

Committee:	Development Control			
Date of Meeting:	26 August 2020			
Subject:	20/00386/FUL: Conversion and change of use of Hat Factory and temporary homeless accommodation and erection of side and roof extensions to main building and erection of a three storey building adjacent to Old Bedford Road to provide 31 flats (21 two-bedroom and 10 one-bedroom) with associated access and landscaping, following demolition of existing extension and buildings within the site.			
Report Author:	Head of Development Management			
Contact Officer:	Graham Dore			
Implications:	Legal	<input checked="" type="checkbox"/>	Community Safety	<input checked="" type="checkbox"/>
	Equalities	<input checked="" type="checkbox"/>	Environment	<input checked="" type="checkbox"/>
	Financial	<input type="checkbox"/>	Consultations	<input checked="" type="checkbox"/>
	Staffing	<input type="checkbox"/>	Other	<input checked="" type="checkbox"/>
Wards Affected:	High Town			

## Purpose

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

## Recommendations

2. It is recommended to the Committee:
  - (i) That the reasons for approval set out in this report are agreed;
  - (ii) That planning permission is granted, subject to the conditions set out below;
  - (iii) That planning permission is granted, subject to the satisfactory completion of the necessary mechanisms to: secure delivery of planning obligations in relation to financial contributions towards Primary Education, subject to an overage clause(s), with any additional contributions to be directed towards Affordable Housing; a mechanism to secure the delivery of local goods, services and labour; and a monitoring fee;
  - (iv) That delegated authority is granted to the Head of Development Management to make minor alterations to the conditions following any Committee resolution to grant permission (should any be required);
  - (v) That following any grant of permission that delegated authority is granted to the Head of Development Management to determine any subsequent

planning applications related to this development seeking either minor material amendments (Section 73 applications) or minor variations to the accompanying legal agreement (Section 106A applications):

**Conditions ('Appendix 1')**

- (01) Period of Consent;***
- (02) Approved Plans and Documents;***
- (03) CMS;***
- (04) Removal of Permitted Development Rights (Telecoms);***
- (05) External Materials;***
- (06) Window Openings;***
- (07) Renewable Energy and Climate Change;***
- (08) Landscaping and Management;***
- (09) Management Plan;***
- (10) Boundary Treatment;***
- (11) Refuse Management Strategy;***
- (12) Cycle and Delivery Management Strategy***
- (13) Site Security Plan;***
- (14) External Lighting;***
- (15) Car Park Management Strategy;***
- (16) Sustainable Drainage Strategy;***
- (17) Drainage Verification;***
- (18) No Infiltration;***
- (19) Piling, Foundations, Ground Works, etc.;***
- (20) Contamination: Site Investigation and Remediation;***
- (21) Contamination: Verification;***
- (22) Contamination: Unidentified Contamination; and***
- (23) Noise Mitigation Measures.***

**Background**

*The Site*

3. The application site predominantly comprises a three-storey hat factory situated on the eastern side of Old Bedford Road, nestled between Clarendon Road to the north and Reginald Street to the south. The built form within the site is setback from Old Bedford Road and bounds the rear of properties within Clarendon Road along the northern boundary of the site. A two storey office building, presently accommodating the charity 'Signposts', resides on the southern side of the site adjacent to properties within Reginald Street.

Fig. 1: Site Location Plan



### *Site History*

4. Relevant application history is limited, with applications principally related to the extension of the existing building. To that, it is noted that the original building was built in the years preceding WWI and was then extended to the east in 1984. It is unclear when the secondary two storey office building accommodating 'Signposts' was first built, however, this building was extended in 1990. In 2018, pre-application advice was sought of the Local Planning Authority (LPA) for an earlier iteration of the scheme now brought before Members.
5. Olney Headware Ltd. are a family hat-making business and have occupied the site for the lifetime of the existing building. In recent years, they have struggled to compete with undercutting companies from areas such as China and are now limited to a more-artisanal operation; for instance, providing the hats for the TV programme 'Peaky Blinders'. The existing building is considerably underutilised and the company can no longer substantiate its retention. Dated and built for a specific purpose, the recycling of the existing building for another commercial outfit is unachievable. An alternative use for the site has, therefore, been sought.

