

Committee Ref:

DCC/01/21

**Luton**

# Notice of Meeting

## Development Control Committee

Date : Wednesday, 27 January 2021

Time : 18:00

Place : Virtual meeting via\*Skype

Councillors : Taylor (Chair) Franks  
Agbley (Vice-Chair) A. Hussain  
Ali M. Hussain  
Bridgen Rivers  
Campbell Roche  
Donelon

Quorum: 3 Members

Name (01582 546032)

Email: Matthew.hussey@luton.gov.uk

[Skype Meeting Link](#)

### PURPOSE

This Committee determines applications for planning permission; applications for consent to the display of advertisements; and applications for Hazardous Substances Consent. It also has authority to authorise action in respect of any breach of planning control.

**\*SKYPE:** During the Covid 19 emergency period, this meeting will take place virtually, via Skype. To access the meeting, please click on the link to the meeting above.

# AGENDA

<i>Agenda Item</i>	<i>Subject</i>	<i>Page No.</i>
1.	<b>Apologies for Absence</b>	
2.	<b>Minutes</b>	
	<b>1. 6 January 2021</b>	<b>1 - 14</b>
3.	<b>Section 106, Local Government Finance Act 1992</b>	
	Those item(s) on the Agenda affected by Section 106 of the Local Government Finance Act 1992 will be identified at the meeting. Any Members so affected is reminded that (s)he should disclose the fact and refrain from voting on those item(s).	
4.	<b>Disclosures of Interest</b>	
	Members are reminded that they must disclose both the existence and nature of any disclosable pecuniary interest and any personal interest that they have in any matter to be considered at the meeting unless the interest is a sensitive interest in which event they need not disclose the nature of the interest. A member with a disclosable pecuniary interest must not further participate in any discussion of, vote on, or take any executive steps in relation to the item of business. A member with a personal interest, which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgment of the public interest, must similarly not participate in any discussion of, vote on, or take any executive steps in relation to the item of business. Disclosable pecuniary interests and Personal Interests are defined in the Council's Code of Conduct for Members and Co-opted members.	

**5. Urgent Business**

The Chair to report on any business which is considered to be urgent and which should be discussed at the meeting in accordance with Section 100B(4)(b) of the Local Government Act 1972 and to determine when, during the meeting, any such business should be discussed.

**6. References from Committees and other bodies**

**Service Issues**

**7. Scales of Charges to apply for 2021-22 15 - 20**

(Report of the Service Director, Finance, Revenue and Benefits)

**8. Constitutional Review 21 - 72**

(Report of the Head of Development Management)

**9. Local Government Act 1972, Part VA**

To consider whether to pass a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting during consideration of any item listed above if it is likely that if members of the public were present during those items there would be disclosure to them of exempt information falling within the Paragraphs of Part1 of Schedule12A to the Local Government Act 1972.

# Development Control Committee

## Minutes

6 January 2021 at 6.00 pm

### Present:

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

### 01 Apology for Absence – Ref 1

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

### 02 Minutes - Ref 2.1

That the minutes of the meeting of the Committee held on the 2 December 2020 be taken as read, approved as a correct record and signed by the Chair in due course.

### 03 Land at Butterfield Technology Park, Great Marlings, Luton (Ref 7)

The Planning Consultant reported on Application No. 20/00926/FUL submitted by Henry Boot Developments Ltd, for planning permission in relation to the erection of a commercial unit and associated outbuildings comprising 12,977 sq.m (GIA) of Use Class B2 (General Industrial) floorspace and the extraction of water, together with car parking, landscaping, access, lighting and associated works at Land at Butterfield Technology Park, Great Marlings, Luton.

An update to the report was circulated to Members in advance of the meeting.

The Planning Consultant further reported that the application had been notified to 144 properties in close proximity to the site, site notices were posted and a press notice was issued which identified the development proposal as a departure from the development plan. To date 5 representatives from 2 contributors had been received. Objections were also received from two Local Ward Members.

In accordance with the right to speak procedure (RTS), the applicant and agent in support, and Ward Councillors Underwood and Wynn in objection addressed the Committee.

The Chair further put forward the proposal to approve the application, which was approved by the Chair's casting vote subject to the conditions and reasons set out in the report.

In accordance with Standing Orders 68(1) of the Council's Constitution, Councillors Campbell and Franks exercised their right to require that the resolution of the committee be submitted as a recommendation to the next suitable meeting of Full Council for determination.

**Resolved:** (i) That Application No. 20/00926/FUL 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, and subject to the satisfactory completion of a Section 106 Agreement to secure the delivery of local labour, good and services and a monitoring fee of £5,000:

- (01) The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission. (Reason: To limit the duration of the permission in accordance with the provisions of Sections 91-96 of the Town and Country Planning Act, 1990.)
- (02) The development hereby permitted shall not be carried out other than in complete accordance with the approved plans and document Nos.: 1367-JSA-XX-XX-DR-A-90-002 Rev P1, 1367-JSA-XX-XX-DR-A-90-003 Rev P1, 1367-JSA-XX-XX-DR-A-01201 Rev P6, 1367-JSA-XX-XX-DR-A-01202 Rev P13, 1367-JSA-XX-XX-DR-A-02201 Rev P6, 1367-JSA-XX-XX-DR-A-02202 Rev P6, 1367-JSA-XX-XX-DR-A-04201 Rev P5, 1367-JSA-XX-XX-DR-A-04202 Rev P4, 1367-JSA-XX-XX-DR-A-04205 Rev P4, 1367-JSA-XX-XX-DR-A-04204 Rev P5, 1367-JSA-XX-XX-DR-A-04205 Rev P3, 4026.Buttefield.10.RHDHV.AIP Rev B, 4026.Buttefield.10.RHDHV.TPP Rev B, 5277-00B-ZZ-00-DR-L-0000 Rev P02, 5277-00B-ZZ-00-DR-L-0001 Rev P03, 5277-00B-ZZ-ZZ-DR-L-0010 Rev P02, 5277-00B-ZZ-ZZ-DR-L-0040 Rev P02, 5277-00B-ZZ-ZZ-DR-L-0041 Rev P02, 5277-00B-ZZ-ZZ-DR-L-0042 Rev P02, 5277-00B-ZZ-ZZ-DR-L-0043 Rev P02, 5277-00B-ZZ-ZZ-DR-L-0044 Rev P02, 5277-00B-ZZ-ZZ-DR-L-0045 Rev P02, 5277-00B-ZZ-ZZ-DR-L-0046 Rev P02, 5277-00B-ZZ-ZZ-DR-L-0047 Rev P02, PB5985-RHD-ZZ-XX-RP-Z-0001, Noise Impact Assessment LDS2452 Rev 6, Pulsar transport Planning Travel Plan June 2020 R02-KH-Travel Plan 200511. (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.)
- (03) Prior to the commencement of any construction works a Construction Method Statement shall be submitted in writing to the Local Planning Authority for approval. Construction shall only then commence in accordance with those approved details. The Statement shall provide for:
  - (i) operating hours: No demolition, construction or contaminated land remediation activities, movement of traffic, or deliveries to and from the premises, shall occur other than within the hours agreed with the Local Planning Authority. Any proposed extension to these agreed hours, other

than for emergency works, shall be agreed with the Local Planning Authority before work commences;

- (ii) the parking of vehicles of site operatives and visitors;
- (iii) a dilapidation survey demonstrating the condition of the highway, inclusive of crossovers, kerbs and pedestrian footways, prior to the commencement of demolition and construction to be used for comparison following the completion of works and first operation of the development;
- (iv) loading and unloading of plant and materials;
- (v) storage of plant and materials used in constructing the development;
- (vi) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (vii) wheel washing facilities;
- (viii) measures to control the emission of dust and dirt during construction; and
- (ix) a scheme for recycling/disposing of waste resulting from demolition and construction works.

