approved shall be implemented in full and shall be retained for the life of the development unless otherwise agreed in writing beforehand.

*Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policies LLP1 and LLP25 of the Luton Local Plan.*

- (23) Full details of the cycle store shall be submitted to the Local Planning Authority in liaison with the Local Highways Authority. These facilities should be provided in accordance with the approved details and made available for use prior to the first occupation of the development hereby permitted and shall be retained for use at all times thereafter.

*Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car. To accord with Policies LLP1 and LLP32 of the Luton Local Plan.*

- (24) The development hereby approved shall not be commenced until full details of a scheme for full building mechanical ventilation has been submitted to and approved in writing by the Local Planning Authority in consultation with the Council's Environmental Protection team. The scheme hereby approved shall be implemented in full prior to the occupation of the development and maintained for as long as the development remains in existence.



***Reason: To ensure a satisfactory living environment is achieved for future occupiers. To accord with the objectives of Policies LLP1 and LLP25 of the Luton Local Plan.***

- (25) The development hereby permitted shall not be carried out other than in complete accordance with the approved plans and specifications as set out on plan numbers (PL01 Rev. A, PL01 Rev. A, PL03 Rev. E, PL05 Rev. H, PL06 Rev. H, PL07 Rev. G, PL08 Rev. G, PL09 Rev G, PL10 Rev. G, PL04 Rev. D, LP01 Flood Risk and Drainage Assessment, LP02 Surface water drainage pro-forma, LP03 Planning Report, LP04 Screening Level Air Quality Assessment, LP05 Transport Statement, LP06 Noise Assessment, LP08 Archaeological Desk Based Assessment, LP09 Design and Access Statement, LP10 Preliminary Risk Assessment.

***Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policies LLP1, LLP15, LLP14, LLP25, LLP31, LLP32, LLP36, LLP37, LLP38 and LLP39 of the Luton Local Plan.***

## **REPORT**

### **The Site and Surroundings**

3. The application site is a relatively square area of land measuring approximately 0.25 hectares and located on the Manor Road Industrial Estate. It is bounded on three of its sides by public highways, namely Bolton Road (north-east), Manor Road (south-east) and Gloucester Road (south-west), with an industrial building adjoining its north-west boundary. A large flat roof industrial building currently stands on the site, which has been vacant for some time but the outside areas appear in use for ad-hoc car parking.
4. On the opposite side of Gloucester Road to the south-west is a residential development known as Gloucester House, but the other buildings surrounding the site to the north are used for a range of purposes that mostly fall within the 'B' Use Classes. On the opposite side of Manor Road to the south-east is Manor Park, a public area of open space that is bounded by a mature tree line.

### **Relevant Planning History**

5. Planning permission was granted in July 2015 for residential development with office provision on the ground floor under application ref no: 15/00483/FUL. A S106 agreement formed part of the planning permission and secured full contributions for education improvements in line with the request made by the Council's Children and Learning Service, and full contributions towards waste management improvements. Affordable housing was to be secured by condition.
6. In June 2016 an application to discharge condition 20 of the approved 2015 scheme was submitted. Condition 20 explicitly relates to the details of an affordable housing scheme including types, tenure etc., however, the supporting evidence to discharge the condition contained a viability assessment demonstrating that the scheme could not viably support the provision of affordable housing. The LPA considered that the submitted details failed to satisfy the clear requirements of the condition and it would be inappropriate to discharge it on this basis, subsequently the application was refused. During the determination period the applicant was advised that an application in accordance with s.73 of the Town and Country Planning Act (1990) to remove the condition should be submitted. Such an application was submitted (17/00338/REMCON) and was considered by Members at Development Control Committee on 23<sup>rd</sup> May 2017 and consent has been granted for removal of the affordable housing condition due to the financial constraints of the development.
7. Other planning history relates to five pre-application enquiries spanning from 2011-2015. Three enquiries sought advice relating to assembly and leisure uses whilst the latter two enquiries were in regard to mixed use development of the site.
8. All other planning history on the site relates to the industrial operations at the site.

