

COMMITTEE: DEVELOPMENT CONTROL

DATE: 29th JULY 2020

SUBJECT: ERECTION OF 15 DWELLINGHOUSES (NINE FOUR-BEDROOM AND SIX FIVE-BEDROOM) WITH ASSOCIATED CAR PARKING AND EXTERNAL WORKS (RESUBMISSION).
(APPLICANT: LBC HOUSING STRATEGY AND DEVELOPMENT)
(APPLICATION NO: 19/01646/FUL)

LOCATION: LAND AT FREEMAN'S GREEN, SHERD CLOSE, LUTON

REPORT BY: HEAD OF DEVELOPMENT MANAGEMENT

CONTACT OFFICER: GRAHAM DORE 01582 546317

IMPLICATIONS:

LEGAL	COMMUNITY SAFETY
EQUALITIES	ENVIRONMENT
FINANCIAL	CONSULTATIONS
STAFFING	OTHER

WARDS AFFECTED: NORTHWELL

PURPOSE

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

RECOMMENDATIONS

2. It is recommended:

- (i) That the reasons for approval set out in this report are agreed;**
- (ii) That planning permission is granted, subject to the conditions set out below;**
- (iii) That planning permission is granted subject to the satisfactory completion of the necessary mechanisms to secure delivery of planning obligations in relation to affordable housing provision and contributions towards Parks/open space and, if the site is ever sold, to enter into a formal Section 106 agreement with the relevant parties in relation to the above matters;**
- (iv) That delegated authority is granted to the Head of Development Management to make minor alterations to the conditions following any Committee resolution to grant permission (should any be required);**
- (v) That following any grant of permission that delegated authority is granted to the Head of Development Management to determine any subsequent planning applications related to this development seeking either minor material amendments (Section 73 applications) or minor variations to the accompanying legal agreement (Section 106A applications):**

Conditions ('Appendix 1')

- (01) *Period of Consent;***
- (02) *Approved Plans and Documents;***
- (03) *CMS;***
- (04) *External Materials;***
- (05) *Landscaping and Management;***
- (06) *Management Plan;***
- (07) *Boundary Treatment;***
- (08) *Drainage;***
- (09) *No Infiltration;***
- (10) *Verification;***
- (11) *Unidentified Contamination;***
- (12) *Renewable Energy and Climate Change;***
- (13) *Ecological Protection (construction);***
- (14) *Ecological Protection and Enhancement Measures;***
- (15) *Window Openings;***
- (16) *Removal of Permitted Development Rights (extensions, etc.);***

- (17) Removal of Permitted Development Rights (HMOs); and**
(18) Removal of Permitted Development Rights (fences, walls, etc.).

REPORT

The Site and Surroundings

3. The application site comprises the southern-most parcel of greenspace associated with Freeman's Green in Marsh Farm, situated at the northern end of Sherd Close, west of Sherd Lodge.
4. This section of Freeman's Green is separated from the majority of the neighbourhood park by an east-west oriented path and is predominantly characterised by clumps, or islands, of mature vegetation, which are dotted around the space.

Fig. 1: Site Location Plan



Relevant Planning History

5. The application is a resubmission of a previous scheme from the spring of 2019, which was withdrawn following the discovery of a mains sewer running beneath the site that invalidated the constructability of that proposal. Pre-application discussion occurred in 2018.
6. There is no other identified history associated with the scheme, with the park incorporated into the original Marsh Farm phased development in the 1970s.

The Proposal

7. The application seeks full planning permission for the erection of 15 single-family dwellinghouses, offering nine four-bedroom and six five-bedroom dwellings. All 15 properties would be secured as affordable housing and would be arranged in a general back-to-back layout served by two distinct access points from Sherd Close.
8. The dwellinghouses would be of a three storey townhouse design, with some benefitting from an integral garage that has been sized to ensure 21st Century vehicular usability. Each property would be served by private rear amenity space, with servicing provided from either the front or the rear dependent upon location and arrangement. Designated waste collection points are to be provided at the end of the adoptable highways.
9. Acknowledging the loss of the existing greenspace, the development would see replacement planting throughout the site, with particular emphasis placed upon the northern boundary of the development addressing what would be the remainder of Freeman's Green so as to embed the scheme within the locality.

