

**DEVELOPMENT CONTROL COMMITTEE**

**WEDNESDAY 21<sup>st</sup> JANUARY 2015**

**RECOMMENDATION OF THE DEVELOPMENT CONTROL MANAGER**

**FOR APPROVAL OF PLANNING PERMISSION**

**APPLICATION NO: 14/01036/FUL**  
**PROPOSAL: ERECTION OF 4 RETAIL UNITS AND 39 FLATS**  
**COMPRISING 38 ONE BEDROOM AND 1 TWO**  
**BEDROOM FLATS.**  
**LOCATION: 39-47 JOHN STREET**  
**APPLICANT: MR T. HUSSAIN**  
**WARDS AFFECTED: SOUTH**

**RECOMMENDATION**

**APPROVE**

**1. Subject to the conditions set out below:**

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

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

- (02) The development hereby permitted shall not be carried out other than in complete accordance with the approved plans and specifications as set out on Luton Borough Council plan numbers 01, 02, 03, 07, 08, 10, 11, 12, 13, 14 and 15.**

**Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policy(ies) LP1 and ENV9 of the Luton Local Plan.**

- (03) No works or development shall take place until full details of a landscaping scheme to include all hard surfaces, grassed areas, tree and shrub plantings and the proposed times of planting, has been approved in writing by the Local Planning Authority, and all grassed areas shall be laid out and all tree and shrub planting shall be carried out in**

accordance with those details and at those times. Within one month of the completion of the landscaping scheme written confirmation of the completion date shall be submitted to the Local Planning Authority. If within a period of five years from the initial date of planting of any tree or shrub, any such plant is removed, uprooted or destroyed or dies, or becomes in the opinion of the Local Planning Authority, seriously damaged, diseased or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

**Reason:** To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policy(ies) LP1 and ENV10 of the Luton Local Plan.

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

**Reason:** To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policy(ies) LP1 and ENV9 of the Luton Local Plan.

- (05)** The garden/amenity space approved as part of the development hereby permitted shall be available for use prior to the occupation of any flat or dwelling and shall be accessible to the occupants of all dwelling units in the scheme.

**Reason:** To protect the amenities of the future residents of the accommodation hereby approved. To accord with the objectives of Policy(ies) LP1, H2 and ENV9 of the Luton Local Plan.

- (06)** Full details of the proposed boundary treatment of the site shall be submitted to and approved by the Local Planning Authority before the development is commenced and the approved treatment shall be installed before the building(s) hereby permitted is/are occupied.

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

accord with the objectives of Policy(ies) LP1, H2 and ENV9 of the Luton Local Plan.

- (07) Samples of the materials to be used in the construction of the roof and external elevations of the building shall be submitted to and approved by the Local Planning Authority before the development is commenced.**

**Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policy(ies) LP1 and ENV9 of the Luton Local Plan.**

- (08) Prior to the commencement of development, details of a scheme for renewable energy production equipment to provide at least 10% of the predicted energy requirements of the development shall be submitted to and approved by the Local Planning Authority, unless it can be demonstrated that there are overwhelming practical reasons why this is not appropriate. The scheme thereby approved shall be installed before first occupation or in accordance with a timetable agreed in writing by the Local Planning Authority and shall be used, retained and maintained thereafter for so long as the development remains in existence.**

**Reason: In the interests of sustainability. To accord with the objectives of Policy(ies) LP1 and U3 of the Luton Local Plan.**

- (09) Prior to the first occupation of the development hereby approved, a scheme to provide site security and external lighting shall be installed in accordance with details to be submitted to and approved by the Local Planning Authority beforehand. The scheme thereby approved shall be retained and maintained thereafter for so long as the development remains in existence.**

**Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policy(ies) LP1 and ENV9 of the Luton Local Plan.**

- (10) Full details shall be submitted to and approved by the Local Planning Authority for the provision of a secure and convenient cycle store, which shall be installed prior to the occupation of any flat.**

**Reason: To protect the amenities of neighbouring properties. To accord with the objectives of Policy(ies) LP1 and T8 of the Luton Local Plan.**

- (11) Before the development is commenced a scheme for the provision of affordable housing as part of the development shall be submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme. The scheme shall include:- (i) The number, type and location of the affordable housing provision to be made; (ii) The timing and the construction of the affordable housing; (iii) The arrangements to ensure such provision are affordable for both initial and subsequent occupiers of the affordable housing; (iv) The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing; (v) The means by which the scheme shall be enforced, including any necessary legal agreement if appropriate. Affordable housing provided in accordance with this condition shall be the 'social rented' sector to meet identified local housing needs unless the developer is able to demonstrate to the satisfaction of the Local Planning Authority that social rented accommodation is not appropriate on the site, in which case the affordable housing shall be provided as a combination of low-cost housing and shared ownership or, as a last resort, in the form of a commuted payment to enable the provision to be off-site.**