### The Proposal

9. The proposal is an outline application for 771sq.m of commercial space on the ground floor and 105 residential units (7 studio flats, 55 No. 1 bedroom flats and 43 No. 2 bedroom flats) on the upper floors. At this stage approval is sought for access, appearance, layout and scale with landscaping a reserved matter for future approval.

### Planning Policy

#### National Planning Policy Framework (NPPF)

10. The National Planning Policy Framework (NPPF) was published in March 2012. It sets out to rationalise national policy guidance and provides

guidance as to how the government's planning policies are expected to be applied. The core principle of the Framework is a "presumption in favour of sustainable development". However, this does not change the 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 is a material consideration in planning decisions.

11. At paragraphs 186 and 187 of the Framework, it advises that Local Planning Authorities should approach decision taking in a positive way to foster the delivery of sustainable development and they should look for solutions rather than problems and decision-takers at every level should seek to approve applications for sustainable development where possible. In this case, email correspondence was issued seeking amendments to the layout of the scheme and extensive email and phone dialogue has taken place with the agent regarding the viability issues.

#### National Planning Practice Guidance

12. This guidance was published in March 2014 in support of the NPPF policy.  
  
Luton Local Plan 2011-2031
13. The site is identified on the Policies Map of the Luton Local Plan as a Key Employment Area (Category B) and the policies relevant to the proposal are LLP1, LLP13, LLP14, LLP15, LLP16, LLP25, LLP31, LLP32, LLP36, LLP37, LLP38 and LLP39.
14. Policy LLP1 sets out a presumption in favour of sustainable development and states that development must accord with the policies contained within the local plan.
15. Policy LLP13 supports development that will deliver sustainable economic growth. Part D states that category B sites may be redeveloped for employment, mixed use or other needs, subject to satisfying the criteria set out in Policy LLP14.
16. Policy LLP14 supports mixed use development where a Category B employment site has been vacant for at least 12 months subject to set criteria being met, which is discussed in subsequent sections of the report.
17. Policy LLP15 relates to housing provision and supports residential development on non-allocated housing sites provided that it would not lead to a loss of which there is a recognised local need. Development should achieve a mix of housing sizes, types and tenures.

18. Policy LLP16 seeks the provision of 20% affordable housing units on developments that deliver a net gain of at least 11 dwellings.
19. Policy LLP25 seeks high quality design that responds appropriately to the context of the surrounding area. New residential development must accord with the amenity space requirements of Appendix 6.
20. Policy LLP31 sets out a Sustainable Transport Strategy and seeks that new development meets certain criteria in order to promote sustainable travel.
21. Policy LLP32 seeks appropriate levels of vehicle and cycle parking that would accord with the standards set out in Appendix 2.
22. Policy LLP36 sets out the requirements in relation to flood risk.
23. Policy LLP37 seeks to ensure that development contributes towards mitigation and adaptation to climate change.
24. Policy LLP38 relates to pollution and contaminated land.
25. Policy LLP39 seeks the provision of contributions towards infrastructure and services to support new development on schemes that exceed 10 units. This policy must be read in conjunction with the Supplementary Planning Document on Planning Obligations which assess what planning obligations should be sought from development. It is unlawful for a planning obligation to be taken into account when determining a planning application for 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 reasonable 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.

### Equality Implications

26. No disproportionate effect on people with protected characteristics has been identified.

### Consultation Responses

27. Highway Development Manager: Objects on the grounds that refuse vehicles would not be able to access the site and the bin storage and collection areas are too far from the street. The contributions and conditions for the car club on Manor Road remain the same as per the previous S106 agreement.

Comments on amended plans – The revised proposal with the revised location of the bin collection point is considered acceptable. Informatives are requested to be added.

