

Committee:	Development Control			
Date of Meeting:	24 March 2021			
Subject:	20/00573/FUL: Erection of an eleven storey building comprising of 84 (19 x one-bedroom, 60 x two-bedroom and five x three-bedroom) residential units (Use Class C3) with associated pedestrian and vehicular access, car parking and landscaping following demolition of existing unoccupied accommodation.			
Address and Applicant:	70 New Bedford Road (Former Lansdowne Club), Luton – Lansdowne Developments Ltd			
Report Author:	Head of Planning			
Contact Officer:	Clive Inwards			
Implications:	Legal	<input checked="" type="checkbox"/>	Community Safety	<input checked="" type="checkbox"/>
	Equalities	<input checked="" type="checkbox"/>	Environment	<input checked="" type="checkbox"/>
	Financial	<input type="checkbox"/>	Consultations	<input checked="" type="checkbox"/>
	Staffing	<input type="checkbox"/>	Other	<input checked="" type="checkbox"/>
Wards Affected:	High Town			

## Purpose

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

## Recommendations

2. It is recommended to the Committee:
  - (i) That the reasons for approval set out in this report are agreed;
  - (ii) That planning permission is granted, subject to the conditions set out below ('Appendix A');
  - (iii) That planning permission is granted, subject to the satisfactory completion of the necessary mechanisms to: secure the delivery of financial contributions towards Primary and Secondary Education, a car club contribution, a museum contribution and a waste management contribution; a mechanism to secure the delivery of local goods, services and labour; a monitoring fee of £5,000 and an overage clause with any additional contributions to be put towards education in the first instance, followed by affordable housing;
  - (iv) That delegated authority is granted to the Head of Planning to make minor alterations to the conditions, including adding and deleting conditions, following any Committee resolution to grant permission (should any be required);

- (v) That, following any grant of permission, delegated authority is granted to the Head of Planning to determine any subsequent planning applications related to this development seeking either minor material amendments (Section 73 applications) or minor variations to the accompanying legal agreement (Section 106 applications):**

## **Conditions ('Appendix A')**

- (01) Time Limit for Commencement;***
- (02) Approved Plans and Documents;***
- (03) Construction Environmental Management Plan;***
- (04) Removal of Permitted Development Rights (Telecoms);***
- (05) External Materials;***
- (06) Landscaping Scheme;***
- (07) Landscape Management;***
- (08) Boundary Treatment;***
- (09) External Lighting;***
- (10) Renewable Energy and Climate Change;***
- (11) Shared Areas Management Plan;***
- (12) Refuse Management Strategy;***
- (13) Car Park and EVCP Management;***
- (14) Refuse storage;***
- (15) Site Security;***
- (16) Noise (Residential Insulation);***
- (17) Noise (2);***
- (18) Noise (Plant);***
- (19) Surface Water Drainage Scheme;***
- (20) Verification;***
- (21) Travel Plan;***
- (22) Interpretation Board;***
- (23) Contamination;***
- (24) Ecological Mitigation and Enhancement;***
- (25) EV Charging;***
- (26) Oil/Water Interceptors;***
- (27) Excavations Below Groundwater Table;***
- (28) Notification to Affinity Water;***
- (29) No Direct Infiltration.***

## **Heads of Terms**

- (01) Contribution: Primary Education;***
- (02) Contribution: Secondary Education;***
- (03) Contribution: Car Club;***
- (04) Contribution: Museums;***
- (05) Contribution: Waste Management;***
- (06) Local Labour, Goods and Services; and***
- (07) Monitoring Fee of £5,000.***

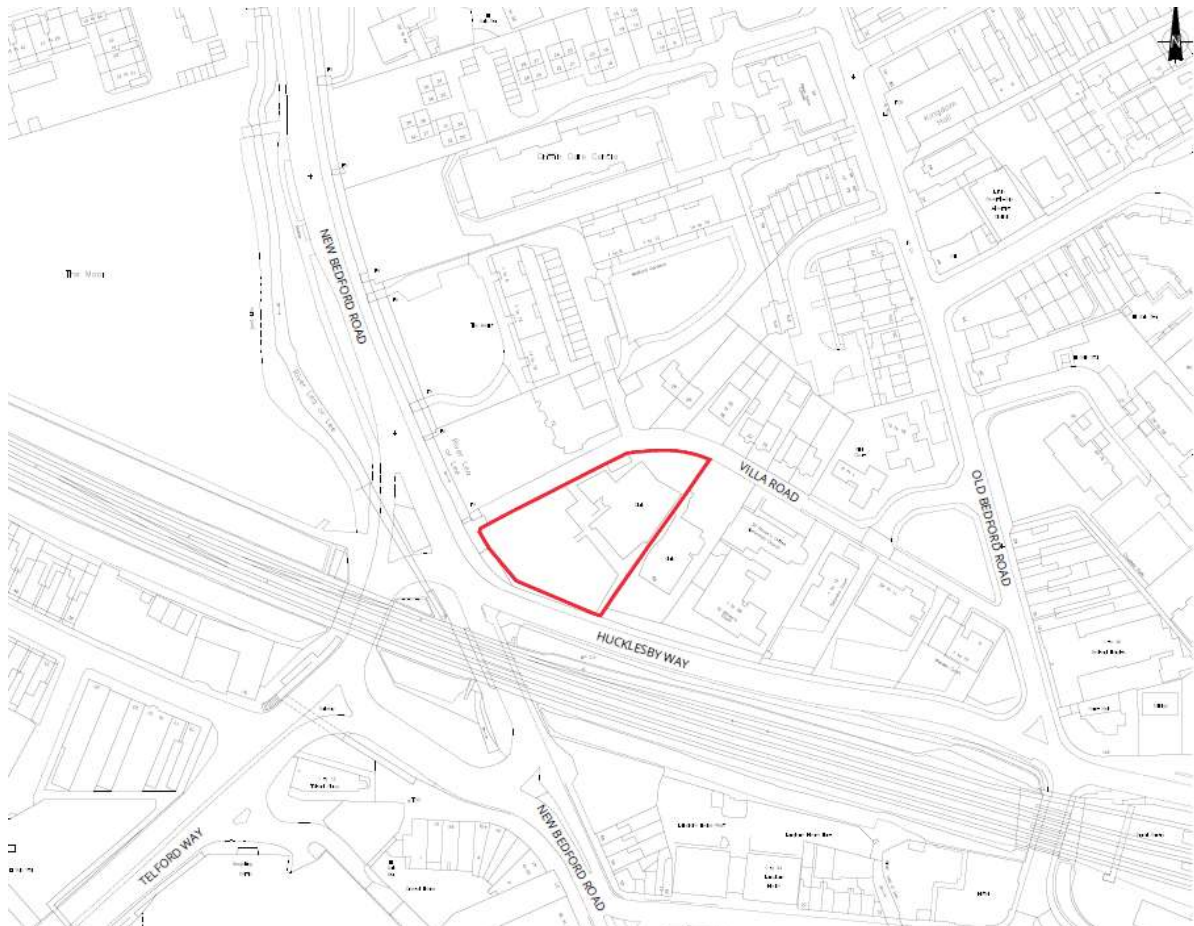
## **REPORT**

### *The Site and Surroundings*

3. The application site comprises an irregular shaped parcel of land of approximately 0.27 hectares which tapers towards the north-east where Villa Road curves around the site. The site is situated at the junction of New Bedford Road and Hucklesby Way and is

bounded by the Leaside Hotel to the north-west, the Hope Church Centre to the south-east and Villa Road to the north. To the south and west the site is bounded by Hucklesby Way and New Bedford Road respectively. The site was formerly occupied by the Lansdowne Club who operated the building as a private members club, although that use has now ceased.