**Reason: To ensure that provision is made for affordable housing in accordance with Policies H5 and H6 of the Luton Local Plan.**

- (12) No impact piling shall take place until an impact piling method statement detailing the depth and type of piling to be undertaken and the methodology by which the piling will be carried out, including measures to prevent the potential for damage to subsurface sewerage infrastructure, and the programme for the works has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.**

**Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure. To accord with the objective of policies LP1 and ENV14 of the Luton Local Plan.**

- (13) Full details of the external treatment of the exposed flank wall of Auction House shall be submitted to and approved by the Local Planning Authority. The approved treatment shall be applied to the wall before the occupation of any of the dwellings hereby approved.**

**Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policy(ies) LP1 and ENV9 of the Luton Local Plan.**

- (14) No development approved by this planning permission (or such other dates or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority. (i) A preliminary risk assessment which has identified: All previous uses; Potential contaminants associated with those uses; A conceptual model of the site indicating sources, pathways and receptors; Potentially unacceptable risks arising from contamination of the site.(ii) A site investigation scheme based on (i) to provide Information for the detailed assessment of the risk to all receptors that may be affected, including those off site. (iii) The results of the site investigation and detailed risk assessment referred to in (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken (iv)**

**A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.**

**Reason: To protect sensitive groundwater resources in line with Local Plan Policies LP1, ENV14 and NPPF paragraph 121.**

- (15) No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation**

criteria have been met. It shall also include any plan (a 'longer term monitoring and maintenance plan') for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The longer-term monitoring and maintenance plan shall be implemented as approved.

**Reason:** To protect sensitive groundwater resources in line with Local Plan Policies LP1, ENV14 and NPPF paragraph 121.

- (16) No development shall take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports by the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To protect sensitive groundwater resources in line with Local Plan Policies LP1, ENV 14 and NPPF paragraph 121.

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

**Reason:** To protect sensitive groundwater resources in line with Local Plan Policies LP1, ENV14 and NPPF paragraph 121.

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

**Reason:** To protect sensitive groundwater resources in line with Local Plan Policies LP1 and ENV14 and NPPF Para 121.

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

**Reasons:** To protect sensitive groundwater resources in line with Local Plan Policies LP1, ENV14 and NPPF paragraph 109.

## **REPORT**

### **INTRODUCTION**

2. The application relates to a roughly rectangular shaped area of cleared land within the Plaiters Lea Conservation Area, located on the northern side of John Street and backing onto the River Lea.
3. John Street has undergone significant change since the time when it was a commercial area serving the hat making industry, most of the buildings have been converted to flats and several demolished and replaced by new buildings providing student accommodation, flats and retail shops.

### **LUTON LOCAL PLAN ALLOCATION**

4. LP1, H2, H3, ENV8, ENV9, ENV10, T3, T8, IMP1, the SPD on planning obligations, and the NPPF.

### **POLICY IMPLICATIONS**

5. Policy LP1 sets out a sustainable development strategy and will permit developments unless it is considered they would conflict with the aims or objectives of any other policies of the local plan; or fails to improve the physical environment of the town; or fails to improve the quality of lives for residents.

6. Policy H2 supports the grant of planning permission on sites not allocated for housing provided that, amongst other matters, it is previously developed land and that there would be no unacceptable effect on the environment; and there would result in a demonstrable environmental gain.
7. Policy H3 requires new residential developments to be built at a net density of 40 dwellings per hectare and above, unless it can be demonstrated that it would have a significant adverse impact on the surrounding area.
8. Policy ENV8 expects developments in Conservation Areas to preserve or enhance the appearance and character of such areas
9. Policy ENV9 stipulates that proposals for built development should enhance the appearance and character of the area and to have regard to a wide range of considerations to ensure that the development makes a positive contribution to its setting.
10. Policy ENV10 will not permit proposals that do not make adequate provision for landscaping.
11. Policy T3 is concerned with the traffic implications of development. Permission will only be granted if the proposal would not exacerbate road congestion; cause safety problems; or likely to cause demonstrable harm to the quality of the environment.
12. Policy T8 seeks to promote walking and cycling within new developments, and requires provision should be made for convenient and secure cycling parking.
13. Policy IMP1 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.
14. Contributions are sought by education and the waste management service. The applicant has provided a Unilateral Undertaking to secure the contributions.
15. One of the core principles laid out in paragraph 17 of the NPPF is that development should always seek to secure high quality design and good standards of amenity for all existing and future occupants. The proposal is considered to adhere to this core principle.
16. The Framework also advises that the planning process should proactively drive and support sustainable economic development to provide houses, business units, and infrastructure.