28. LBC Strategic Planning: The site is allocated as a Category B key employment area and therefore policies LLP13(C) and LLP14B apply. Policy LLP15 expects development to provide a mix of unit sizes. Current data sourced from the Strategic Housing Market Assessment 2015 shows an oversupply of 1 bedroom units.
29. LBC Housing Policy: Preference would be on site provision but appreciate the viability issues so welcome the commuted sum payment.
30. LBC Education: The proposal would be subject to a contribution to improvements at Whipperley and Farley Infant and Junior Schools and Stockwood Park Academy.
31. LBC Museums: No response received. Any comments made will be reported at the meeting.
32. LBC Libraries: No response received. Any comments made will be reported at the meeting.
33. LBC Lead Local Flood Authority: Satisfied with the submitted details subject to a standard drainage condition and a recommendation to include green and blue roofs in the detail design proposal.
34. LBC Waste Management: A contribution of £3,723 is sought to provide the necessary waste and recycling bins.
35. LBC Environmental Protection: Desktop study has been reviewed and the conclusion and recommendations therein are agreed. The Noise Assessment concludes that mechanical ventilation is required and a condition should be imposed.

36. LLA Safeguarding: No safeguarding objection to the proposal.
37. LBC Parks: No response received. Any comments made will be reported at the meeting.
38. Street Services: No comments received. Any comments made will be reported at the meeting.
39. Archaeology: Disagree with the conclusion of the desk based archaeological assessment (RSK, 2017) so has requested a condition requirement the submission of a written scheme of archaeological investigation should permission be granted.
40. Police Architectural Liaison Officer: No response received. Any comments made will be reported at the meeting.
41. Environment Agency: Conditions must be imposed if permission is granted.
42. Affinity Water: Informatives to be added.
43. Thames Water: Conditions to be imposed if permission is granted. Informatives to also be added.
44. Street Numbering: No response received.
45. Bedfordshire Fire and Rescue Service: Proposal must meet building regulation requirements. Informatives to be added.
46. Statutory Publicity: The application has been notified to 53 adjoining occupiers with site notices being displayed in the surrounding area. A press notice has also been issued. No representations have been received to date.

#### **MAIN PLANNING CONSIDERATIONS**

47. The 2017 application consists of the following changes to the application that was approved in 2015:
  - An increase in the number of residential units from 94 to 105;
  - Removal of all 3 bedroom flats;
  - An increase in the number of 1 bedroom units (from 43 to 62);
  - An increase in the number of 2 bedroom units (from 38 to 43).
48. The principle of developing the site for mixed commercial and residential use was established by virtue of the 2015 approval. There has been a change in planning policy following adoption of the Luton Local Plan 2011-2031 in November 2017. It is necessary to consider whether the policy

change has any implications on the principle of development. Other material planning considerations relate to the suitability of the revised residential mix and ensuring the revised internal layout of the residential accommodation provides a suitable living environment for future occupiers. The increase in the number of units needs to be assessed against the parking requirements. Additionally, the proposal must be assessed in terms of affordable housing provision and infrastructure improvements made necessary by the development.

### Principle of Development

49. The 2015 application was assessed against the requirements of Policy EM1 of the former Luton Local Plan 2001-2011, within which it was identified as a Key Employment Area on the Proposals Map. That application was reported to the 27<sup>th</sup> July 2015 meeting of the Committee and in paragraph 44 of the report to that meeting, the vacant nature and poor condition of the existing building was discussed. As part of the assessment due regard was given to the Employment Land Review (2008), whereby the site was identified as a 'green' site, which should thereby be retained to meet future employment needs. A more up-to date Employment Land Review (ELR) was carried out in 2013, which reiterates the points raised in the 2008 report but the site was downgraded to an 'amber' site. Strategic Planning raised concern that the scheme would dilute the strength of other sites in the estate. However, as set out in the Case Officer's report for the 2015 application, it was considered that the proposal would not have a negative impact on the function of the wider employment area. Reference is made to other sites in the employment area that have been converted to non-employment uses, including Gloucester House, which is all residential. Overall it was considered that the proposed development represented a quantitative loss of employment floorspace but represented a qualitative improvement in that it would provide a more realistic prospect of 20 new B1 jobs for which there is a recognised local need (as indicated in the ELR 2013).
  