(Reason: To protect human health, the environment, the highway and the amenities of adjoining occupiers and surrounding uses.)

- (04) Prior to the commencement of above-ground works, full details of the materials to be used in the construction of the external materials of the buildings hereby approved shall be submitted in writing to the Local Planning Authority for approval. The development shall be carried out only in full accordance with those approved materials. (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.)
- (05) No external lighting shall be installed on the site, other than in accordance with a scheme to be submitted in writing to the Local Planning Authority for approval beforehand. The scheme, lighting equipment and levels of illumination shall comply with guidance issued by the Institution of Lighting Professionals in their publication "Guidance Notes for the Reduction of Obtrusive Light Ref: GN01:2011" 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 to protect the amenity of existing neighbouring uses from adverse artificial light impacts.)
- (06) No above ground works shall take place until full details of a landscaping scheme to include all hard surfaces, grassed areas, tree and shrub plantings and the proposed times of planting, has been submitted in writing to the Local Planning Authority for approval. All grassed areas shall be laid out and all tree and shrub planting shall be carried out in accordance with those details and at those times. Within one month of the completion of the landscaping scheme written confirmation of the completion date shall be submitted to the Local Planning Authority. If within a period of five years from the initial date of planting of any tree or shrub, any such plant is removed, uprooted or destroyed or dies, or becomes in the opinion of the Local Planning Authority, seriously damaged, diseased or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

(Reason: Further details pursuant to the submitted planting/landscaping scheme are required to ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.)

- (07) A landscape management plan, setting out management and maintenance responsibilities, including timetables for implementation, for all hard and soft landscape areas, shall be submitted in writing to the Local Planning Authority for approval prior to the occupation of the development for its permitted use. The landscape management plan shall be carried out as approved and shall remain in force for as long as the development remains in existence. (Reason: To ensure a satisfactory standard of development and in the interests of visual amenity.)
- (08) The area to be used for car parking as shown on approved drawing 1367-JSA-XX-XX-DR-A-01202 P13 shall not be used for any purpose other than for the parking of cars and the standing of vehicles while servicing the premises and shall be ready for use prior to the occupation of the development hereby permitted. (Reason: To ensure that adequate provision is made for vehicles to park clear of the highway in the interest highway safety and the free flow of traffic.)
- (09) Before the development is commenced, a surface water drainage plan, based on the "Sustainable Drainage Statement" prepared by BWB Consulting Ltd in July 2020 should be submitted in writing to the Local Planning Authority for approval. The drainage plan should demonstrate that the surface water run-off generated by critical storms up to and including the 100 year + 40 % climate change uplift, will not exceed the drainage capacity of the site. (Reason: To prevent an increased risk of flooding and surface water and groundwater pollution.)
- (10) No infiltration shall be implemented in contaminated ground. If there is no or only inconclusive evidence as to whether or not the ground is contaminated a detailed site investigation must be carried out to determine this before any construction is commenced. (Reason: To prevent an increased risk of flooding and surface water and groundwater pollution.)
- (11) No building shall be first occupied until a verification report, (appended with substantiating evidence demonstrating the approved construction details and specifications have been implemented in accordance with the surface water drainage scheme), has been submitted in writing to the Local Planning Authority for approval. The verification report shall include photographs of excavations and soil profiles/horizons, any installation of any surface water structure and Control Mechanism. The development shall be carried out in accordance with the approved details. (Reason: To prevent an increased risk of flooding and surface water and groundwater pollution.)
- (12) All ecological mitigation measures and/or works shall be carried out in accordance with the details contained in the submitted Ecology Report prepared by Royal Haskoning DHV dated 07 May 2020. Within three months of the first occupation of the employment units hereby approved, an ecological site inspection report shall be submitted in writing to the Local Planning Authority for approval. If the ecological site inspection report is not submitted

within 28 days of the date of the planning permission hereby approved the use hereby approved shall cease until the ecological site inspection report is submitted. (Reason: In the interests of nature conservation.)

- (13) Prior to the commencement of development a Phase 2 intrusive soil investigation shall be undertaken to assess the degree and nature of any contamination present, and to determine its potential for pollution of the water environment and risk to other receptors via a qualitative risk assessment. The method and extent of the investigation shall be agreed with the Local Planning Authority in consultation with the Council's Environmental Protection service beforehand and the investigation shall be undertaken prior to the commencement of the development. (Reason: To ensure adequate safeguards are taken during construction of the development, having regard to existing ground conditions, and to prevent pollution of the water environment and risk to other receptors.)
- (14) Subject to the result of the studies required by Condition 13, a remediation strategy setting out a timetable of works and the proposed means of dealing with any contamination on site, including provisions for monitoring any specified actions and validating the outcomes, shall then be submitted in writing to the Local Planning Authority for approval in consultation with the Council's Environmental Protection service before the development commences. The development shall then proceed in strict accordance with the approved remediation strategy. If during development contamination not previously identified is found to be present at the site, no further development shall be carried out. An investigation and risk assessment should be undertaken and where remediation is necessary a new remediation strategy must be submitted in writing to the Local Planning Authority for approval. (Reason: To ensure adequate safeguards are taken during construction of the development, having regard to existing ground conditions, and to prevent pollution of the water environment and risk to other receptors.)
- (15) Following completion of any remediation works, the developer should submit a Verification Report to the Local Planning Authority for approval prior to occupation of any of the units. The Verification Report should provide confirmation that all measures outlined in the approved Remediation Strategy have been completed including where appropriate validation testing. (Reason: To ensure adequate safeguards are taken during construction of the development, having regard to existing ground conditions, and to prevent pollution of the water environment and risk to other receptors.)
- (16) Prior to the commencement of above ground works, details of a scheme of measures to mitigate the impacts of climate change and to deliver sustainable and resource efficient development through energy use reduction and efficiency and renewable and decentralised energy shall be submitted in writing to Local Planning Authority for approval. The scheme should achieve the 2013 Building Research Establishment Environmental Assessment Method (BREEAM) 'Good' status. The scheme shall be installed before occupation of the development and shall be used, retained and maintained thereafter for so long as the development remains in existence. (Reason: In the interests of sustainability.)