Fig. 1: Site Location Plan\*



\*Please note, all maps in this report are orientated with north at the top of the page unless otherwise stated.

## Site History

4. The planning history of the site relates to extensions to the original building and car park and the construction of an external staircase and walkway to the first floor flat. There is nothing specifically relevant in the planning history to the current proposal. The application before Members is the result of continuous engagement through a pre-application enquiry (ref: *PREAPP/19/00172*). Relevant site history is otherwise limited.

## The Proposal

5. The application seeks full planning permission for the creation of 84 flats, of which 19 would be one-bedroom (22.6%), 60 would be two-bedroom (71.4%) and five three-bedroom (6%). This is to be achieved through the erection of eleven and four-storey buildings, which would address both Villa Road as it curves around the northern and

western sides of the site down to New Bedford Road and New Bedford Road itself. Vehicular access to the site would be taken from Villa Road.

6. As stated the current proposal provides for two separate buildings, with a main building of 11 storeys in height fronting New Bedford Road, with a predominantly four storey wing to this element on its eastern side. The second building would have a maximum height of five storeys (incorporating the lower ground floor) and which would be arranged in a broadly 'L' shape to follow the curve of Villa Road around the northern boundary of the site. Both buildings would predominantly utilise brickwork of beige and grey brick to align with the historic 'Luton Grey' brick. Along with brick the taller building would also utilise bronze to act as a signature material.
7. The proposal is an entirely residential scheme but it also makes provision for 20 car parking spaces with 18 car parking spaces provided at a lower ground floor level (including one DDA compliant space) and two car club spaces at the ground floor level. Provision is also made for 140 secure cycle parking spaces.
8. Approximately 1508 sq.m of external amenity space is provided for in the proposal in the form of an internal podium, courtyard area, a southern amenity space in front of the main building, a residential terrace on the fourth floor and both internalised and external balconies for the apartments.

Fig. 2: Proposed Site Plan





## Policy Implications

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

9. 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.
10. Paragraph 38 of the Framework advises that local planning authorities should approach decision making in a positive and creative way and should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible. Discussions have taken place with the applicant following the requirement for the application to be determined by the Development Management Committee.

### *Planning Policy Guidance (PPG)*

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

### *Luton Local Plan 2011-2031*

12. The Local Plan was adopted on 7 November 2017. Within the Local Plan the application site is not allocated for any specific land use. Accordingly, Policy LLP15 (Housing Provision) of the Local Plan would apply. Part B sets out that planning permission for residential development will 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. Other applicable policies relevant to the proposal are LLP1, LLP2, LLP16, LLP25, LLP27, LLP28, LLP29, LLP30, LLP31, LLP32, LLP36, LLP37, LLP38 and LLP39. These policies are paraphrased as below:
  - *Policy LLP1 (Presumption in Favour of Sustainable Development)*: sets out a sustainable development strategy for the Borough;
  - *Policy LLP2 (Spatial Development Strategy)*: sets out the spatial development strategy;
  - *Policy LLP16 (Affordable Housing)*: considers the provision of affordable housing within the Borough;
  - *Policy LLP25 (High Quality Design)*: seeks to have development enhance the character of an area, respond positively to the local context, minimise adverse

amenity implications, optimise a site, achieve adopted standards and create attractive and safe spaces;

- *Policy LLP27 (Open Space and Natural Greenspace)*: seeks to ensure that the type, quantity and quality of open space needed to support the development is provided on-site in accordance with the Council's open space standards;
- *Policy LLP28 (Biodiversity and Nature Conservation)*: seeks to ensure that developments enhance their visual and biodiversity value with appropriate planting of locally native trees, shrubs and hedgerows.
- *Policy LLP29 (Landscape and Geological Conservation)*: seeks to ensure that development proposals protect, conserve or enhance the character, setting and natural beauty of national and local landscape areas.
- *Policy LLP30 (Historic Environment)*: seeks to protect, conserve and enhance historic assets.
- *Policy LLP31 (Sustainable Transport Strategy)*: sets out the sustainable transport strategy and stipulates that development will be permitted where it minimises the need to travel, reduces congestion and provides sustainable transport choices;
- *Policy LLP32 (Parking)*: considers the parking requirements of development, stipulating expected provisions and highlighting the sustainability of Town Centre-proximate locations;
- *Policy LLP36 (Flood Risk)*: deals with matters of drainage and flood risk associated with development;
- *Policy LLP37 (Climate Change, Carbon and Waste Reduction and Sustainable Energy)*: considers the climate change implications of development;
- *Policy LLP38 (Pollution and Contamination)*: relates to dealing with land contamination and environmental implications associated with development; and
- *Policy LLP39 (Infrastructure and Developer Contributions)*: is concerned with the level of financial contributions provided by developments and must be read in conjunction with the Supplementary Planning Document on Planning Obligations which assess what planning obligations should be sought from development. It is unlawful for a planning obligation to be taken into account when determining a planning application for a development that is capable of being charged Community Infrastructure Levy (CIL) if the obligation does not meet the following tests:
  - Necessary to make the development acceptable in planning terms;
  - Directly related to the development; and
  - Fairly and reasonably related in scale and kind to the development;

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



## **Facts of the Application**

### **Material Site Details**

<i>Strategic Allocation:</i>	No
<i>Conservation Area:</i>	No
<i>Setting of a Listed Building:</i>	No
<i>Flood Risk Zone:</i>	Yes
<i>Other:</i>	Yes: Next door to the Leaside Hotel which is on the Draft Local List

### **Housing**

<i>Mix of Dwellings:</i>	Studio: 0 (0%) One-bedroom: 19 (22.6%) Two-bedroom: 60 (71.4%) Three-bedroom: 5 (6%) Four-bedroom+: 0 (0%)
<i>Affordable Housing:</i>	No. None provided.
<i>Internal Space Standards:</i>	NDSS Compliant: Yes
<i>External Space Standards:</i>	Appendix 6 Compliant: Yes
<i>Existing Use(s):</i>	N/a as the use has ceased: 0.27 hectares
<i>Proposed Use(s):</i>	Class C3: 7676 (GIA) square metres

### **Sustainability**

<i>Car Parking:</i>	Existing Provision: Approximately 50 spaces
	Proposed Provision: 20 (including two car club)
<i>Cycle Parking:</i>	Existing Provision: 0
	Proposed Provision: 140
<i>Public Transport:</i>	Proximity of Train Station: 480m
	Proximity of Busway: 500m
<i>Parking Controls:</i>	Yes – Parking restrictions during controlled times.