### *The Proposal*

6. The application seeks full planning permission for the creation of 31 flats, of which 21 would be two-bedroom (68%) and 10 one-bedroom (32%). This is to be achieved through three ways:
  - Demolition of the 1980s extension and its replacement with a new four storey residential extension (11 flats);
  - Conversion of the existing building and the erection of an additional storey (15 flats); and
  - The erection of a stepped three storey block directly addressing the entrance to the site on Old Bedford Road (five flats).
7. The secondary two storey office building would be demolished and a full landscaping scheme would be implemented for the site along with the provision of 20 on-site car parking spaces and 15 cycle spaces.

Fig. 2: Proposed Site Plan



## Policy Implications

### *National Planning Policy Framework (NPPF, or the Framework)*

8. The revised National Planning Policy Framework (NPPF, or the Framework) was published in June 2019 and replaces the previous NPPF (2012). It provides guidance as to how the government's planning policies are expected to be applied. The core principle of the revised Framework is a "presumption in favour of sustainable development". However, this does not change the statutory status of the development plan as the starting point for decision making. Planning law requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions.
9. Paragraph 38 of the Framework advises that local planning authorities should approach decision making in a positive and creative way and should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible. Discussions have taken place with the applicant following the requirement for the application to be determined by the Development Management Committee.

### *Planning Policy Guidance (PPG)*

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

### *Luton Local Plan 2011-2031*

11. The application site does not benefit from any specific allocation within the Luton Local Plan 2011-2031, however, constitutes an 'unidentified employment site'. Relevant policies are, therefore, as follows:
  - *Policy LLP1 (Presumption in Favour of Sustainable Development)*: sets out a sustainable development strategy for the Borough;

- *Policy LLP2 (Spatial Development Strategy)*: sets out the spatial development strategy;
- *Policy LLP13 (Economic Strategy)*: establishes the economic strategy for Luton;
- *Policy LLP14 (Employment Areas and Unidentified Employment Sites)*: in the context of the development, relates to development effecting unidentified employment sites;
- *Policy LLP15 (Housing Provision)*: as regards the development, relates to the provision of housing within the Borough;
- *Policy LLP16 (Affordable Housing)*: considers the provision of affordable housing within the Borough;
- *Policy LLP25 (High Quality Design)*: seeks to have development enhance the character of an area, respond positively to the local context, minimise adverse amenity implications, optimise a site, achieve adopted standards and create attractive and safe spaces;
- *Policy LLP31 (Sustainable Transport Strategy)*: sets out the sustainable transport strategy and stipulates that development will be permitted where it minimises the need to travel, reduces congestion and provides sustainable transport choices;
- *Policy LLP32 (Parking)*: considers the parking requirements of development, stipulating expected provisions and highlighting the sustainability of Town Centre-proximate locations;
- *Policy LLP36 (Flooding)*: reflects upon flooding issues within the Borough;
- *Policy LLP37 (Climate Change, Carbon and Waste Reduction and Sustainable Energy)*: considers the climate change implications of development;
- *Policy LLP38 (Contamination and Pollution)*: 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 (Infrastructure and Developer Contributions)*: is concerned with the level of financial contributions provided by developments and 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 a development that is capable of being charged Community Infrastructure Levy (CIL) if the obligation does not meet the following tests:
  - Necessary to make the development acceptable in planning terms;
  - Directly related to the development; and
  - Fairly and reasonably related in scale and kind to the development;

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

which there is a clear policy basis either in the form of development plan policy or supplementary planning guidance.

## **Consultation Responses**

### *Technical Consultation*

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

### *Statutory Public Consultation*

13. The application was notified to 40 properties, a site notice posted and a press notice issued. To date, two representations have been received. The issues raised are captured at 'Appendix 3' of this report.

## **Assessment**

### *Provision of Housing*

14. The development would provide for 31 flats and 21 (68%) of these would be two-bedroom, which meets an identified need within the Borough. Whilst 10 of the properties would be one-bedroom flats, for which there has been an over-provision, it is considered that the significant majority of policy compliant two-bedroom flats, provided for within a predominantly converted building, noted for the buildability challenges that this presents, outweighs the general concern regarding the delivery of one-bedroom flats.
15. On this basis, it is, therefore, considered that the provision of housing that is proposed is acceptable in terms of meeting the identified needs of the Borough as is required by Policy LLP15.

