

# Development Control Committee

## Minutes

21 April 2021 at 6.00 pm

### Present:

Councillor Taylor (Chair); Councillors Agbley, Bridgen, Campbell, Donelon, Franks, A. Hussain, M. Hussain and Roche

### 17 Apology for absence - Ref (2.1)

An apology for absence from the meeting was received on behalf of Councillor Campbell.

### 18 Minutes - Ref (2.2)

That the minutes of the meeting of the Committee held on the 24 March 2021 be taken as read, approved as a correct record and signed by the Chair in due course.

### 19 Barnfield College, New Bedford Road, Luton (Ref 7)

The Planning Officer reported on Application No. 21/00113/REM submitted by Taylor Wimpey, in respect of approval of reserved matters relating to appearance, landscaping, layout and scale pertaining to outline planning permission reference 20/00108/OUT dated 9 October 2020, that granted planning permission for the erection of up to 110 residential dwellings and making good the newly exposed gable of the existing College building following demolition of the adjoining structure at Barnfield College.

An update to the report had been circulated to Members of the Committee on the day of the meeting.

Following debate, comments and statements by Members of the Committee, the Chair moved the Officer's recommendation to approve the application as set out in the report, seconded by Councillor A. Hussain.

5 Members voted in favour of Officer's recommendation that the application be approved, 2 Members abstained.

**Resolved:** (i) That Application No. 21/00113/REM and reasons for approval of reserved matters set out in the report be granted subject to the conditions and their reasons as set out below;

- (01) **The development hereby permitted shall not be carried out other than in complete accordance with the approved plans and specifications as set out on Luton Borough Council plan and document numbers: FW2037-108-01 REV A2; FW2037-108-02 REV A2; FW2037-108-03 REV A2; FW2037-108-04 REV A2; FW2037-108-05 REV A2; ID171-001B; ID171-010; ID171-102B; ID171-103B; ID171-200 NA34 COLTFORD BRICK; ID171-201 NA44 MANFORD BRICK; ID171-202 NA45 MARFORD BRICK; ID171-203 NA51 WAYFORD; ID171-204 REV A NB31 BRAXTON BRICK; ID171-205 REV A NB51 GARRTON; ID171-206 NT30 ARDALE URBAN SQUARE; ID171-207 NT31 KINGDALE URBAN SQUARE; ID171-208 NT40 ROSSDALE RENDER; ID171-209 NT41 TRUSDALE URBAN SQUARE; ID171-210 PD30 AMERSHAM RENDER; ID171-211 NA45 MARFORD RENDER; ID171-212 NA44 MANFORD URBAN SQUARE; ID171-213 REV A NB51 GARRTON URBAN SQUARE; ID171-214 REV A NB31 BRAXTON URBAN SQUARE; ID171-215 NA34 COLTFORD URBAN SQUARE; ID171-216 NA34 COLTFORD RENDER; ID171-217 NT31 KINGDALE RENDER; ID171-218 NT41 TRUSDALE RENDER; ID171-219 NA45 MARFORD RENDER; ID171-220 SINGLE GARAGE; ID171-221 PAIRED SINGLE GARAGES; ID171-222 PAIRED SINGLE/SALES GARAGES; ID-171-223 RETAINING WALL; ID171-224 NB51 PLANS GARRTON; ID171-226 NB31 BRAXTON PLANS; 7370.PP.4.0 REV E; 7370.PP.4.1 REV E; 7370.PP.4.2 REV E; 7370.PP.4.3 REV E; 7370.PP.4.4 REV E; 7370.PP.4.5 REV E; SPECIFICATION FOR LANDSCAPE & HORTICULTURAL WORKS 7370.LAND.SPEC.001 DECEMBER 2020 and LANDSCAPE MANAGEMENT PLAN 7370.LMP.001 DECEMBER 2020.**
- (ii) **That delegated authority be granted to the Head of Planning to make minor alterations to the condition, including adding and deleting conditions, following any Committee resolution to grant reserved matters approval, should any be required;**
- (iii) **That, following any grant of reserved matters approval, delegated authority be granted to the Head of Planning to determine any subsequent applications related to this development seeking non-material amendments (Section 96A applications).**

## **20 2 Wodecroft Road – 21/00006/FULHH (Ref 8)**

The Planning Officer reported on Application No. 21/00006/FULHH submitted by Luton Council's Building Technical Services for a resubmission of planning permission in relation to the erection of two storey side and rear extensions, front parking area and construction of vehicular crossover at No 2 Wodecroft Road, Luton.