### **Public Consultation ('Appendix 3')**

<i>Press Notice:</i>	Yes
<i>Site Notice:</i>	Yes
<i>Direct Consultation:</i>	<b>Total Consulted: 12</b> Support: 5 Objection: 62 Other: Further 19 objections to revised scheme.
<i>Expiration of Statutory Period</i>	23 February 2021

## Consultation Responses

### *Technical Consultation*

13. The application was notified to many technical consultees and no significant issues have been raised towards the development, in some cases following the receipt of additional information. Conditions have been recommended and, where appropriate and reasonable, these have been incorporated into the conditions as set out at 'Appendix A' and summarised above. The technical consultees, together with the responses received, are captured at 'Appendix B' of this report and relate to the revised scheme currently being considered unless otherwise indicated.

### *Statutory Public Consultation*

14. The application was originally notified to a number of neighbouring properties, a site notice posted and a press notice placed in the local paper. The original notification exercise elicited 67 representations in total. Of these 62 were objecting to the proposal and five were in support. Given the significant changes to the proposal during the course of the application, the current revisions also required a full re-consultation exercise. Again a number of neighbouring properties were notified, a site notice erected and a press notice published in the local paper. This second round of consultation attracted 19 letters of representation, this time all letters of objection. The comments raised by both the initial and re-consultation exercise are captured at 'Appendix C' of this report.

## Report of the Officer

### MAIN PLANNING CONSIDERATIONS

15. The main material planning considerations in this instance relate to the principle of development including the loss of the former use, housing mix and loss of the existing building; climate change; 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, affordable housing, planning obligations and regeneration.
16. The application site is unallocated in the Luton Local Plan (LLP) and accordingly, falls to be assessed against Policy LLP15 which states that planning permission for residential development will 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.

### *Loss of the Prevailing Use*

17. The former use of the building as a Member's Club ceased in November 2018 and the building has been vacant since that time with some ad-hoc parking on its frontage.
18. The applicant has provided some commentary in their Planning Statement regarding the decision of the former owners of the building to close the premises. It is stated that there were a number of reasons which lay behind the decision to close the Member's Club, with the primary reasons being related to a significant decrease in membership numbers over time in addition to the costs associated with running and maintaining the

physical infrastructure of the Club building itself. In summary, the building had not been refurbished since the late 1980s and was in need of significant improvements outside the budget of the Club and the cost of upgrading facilities, such as the kitchen, was prohibitive. Given this scenario the Club members decided that it would be more appropriate to sell the building and evenly distribute the shares back to the owners.

19. In consideration of Policy LLP15 of the Local Plan, it is evident that the available evidence clearly supports the view that there is no longer a recognised need for a Member's Club at this site. Additionally, it is not possible through the planning process to require a use to continue to operate if it is not commercially viable and accordingly the proposal would meet criterion B of Policy LLP15.

### *Provision of Housing*

20. The development would provide for a total of 84 flats, 65 (60 two-bedroom and five three-bedroom) of which there exists a need within the Borough. This means that 77.4% of the total provision would contribute directly towards meeting the outstanding need for Luton. Given that this is a flatted scheme that is within comfortable walking distance of Luton Train Station, the residential offer is considered to be acceptable.
21. It is acknowledged that there remains 19 one-bedroom flats for which there is no identified need within Luton, however, these units provide the requisite uplift in development value that enables the scheme to be able to incorporate the provision of meeting the majority of the financial contributions required towards education, museums, the car club and waste management that shall be discussed within a subsequent section of this report, as well as providing for a high quality design that will also be discussed later. For being able to provide a significant majority of larger units, whilst also contributing positively in relation to developer contributions, the mix of housing is considered to be excellent in this instance.
22. For reasons that shall be furthered within subsequent sections of this report, the development is not considered to result in the over-development of the site.
23. In view of all of this, together with the previously discussed vacancy of the building, the scheme is considered to comply with Policy LLP15 of the Luton Local Plan 2011-2031.

### *Loss of Existing Building*

24. In addition to considering the use of the building, many of the representation responses received have highlighted the historic value of the existing building and state that it should be retained. Accordingly, this issue has been carefully considered.
25. Firstly, it is noted that there is no statutory protection afforded to the existing building as it is not designated as a listed building. Additionally, it is not included on the Draft Local List of Heritage Assets. Therefore, the retention of these buildings can be afforded no support under adopted planning policies.
26. Further, and as will be noted from the heritage advice from the Council's Conservation Consultant (BEAMS), the principle of the demolition of number 70 is found to be

acceptable providing that a well-designed scheme is submitted for its replacement and that the proposals incorporate the installation of an interpretation board to the front of the site to reference the contribution made by the existing building (this is to be provided through a condition on any grant of planning permission). The consideration of the design merits of the revised scheme are to be set out in later sections of this report but unfortunately the unsympathetic nature of the extensions to the existing building and the lack of remaining historical fabric, result in a building that cannot be afforded any statutory listing protection.

27. It is recognised that the building is of some architectural interest as a modified example of a Late Victorian detached villa. However, the significance of the building has been eroded as a result of the extensive extensions and additions as part of its former use as a Member's Club. These alterations have detracted from the architectural detailing of the southern principal elevation of the building as well as altering the historic layout of the ground floor. As such, the building is considered to comprise a non-designated heritage asset of limited architectural, aesthetic and artistic interest due to its surviving Late Victorian architectural features.
28. As a non-designated heritage asset, the proposal is only considered to make a minimal contribution to the historic built environment. It is recognised that the demolition of the building would result in the complete loss of all its elements of significance. Accordingly, in the context of the National Planning Policy Framework (NPPF) and the Local Plan a balancing exercise is required in relation to the loss of a building of limited heritage significance weighed against the material benefits of the proposal. This is an exercise that will be undertaken through the content of this report, however, there is not considered to be an, in principle, objection to the demolition of this building.
29. Further, it is also recognised that the proposal does make a contribution to the surrounding group of buildings as the central building in a group of three Victorian villas which back onto Villa Road. Again, the contribution that the building makes to this group of villas and what its potential loss would mean will be considered through the content of this report but, as above, in principle there is no objection to its loss to the group provided that the same balancing exercise is undertaken. Finally, it is noted that the Leaside Hotel is on the Draft Local List of Heritage Assets (no. 72 New Bedford Road), however, the impact on this heritage asset is a consideration in the subsequent sections of this report assessing the impact of the proposal on the character and appearance of the area and on the heritage assets in the vicinity of the site.
30. Drawing these issues together, it is considered that there is no planning justification to prevent the demolition of the existing building in principle (the balancing exercise will be undertaken subsequently), there is no recognised local need for a Member's Club at this site and given the excellent mix of units, the proposal is considered to be acceptable in principle.