- (17) Prior to the occupation of the development hereby approved an Out of Hours Operational Strategy (OHOS) shall be submitted for approval to the Local Planning Authority. The OHOS shall include a telephone number and an email address of a point of contact within the hours of 6pm and 6am and provide details of HGV movements between the hours of 6pm and 6am. The development/operations shall be carried out in strict accordance with the approved OHOS. (Reason: In the interests of residential amenity.)
- (18) No development shall take place until a written scheme of archaeological investigation (WSI); that includes provision for fieldwork, post excavation analysis and publication, has been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall only be implemented in full accordance with the approved archaeological scheme. (Reason: that require developers to record and advance of understanding of the significance of any heritage assets affected by development before they are lost (wholly or in part), and to make this evidence publicly available.)
- (19) Prior to the first use of the development hereby permitted, a noise mitigation scheme shall be installed for the protection of the existing adjacent dwellings and other noise sensitive receivers. The scheme shall be in accordance with the recommendations identified in the BWB Consulting Limited Noise Impact Assessment Report (Ref: LDS2452-002 revision 6) dated 16 November 2020. The facility shall not be used until the scheme has been implemented as reported and has been demonstrated to achieve the required noise levels to the satisfaction of the Local Planning Authority. The approved scheme shall be retained in accordance with those details thereafter. (Reason: To protect the amenities of neighbouring occupiers.)
- (20) Prior to first occupation of the development hereby permitted, full details of the boundary treatment of the site shall be submitted in writing to the Local Planning Authority for approval. Those approved details shall be installed prior to the first occupation of the development and retained thereafter. (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of future occupiers and the surrounding area.)
- (21) Prior to the first occupation of the building, a comprehensive scheme of site security measures, to provide for matters of CCTV and secure entry systems, in addition to including details of the ongoing management and maintenance thereof, shall be submitted in writing to the Local Planning Authority for approval. The scheme thereby approved shall be installed prior to first occupation and retained thereafter for the lifetime of the development. (Reason: In the interests of crime prevention and good design.)
- (22) The cycle storage for the development, shall be laid out and ready for use prior to the first occupation of the development hereby permitted. The cycle storage as approved shall be retained for as long as the development remains in existence. (Reason: To encourage more sustainable methods of travel.)
- (23) The development hereby permitted shall be operated in full accordance with the travel plan as indicated in the Pulsar transport Planning Travel Plan June

2020 R02-KH-Travel Plan 200511 for as long as the development remains in existence. (Reason: In the interests of highway safety and to encourage more sustainable methods of travel.)

- (24) Prior to first occupation of any part of the development, a refuse and recycling management plan, including management responsibilities, cleaning and maintenance schedules and security measures for all processes and relevant areas, shall be submitted in writing to the Local Planning Authority for approval. The refuse and recycling management plan shall be carried out as approved from first occupation and retained for the lifetime of the development.. (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of future occupiers and the surrounding area.)
  - (25) Prior to first use of the development, a car park management strategy, including details of space allocation and the availability of electric vehicle charging points for the development hereby permitted, and the management and maintenance thereof, shall be submitted in writing to the Local Planning Authority for approval. The car park management plan shall be carried out as approved from first occupation and retained for the lifetime of the development. (Reason: In the interests of highway and pedestrian safety, the character of the surrounding area and sustainability.)
  - (26) The safeguarding measures for trees and shrubs to be retained identified in 4026.Buttefield.10.RHDHV.AIP Rev B, 4026.Buttefield.10.RHDHV.TPP Rev B and Arboricultural Implications Assessment and Method Statement dated 15<sup>th</sup> July 2020 shall be implemented prior to the commencement of any demolition works, removal of topsoil or commencement of building operations and retained in a position until development is completed. The land so enclosed shall be kept clear of plant, building materials, machinery and other objects and the existing soil levels not altered. (Reason: To protect existing trees on the site in the interest of visual amenity.)
  - (27) A management plan, including management responsibilities and maintenance schedules, for all external and shared/common areas of the development shall be submitted in writing to the Local Planning Authority for approval prior to the occupation of the development for its permitted use. The management plan shall be carried out as approved upon occupation of the development. (Reason: To ensure a satisfactory standard of development and in the interests of visual amenity.)
- (ii) Should planning permission be granted, that delegated authority be granted to the Head of Planning to make minor alterations to the conditions, including adding and deleting conditions, following any Committee resolution to grant permission (should any be required);
  - (iii) Should planning permission be granted, that delegated authority is granted to the Head of Planning to determine any subsequent planning applications related to this development seeking minor material amendments to the development (Section 73 applications) or minor variations to the accompanying legal agreement (S106A applications);

- (iv) In accordance with Standing Order 68 (1) of the Constitution, that resolution (i) above be submitted as a recommendation to a future meeting of Full Council for determination, as required by two members (Cllrs Campbell and Franks) of the Committee, who were present at the meeting and who voted against the resolution.

#### 04 Land at Former Leagrave Service Station, High Street Leagrave, Luton - Ref 8

The Development Management Officer reported on application No. 20/00706/FUL submitted by Mrs Kara, Kara Properties, in respect of the erection of a four storey building comprising 40 flats (14 one-bedroom, 22 two-bedroom and four three-bedroom) and three commercial units (Class E) together with associated car parking and amenity space, at Land at former Leagrave Service Station, High Street Leagrave, Luton.

He further reported that the application was notified to 31 properties, a site notice and a press notice had also been issued. Two letters of representation of objection to the proposal had been received.

**Resolved:** (i) That Application No. 20/00706/FUL be granted, subject to the conditions and their reasons set out below and reasons for approval as set out in the report, and subject to the satisfactory completion of the necessary mechanisms to: secure the 20% provision of on-site affordable housing (eight units); delivery of financial contributions towards Primary and Secondary Education and Museums; a mechanism to secure the delivery of local goods, services and labour; and an agreement monitoring fee:

- (01) The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission. (Reason: To limit the duration of the permission in accordance with the provisions of Sections 91-96 of the Town and Country Planning Act, 1990.)
- (02) The development hereby permitted shall not be carried out other than in complete accordance with the approved plans and specifications as set out on Luton Borough Council plan and document numbers: 3286-09/FP, DC01, DC05, DC10, DC11, 3286-01-FP, 3286-02-FP, 3286-03-FP, 3286-04-FP, 3286-05-FP, 3286-06-FP, 3286-07-FP, 3286-09-FP, 3286-10-FP, 3286-11-FP, 3286-12-FP, 3286-13-FP, 3286-14-FP, 3286-15-FP and 3286-08/FP Rev. B. (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.)
- (03) No development, including any works of demolition, shall take place until a Construction Method Statement (CMS) has been submitted in writing to the Local Planning Authority for approval. The approved Statement shall be adhered to throughout the demolition/construction period. The Statement shall provide for:
- (i) Operating hours: No demolition, construction or contaminated land remediation activities, movement of traffic, or deliveries to and from the premises, shall occur other than within the hours agreed with the Local Planning Authority. Any proposed extension to these agreed hours, other than for emergency works, shall be agreed with the Local Planning Authority before work commences;

- (ii) the parking of vehicles of site operatives and visitors;
- (iii) a dilapidation survey demonstrating the condition of the highway, inclusive of crossovers, kerbs and pedestrian footways, prior to the commencement of demolition and construction to be used for comparison following the completion of works and first operation of the development;
- (iv) loading and unloading of plant and materials;
- (v) storage of plant and materials used in constructing the development;
- (vi) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (vii) wheel washing facilities;
- (viii) measures to, where appropriate, manage the safe removal and disposal of asbestos material;
- (ix) measures to control the emission of dust and dirt during construction; and
- (x) a scheme for recycling/disposing of waste resulting from demolition and construction works.

The development shall then proceed only in strict accordance with those approved details. (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area during construction.)

- (04) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no electronic communications installations/equipment shall be erected, constructed, installed or placed on or the development hereby permitted without the prior permission of the Local Planning Authority. (Reason: To prevent adverse implications upon the high quality design of the development to the detriment of the amenities of the surrounding area and heritage assets.)
- (05) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), the three non-residential units hereby permitted shall not be utilised for any purpose other than one falling within Class E(a), (b), (c) or (e) as specified in the schedule to the Town and Country Planning (Use Classes) Order 2020 (or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) without the prior permission of the Local Planning Authority. (Reason: To protect and enhance the amenities, character and functionality of the surrounding area and in the interests of highway flow and safety.)
- (06) Prior to the commencement of above-ground works, full details (including samples) of the materials to be used in the construction of the external elevations of the development, including drawings showing the depth of window reveals on each of

the elevations, shall be submitted in writing to the Local Planning Authority for approval. The development shall be carried out only in full accordance with those approved materials. (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.)