50. In terms of current local policy, Policy LLP14(B) relates to Category B Employment Sites and indicates that where a building or site has been vacant for at least 12 months, a mixed use development which retains significant employment or alternative redevelopment to non B uses to meet identified needs will be permitted where: (i) it can be demonstrated that 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 is vacant there is evidence of active marketing for a reasonable period. An update of the Employment Land Review was undertaken in 2015 and the site retains its categorisation as an 'amber' site, as per the 2013 Employment Land Review. Amber sites are designated as *'sites of good or average quality, with some constraints*

*and /or opportunities for improvement, many with a continued role for meeting employment needs'. When the 2015 application was determined it was highlighted that the site had been vacant for 5 years and the site has remained vacant since then and the building remains unfit for purpose. It is considered that the redevelopment of the site to a mixed use scheme would generally accord with the principles of Policy LLP14(B), and the principle of developing the site remains suitable.*

51. With regards to providing housing on the site, this must be assessed against Policy LLP15(B), which supports residential development on sites not allocated for housing provided that it would not lead to a loss of other uses for which there is a recognised local need. It supports higher density residential schemes within Luton Town Centre but seeks to ensure that an appropriate mix of units is provided as informed by the latest housing market assessments. As previously highlighted the site has been vacant in the region of 8 years and a mixed use scheme is deemed appropriate. The housing needs within the Borough are acute and the proposal is considered to represent an efficient use of a vacant site that would appropriately contribute to meeting housing and employment needs in the Borough.
52. The change to the mix of units would result in an increase in the number of studio and 1 bedroom units, and an increase in the number of 2 bedroom units with removal of all 3 bedroom flats. The change to the mix of accommodation is set out in the table below.

	Extant consent (15/00483/FUL) (number/% of total)	Revised scheme (17/00817/OUT) (number/% of total)
1 bed (including studios)	43 (46%)	62 (59%)
2 bed	38 (40%)	43 (41%)
3 bed	13 (14%)	0
<b>Total</b>	<b>94</b>	<b>105</b>

The revisions to the mix of units was discussed at a meeting with the applicant's agents in October 2016, at which time it was considered that the mix was satisfactory. These discussions have formed the basis for the submission.

53. The Strategic Housing Market Assessment 2015 has estimated a need for family accommodation, particularly 3 bedroom dwelling houses. The loss of the larger flats is not ideal but it is of note that the SHMA does not identify the need for 3 bedroom flats. Generally it is considered that the proposed mix of units would be appropriate given the context of the site.



## Infrastructure Improvements

54. The proposal will be subject to financial contributions towards the infrastructure and services required to support the development as set out in Policy LLP39 and the Supplementary Planning Document on Planning Obligations. Consultation responses have been received from Highways, Waste Management and Education, requesting the following contributions:
- Education – £180,462 towards the provision of technology classrooms at Whipperley and Farley Infant and Junior Schools, and £67,981 towards the provision of technology classrooms at Stockwood Park Academy.
  - Waste Management - £3,723 towards necessary bin provision;
  - Highways - £18,500 towards a car club.
55. There is an increasing shortage of school places across the Borough and the Council has a statutory duty to provide its residents with school places. In accordance with the formula used by the Council's Children and Learning sector, the proposed development would generate a predicted pupil yield of 17 children of school age. This predicted number of pupils would contribute to the already high pressure levels on the education sectors, with numerous schools undergoing expansion to meet the increasing demand. In accordance with Policy LLP39 additional education places would be made necessary by the development and there is a recognised need. LBC Education have indicated that the catchment primary school would be Surrey Street Primary School but this is full in each year group with waiting lists. The contribution would be used for technology classrooms at Whipperley and Farley Infant and Junior Schools. The contribution towards secondary education would be put towards technology classrooms at Stockwood Park Academy, which is the catchment school.
56. Waste Management have sought a contribution in order to provide each unit with the appropriate refuse containers. The contributions and conditions for the car club on Manor Road remain the same as per the previous S106 agreement for the extant 2015 permission.
57. The applicant has agreed in writing that they are committed to providing these contributions in full and discussions have commenced with the legal team to ensure the appropriate mechanisms are implemented.

