

COMMITTEE: DEVELOPMENT CONTROL

DATE: 1 JULY 2020

SUBJECT: DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF UP TO 1,000 RESIDENTIAL UNITS INCLUDING AFFORDABLE (CLASS C3) AND FLEXIBLE COMMERCIAL AND COMMUNITY FLOORSPACE WITH ASSOCIATED LANDSCAPING, INFRASTRUCTURE AND OTHER ASSOCIATED WORKS.
(APPLICANT: HAYWARD TYLER)
(APPLICATION NO: 20/00147/OUT)

LOCATION: HAYWARD TYLER, 1 KIMPTON ROAD, LUTON

REPORT BY: HEAD OF DEVELOPMENT MANAGEMENT

CONTACT OFFICER: CLIVE INWARDS 01582 546287

IMPLICATIONS:

LEGAL

COMMUNITY SAFETY

EQUALITIES

ENVIRONMENT

FINANCIAL

CONSULTATIONS

STAFFING

OTHER

WARDS AFFECTED: SOUTH

PURPOSE

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

RECOMMENDATIONS

It is recommended that:

2. The reasons for approval set out in this report are agreed;
3. That planning permission is granted, subject to the conditions as set out within 'Appendix 1';
4. That planning permission is granted, subject to the satisfactory completion of a Section 106 Agreement subject to secure the provision of 20% on-site affordable housing; a mechanism to secure the relevant developer contributions for education, highways, parks, waste management and museums; a mechanism to secure the delivery of local labour; a monitoring fee of £5,000; a mechanism to prevent development commencing on the application site until such time as the applicant has relocated; a mechanism to provide a GP surgery on the site should this be considered to be necessary by the Clinical Commissioning Group and a mechanism to require a design competition for the reserved matters details to facilitate the highest standard of design quality on the site.
5. 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);
6. 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 both seeking minor material amendments to the development (Section 73 applications) or minor variations to the accompanying legal agreement (Section 106A applications):

Conditions ('Appendix 1')

- (01) Time Limit for Commencement;*
- (02) Submission of Reserved Matters;*
- (03) Approved Drawings;*
- (04) Phasing Programme;*
- (05) Phasing Programme II;*
- (06) Demolition and Construction Method Statement;*
- (07) External Materials;*
- (08) Design Code;*

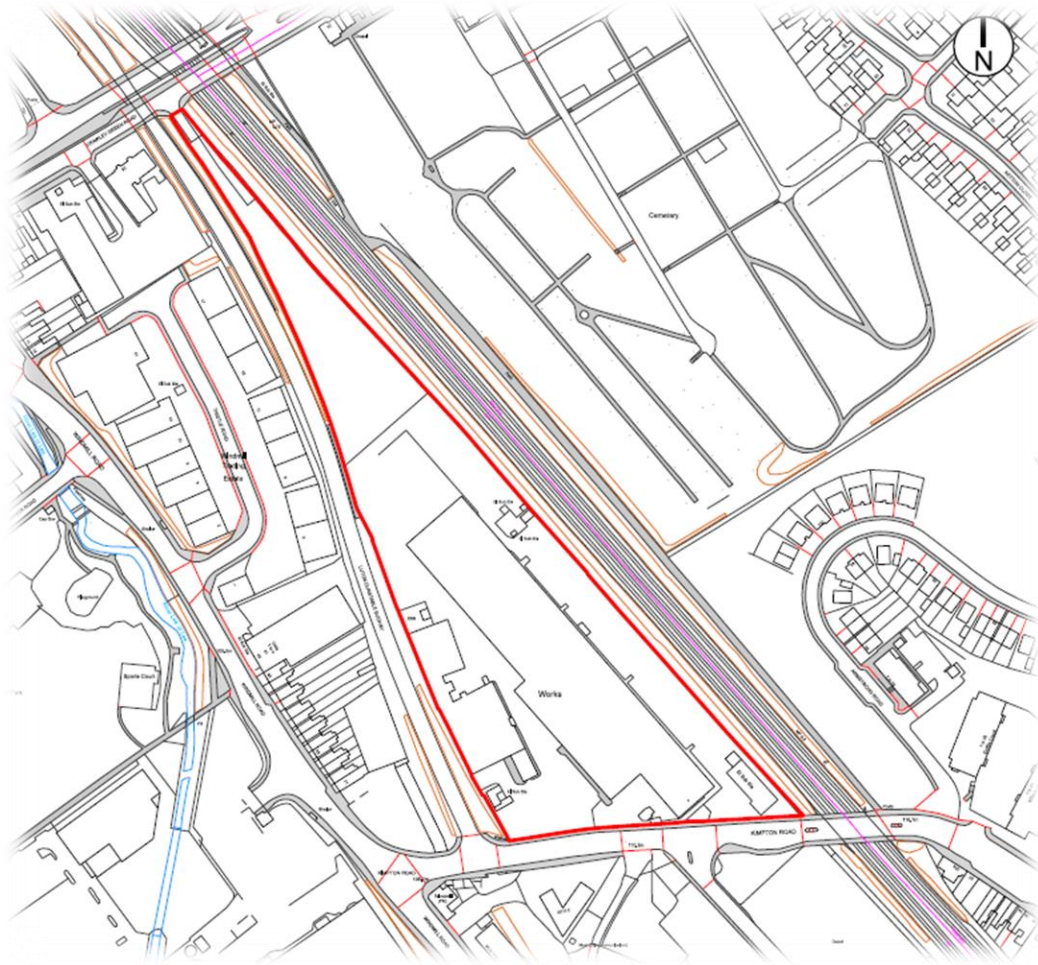
- (09) Tree Protection Measure;**
- (10) Landscape Management Plan;**
- (11) Surface Water Drainage Scheme;**
- (12) Verification Report;**
- (13) Shared Areas Management Plan;**
- (14) CCTV;**
- (15) Waste / Recycling Area Details;**
- (16) Cycle Storage;**
- (17) Residential Travel Plan;**
- (18) Car Park Management Plan including EV Charging;**
- (19) Phase II Site Investigation;**
- (20) Contamination (Validation Report);**
- (21) Contamination (Unidentified Contamination);**
- (22) Contamination (Monitoring and Maintenance Plan);**
- (23) Climate Change;**
- (24) Noise Protection;**
- (25) Noise From Fixed Plant;**
- (26) External Lighting;**
- (27) Air Quality Impacts;**
- (28) Construction Environmental Management Plan;**
- (29) Sewage Work Upgrades / Infrastructure Management Plan;**
- (30) Drainage Systems;**
- (31) Boundary Treatment;**
- (32) Excavations / Piling;**
- (33) Oil / Water Interceptor;**
- (34) Affinity Water Notification;**
- (35) Removal of PD Rights for Telecommunications Equipment;**
- (36) Off-site Highway Works;**
- (37) Ecological Mitigation and Enhancement.**

REPORT

The Site and Surroundings

7. The application site comprises a roughly triangular shaped area of land which lies between the Midland Mainline railway and the Luton and Dunstable Busway. The site is situated to the south-east of the town centre and is bounded to the north and east by the railway, Kimpton Road to the south and Busway to the west. Access is taken off of Kimpton Road. The application site comprises an area of approximately 2.78 hectares.
8. The site is currently occupied by the applicant and includes a number of existing buildings associated with the design, manufacture and servicing of the applicant's products. Hayward Tyler has had a presence in Luton for over 150 years and employs 150 people. It operates a global business and designs, manufactures and services electric motors and pumps.

Fig. 1: Site Location Plan



Relevant Planning History

9. A number of planning applications have been submitted on this site which relate to the applicant's business and most recently relate to the erection of a new industrial building in 2014 and other upgrade works. The most significant applications are set out below.
10. 13/01700/FUL 'Erection of a new industrial building after partial demolition of existing building and upgrade to the existing façade and associated external works.' Planning permission granted April 2014.
11. 17/01249/MMAMD 'Erection of a new industrial building after partial demolition of existing building and upgrade to the existing façade and associated external works – minor material amendment in variance with

Condition 5 of planning permission 13/01700/FUL dated 17th April 2014'. Planning permission granted November 2017.

12. Pre-application advice was provided prior to the submission of the planning application.

The Proposal

13. Outline planning permission with all matters reserved is sought for the demolition of existing buildings and construction of up to 1,000 residential units including affordable (Class C3) and flexible commercial and community floorspace with associated landscaping, infrastructure and other associated works.
14. An indicative housing mix has been provided as follows:

Fig. 2: Indicative Housing Mix

| Unit Type | % Units |
|-----------|---------|
| Studio | 10% |
| 1 bed | 33% |
| 2 bed | 37% |
| 3 bed | 20% |

15. In total, 20% of the total number of residential units would comprise affordable housing, equivalent to approximately 200 homes.
16. The scheme proposes private amenity space in the form of approximately 6,750m² of residential amenity space, served across the development. Additionally, publicly accessible open space of approximately 800m², including informal play space, is proposed in the northern corner of the site. Finally, a private residential courtyard of hard and soft landscaping is provided as part of the development.
17. In terms of the commercial element of the scheme, the proposed development comprises flexible commercial and community use floorspace of between 2,600m² and 7,800m² and no individual retail unit would be over 2,500m².
18. Vehicular access to the site would be provided directly onto Crawley Green Road to the north and Kimpton Road to the south, via the existing points of vehicular access to the Hayward Tyler site, with the Crawley Green Road access comprising a left-in, left-out, priority T-junction, which

is the same as the existing, albeit unused, access. The Kimpton Road access would retain the existing arrangement. Pedestrian and cycle access would be provided directly onto Kimpton Road to the south, as well as the access point at Crawley Green Road. Finally, the development also proposes a sustainable access onto the adjacent Luton-Dunstable Busway from the site's western boundary allowing future residents direct access to the segregated cycleway to the north-west linking to the wider cycle network.