Fig. 2: Proposed Site Plan



Planning Policy

National Planning Policy Framework (NPPF, or the Framework)

10. 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.
11. Paragraph 38 of the Framework advises that Local Planning Authorities should approach decision making in a positive and creative way and should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable

development where possible. Discussions have taken place with the applicant following the requirement for the application to be determined by the Development Management Committee.

National Planning Practice Guidance (NPPG)

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

Luton Local Plan 2011-2031

13. The site is allocated as a neighbourhood park located within the Marsh Farm Strategic Area on the Policies Map of the Luton Local Plan 2011-2031. Policies relevant to the proposal are LLP1, LLP2, LLP12, LLP15, LLP16, LLP25, LLP27, LLP28, LLP31, LLP32, LLP36, LLP37, LLP38 and LLP39.
14. Policy LLP1 sets out a sustainable development strategy for the Borough.
15. Policy LLP2 sets out the spatial development strategy.
16. Policy LLP12 relates to development occurring within the Marsh Farm strategic area.
17. Policy LLP15, as regards the development, relates to the provision of housing within the Borough.
18. Policy LLP16 considers the provision of affordable housing within the Borough.
19. Policy LLP25 seeks to have development enhance the character of an area, respond positively to the local context, minimise adverse amenity implications, optimise a site, achieve adopted standards and create attractive and safe spaces.
20. Policy LLP27 relates to development affecting green open space and neighbourhood parks within the Borough.
21. Policy LLP28 considers the ecological and biodiversity implications of development within the Borough.
22. Policy LLP31 sets out the sustainable transport strategy and stipulates that development will be permitted where it minimises the need to travel, reduces congestion and provides sustainable transport choices.

23. Policy LLP32 considers the parking requirements of development, stipulating expected provisions and highlighting the sustainability of the Town Centre location.
24. Policy LLP36 reflects upon flooding issues within the Borough.
25. Policy LLP37 considers the climate change implications of development.
26. Policy LLP38, with specific regard to the development, deals with the possibility of land being contaminated and requires assessment and potentially remediation prior to development being commenced.
27. Policy LLP39 is concerned with the level of financial contributions provided by developments and must be read in conjunction with the Supplementary Planning Document on Planning Obligations which assess what planning obligations should be sought from development. It is unlawful for a planning obligation to be taken into account when determining a planning application for a development that is capable of being charged Community Infrastructure Levy (CIL) if the obligation does not meet the following tests;
 - Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
28. In the context of this application, the development is in a category to which Regulation 122 applies. The requirement for financial contributions towards infrastructure improvements are matters which, if the development proposals are supported, would need to be secured by planning obligation. This is a proportionate obligation that is considered to comply with Regulation 122 and for which there is a clear policy basis either in the form of development plan policy or supplementary planning guidance.

Equality Implications

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

Consultation Responses

Technical Consultation

30. The application was notified to many technical consultees and no significant issues have been raised towards the development. Conditions have been recommended and, where appropriate and reasonable, these have been incorporated into the conditions as set out at 'Appendix 1' and summarised

above. The technical consultees, together with the responses received, are captured at 'Appendix 2' of this report.

Statutory Public Consultation

31. The application was notified to 31 properties, a site notice posted and a press notice issued. To date, nine representations have been received. The issues raised are captured at 'Appendix 3' of this report.

MAIN PLANNING CONSIDERATIONS

32. The main planning considerations relate to the principle of development, the character implications of development, the impact upon adjoining occupiers and operation of the surrounding area and parking and highway implications.