## Affordable Housing and Scheme Viability

58. In accordance with Policy LLP16 all developments that would generate a net gain of at least 11 dwellings will be required to provide 20% affordable housing. The application was supported by a Viability Assessment, which

advised that the scheme was not deliverable with any affordable housing, either on site, off site or a commuted sum payment.

59. Following lengthy discussions, the applicant agreed for the Viability Assessment to be independently assessed by an external assessor. In September 2017 the Viability Appraisal was completed and advised that the local planning authority should seek a commuted sum payment for affordable housing, which would equate to 10% of provision and is achievable due to the increased sales revenue. The independent assessment highlighted that the scheme was unviable but this was based upon assumptions of current marketing data and costs associated with infrastructure. Continual efforts were made seeking justification for the above average build costs and the below average sales costs, but this information was not forthcoming. It was therefore deemed reasonable to pursue a commuted sum payment, as advised by the external assessor.
60. The applicant has contested this position since September 2017, stating that there are no policy grounds to seek the commuted sum payment when a scheme has been demonstrated to be unviable. Paragraph 173 of the NPPF requires LPAs to be suitably flexible, where viability affects development being delivered, however this should be finely balanced against the need to facilitate sustainable development. Part D of Policy LLP16 states that *if the required level of affordable housing would render the proposal economically unviable, developers will be expected to produce a financial assessment that clearly demonstrates the maximum number of affordable dwellings that can be achieved on-site, off-site or as a commuted sum payment. The Council will then review the details accordingly and reduce the requirements for affordable housing proportionately.* Whilst the applicant's Viability Assessment demonstrated that the scheme was unviable, the assumptions relating to sales revenue and build costs that formed the basis of the original assessment have not been justified. Paragraph 2.15 of the SPD on Planning Obligations states that the independent assessor should have full and unlimited access to the anticipated financing of the project. However, to date the justification has not been forthcoming therefore the LPA have maintained their position on this matter.
61. In March 2018 the agent advised that the assumptions had already been agreed with the Council's Fixed Assets Team who reviewed the original Viability Assessment that was submitted in conjunction with the S.73 application (17/00338/REMCON). The LPA acknowledges that the previous sales values and build costs were agreed by the Council's Fixed Assets Team but the external assessor reviewing the most recent Viability Assessment considered that the position was not suitably justified. Notwithstanding the continued disagreement regarding the viability position, the applicant has agreed in the interest of expediency to accept

the commuted sum payment in full (£215,250), along with an overage clause. The agent has advised that the applicant is accepting this position, despite the profit margin falling to the region of 11.7%, which is below the industry standard of 20% but also below the variation of 15-20% as set out in the external assessors report.

62. Paragraph 204 of the National Planning Policy Framework (NPPF) specifies that where obligations are being sought, planning authorities should take account of changing market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled. Despite the viability position of the development the applicant has made a substantial offer. Given the offer being put before Members, it is considered appropriate in this instance that suitable flexibility be shown in accordance with the advice of the NPPF set out above.

#### Access

63. Access to the site for vehicles would remain from Gloucester Road where the access would lead to an undercroft parking area for 44 vehicles and cycle storage facilities. Central bin store areas would be provided within the undercroft and a bin collection point would be sited close to the access from Gloucester Road. As originally submitted the bin collection point was set away from the Gloucester Road access and concern was raised by Highways but the repositioning of the bin storage area has suitably addressed the matter.
64. Pedestrian access would be provided directly into the commercial units at ground floor level from Gloucester Road, Manor Road and Bolton Road. Access into the residential element of the scheme would be via two separate entrance points, one on Gloucester Road and the other on Bolton Road.
65. The proposed access arrangements are as per the 2015 extant scheme and no issues are raised.

#### Appearance

66. In terms of the overall finish to the building, this is consistent with the 2015 approved scheme and thereby no issues are raised. There has been no significant change in the surrounding area that would render the approved design unsuitable or detrimental to the street scene. Overall it is considered that the proposal would accord with the principles set out in Policy LLP25 of the Luton Local Plan.