19. In total the development proposes 709 car parking spaces, providing a ratio of 0.71 spaces per unit, which includes the provision of 5% of the total car parking capacity for disabled users. Additionally, 1,000 cycle parking spaces are proposed to allow space for each residential unit to store a bike, which would be incorporated into the building at the ground floor level to be both secure and convenient for future residents.
20. The proposed buildings range from two to 16 storeys in height, reaching a maximum of 162.8m AOD which equates to 16 storeys.
21. The landscape design is a reserved matter but the intention of the proposal is to provide a mix of hard and soft landscaping creating pockets of shared community space which would serve different functions including playspace, formal courtyards and a 'Kitchen Garden' set between apartment blocks. There are four trees on the site located on the northern boundary and the applicant doesn't envisage that the removal of any trees would be required to facilitate the development. Additionally, further tree planting would be introduced including a tree lined street to the south, bordering Kimpton Road to increase visual interest.

Planning Policy

National Planning Policy Framework (NPPF, or the Framework)

22. 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.

23. 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.

National Planning Practice Guidance (NPPG)

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

Luton Local Plan 2011-2031

25. The Local Plan was adopted on 7 November 2017.
26. The application site is allocated as a Category A Employment Area on the Proposals Map of the Luton Local Plan 2011-2031. Accordingly, Policy LLP14 of the Local Plan applies.
27. Policy LLP14 seeks to protect existing Category A Employment Areas for B1, B2 or B8 uses. It states that “changes of use or redevelopment within the employment areas and sites that would result in the loss of floor space for economic development uses will be resisted.”
28. Other applicable policies relevant to the proposal are LLP1, LLP2, LLP13, LLP15, LLP16, LLP25, LLP28, LLP29, LLP30, LLP31, LLP32, LLP36, LLP37, LLP38 and LLP39.
29. Policy LLP1 sets out a sustainable development strategy for the Borough and Policy LLP2 sets out the spatial development strategy.
30. Policy LLP13 establishes the economic strategy within the Borough.
31. Policy LLP15 considers the provision of Housing within Luton.
32. Policy LLP16 relates to the provision of affordable housing and requires the provision of 20% affordable housing on developments that deliver a net gain of at least 11 dwellings.
33. 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.

34. Policy LLP28 relates to Biodiversity and Nature Conservation and seeks to protect the designated County Wildlife Sites.
35. Policy LLP29 relates to Landscape and Geological Conservation and states that development proposals will be supported where they protect, conserve, or enhance the character, setting and natural beauty of national and local landscape areas.
36. Policy LLP30 relates to the Historic Environment and seeks to protect features of particular importance.
37. Policy LLP31 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.
38. Policy LLP32 aims to secure sufficient parking for a development.
39. Policy LLP36 relates to flood risk and requires the risk and impact of flooding to be minimised.
40. Policy LLP37 relates to climate change, carbon and waste reduction and sustainable energy. This policy states that the Council will support development proposals that contribute towards mitigation and adaptation to climate change through energy use reduction, efficiency, renewable and decentralised energy.
41. Policy LLP38 seeks to ensure that development does not have an adverse impact by reason of pollution or contamination on neighbouring development, adjoining land or the wider environment.
42. Policy LLP39 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.

43. 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

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

Consultation Responses

45. Bedfordshire Fire & Rescue: No comments received. Any comments will be reported at the Meeting.
46. LBC Highways: The Updated Transport Assessment (UTA) is generally acceptable and the majority of its conclusions are accepted. However, there is still a major omission in that the modelling of the Gipsy Lane retail park junction has not yet been included within the updated document. While it is not expected that the modelling results would give any reason for refusal of the proposed development on highway grounds, it is not possible at this stage to determine the level of mitigation at that junction and hence quantify the level of S106 contribution required. A finalised version of the Transport Assessment must be submitted for approval and be based on the final development proposals and include an updated mitigation strategy. The updated mitigation strategy will inevitably require off-site highway works together with any improvements to existing site accesses. These will require agreements under the Highways Act.

The UTA highlights the reduced parking provision for the proposed development and provides explanation of that provision. Given that the Local Plan standards dictate the maximum parking provision requirements and the sustainable location of the site, these explanations are accepted. However, to avoid undue expectation by future residents of the development, a car park management plan detailing exactly how parking spaces will be allocated should be submitted for approval. The car club parking bays provided within the development are welcome and these details together with any proposals for car club cars should be agreed with the Council. Conditions are required in relation to a detailed

residential Travel Plan, a demolition and construction method statement and Electric Vehicle charging bays.

47. LBC Environmental Protection: No objection to the redevelopment of the site as proposed. Conditions required in relation to a Construction Environmental Management Plan, a noise protection scheme including for emissions from fixed plant or machinery, contamination and external lighting. In relation to Air Quality no objection such to appropriate controls both during construction and operation.
48. Affinity Water: You should be aware that the proposed development site is located near to an Environment Agency defined groundwater Source Protection Zone 1 corresponding to Crescent Road Pumping Station. This is a public water supply, comprising a number of chalk abstraction boreholes, operated by Affinity Water. Conditions to be attached to any grant of planning permission.
49. Thames Water: Thames Water has identified an inability of the existing sewage treatment works infrastructure to accommodate the needs of this development. As such a sewage work upgrade / housing infrastructure phasing plan condition is required.
50. LBC Strategic Planning: The site is allocated as Category A employment land by the Luton Local Plan 2011-2031. The development scheme represents a continued reduction in employment land in Luton which is contrary to the objectives of the Local Plan.
51. LBC Waste Management: A developer contribution of £46,560 is requested.
52. LBC Parks: The footfall from the proposed development would put additional pressure on Manor Park which is already over-subscribed. The facilities at Manor Park are already under pressure from use by the existing community and pressure from this development will exacerbate the situation. In order for increased use at Manor Park to be sustainable and accommodate the increase in footfall a contribution of £80,000 towards improvements that enable greater community use of the amenity grass area through grading/landscaping, access improvements to circulation paths and additional seating within the park is required.
53. LBC Education: A Primary Education contribution is requested to improve the condition of Surrey Street Primary School. A Secondary Education contribution is also requested towards ACE expansion. The relevant figures to be provided in an update report.

- 54. Luton Culture (Libraries): No comments received. Any comments will be reported at the Meeting.
- 55. Luton Culture (Museums): A developer contribution of £7,200 is requested.
- 56. LBC Housing: This is a large and a mixed-scheme that proposes to deliver 1,000 properties in an area of Luton with good transport links. I can see that Luton Council's local housing policies (LLP15 and LLP16) have been recognised and provisions for affordable housing and a mix of tenure have been proposed within the planning application. As various supporting documents within the planning application already acknowledge, at least 20% of affordable housing is required on developments with a net gain of 11 properties. So for this scheme 200 properties would be acceptable and would be supported by LBC Housing. I can see from the supplementary information template that this 20% requirement has been met and that the scheme proposes to deliver a total of 200 properties. I also welcome the proposed mix of tenure which includes 140 properties as rented accommodation and 60 properties as low-cost home ownership. This is perfectly aligned with the LLP15 requirement of 72% affordable rented accommodation and 28% low-cost home ownership. Please note that any affordable housing delivered on-site must be transferred to a registered provider to manage upon completion.

LLP15 also requires an appropriate housing mix in respect of the size of the properties. Luton's Strategic Housing Market Assessment has determined that the affordable housing need in Luton to be larger, family-sized accommodation, in particular three-bed accommodation, but also two-bed accommodation. Therefore, a housing mix that exclusively proposes three-bed and two-bed properties would be supported by LBC Housing and would go a long way to meeting the local housing need.

- 57. Bedfordshire Police: Further information has addressed the initial concern. Conditions to be attached to any grant of planning permission to cover parking management; Secured By Design requirements regarding compartmentalisation; suitable CCTV to cycle stores, bin stores, external amenity and parking areas; external residential amenity areas to be enclosed and acceptable lighting to any external, communal and un-adopted areas.
- 58. Archaeology: The proposed development site has not produced any evidence of archaeological remains. Development of the site is unlikely to have an impact on archaeological remains or on the significance of

heritage assets with archaeological interest. Therefore, there is no objection to this application on archaeological grounds.

59. Environment Agency: The previous use of the development site presents a high risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location. The proposed development will only be acceptable if planning conditions relating to contamination and SuDS infiltration are attached to the grant of any planning permission.
60. Lead Local Flood Authority: Conditions to be attached to the grant of planning permission relating to a surface water drainage scheme and a verification report.
61. LLA Safeguarding: The proposed development has been examined from an aerodrome safeguarding aspect and does not conflict with safeguarding criteria. Accordingly, London Luton Airport Operations Ltd has no safeguarding objection to the proposal. Details of any craneage associated with the development must be submitted to London Luton Airport Operations Ltd for approval a minimum of 28 days before the commencement of works which can be added as an informative to any grant of planning permission.
62. Network Rail: With reference to the protection of the railway, Network Rail has no objection in principle to the development but provides a list of requirements that must be met given the close proximity of the site to an electrified railway. *These requirements have been incorporated into relevant conditions or informatives.
63. LBC Ecology: Happy that the ecological nature of the site has been properly characterised and is generally considered to be low. Some concern remains in relation to the impact of the proposal on the County Wildlife Site in relation to shading.
64. Historic England: The outline nature of the application makes it difficult to fully assess the impact of the development on the Church of St. Mary and, particularly, on Luton Hoo. On the basis of the information provided, the proposals would appear to have a limited impact on the significance of the Church of St. Mary. The revisions to the proposal have reduced the impact on Luton Hoo but it remains a substantial development and we have some concerns that this may further erode the significance of this important country estate. Your authority should be satisfied that it does have sufficient information at this stage and that any grant of consent allows for full consideration of details including design and materials in terms of their impact on these assets at the detailed application stage.