Principle of Development

Provision of Housing

33. As a proposal seeks to erect 15 dwellinghouses and, therefore, falls to be considered under *Policy LLP15 (Housing Provision) of the Luton Local Plan 2011-2031*.
34. The mix of housing comprises an exceptional provision in relation to the identified needs of the Borough. There is a significant unmet need for four- and five-bedroom dwellings within Luton, and the proposal would make a meaningful contribution towards that outstanding requirement.
35. *Policy LLP16 (Affordable Housing)* establishes the principles surrounding the provision of affordable housing and requires a minimum of 20% of properties within a development exceeding net 11 dwellings to be provided as affordable. The development far exceeds this criteria, with all 15 dwellinghouses to be given for affordable housing. The development, therefore, readily satisfies this policy requirement.
36. Members are, of course, well-aware that there is a significant need for affordable housing within Luton, and that the need for larger family dwellinghouses is similarly pressing. A development proposing five-times the policy-compliant provision of affordable housing, together with a mix of housing that is 100% consistent with the specific needs of the Borough, is considered to be an excellent opportunity to enhance the provision of much-needed and well-targeted housing within Luton. Substantial weight is, therefore, granted to both of these considerations, and cumulatively to the provision of additional affordable family accommodation.

Loss of Green Open Space

37. Freeman's Green is an allocated neighbourhood park within the Luton Local Plan 2011-2031 and *Policy LLP27* is, therefore, relevant in this regard. *Policy LLP27[B]* relates to the loss of open space and states that this would only be acceptable where it is demonstrated that the area does not suffer a deficit in its provision and is surplus to requirements.
38. The most up-to-date evidence is provided by the Council's Green Space Strategy Review (2015), which was commissioned in support of the Luton Local Plan 2011-2031. The Review identifies Northwell as benefitting from a surplus of green open space and, therefore, the development, falling within that Ward, passes this test as established by *Policy LLP27[B]*. The development, therefore, accords with the requirements of the informing policy, *LLP27*. Consideration has been given to whether the proposals constitute a departure from adopted policies and given the above, it is considered that there is no conflict with *Policy LLP27* on this issue.
39. It is, however, important to acknowledge and address the valuable contribution that green open space makes to both the quality of the built environment and the local communities that it serves. In considering this point, it is important to first understand the composition of the green space and the relationship that it shares with the wider area. In that regard, *Policies LLP12 (Marsh Farm)* and *LLP25 (High Quality Design)* are also relevant. *Policy LLP12*, as relevant to the proposal, requires that development enhances places, makes efficient use of land, improves the landscape and takes the opportunity to improvement the layout, natural surveillance and both the feeling of an actual safety and security within the locality.
40. Freeman's Green is situated within the Marsh Farm Strategic area and is directly related to the Marsh Farm District Centre and Purley Centre redevelopment that exist to the north of the park. Together, the park and the District Centre comprise a focal point around which the rest of Marsh Farm is arranged.
41. The relevant part of Freeman's Green is the southern-most part of the park and is severed from the majority of the park by a path that runs from the south-west and Flint Close north-eastwards towards Pottery Close and Burnt Close. Albeit small, there is, therefore, a prevailing degree of detachment associated with this southern section. Beyond this identified spatial relationship, the use of this segment of Freeman's Green for recreational and sporting activities is implicated by the landscape that exists therein. Two large clumps, or islands, of vegetation, one within the centre of the space and another adjacent to the above-mentioned path, invalidate the maximisation of the use of this section of Freeman's Green.

