

**COMMITTEE: DEVELOPMENT CONTROL****DATE: 21<sup>st</sup> APRIL 2010****SUBJECT: NAPIER PARK (VAUXHALL MOTORS LTD),  
KIMPTON ROAD - OUTLINE APPLICATION FOR  
A MIXED USE DEVELOPMENT - RESIDENTIAL,  
COMMERCIAL, RETAIL, CASINO, HOTEL AND  
CONFERENCING FACILITIES, AIRPORT  
RELATED CAR PARKING TOGETHER WITH  
ASSOCIATED INFRASTRUCTURE WORKS  
INCLUDING MEANS OF ACCESS - VARIATION  
OF CONDITIONS 3 (DEVELOPMENT  
FRAMEWORK PLAN & LANDSCAPE  
FRAMEWORK PLAN), 4 (QUANTUM OF  
DEVELOPMENT) AND 40 (LAND USE AND  
FLOORSPACE LIMITS) OF PERMISSION  
05/01095/OUT DATED 19TH OCTOBER 2006.  
(APPLICANT: SOUTHSIDE AND CITY LTD)  
(APPLICATION NO. 08/01295/VARCON)****REPORT BY: WENDY ROUSELL****CONTACT OFFICER: WENDY ROUSELL 546317****IMPLICATIONS:**

<b>LEGAL</b>	<b>COMMUNITY SAFETY</b>
<b>EQUALITIES</b>	<b>ENVIRONMENT</b>
<b>FINANCIAL</b>	<b>CONSULTATIONS</b>
<b>STAFFING</b>	<b>OTHER</b>

**WARDS AFFECTED: CRAWLEY**

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**PURPOSE**

1. To advise Members of the current application for variation of conditions 3 (Development Framework Plan), 4 (Quantum of Development) and 40 (Land Use and FloorSpace Limits) attached to planning permission 05/01095/OUT and to seek their decision.

## **RECOMMENDATION(S)**

2. (a) That planning permission is granted subject to; -
- (i) Prior to the meeting, the satisfactory resolution of the outstanding issues of principle raised with the developer regarding the Heads of Terms of the S106 agreement, particularly regarding the timing of the contribution to the Luton Dunstable Busway, and the further observations of the Highway Agency including the satisfactory clarification of the issues raised in respect of the Travel Plan; and
- (ii) The satisfactory completion of an agreement under Section 106 of the Town and Country Planning Act to contain the following Heads of Terms:
- A financial contribution towards Luton/Dunstable Busway construction costs or other alternative public transport provision;
  - Works or funding for improvements to M1 Junction 10a, to the specification of the highway authority;
  - Works for, or a financial contribution to, the construction of a direct pedestrian link from the site to the Luton Parkway Railway Station;
  - The transfer to the Council, at no cost, of the land identified on the submitted Development Framework Plan and Landscape Framework Plan as open space containing public space and a Local Equipped Area for Play (LEAP) to the specification of the Council's Parks Manager and the payment of a rolled up maintenance sum equivalent to 10 years' maintenance costs;
  - A financial contribution to off-site children's and adults' outdoor sports facility provision at Manor Road Recreation Ground and the payment of a rolled up maintenance sum equivalent to 10 years maintenance costs.
  - The transfer to the Council, at no cost, of parcel R3, in accordance with the terms of the original S106 agreement, along with any appropriate contribution towards affordable housing resulting from the uplift of the development of the site, either by way of on-site provision or towards off-site provision, or a combination of both to meet the identified housing needs in the Borough. The make up of the affordable housing to be provided in

association with the uplift element of the development should reflect the findings of the 2004 - 2005 Housing Requirements Study in terms of the proportional split in favour of social rented family housing;

- A financial contribution to facilitate any necessary classroom expansion at Crawley Green Infant and Wenlock Schools resulting from the development;
- The funding of on-site waste collection, recovery and recycling facilities;
- A financial contribution towards Library and Museum services as set out in the Council's adopted Supplementary Planning Document: Planning Obligations;
- The funding of all the Council's legal costs associated with the drafting of the Section 106 Agreement together with an appropriate financial contribution to the Council's Planning Service for the future monitoring of the Agreement and for dealing with future reserved matters planning applications arising from the grant of outline planning permission.

(NB Committee to authorise the Interim Development Control Manager, in consultation with the Head of Legal Services, to agree the format of the required S106 Agreement and to facilitate the making of the required contributions on a phased or staged basis related to agreed "trigger" levels where appropriate; and

(iii) The imposition of the following conditions:-

- (01) In the case of any matter hereinafter reserved for the subsequent approval of the Local Planning Authority, application for this approval shall be made not later than the expiration of six years beginning with the date of this permission and the development hereby permitted shall be begun not later than whichever is the later of the following dates: (a) The expiration of eight years from the date of this permission or (b) The expiration of two years from final approval of the matters hereinafter reserved for the subsequent approval of the Local Planning Authority or in the case of approval on different dates, the final approval of the last such matter to be approved.

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

- (02) Full details and particulars of all buildings and other works hereby permitted in respect of the access, appearance, landscaping, layout and scale of the site/development, shall be submitted to and approved by the Local Planning Authority before any development is commenced.

*Reason: To enable the Local Planning Authority to exercise proper control over the details of development in the case of an outline planning permission granted under Article 3 (1) of the Town and Country Planning (General Development Procedure) Order, 1995.*

- (03) The development hereby permitted by this permission shall be carried out in accordance with the Environmental Statement, the Development Framework Plan and the Landscape Framework Plan submitted as part of the application, unless the Local Planning Authority gives written approval to any variation or unless the conditions of the permission direct otherwise.

*Reason: The proposal is the subject of an Environment Statement in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 upon which the Development Framework Plan and Landscape Framework Plan are based and the significance of any material alteration and impact that has not been assessed by this process must be considered. The development hereby permitted must therefore be limited accordingly.*

- (04) This permission shall not authorise the erection of more than 1395 dwelling units or exceed the employment/commercial floorspace thresholds specified in the planning application supplementary sheets submitted as part of the application without the prior permission of the Local Planning Authority.

*Reason: In the interests of sustainability and to ensure consistency with the assessment on which the need for mitigation and contribution to infrastructure requirements has been based. To accord with the objectives of Policies BP1 of the Borough of Luton Local Plan and Policies LP1 and IMP3 of the emerging Luton Local Plan.*

- (05) Applications for approval of reserved matters shall be accompanied by written Design Statements that, for the avoidance of doubt, shall take into account the good

practice set out in By Design – Urban Design in the planning system: Towards Better Practice (DETR/CABE,2000); By Design – better places to live (DTLR, 2001); Safer Places – the Planning System and Crime Prevention (ODPM / Home Office, 2003); and Planning and Access for Disabled People: A Good Practice Guide (ODPM, 2003) and LBC Supplementary Planning Guidance: Designing for Sustainability-A Summary of Good Practice.

*Reason: To ensure a satisfactory standard of development and in the interests of good design and sustainability. To accord with the objectives of PPS1: Delivering Sustainable Development together with Policies LP1 , ENV9 and ENV10 of the Luton Local Plan 2001 - 2011.*

- (06) Notwithstanding the submitted Building Heights Plan, full details of the proposed finished floor levels and maximum heights of buildings in relation to proposed ground levels and the heights of existing and proposed neighbouring buildings, shall be included with each relevant application for reserved matters approval. The development shall thereafter be implemented in accordance with the approved details.

*Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policies LP1, ENV9 and H2 of the Luton Local Plan 2001 - 2011.*

- (07) A scheme of structural planting and landscaping for the application site, in compliance with Condition (02) hereof, including areas of public and amenity open space and proposed and existing planting identified in the Landscape Framework Plan shall be submitted to and approved by the Local Planning Authority before the relevant part of the development is commenced. The submitted details shall include:

- a) existing trees, shrubs and hedges, giving their location, height and spread and those to be retained and those to be removed;
- b) new planting, giving location, planting size, number and density, height and eventual spread and the location of grass turfing and seeding;
- c) depth of top soil to be provided, where necessary, and the measures to be taken to maintain the new

- planting for the required period set out in Condition (09) hereof
- d) the timing and implementation of all proposed planting and associated works;
  - e) measures proposed for the protection of existing trees, shrubs and hedges;
  - f) surface treatment of all hard landscaped areas;
  - g) a written statement of the account taken of the Landscape Framework Plan;
  - h) a landscape management plan following implementation of the scheme, to include ongoing management responsibilities and maintenance schedules.

The landscape management shall thereafter only proceed in accordance with the approved details.