### *Loss of Existing Employment Space*

16. Policy LLP15 does also, however, require that, where a site is not allocated for residential development, housing does not take the land of a use for which there is an identified need. In this regard, Policy LLP14 requires proposals to demonstrate that the use of the site for its current use would be unviable/inappropriate.
17. Given the availability of office space within more sustainable locations, such as Luton Town Centre, it is considered that the need for additional housing outweighs the loss of the existing two storey office building accommodating 'Signposts'. Most-crucially, it is noted that no objection to the planning application has been received from the charity.
18. The manufacturing use that prevails at the site is emblematic of Luton's industrial heritage. The site is a commercial complex with residential properties almost entirely comprising the surrounding area. The legibility of the area is considered to be fairly clear: the houses grew up around the source of local employment in the late-1800s/early-1900s. In the time since, the pattern of development has changed and the area is both predominantly and increasingly residential, with other pockets of employment space within the locality slowly being given over for residential development.

19. The prevailing use of the site is not known to be a significant source of noise and disturbance, however, it is noted that the site is presently significantly underutilised, with several of the floors disused and much of the other internal space best-described as storage. Employment levels are similarly low for a site and building of this scale, though it is considered that full utilisation of the site, which does not yield significant employment from the surrounding residential properties as it previously would have done, would result in a significant source of disruption to residential amenity. This is, however, unlikely. Retrofitting this early-20<sup>th</sup> Century building for another manufacturing purpose would be an expensive undertaking, whilst demolition and redevelopment for industrial purposes is highly unlikely to justify the cost-to-yield that would be necessary.
20. In this context, it is considered that there are far-more appropriate, allocated areas within the Borough for manufacturing uses to better operate and, on that basis, the loss of the existing use of the site to residential purposes is considered to be acceptable.

#### *Climate Change*

21. Policies LLP1, LLP25 and LLP37 all recognise the significance of climate change and the desperate need to ensure that new development delivers upon its obligation to protect the environment for future generations. This principle is fundamental to the core thread of sustainability that runs through Sections 2, 12 and 14 of the NPPF.
22. The submission talks broadly around the need for development to be sustainable, however, further details have not been submitted in support of the current planning application. The Council has declared a climate change emergency and Officers are acutely aware of the need to ensure that this issue is tackled at every opportunity. It is, therefore, necessary for the attachment of a suitably worded condition, which is suggested to Members should the recommendation be agreed.

#### *Regeneration*

23. The land-availability challenges facing Luton are most-obvious in areas where regeneration is paramount. One such area is the 'Paths' estate and surrounding roads, such as Clarendon Road and Reginald Street, where there are well-known issues of anti-social behaviour that prevail on a frequent basis. From the perspective of the planning system, the starting point for providing betterment and remedying these societal challenges relates to improving the built environment. Whilst the proposal would not, for instance, provide a greater degree of natural surveillance across Fredrick Street Passage or Mussons Path, a development can only influence within its immediate setting and the scheme would enhance the quality of the built environment and bring additional activity to this sustainable location north of Luton Town Centre within the out-reaches of the High Town area. It is, therefore, considered that the proposal would result in important regenerative benefit that is vital to capture where the opportunity rarely occurs.

#### *High Quality Design*

24. In seeking to secure the above-mentioned benefits, Officers have worked with the Applicant at both pre-application stage and through the lifetime of the application to ensure that the proposal before Members comprises an appropriate form of development that is consistent with the standards required by Policy LLP25 of the Luton Local Plan 2011-2031.
25. Consequently, the scheme has been amended to ensure that the industrial character of the original building is best-preserved and that the built additions follow through on its

detailed design. Careful attention has been paid to the pattern of fenestration, retention of attractive features, such as the doors, and the proportions of the existing building to ensure that the industrial heritage of the site is brought forward in the resultant design. It is now considered that the final iteration of development comprises a sympathetic form of development.

26. With regard to the greater height brought about by the provision of an additional storey to the existing building, it is noted that storey sits only slightly higher than the tallest parts of the building. The site also descends to the east and, therefore, no wider implications are anticipated. The demolition of the existing two storey extension and its replacement with a contemporary addition comprises an opportunity to separate from the restrictions associated with the conversion of an existing building to provide a 21<sup>st</sup> Century living environment for future occupiers. The predominant use of facing-brick throughout is highly sympathetic, while the moderate use of diversifying materials and expansive use of glazing, together with variance in height, assist in reducing bulk and massing from and providing interest to the elevations.

Fig. 3: Proposed Elevations (Developed Building)



27. With regard to the front block fronting Old Bedford Road, it is was considered most-appropriate to not imitate the prevailing terraced properties and instead respect the character of the site as already being a departure from the general pattern of development within the locality. The existing gap in the streetscape is already divergent from the general appearance of this section of Old Bedford Road and the proposal would be similarly different. Respecting the building line and incorporating decorative features seen within the larger building to the rear, it is considered that the proposal comprises an attractive and sympathetically divergent form of development that would complement the street scene.