42. While it is acknowledged that the prevailing green space provides a degree of amenity to the locality, it is also considered that a fundamental test in relation to the provision of green space relates to its usability. This section of Freeman's Green is adjacent to the most-usable and far-larger section of the park, but does not itself comprise a space fundamental to the recreational activity and enjoyment of residents. On that basis, and while the total loss of all of Freeman's Green would, of course, be a far-different proposition, the giving-over of this space for much-needed affordable family accommodation is considered to be, on balance, a better and more efficient use of land.
43. Policy LLP27[C] speaks to the development of open space and requires that development be ancillary, complementary and limited in scale to the open space, as well as securing the efficient and effective use of the existing green space. In this regard, it is considered that the development, occupying only a small part of the green space and not implicating the far-larger area that contains a play area and is readily utilised for sporting and recreational activities, would be appropriately scaled in relation to Freeman's Green and would secure the efficient and effective use of the remaining park area. The primary function of green space is to provide for recreational activity, an undertaking not possible without the presence of residents. It is, therefore, considered that the development is appropriately complimentary to the wider park.
44. The final test relates to the ancillary nature of the development and it has been previously stated how the section of green space falling within the application site is of limited practical value in the context of the entire park. Together with the proliferation of planting proposed throughout the development to retain that verdant character, it is, therefore, considered that the scheme proportionately achieves this final criterion. On that basis, and with particular regard to the other significant material considerations surrounding the scheme in terms of the excellent mix of affordable family housing, the development is held to be compliant with Policy LLP37[C].
45. While there would be a slight loss of green space (which is supported in this location by adopted policies), there would also be a significant improvement in the quality of the built environment, as well as an increase in natural surveillance and a more-efficient use of land to that which has been described. Given the constraints surrounding the availability of land within Luton, it is considered to be appropriate to carefully consider the merits of the use of land. In this instance, the loss of the green space is acknowledged and it is not stated that this loss is not without any degree of harm. It is, however, considered that the proposal comprises a policy-compliant and acceptable form of development from which significant benefits can be derived.

46. While the development is consistent with the Policy LLP27, it remains that the proposal would build upon existing open space. As is recognised within the above assessment, notwithstanding the above assessment, there would be an impact surrounding the loss of this space. Separate to considerations surrounding the viability of the scheme, the Applicant has undertaken to provide a contribution of £60,000 towards the enhancement of greenspace/parks within the wider area. The offer relates to the enhancement of Leagrave Park and would allow for the restoration of the Leagrave Park Nissen Hut and contributions towards the installation of play and/or fitness equipment for the Leagrave Park Playing Field. In agreement with the Parks Service, it has been identified that Leagrave Park, as the predominant park within the area, would be better served by additional investment. Beyond the policy considerations surrounding the loss of the open space, which are compliant, the contribution is viewed as furthering the acceptability of the scheme, extracting benefit for this part of the town in regenerating the area.

Regeneration

47. Regeneration is vital to the ongoing enhancement of Luton in all aspects. One key aspect of regeneration relates to the most efficient use of land and, in this instance, the most overt enhancement relates to the provision of 15 affordable family-sized dwellinghouses, for which there is a significant need. The development would further the importance of Freeman's Green by encouraging even greater use of the space through additional residential accommodation relying upon that vital provision adjacent to the Marsh Farm District Centre.
48. It is also clear that the prevailing Leagrave Park Nissen Hut is in significant need of restoration so as to bring back this section of Leagrave Park into optimum use. The development facilitates this work through the secured financial contribution for the Parks Service, without which the Hut would remain in its present state of disrepair. The benefits to be provided in this direction are furthered by the installation of play and/or exercise equipment, which would result in both health and social improvements that would otherwise not exist. There is an acknowledged loss of existing green space, however, the space does not provide for significant recreational activity and it is considered that the agreed improvements elsewhere would significantly outweigh the limited harm that would arise.
49. The process of bringing forward development, and more importantly of ongoing regenerative efforts, plays a significant part in the employment of workers within the Borough. As well as the above benefits, the Applicant has confirmed that the construction of the development would require approximately 30 tradesman covering around 10 different disciplines. This figure does not include the management of the construction phase, and nor

does it provide employment detail around either the restoration of the Leagrave Park Nissen Hut or the installation of play and/or exercise equipment, which will both no doubt provide additional opportunities.

50. Cumulatively, it is, therefore, considered that the positive regeneration benefits that can be derived from the scheme comprise excellent opportunities that should be afforded significant weight in the balancing of material considerations around the merits of this development.

Climate Change

51. *Policies LLP1 (Presumption in Favour of Sustainable Development), LLP25 (High Quality Design) and LLP37 (Climate Change, Carbon and Waste Reduction and Sustainable Energy)* 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.
52. The Applicant is committed to ensuring that the proposed dwellinghouses are built to a quality standard that meets the challenge of climate change through the implementation of best-practice, however, those details have not been submitted in support of the current planning application. It is, therefore, necessary for the attachment of a suitably worded condition, which is strongly advised to Members should the recommendation be agreed.