65. Statutory Neighbour Consultation: The application was notified to 88 properties, site notices were posted and a press notice was published on the 20th February 2020. To date, three representations have been received from residents in Silecroft Road and Windmill Road which are summarised below.

| Issues Raised | Officer Consideration |
|---|--|
| There is already a huge mass of homes aimed at this area. The road networks cannot cope with the current amount of traffic already on local roads and where will all the cars from this development go. | Considered within the body of the report and in the response from the Highway Authority. Relevant conditions to be attached to any grant of planning permission. |
| All the schools are overcrowded. | The proposals include a developer contribution to primary and secondary education. |
| The local hospital is being pushed far beyond capacity. | The Luton and Dunstable Hospital is to be expanded to address the anticipated increase in population in the Luton and Dunstable area. |
| It is time the planning department started thinking further outside the box of checking boxes on building tiny homes. | All of the proposed units would meet the Nationally Described Space Standards. |
| Object to more high rise buildings being built in this area which may affect my own house. | The issue of tall buildings in this location is considered in the report. |
| There is more wildlife at the site than indicated in the paperwork. | On the basis of this response and that of the Council's Ecologist, further survey work has been conducted on the application site. |

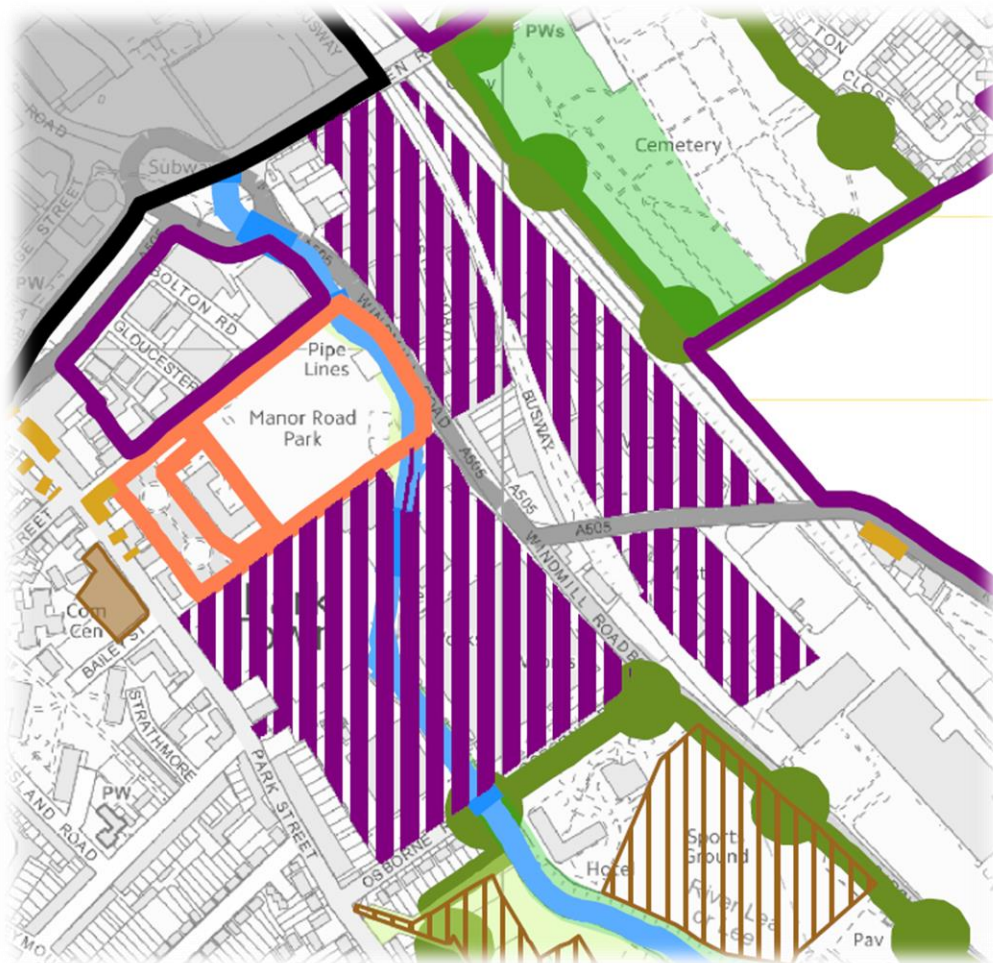
MAIN PLANNING CONSIDERATIONS

66. The main material planning considerations in this instance relate to the principle of development, housing mix, design and the impact on the character and appearance of the area, the layout and living environment to be created, the impact upon neighbouring amenity, transport and parking implications and issues related to flooding, biodiversity, trees, sustainability, crime prevention, planning obligations and other material considerations.

Principle of Development

67. The application site is allocated as a Category A Employment Area in the Luton Local Plan 2011-2031. As such Policy LLP14 applies which sets out that the existing Category A employment areas shown on the Policies Map shall be protected for B1, B2 or B8 uses. It continues to state that “changes of use or redevelopment within the employment areas and sites that would result in a loss of floorspace for economic development uses will be resisted.”

Fig. 3: Local Plan Designation



68. The application documents set out that the proposal would result in the loss of 2.78ha of existing employment land and 9,004m² of floorspace. Whilst the proposal is for a residential-led mixed-use scheme which incorporates new flexible commercial floorspace within the range of 2,600m² to 7,800m² which would contribute to the re-provision of B Class floorspace, there would be a net loss of employment floorspace even should the upper end of the range of commercial floorspace come forward. As such, the proposal is considered to be contrary to Policy LLP14 and it should be noted that the application has been advertised as being a departure from the Local Plan.
69. It is also relevant to consider the loss of the existing employment use present at the site in referring to Policy LLP15. Policy LLP15 relates to housing provision and Part B states “Planning permission for residential development will also be granted 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.” As such the loss of the existing employment floorspace needs to be considered to assess compliance with Policy LLP15 and noting that the proposal is contrary to Policy LLP14. It therefore needs to be considered if there are other material considerations that would outweigh the conflict with Policy LLP14 of the Local Plan.

Relevant Material Considerations

70. The driver behind this proposal is for the applicant to relocate to an alternative site in the Borough to accommodate its specialist manufacturing processes in a modern, custom-built facility that is more efficiently laid out than the current site. The applicant has stated that this would increase efficiency in the production process, support improvements in productivity, thus creating conditions in which the company can invest, expand and adapt. The applicant currently employs 150 people at the application site and relocating within the Borough would ensure that these 150 highly skilled jobs supported by the business would be retained in Luton. Facilitating the relocation of the applicant to an alternative site within Luton and retaining the 150 highly skilled jobs are welcome aspects of the proposal which can be secured through a legal agreement attached to any grant of planning permission. Further, the planned redevelopment of the Kimpton Road site would provide the funding to make the necessary capital investment and ensure the long-term operation of the business, particularly in the uncertain times caused by the Coronavirus pandemic.
71. Additionally, the proposal is promoting a genuinely mixed use scheme with the re-provision of B Class floorspace. Although the amount of B Class floorspace is provided within the 2,600m² to 7,800m² range, it is

estimated that even at the lower end of this range that the proposal could support in the region of 370 jobs. Therefore, even at the lower end of the range of employment floorspace the proposal could provide a net increase in employment on this site of 220 jobs, whilst also ensuring the existing 150 jobs on the site are re-provided within the Borough. Further jobs outside of the traditional B Class uses would also be created through the operation of a convenience store, café and management and maintenance staff. Through the consultation process of the application the need for a doctor's surgery to be provided on the site has also been highlighted and to which the applicant has agreed in principle to provide. This can be brought forward in conjunction with the Clinical Commissioning Group if they consider that a surgery is required on this site, thereby creating further employment. The ability to increase the employment density on the site, whilst also retaining the existing 150 jobs within the Borough are considered to be a strong material considerations in this instance.

72. In summary in relation to the principle of development, it is considered that the proposal cannot be considered to accord with Policy LLP14 of the Local Plan which is rigid in seeking to protect the amount of employment floorspace in the Category A Employment Areas. However, the ability to increase the employment density on the site whilst also facilitating the upgrading of the applicant's operations to a more efficient and suitable site are strong material considerations. Other material considerations such as the contribution to the housing needs of the Borough (including affordable housing), the creation of a high quality designed scheme, improving connectivity to the town centre, the provision of an active frontage along Dunstable Way (the Busway) and Kimpton Road and maximising the use of brownfield land in a highly accessible location will be assessed in the following sections of this report and the results drawn together in the conclusion to determine if the combined positive material considerations outweigh the policy presumption against losing employment floorspace in a Category A Employment Area.
73. In relation to Policy LLP15, it is considered that the proposal would comply with Part B of this policy as it would not lead to the loss of the general employment use of the site as this would be re-provided in the flexible, commercial floorspace element of the scheme although recognising that it would be re-provided in a different and more efficient format.