Fig. 4: Proposed Elevations (Front Block on Old Bedford Road)



28. For those reasons provided above, the design and wider visual implications are considered to be acceptable and would not result in the over-intensive development of the application site.

*Living Environment for Future Occupiers*

29. Significant weight is attributed to the quality of the living environment that is to be provided to future occupiers of any development and this requirement is brought forward through the relevant criteria of Policies LLP1, LLP15 and LLP25 of the Luton Local Plan 2011-2031, together with Sections 2 and 12 of the NPPF.
30. As a fundamental starting point, all 31 flats proposed achieve an internal floor area consistent with the nationally described space standards (NDSS – MHCLG, March 2015).
31. The provision of private amenity space throughout the scheme comprises an exercise in balancing competing considerations, such as street scene implications, impacts upon adjoining occupiers and the challenges associated with the conversion of an existing building. With the front block, the frontward flats are not served by balconies as this would constitute a significant aberration from the appearance of Old Bedford Road, whilst balconies in this location would result in overlooking implications for adjoining properties either side. They are, however, all provisioned with Juliet balconies to ensure an open and airy living environment.
32. With regard to the existing building, its adjacency to Clarendon Road to the north created a significant issue, as open aspects to the north would severely implicate privacy with little benefit given the orientation. For this same reason, all of the flats face southwards, but also because of the constraints of the existing building. It would be inappropriate for habitable rooms to face northwards directly into residences within Clarendon Road and, therefore, in addition to permitting internal access on this northern side of the building, each flat is provisioned with a private 'breakout space' for external storage and amenity. The windows on this northern side of the building are to be designed to ensure aeration of the space without compromising privacy of adjoining occupiers and a condition is recommended to secure these details and achieve that outcome. It is not considered that this is the perfect scenario, however, the view is taken

that this constitutes the most-appropriate response to the overt constraints of the development.

33. The four storey extension comprises an opportunity to maximise the opportunity to provide an appropriate living environment without compromise and all of the flats above ground floor level in this part of the development are to benefit from a south-facing balcony.
34. The external layout of the site has predominantly been given over to access, parking and servicing requirements that are needed to ensure that the development does not implicate the existing area and, most-significantly, Old Bedford Road. A provision of amenity space is, however, made and a good level of greening of the site has been incorporated. The site is also with comfortable walking distance of Wardown Park, Pope's Meadow and People's Park and, on balance, it is considered that the resultant living environment in this regard would be acceptable.
35. The constraints of the site have resulted in a sizeable positive in that all 26 of the flats at the site of the existing building benefit entirely from south-facing habitable rooms that will provide a quality living environment for future occupiers. Those flats within the front block would also be provided with good levels of light and outlook to all habitable rooms.
36. By reason of the foregoing, it is considered that the resultant living environment for future occupiers would be acceptable, in accordance with Policies LLP1 and LLP25 of the Luton Local Plan 2011-2031 and the objectives of Section 12 of the Framework.

*Amenities of Adjoining Occupiers: The Developed Existing Building*

37. In relation to the impacts upon adjoining properties, significant regard has been granted to ensuring that there would be no material loss of privacy associated with the development. No significant overlooking would occur towards Clarendon Road to the north, whilst those dwellings to the south with Reginald Street would be well-distanced from the developed existing building. This would reflect the prevailing relationship, as there would be no encroachment beyond the buildings existing principal elevation.
38. For this same reason of distance and retention of the existing relationship, together with the orientation of the site, no material implications related to light, outlook or visual intrusion are anticipated to the dwellinghouses within Reginald Street. As for properties within Clarendon Road, the additional height would not be significantly greater than the existing. With regard to the side extension, though wider, this would be similarly proportioned, and of a far-greater quality than, the existing extension that is proposed to be demolished. The application is also supported by a positive daylight/sunlight assessment and, for these reasons, it is not considered that properties within Clarendon Road would be materially affected by the development in terms of light, outlook or visual intrusion. It is additionally noted that no objections have been received from properties within Clarendon Road.
39. The site to the east comprises a car park, for which no material implications are anticipated. Given the location of the additional height, the relationship between the developed building and the properties to the west within Old Bedford Road would not be materially different from the existing pattern. No material implications are, therefore, anticipated.