#### RELEVANT HISTORY

17. In 2003 planning permission was granted for the erection of a seven storey



block of 58 flats plus basement car parking and use of ground floor as a restaurant.

#### TECHNICAL CONSULTATIONS

18. Highway Engineering – No objections to the application have been received.
19. Children and Learning – The demand for additional school places is particularly acute in the South area of the town. A financial contribution is sought to enable existing school places to be altered or expanded to cater for the additional pupil numbers that are likely to be generated by the proposal.
20. Strategic Planning – Amendments to the scheme have addressed the initial concerns in relation to the height and design and will result a development more in keeping with the surrounding development,
21. Waste Management – No response received.
22. Wardown Museum – No response received
23. Parks – No response received
24. Libraries – No response received
25. Thames Water – Advise that no piling shall take place until a piling method statement has been submitted to and approved in writing by the local planning authority. Informative advice is given with respect to sections of pipes that are shared with neighbours, or are connected to a public sewer.
26. Environmental Protection – Records show that the application site has been used for industrial purposes and the submitted Phase 1 report has shown that the site is considered to be potentially contaminated. Therefore a Phase 2 intrusive soil investigation should be submitted.
27. Housing Policy Officer – No interest has been received from registered providers to be involved in the scheme and therefore a commuted sum would be sought in lieu of provision of affordable housing.
28. Police Architectural Liaison Officer – No information has been provided dealing with community safety and this should be addressed by the imposition of a condition.
29. Fire Safety Officer – No response received.
30. Building Control – No objections
31. Environment Agency - No objections subject to the imposition of 6 conditions,

## NEIGHBOUR CONSULTATIONS

32. A site notice was displayed and the application advertised in the local press. One hundred and fifty local occupiers were notified and no representations were received.

## MATERIAL PLANNING CONSIDERATIONS

33. The main planning considerations are the impact on the Conservation Area and the amenities of neighbouring properties; the living environment created; design and parking.

## IMPACT ON CONSERVATION AREA

34. The site is located on the northern side of John Street and has been cleared of all buildings following the grant of planning permission in 2003 for a seven storey building comprising 58 flats and a restaurant. The permission has since lapsed.
35. The proposal is for a five storey building abutting the back edge of the pavement, in keeping with the general building line of the street. The ground floor to the street frontage comprises retail units, which is to be found in some of the more recent developments on John Street, with residential accommodation above. The façade will be subdivided by central pillars which relate to the shop units below and provide a strong vertical emphasis and visually tie the building and the shop units together. The design of the fourth floor will be in the form of a mansard roof with dormer windows, set in from the front and rear elevations behind a parapet wall. This will add to the visual interest and ensure the building does not appear too overbearing in the street scene.
36. To the east lies Waynes Court, a 4 storey former corn warehouse dating from around 1913. This has been converted to flats with offices on the ground floor. The building was later extended to increase the number of flats in the form of a 2 ½ storey extension on the western side with three gabled dormer windows.
37. To the west, No 35 John Street is part of a scheme to redevelop the site of No's 23 to 33 John Street. The old auction rooms at No 35 were retained, this is a tall three storey building which has been refurbished and converted to a retail unit on the ground floor with residential accommodation above. A distinguishing feature of this building are the large first and second floor windows to the street frontage. No's 23 to 33 were demolished and replaced by two buildings, one behind the other. The building to the front is 4 storeys comprising retail units on the ground floor with flats above, and the building to the rear a five storey block of flats.
38. Directly opposite the site is Lester Hall, a four storey student block built in the 1990's. A four and five storey block of flats on was recently granted permission on the site of the former Melson Arms public house at the junction of John Street with Church Street.

39. The proposal follows the typical format of the more recent development along John Street, much of which consists of retail units with residential accommodation above, the schemes having attempted to replicate the architectural styles seen on earlier buildings. The proposal provides an opportunity develop this site that has remained open for many years and has become an eyesore with the consequent damaging effect on the appearance and character of the Conservation Area.
40. The Plaiters Lea Conservation Area features a variety of architectural styles and a diversity of building heights and roofspaces. It is therefore concluded that that the height of the proposed building reflects this mixed context of the surroundings and architecturally the scheme will enhance the appearance and character of the area and is thereby compliant with the objectives of Policies ENV8 and ENV9.