*Reason: To ensure a satisfactory standard of development and to enhance the appearance of the development. To accord with the objectives of Policies LP1 and ENV10 of the Luton Local Plan 2001 - 2011.*

- (08) Within each application for reserved matters approval and in compliance with Condition (02) hereof, full details of a landscaping scheme for that part of the development shall be submitted to and approved by the Local Planning Authority before the relevant part of the development is commenced. The landscaping details shall address the following:-

- a) new planting, giving location, planting size, number and density, height and eventual spread and the location of grass turving or seeding;
- b) the relationship of new planting to existing and proposed buildings, roads, footpaths and drains or other underground services;
- c) proposed provision for incidental open space;
- d) surface treatment of all hard landscaped areas;
- e) depth of top soil to be provided, where necessary, and the measures to be taken to maintain the new planting for the required period set out in Condition (09) hereof;
- f) the timing and implementation of all proposed planting and associated works;
- g) a written statement of the account taken of the Landscape Framework Plan;
- h) a landscape management plan following implementation of the scheme, to include ongoing

**management responsibilities and maintenance schedules.**

**The landscape management shall thereafter only proceed in accordance with the approved details.**

***Reason: To ensure a satisfactory standard of development and to enhance the appearance of the development. To accord with the objectives of Policies LP1 and ENV10 of the Luton Local Plan 2001 - 2011.***

- (09) All planting included in the scheme submitted in compliance with Condition No. 02 of this permission and approved by the Local Planning Authority shall be carried out by a date not later than the end of the full planting season immediately following the completion of that development. If within a period of five years from the initial date of planting of any tree or shrub, any such plant is removed, uprooted or destroyed or dies, or becomes in the opinion of the Local Planning Authority, seriously damaged, diseased or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.**

***Reason: To enhance the appearance of the proposed development. To accord with the objectives of Policies LP1 and ENV10 of the Luton Local Plan 2001 - 2011.***

- (10) Within the area(s) specified on the Landscape Framework Plan for the provision of a Local Play Area, full details of the playing space shall be submitted to and approved by the Local Planning Authority before the relevant part of the development is commenced. The details shall include the siting of play equipment, buffer zones, future management proposals, safety surfacing, dog proof fencing and a timetable of works. The scheme shall thereby only be implemented in accordance with the approved details and timetable of works. For the avoidance of doubt, the scheme shall take into account the guidance contained in "Developing Accessible Play Space – A Good Practice Guide" ODPM 2003.**

***Reason: To ensure a satisfactory standard of development. To accord with the objectives of Policies LP1, H2 and LC2 of the Luton Local Plan 2001 - 2011.***

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

*Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policies LP1, ENV9, EM1 and H2 of the Luton Local Plan 2001 – 2011.*

- (12) No goods, waste or other materials shall be stored outside the building(s) in the open except in such locations and containers (including skips) as may be approved beforehand by the Local Planning Authority.

*Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policies LP1, ENV9, LLA4 and EM1 of the Luton Local Plan 2001 – 2011.*

- (13) Before the development hereby permitted is commenced, the developer will submit a specific working plan in line with the site investigation remedial targets set. The working plan must be approved, in writing, by the Environment Agency and the Local Planning Authority. The working plan must include a timetable of works, provisions for monitoring any specified actions and validating the outcomes and shall be submitted to and approved by the Local Planning Authority in consultations with the Environment Agency and the Council's Environmental Health Service. The development shall then proceed in strict accordance with the approved remediation strategy. Following this, a validation report must be submitted to the Local Planning Authority for consideration.

*Reason: To prevent pollution of groundwater and soil. To accord with the objectives of Policies LP1 and ENV14 of the Luton Local Plan 2001 - 2011.*

- (14) Development of the relevant parcel areas of the development hereby permitted, as identified by the Development Framework Plan, shall not be commenced until full details of a scheme for the incorporation of renewable sources of energy generation, to provide 10% of

the predicted energy requirements, within the relevant parcel area have been submitted to and approved by the Local Planning Authority. The development shall thereafter only proceed in accordance with the approved details.

*Reason: In the interests of sustainability. To accord with the objectives of PPS22: Renewable Energy and Policies LP1 and ENV9 of the Luton Local Plan 2001 - 2011.*

- (15) Development of each of the commercial and employment parcels of the development hereby permitted, as identified by the Development Framework Plan, shall not be commenced until an interim travel plan for the relevant parcel has been submitted to the Local Planning Authority and no building within the relevant parcels shall be occupied until the interim travel plan has been approved in writing by the Local Planning Authority. The interim travel plan shall include:

- a) details of anticipated travel to the relevant area;
- b) existing and proposed transport links, to include pedestrian, cycle and public transport links, and parking provision.

*Reason: In the interests of sustainability and encouraging reduced car travel. To accord with the objectives of Policies LP1 and T8 of the Luton Local Plan 2001 - 2011.*

- (16) Within six months of the occupation of each building within the relevant area, final travel plans for each of those buildings, shall be submitted for approval by the Local Planning Authority. The final travel plans shall include:

- a) proposals and measures to minimise private car use and facilitate walking, cycling and public transport use
- b) a timetable for implementation of measures designed to reduce car use
- c) plans for monitoring and review annually for a period of five years at which time they will be reviewed by the Local Planning Authority.

The Travel Plans shall thereafter be carried out as approved.

*Reason: In the interests of sustainability and encouraging reduced car travel. To accord with the objectives of Policies LP1 and T8 of the Luton Local Plan 2001 - 2011.*

- (17) Before the development hereby permitted is commenced, a strategy and framework plan for the provision of a strategic network of footpaths and cycle ways within the development and of linkages to the surrounding areas shall be submitted to and approved by the Local Planning Authority in consultation with the Local Highway Authority. The plan shall be in accordance with details set out in the submitted Transport Assessment. The strategy and framework plan thereby approved shall be incorporated into any applications for approval of reserved matters in respect of any part of the development thereafter submitted.

*Reason: In the interests of sustainability and to ensure adequate provision is made for non-car based modes of transport. To accord with the objectives of Policies LP1 and T8 of the emerging Luton Local Plan 2001 – 2011.*

- (18) Before the development hereby permitted is commenced, a strategy for the provision of public transport and infrastructure, in accordance with the details set out in the submitted Transport Assessment, shall be submitted to and approved by the Local Planning Authority in consultation with the Local Highway Authority. Details of bus signs, shelters and docking kerbing to facilitate disabled access shall also be incorporated as part of the submitted details. The strategy thereby approved shall be incorporated in any applications for approval of reserved matters in respect of any part of the development thereafter submitted and no buildings shall be occupied until the public infrastructure has been implemented in accordance with the approved details.

*Reason: In the interests of sustainability and to ensure adequate provision is made for non-car based modes of transport. To accord with the objectives of Policies LP1 and T6 of the Luton Local Plan 2001 - 2011.*

- (19) Details of the surfacing and drainage of any parking service area(s) hereby approved shall be submitted to and approved by the Local Planning Authority before the development hereby permitted is commenced. The details thereby approved shall be installed prior to the occupation of any building on the site.

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

*accord with the objectives of Policies LP1 and ENV9 of the Luton Local Plan 2001 – 2011.*

- (20) Development shall not commence until details of on site surface and foul water drainage works have been submitted to and approved by the Local Planning Authority, in consultation with the Environment Agency and Thames Water Utilities. No works which result in the discharge of foul or surface water from the site shall be commenced until the on-site drainage works referred to above have been completed.

*Reason: To ensure that the foul and surface water discharge from the site shall not be prejudicial to the existing sewerage system. To accord with Policies LP1 and ENV14 of the Luton Local Plan 2001 - 2011.*

- (21) Surface water control measures shall be carried out in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Environment Agency, before development commences.

*Reason: To prevent risk of flooding and to improve water quality. To accord with Policies LP1 and ENV14 of the Luton Local Plan 2001 - 2011.*

- (22) No work shall commence on any part of the development until a scheme for the Monitoring and Environmental Management of Construction and Demolition Works, in accordance with the details set out in the accompanying Environmental Statement, has been submitted to and approved by the Local Planning Authority. The scheme shall thereafter only be carried out in accordance with the approved details.

*Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policies LP1 and ENV9 of the Luton Local Plan 2001 – 2011.*

- (23) Unless otherwise agreed in writing by the Local Planning Authority for work outside these hours, no construction work likely to cause detriment to the amenities of adjoining residential properties by reason of noise, vibration, smoke or dust shall be carried out before the hour of 07.30 hours on Mondays to Saturdays or after 19.00 hours on Mondays

to Fridays or after 13.30 hours on Saturdays or at any time on Sundays and Bank Holidays.