### *Climate Change*

31. Policies LLP1, LLP25 and LLP37 all recognise the significance of climate change and the desperate need to ensure that new development delivers upon its obligation to

protect the environment for future generations. This principle is fundamental to the core thread of sustainability that runs through Sections 2, 12 and 14 of the NPPF.

32. The Council has declared a climate change emergency and Officers are acutely aware of the need to ensure that this issue is tackled at every opportunity. In relation to this issue the applicant has provided a Sustainability and Energy Statement which seeks to address climate change issues through utilising an energy efficient building fabric, heat recovery ventilation and air source heat pumps. This strategy would reduce the development carbon dioxide emissions by a total of 48% which is obviously welcomed. In addition, the proposal has been specifically laid out and orientated to achieve a passive solar design, maximise natural light and to achieve a water efficiency of less than 110 litres per person per day which is in compliance with Policy LLP37 of the Local Plan. To achieve these objectives a suitably worded condition to provide for renewable energy production, the reduction of energy and water demand, conservation and best-use of generated resources is suggested to Members should the recommendation be agreed.

*Design and Impact on the Character and Appearance of the Area*

33. Policy LLP25 seeks to ensure that development enhances the character of an area, responds positively to the local context, minimises adverse amenity implications, optimises a site and creates safe and attractive places.
34. In relation to the application proposal on this site, Officers did have concerns in relation to the design of the originally submitted proposal and accordingly sought independent expert advice from the Design Review Panel South East (whose comments are summarised in Appendix B, both in relation to the original proposal and also in relation to a later revised scheme). As such, the application has been subject to a lengthy and detailed iterative design process to reach the stage of the current proposal before Members.



Fig. 3: Previous CGI Elevation (Junction of New Bedford Road and Hucklesby Way)



- 35.** The detailed design of the scheme has now sought to include the comments made by the Design Review Panel such that the main design changes include:
- The parking has now been removed from the upper ground deck level to provide an internal courtyard podium of external amenity space;
  - The smaller (four storey) element of the proposal has now been relocated to the western boundary to provide more light to the upper amenity area and to address Villa Road;
  - The larger (eleven storey) element has now been detached from the smaller building mass running north to south, to allow the larger element to appear taller, less bulky and to assist in breaking up the overall massing of the scheme;
  - The building mass has been simplified with the majority of the stepped massing now removed resulting in a cleaner and simpler massing;
  - Roof top amenity space has been provided to the larger southern block at the fourth floor level, adding further private amenity space for residents;



- All south facing units have been provided with private internal balconies, resulting in additional amenity space and also providing solar shading for the south facing windows;
- The main, southern building has been positioned two metres further north to provide a larger southern facing external amenity space for residential use;
- An additional building entrance has been added to the southern elevation complimented by an adjoining pedestrian site entrance to Hucklesby Way;
- The materiality of the larger, main building has now been revised to utilise a brick plinth which links the bottom two levels with portal framing, a simple and clean middle section of the building comprising mostly brick and then a top element utilising a bronze finish;
- Luton grey brick has been introduced to reference the local vernacular;
- A signature gold polished metal cladding has been introduced to reference the manufacturing history of the area.

Fig. 4: Revised CGI Elevation (Junction of New Bedford Road and Hucklesby Way)



36. In terms of the design of the buildings now proposed, it is recognised that this would be a step-change in the immediate vicinity, although there are tall buildings on the other side of Old Bedford Road, at the western end of Midland Road and on the southern side of the railway line heading towards the town centre. However, the Design Review Panel (DRP) were quite clear in their response to the original application proposal that they support the notion of a 'gateway' development in this location, but one that has to be exemplary. As such, in design terms, the key is to assess if the revised proposal has now reached this benchmark.

### *Scale and Massing*

37. Firstly, the scale and massing of the revised proposal is now considered to be acceptable. Once the site had been considered suitable for a gateway development, it was recognised that it would need an element of height to achieve this. Additionally, the DRP were also clear that the historic character of the avenue of villas with gardens sloping down towards the Mill Stream and New Bedford Road had been eroded in recent decades and therefore there was a significant opportunity for an approach to this urban context to repair and contribute to the wider area. It was considered that so little was left of the historic character that a new and different approach could be taken in this location. Accordingly, the scale of the main building of the proposal did not need to reference neighbouring buildings; rather this could be left to the smaller four storey element of the proposal to 'stitch-together' this proposal with its neighbouring buildings. Advice from DRP was that this site is capable of taking the proposed building height providing the detailed design and fine material articulation were resolved.
38. In relation to the massing, the CGI elevations provided above demonstrate that whilst the height of the tower element of the building has been increased from nine to eleven storeys in height, the massing of the building fronting the junction of New Bedford Road and Hucklesby Way has been significantly reduced. This has removed the uncomfortable 'stepping-up' of the building and combined with the additional height of the tower, given this element a more stream-lined and sharper, simpler appearance, more suited to a gateway development. Additionally, the proposed massing of the proposal seeks to utilise the height of the tower element to create a focal point for key views of the site. The remainder of the building mass steps down gradually to the north-east, utilising the natural slope of the land to blend in with the general heights of the surrounding properties.

### *Appearance and Materiality*

39. The buildings now proposed would use a primarily brick façade of high quality contrasting brick for the external elevations. Significant discussion was undertaken at the DRP regarding the use of 'Luton Grey' brick which would tie this building with the historical use of this brick across Luton and in the nearby High Town area of town. For the taller tower element, a lighter tone of brick has been selected to reduce its impact on its surroundings and contrast less with the sky behind. To accompany the brick, the taller building will also utilise bronze to 'top' the building at the upper most storey and which would also be used as a vertical feature on the building to break down the horizontal mass. Finally, the internal balconies and Juliette balconies also incorporate balustrading finished in bronze to reference the upper most level of the building and to

reference the Victorian railings which are located on the pedestrian bridge linking Villa Road to New Bedford Road. The use of these materials as indicated would give a high quality finish to the proposed buildings and, as usual, the specific materiality detail is to be required through a condition on any planning permission granted.