Concluding Remarks

53. Policy LLP15 allows for additional residential development where the proposal would not take land allocated or used for a use for which there is an identified need. With regard to this test, and being mindful of the compliance with Policy LLP27 in that Northwell benefits from a surplus of green open space, it is considered that the development of additional housing in this location would not result in the loss of a use for which there is an identified need.
54. Whereas significant weight is attributed to the provision of affordable family housing within this sustainable location, the same is not considered of the prevailing use of the space for those reasons provided within the preceding paragraphs. Together with the identified regeneration benefits associated with the scheme, the balance, therefore, lies in the significant merit of the development.

55. On that basis, it is considered that the development is consistent with Policies LLP1, LLP12, LLP15, LLP25, LLP27 and LLP37 of the Luton Local Plan 2011-2031.

Design and the Wider Area

56. Policy LLP25 seeks to have development enhance the character of an area, respond positively to the local context, minimise adverse amenity implications, optimise a site and create safe and attractive places.
57. The detailed design of the dwellinghouses within the scheme are considered to be of a high quality and that the development will enhance the quality of development within the locality. The three-storey pattern of development would be consistent with that of existing properties within the surround, while the pattern of fenestration and palette of materials would constitute a contemporary addition to a tired built environment.

Fig. 3: Proposed Visual (from Sherd Close)



58. Opportunities have been taken to ensure that natural surveillance is provided across and around the site, with all front and side elevations facing outwards of the development site to provide ample outlook of shared and public areas. This comprises a significant improvement within the area, with policy LLP12 recognising that Marsh Farm suffers a generally poor arrangement that is unduly conducive towards the proliferation of crime. Members will be aware of the acute challenges that have faced Marsh Farm over its lifetime, and it is considered that the development guards against those adverse implications affecting the development in the future, while also ensuring that the development can contribute positively towards

remedying the existing situation through the removal of poorly overlooked and enclosed areas around the existing dwellings.

Fig. 3: Proposed Visual (from Freeman's Green)



59. Underutilised presently exists within the 'red line' of the application site, such as the area to the rear of Nos. 6 to 9 Sherd Close and adjacent to the western edge of Sherd Lodge, which adjoins to the east. The development embraces these spaces and endows them with a purpose that is conducive to the enhancement of the public realm through both quality of execution and practical and reliable use. Furthered by the previously described benefits associated with safety and security, it is, therefore, considered that the scheme comprises a tangible enhancement of the locality.
60. There is, of course, the matter of the loss of the prevailing green space; the principle of which was considered within the previous section of this report. Policy compliant, a significant part of that assessment related to the value attributable to that existing provision within the context of the area. It is considered that the space that would be lost to the development comprises a pocket of green space that is adjacent to, rather than entirely situated within, the primary part of the wider park. The majority of Freeman's Green would be retained, and it is considered that the development benefits from a verdant character that would provide a lesser provision of greenery, but would constitute a better use of land, provide much-needed affordable family housing and not significantly affect recreational activity within the area.

Fig. 4: Proposed Visual (towards Freeman's Green)



61. It for these reason that the loss of the greenspace is not considered to result in a significant impact upon the character of the area. Freeman's Green would remain the focal point within the locality and would continue to be intrinsically relevant to the Marsh Farm District Centre. The development of the site for single family accommodation is consistent with the predominantly residential pattern of development within the area and the dwellinghouses proposed are of a quality and practical design. It is, therefore, considered that the development is consistent with Policies LLP1, LLP12, LLP15, LLP25 and LLP27 of the Luton Local Plan 2011-2031, as well as the principles relating to high quality design within Section 12 of the Framework.