- (07) Full details and particulars of all buildings and other works hereby permitted in respect of the landscaping (hard and soft) of the development, including full details of the management and maintenance thereof, shall be submitted in writing to the Local Planning Authority for approval before any above-ground works are commenced. The development shall then proceed in full accordance with those approved details. (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.)
- (08) Prior to first occupation of the development hereby permitted, full details of the boundary treatment of the site shall be submitted in writing to the Local Planning Authority for approval. Those approved details shall be installed prior to the first occupation of the development and retained thereafter. (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.)
- (09) No external lighting shall be installed on the site, other than in accordance with a scheme to be submitted in writing to the Local Planning Authority for approval beforehand. 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 be implemented prior to first occupation of development and thereafter be retained as approved for so long as the development remains in existence. (Reason: In the interests of site security and to safeguard the amenities of adjoining occupiers.)
- (10) Prior to the first occupation of the development, a scheme for the production of renewable energy, the reduction of energy and water demand, conservation and best-use of generated resources, and mitigation against wastage, together with details of management, maintenance and servicing, shall be submitted in writing to the Local Planning Authority for approval. All measures thereby approved shall be installed and implemented in accordance with a timetable to be agreed in writing by the Local Planning Authority as a part of those submitted details and shall be retained thereafter for the lifetime of the development. (Reason: In the interests of sustainability and the mitigation of climate change.)
- (11) Prior to first use of the development, a management plan, including management responsibilities and maintenance schedules for all external and shared/common areas of the development hereby permitted that are not adopted by the Local Highways Authority, shall be submitted in writing to the Local Planning Authority for approval. The management plan shall be carried out as approved from first occupation and retained for the lifetime of the development. (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of future occupiers and the surrounding area.)
- (12) Prior to first occupation of any part of the development, a refuse and recycling management plan, including management responsibilities, cleaning and maintenance schedules and security measures for all processes and relevant

areas, shall be submitted in writing to the Local Planning Authority for approval. The refuse and recycling management plan shall be carried out as approved from first occupation and retained for the lifetime of the development. (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of future occupiers and the surrounding area.)

- (13) Prior to first use of the development, a car park management plan, including details of space allocation and the availability of electric vehicle charging points for the development hereby permitted, and the management and maintenance thereof, shall be submitted in writing to the Local Planning Authority for approval. The car park management plan shall be carried out as approved from first occupation and retained for the lifetime of the development. (Reason: In the interests of highway and pedestrian safety.)
- (14) Prior to the first occupation of the building, a comprehensive scheme of site security measures, to provide for matters of CCTV and secure entry systems, in addition to including details of the ongoing management and maintenance thereof, shall be submitted in writing to the Local Planning Authority for approval. The scheme thereby approved shall be installed prior to first occupation and retained thereafter for the lifetime of the development. (Reason: In the interests of crime prevention and good design.)
- (15) No above-ground works shall commence until a scheme for noise insulation to protect the proposed dwellings from the noise generated from road traffic, to include details of management and maintenance, has been submitted in writing to the Local Planning Authority for approval. None of the dwellings shall be occupied until such a scheme has been implemented in full accordance with those approved details, and show to be effective, and it shall be retained as approved thereafter. (Reason: To protect the amenities of future occupiers.)
- (16) Prior to occupation of any dwelling hereby permitted, a scheme to demonstrate that the rating level of sound emitted from any external fixed plant and/or machinery associated with the development does not exceed the typical background sound level at any existing or proposed sound sensitive premises on or neighbouring the approved development site shall be submitted in writing to the Local Planning Authority for approval. All measurements shall be made in accordance with BS4142:2014 (as amended), and the development shall only be occupied in full accordance with those approved details, which shall prevail for the lifetime of the development. (Reason: To protect the amenities of future occupiers.)
- (17) Should cooking facilities be required in relation any of the non-residential units, then full details of a scheme for internal air extraction, odour control and discharge to atmosphere from cooking operations, to include the siting and appearance of odour extraction equipment, sound pressure levels from the extraction equipment, methods of noise attenuation and system maintenance, shall be submitted in writing to the Local Planning Authority for approval and the system shall be installed according to those approved details prior to the commencement of those cooking facilities ancillary to the use hereby permitted for that particular unit. The approved extraction system shall be operated at all times when cooking is being undertaken and retained for the lifetime of the development. (Reason: To protect the living environment of future, existing and adjoining occupiers.)

- (18) No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage using sustainable urban drainage methods and foul water drainage for the development has been submitted in writing to the Local Planning Authority for approval. The approved details shall be implemented prior to occupation of the development and retained thereafter. (Reason: To prevent an increased risk of flooding and to prevent pollution of the water environment.)
- (19) No infiltration shall be implemented and no soakaways shall be installed in contaminated ground. (Reason: To prevent pollution of the water environment.)
- (20) Implementation of the approved drainage system required under Condition No. 17 shall be checked by a suitably qualified person and confirmation submitted in writing that the system operates as designed, together with 'as-built' drawings, to the Local Planning Authority prior to occupation. The scheme shall thereafter be retained for so long as the development remains in existence. (Reason: To prevent an increased risk of flooding and to prevent pollution of the water environment.)
- (21) No development shall take place until a written scheme of archaeological investigation, that adopts a staged approach and includes provision for fieldwork, post excavation analysis and publication, has been submitted in writing by to the Local Planning Authority for approval. The development shall only be implemented in full accordance with the archaeological scheme thereby approved. (Reason: In the interests of archaeological preservation.)
- (22) Before the development hereby permitted is commenced, a desktop study report to establish whether the site is potentially contaminated shall be submitted in writing to the Local Planning Authority for approval. No development shall take place on the site until the Local Planning Authority has formally discharged this condition. (Reason: To protect the water environment and other sensitive receptors.)
- (23) Pursuant to the satisfactory discharge of condition No. 22 and, if the desktop study required by that condition has so indicated, an intrusive Phase 2 site investigation report shall be undertaken to assess the degree and nature of any contamination present, and to determine its potential for pollution of the water environment and risk to other receptors via a qualitative risk assessment. The method and extent of the investigation shall be submitted to the Local Planning Authority for approval beforehand and the investigation shall be undertaken prior to the commencement of the development and in full accordance with those approved details. (Reason: To protect the water environment and other sensitive receptors.)
- (24) Subject to the result of the studies required by condition Nos. 22 and 23, a remediation strategy setting out a timetable of works and the proposed means of dealing with any contamination on site, including provisions for monitoring any specified actions and validating the outcomes, shall then be submitted in writing to the Local Planning Authority for approval before the development commences. The development shall then proceed in strict accordance with the approved remediation strategy. (Reason: To protect the water environment and other sensitive receptors.)

- (25) Prior to first use of the development, a validation report shall be submitted in writing to the Local Planning Authority for approval to demonstrate the effectiveness of any agreed Remediation Strategy. Any such validation shall include responses to any unexpected contamination discovered during works. (Reason: To protect the water environment and other sensitive receptors.)
- (26) If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted in writing a remediation strategy to the Local Planning Authority for approval. The report shall detail how this unsuspected contamination shall be dealt with and the development shall only recommence in full accordance with those approved details. (Reason: To protect the water environment and other sensitive receptors.)