## *Layout*

40. The layout of the proposal has been significantly revised from the original submission following comments received from both the DRP and Officers. A significant improvement has been the removal of all residents' parking from the upper deck (ground floor) and its replacement with an attractive private, internal courtyard for residents. It is noted that this area will include doorstep play for 0-4 year olds which is a welcome aspect of the proposal. Additionally, a significant change has been to flip the smaller north-south running element of the proposal from the eastern boundary to the western boundary and to now provide this in a separate building. Separating this element into a stand-alone building has allowed for the creation of more dual and triple aspect units and its relocation now provides for more sunlight into the courtyard area. Importantly, and as highlighted above, this element of the scheme now acts to stitch together this element with its neighbouring buildings, being of a similar scale and footprint and also provides an active frontage to Villa Road.
41. The revised layout is also now able to utilise the site's natural slope to mask the car park area from public view by locating this within the slope of the site at lower ground level, accessed via the bottom end of Villa Road, close to the existing car park access for the club. The areas such as bin storage, cycle storage and plant zones then face into this undercroft area, hiding them away from public view. The revised layout has also now been rationalised to include one plinth of the full 'L' shaped footprint of five levels (with the roof top terrace on top), and one simplified taller element of additional storeys to form the gateway to the corner of the site and which ensures that the building represents a landmark statement in its own right. Accordingly, the revised layout is considered to markedly improve the living environment for any future occupiers as well as ensuring that the scheme is the right design solution for this site.

Fig. 5: The Internal Courtyard Area Featuring the Play Equipment Referenced



## *Impact on the Relevant Street Scenes and the Character and Appearance of the Area*

42. Drawing these design issues together, it is evident that the proposal would have a significant impact on both the New Bedford Road and Villa Road street scenes. However, the high quality design of the scheme would ensure that the revised proposal would indeed act as the desired gateway building into the town centre as approached from the north. Further, the smaller four storey building would act to bring an active frontage to this part of Villa Road, providing natural surveillance of this part of the road whilst also referencing the neighbouring buildings in scale. Accordingly, the impact on the street scenes of both New Bedford Road and Villa Road is considered to be acceptable in this instance. Additionally, the proposal would have a significant impact on the wider character and appearance of the area which is very mixed at this location comprising commercial uses, religious uses, both traditional two-storey and more modern, flatted residential development, open space and major transport infrastructure. The site is also somewhat transitional, moving from a more verdant and residential nature of New Bedford Road into the urban town centre. All these characteristics are considered to allow for a gateway building approach such as that now proposed. As such, whilst the impact on the wider area would be significant, with the high quality design proposed, it is considered that this proposal would have a positive impact on the character of the area.

## *Impact on Heritage Assets*



43. The assessment of the proposal's impact on the character and appearance of the area cannot be completed without an assessment of the impact on the non-designated heritage assets that are both situated on the application site and adjacent to it.
44. Firstly, although the existing building, no. 70 New Bedford Road, is not statutorily listed or included on the Draft Local List of Heritage Assets (DLLHA), it does comprise of a handsome late Victorian villa that also has historic local importance as being a residence of the former Mayor of Luton, Murry Barford. Unfortunately the building has been significantly unsympathetically extended, particularly to the front, and has been considerably altered at ground floor level. Notwithstanding this, it does have some historic importance both in its own right and also as a part of group of 19<sup>th</sup> Century properties either side and, as such, can be considered to be a non-designated heritage asset.
45. Buildings, features and structures which do warrant consideration as non-designated heritage assets are a material consideration in the planning process and paragraph 197 of the NPPF states "the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset." In this regard, a three-fold assessment is required to consider the loss of the existing building itself, the loss of the building in the context of the contribution it makes to this group of buildings and the impact on the neighbouring building, no. 72 New Bedford Road (The Leaside Hotel), which is on the DLLHA.
46. Firstly, the development proposal would obviously demolish the building (no. 70 New Bedford Road), therefore result in the loss of the whole of the non-designated heritage asset and accordingly the harm to the asset itself would be substantial. Given the complete demolition of the building, this has to be weighed against the material benefits of the proposal. To facilitate this balancing exercise it has to be understood what contribution the building makes to the historic built environment.
47. It is considered that the building is of some limited architectural interest as a modified example of a Late Victorian detached villa. However, the significance of the building has been eroded as a result of the extensive extensions and additions as part of its use as a Member's Club. These alterations have detracted from the appreciation of the architectural detailing of the southern principal elevation of the building as well as altering the historic layout of the ground floor. As such, the building is considered to comprise a non-designated heritage asset of limited architectural, aesthetic and artistic interest. No. 70 scores poorly against some of the criteria for local listing and it is likely to be the reason that the building was not considered to be worthy for inclusion on the DLLHA and will be the reason that the building has not been statutorily listed. This limited contribution that the building makes to the historic built environment is therefore weighed against the contribution that the proposal, in its current form, makes. The report above has already set out that the proposal provides for an excellent mix of units and is considered to be of a high quality, gateway design. The subsequent sections of this report will demonstrate that the proposal is able to provide a high quality living environment with generous space standards and significant external amenity space. These factors, combined with the fact that the proposal satisfies all technical consultees

and does not harm neighbouring amenity, lead to the conclusion that the material benefits of the proposal outweigh the loss of this non-designated heritage asset in this instance. It is noted that the Council's Historic Advisor (BEAMS) concurred with the view that the demolition of the building was acceptable in principle, albeit that they retain concerns about the scale of the proposal. On this point, Officers have placed greater weight in the involvement of the DRP in considering the specific design of the scheme. Finally on this issue, an interpretation board to be provided at the front of the site, is recommended to be a condition on any planning permission which would detail the building and reference the contribution it made to the local history of the area.

48. Secondly, it is recognised that the existing building does also contribute to this group of buildings which are considered to be the last remaining group of Late Victorian villas in this part of Villa Road. As above, the loss of the existing building from this group and its replacement with a modern development would diminish the historical importance of this group. However, again, the material benefits of the current proposal are considered to outweigh the harm that the loss of this building would have to this group of non-designated heritage assets.
49. Finally, the impact that the proposal has on no. 72 New Bedford Road (The Leaside Hotel), which is on the DLLHA, has to be considered. By its proposed inclusion on the DLLHA, no. 72 New Bedford Road is considered to be a good example of a former Victorian villa from the late 19<sup>th</sup> Century. However, it is clear from the degree of change over time that the positive elements of the setting of no. 72 have been eroded and fragmented with the conclusion reached that the setting of the building itself makes only a limited contribution to its historical significance. It is considered that views of interest to no. 72 New Bedford Road are limited to those of the western elevation when viewed from the within the building's formal garden or from the environs of New Bedford Road.
50. The consideration of the impact that the proposal has on no. 72 New Bedford Road is obviously significantly different to that on no. 70 where the asset would be lost entirely. In this instance, it is only necessary to consider the impact on the setting of the neighbouring building. With the judgement that modern development in the vicinity of no. 72 has already eroded much of its setting and that the proposal would not alter the primary views of interest of no. 72, the conclusion is reached that the current proposal would not have a significant detrimental impact on the setting of no. 72 New Bedford Road. Additionally, any minor harm to its setting is considered to be outweighed by the material benefits of the current proposal.
51. The proposal would not affect any statutorily listed buildings or materially impact on the High Town Conservation. In this regard and given the assessment set out above, the proposal is considered to comply with Policy LLP30 of the Local Plan.