Members were informed that this application had previously been heard at a meeting of the Committee on 24 February 2021 where it was deferred due to a number of concerns expressed by Members of the Committee regarding the lack of clarity on the proposed development.

In accordance with the right to speak procedure (RTS), the applicant and the objector had previously exercised their right to speak at a previous meeting of the Committee.

Following brief discussions, comments and statements by Members of the Committee, the Chair moved the Officer's recommendation to approve the application as set out in the report.

7 Members voted in favour of the Officer's recommendation that the application be approved.

**Resolved:** (i) That Application No. 21/00006/FULHH for planning permission be granted subject to the conditions and their reasons set out below and reasons for approval as set out in the report.

- (01) The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission. Reason: To limit the duration of the permission in accordance with the provisions of Sections 91-96 of the Town and Country Planning Act, 1990.**
- (02) The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission. Reason: To limit the duration of the permission in accordance with the provisions of Sections 91-96 of the Town and Country Planning Act, 1990.**
- (03) The development hereby permitted shall not be carried out other than in complete accordance with the approved plans and specifications as set out on Luton Borough Council plan and document numbers: 01 REV B, 03 REV C and DC01. Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.**
- (04) Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990 or of the Town and Country Planning (General Development) Order, 2015, (or any Order revoking and re-enacting that Order with or without modification) no window openings shall be fitted in the northern and southern first floor flank elevation of the building(s) 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.**
- (05) The building(s) and/or site shall be used as a single family dwelling house as specified within Class C3 specified in the schedule to the Town and Country Planning (Use Classes) Order, 1987, (or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification and for no other purpose. Reason: To**

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

- (ii) That delegated authority be 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);**
- (iii) That following any grant of permission that delegated authority be 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):**

## **21 Constitutional Review (Ref 9)**

The Head of Development Management submitted the report Ref: 9 in relation to the proposal to amend the Scheme of Delegation (S of D) as outlined in the Council's Constitution. The report sought the approval of the Committee to agree the proposed changes outlined in the report thus (The Emergency Scheme of Delegation for the determination of planning matters approved on 26 August 2020 should be made permanent with three amendments as set out in Appendix 1 of the report). An update to the report had been circulated to Members of the Committee on the day before the meeting.

He explained that the "Case for Change" was part of the Council's Future Ready Programme, which set out the vision, to enable the Council to become a highly productive and efficient organisation. Members received information that the proposals for change would focus on the review of processes in order to identify efficiencies to support the Emergency Budget and the organisational move towards new Target Operating Model (TOM).

A significant focus of the review was to ensure delivery of effective, timely and statutorily/financially robust formal and devolved decision-making, which would hold the confidence of elected Members and to enable transparency and accountability for members of the public.

The Head of Development Management further explained that Members would recall that as part of the Constitutional Review a report was presented to Constitutional Sub-Committee on the 4th November 2020 and again on the 18th March 2021. The proposals sought amongst other things included changes to the existing Scheme of Delegation (S of D).

A Member of the Committee commented that clarity was required in relation to public understanding of (Member(s)) and or (Councillor(s)). She asked that this be made clear in the S of D and on the Council's website to ensure transparency and fairness to Luton residents. In response, Officers explained that this report sought the approval for amendment to the S of D rather than administrative changes. Commenting on the responses the Solicitor to the Committee advised that there were no legal implication should Members of the Committee be minded to replace or oblique (Councillor instead of the reference to "Members" in terms of clarity of the use of the word (Members) to the public, as set out within the S of D

Members of the Committee were minded to agree that, the word “Member” be replaced with “Councillor”. However, another Member of the Committee explained that the suggestion for the Committee to agree the replacement of the word “Member” to the word “Councillor” was not within the remit of the Development Control Committee, DCC. Expanding on this the Solicitor to the Committee explained that the Constitution itself could not be changed by this Committee but the Committee had the remit to agree proposed changes to the S of D. He further explained that in some circumstances, certain issues and matters would require the participation of all Members of the Council and would therefore be more appropriately discussed at a Full Council meeting.