(ii) That delegated authority is granted to the Head of Development Management to make minor alterations to the conditions, including adding and deleting conditions, following any Committee resolution to grant permission (should any be required);

(iii) That following any grant of permission that delegated authority is granted to the Head of Development Management to determine any subsequent planning applications related to this development seeking either minor material amendments (Section 73 applications) or minor variations to the accompanying legal agreement (Section 106A applications).

## 05 The Chalk Hills Academy, Leagrave High Street, Luton - Ref 9

The Development Management Officer reported on application No. 20/00971/REG3 submitted by Luton Borough Council, in respect of the erection of a single storey detached building and extension of existing footpath to provide two changing rooms, at Land at The Chalk Hills Academy, Leagrave High Street, Luton.

He further reported that the application was notified to 25 properties, a site notice and a press notice had also been issued. Two letters of representation of objection to the proposal had been received.

**Resolved:** (i) That Application No. 20/00971/REG3 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 not be carried out other than in complete accordance with the approved plans and specifications as set out on Luton Borough Council plan numbers: 03240-PC-SI-00-DR-A-00001, 03240-PC-SI-00-DR-A-00002, 03240-PC-SI-00-DR-A-00004, 03240-PC-XX-00-DR-A-10001, 03240-PC-XX-00-DR-A-10002 Rev. P1, 03240-PC-XX-XX-DR-A-20001 Rev. P1, 03240-PC-SI-00-DR-A-00003 Rev. P2 and 03240-PC-SI-00-DR-A-00005.



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

(ii) That delegated authority is granted to the Head of Development Management to make minor alterations to the conditions, including adding and deleting conditions, following any Committee resolution to grant permission (should any be required);

(iii) That following any grant of permission that delegated authority is granted to the Head of Development Management to determine any subsequent planning applications related to this development seeking either minor material amendments (Section 73 applications).

**(Note: The meeting ended at 7.40 pm)**

<b>Committee:</b>	<b>Development Control Committee</b>		
<b>Date of Meeting:</b>	27 January 2021		
<b>Subject:</b>	<b>Scales of Charges to apply for 2021/22</b>		
<b>Report Author:</b>	<b>Dev Gopal, Service Director Finance, Revenue &amp; Benefits</b>		
<b>Contact Officer:</b>	<b>Darren Lambert/Sunny Sahadevan</b>	<b>01582</b>	
	<b>546320</b>		
<b>Implications:</b>	Legal <input type="checkbox"/>	Community Safety <input type="checkbox"/>	
	Equalities <input type="checkbox"/>	Environment <input type="checkbox"/>	
	Financial <input checked="" type="checkbox"/>	Consultations <input type="checkbox"/>	
	Staffing <input type="checkbox"/>	Other <input type="checkbox"/>	
<b>Wards Affected:</b>	Click here to enter text.		

### Purpose

1. To approve the revised Scale of Charges applying to Development Control Committee from 1<sup>st</sup> April 2021 for other charges.

### Recommendations

2. **Development Control Committee is recommended to approve the proposed Scales of Charges to apply from 1<sup>st</sup> April 2021, subject to any amendments it deems necessary.**

### Background

3. As part of the annual estimates process, managers undertake a review of the Scales of Charges to apply in the following year. The review covers the estimated cost of the service, the customer base for charges and any regulatory or statutory guidance that applies, to determine the final charges and income potential for each service. Where possible, chargeable services aim to, and in some cases are required by regulation, to fully recover the cost of providing the service.
4. The Council's approved Fees and Charges framework has been used as a basis for setting the charges. The main principles in the framework include:
  - setting charges that strive to cover the full cost of the service provided, where possible;
  - setting charges at a level that is fair to users and council tax payers, whilst ensuring inclusivity by offering concessions to the disadvantaged;
  - setting charges within the guiding principles of fairness, viability and consistency.
5. Income from charges remains vital to setting a balanced budget and maintaining the future provision of services.
6. Additionally, charges not set by regulatory or statutory guidance should increase by a minimum of the estimated consumer price inflation figure applying at each review, to help maintain income levels in proportion to costs.

7. Charges have been benchmarked against other neighbouring authorities or other local providers, where possible.

## **Report**

8. The Appendices A1 and A2 detail the proposed charges to be approved by this Committee. The following symbols are used in the Scale of Charges schedules:

- \* Statutory charge
- + VAT inclusive charge
- ++ VAT to be added where appropriate.

### **Development Control Application Fees (Appendix A1)**

9. The schedule of charges for development control fees is set by statutory guidance.
10. Forecast income for the current year is expected to be in the region of £900,000.
11. A new range of charges are proposed for administering the Development Control application process to ensure that the Council will recover costs incurred. These charges are also aimed as a deterrent to try to ensure that applicants submit valid applications at the first time of asking and through the most efficient route.
12. It is also proposed to increase some existing charges for registering applications received by e-mail or as hard copies. It is proposed to increase the charge for Archive Document Requests Fast Track (within 10 working days) from £36 to £60, an increase of 66.7%, and postal applications from £100 to £120, an increase of 20%. The aim of the increases is to reflect the administrative and scanning resource required to provide the service, and to encourage increased use of the Planning Portal as a more efficient and cheaper alternative.

### **Planning Charges (Appendix A1)**

13. There is no proposal to increase the hourly rate for replying to Professional Enquiries.

### **Development Control Documents, Enquiries and Copying Charges (Appendix A1)**

14. There is no proposal to increase the charges for proposed charges for Requests for Development Control Documents.

### **Development Control Pre-Application Advice (Appendix A2)**

15. The pre-application advice service began in January 2012 and is not a statutory function that the Council are obliged to provide. There is no proposal to increase Pre-application charges this year. Use of the Pre-Application Advice service is optional and does not guarantee an approved scheme but on the whole achieves better designed, more sustainable development in the town. The charges need to remain competitive to support the continued use of the service. A benchmarking exercise was undertaken last year to ensure that our charges are in line with most neighbouring authorities and nationally.

## Proposal/Options

16. To approve the proposed fees for; i) development control documents, ii) the processing of application documents submitted to the Council by email or as hard copies and iii) pre-application advice as shown, or to set charges that are different from the service managers review.
17. There is no discretion on the Development Control Application Fees which are set by statute.

## Appendix

Appendices A1 & A2 - Scales of Charges for approval

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

Working papers provided by service managers.

## Implications

Item	Details	Clearance Agreed By	Dated
<b>Legal</b>	As indicated in this report, some of the charges levied by the Council are imposed by law. This means that the Council has no discretion and must amend its scale of charges in accordance with the fee set by law. Where a fee is not set by law, the Council may only make such charge as is reasonable based on all relevant factors and the increase in charge reflects the actual costs for the Council in providing that service. Any increase may only be such as is reasonable given the purpose of the charge concerned and, where there is guidance on the level of a particular charge or increase in that charge, the Council should not depart from that guidance without showing clear reasons for doing so, supported by appropriate evidence.	Stephen Sparshott, Solicitor	15 January 2021
<b>Finance</b>	The proposed charges are forecast to generate sufficient income to meet the proposed budget target for 2021/22. There is the potential that the impact of the Covid-19 pandemic could continue into 2021/22, which may have an impact on the number and/or type of applications received by the service.	Dev Gopal, Service Director, Finance, Revenue & Benefits	12 January 2021