Living Environment for Future Occupiers

62. 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.
63. As a fundamental starting point, all 15 dwellinghouses proposed achieve an internal floor area consistent with the nationally described space standards (NDSS – MHCLG, March 2015).
64. Beyond the provision of internal floor area, it is additionally noted that the habitable rooms of all of the proposed dwellinghouses would benefit from good levels of light penetration and outlook. The provision of external amenity space for each dwelling is consistent with the requirements as set out within Appendix 6 of the Luton Local Plan 2011-2031, while the ability to enjoy open space and recreational activity is furthered by the adjacency

to what would be the remaining, functional significantly larger part of Freeman's Green.

65. By reason of the foregoing, it is considered that the resultant living environment for future occupiers would be acceptable, in accordance with Policies LLP1 and LLP25 of the Luton Local Plan 2011-2031 and the objectives of Section 12 of the Framework.

Implications for Adjoining Occupiers

66. All dwellings within the development would be appropriately distanced from the surrounding existing properties. For this reason, together with the orientation of the development in relation to existing dwellings, it is considered that there would not be any significant harm to surrounding occupiers by reason of loss of privacy or loss of light. Similarly, there would be no material harm arising from immediate visual intrusion or loss of outlook to the living environment. The relationship between the proposed and existing dwellinghouses would be consistent with the prevailing pattern of development.
67. As the application site presently comprises green open space, it is appropriate to consider visual intrusion and outlook in terms of the development of undeveloped space. *Nos. 44 to 50 Flint Close* are located to the south-west of the development and presently front onto the prevailing green space. This relationship would be ended by the development, however, their proximity to green space would not be significantly affected, with the dwellinghouses that would be situated opposite being suitably distanced and the rest of Freeman's Green being directly adjacent to the north. While there would, therefore, be a loss of aspect, it is considered that the development is of a high quality design and that any identified harm would not substantiate a reason for refusal on that basis.
68. Noise implications that could be reasonably associated with the resultant development would relate to the activities associated with the occupation of dwellinghouses by families, a pattern of development and degree of activity that is consistent with that already found within the area. There would be increase in the level of activity surrounding the scheme, however, it is considered that this would be entirely proportionate and would not give rise to significant noise and disturbance.
69. All representations have been duly considered in reaching this recommendation.
70. While there would be visual aesthetic implications, it is considered that there would be no material harm to the internal living environments of any adjoining properties, with space about these dwellinghouses being

safeguarded through the detailed design of the proposal. Given the above assessment, the view is taken that the development would not result in material harm to surrounding properties and thereby accords with Policies LLP1, LLP15 and LLP25 of the Luton Local Plan 2011-2031.

Highway and Parking Implications

71. Policy LLP31 sets out the sustainable transport strategy and is supportive of development that minimises the need to travel, provides sustainable modal choice and reduces congestion. Policy LLP32 seeks to ensure that an adequate provision of parking is available as it relates to development.
72. Each dwellinghouse would be provided with at least two parking spaces, which is consistent with the adopted standards within Appendix 2 of the Luton Local Plan 2011-2031. The space between Nos. 5 and 6 Sherd Close presently offer parking, however, replacement parking would be provided either side of the southern entrance to the development. On that basis, no adverse parking implications are, therefore, anticipated as a consequence of the proposed dwellinghouses.
73. Notwithstanding this assessment, it is noted that the application site is adjacent to the Marsh Farm District Centre and thereby constitutes a sustainable location in terms of the Luton Local Plan 2011-2031.
74. Concern was raised to the development by the Local Highways Authority, however, this related to uncertainty surrounding the ability of a dustcart to access the relevant areas. The Applicant, therefore, undertook a safety audit in consultation with the LHA, the findings of which have been agreed and the recommendations are to be implemented. On that basis, the LHA has withdrawn the objection.
75. In view of the aforementioned, it is considered that the proposals are demonstrably consistent with Policies LLP1, LLP25, LLP31 and LLP32 of the Luton Local Plan 2011-2031 and the principles of sustainable development found within Section 2 of the Framework.

Planning Obligations and Affordable Housing

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

- Primary Education: £230,168;
- Secondary Education: £59,285; and
- Waste Management: £982.80.