Officers further explained the key changes regarding the following category of applications, which now needed to be heard by Members of DCC compared to the pre-existing situation.

- Applications on sites over 0.5ha or the erection of 10 or more dwellings.
- Applications involving more than 1000m<sup>2</sup> of a change of use 1000m<sup>2</sup> floorspace
- Applications involving more than 7 objections to the officer recommendation (as opposed to the previous threshold of 4)
- Delegated authority was also granted to officers to deal with the following category of applications;
- Refusal of applications contrary to the Development Plan
- Approval of variation of existing planning permissions (Section 73 applications)
- Enter into S106 legal obligations or vary previous obligations.
- Approve reserved matters applications

Following detailed discussions, comments and statements by Members of the Committee the Solicitor to the Committee made a point of clarity that it was for the DCC to consider the proposal as set out within the S of D, Appendix 1 of the report. He said the other issues expressed about reviewing the wording and changing the website as suggested was likely to be within the responsibility of corporate action and not for the action of DCC.

Following comments by Members of the Committee concerning the proposal to move from 15 to 7 contrary representations as set out as an amendment in Appendix 1. Councillor Donelon made a proposal that the proposed threshold of 7 be changed to 4 contrary representations, as was contained in the pre-covid scheme of delegation. This was seconded by Councillor Agbley.

The Chair Councillor Taylor put forward the motion to move the above-mentioned threshold to 4, and 8 Members of the Committee voted in favour of the reduction and so the amendment was carried.

He then put forward the Officer’s recommendation as set out in the report (as amended by the motion above) and 8 Members of the Committee voted in favour of the recommendation.

**Resolved:** (i) That the report Ref: 9 regarding proposed amendments to the Scheme of Delegation as outlined in the report be noted;

(ii) That the replacement of the word (Member (s)) or oblique with the word (Councillor (s)) be made in the S of D.as appropriate and, that Officers consider the request in so far as it relates

to the Council's website through the relevant process as this was not within the remit of the DCC.

(iii) That the Emergency Scheme of Delegation for the determination of planning matters approved on 26 August 2020 be made permanent with the amendments as set out in Appendix 1 of the report. Save that the proposed amended reduction to 7 contrary representations be further reduced to 4.

## 22 Amendment to 'Right to Speak' Procedure (Ref 10)

The Head of Development Control Management submitted the report Ref: 10 and sought the approval for amendments to the Right To Speak procedure (in person and remote meetings) for the Development Control Committee as set out in an update report that was circulated to members on the day of the meeting).

The Head of Development Control Management explained that Development Control Committee (DCC) adopted the current Right to Speak (RTS) procedure at its meeting on the 30 September 2020 as set out in Appendix 2 of the report Ref: 10. The proposal would allow the DCC to amend the RTS to reduce the time allowed for objectors and applicants to speak from the current 5 minutes to 3 minutes which was more in line with the direction of a number of neighbouring Councils such as Central Bedfordshire Council, Milton Keynes and Croydon, had adopted for a number of years.

Members were informed that the proposal to limit the RTS to 3 minutes would provide sufficient time for both objectors and applicants to address DCC and make their arguments to ensure a transparent democratic process. Furthermore, it was aimed to reduce Member and Officer time, and to help to robustly focus succinctly on key issues.

In addition, it was also now necessary for the Committee to consider time limit for Ward Councillors in the RTS. It was acknowledged that Ward Councillors when exercising their RTS had reasonably spoken within good timing without impact on other items on the Committee's agenda. The proposal was for DCC to also consider that the time restriction of 3 minutes for applicants and objectors be applied to Ward Councillors also.

An update to the report had been circulated to Members of the Committee on the day before the meeting.