# SCALE OF CHARGES WORKING PAPER - PROPOSED CHARGES TO APPLY FROM APRIL 2021 INCLUSIVE ECONOMY - SUSTAINABLE DEVELOPMENT

		2020-21 Current Charge	2021-22 Proposed Charge	%  Increase	Type of Charge Statutory (S)  Discretionary (D) (S) or (D)
		£	£		
DEVELOPMENT CONTROL APPLICATION FEES					
Statutory Scale as set out in Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1994					
PLANNING CHARGES					
Reply to Professional Enquiries :					
Hourly rate		97.00 +	97.00 +	0.0%	
Minimum Charge		49.00 +	49.00 +	0.0%	
REQUESTS FOR DEVELOPMENT CONTROL DOCUMENTS					
Planning Decision notices, Appeal decisions, TPO's (per document)		36.00 +	36.00 +	0.0%	
Confirmation that a property is subject of a TPO and a copy of the Order		49.00 +	49.00 +	0.0%	
Section 106 Agreements/Unilateral Undertakings (per document)		36.00 +	36.00 +	0.0%	
REPLY TO GENERAL DEVELOPMENT CONTROL ENQUIRIES:					
Confirmation regarding Tree Preservation Orders, Listed Buildings and Conserv Areas		32.00 +	32.00 +	0.0%	
(Confirmation of TPO and copy of Order - see below)		97.00 +	97.00 +	0.0%	
Standard response minimum charge					D
More complex enquiries - hourly rate					
COPYING CHARGES (All documents unless listed separately)					
Note: Consent of copyright holder must be obtained first, if applicable					
A standard charge of £7.80 will be made for the first copy, then each subsequent copy will be charged at the following rate per sheet :					
A4 size		0.90 +	0.90 +	0.0%	
A3 size		2.20 +	2.20 +	0.0%	
A2 size		8.80 +	8.80 +	0.0%	
A1 size		9.40 +	9.40 +	0.0%	
A0 size		11.60 +	11.60 +	0.0%	
Administrative Costs for Registering Applications received by email or as hardcopies		100.00	100.00	0.0%	
Archive document request (within 10 working days), per document	A request for historic/archive documents (such as a decision notice or set of plans)	36.00 +	60.00	66.7%	
Archive document request fasttrack (within 24 hours)	A request for historic/archive documents (such as a decision notice or set of plans)	0.00 +	100.00	NEW	
Postal application charge	Required when submitting a postal application which require additional scanning and administration reso	100.00 +	120.00	20.0%	
Prior approval Householder application fast-track, per application	A guaranteed decision within 5 working days of the conclusion of the 21 consultation period	0.00 +	75.00	NEW	
Householder application fast-track, per application	A guaranteed decision within 5 working days of the conclusion of the 21 consultation period	0.00 +	100.00	NEW	
Lawful development certificate proposed fast-track, per application	A guaranteed decision within 10 working days of receipt of a valid application	0.00 +	200.00	NEW	
Administration charge major applications	Applicable for invalid applications - this will be required for validation	0.00 +	75.00	NEW	
Administration charge non-major commercial/new residential unit applicati	Applicable for invalid applications - this will be required for validation	0.00 +	200.00	NEW	
Administration charge all other applications	Applicable for invalid applications - this will be required for validation	0.00 +	120.00	NEW	
Technical Advice	Chargeable for technical advice permitted development restriction confirmation	0.00 +	75.00	NEW	
Technical Advice	Confirmation of conditions	116.00 +	116.00	0.0%	
Technical Advice	Compliance of conditions	116.00 +	116.00	0.0%	

# SCALE OF CHARGES WORKING PAPER - PROPOSED CHARGES TO APPLY FROM APRIL 2021 INCLUSIVE ECONOMY - SUSTAINABLE DEVELOPMENT

## DEVELOPMENT CONTROL PRE-APPLICATION ADVICE SERVICE FEES - Fixed charge excluding VAT

Category	Type of dev	2020-21 Charges				2021-22 Charges				% Increase	Type of Charge Statutory (S) Discretionary (D)  (S) or (D)
		Written advice £	Follow-up £	Initial meeting £	Follow –up meeting £	Written £	Follow-up £	Initial meeting £	Follow –up meeting £		
<b>AA</b>	<b>Strategic Major Development</b>										
	200+ res units										}
	Other uses 10,000+ sq metres or 3+ hectares (ha)	£POA	£POA	£POA	£POA	£POA	£POA	£POA	£POA		}
	Mixed use developments on sites of 3+ ha										}
<b>A</b>	Student accommodation 150+ units/rooms										}
	<b>Largescale Major Development</b>										}
	100 - 199 res.units	3,000.00	720.00	1,500.00	720.00	3,000.00	720.00	1,500.00	720.00	0.00%	}
	Other uses (incl COU) - 5000 – 9,999	3,000.00	720.00	1,500.00	720.00	3,000.00	720.00	1,500.00	720.00	0.00%	}
	sq.metres or sites on land of 2 – 2.9 ha										}
	Mixed use developments on sites of 2 – 2.9 ha	3,000.00	720.00	1,500.00	720.00	3,000.00	720.00	1,500.00	720.00	0.00%	}
<b>B</b>	Student accommodation 50 - 149 student rooms	3,000.00	720.00	1,500.00	720.00	3,000.00	720.00	1,500.00	720.00	0.00%	}
	<b>Major Development</b>										}
	25-99 res.units	1,800.00	600.00	1,800.00	600.00	1,800.00	600.00	1,800.00	600.00	0.00%	}
	Other uses (incl COU) between 2000 - 4900 sq.metres or sites on land of 1 -1.99 hectares or more	1,800.00	600.00	1,800.00	600.00	1,800.00	600.00	1,800.00	600.00	0.00%	}
	Mixed use developments on sites on land of 1 -1.99 hectares or more	1,800.00	600.00	1,800.00	600.00	1,800.00	600.00	1,800.00	600.00	0.00%	}
	Student accommodation 25 -49 student rooms	1,800.00	600.00	1,800.00	600.00	1,800.00	600.00	1,800.00	600.00	0.00%	}
<b>C</b>	<b>Smallscale Major Development</b>										}
	10-24 res.units	1,200.00	480.00	1,200.00	480.00	1,200.00	480.00	1,200.00	480.00	0.00%	}
	Other uses between 1000 and 1999 sq.metres or sites on land between 0.5ha and 0.99 ha	1,200.00	480.00	1,200.00	480.00	1,200.00	480.00	1,200.00	480.00	0.00%	}
	Mixed use developments on sites on land between 0.5ha and 0.99 ha	1,200.00	480.00	1,200.00	480.00	1,200.00	480.00	1,200.00	480.00	0.00%	}
	Student accommodation 10-24 student rooms	1,200.00	480.00	1,200.00	480.00	1,200.00	480.00	1,200.00	480.00	0.00%	}
	Change of use of buildings on land between 1000 - 1,999 sq.metres	1,200.00	480.00	1,200.00	480.00	1,200.00	480.00	1,200.00	480.00	0.00%	}
<b>D</b>	<b>Minor Development</b>										}
	1 res. unit	192.00	96.00	144.00	96.00	192.00	96.00	144.00	96.00	0.00%	}
	2-9 res. units	384.00	192.00	384.00	192.00	384.00	192.00	384.00	192.00	0.00%	}
	Student accommodation 1-9 student rooms	384.00	192.00	384.00	192.00	384.00	192.00	384.00	192.00	0.00%	}
	Other uses up to 0.49ha	192.00	96.00	144.00	96.00	192.00	96.00	144.00	96.00	0.00%	}
	Other uses between 500 and 999 sq. metres	384.00	192.00	384.00	192.00	384.00	192.00	384.00	192.00	0.00%	}
	Change of use buildings with floorspace up to 1000 sq.metres	192.00	96.00	144.00	96.00	192.00	96.00	144.00	96.00	0.00%	}
<b>E</b>	<b>Householder Developments</b>										}