Total: £290,435.80

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

Affordable Housing

78. *Policy LLP16 (Affordable Housing)* requires a provision of 20% of new residential development above 10 net dwellings to be offered as affordable housing. The proposal, however, is brought forward as an entirely affordable provision with a yield of 100%. This is far-beyond the required provision and, given the significant need for affordable properties, is granted significant weight in the consideration of all aspects of this development.

Assessment and Concluding Remarks

79. The generous provision of affordable housing does, however, severely implicates the viability of the scheme. A viability appraisal has been submitted and robustly scrutinised by the Council's Independent Assessor. This demonstrates that the scheme, providing 100% affordable housing, is not able to deliver upon any of the requested planning contributions.
80. In this instance, the healthy provision of affordable housing is considered to outweigh the lack of contributions in any other direction. The outstanding need is significant, and the Council, the Applicant in this instance, is currently the only reliable provider of affordable homes. While the inability to provide a financial contribution towards education does not comply with the primary objective of Policy LLP39, this policy does account for other material considerations to be accounted for. With regard to this particular application, that other material consideration relates to an excellent provision of affordable housing. The balance of these considerations is, therefore, policy compliant and held to be acceptable, in this instance.
81. As previously discussed, in addition to the 100% provision, the Applicant has also undertaken to provide a contribution of £60,000 towards the enhancement of greenspace/parks within the wider area. This relates to the

enhancement of Leagrave Park and would allow for the restoration of the Leagrave Park Nissen Hut and contributions towards the installation of play and/or fitness equipment for the Leagrave Park Playing Field. As considered within previous sections of this report, this contribution is made outside of the independently appraised viability of the scheme and would provide significant regeneration and open space benefit.

82. The proposal is, therefore, considered to be acceptable in these terms. The provision of affordable housing would be secured through an appropriate agreement, should Members be minded to agree the recommendation and approve the development.

Ecology

83. An ecological appraisal has been submitted in support of the planning application. The findings of the report have been accepted with regard to the scope of the study and the lack of any identified protected species, any species of particular scientific interest or any significant ecological merit associated with the scheme.
84. Accordingly, the proportionate approach to the level of ecological import that is attributable to the application site is to condition for the protection of the ecological integrity of the locality, requiring the submission and agreement of measures to be agreed with the Local Planning Authority prior to the commencement of any works on site. Two conditions are proposed, the first dealing with protection during construction and the second providing for ecological enhancement for the lifetime of the development.
85. Subject to the satisfactory discharge of the relevant conditions and the progression of development in strict accordance with those agreed measures, the development is considered to be acceptable as it relates to ecological matters in accordance with Policy LLP28.

Other Matters

86. Matters of drainage, contamination and sustainability/climate change have been considered and appropriate conditions have been recommended. Management of external areas that are not to form part of the adopted highway is also secured by condition.
87. Noise and archaeology have been fully considered and are without material implication. Security and safety have been addressed within preceding sections of this report.

88. The requirement of Bedfordshire Fire and Rescue for the existing fire hydrant to the rear of No. 6 Sherd Close is captured within a bespoke construction method statement condition.
89. Subject to the satisfactory discharge of the requested conditions, these matters are considered to be acceptable.

CONCLUSIONS

90. It is, therefore, considered that the proposal is in conformity with the objectives of Policies LLP1, LLP12, LLP15, LLP16, LLP25, LLP27, LLP28, LLP31, LLP32, LLP36, LLP37, LLP38 and LLP39 of the Luton Local Plan 2011-2031 and the principles relating to sustainable development, strong communities and high quality design as set out within the National Planning Policy Framework.
91. On that basis, conditional approval of the application is recommended.

LIST OF BACKGROUND PAPERS

APPENDIX

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

LOCAL GOVERNMENT ACT 1972, SECTION 100D

92. Luton Local Plan 2011-2031
93. Planning Obligations SPD (2007)
94. Green Space Strategy Review (2015)
95. National Planning Policy Framework (NPPF, or the Framework)
96. National Planning Practice Guidance (NPPG)

DETERMINATION OF PLANNING APPLICATIONS

97. 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

98. 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

99. 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

100. 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

101. 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.