*Reason: To protect the amenities of neighbouring properties. To accord with the objectives of Planning Policy Guidance Note 24 (Planning and Noise) and Policies LP1 of the Luton Local Plan 2001 - 2011*

- (24) Any reserved matters applications for the employment and commercial sectors of the development shall include details of proposed hours of operation.

*Reason: To protect the amenities of neighbouring properties. To accord with the objectives of Planning Policy Guidance Note 24 (Planning and Noise) and Policies LP1 of the Luton Local Plan 2001 – 2011*

- (25) Prior to the occupation of the development, external lighting shall be provided on the site in accordance with a scheme to be submitted to and approved by the Local Planning Authority before the development is commenced. The scheme, lighting equipment and levels of illumination shall comply with guidance issued by the Institution of Lighting Engineers in their publication “The ILE Outdoor Lighting Guide” and shall be accompanied by a statement from the developer confirming that compliance. The scheme shall thereafter be retained and maintained for so long as the development remains in existence and shall not be varied without the prior written permission of the Local Planning Authority.

*Reason: To ensure a satisfactory standard of development and in the interests of security and the prevention of crime. To accord with the objectives of Policies LP1 and ENV9 of the Luton Local Plan 2001 – 2011.*

- (26) No development shall take place until a scheme for the provision of public art has been submitted to and approved by the Local Planning Authority. The public art shall then be provided in accordance with the approved details. The submitted scheme shall include:

- a) details of the public art proposed;
- b) timing and implementation of the works;
- c) management arrangements to ensure the provision of the works;
- d) future management following implementation to include maintenance schedules where appropriate.

***Reason: To ensure the provision of public art within the development. To accord with the objectives of Policies LP1 and ENV12 of the Luton Local Plan 2001 - 2011.***

- (27) Development of the relevant parcel areas of the development hereby permitted, as identified by the Development Framework Plan, shall not be commenced until full details of the proposed car parking provision for the relevant parcel area has been submitted to and approved by the Local Planning Authority.**

***Reason: To ensure that adequate provision is made for vehicles to park clear of the highway in the interest of road safety. To accord with the objectives of Policies LP1, H2 and T3 of the Luton Local Plan 2001 – 2011.***

- (28) Full details of access and signposting to the development to meet the needs of disabled people shall be submitted to and approved by the Local Planning Authority before the development is commenced. The approved facilities shall be provided prior to the occupation of the building(s) in accordance with BS5810 and thereafter permanently retained.**

***Reason: To ensure a standard of development to accord with the objectives of Policies LP1 and ENV9 of the Luton Local Plan 2001 – 2011***

- (29) In compliance with Condition (03) hereof and for the avoidance of doubt, the retail development hereby permitted within Parcel C2 as identified by the Development Framework Plan, shall not exceed 7,432 square metres gross retail floorspace and the development shall be for a single unit bulky goods retail warehouse unit only and shall at no time be sub-divided into a larger number of retail units.**

***Reason: To ensure that sufficient regard is paid to the primacy of the retail function of the Town Centre and the aims and objectives of Policies LP1 and S1 of the Luton Local Plan 2001 – 2011.***

- (30) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or the Town and Country Planning (Use Classes) Order 1987, or any statutory instrument revoking and re-enacting those Orders, there shall be no display for retail sale, or the retail**

sale, of any of the following goods within the retail development (Class A1) within Parcel C2 as identified by the Development Framework Plan, hereby permitted:

- a) Food and drink for human consumption (except where this is ancillary to the sale of the other types of goods sold from the unit(s));
- b) Tobacco;
- c) Clothing and footwear (except work or garden clothing/footwear);
- d) chemist/pharmaceutical goods;
- e) Jewellery, fancy goods and luggage;
- f) Books, magazines, newspapers and gift/greeting cards (except where this is ancillary to the sale of other types of goods sold from the unit(s));
- g) Crockery, glassware, china and kitchenware (except where this is ancillary to the sale of other types of goods sold from the unit(s));
- h) Cosmetics and toiletries;
- i) sports goods and equipment;
- j) Audio and visual recordings (except where this is ancillary to the sale of other types of goods sold from the unit(s));
- k) sewing/knitting goods and haberdashery;
- l) Toys (except where this is ancillary to the sale of other types of goods sold from the unit(s));
- m) Tickets and holidays.

*Reason: To ensure that sufficient regard is paid to the primacy of the retail function of the Town Centre and the aims and objectives of Policies LP1 and S1 of the Luton Local Plan 2001 – 2011.*

- (31) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any statutory instrument revoking and re-enacting that Order, no telecommunication apparatus shall be erected or installed in excess of the maximum height of buildings hereinafter permitted and/or pursuant to any reserved matters approval without the prior permission of the Local Planning Authority.

*Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policies LP1 and ENV9 of the Luton Local Plan 2001 – 2011.*

- (32) In accordance with the principles for the management of waste set out in the accompanying Environmental Statement, development of the relevant parcel areas of the development hereby permitted, as identified by the Development Framework Plan, shall not be commenced until full details for the provision of appropriate waste sorting, recovery and recycling facilities for the relevant parcel area have been submitted to and approved by the Local Planning Authority. The development shall thereafter only proceed in accordance with the approved details.

*Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Planning Policy Guidance Note 24 (Planning and Noise), Policies LP1 of the Luton Local Plan together with Policies W5 and W6 of the Bedfordshire and Luton Minerals and Waste Local Plan 2005.*

- (33) In compliance with Condition (03) hereof and for the avoidance of doubt, the multi decked car park hereby permitted shall be used for long stay airport-related parking only and shall not exceed 5000 parking spaces capacity without the prior written approval of the Local Planning Authority.

*Reason: To enable the Local Planning Authority to exercise proper control over the provision of off-site airport related parking in the interests of sustainability and to ensure consistency with the objectives of Policies LLA2 and KR1 of the Luton Local Plan 2001 – 2011.*

- (34) Within the employment and commercial sector of the development hereby approved and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any statutory instrument revoking and re-enacting that Order, the following development shall not be undertaken, erected or installed without the prior approval of the Local Planning Authority:-

- a) The change of use of any building;
- b) The extension of any building;
- c) The construction of any structure exceeding the height of any original building on any plot;
- d) The provision of any lighting (including street lighting) external to any building;

- (e) The external provision of amplifier, relay, loudspeaker, or other audio equipment to any building.

*Reason: To enable the Local Planning Authority to exercise proper control over the details of development in the case of an outline planning permission granted under Article 3 (1) of the Town and Country Planning (General Development Procedure) Order, 1995.*

- (35) Development of the residential areas of the development hereby permitted, as identified by the Development Framework Plan, shall not be commenced until a scheme to protect the occupants of the dwellings from external noise sources has been submitted to and approved by the Local Planning Authority. Information relating to aircraft noise levels shall be identified in consultation with London Luton Airport Operations Limited. The scheme shall be designed in accordance with the provisions of PPG24 Planning and Noise and to the "good" standard specified in BS8233:1999. All noise mitigation works required in respect of each dwelling shall be completed before the first occupation of that dwelling.

*Reason: To protect the amenities of the future residents of the accommodation hereby approved. To accord with the objectives of Planning Policy Guidance Note 24 (Planning and Noise) and Policy LP1 of the Luton Local Plan 2001 - 2011.*

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

*Reason: To enable the Local Planning Authority to exercise proper control over the details of development in the case of an outline planning permission granted under Article 3 (1) of the Town and Country Planning (General Development Procedure) Order, 1995 and to facilitate the phased implementation of the planning permission*

- (37) The submission of further details required by the above conditions (where applicable) shall be accepted by the Local Planning Authority on a phase by phase basis by reference to that part of the development which is then proposed to be implemented and references to compliance "before the development and/or works is/are commenced" shall be construed as references to "before the relevant part of the development and/or works is/are commenced".