#### Layout

67. Externally there has been no alteration to the arrangement of the building and therefore no issues are raised.
68. Internally the layout has been altered to accommodate the altered mix of units and the increase in the number of units on the site. The living environment has not been compromised and appropriately sized accommodation, that is generally consistent in size and in terms of outlook and lighting levels as the extant scheme, is proposed. The size of the units will be as set out in the table below.

<b>Type of unit</b>	<b>Size range (sq.m)</b>
Studio flat	34-37
1 bed 2 person flat	44-59
2 bed 3 person	56-63
2 bed 4 person	64-74

69. The layout retains the provision of balconies or Juliet style balconies for the large proportion of the flats. Additionally, the internal courtyard on the first floor and the terraces, accessible from the third, fourth and fifth floors is retained. The level of outside amenity space would satisfy the requirements set out in Appendix 6 of the local plan.
70. An undercroft parking area would be laid out with provision for 44 parking spaces, which is marginally below the provision of 47 for the 2015 extant scheme. Highways have not raised any concern regarding this. As set out in the 2015 case officer's report, the site is in a sustainable location with respect to the town centre. The provision of cycle storage facilities and the contribution to the expansion of a car club scheme are considered suitable in the interests of sustainability. No concerns have been raised and it is deemed appropriate to impose the conditions put forward for the 2015 extant scheme, including the requirement for a Residents Travel Plan.
71. Overall the changes to the layout are considered acceptable and accord with the relevant policies from the Local Plan.

### Scale

72. The scale of the building is as per the extant scheme. The building ranges from 3-4 storeys along the front elevation facing Manor Road. The Gloucester Road and Bolton Road elevations are stepped ranging in height from 4 to 6 storeys, the northern section of the building is all 6 storeys. During the determination of the 2015 application it was considered that the proposal would follow an emerging pattern of development and as such its scale is considered appropriate. There has been no change in the locality that would render the approved scale unsuitable in the context of the

surrounding area or in terms of impact on adjoining occupiers. Overall it is considered that the proposal would accord with the principles set out in Policy LLP25 of the Luton Local Plan.

#### Reserved Matters (Landscaping)

73. The layout plan illustrates that a landscaped courtyard will be provided on the first floor with access for all residents. Large terraces will also be provided on the third, fourth and fifth floors but no details have been provided regarding the intended landscaping. As the landscaping is indicative only a suitable condition will be imposed regarding this aspect.

#### **CONCLUSIONS**

74. The principle of the developing the site for mixed use was established by virtue of the extant 2015 permission. The introduction of residential development is finely balanced against the need for retaining employment use on the site. Redevelopment of the site provides an opportunity for notable improvements to the area and represents an efficient use of brownfield land. The alteration to the mix of units is considered acceptable.
75. The main concern is the viability issues that have hampered the ability to provide on-site affordable housing, nonetheless the applicant has made a commitment to provide a commuted sum payment, along with all of the requested financial contributions. In the circumstances and on the basis of the foregoing report, it is considered that planning permission be granted on the basis of the commuted sum payment offer that has been made by the applicant.

#### **LIST OF BACKGROUND PAPERS**

##### **LOCAL GOVERNMENT ACT 1972, SECTION 100D**

76. Luton Local Plan 2001–2011
77. Luton Local Plan 2011-2031
78. National Planning Policy Framework
79. Nation Planning Practice Guidance
80. Supplementary Planning Document: Planning Obligations
81. Case Officers Report for 15/00483/FUL – 22<sup>nd</sup> July 2015 DCC agenda

82. Luton Employment Land Review-2015 Employment site assessments (October 2015) Nathaniel Litchfield and Partners

### **DETERMINATION OF PLANNING APPLICATIONS**

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**

The determination of the applications which are the subject of these reports 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

The evaluation section of each 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 recommendations in the reports are 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**

In reaching the recommendations set out in each 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.