Housing Mix

74. In addition to allowing for 'windfall' housing development (sites not allocated in the Local Plan) in certain circumstances, Policy LLP15 of the Local Plan has a general requirement that new dwellings should respond to the housing need requirements of the area as identified in the Strategic Housing Market Assessment (SHMA). The SHMA sets out that the greatest requirement is for three bedroom houses but there is still a requirement for smaller units and also two bedroom dwellings particularly in relation to affordable housing.
75. The proposal makes provision for 1,000 residential units in the following indicative mix; 10% studio units; 33% one bed units; 37% two bed units and 20% three bed units. A number of the three bed units would have their own private amenity area and would be suitable for families to allow for the creation of a balanced new community. Given that 57% of the total number of units would be larger units, it is considered that this indicative mix of units and the range of different types of units to be provided would accord with the identified need for larger properties as evidenced in both the SHMA and the latest Strategic Housing Land Availability Assessment 2019 (SHLAA) whilst also providing a suitable range of accommodation to facilitate a balanced residential community on this site.
76. It is also noted that the proposal would provide for 20% affordable housing, which would equate to 200 affordable housing units in accordance with Policy LLP16 of the Local Plan. The proposed development includes an indicative tenure split of 70:30 for social rented and intermediate housing, equating to 140 properties as rented accommodation and 60 properties as low-cost home ownership. It is noted that the Council's Housing Department has commented that this is perfectly aligned with the requirements of Policy LLP15 to provide a suitable mix of affordable rented accommodation and low-cost home ownership. Additionally, it is stated that an affordable housing mix that exclusively proposes three-bed and two-bed properties would be supported by LBC Housing and would go a long way to meeting the local housing need.

Street Scene and Impact on the Character and Appearance of the Area

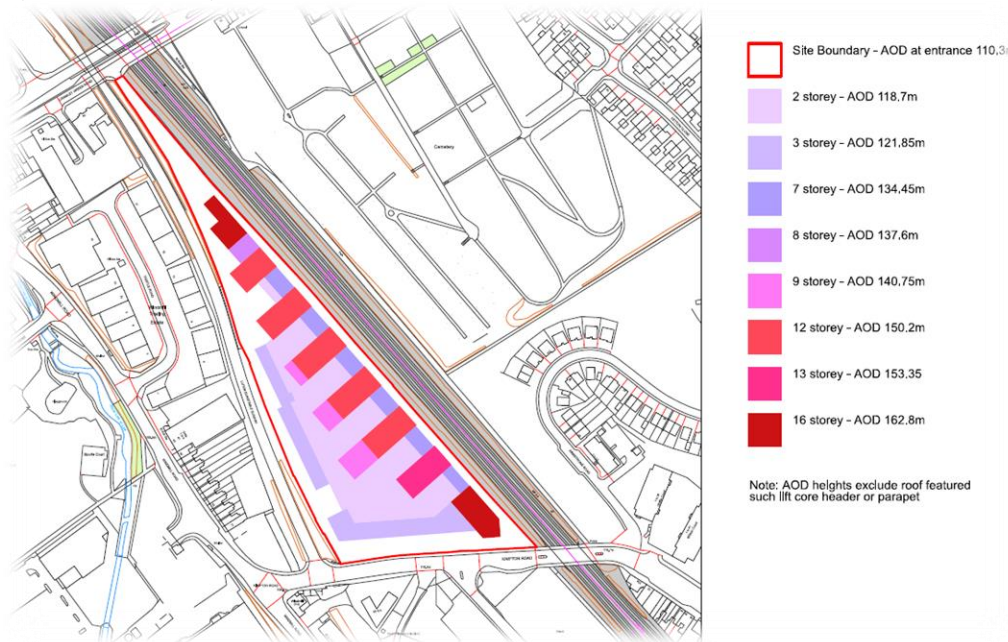
77. Policy LLP25 seeks to have development enhance the character of an area, respond positively to the local context, minimise adverse amenity implications, optimise a site and create safe and attractive places. It is recognised that the application is in outline form with all matters reserved such that elevation drawings and details are only indicative at this stage. However, it is still able to make an assessment of the impact

of the proposal on the character and appearance of the area by considering the relevant parameter plans submitted with the application.

Scale

78. The scale and massing of the site is largely defined by the heights of the buildings. The podium is two storeys high and covers a large part of the building. The majority of the buildings above the podium level are 12 storeys in height, with the exception of the corner tower in the south-eastern corner of the site and the tower adjacent to this which is 13 storeys in height. The south-eastern corner tower was originally proposed as 21 storeys but has now been reduced to 16 storeys in height to address concerns in relation to the impact on heritage assets which is assessed specifically in the following sections of this report. A three storey commercial building wraps around the podium along the south and west boundaries and a 16 storey high tower marks the northern end of the development at the Crawley Green Road end of the site.

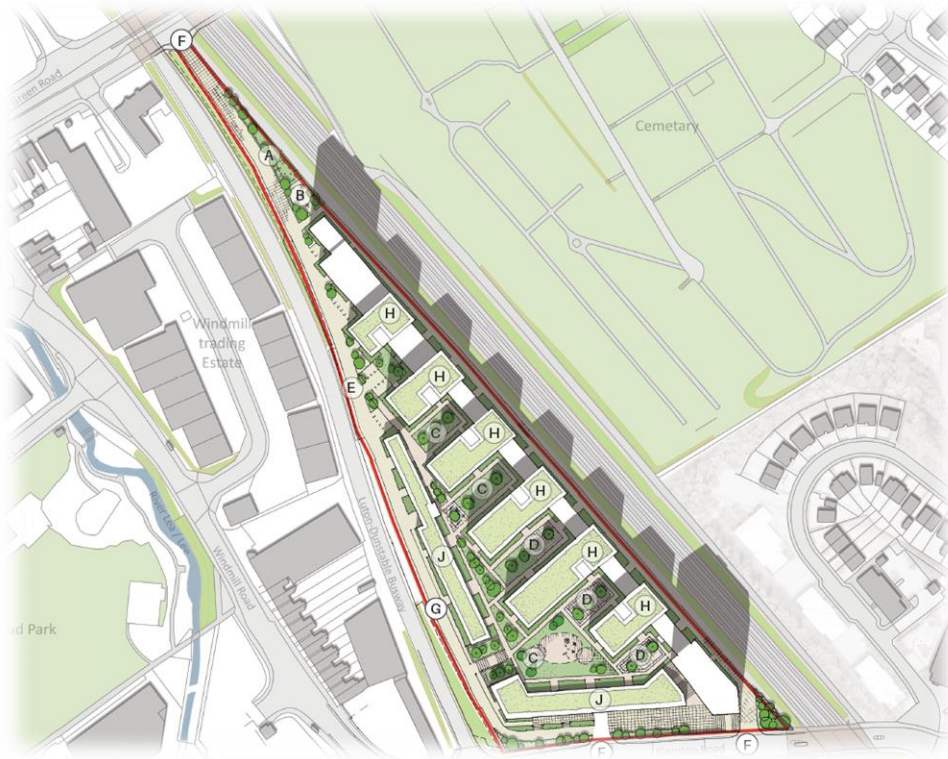
Fig. 4: Scale and Massing Parameter Plan



Layout

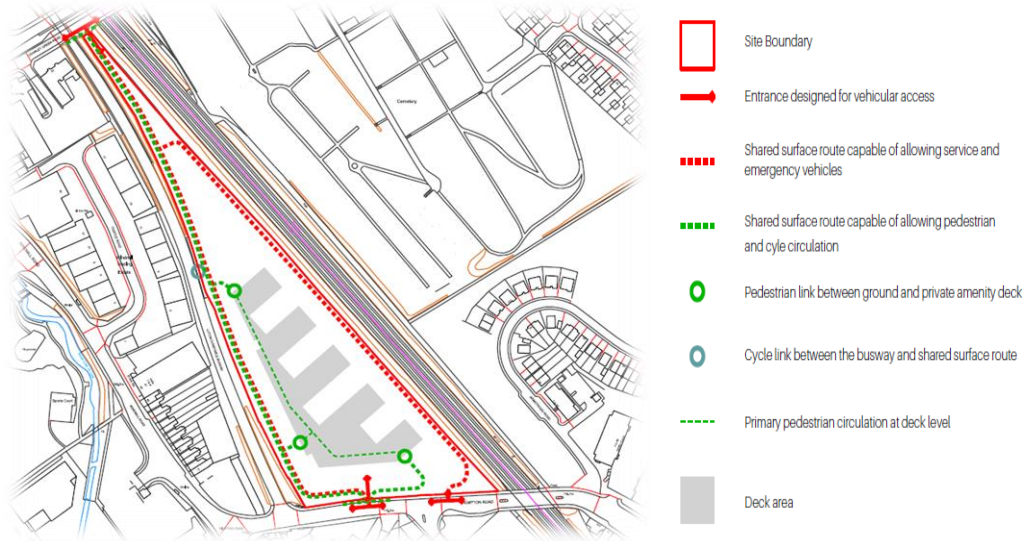
79. The illustrative Masterplan included with the Design and Access Statement gives a useful indication of the layout of the proposed development.

Fig. 5: Illustrative Masterplan



80. As can be seen from the Illustrative Masterplan, the layout comprises a series of residential tower blocks with flexible commercial / community use floorspace along Kimpton Road and adjacent to the busway route. This results in the creation of a new active street frontage bordering Kimpton Road. The principle behind the layout is to seek to improve connectivity between the site, the new Power Court development and the town centre and, in the opposite direction to connect with other developments along Kimpton Road to Luton Parkway Station. As such the proposal has been designed to ensure high levels of permeability within and through the site. Vehicular access is restricted to the northern and southern end of the development and a shared surface route connects the north and south of the site. A well-integrated network of pedestrian routes connect all parts and levels across the site.

Fig. 6: Access and Movement Parameter Plan



Appearance

81. The appearance of the development is a matter reserved for future consideration, however, indicative visuals have been submitted in support of the application. It is considered that the development indicated within these two visuals could be of an exceptional design such that the proposal would significantly enhance the character and appearance of the area. It is, therefore, considered appropriate to condition the relevant details submitted following the grant of any outline planning permission to provide a design code to guide the reserved matters details and to have a requirement in the S106 agreement for a design competition or similar to ensure the highest standard of design.