#### *Layout and Living Environment for Future Occupiers*

52. Significant weight is attributed to the quality of the living environment that is to be provided to future occupiers of any development and this requirement is brought forward through the relevant criteria of Policies LLP1, LLP15 and LLP25 of the Luton Local Plan 2011-2031, together with Sections 2 and 12 of the NPPF.



53. As a fundamental starting point, all 84 flats proposed achieve an internal floor area consistent with the nationally described space standards (NDSS – MHCLG, March 2015), which is welcomed and it is noted that the proposal also provides for the larger 2 Bed 4 Person and 3 Bed 5 Person unit sizes within the overall mix of units.
54. Additionally, Policy LLP25 of the Local Plan requires that new housing should be delivered in accordance with the external amenity space standards as set out in Appendix 6 of the Local Plan. Appendix 6 sets out that for flatted developments a minimum of 5m<sup>2</sup> of private outdoor space should be provided for 1-2 person flats and maisonettes and an extra 1m<sup>2</sup> provided for each additional occupant. Based on the unit mix provided in the application, the minimum amount of private amenity space necessary would be 425m<sup>2</sup>. The application provides for high quality amenity space within the development which provides a combination of private balconies, private gardens, a landscaped rooftop terrace at fourth floor level, the internal podium courtyard area as well as significant landscaped areas to the front and eastern side of the building. In total these areas add up to external amenity space well in excess of the minimum requirement referenced above, equating to over 1,500m<sup>2</sup> of amenity space.

Fig. 6: Previous Site Layout Iteration.



Fig. 7: Current Site Layout Iteration.



55. The current site layout evolved as a result of comments received through the Design Panel Review process, with many issues raised in an attempt to improve the proposed residential environment for future occupiers. Specifically, the smaller building element has been repositioned to the western boundary to create a large pedestrian plinth facing east to capture increased daylight throughout the day. Additionally, parking was removed from the ground floor to allow for the creation of a pleasant internal courtyard amenity area. Further, the revised layout allowed additional windows to be provided significantly increasing the number of dual or triple aspect units, such that number of dual aspect units in the revised scheme now stands at 64%. These layout changes combined with internal open air balconies to the south facing units and an additional building entrance fronting on to Hucklesby Way has significantly improved the proposed living environment for future occupiers of the development.
56. Finally, all habitable rooms within the development would benefit from appropriate degrees of both light penetration and outlook, whilst the internal arrangements of each flat are logical and would provide for an excellent living environment for future occupiers.
57. By reason of the foregoing, it is considered that the resultant living environment for future occupiers would be acceptable, in accordance with Policies LLP1 and LLP25 of the Luton Local Plan 2011-2031 and the objectives of Section 12 of the NPPF.

## *Impact on Amenities of Adjoining Occupiers*

58. In relation to the impact on neighbouring amenity, the application site is immediately adjacent to a mixture of commercial and religious uses. The nearest residential properties would be those on the opposite side of Villa Road (nos. 22-28).
59. In relation to no. 68 New Bedford Road (The Hope Church Centre), the proposal has now been redesigned to relocate the smaller four storey building to the western side of the site and thus further away from the Church. Additionally, the taller frontage building reduces to four and five storeys (due to the topography) at this side of the site so as not to over-dominate the Church building. Given that the Church building does not appear to have any main facing windows on its facing north-western elevation, it is considered that the proposal would not lead to any detrimental overshadowing of the Church building or result in an unacceptable loss of privacy to users of the Church building.
60. With regard to no. 72 New Bedford Road (The Leaside Hotel), the revised proposal has been designed to seek to achieve a 21.5m separation between the proposed buildings and main facing windows within the Hotel, which is considered to be sufficient to avoid a detrimental loss of privacy to a building that is within a commercial use (hotel). Where windows in the proposed development are situated closer than this they are generally secondary windows serving bedrooms or provide light to non-habitable areas or internal corridors. There is not, therefore, considered to be any significantly harmful loss of privacy to occupiers of the Leaside Hotel from the development proposal. The proposal is evidently a tall structure at 11 storeys in height at its maximum extent and would result in some overshadowing of the front of the hotel, particularly in winter. However, given the commercial nature of the use of this neighbouring building, it is not considered that this overshadowing impact would be so severe as to recommend refusal of the planning application. Again, as a significantly taller building than the existing building and moved forward into the plot, the proposal would obviously alter the relationship to this neighbouring building. However, as a high-quality, landmark building that has been reduced in mass from its earlier iterations, it is not considered that the proposal would detrimentally dominate the hotel from the perspective of users and occupiers of this neighbouring building.
61. In relation to the properties on the opposite side of Villa Road (predominantly nos. 22-28 Villa Road), the smaller four-storey building element would be in excess of the 21.5m distance from the closest windows in these properties. This would also be a front to front relationship and given this separation distance of over 21m, this is considered to avoid any undue loss of privacy to these properties. Similarly, at this distance, this element of the proposal would not be considered to be unduly overbearing and would not result in any undue loss of sunlight or daylight to these properties. It is recognised that the taller eleven storey element of the proposal would change the outlook from the front of these properties, however, at the distance proposed this would not result in any material harm to the amenity of the occupiers of these properties. Finally, there would be a limited amount of overshadowing of the front gardens of some of these properties in the winter months. However, again this would be limited and would not be sufficient to recommend refusal of the application.

62. In view of the aforementioned, it is considered that the development would not result in any significant material harm to the amenities of adjoining properties or occupiers. No other properties are considered to be materially affected by the development.