***Reason: To enable the Local Planning Authority to exercise proper control over the details of development in the case of an outline planning permission granted under Article 3 (1) of the Town and Country Planning (General Development Procedure) Order, 1995 and to facilitate the phased implementation of the planning permission.***

- (38) No development shall commence on land parcels R1, R2, R3 and R4 as identified in the Development Framework Plan, until a scheme for providing pedestrian access to Devon Road from the development site has been implemented and is fully operational in accordance with details submitted to and approved by the Local Planning Authority beforehand.**

***Reason: In the interests of sustainability and to ensure adequate provision is made for non-car based modes of transport. To accord with the objectives of Policies LP1, T1 and T8 of the Luton Local Plan.***

- (39) No part of the development hereby approved, over and above the occupancy rates permitted by virtue of Condition (41) hereof, shall be occupied prior to the submission of and subsequent approval in writing by the Local Planning Authority, in consultation with the Highways Agency on behalf of the Secretary of State for Transport of the following design details relating to the required improvement to M1 Junction 10A. The scheme shall generally conform to the arrangements shown in outline on drawings LSS001/003T P3. Scheme details submitted shall include drawings and documents showing:**

- a) how the improvement interfaces with the existing highway alignment and carriageway markings including lane destinations;**
- b) full construction details relating to the highway improvement. This should include any modification to existing structures or proposed structures, with supporting analysis;**
- c) full signing and lighting details where applicable;**
- d) confirmation of full compliance with Departmental Standards (DMRB) and Policies (or approved relaxations/departures from standards);**
- e) an independent stage 2 Road Safety Audit (taking account of any stage 1 Road Safety Audit Recommendations) carried out in accordance with**

Departmental Standards (DMRB) and Advice Notes, and

- f) an Appraisal Summary Table (A.S.T.) in accordance with the requirements of the D.E.T.R. publication "A New Deal for Trunk Roads in England: Guidance on the new approach to appraisal - July 1998".

*Reason: To ensure that M1 Junction 10A will continue to fulfil its purpose as part of a national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980, and for the safety of traffic on that road. In pursuance with this requirement, the Highways Agency must be satisfied with all the details of the proposed improvement to M1 Junction 10A prior to the commencement of construction work.*

- (40) No development shall be occupied before the highway improvements as shown in outline on BWB drawing LS001/003T P3 dated 12th October 2005 have been implemented to the satisfaction of the Local Planning Authority in consultation with the Highways Agency on behalf of the Secretary of State for Transport. This is without exception, other than:

- a) 5,000 airport related car parking spaces.
- b) Areas of development which in combination generate no more than 30 inbound vehicle trips through M1 Junction 10A in the AM peak period (defined as 08:00-09:00) as determined from the agreed trip generations and trip distributions in the table below:

Land Use Class Arrivals trip Rate #% Distribution to Jct 10a

B1 Office	2.02	42.2
B1c/B2 Light Industrial	0.87	42.2
C3 Residential	0.13	42.2
A1 DIY Store	0.63	15.3
C1 Hotel Conference	0.75	90.7
Casino	0.00	-

In the case of non-residential land uses based on rate per 100sq.m gross floorspace.

In the case of residential land uses based on rate per dwelling.

**Reason: To ensure that M1 Junction 10A will continue to fulfil its purpose as part of a national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980, and for the safety of traffic on that road on the basis that M1 Junction 10A is unfit to accept the additional traffic that the development would generate until the proposed improvement has been satisfactorily completed.**

**41. The development shall not exceed the maximum size as follows:**

	<b>Land Use</b>
<b>Residential Development:</b>	<b>1395 dwellings.</b>
<b>B1 Office:</b>	<b>60,000sq.m.</b>
<b>B1(C)/B2:</b>	<b>11,950sq.m.</b>
<b>Hotel:</b>	<b>200 beds.</b>
<b>Local Services &amp; Neighbourhood Retail:</b>	<b>6,000sq.m.</b>
<b>Airport parking:</b>	<b>5,000 spaces.</b>
<b>DIY store:</b>	<b>7,432sq.m.</b>
<b>Casino:</b>	<b>10,500sq.m.</b>
<b>Conference Facilities:</b>	<b>4,000sq.m.</b>

**Reason: To ensure that M1 Junction 10A will continue to fulfil its purpose as part of a national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980, and for the safety of traffic on that road. In pursuance with this requirement, the proposed improvement to M1 Junction 10A has been assessed on the basis of the areas shown in Condition (40) above. An increase in those areas might invalidate the assessment.**

- b) The Committee is also recommended to resolve that:-**
- 1) The requirements of Part II of Schedule 4 to the Environmental Impact Assessment Regulations 1999 are satisfied by reason of the Environmental Statement including at least the following information:-**
    - (i) a description of development comprising information on the site, design and size of the development;**

- (ii) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
  - (iii) the data required to identify and assess the main effects which the development is likely to have on the environment;
  - (iv) an outline of the main alternatives studied by the applicants and an indication of the main reasons for their choice, taking into account the environmental effects;
  - (v) a non-technical summary of the information under (i) to (iv) above.
- 2) The implications of the development addressed in the Environmental Statement and the mitigation measures proposed do not amount to significant adverse effects or main effects.
- 3) That it be recorded that, in making the decision on the application, the Committee has taken into account the environmental information comprising the Environmental Statement and that this information meets the minimum requirements of Part II of Schedule 4 to the Environmental Impact Assessment Regulations 1999 and is sufficient having regard to Part I of Schedule 4 to those Regulations
- 4) That the main reasons on which the reasons and considerations are based are placed on deposit for public inspection at the appropriate time and an informative to this effect will be attached accordingly to any approval notice for which planning permission may be granted.

## **REPORT**

### **The Proposal**

3. The application relates to a variation of three conditions attached to the outline planning permission that was granted consent on 19<sup>th</sup> October 2005 to allow additional development over that approved by that consent, to provide, the items marked in bold are the elements that the applicant seeks additional development:-

- **Up to 1, 395 mixed tenure residential units (an increase of 395 units);**

- **Up to 65,000m<sup>2</sup> of commercial offices (an increase of 20,000m<sup>2</sup>);**
- Up to 11,950 m<sup>2</sup> light industrial units;
- 200 bed hotel with 4,000m<sup>2</sup> of conference facilities;
- Multi-decked car park for 5,000 cars to provide off-airport car parking;
- Mixed use scheme – leisure/casino 10,500m<sup>2</sup> and bulky goods retail of 7,432m<sup>2</sup>
- **Ancillary retail on ground floor of commercial/residential buildings (max 6,000m<sup>2</sup>) (an increase of 2,000m<sup>2</sup>);**
- Public open space (Napier Green)
- New vehicular access from Kimpton Road;
- Pedestrian access to Kimpton Road with cross point to Luton Parkway Station;
- Relocation of War Memorial (in accordance with the public art strategy).

4. The outline application included a Development Framework Plan and Landscape Framework Plan, which were specifically referred to in the conditions and as part of this uplift in the level of development, these conditions are required to be varied.

#### Site and Surroundings

5. The application site covers an area of 22.72 hectares (55 acres) comprising part of the former Vauxhall Car Plant in Kimpton Road. The site is approximately 1.6 kilometres to the south east of the town centre. The retained General Motors IBC van production facility is located to the immediate east of the site.

6. The application site incorporates a number of steep level changes and previous manufacturing operations have involved the formation of a number of plateau areas divided by steep escarpments at gradients of up to 1:2. The direction of the natural ground fall is from St Ann's Hill to the north to the River Lea Valley to the south-west and south-east.

7. Following the grant of consent on the site in 2006 the site has been cleared of all buildings and a process to remove contamination from the land has been undertaken.

#### Relevant Planning History

8. Consent was granted in October 2006 for the following: –

- Up to 1,000 mixed tenure residential units;
- Up to 45,000 square metres office floorspace (B1);
- Up to 11,950 square metres general industrial floorspace (B2);
- 200 bed hotel and fitness centre;
- Up to 4,000 square metres conferencing facility;

- Up to 10,500 square metres casino (D2);
- Up to 7,432 square metres bulky goods retail floorspace (A1);
- Multi-deck car park to provide 5,000 airport-related car parking spaces;
- 4,000 square metres of local services and neighbourhood retail (within Use Classes A1/A2/A3/A4/A5/D1).

9. In April 2008, applications were approved for the provision of a new access road to serve Site R1 (08/00118/FUL) and variation of associated conditions on the 2005 application, related to Development Framework Plan and Landscape Framework Plan (08/00119/VARCON) to allow the variation of the line of the access road and a reserved matters application relating to 196 residential units in two blocks of 5-storey height with underground car parking (08/00124/REM).

10. In October 2008, consent was granted for a reserved matters application for phase 1, blocks N1 (8,475 sq.m) and N2 (6,899 sq.m), which relates to B1 office development (08/00970/REM).

11. In addition, subsequent applications for discharge of conditions have been submitted in respect of Site R1 only.

#### Relevant Planning Policy

##### National planning policy

12. Planning Policy Statements (PPS) set out the Government's national policies on different aspects of land use planning. PPS1 sets out the principal policies on the delivery of sustainable development, the core principal underpinning the Government's objectives for planning.