Fig. 7: Indicative Visual (1 of 2)



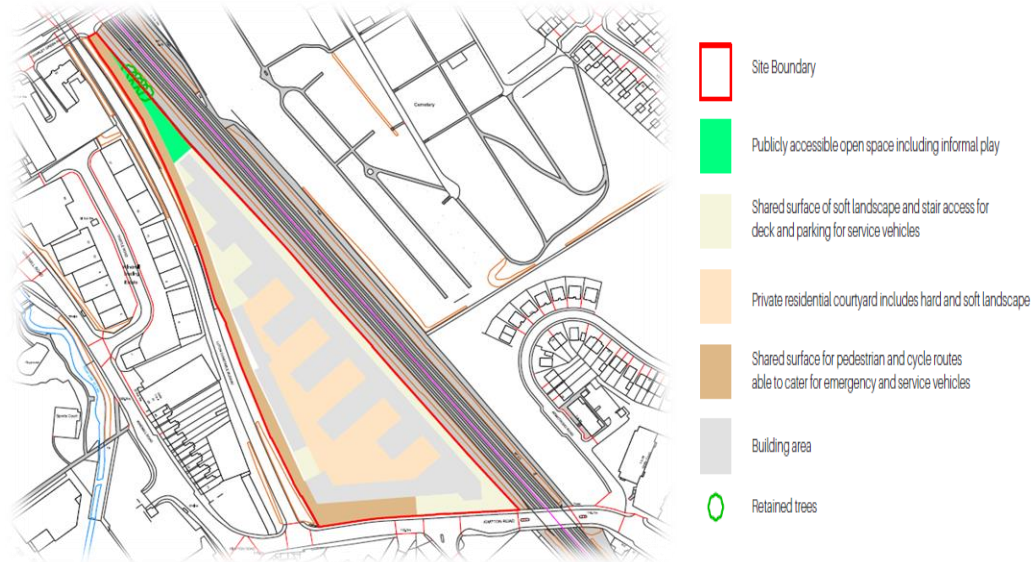
Fig. 8: Indicative Visual (2 of 2)



Landscaping

82. Landscaping is a matter reserved for future consideration also, however the proposed strategy shows the landscaping within the site is characterised by a network of interconnected landscape spaces, distributed throughout the site. The podium area consists of private residential courtyards between the residential blocks with landscaped areas consisting of hard and soft landscape. There is also a publicly accessible landscaped area of open space to the north which would include informal play space.

Fig. 9: Landscape Parameter Plan



83. These elements of the application can be drawn together to make an assessment of the impact of the proposal on the street scene and the wider character and appearance of the area.
84. Firstly, the area around the application site has a mixed character with historical employment uses, new residential developments under construction and a parade of retail and commercial uses. As the site is relatively self-contained and separated from neighbouring uses by the railway and the busway, it is considered that the site does lend itself to the creation of a new, high quality residential development of the type proposed. The scale and mass of buildings being proposed would not be dissimilar to the flatted element of the Redrow development or the Strawberry Star development further along Kimpton Road which is under construction. At 16 storeys in height the residential towers at both the south-eastern corner of the site and at the northern end of the site are intended to be landmark features to 'book-end' the development and in the case of the south-eastern tower to provide a gateway building to this part of Kimpton Road reflecting the change to a predominantly residential environment from this point onwards heading east along Kimpton Road. A well-designed gateway building would be a welcome addition in this area in a prominent position close to the railway.
85. In terms of the impact on the street scene, a high quality designed scheme is considered to have a positive impact on the street scene. The proposal would continue the residential and commercial uses found on Kimpton Road to the east of the site and would replace the existing concrete boundary wall and factory buildings with an active street frontage and new civic space along Kimpton Road, dramatically improving the visual appearance of this part of Kimpton Road.

86. Similarly, the proposal would provide an active frontage to the Busway where currently there is no frontage. This would be a welcome aspect of the proposal. Given the positive impact of the proposal on the Kimpton Road street scene and the similar scale and mass of buildings to that recently constructed or under construction along Kimpton Road, a high quality designed proposal is considered to have an acceptable impact on the wider character and appearance of the area in accordance with Policy LLP25 of the Local Plan.

Impact on Heritage Assets and Landscape Character

87. In relation to the impact of the proposal on both designated and non-designated heritage assets, the application site is not within or adjacent to a Conservation Area, the nearest being the Plaiters Lea and Town Centre Conservation Areas and there are only four statutorily listed buildings within 500m of the site and none close to the site boundary. However, given the tall nature of the proposals relevant impacts have been considered and addressed. Additionally, the application site is in close proximity to the Hart Hill and Lower Lea Valley Areas of Local Landscape Value on the north-eastern side of the railway and to the west of Gipsy Lane respectively and to which Policy LLP29 of the Local Plan applies. Finally, consideration also needs to be given to the Crawley Cemetery and Cemetery Lodge which are both non-designated heritage assets on the Draft Local List.
88. Firstly, given the distance of over 500m to the nearest Conservation Areas being Plaiters Lea and the Town Centre Conservation Area plus the intervening buildings and approved development, it is not considered that the proposals would have any material effect on these two areas. In relation to St Mary's Church (a grade I listed building), the Council's Conservation Advisor BEAMS has set out that the Accurate Visual Representations (AVR) provided by the applicant show that the proposal would be seen within the wider townscape in the middle ground and it lies some 600m from this viewpoint. It is concluded that although the landmark tower would be visible when leaf cover is less, it would be seen in relation to the other large scale buildings on the roundabout and, on balance, this impact is found to be acceptable within this context.
89. In relation to Luton Hoo (grade I listed) and its registered park and garden (grade II* listed), there was initial concern expressed by BEAMS in relation to the landmark tower element breaking the ridgeline when viewed from the parkland. It was considered that the tower would be far too visually assertive within views across the fields and would not sit quietly within wider views from the park, detrimentally drawing the eye in this direction. Accordingly, the applicant has amended the scale and

massing parameter plan to reduce the height of the 'tower' element from 21 to 16 storeys. The associated AVR (shown below) now demonstrates that this tallest element of the proposed development does not break the ridgeline. To conclude on this point BEAMS have commented that the new visual representations showing the scale of the proposal are now acceptable in terms of views from the park at Luton Hoo as they no longer break through the skyline. The nearest other listed buildings to the site are Hart House and 101 Park Street but given the development that has been approved in close proximity to Hart House and the distance and intervening built form in relation to 101 Park Street, it is not considered that the proposal would materially affect these two grade II listed buildings.

90. It is recognised that Historic England continue to express some concern on heritage grounds due to the impacts on Luton Hoo, however, it is considered that this can be suitably addressed with full consideration of the detailed design and materials at the reserved matters stage.

Fig. 10: AVR from Luton Hoo



91. With regard to the relevant Areas of Local Landscape Value, it is not considered that the proposal would materially affect the Lower Lea Valley ALLV. This conclusion is reached owing to the fall of the land north to south, as well as intervening townscape and topography which means that this landscape area is visually unconnected to this site.

92. Turning to the Hart Hill ALLV and the Draft Locally Listed Cemetery and Cemetery Lodge, it is considered the application site lies within a different landscape character area, being outside of the ALLV and separated from it by the railway. However, it is recognised that the Cemetery is the part of the ALLV most likely to be affected by the proposal given its proximity to the site. It is unlikely that the northern part of the ALLV including Hart Hill Drive, Pomfret Avenue, Crescent Rise etc., would be materially affected by the proposal given the intervening townscape and the topography in relation to the site.
93. With regard to the Cemetery and the Cemetery Lodge, it is considered that the impact of the proposal would be substantially mediated by the presence of the mature trees on the western side of the Cemetery. Importantly views through the proposed development towards the ridgeline of the western hills of Luton would remain. Additionally, it is recognised that the proposal would also affect views towards the ALLV from further west in Luton. However, it is considered that the detailed design and materiality that would be provided in the reserved matters stage will be critical in ensuring that the proposal fits appropriately into the landscape context. Requiring a high quality designed scheme would ensure that the proposal would positively complement both westward views looking out of the ALLV from the Cemetery and also eastward views towards Hart Hill. With such control provided through the S106 agreement, conditions and the reserved matters details, it is considered that the proposed development would not conflict with Policy LLP29 seeking to protect and enhance the landscape character of the area or Policy LLP30 seeking to protect both designated and non-designated heritage assets.

Layout and Living Environment to be Created

94. Whilst the layout of the site would form a reserved matters submission to be considered at a later date, the indicative layout provided demonstrates that a suitable residential environment can be created.
95. Firstly, all of the units would meet the nationally described minimum standards set out in the March 2015 Technical Housing Standards. Additionally, Policy LLP25 of the Local Plan requires that new housing should be delivered in accordance with external amenity space standards set out in Appendix 6 of the Local Plan. Appendix 6 sets out that for flatted developments a minimum of 5m² of private outdoor space should be provided for 1-2 person flats and maisonettes and an extra 1m² provided for each additional occupant.

96. Based on the indicative mix provided in the application, the minimum amount of private amenity space necessary would be 5,200m². The application details show that 6,750m² of private amenity space would be provided, therefore well above the minimum external private amenity space standard set out in Appendix 6. In addition to this a range of communal amenity areas would also be provided, including informal seating and play areas, formal courtyards and 'Kitchen Garden' areas allowing for social interaction between residents.