The Head of Planning alerted the Committee to some further amends for clarification to the two RTS procedures as set out in the update report as follows:

The definition of "Ward Councillor" should also say "Member".

Para: 23 of Appendix 1 should say 3 minutes not 5.

The definition of Objector/Applicant in Appendix 2 should include the words "It may on occasions include supporters to a proposal".

In reference to "i Article 6: Right to a Fair Trial" Paragraphs 16 and 17 of the report, and further reference to the recommendation being regarded as having a positive impact on the

ability to exercise RTS, the Head of Planning advised that the proposal to reduce the time allowed for objectors and applicants could not be considered positive.

A Member of the Committee categorically stated that he would object to the Officer's proposals and recommendations as outlined in the Report Ref: 10. He explained that the time accorded members of the public be reasonably unimpeded to ensure public confidence in the democratic process. Another Member explained that when dealing with significant issues like planning applications the primary objective should be whether an application should be approved or not as this was significant to people's lives. Therefore it should not be considered unreasonable to allow interested parties (applicants and objectors), to speak for 5 minutes per one application. He said reduced time from 5 to 3 minutes was not acceptable and therefore should be stayed at the existing 5 minutes.

Furthermore, the issue of time limits for Ward Councillors and non Ward Councillors was discussed. Members of the Committee were of the consensus that Ward Councillors should be restricted to a 5 minutes timeline. Since the Chair was also able at his discretion to allow non Ward Councillors to speak, they too would be restricted to 5 minutes where the Chair acts upon his discretion to allow non Ward Councillors to speak in the first place.

Following the discussions and comments, there was a consensus to maintain the 5 minutes RTS for applicants and objectors. The Chair moved the below, seconded by Councillor M. Hussain;

- RTS – Retain 5 minutes for applicants and objectors
- RTS – Cap at 5 minutes for each Ward Councillors
- RTS – Cap at 5 minutes for each Non-Ward Councillors if allowed to speak at Chair's discretion.

On being put to vote, 6 voted in favour of the above motion, 2 voted against.

**Resolved:** (i) That the report Ref: 10 which sought the approval to amend the Right To Speak (RTS) procedure (in person and remote meetings) to allow applicants and objectors to speak at future meetings of Development Control Committee as set out in the update report and orally updated by the Head of Planning as set out above be noted;

(ii) That the proposal to amend the RTS to reduce the time allowed for objectors and applicants to speak from the current 5 minutes to 3 minutes be not supported by the Committee;

(iii) That the RTS proposal set out in a-d below be agreed by the DCC.

- a. RTS – Retain 5 minutes for applicants and objectors
- b. RTS – Cap at 5 minutes for Ward Councillors
- c. RTS – Cap at 5 minutes for Non-Ward Councillors if allowed to speak at Chair's discretion.
- d. Save in respect of the 5 minute time limit set out above, agree to the other amends shown as track changes to the RTS procedures in the update report and as orally updated by the Head of Planning.

**(Note: (i) Councillor M. Hussain declared a personal and prejudicial interest in respect of Agenda Item 8 Application No. 21/00006/FULHH (Resubmission) (2 Wodecroft Road, Luton) as the Objector to the application was a friend of his. Councillor Hussain exited the virtual meeting room and did not participate nor took part in the discussions or the Committee's decision regarding this item);**

**(ii) Councillor A. Hussain in relation to (Item 9 - Constitution Review) and (Item 10 - Amendments to Right to Speak Procedure) declared interest being the Chair of the Constitution Committee. He remained in the virtual meeting room, and participated in the debate, discussions and decisions thereof.**

**(iii) Councillor Donelon was not present at the start of the virtual meeting at 6.00pm due to connection difficulties. She was able to connect to the virtual meeting at the start of Item 8 Application No. 21/00006/FULHH (Resubmission) (2 Wodecroft Road, Luton). She remained in the virtual meeting room and took part in the discussions, debate, discussions and decisions for the remainder of the Agenda Items thereof.**

**(iv) Members of the Committee noted that Para. 43 of Item 9 was not applicable to the content and proposals submitted by Officers and as set out in the report.**

**(v) The meeting ended at 7.50pm))**