#### *Amenities of Adjoining Occupiers: The Front Block*

40. Owing to the careful consideration of outlook, no material loss of privacy is anticipated to occur to adjoining properties as a consequence of the front block. By reason of this aspect of the development not projecting significantly beyond the two storey elements of the adjacent properties, Nos. 104 and 108 Old Bedford Road, compounded by the lack of windows within their facing elevations, no significant visual intrusion or loss of either light or outlook is anticipated. Properties on the western side of Old Bedford Road would be suitably distanced from the proposed front block and, again, the pattern of development is reflective of the existing and being without forward projection beyond the building line.

#### *Amenities of Adjoining Occupiers: Cumulative Impacts*

41. Given the lawful use of the existing site, it is considered that the proposal for residential accommodation is more in keeping with the character of the area and would result in a lesser degree of noise and disturbance as a result.
42. All representations have been taken into account. Matters of foundations, access for maintenance to adjacent walls and the management of flues are not matters of planning consideration and are appropriately dealt with through building regulation and party wall agreements. No access gates to Old Bedford Road are proposed as a part of this development and, should gates wish to be installed, this would require planning permission and details could be secured for the mitigation of associated noise at that time. The provision of car parking is dealt with in the following section of this report.
43. No other properties are considered to be materially affected by the development.

#### *Access, Parking and Highway Implications*

44. The Local Highways Authority has raised no objection to the development and notes that the provision of parking is acceptable in this location. Further, additional information has adequately demonstrated that a dustcart, ambulance and/or fire tender could access manoeuvre within and egress the site.
45. The provision of parking, access and egress arrangements are, therefore, considered to be acceptable, subject to the submission of a parking management strategy that is recommended to be a condition attached to any grant of planning permission. No conflict with Policies LLP1, LLP25, LLP31 or LLP32 has, therefore, been identified.

#### *Affordable Housing, Developer Contributions and Viability*

46. *Policy LLP39 (Infrastructure and Developer Contributions)* considers the need for planning obligations and, in this instance, education and waste management contributions have been requested and they are as follows:
- Primary Education: £88,133;
  - Secondary Education: £33,200; and
  - Car Club: £500.

***Total: £121,833***

47. These contributions generally meet the requirements of Policy LLP39 and the Planning Obligations SPD (2007).

48. *Policy LLP16 (Affordable Housing)* requires a provision of 20% of new residential development above 10 net dwellings to be offered as affordable housing. In this instance, that amount would result in a yield of six of the flats, which should be prejudiced towards the two-bedroom flats. An off-site contribution would amount to:

**Total: £495,188 (4 x two-bed/ 2 x one-bed)**

**Cumulative Total: £617,021**

49. The application is supported by a viability appraisal, which has been robustly considered by the Council's Independent Assessor. The findings of that independent assessment conclude that the Applicant has appropriately demonstrated that the scheme is not able to provide for all of the contributions that have been requested and neither is the development able to provide for an on-site provision of affordable housing or a commuted sum in lieu of that provision. A total amount is offered and that amount is

**Total: £60,456**

This is additional to a Section 106 monitoring fee of: **£3,022.88**

50. The above amount would not cover the cost of a commuted sum for a single affordable dwelling and, given the acute need for the enhancement of educational facilities within the area and the nominal amount for transport mitigation, it is recommended to Members that the entirety of the contribution be given towards the betterment of primary education. Should the recommendation to approve be supported, this decision is, however, for Members.
51. Whilst the failure to secure an on-site provision of affordable housing or to secure the full amount of planning obligations is disappointing, this is reflective of the prevailing economic circumstances within Luton, where residual value levels are low and build and remediation costs are high. A review mechanism is recommended to ensure that the true value is reflected upon completion of the development.

#### *Noise, Contamination and Drainage*

52. No objection has been received in relation to noise, contamination or drainage, with appropriate conditions requested from the relevant consultees and duly recommended to Members within this report.

#### *Site Security and Management*

53. Conditions relating to site security, lighting, access, communal area management and refuse management have all been incorporated within the recommendation to Members.

#### *Concluding Remarks*

54. Overall, it is considered that the development comprises an effective and well-considered use of a challenging space. On that basis, conditional approval of the application, which shall be subject to a viability review mechanism, is recommended.

## **Appendix**

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

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

- 55. Luton Local Plan 2011-2031
- 56. Planning Obligations SPD (2007)
- 57. National Planning Policy Framework (*NPPF, or the Framework*)
- 58. National Planning Practice Guidance (*NPPG*)

## **Determination of Planning Applications**

- 59. 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**

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

## **Section 17: Crime and Disorder Act 1998**

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

## **Equality Act 2010**

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