Fig. 11: Example of Communal Gardens over an Undercroft Parking Area



97. Further to this, publicly accessible open space of approximately 800m, including children's play space, is proposed in the northern corner of the site. Given the amount and range of amenity space, a high quality residential environment would be able to be created.
98. Finally, the proposal has been developed to set lower buildings to the south and west to let the sun into the site and there are breaks in the building mass to let the afternoon sun through the site. Overshadowing both internally and externally has been factored into the proposal, as

has the winter shadow from St Ann's Hill. Suitable inter-visibility between proposed units on the site can be achieved with detailed consideration of fenestration detail and internal layout positioning at the reserved matters stage and the proposal indicatively seeks to avoid single aspect dwellings facing north through the use of recesses and corners. All of the above demonstrates that a suitable residential environment can be created for future occupiers in accordance with Policy LLP25 of the Local Plan. Conditions have been requested by Environmental Protection to ensure proposed dwellings are protected from noise arising from road, rail and air traffic and from neighbouring commercial premises and also to ensure that potential contamination issues are suitably addressed.

Impact on Neighbouring Amenity

99. In relation to the impact on neighbouring residential amenity, given the relatively self-contained nature of the site, the proposal would not result in any significant adverse impacts on neighbouring residential amenity. The nearest residential properties are those on the eastern side of Windmill Road, those on the southern side of Crawley Green Road and the new properties being constructed by Redrow, known as Eaton Green Heights. With regard to the Windmill Road properties, the nearest built form to these properties would be the three storey flexible commercial and community space properties, which would be some 60m from the rear elevation of these properties and set across the Busway. The taller tower elements would be some 85m from the rear elevation of these properties. At these distances, this would not result in detrimental overlooking of the rear of these properties or their associated rear, private amenity areas.
100. Similarly, the distances involved to residential properties on the southern side of Crawley Green Road and those at the northern end of Windmill Road, would be well over 100m from the nearest residential elements of the proposal which would be too distant to result in a detrimental loss of privacy to these properties.
101. With regard to the properties either under construction or recently built at Eaton Green Heights the nearest residential parts of the proposal would be some 60m distant to the nearest apartment buildings or approximately 80m to the nearest houses and obviously set across the railway line. These separation distances would be too distant to result in a detrimental loss of privacy to these properties. In relation to overshadowing or loss of light the applicant commissioned a specific daylight and sunlight report to consider this issue. This report concludes that the submitted scheme is generally consistent with Local Plan Policy and the Building Research Establishment (BRE) guidelines in terms of

daylight and sunlight. Where there are potential infringements of the guidelines these are minimal and isolated and would not be a sufficient reason to withhold granting planning permission. It is worth noting that this study was modelled using the original scale and mass parameters with the 17 and 21 storey towers at either end of the site. The revised parameter plan has reduced this to 16 storey towers at either end of the site, so it is reasonable to conclude that daylight and sunlight impacts would be further reduced by this reduction in height of the revised scheme. Given this assessment, the proposal is not considered to result in any significant adverse impacts on neighbouring residential amenity.

Access, Parking and Highway Implications

102. Policy LLP31 sets out the sustainable transport strategy and is supportive of development that minimises the need to travel, provides sustainable modal choice and reduces congestion. Policy LLP32 seeks to ensure that an adequate provision of parking is available as it relates to development.
103. In relation to highways issues the Council's Highway Development Control Manager has stated that the updated Transport Assessment is generally acceptable and the majority of its conclusions are accepted. However, it is considered that there is still a major omission in that the modelling of the Gipsy Lane retail park junction has not yet been included within the updated document. While it is not expected that the modelling results would give any reason for refusal of the proposed development on highway grounds, it is not possible at this stage to determine the level of mitigation required at that junction and hence to quantify the level of S106 contribution required. A finalised version of the Transport Assessment must be submitted for approval and be based on the final development proposals including an updated mitigation strategy.
104. In terms of the specific access, vehicular access would be restricted to the northern and southern end of the development site as has been set out above. A shared surface route which also acts as an emergency access route would connect the northern and southern ends of the site and there would be an integrated network of pedestrian routes to connect all parts and levels across the site. The Highway Authority has raised no issue with this access arrangement.
105. The Highways Development Control Manager has welcomed the provision of car club parking bays within the development and stated that these details together with any proposals for car club cars should be agreed with the Council's Car Club Manager.

106. With regard to parking, the application details demonstrate 709 car parking bays, which equates to a rate of 0.71 spaces per residential unit and which is well below the Council's maximum standard of 1,570 based on the mix of dwellings set out in the application. This is considered to be sufficient parking provision given the sustainable location of the site which is only a short walking distance to the town centre and the two railway stations. The parking would be provided in two decks at the ground floor and first floor of the building (i.e. below the podium) and which would include 5% disabled parking spaces in accordance with the Council's standards. A condition requiring 10% of the spaces to be electric vehicle charging spaces with further provision to be made within the design to allow for the number of charging points to be significantly increased in the future can also be attached to the grant of any planning permission.
107. The proposal also makes provision for 1,000 cycle spaces equivalent to one space per unit, well in excess of the Council's minimum cycle parking standards in Appendix 2 of the Local Plan. This level of cycle parking is welcomed to encourage the uptake of active travel and to reduce the reliance on the private car.
108. Finally, the Council's Highway Development Control Manager has requested a car park management plan, details of a full residential Travel Plan and a Construction and Demolition Method Statement to be required through conditions.

Flooding

109. The application site is located within Flood Zone 1, which has the lowest risk of flooding. The residual risk of flooding from surface water would be mitigated by maintaining levels where possible and grading the site such that levels fall away from buildings, thereby reducing the likelihood of flows entering buildings in a flood event.

Fig. 12: Flood Map



110. The applicant proposes to discharge surface water into the adjacent surface water sewer network with runoff being restricted to the 1 in 100 greenfield rate of 28.4 l/s as per the Lead Local Flood Authority's (LLFA) requirements. Flows would be attenuated via blue roofs at podium level and permeable paving at ground level. It is noted that there is no objection from either the Environment Agency or LLFA subject to conditions.

Biodiversity

111. Policy LLP28 of the Local Plan relates to biodiversity and nature conservation and gives qualified support to development proposals that add to the net stock of wildlife habitats or where they help to deliver a net gain in the conservation and enhancement of designated sites or ecological networks.
112. The application was originally accompanied by a Preliminary Ecological Appraisal produced by Middlemarch Environmental (November 2019) and a Preliminary Bat Roost Assessment (January 2020). Following representations received during the application process and the initial comments of the Council's Ecologist, the applicant has also provided an Invertebrate Habitats Assessment, a Dusk Emergence and Dawn Re-entry Bat Survey, a Botanical Walkover Survey and a Reptile Survey. Within this further information no reptiles were recorded and the bat surveys recorded no roosts. Following the submission of this further information, the Council's Ecologist advised that all reasonable steps had now been taken to assess the biodiversity interest of the site, the

ecological nature of the site had been properly characterised and was considered to be low.

113. Given this further information and advice, the ecological impact of the proposal on the previously-developed application site is considered to be low. With the addition of biodiversity improvements through extensive tree planting and a condition requiring further ecological enhancement measures, the impact of the proposal on the biodiversity interests of the application site is considered to be acceptable and in accordance with Policy LLP28 of the Local Plan.
114. In addition to the ecological impacts of the proposal on the application site, consideration is also required of these impacts on adjoining sites and particularly the Crawley Cemetery County Wildlife Site which lies to the north-east of the application site, immediately adjacent to the railway line. The Council's Ecologist was initially concerned as to the possible impacts of shading and loss of sunlight given the tall nature of the buildings proposed. Accordingly, the applicant produced a series of overshadowing diagrams to outline the shadow impacts at various times of the year and also the proposal was reduced in height down to 16 storeys. These diagrams demonstrated that the greatest overshadowing occurs in mid-winter, whilst in summer there are almost no overshadowing impacts. The applicant contends that the overshadowing would not significantly increase over the existing shading provided by the existing mature trees on the site.
115. The Council's Ecologist has still expressed some concern in relation to shading in the spring and in summer in the afternoons. It is stated that it is difficult to quantify the direct ecological impact but it is clear that a greater proportion of the County Wildlife Site would be in shadow for longer.
116. To conclude on this point, whilst the shading models that have been produced are helpful in assessing this issue, it must be noted that they do not include existing shading from the mature trees on this site. Taking into account this existing shading, it is not considered that overshadowing from the proposed development would significantly increase over the shading the currently exists. It is considered that any increase in shade would be marginal and most prominent in the height of winter when the grassland / plant life would be dormant. As such, whilst it is recognised that there may be marginal impact from the proposed development on the County Wildlife Site, this is not considered to be so significant as to warrant a reason for refusal, particularly when it is considered that the scale and layout of the development is not being set at this stage and further consideration to this issue can be given at the reserved matters stage.

Arboriculture

117. There are presently only four trees on the application site and the proposal would not require the removal of any of these trees being set at the northern end of the site, away from any proposed built form and in the area indicatively shown for the public open space. The proposal is promoting a number of trees to be planted across the site, including a tree lined street at the southern end of the site and significant tree planting for both the public and private open space areas. This is a welcome aspect of the scheme and can be brought forward through the landscaping reserved matter.

Fig. 13: Indicative Landscaping Strategy



Sustainability

118. In relation to sustainability the applicant has demonstrated that the proposed development will incorporate a number of sustainability principles including limiting internal water consumption to 105 litres per person per day through the use of efficient water fittings; will incorporate measures to improve site biodiversity, including the provision of green roofs and tree planting throughout the development; will minimise energy demand through low air permeability and low thermal bridging to reduce heat loss; will utilise a communal air source heat pump system to serve the residential space and water heating demand and will achieve a carbon dioxide emissions reduction of at least 22.9% through on-site measures. These measures, combined with the general principles of efficiently using previously developed land and the provision of a residential Travel Plan to encourage sustainable modes of transport, would ensure that the proposed development has regard to the issue of Climate Change and accords with Policy LLP37 of the Local Plan.