*Sustainable Transport, Parking and Highway Implications*

63. 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 the development.
64. The application site is situated within a highly sustainable location, being situated within a short walking distance of Luton Train Station and the town centre. Future occupiers would, therefore, be well-placed to benefit from both sustainable transport options and local amenities.
65. In relation to highways issues the Council's Highway Development Control Manager has stated that the revised February 2021 Transport Statement is acceptable and that no major highway implications are anticipated with respect to the greater highway network. Additionally, no issue is raised with the specific access into the site from Villa Road and the proposal is considered to be acceptable from a highway perspective with a contribution of £17,500 towards the Luton Car Club and a condition in relation to construction.
66. With regard to parking, the revised proposal makes provision for 18 parking spaces on the lower ground floor, with two car club parking spaces at ground floor level. Of the total provision, one parking space would be DDA-compliant which would comply with the Council's 5% standard in the Local Plan. Further, 20% of the spaces would be provided with EV charging points, with a further 20% having a passive facility for latter conversions which is welcomed.
67. The minimal amount of residents parking is considered to be acceptable in this instance as the application site is in a highly sustainable location on the edge of the town centre with good accessibility to bus and train services, employment opportunities and services in the town centre. In such a highly sustainable location it would not be expected that all future residents would be car owners and importantly this level of parking would accord with the Council's maximum parking standards set out in Appendix 2 of the Local Plan. It should be noted that Policy LLP32 of the Local Plan provides qualified support for car free development in highly accessible locations. Whilst not car-free, the minimal number of parking spaces available is considered to accord with the principle of seeking to reduce the reliance on private car use in highly sustainable locations such as this.
68. The proposal also makes provision for 140 cycle parking spaces on the lower ground floor of the main building which would be well in excess of the minimum cycle parking standard set out in Appendix 2 of the Local Plan (16 spaces). This significant number of additional cycle parking spaces is welcomed.

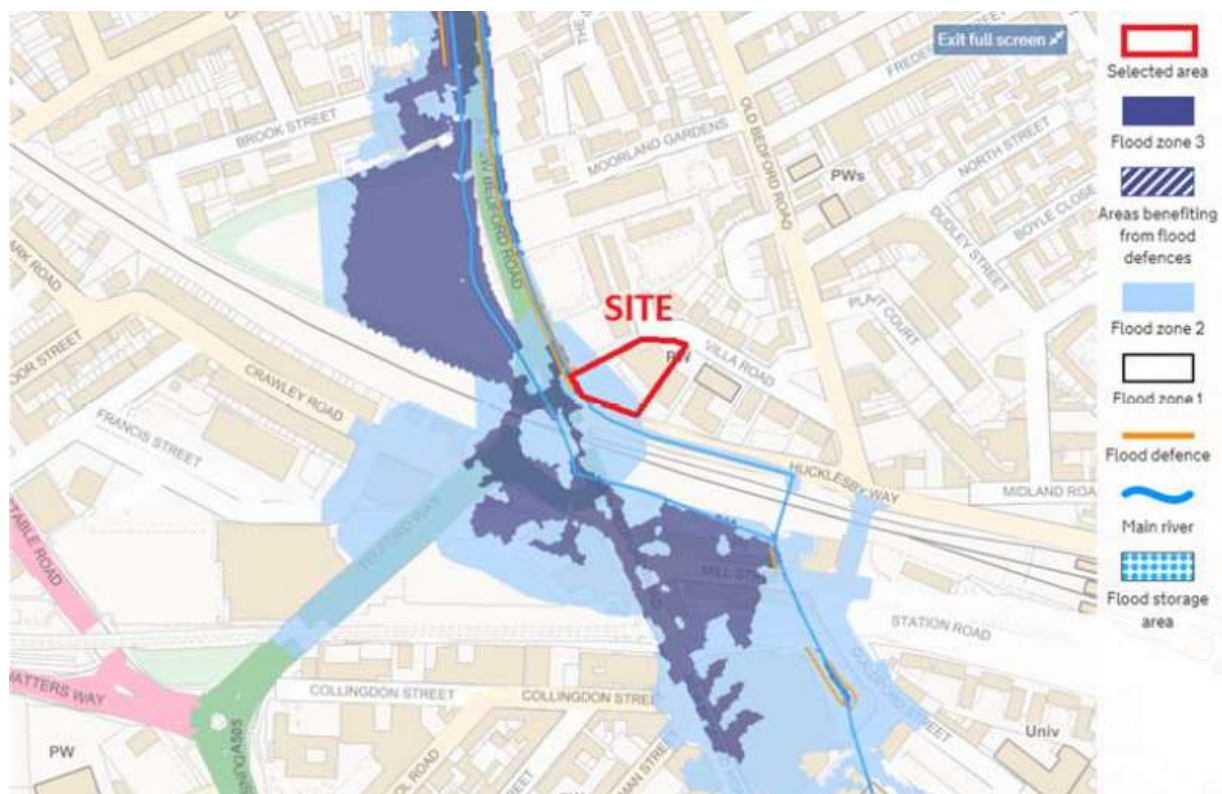


69. In view of the above consideration, the transport aspects of the scheme are considered to be acceptable and no conflict with Policies LLP1, LLP25, LLP31 or LLP32 has, therefore, been identified.

## Flood Risk

70. It is evident from the Local Plan and from the site visit that the Mill Stream runs along the western boundary of the application. Whilst the stream runs into a heavily engineered culvert at the front of the site, part of the western part of the site is within Flood Zone 2 as demonstrated below. Additionally, the Environment Agency has confirmed that the site is within Flood Zones 1 and 2 and it therefore has between a 1 in 100 and 1 in 1000 annual probability of river flooding (1% - 0.1%).

Fig. 8: Environment Agency's Flood Map Extract.



71. Additionally, the Environment Agency originally objected to the proposal on the grounds that the proposed building and structures would be within 8m of the watercourse. However, that objection has now been removed as it has been clarified that the built footprint is 8m away from the culverted watercourse and therefore unlikely to cause any negative impacts to the structural integrity of the flood defence structure.
72. Given the part Flood Zone 1/part Flood Zone 2 nature of the site, further modelling work was undertaken by the applicant using site specific flood information provided by the Environment Agency. The modelling work demonstrated that any flooding from a 1% or 0.1% event is contained within the river channel and thus that the entire site would remain clear from flooding from a 1% or 0.1% flood event. Thus the modelling has demonstrated that the entire site is located in Flood Zone 1 which is at the lowest risk from fluvial flooding. It is also worth noting that this modelling work has included accommodating a 35% climate change allowance which still confirms that the site will not be affected by flood waters.
73. For completeness it is also considered that the proposal has been assessed in accordance with the flooding sequential test which assesses locations and prioritises development to areas at less risk of flooding. The modelling work described above has shown that the site is within Flood Zone 1 and thus the sequential approach has been taken as suggested by the NPPF to allocate development to areas of less risk of flooding. In this regard, the proposed building would also be located on the higher ground in Flood Zone 1.

## *Biodiversity*

74. The application site is a previously developed site, just outside of the town centre. However, given the nature of the existing building and the mature trees on the boundary of the site, the Council's Ecologist required that a Preliminary Ecological Appraisal (PEA) was undertaken. Accordingly, a PEA was submitted by Applied Ecology, the results of which confirmed that on the basis of the site's urban location and lack of obvious bat roost features the existing buildings on site were assessed as possessing negligible bat roost potential. Additionally, the mature Sycamore tree possessed two upward facing rot-holes but these had very limited value to roosting bats on account that they were upward facing and would collect rain. The tree had no other obvious bat roost features and was considered to be of negligible bat roost value. There were no other trees with any potential bat roost value within the site. In relation to other species, the site has no habitat of potential suitability for reptiles, there was no physical evidence of badger presence anywhere within the site and there were no records for the legally protected amphibian great crested newts or ponds or other suitable standing water bodies in close proximity that would provide a suitable habitat for newts.
75. Given this assessment, it is considered that there are no ecological restrictions to granting planning permission, provided that the mature Sycamore tree is retained and protected and vegetation clearance takes place outside of the bird breeding season. In



terms of ecological enhancement it was recommended that enclosed swift nest bricks or boxes are incorporated into suitable elevations on the new building. Both the ecological mitigation and enhancement can be captured by the wording of a suitably worded condition attached to any grant of planning permission.