##### Regional Policy

13. Regional policy guidance set out in RSS14, which provides guidance for the Eastern Region, and recognises the current imbalance between Milton Keynes and Luton and seeks to redress this by promoting growth in Luton.

14. It identifies Luton, Dunstable and Houghton Regis as a Priority Area for Economic Regeneration within the wider Milton Keynes and South-Midlands growth area. Priority Areas are areas of regional importance considered to be in need of regeneration strategies and resources to address economic deprivation. The general strategy for growth focuses on sustainable development, regeneration and renewal of urban areas.

##### Milton Keynes and South Midlands Sub Regional Strategy

15. The Strategy was published in October 2004 to secure the future of the region as a growth area.

16. Luton is identified as one of the four urban areas within which growth will be focused. A target provision of 26,000 new dwellings within Luton/ Dunstable/ Houghton Regis/ Leighton Linlade has been identified for the period to 2021.

#### Luton Local Plan 2001 – 2011

17. The application site lies within the Kimpton Road Action Area to which Policy KR1 specifically relates. The Local Plan proposals map sub-divides this area into a further 5 separate parcels.

18. Policy KR1 states that “*Planning permission will be granted for the comprehensive mixed use redevelopment and/or re-use of the former car plant provided that:-*

*[A] the various areas of the site as defined on the Proposals Map are developed for the following uses:-*

- (1) B1 or residential, or residential and associated community facilities;*
- (2) Residential and associated community and/or leisure and/or retail facilities to meet the needs of the immediate locality, and /or B1 and/or hotel and/or car showroom;*
- (3) B1 and/or B2 and/or hotel and/or car showroom or, if the site is not redeveloped, the retention of the vehicle release facility to serve the adjacent vehicle manufacturing plant;*
- (4) B1 and/or B2 and;
  - (a) up to a maximum of 20% of this area for B8 uses and/or a bulky goods outlet which is in accordance with the retail strategy in Policy S1; and/or*
  - (b) up to a maximum of 20% of this area for long-stay airport-related car parking which is in accordance with Policy LLA2; and/or*
  - (c) up to a maximum of 20% of this area for a hotel;**
- (5) B1 and/or B2 and up to a maximum of 30% of this area for B8 uses, or, if Area 3 is redeveloped, Area 5 to comprise a replacement vehicle release facility to serve the adjacent vehicle manufacturing plant; and*

*[B] the design of any proposed redevelopment will enhance the character and appearance of the site when viewed from the surrounding area.”*

The supporting text for this policy states that the Council’s objectives for the future use of the site are:-

- (1) to maximise both the quantity and quality of job opportunities;*

- (2) to maximise the opportunity presented by this major previously developed site;
- (3) to ensure that any proposed development does not have any adverse effect upon the operation or amenity of neighbouring uses;
- (4) to enhance the overall appearance of the site to the maximum potential effect;
- (5) to seek to ensure development within a reasonable period of time; and
- (6) to ensure that any development does not have any adverse effect on the vitality and viability of the town centre.

19. Given the Council's objectives for the future of this site, any development proposals that are not in accordance with this policy will need to demonstrate how all of these objectives will be successfully achieved.

20. Although Policy KR1 has detailed above, other policies within the local plan are also relevant in the consideration of this proposal.

#### Consultation and Publicity

21. Highways Agency: Further work is required to be undertaken by the applicant on travel plans. Further discussions have taken place with the applicant and additional details have been submitted.

22. Thames Water: No observations.

23. LBC Highways Development Manager: The transport assessment needs to be resubmitted. Further discussions have taken place with the applicant and additional details have been submitted.

24. Environment Agency: No objections subject to the previous conditions being added to the decision notice.

25. Anglia Water: No response received.

26. Veolia Water/Three Valleys Water: The site lies within a groundwater Source Protection Zone. If pollution is identified appropriate monitoring and remediation methods will need to be undertaken.

27. Vivendi Water Partnership: No response received.

28. London Luton Airport (Safeguarding): Further details of layout, lighting and landscaping required.

29. London Luton Airport Operations Limited: Concern about the impact of the development on the operations of London Luton Airport in terms of traffic, risk of bird strike from landscaping and noise from airport impacting on residents of proposed dwellings.

30. LBC Environmental Protection: Validation reports are still required for the site to ensure that the contamination has been removed from the site. No objections to the proposal in principle.
31. Bedfordshire Health Authority: No response received.
32. Luton Primary Health Care Trust: No response received
33. Sport England: No comment to make on application.
34. Bedfordshire Fire and Rescue: No response received.
35. Bedfordshire Police: No objections.
36. LBC/JPU Strategic Planning: The proposal must comply with Policies KR1, EM1, H2 and LC2 of the Luton Local Plan 2001 – 2011.
37. Bedfordshire County Planning Officer: No response received.
38. Hertfordshire County Council: Concerns regarding the traffic impact on the highway network.
39. North Hertfordshire District Council: Support the increase in the amount of housing proposed, which will no doubt help to meet the MKSM SRS targets.
40. Central Bedfordshire Council: No response received.
41. EEDA: Support the application. The increase in employment floorspace is both supported by the Regional Economic Strategy and the Luton Integrated Development Plan in a meeting an identified shortfall of quality B1 employment space.
42. GO-East: No response received.
43. EDF Networks/National Grid Transco: The impact of the development on supplies of gas and electricity is negligible.
44. Network Rail: No response received.
45. Arndale Traders: No response received.
46. Chamber of Commerce: Fully support the application.
47. The Wildlife Trusts: No response received.
48. North Chiltern Trust: No response received.

49. LBC Street Services (Parks) combined with Environment and Heritage: The work undertaken to inform our strategic approach to parks and open space indicates that a recreational space should be suitable for the recreational activity intended. It is identified that the optimum size for a local Neighbourhood Park is 2ha.
50. LBC Street Services (Trees): Query over the responsibility of the maintenance of the trees situated to the rear of Devon Road. This is addressed within the conditions.
51. LBC Museums: No response received.
52. LBC Library Service: No response received.
53. LBC Waste Management: Comments relating to S106 contribution and detailed matters relating to the location of bin storage areas (for the detailed stage).
54. LBC Education: A S106 contribution towards education will be required.
55. LBC Housing Policy Officer: Discussions have concluded that as there is a need for family housing, there is no intention to increase the density on R3. In the context of the uplift application, it is proposed to impose a requirement for a commuted sum within the S106 agreement.
56. LBC Capital and Asset Management: No response received.
57. Statutory Publicity: The application has been notified to 1475 local occupiers adjoining the site with site and press notices being issued. Twelve letters of representation have been received, one supporting and eleven objecting to the proposals on the following grounds:
- i. provision of school places for the children of families moving to the housing areas on the site;
  - ii. Luton does not need a casino, but does need more low and medium cost housing;
  - iii. No need for more airport parking;
  - iv. Concern about the heights of buildings on the site;
  - v. Concern that the people who require social housing only ever get the opportunity to live in high-rise buildings;
  - vi. Good that this site is going to be developed, but should be a lower density;
  - vii. Concern about the location of the road serving the development;
  - viii. Road congestion, noise and traffic related pollution could be a problem;
  - ix. Concern re aircraft noise and impact on residents;
  - x. Site would be ideal for Football Club and other sports clubs;
  - xi. Site should be zoned to ensure development is in accordance with developers suggested uses;
  - xii. Would wish to see the trees retained between Devon Road and the development;

- xiii. Whilst the site is currently outside the Public Safety Zone of the airport, the Air Transport White Paper supports the growth of London Luton Airport.

## **MAIN PLANNING CONSIDERATIONS**

58. As stated above this application relates to an increase in the level of development permitted by the previous outline application (05/01095/OUT). The principle of the development has therefore been previously established on the site. The major issues for consideration are set out in the subsections below.

### **Residential**

#### **The Proposal**

59. The application seeks the increase in the number of permitted units on parcels R1, R2, R3 and R4, which comprise a total area of 6.50 hectares. R1, lies at the extreme western end of the site with the boundaries to the mainline railway and cemetery; R2 occupies the most prominent hillside position of the site where the natural slope of the land falls from the crest of St Ann's Hill. Parcel R3 occupies the uppermost plateau of the site adjacent to the established housing on the south-eastern side of Devon Road. Parcel R4 occupies a central location within the site at the foot of the proposed access road leading to parcels R2 and R3.