Crime Prevention

119. The Bedfordshire Police Crime Design Advisor has raised no specific issue in relation to the current application and detailed crime prevention measures would form part of any reserved matters submissions. Conditions are required relating to CCTV systems, secure boundary treatment and external lighting, and these all form recommended conditions as set out in Appendix A of this report.

Planning Obligations and Affordable Housing

Education, Waste Management, Parks, Museums and Highway/Transportation

120. Policy LLP39 considers the need for planning obligations and in this instance education, waste management, parks, museums and highway/transportation contributions have been requested and they are as follows:
- Primary Education: TBC;
 - Secondary Education: TBC;
 - Waste Management: £46,560;
 - Parks: £80,000;
 - Museums: £7,200; and
 - Highways/Transportation: £TBC.
121. These contributions generally meet the requirements of Policy LLP39 and the Planning Obligations SPD (2007). The applicant has agreed to

provide reasonable levels of developer contributions but until the highway/transportation mitigation measures have been finalised it is not possible to specify the exact amounts to each service area. This will be provided in an update report prior to Committee.

Affordable Housing

122. As set out earlier in the report the application proposes 20% affordable housing across the site which accords with Policy LLP16 of the Local Plan. Additionally, the tenure split of 140 properties as rented accommodation and 60 properties as low-cost home ownership is supported by the Council's Housing Team. Finally, an affordable housing mix of three and two bed properties would be required to meet the current affordable requirement and which can be secured through a S106 legal agreement. The provision of 200 affordable units is a welcome aspect of the scheme.

Other Material Considerations

123. As has been set out in the 'principle of development' section above, the proposal would facilitate the relocation of Hayward Tyler to an alternative site in the Borough in modern, bespoke and custom built premises. This would be achieved through a clause in a legal agreement and thus can be considered to be material in this instance. Facilitating this would increase efficiency in the production process and support improvements in productivity for the applicant, thereby protecting the long-term future of the applicant's operation and jobs in the Borough which is particularly important given the impact of the Coronavirus pandemic.
124. The proposed development would make a significant contribution to the delivery of housing on a sustainable brownfield site located close to the town centre and to the town's main transport nodes. In total the site has the potential to deliver 9.3% of the unmet housing need set out in the Local Plan.
125. Finally, the proposal for 1,000 residential units and commercial floorspace would be a significant construction project in Luton. The applicant has estimated that the proposal would support a construction investment of £200 million, providing approximately 305 direct and 465 indirect construction jobs over a five year construction period. The use of local labour can be captured through a mechanism in the S106 agreement to be attached to any grant of planning permission.

CONCLUSIONS

126. It is recognised in the foregoing report that the proposal is contrary to Policy LLP14 of the Local Plan as there would be an overall reduction in employment floorspace, notwithstanding the new B Class floorspace being proposed in this mixed use application. Accordingly, it has to be considered if there are material considerations that outweigh this policy conflict.
127. In this instance there are considered to be a number of unique material considerations that relate to facilitating the applicant to move to brand new, bespoke premises to assist in the efficient production of their products, an increase in employment density at the application site as well as keeping and safeguarding the 150 jobs currently at the site within the Borough of Luton, the significant contribution to both the general and affordable housing needs of Luton, the creation of a high quality scheme that would create a pleasant living and working environment, improvements to the connectivity to other areas of the town, including the town centre, Power Court and Luton Parkway, the creation of an active frontage along Kimpton Road and Dunstable Way (Busway) and maximising the use of brownfield land in a highly accessible location in accordance with the principles of the NPPF. These strong material considerations are considered to outweigh the conflict with Policy LLP14 in this instance.
128. Additionally, the report has demonstrated that the housing mix would be appropriate, it would not result in any significantly adverse impacts on residential amenity, sufficient car and cycle parking is provided and issues relating to flooding, biodiversity, arboriculture, sustainability and crime prevention have also all been suitably addressed. The creation of more local job opportunities during construction is also a positive aspect of the application. It is recognised that a further highway update will be necessary when the modelling of the Gipsy Lane retail park junction has been completed which will determine the level of mitigation at this junction and quantify the level of S106 contribution required. In turn, this will require an update to the levels of contributions provided for other Council services. Both elements will be provided in an update report prior to Committee.
129. Subject to the satisfactory conclusion of these issues, it is recommended that outline planning permission is granted, subject to conditions and a S106 agreement as set out in this report.

LIST OF BACKGROUND PAPERS

LOCAL GOVERNMENT ACT 1972, SECTION 100D

- 130. Luton Local Plan 2011-2031
- 131. National Planning Policy Framework (NPPF, or the Framework)
- 132. National Planning Practice Guidance (NPPG)
- 133. Luton Landscape Character Assessment (June 2014)

DETERMINATION OF PLANNING APPLICATIONS

- 134. 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

- 135. 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
- 136. 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

- 137. 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

138. 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.

Appendix 1: Conditions and Reasons

TIME LIMIT FOR COMMENCEMENT

(01) In the case of any matter hereinafter reserved for the subsequent approval of the Local Planning Authority, applications for this approval shall be made not later than the expiration of three 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 five 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, 1990.

(02) Full details and particulars of all buildings and other works hereby permitted in respect of access, appearance, scale, layout and landscaping of the site shall be submitted to the Local Planning Authority in writing for their subsequent approval in consultation with Network Rail, before any above ground work is commenced for that phase of works.

Reason: To enable the Local Planning Authority to exercise proper control over the details of the development in the case of an outline planning permission granted under Part 2, paragraph 5(1) of the Town and Country Planning (Development Management Procedure) Order 2015 (as amended).

(03) The development hereby permitted shall not be carried out other than in complete accordance with the approved plans and document Nos.: **20-M001-001.1 (location plan); 20-M001-002B (land use and amount parameter plan); 20-M001-003C (scale and massing parameter plan); 20-M001-004B (movement parameter plan); 20-M001-005C (ground floor parking parameter plan); 20-M001-006B (first floor parking parameter plan) and 20-M001-007B (landscape framework parameter plan).**

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

- (04)** The development hereby approved shall be implemented on a phased basis in accordance with a phasing programme to be submitted to the Local Planning Authority for approval before any development on site commences.

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 Article 3 (1) of the Town and Country Planning (General Development Procedure) Order, 1995, and to facilitate the phased implementation of the planning permission.

- (05)** The submission of further details required by the conditions contained within this decision (where applicable) shall be accepted by the Local Planning Authority on a phase by phase basis by reference to that part of the development which is then proposed to be implemented and references to compliance "before the development and/or works is/are commenced" shall be construed as references to "before the relevant part of the development and/or works is/are 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 Article 3 (1) of the Town and Country Planning (General Development Procedure) Order, 1995, and to facilitate the phased implementation of the planning permission.

- (06)** Prior to the commencement of any demolition or construction works a Demolition Method Statement and Construction Method Statement shall be submitted in writing to the Local Planning Authority for approval in consultation with Network Rail. Demolition and construction shall only then commence in accordance with those approved details.

Reason: To protect human health, the environment, the highway and the amenities of adjoining occupiers and surrounding uses.

- (07)** Prior to the commencement of each individual phase of above-ground works, excluding demolition and enabling works, full details of the materials to be used in the construction of the external materials of the buildings hereby approved (including a Glint and Glare Study if required) shall be submitted in writing to the Local Planning Authority for approval. The development shall be carried out only in full accordance with those approved materials.

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

- (08)** Details of a Design Code shall be submitted in writing to the Local Planning Authority for approval prior to or in conjunction with the submission of the first details of reserved for subsequent approval. The plan shall identify all details to maximise the quality and legibility of the public spaces, to help reinforce local character and accessibility and to ensure a high quality finish to the development. The construction of the proposed development shall then be carried out in accordance with the details set out within the approved Design Code.

Reason: To ensure a suitable standard of development and in the interests of good design and sustainability. To accord with the objectives of Policies LLP1 and LLP25 of the Luton Local Plan.

- (09)** Prior to any works of demolition or construction the tree protection measures as set out on drawing number C151789-01-02-Rev00 of the Arboricultural Impact Assessment and Method Statement by Middlemarch Environmental dated January 2020 shall be in place and shall be retained for the duration of the demolition and construction works. The land so enclosed shall be kept clear of plant, building materials, machinery and other objects and the existing soil levels not altered.

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

- (10)** A landscape management plan, setting out management and maintenance responsibilities for all hard and soft landscape areas, shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development. The landscape management plan shall be carried out as approved and shall remain in force for as long as the development remains in existence.

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

- (11)** No development shall commence (excluding demolition and enabling works) until a surface water drainage scheme, based on sustainable drainage principles, has been submitted in writing to the Local Planning Authority for their approval in consultation with Thames Water and Network Rail. The drainage scheme should demonstrate that the surface water run-off generated by critical storms up to and including the 100 year storm + 40 % climate change uplifts will not exceed the drainage capacity of the site. The scheme should be in accordance with the proposal in Flood Risk Assessment and

Drainage Strategy, by Waterman Infrastructure and Environment Limited, dated January 2020.

Reason: To prevent the increased risk of flooding and to prevent pollution of the water environment.