76. In relation to mature trees on the eastern boundary of the site, the revised layout of the proposal factored in the root protection areas of these trees to ensure that they can be retained. The landscaping scheme provided seeks to augment the existing trees with new trees along this boundary to strengthen the planting interface along this boundary. Additionally, street trees are proposed on the south-western boundary of the site and also along the frontage of the new building facing onto Villa Road. The landscaping scheme indicates that an attractive environment can be created and the detailed landscaping and its management are subject to conditions to be attached to any grant of planning permission.

### *Affordable Housing and Developer Contributions*

77. Policy LLP39 (Infrastructure and Developer Contributions) considers the need for planning obligations and, in this instance, education, museums, a car club and waste management contributions have been requested and they are as follows:

- Primary Education: £290,497 to improve the condition of St Matthew's Primary School;
- Secondary Education: £112,642 designated towards the ACE expansion at Cutenhoe Road;
- Museums: £9,056 towards providing public access to the history of the hat manufacturing trade in the town through hat district trails, educational material and interpretative displays;
- Car Club: £17,500; and
- Waste Management: £3,288.48

***Total: £432,983.48***

78. In addition to these amounts, it is also necessary to secure agreements in relation to:
- The provision of local labour, goods and service; and
  - A Section 106 Monitoring Fee: £5,000.
79. These contributions generally meet the requirements of Policy LLP39 and the Planning Obligations SPD (2007). Additionally, Local Plan Policy LLP16 requires 20% affordable housing on all developments with a net gain of 11 dwellings. There would therefore be a usual requirement for the current proposal to provide at least 17 affordable units within the development. To address these issues the applicant has provided a viability appraisal.
80. The current application's viability appraisal has been robustly tested by the Council's Independent Assessor. In this instance the scheme is unable to provide any on-site affordable housing but can provide a developer contribution of £294,000. Evidently, this does not cover the full amount of contributions requested above but it is considered that

a substantial amount could still be provided for education purposes, whilst also meeting the other contribution requests identified. Accordingly, Officers advise that the Museums, Car Club and Waste Management contributions are provided for in full which would leave £264,155.52 for education. It is considered that this amount could then be split as £200,000 for Primary Education and £64,155.52 for Secondary Education. This would then provide approximately 69% of the requested Primary Education contribution and approximately 57% of the Secondary Education contribution. In addition, it is also recommended that a review mechanism should be included as part of any s106 agreement that will test the viability of the scheme after completion and before full occupation as exact costs and sales potential will be known at this point. Any improvements in viability will be captured by an overage agreement with any future monies going towards education and then affordable housing.

81. It is considered that the expert advice of the Council's Independent Assessor should be followed in this instance to secure a quality form of development whilst also providing for significant developer contributions to various Council services. The overage agreement would ensure that any improvements in viability will be secured by the Council.

### *Regeneration*

82. The application site has been vacant for almost two and a half years now, providing no contribution to the local economy. The site is in a key, gateway location when the town centre is approached from the north and a high quality development in this location could act as a catalyst for further regeneration opportunities along this corridor and into High Town.
83. Accordingly, the proposal should be viewed as a significant asset that can very much anchor future opportunities within the area and indeed part of the detailed design work has involved demonstrating how the application site could be developed in conjunction with the neighbouring sites should they come forward and also how the current proposal would avoid sterilising these site. It is the most important site within the locality and, therefore, it is considered that the development, comprising a high quality, gateway design, excellent mix of housing and a commitment to utilise local labour, goods and services in construction constitutes a significant benefit to both the current and the future regeneration opportunities within the area.

### *Other Matters*

84. All aspects and approaches related to drainage, security, contamination and noise insulation have been agreed with the relevant technical consultee. Subject to their satisfactory discharge of the requested, no adverse implications are, therefore, anticipated.

### *Conclusions*

85. The foregoing report demonstrates that the residential redevelopment of this site is acceptable in principle and complies with Policy LLP15 of the Local Plan as a windfall

housing site. In particular, the proposed mix of units is considered to be excellent in this highly sustainable location.

86. In terms of design the application proposal has been on a significant journey to improve the design of the scheme, including presentation to two design review panels. The proposal has developed iteratively to incorporate almost all of the suggested changes from the Review Panel and has now got the qualified support of the Design Review Panel. Officers now consider that the proposal does fulfil the aspiration of being a gateway development on this important approach to the town centre from the north. Accordingly, the impact on the relevant street scenes and character and appearance of the area is considered to be acceptable.

Fig. 9: Night time CGI.



87. It is recognised that there is significant concern over the potential loss of the existing building, however, the conclusion has been reached through a balancing exercise, that the material benefits of the proposal outweigh the loss of the specific non-designated heritage asset which is considered to make a limited contribution to the historic built environment. A similar balancing exercise has also been undertaken regarding the diminishment that the loss of the building would have to this group of historical buildings

in this part of Villa Road. A similar conclusion is reached that the material benefits of the proposal outweigh the importance of protecting this building as part of an important group of buildings. Finally, on this issue, the proposal is not considered to significantly harm the Draft Local Listed no. 72 New Bedford Road as its setting has generally been compromised by surrounding modern development and the proposal does not disrupt the important views from the west of this building.

- 88.** Additionally, the report has demonstrated that the proposal would provide a suitable residential environment in terms of unit size and amenity space provision, it would not result in any significantly adverse impacts on neighbouring amenity and that access and highways issues are acceptable.
- 89.** Finally, the report details that sufficient car and cycle parking is provided and issues relating to flooding, biodiversity, climate change, regeneration and planning obligations have all been suitably addressed.
- 90.** Overall, it is considered that the development comprises a sustainable and high quality form of development and, on that basis, conditional approval of the application is recommended.

## **Appendices**

- Appendix A: Conditions and Reasons
- Appendix B: Technical Consultation Responses
- Appendix C: Public Consultation Responses

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

91. Luton Local Plan 2011-2031
92. Planning Obligations SPD (2007)
93. National Planning Policy Framework (*NPPF, or the Framework*)
94. National Planning Practice Guidance (*NPPG*)

## **Determination of Planning Applications**

95. 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**

96. 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.
97. 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**

98. 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**

99. 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.