60. The submitted details indicate that the highest residential densities are to be accommodated within parcels R1 and R4 with density reducing in parcels R2 and R3 to be compatible with the existing adjacent established housing. The proposed building heights vary across the relevant land parcels accordingly. The building heights for the highest density development in parcels R1 and R4 could accommodate buildings up to 7 and 9 storeys in height respectively. The heights for the buildings in the lower density areas (parcels R2 and R3) could accommodate buildings up to 6 and 5 storeys respectively. The building heights plan nevertheless specifies an identified area for careful design in the most sensitive parts of the site adjacent to the existing adjoining housing in Rutland Crescent and Ketton Close.

61. R3 has been identified as the area to be transferred to the Council in lieu of the provision of affordable housing. It is the Council's intention to promote the development of the site for this purpose.

62. Although the applicant seeks an increase in residential development as a whole, discussions with the Council's Housing Policy Team suggest that they would not wish to increase the density within this area and would still aim to accommodate family type housing, where possible.

63. It is anticipated that the majority of the rest of the units will be 1 or 2 bedroom apartments.

64. The development will result in a maximum overall density of 215 dwellings per hectare, based on a maximum threshold of 1395 units.

## Policy Context

### Regional and Sub Regional Policy

65. The East of England Plan (RSS14) sets out the objectives for meeting the vision for the East of England. In of particular relevance, RSS14 states that the objectives are to deliver more integrated patterns of land use, movement, activity and development, including employment and housing; make more use of previously developed land and existing buildings, and use land more efficiently in meeting the future development needs; meet the regions' identified housing needs, and in particular provide sufficient affordable housing; and minimise the environmental impact of travel, but reducing the need to travel, encouraging the use of more environmentally friendly modes of transport, and widening the choice of modes.

66. In addition to the objectives, Policy SS13 relates to the overall housing provision, Policy H1 to distribution of dwelling provision 2001-2021, H2 to affordable housing and mix of housing types and H3 to phasing of housing development.

67. The proposals are considered to be consistent with the longer term housing growth proposals for the Luton/Dunstable/Houghton Region growth area, as identified in the Milton Keynes South Midland Sub-Regional Strategy (MKSMSRS).

68. As at April 2009, the Luton and South Bedfordshire Strategy Housing Land Availability Assessment (SHLAA) identifies deliverable and developable sites for 11,505 dwellings of which 11,220 are within the Luton/Dunstable/Houghton Regis Growth Area. (The remaining 285 dwellings fall within the residual area). There are also planning permissions for 655 dwellings on sites yielding below 10 dwellings of which 574 are within the Growth Area. This results in a total of 11,794 dwellings with a reasonable prospect of delivery within the next 10 years.

69. In addition to the SHLAA sites and those dwellings with planning permission, the emerging Core Strategy identifies 4 strategic growth locations which are capable of delivering 19,000 dwellings. Therefore, within the plan period to 2031, the SHLAA has identified land capable of delivering over 30,000 dwellings. The remaining requirement to meet the MKSMSRS targets will be identified through the Site Allocations Development Plan Document (DPD) and further reviews of the SHLAA.

70. The SHLAA identifies that within the period 1<sup>st</sup> April 2008 to 31<sup>st</sup> March 2013, there is a supply of sites that can deliver 6,390 dwellings. In total, this equates to 6,964 dwellings when the 574 dwellings from sites with planning

permission below 10 dwellings are added. When added to the completions to 2008, this results in an overall provision of 13,073 dwellings to 2013. This is only 127 dwellings below the housing target for 2013 (13,200) and is therefore not considered sufficient by the Joint Technical Unit to constitute a lack of a 5 year housing land supply.

71. Furthermore, in preparing the SHLAA and calculating the 5 year land supply, a robust stance was taken by the Joint Planning Unit, to the assessment of the current market conditions. This involved assuming a delay of 18 months in the delivery of large sites and removing sites from within the 5 year supply where it was felt that market conditions would prevent them being delivered. Therefore, in normal market conditions, the 5 year land would provide a surplus of dwellings.

#### Luton Local Plan 2001 - 2011

72. Policy H2 of the Luton Local Plan identifies sites for 432 dwellings during the period 2004-2011 with a further 504 dwellings to be built on unidentified "windfall" sites during that period. Windfall sites are identified as those which are defined as previously developed or underused land; it would not lead to the loss of a use for which there is a recognised local need; there would be no unacceptable effect on the environment and there is good access to local facilities and public transport.

73. Policy H3 relates to residential density and states that new residential development will be required to be built at a net density of 40 dwellings per hectare or above. In areas with good accessibility to transport other than the car, development will be required to be built at a net density of 50 dwellings per hectare or above.

74. Policy H5 relates to the provision of affordable housing and policy H6 sets out the requirements for affordable housing provision. Policy H5 states that up to 50% of new units in all developments of 15 units or more should be for affordable housing, subject to the circumstances of the site and any special development costs. It also seeks to ensure that the size and type of affordable dwellings reflects the identified housing need requirements and is well integrated into the overall scheme.

75. Policy KR1 identifies residential development as an appropriate land use within specified areas of the Kimpton Road Action Area.

#### Appraisal

76. The principle of residential development as part of a mixed use scheme, on this site has been previously established through the earlier planning permission. It was noted in the previous report that the then proposed housing provision of 1000 dwellings, significantly exceeded the Structure Plan allocation set out in Policy H2 of the Luton Local Plan. However it further noted that the Structure Plan which was a material consideration at that time, sought to promote sustainable levels, locations and

forms of development and its strategy encouraged the use of derelict, vacant and under-used land.

77. Whilst the Structure Plan, one of the considerations in the previous application, is no longer a saved document, the objectives of the East of England Plan (RSS14) reflect similar issues and seek to address the housing targets for Luton and the needs of the Region and MKSMSRS.

78. Given the proximity of the site to the proposed Luton Dunstable Busway and Luton Parkway Station, the site has good access to public transport. This combined with the matter of the site being previously developed land, makes this site compliant with Policy H2.

79. Increasing the level of development on this site would provide a more sustainable option, than possibly other potential growth areas sites that are under consideration as part of the Core Strategy and for that reason it is considered that this site offers an opportunity to contribute to Luton's growth agenda.

80. The impact on the residents of Ketton Close and Devon Road, are unlikely to be any greater than that of the previous application, given that the density of development on parcel R3 is unlikely to be increased, given the need for affordable family housing within the Borough. This has previously been indicated to be the area of the site with the lowest density of development.

## **Employment**

### **The proposal**

81. The application proposes 65,000m<sup>2</sup> of commercial office space on parcels E1, E2 and E3 and 11,960m<sup>2</sup> of light industrial land on parcel E4.

82. E1 is the parcel of land to the south-western most part of the site which fronts Kimpton Road. The building heights remain as before, up to 16 metres and 22 metres in height.

83. Parcel E2 is set just above E1 and lies adjacent to a formal square and part of the public open space. At this point the land starts to rise in levels towards the upper plateau.

84. Parcel E3 is located on the southern edge of the site, lying between the existing Vauxhall buildings and the public open space, to be known as Napier Green.

85. Parcel E4 is located at the northern part of the site and is bounded by the existing landscaping on the escarpment.

### **Policy Context**

## National Policy

86. The combination of employment uses with other land uses, including residential provides for the type of mixed use development seen by government policy as a key contributor to the delivery of sustainable development.

87. PPS4: Planning for Sustainable Economic Growth has recently been published by the DCLG and has replaced PPG4 (Industrial, commercial development and small firms), PPG5 (Simplified Planning Zones), PPS6 (Planning for Town Centres) and the economic development sections of PPS7 (Sustainable Development in the Rural Areas).

88. Policy EC10 of PPS4 related to determining planning applications for economic development and includes references to considerations being given to the impact of a development on “*d. The impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives*” and “*e. The impact on local employment*”

89. Policy EC11 relates to determining applications for economic development (other than main town centre uses) not in accordance with an up to date development plan states “Local Planning Authorities should... consider whether the proposals help to meet the wider objectives of the development plan.”

## Regional and Sub-Regional Policy

90. The application would contribute towards the achievement of the Regional Economic Strategy and help contribute to the employment growth proposals for the Luton/Dunstable/Houghton Regis conurbation resulting from the MKSMSMS.

## Luton Local Plan

91. The Local Plan states that the key aim of this site is to deliver jobs, especially skilled jobs, which are considered to be particularly important to strengthen the economy. Policy KR1 indicates that, although particular weight is placed on delivering business and industrial employment uses, jobs created in association with other land uses will also be taken into consideration.

## Appraisal

92. The allocation of employment land within the site accords with the overall strategy for the disposition of land uses identified in Policy KR1. This proposal increases the floorspace for employment related uses, which can only be seen as a positive contribution to Luton’s economy and the wellbeing of its residents.