# SCALE OF CHARGES WORKING PAPER - PROPOSED CHARGES TO APPLY FROM APRIL 2021 INCLUSIVE ECONOMY - SUSTAINABLE DEVELOPMENT

## DEVELOPMENT CONTROL PRE-APPLICATION ADVICE SERVICE FEES - Fixed charge excluding VAT

Category	Type of dev	2020-21 Charges				2021-22 Charges				% Increase	Type of Charge Statutory (S) Discretionary (D)  (S) or (D)
		Written advice £	Follow-up £	Initial meeting £	Follow –up meeting £	Written £	Follow-up £	Initial meeting £	Follow –up meeting £		
	Domestic extensions, outbuildings, other alterations to residential properties	60.00	30.00	60.00	30.00	60.00	30.00	60.00	30.00	0.00%	}
<b>F</b>	<b>Permitted development enquiries</b>										
	Requests as to whether a proposal requires an application for planning permission or is permitted development										
<b>G</b>	<b>Other developments</b>										}
	Development falling outside Category A,B,C,D,E,F, including advice on Listed Buildings and buildings in Conservation Areas, advertisements and telecommunications (individual proposals for equipment and masts)	132.00	66.00	132.00	66.00	132.00	66.00	132.00	66.00	0.00%	

<b>Committee:</b>	<b>Development Control</b>			
<b>Date of Meeting:</b>	27 January 2021			
<b>Subject:</b>	Constitutional Review			
<b>Report Author:</b>	Head of Planning			
<b>Contact Officer:</b>	Sunny Sahadevan			
<b>Implications:</b>	Legal	<input checked="" type="checkbox"/>	Community Safety	<input checked="" type="checkbox"/>
	Equalities	<input checked="" type="checkbox"/>	Environment	<input checked="" type="checkbox"/>
	Financial	<input checked="" type="checkbox"/>	Consultations	<input type="checkbox"/>
	Staffing	<input checked="" type="checkbox"/>	Other	<input checked="" type="checkbox"/>
<b>Wards Affected:</b>	N/A (All Wards)			

### Purpose

1. To recommend and seek approval/views of proposed changes to the Constitution affecting the Development Management functions of the Council.

### Recommendations

2. **[A] -The Committee is recommended to agree the following changes to the Constitution:**

- i) **The Emergency Scheme of Delegation for the determination of planning matters approved on 26 August 2020 is made permanent with three amendments as set out in Appendix 1 of this report.**

**[B] –The Committee gives their views on the following suggested changes to the Constitution which are a matter for Full Council;**

- i) **The “Call-In” Powers are amended (Part 7 (non-executive functions) in accordance with the recommendations within the body of the report.**
- ii) **The ability to refer a planning application to Full Council is reviewed (Part 4, Standing Order 68). The proposed change is set out in body of this report.**
- iii) **“Development Control Committee” is renamed “Development Management Committee” and the “Planning Manager” is replaced with the “Head of Planning or its equivalent (throughout the constitution).**

### Background

3. The Case for Change is part of the Council’s Future Ready Programme which sets out the vision of enabling the Council becoming a highly productive and efficient organisation. This includes reviewing processes to identify efficiencies to support the Emergency Budget and moving the organisation towards a new Target Operating Model (TOM). A key focus is to review the delivery of effective, timely and statutorily/financially robust formal and devolved decision-making, which holds the



confidence of elected Members and provides transparency and accountability for members of the public.

4. The agreed Case for Change included a number of proposals that could affect the Development Management parts of the Constitution. The Development Management service within the Council is in the process of being reviewed and transformed in line with the Council's Future Ready Programme. The service was subject to a Local Government Association/Planning Advisory Service Peer Review, which took place in November 2019. This review provided a number of recommendations which have already been actioned or are now being actioned by the service. The Peer Review Report and Recommendations are set out in full in Appendix 2 of this report. The recommendations also highlighted potential changes that could positively affect the wider organisation, however these would require changes to the Council's Constitution.
5. As part of the Constitutional Review a report was presented to Constitutional Sub-Committee on the 4<sup>th</sup> November 2020 for their steer. See Appendix 3 of the report. The outcome was that Members were supportive of the proposed change of recommendation v (above) i.e. the change in name of DC Committee, however in relation to the other proposed changes, they wanted the matters to be considered by DC Committee and for the outcome being reported to them at a future meeting. Officers note that the Right to Speak changes set out in the report have in fact permanently been approved by DC Committee at their meeting on the 30<sup>th</sup> September 2020, and it is not proposed that this change is now revisited.
6. DC Committee has the ability to agree permanent changes to the Constitution without the need for any other Committee or Full Council approval with some of the proposed changes. This applies to changes to the Scheme of Delegation. In relation to the proposed change to the referral of items to Full Council, the "Call-in" powers and the change in the Committee name, these can only be agreed at Full Council. Members however can provide officers with direction in relation to these proposed changes. This steer will support the Constitution Committee to make the decision about whether to take these forward to Full Council for agreement.
7. In relation to the proposed changes Members will recall that an emergency 'Scheme of Delegation' was adopted with immediate effect at the Meeting of Development Control Committee (DCC) of 22<sup>nd</sup> April 2020 and renewed and extended at your meeting on the 26<sup>th</sup> August 2020.

## **Report**

8. The parts of the Constitution that affects the Development Control function of the Council together with procedural changes, that officers are now recommending potential amendments include the following;
  - The Scheme of Delegation
  - "Call-in" powers
  - Referral to Full Council
  - Renaming Committee

9. Each of these proposals are set out below.

*The Scheme of Delegation*

10. The Council, as a Local Planning Authority, has a statutory duty to determine planning applications submitted to it for determination. Under the Council's existing Constitution delegated authority is granted to officers to deal with more of the "straight-forward" and non-contentious applications, such as house-holder and minor applications. Those of a more contentious or complex nature are determined at Development Control Committee (DCC).
11. Historically Committee have considered a large body of applications that do not fall into the category of contentious or complex applications; including applications that have been recommended for refusal. In comparison, some Council's do not bring applications to Committee should it be a "non-major" application, which has also not been called-in and has been recommended for refusal. There was one occasion recently at Luton where an application for a MOT station, which was clearly contrary to policy, was recommended for refusal, and had a large number of objections and no letters of support was considered at Committee. The Committee process also included a site visit for Members prior to the meeting. The item took 30 minutes to determine at DCC, which included time for the applicant to exercise his right to speak, which they fully exercised. The application was eventually refused. The same final outcome (i.e. refusing the application) would have been the same outcome if officers were allowed to determine the application under delegated powers.
12. Taking an application for decision to DCC has higher costs than if the application was decided by an officer with delegated authority; however, that does not mean that we cease taking applications to DCC to reduce costs. The proposal is to reduce the number of low-level applications that are decided upon at DCC, to allow greater time for more complex and challenging applications to be considered.
13. Additionally, bringing non-major applications to Committee that are recommended for refusal provides time for the applicant to attempt to address the refusal reasons for that DCC meeting. This then necessitates the withdrawal of the scheme from the agenda as further assessment and consultation needs to be undertaken before preparing a new report. The scheme may still be unacceptable following that process, but the cycle can then repeat.
14. The scheme of delegation also requires applications to be returned to Committee for consideration should they be modified after granting permission. Particularly with large significant schemes, it is quite often the case that following grant of permission there may be some minor amendments that will be required to either the approved drawings, the conditions or the agreed S106 (legal agreement). With other Council's these matters, if they are of a minor nature, are dealt with under delegated authority. Currently at Luton, these applications have to be returned to Committee for their consideration. There was a recent example of a S106 being considered at Committee because of a proposal to delete a few words from the original drafting. The consequences of the amendment were both minor and acceptable, but took up Committee time, where it was eventually approved. In recognition of this, officers have included within the recommendations of some applications the ability to delegate authority on future S73 and amendments to S106's. These are done on a case by case basis, and it is notable

that so far DCC have agreed to these recommendations. The proposal now is to seek a permanent change to the constitution through this report.