## DESIGN

41. A traditional approach has been taken incorporating design features found in some of the older former industrial buildings within the area. The windows are divided into smaller glazing panels as found in the adjoining Auction House building. In order to avoid the appearance of one large block a vertical emphasis has been introduced by the use of central pillars, this would reflect to some degree the vertical form of some of the older buildings in the area. The external elevations would be constructed in facing brickwork, the covering of the mansard roof would be slate with slate faced dormer windows. The external materials to be used are subject to approval. It is considered that the design is consistent with the objectives of Policies ENV8 and ENV9

## IMPACT ON ADJOINING OCCUPIERS

42. The western flank wall of the proposed development will abut the flank wall of the Auction House building. After demolition of the buildings on the site the exposed flank wall of Auction House was not reinstated and remnants of the demolished buildings are still attached to this property. A condition requires the proposed treatment of the part of the flank wall that will remain exposed to be submitted for approval and the work carried out before the proposed flats are occupied. The proposal will have little impact on this property.
43. To the east is Waynes Court, and 'L' shaped 2 ½ to 4 storey building. The flank wall of the 2 ½ storey element is positioned on the common boundary from which the proposed flank wall of the proposed development would be set back 2 metres, and project to the rear by approximately 7.8 metres. The north facing windows to Waynes Court are to bedrooms, bathrooms, and the stairway, with windows to the lounge and kitchen facing south. Although the outlook and light to the north facing windows will be affected by the development, it is considered that there would be no major harm to the living conditions of the occupiers of these flats.
44. The 4 storey section of Waynes Court extends up to the northern boundary with the River Lea. In the western elevation is an external stairway that has

been enclosed within a structure, and living room and bedroom windows that face towards the proposed development over a distance of 14 metres. However, there is only a small overlap between the two buildings, most of the windows being located opposite the open area to the rear of the proposed development.

45. To the north the properties on Guildford Street are three and four storey buildings that back onto the site, the River Lea, which is in a deep culvert at this point, runs between the two sites. These properties have been converted to flats, a number retaining a commercial element to the ground floor on the street frontage. Windows to these properties and the proposed development face each other over a distance of approximately 12 to 21 metres. This is below the normal adopted standard given in the guidance for residential development contained in Appendix 2 to the Local Plan. However, these standards need to be considered in the context of the overall character of the area which in this case is a tightly knit development dating from the Victorian period, where spatial distances between buildings and the level of privacy is limited. It should also be borne in mind that John Street is a narrow street with multi storey properties facing each other over across a 11 metre gap, reflecting the densely developed central area of the town.
46. It is concluded that the proposal would not cause any material harm to the amenities of the occupiers of nearby properties, and is therefore compliant with the objectives of Policies LP1, H2 of the Local Plan.

#### LIVING ENVIRONMENT

47. Entrance to the flats is from John Street with stairs and a lift providing access to all floors. All the flats have access from within the building to an amenity area at the rear, the ground floor flats having an enclosed outdoor area to give the occupants a degree of privacy. A refuse collection point is located on the eastern side of the block, accessed via a passageway so that the containers can be easily collected by collection crews.
48. The one bedroom flats have an internal floor area from 40 to 58 sq metres, and the two bedroom flat 66 sq metres. They have an open living area comprising a shared lounge/kitchen and dining area. All the rooms have a reasonable outlook and light penetration. It is considered that the proposal provides a satisfactory living environment for the future occupiers.

#### AMENITY SPACE

49. Provision is made 374 sq metres of outdoor amenity space, which includes three of the flats provided with a balcony. To meet the adopted standards provision should be made for 215 sq metres.

#### AFFORDABLE HOUSING

50. Policy H5 is concerned with the provision of affordable housing and sets an indicative target of up to 50% for all new developments within the Borough. However, the Three Dragons Affordable Housing Viability Study carried out

in April 2013 for the Council identifies that a realistic affordable housing target is likely to be in the region of 15 – 20% that developments could realistically yield in the current commercial climate, subject to the circumstances of the site.

51. The Council's Housing Policy Officers report that there is not interest in the site by registered providers to be involved in the scheme and therefore a commuted sum would be sought in lieu of provision of affordable housing. This can be secured by way of a condition; the applicant has agreed that he has no objection to this approach.

#### **PARKING**

52. No off Street parking is provided but the site is within the town centre with its wide range of services and facilities. Given the sustainable location no conflict is seen with Policy T13 of the Local Plan. A condition is imposed requiring the submission of details of a proposed cycle store.

#### **CONCLUSION**

53. It is considered the proposal is a satisfactory development for this site which complies with the relevant policies of the Luton Local Plan and the guidance given in the NPPF. Approval is recommended subject to the conditions set out in the report.

#### **LIST OF BACKGROUND PAPERS** **LOCAL GOVERNMENT ACT 1972, SECTION 100D**

54. Luton Local Plan 2001 – 2011.
55. The NPPF.
56. File Ref. 14/01036/FUL.