## Retail

### The proposal

93. The application proposes up to 7,432 m<sup>2</sup> of bulky goods retail warehousing within Parcel C2. This is located in the central part of the commercial land uses within the site that sit below the hillside and upper reaches of the site identified for residential purposes. This part of the application does not vary from that previously approved.

94. In addition there is proposed to include an additional 2,000m<sup>2</sup> of ancillary retail within the ground floors of commercial and residential buildings around Lennox Square (the central plaza). This gives a total of 6,000m<sup>2</sup> of ancillary retail within the development.

### National Planning Policy

95. Since the previous application was approved PPS4 referred to in the Employment Section of this report, has been published which recognises the contribution to employment that retail development can make in.

96. PPS4 states that an assessment addressing the impacts for planning applications for retail and leisure developments over 2, 500 m<sup>2</sup> gross floorspace that is not in accordance with an up to date development plan

### Local Plan 2001 -2011

97. Policy KR1 of the Luton Local Plan states that any bulky goods retail development is required to be in accordance with the retail strategy set out in Policy S1 i.e. there has to be demonstrable need; the sequential approach to site selection has to be followed; the impact on the viability and vitality of existing shopping areas has to be considered and the benefits should outweigh the loss of an existing or potential alternative use.

### Appraisal

98. This proposal does not seek to vary the level of bulky retail floorspace provided within the application, to that previously approved. Therefore there are no issues relating to this element of the application.

99. The additional retail floorspace is proposed within the central plaza and is ancillary to the commercial and residential units around this area. There are no material policy issues relating to the provision of neighbourhood retail uses within this area and it is considered that this use both accords with Policy KR1 and PPS4 and is seen as a complimentary use within such locations.

### Leisure Uses

100. The application included a 200 bedroom hotel with fitness/conference facility and a separate casino of up to 10,500m<sup>2</sup>. This application does not seek to change that which has been previously approved.

101. The policy issues relating to this element of the development have been previously rehearsed and as there are no proposed changes to that approved, it is not considered necessary to discuss this element further on this occasion.

### **Airport Parking**

102. The previous application proposed 5000 dedicated airport-related car parking with parcel CP1. It was proposed that this would be within a multi-decked facility.

103. Given its location and close proximity to Parkway Station, this site has been identified as a suitable location for such uses.

104. In Policy terms the site is recognised within Policy KR1 and the Airport Surface Access Strategy and has been referred to in appeal decision for other similar facilities, where Inspectors have noted the Council's aim to provide a strategic and managed approach of off airport parking.

105. At this element of the application does not vary from that previously approved it is not considered necessary to discuss this element further.

### **Open Space**

#### **The Proposal**

106. In the previous proposal, the Masterplan did not allow for the accommodation of any significant areas for public open space. Smaller incidental areas, local play areas and a formal public square (Lennox Square) were included as areas within the development. To mitigate against this under provision, a contribution was proposed which was to be used for the enhancement of Manor Park.

107. Following the review of the Masterplan and area to be known as Napier Green is now proposed in the middle of the site. This will provide an open area of approximately 2ha (including Lennox Square) of which a significant section (1.45ha) can accommodate informal leisure/sports activities.

108. Further discussions with the applicant have established that this area of the site constitutes a plateau and therefore is a relatively level area of land.

#### **Policy Context**

##### **National Policy**

109. The government's position in relation to planning for open space, sport and recreation is set out in PPG17. Its wider policy objectives include supporting an urban renaissance, the promotion of social inclusion and community cohesion, the promotion of health and well-being and the promotion of more sustainable development

110. It advises of the need to ensure that provision is made for local sports and recreational facilities (either through an increase in the number of facilities or through improvements to existing facilities) where planning permission is granted for new developments. Planning obligations should be used where appropriate to seek increased provision of open spaces and local sports and recreational facilities, and the enhancement of existing facilities.

111. To reinforce the position regarding planning obligations, PPG17 also indicates that planning obligations should not be used as a means to remedy local deficiencies in the quantity and quality of open space, sports and recreational provision. It confirms that there is justification for seeking planning obligations where new development increases local needs.

### Local Plan 2001 -2011

112. Policy LC2 sets out the requirements for the provision of green space. It states that the provision of appropriate green space should meet the anticipated need generated by a development.

113. It also sets out the requirements for developments where provision is not practicable or viable on-site that involves either the provision of green space elsewhere in a readily accessible location or an appropriate financial or other contribution towards new off-site provision or the enhancement of existing off-site facilities.

### Appraisal

114. The incorporation of an element of green space within the development is welcomed, but advice from relevant officers within the Council identifies that this area would not meet the standards expected for a development of this size.

115. Following discussions with the applicants it is proposed that during the negotiations in respect of the S106 agreement a suitable contribution is established which can be directed to enhancement works at Manor Park, based on trigger points at various stages of the development. Whilst the figure has not been agreed at this stage, this approach appears to be acceptable to the relevant services.

### Transportation

#### The Proposal

116. Having regard to the range of issues to be addressed under this heading, the following topic headings are proposed: - vehicular access; parking; sustainable travel and highway impact.

#### Vehicular Access

117. The application involves the submission of detailed matters of design in relation to initial infrastructure works. These include the primary and secondary Kimpton Road vehicular access points together with the main boulevard and access roads throughout the site.

118. The principal access to the site will be taken from Kimpton Road via a signal controlled junction, approximately 35 metres to the south of the existing site access.

119. The secondary access would be located approximately 230 metres to the south of the main site access. This would be in the form of a priority controlled "left in/left out" junction and would predominantly serve the B1 office element of the scheme within Parcel E1. The right turn movement from this access would be prohibited, as it would be likely to result in capacity problems at the junction at peak hour times.

### Parking

120. The planning statement accompanying the application considers that the location of the site and its general accessibility to existing transportation links justifies some flexibility in parking provision. The principle of shared parking between the commercial land uses within the site will be adopted where appropriate.

121. It is anticipated that the parking to serve the residential areas will be provided largely as undercroft or basement parking. This is considered to take advantage of the level changes within the site and to provide a parking solution that does not impact negatively on the streetscape.

122. Some limited on-street parking can also be provided along the main boulevard and main access roads and where, appropriate to do so, in some areas of incidental open space between buildings.

### Sustainable Travel

123. In order to encourage travel by sustainable modes of transport, such as rail, bus, cycle and on foot, it is proposed to provide the following:-

- Full demand-responsive pedestrian and cycle facilities at the main site access and in the vicinity of the secondary access.
- A pedestrian/cycle and possible bus-gate on Devon Road to provide improved access to the bus service and amenities within the established residential area to the north of the site.
- A comprehensive network of pedestrian/cycle routes through the development that would connect with the wider area and the town centre.

- Either the extension of the existing shuttle bus between Luton Parkway rail station and the airport, or a new dedicated service to provide for the airport parking element of the proposal.
- The provision of a bus interchange immediately adjacent to the proposed airport car park to accommodate the airport shuttle and any bus services accessing the site.
- Either the provision of a direct pedestrian/cycle link to Luton Parkway rail station, or a frequent shuttle service between the development and the station.
- Secure cycle storage.
- Implementation, operation and monitoring of Travel Plans for all commercial elements of the scheme
- Appointment of a development-wide Travel Co-ordinator to ensure all travel plans are operated in accordance with the Travel Plan Framework.
- Creation of a development web site to provide travel information
- The operation of a development wide car-sharing scheme

### Highway Impact

124. The Transport Assessment accompanying the application identified that the traffic generated by the development would have a material impact on the operation of the Kimpton Road/Windmill Road and Kimpton Road/Airport Way junctions. The Assessment acknowledged that the impact would require mitigation. This was the subject of discussion on the earlier application and a contribution figure agreed.

125. However, due to land constraints, the Assessment indicated it would not be possible to significantly improve the geometry of either of those junctions. Therefore, in addition to implementing measures to encourage sustainable travel patterns, agreement was reached at pre-application stage with the Council's Engineering Division that encouragement should be given to general modal shift by providing an appropriate contribution towards the funding of sustainable transport measures in the area, such as the proposed Luton Dunstable Busway scheme.

126. The Assessment also indicated that the generated traffic would also exacerbate the existing congestion at M1 Junction 10A. The assessment proposed that the impact would be mitigated by either providing a contribution towards a comprehensive scheme, or implementing a short term improvement scheme to widen the M1 spur approach to three lanes.