- (12) No dwelling shall be occupied until a verification report (appended with substantiating evidence demonstrating the approved construction details and specifications have been implemented in accordance with the surface water drainage scheme) has been submitted in writing to the Local Planning Authority for approval. The verification report shall include photographs of excavations and soil profiles/horizons and any installation of any surface water structures and control mechanism.**

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity and ensure the future maintenance of the surface water drainage system.

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

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

- (14) Prior to the first occupation of any buildings on the site, a comprehensive scheme to provide site security measures, including details a CCTV system to the cycle stores, refuse stores, external amenity areas and parking areas and the ongoing management and maintenance thereof, shall be submitted in writing to the Local Planning Authority for approval. The scheme thereby approved shall be installed prior to first occupation and retained thereafter for the lifetime of the development.**

Reason: In the interests of crime prevention and good design.

- (15) Prior to first occupation of the development hereby permitted, full details of a scheme for the storage of waste/recycling shall be submitted in writing to the Local Planning Authority for approval. The scheme thereby approved shall be installed prior to first**

occupation and retained thereafter for the lifetime of the development.

Reason: To ensure a satisfactory standard of development.

- (16) The provision of cycle storage as indicated on drawing No. **20-M001-005C**, shall be in situ and ready for use prior to the development hereby permitted being occupied.

Reason: To ensure a satisfactory standard of development.

- (17) Prior to first occupation of the development hereby approved, a residential travel plan shall be submitted in writing to the Local Planning Authority for approval. The travel plan shall be in line with the prevailing policy and best practice and shall include as a minimum:

- A car park management strategy;
- The identification of targets for trip reduction and modal shift;
- The methods to be employed to meet these targets;
- The mechanisms for monitoring and review, which should include a monitoring regime within six months of first occupation or 75% of building floorspace occupation, whichever occurs the soonest;
- The mechanisms for reporting;
- The penalties to be applied in the event that the targets are not met;
- The mechanisms for mitigation;
- Implementation of the travel plan to an agreed timetable or timetable and its operation thereafter; and
- Mechanisms to secure variations to the travel plan following monitoring and reviews.

The travel plan shall be implemented as approved and retained for the life of the development.

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

- (18)** Prior to first use of the development, a car park management plan, including details of space allocation and the availability of electric vehicle charging points for the development hereby permitted and the management and maintenance thereof, shall be submitted in writing to the Local Planning Authority for approval. The car park management plan shall be carried out as approved from first occupation and retained for the lifetime of the development.

Reason: In the interests of highway and pedestrian safety.

- (19)** No above ground development approved by this permission shall take place until a Phase II site investigation has been undertaken in accordance with the recommendations of the EAME Phase I Contaminated Land Assessment report dated January 2020 (Ref: 019-1729 REV01). This shall be submitted in writing to the Local Planning Authority for approval. Where found to be necessary by the Phase II report, a remediation strategy to deal with the risks associated with contamination of the site shall also be submitted in writing to the Local Planning Authority for approval. The remediation strategy shall include an options appraisal giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency action. Development shall only then proceed in accordance with the recommendations of the Phase II report and remediation strategy.

Reason: To protect human health and the environment.

- (20)** Prior to any permitted dwelling being occupied a validation report shall be submitted in writing to the Local Planning Authority for approval to demonstrate the effectiveness of any agreed Remediation Strategy. Any such validation shall include responses to any unexpected contamination discovered during works.

Reason: To protect human health and the environment.

- (21)** In the event that contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall then be undertaken by a competent person, in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. A written report of the findings should be forwarded to the Local Planning Authority for approval. Following completion of remedial measures a verification report shall be

prepared that demonstrates the effectiveness of the remediation carried out. No part of the development should be occupied until all remedial and validation works have been implemented and this has been verified by the Local Planning Authority in writing.

Reason: To ensure that no future investigation is required under Part 2A of the Environmental Protection Act 1990.

- (22) The development hereby permitted shall not commence (excluding demolition and enabling works) until a monitoring and maintenance plan in respect of contamination, including a timetable of monitoring and submission of reports to the Local Planning Authority, has been submitted in writing to the Local Planning Authority for approval. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted in writing to the Local Planning Authority for approval. Development shall only proceed in accordance with the approved monitoring and maintenance plan.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by managing any ongoing contamination issues and completing all necessary long-term remediation measures.

- (23) Prior to the commencement of above-ground 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 the Local Planning Authority in writing for approval. The scheme should achieve the 2013 Building Research Establishment Environmental Assessment Method (BREEAM) 'Good' status. The scheme shall be installed before occupation of the development and shall be used and retained thereafter for so long as the development remains in existence.

Reason: In the interests of sustainability.

- (24) No above ground development shall commence until a scheme for protecting the proposed dwellings from noise arising from road, rail and air traffic and from neighbouring commercial premises has been submitted in writing to the Local Planning Authority for approval. The scheme shall follow the recommendations identified in the Waterman Planning Noise Assessment report (Ref: WIE16447-1010-R-1-1-5) dated January 2020. None of the dwellings shall be occupied until such a scheme has been implemented in full accordance with

these approved details, and shown to be effective, and it shall be retained as approved thereafter.

Reason: To protect the amenities of future occupiers of the development.

- (25) Prior to any hereby permitted use commencing, a scheme shall be submitted to the Local Planning Authority for approval to demonstrate that the rating level of sound emitted from any fixed plant and/or machinery associated with the commercial elements of the development shall not exceed the existing background noise level inclusive of any penalty for tonal, impulsive or other distinctive acoustic characteristics when measured or calculated according to the provisions of BS4142:2014 (as amended). None of the dwellings shall be occupied until such a scheme has been implemented in full accordance with these approved details and it shall be retained as approved thereafter.

Reason: To protect the amenities of existing and future occupiers.

- (26) No external lighting shall be installed on the site, other than in accordance with a scheme to be submitted in writing to the Local Planning Authority for approval beforehand (to include the design of the lighting unit, any supporting structure and the extent of the area to be illuminated). The scheme, lighting equipment and levels of illumination shall comply with guidance issued by the Institution of Lighting Engineers in their publication "The ILE Outdoor Lighting Guide" and shall be accompanied by a statement from the developer confirming that compliance. The scheme shall thereafter be retained as approved for so long as the development remains in existence.

Reason: In the interests of site security and to safeguard the amenities of adjoining occupiers.

- (27) No buildings hereby permitted shall be occupied until a scheme to assess the operational phase of air quality impacts has been submitted in writing to the Local Planning Authority for approval. Operations at the site should only then proceed in accordance with the approved air quality assessment.

Reason: To protect the amenities of existing and future occupiers.

- (28) Prior to the commencement of the development of each individual phase, a detailed Construction Environmental Management Plan (CEMP) shall be submitted in writing to the Local Planning Authority for approval. The plan shall include the following:
- (a) The construction programme and phasing;
 - (b) Hours of operation, delivery and storage of materials;
 - (c) Details of any highway works necessary to enable construction to take place;
 - (d) Parking and loading arrangements;
 - (e) Details of hoarding;
 - (f) Management of traffic to reduce congestion;
 - (g) Control of dust and dirt on the public highway;
 - (h) Details of consultation and complaint management with local businesses and neighbours;
 - (i) Waste management proposals;
 - (j) Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour;
 - (k) Details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures.

All works shall be carried out in accordance with the approved CEMP thereafter.

Reason: In the interests of highway safety and the control of environmental impacts.

- (29) No properties shall be occupied until confirmation has been provided to the Local Planning Authority in writing that either:- all sewage works upgrades required to accommodate the additional flows from the development have been completed; or - a housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason: Sewage treatment upgrades are likely to be required to accommodate the proposed development. Any upgrade works identified will be necessary in order to avoid sewage flooding and/or potential pollution incidents.

- (30) No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the Local Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.**

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants.

- (31) Full details of the proposed boundary treatment of the site shall be submitted in writing to the Local Planning Authority for approval in consultation with Network Rail before any occupation of the development. The approved boundary treatment shall be installed prior to occupation of the dwellings and be retained for so long as the development hereby permitted remains in existence.**

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

- (32) Any works involving excavations below the chalk groundwater table (for example piling or the implementation of a geothermal open/closed loop system) should be avoided. If these are necessary, a ground investigation should first be carried out to identify appropriate techniques and to avoid displacing any shallow contamination to a greater depth, which could impact the chalk aquifer.**

Reason: To prevent pollution of the water environment.

- (33) The on-site drainage system should incorporate an oil/water interceptor which acts to prevent petrol/oil being discharged into the surface and groundwater network.**

Reason: To prevent pollution of the water environment.

- (34) Affinity Water should be notified at least 15 days in advance of commencing groundwork.**

Reason: To enable Affinity Water to intensify monitoring and to plan for potential interruption of the service.

- (35) Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990 or of the Town and Country Planning (General Permitted Development) Order, 2015 (as amended), (or any Order revoking or re-enacting that Order with or without modification), no telecommunications equipment shall be affixed to the roofs of the buildings erected without the prior planning permission of the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the completed development.

- (36) The development hereby approved shall not be occupied until the necessary off-site highway works on Kimpton Road and in the vicinity of the site required as a result of the development, have been installed, at the developer's expense, in accordance with a scheme submitted to the Local Planning Authority in writing for approval prior to occupation. Written notification of the completion of the required works shall be provided to the Local Planning Authority before the development hereby approved is occupied.

Reason: In the interests of sustainable travel and to enable the achievement of objectives in the Travel Plan.

- (37) The ecological impact mitigation measures, as indicated within the Preliminary Ecological Appraisal by Middlemarch Environmental dated November 2019 (and the subsequent submitted survey reports), shall be implemented as approved prior to first use of the development hereby permitted and shall be retained for the lifetime of the development where necessary.

Reason: To protect ecological interests on the site.