127. The increase in the level of development has been taken account of in the Transport Assessment and negotiations have taken place between the Councils Engineering Division, The Highways Agency and the applicant to agree mitigation in respect of the development and to secure the monitoring of a travel plan.

### Policy Context

#### National Policy

128. The government's positioning in relation to transport is set out in PPG13. Its wider policy objectives include the promotion of more sustainable transport choices, the promotion of accessibility to jobs, shopping, leisure facilities and services by modal shift and a reduction in the need to travel, especially by car.

129. It advises that reducing the amount of parking in new development is essential, as part of a package of planning and transportation measures, to promote sustainable travel choices.

#### Luton Local Plan 2001 – 2011

130. The policy thrust of national policy is embodied in the transportation policies set out in the emerging plan. The policies of relevance in this respect include; T2 Location policy; T3 Traffic implications of development; T5 Luton Dunstable Busway; T6 Bus accessibility ; T8 Walking and cycling and T13 Parking.

131. The supporting text to Policy T5 comments that the Luton Dunstable Busway scheme will be delivered by a public-private partnership. It further states that planning obligations will be sought to secure private sector contributions to the scheme's infrastructure in cases where development proposals are likely to generate additional use of the system, or where it is necessary to bring forward planned provision in order to overcome a public transport deficiency which would otherwise lead to a refusal of planning permission under Policy T2.

132. Given the recent announcement on funding for the Luton Dunstable Busway, the S106 will have to reflect the timing for the contribution to this scheme.

### Appraisal

133. The acceptability of the transportation elements of the proposal are assessed in the context of the consultation response of the Highway Development Manager.

134. He has commented that, although the submitted Transport Assessment is generally acceptable, the development is nevertheless reliant on the

completion of the East Luton Corridor Scheme and on a significant modal share of non-car modes, including the Luton Dunstable Busway Project.

135. On the basis that the Transport Assessment clearly demonstrates that East Luton Corridor Scheme junction improvements at either end of Kimpton Road are critical to the proposed development, the Highway Authority will require that the development meets the full costs of those improvements. The current cost of those improvements is estimated at £1.5 million. It is understood that this contribution has been received from the applicant.

136. Given that the proposal is heavily reliant on non-car modes of transport, it is considered that a direct pedestrian link to the Parkway Station should be a requirement rather than an aspiration. The Highway Authority has identified a possible route for the link but it is reliant on obtaining third party land.

137. The Transport Assessment also refers to a financial contribution towards the Luton Dunstable Busway Project as part mitigation of the highway impact of the development. Government funding provisos for the project require developer contributions to be sought totalling £6million. Since the application represents a major development along the route, a contribution of not less than £3million is considered an appropriate sum to be apportioned from the development. Whilst the developer has accepted this figure as a result of the earlier S106, further discussions are taking place in respect of the timing of these contributions. However, it is considered imperative that the contribution towards the Luton Dunstable Busway is given high priority, to ensure the developers aspirations of modal shift are delivered.

138. The Transport Assessment demonstrates that improvements to Junction 10A of the M1 are required. It proposes an improvement scheme or a financial contribution to a comprehensive improvement to be undertaken at a later date by the Highway Authority. Given that, at the present time, there are no firm proposals for a comprehensive improvement, it is considered that the developer must undertake a package of highway improvement works to mitigate the highway impact of the development. The current cost of those improvements is estimated at £1.5 million.

139. The Highways Agency has been involved in discussions regarding Junction 10A improvement works. Those discussions have been on-going since the time the application was initially considered and, whilst the Highway Development Manager is generally satisfied with the extent of works proposed, the Highways Agency have issued a number of holding directions to the scheme pending resolution of their outstanding concerns. A current holding direction is in place until 31<sup>st</sup> May 2010.

140. The direction is maintained until such time as the Secretary of State has received sufficient information to address his concerns. Its effect is that the Council is not in a position to grant planning permission for the development within the period it remains in place. In the event that the

Highways Agency is unable to reach an agreement with the developer, they would need to consider the appropriateness of issuing a direction of refusal.

141. Nevertheless, in the event that agreement is reached prior to the expiry date of the current holding notice, the Highways Agency will withdraw the holding objection and replace it with a direction requiring the imposition of appropriate conditions relating to the extent of mitigation measures agreed.

142. Having regard to the importance of the holding objection to any resolution the Committee may make, an up-date of the present position will be the subject of a further report to the meeting.

### **Environmental Impact Issues**

143. Due to its size and significance, the application has required an Environmental Statement (ES). The purpose of the ES is to ensure that the environmental effects of the proposed development are fully considered, together with the economic or social benefits, before the application is determined.

144. The application includes a review of the previously submitted ES to address the additional development now proposed.

145. Given that the previous application covered the content of the ES in some detail and additional information has been supplemented to update that previously submitted, it is not intended that this matter is further addressed in detail.

### **Planning Obligations**

146. The government's main objective for the planning system is to deliver sustainable development and in pursuance of that goal, the use of planning obligations is identified as a material consideration to be taken into account in the determination of an application.

147. Government circular advice (Circular 05/2005) indicates that planning obligations should be used whenever appropriate and in the light of policy advice regarding the circumstances in which they can be sought, Section 106 planning obligations are considered a suitable means to mitigate the impact of the development in this instance.

148. Circular advice states that any planning obligation under Section 106 must be:-

- (i) relevant to planning;
- (ii) necessary to make the proposed development acceptable in planning terms;
- (iii) directly related to the proposed development;
- (iv) fairly and reasonably related in scale and kind to the proposed development; and
- (v) reasonable in all other respects

149. The Circular goes on to say that the use of planning obligations must be governed by the fundamental principle that planning permission may not be bought or sold. Similarly, they should never be used purely as a means of securing for the local community a share in the profits of the development.

150. In the context of local planning policy, Policy IMP1 of the Emerging Plan states that, in appropriate circumstances, the Council will seek to enter into agreements to secure:-

- [A] the provision of the financial cost of facilities made necessary by the implementation of the development; and
- [B] an appropriate level of provision, or contribution, towards facilities for which there is either:-
  - (i) a recognised need in the Borough; or
  - (ii) a recognised deficit in the locality

151. The total sum of financial contributions for this application is still under negotiation and may need to be the subject of a financial appraisal and on a pro-rata basis, for some elements, once the actual level of development has been established. A further update will be given at the meeting.

152. In the case of the work undertaken to date on the affordable housing element of the Section 106 requirements, it has been necessary to apply more rigorous modelling of the level of housing likely to be built at the site. In discussions with the applicants, this has suggested that the number of dwellings that are realistically likely to be developed at the site may be significantly lower than the upper threshold sought, notwithstanding the applicant's reluctance, at this stage, to be committed to a lower specific number. However the applicant has sought to increase the maximum number at this stage.

153. The location of the affordable housing (R3) has been the subject of consideration in the previous application.

154. The highways contributions have been based on discussions between the Highway Authority, the Highways Agency and the applicant and based on the level of development now proposed by the applicant.

155. The contributions in terms of the other services have been based on the Councils Adopted Supplementary Planning Document on Planning Obligations. A figure has been proposed by the applicant, based on the level now proposed as a result of this application.

156. The transport assessment submitted with the application has relied on promoting modal shift. Key contributors to this are the Luton Dunstable Busway and a pedestrian link to Parkway Station. These are referred to within the previous S106 and given that this application seeks to increase the level of development on the site, these matters are considered priorities.

157. The Heads of Terms seek to ensure that the Luton Dunstable Busway contribution is given a high priority both in terms of the level of financial contribution and the timing for when this contribution is to be received. This matter is under discussion with the applicant and will need to be concluded before resolution of the application by Members.

## **CONCLUSIONS**

158. At the time of writing this report, there remain a number of issues to be resolved and concluded. One of the significant matters is of course the holding direction issued by the Highways Agency and the Heads of Terms for the S106 agreement.

159. It is considered that subject to the imposition of appropriate conditions and to the agreement being reached regarding the level of planning obligations to be sought, the extent and range of land uses proposed would deliver the policy objectives of the Regional and Local Plan policies, as well as the emerging Core Strategy. It would also secure the regeneration of this important site thereby making a major contribution to the sustainability of the local area

160. In addition, given the transport assessment relies on promoting modal shift, the financial contribution proposed is seen as significant in aiding the delivery of the Luton Dunstable Busway.

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

- 161. Luton Local Plan 2001 – 2011.
- 162. East of England Plan 2001 – 2021 (RSS14).
- 163. PPS4: Planning for Sustainable Economic Growth.
- 164. LBC Supplementary Planning Document: Planning Obligations.
- 165. Circular 05/05: Planning Obligations.