15. Following the Covid 19 pandemic lockdown, and the need to keep business moving as much as possible, officers recognised the added difficulties associated with dealing with planning applications at DCC which could now only operate in a “virtual” medium than the situation before lockdown. In recognition of this, officers proposed for the Council to adopt a temporary emergency SOD. This was presented to DCC on the 22<sup>nd</sup> April 2020. The details of the meeting is found here;  
<https://democracy.luton.gov.uk/cm5public/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/5557/Committee/1111/Default.aspx>
16. The emergency SOD sought to reduce the volume of applications dealt with at DCC. In summary, the following category of applications would now only need to be dealt with at DCC compared to the pre-existing situation. The key changes can be summarised as follows;
  - 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 10 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
17. The emergency SOD was agreed at DCC and was initially granted for a 4 month period. Members considered extending the SOD again in their meeting on the 26<sup>th</sup> August 2020. The link to that meeting is provided here;  
<https://democracy.luton.gov.uk/cm5public/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/5717/Committee/1111/Default.aspx>
18. Subject to the continued agreement with Members the emergency SOD is now extended until the 1<sup>st</sup> May 2021. In agreeing to extend the original emergency SOD, it is significant that Members also agreed to increase the scope even further and increased the scope of delegated powers to include the following;
  - Temporary structures and permissions.
  - Departure from the Development Plan no longer being a barrier to refusing applications under delegated authority.
19. Prior to lockdown, the number of applications typically considered at DCC was approximately 10-12 items, and meetings could last more than three hours on occasion.

The emergency SOD has reduced the average number of items by a half. This has allowed Members more opportunity for detailed and focussed discussion on the applications that are more complex and challenging.

- 20.** A “by-product” of the emergency SOD changes has been an increase in time officers have to deal with everyday tasks. . Luton’s performance has actually and measurably improved. A good indication of performance is the speed with which the three categories (Major, Minor and “Other”) of planning applications are dealt with within the statutory time requirements. The table below compares Luton’s performance last year (April 2019 to March 2020) with the first quarter this year (April to June 2020). The emergency SOD was introduced on the 22<sup>nd</sup> April 2020. This improved performance could be attributed to better allocation of resources for the service following the changes to the SOD and reducing the number of applications that now have to be considered at DCC.

	Performance (April 2019 to March 2020)	Performance (April 2020 to June 2020)
MAJOR	88.89%	100%
MINOR	94.92%	84.48%
OTHER	93.29%	96.32%

- 21.** Another indication of its success is that there has been no incidents of complaints or criticisms from members of the Council, members of the public or applicants since its introduction.
- 22.** Officers also took the opportunity to review the existing SOD to make amendments to matters that needed minor correcting and also types of applications (such a Prior Approvals and Discharge of Conditions applications) not previously included. Any review of the existing SOD may need to include these corrections apart from reviewing the thresholds for delegation.

**23. Summary**

Recommendation	Part of constitution is affected	What decision is DCC making?
The Emergency Scheme of Delegation is made permanent with (three) amendment(s). See Appendix 1 for the proposed changes.	Part 7 (non-executive functions) which has currently been temporarily amended for Covid reasons.	Approval/Amendment/Refusal

*Call-In Powers*

24. Call-in powers are considered necessary to help facilitate the democratic dimensions of the planning system and is generally supported. However, there may be a need to review the current practice in Luton, and consider whether the way it currently operates is in the best interests of the organisation and whether it needs to be modified. Currently the constitution allows a “call-in” of a planning application that would be otherwise delegated to officers. The principle is supported, as some applications may have significant or controversial dimensions which need greater consideration and assessment at DCC. The call-in powers as they operate in Luton can be invoked by any Member, at any time and without providing a reason for the “call-in” and the “call-in” mechanism does not need to be for a valid planning reason. This however sometimes results in a proportion of applications being considered at Committee that are of a relatively minor nature in terms of the planning categories which take up time and resources that could have been spent on determining more strategic applications. On some occasions, the Member that called in the application does not attend nor speak at Committee when the application is considered. Therefore there are no further consequences arising from that personal and unilateral decision other than additional work created for DCC Members and officers accommodating that call-in. In addition, this also impacts upon the applicants awaiting their delayed decision and has a negative impact upon the Council’s resources in general. The current practice can also be criticised for not being open and transparent and could generate accusations about impartiality or accusations around probity.

25. At some Council’s, “call-ins” are only exercised where a Member is seconded by another Member (usually a Member on the DC Committee), and where that call-in occurs within a defined period; usually 14 days of the application being publicised, and a reason for the “call-in” is provided in writing. For instance Corby Borough Council’s Constitution states the following in relation to their “call-in” powers;

*“The application to be referred to Committee when so requested by any Member with signed support of one member of Development Control Committee (not substitute) within 14 days of the application being registered (Officers having published the application within 5 days of receipt) and made in writing with valid planning reasons, ideally on the attached pro forma”.*

26. In the context of other Council’s, the current call-in powers may benefit from a review to consider whether a better balance can be achieved in still being able to allow Members the ability to serve their constituents whilst also maintaining a Corporate focus on what is the most suitable for the organisation as a whole.

27. It is proposed that the following call in process is adopted by the Council;

***An application can be called in to Development Control Committee by a Member of the Council, provided;***

***i) It is seconded by another Member on DCC (not a substitute)***

***ii) That the call-in occurs within 21 days of the application being published on the Planning Register (Public Access Website), and***

***iii) A written reason is provided as to why the application is being called in.***

28. Summary

Recommendation	Part of constitution is affected	What decision is DCC making?
The Call-In Powers are amended. The proposed changes are set out in para 27 (above).	Part 7 (non-executive functions) which has currently been temporarily amended for Covid reasons.	View

## 29. *Referral to Full Council*

30. Currently planning applications in the process of being considered at DCC can be referred up to Full Council by a Committee Member if the motion is seconded. The risk is that if the motion is not agreed at Full Council then the application could be referred back down to DCC. There is a risk that this process could be caught in a perpetual loop. There was a risk of this happening with the recent determination of the Venue 360 planning application, where a Member enacted this Constitutional ability to propose a motion to have the application referred up to Full Council for approval. The motion was seconded. At Full Council it could not be agreed to approve the motion, and therefore the application was referred back down to DC Committee. The application was eventually decided at DCC, however it identified a weakness in the current Constitution that may need to be reviewed. The Constitutional “ambiguity” over which Committee ultimately can make the final decision is an issue that went as far as the Court of Appeal for consideration with the Venue 360 application (and now permission). The legal challenge questioned whether the Council had erred constitutionally in the process followed. Since then there have been two further applications that have been referred to Full Council in the same way. An opportunity to review this part of the Constitution would therefore seem advantageous.
31. It is recognised that there will be exceptional circumstances when a particular item may need the consideration by the Full Council before a decision is made. This would therefore justify retaining the Standing Order. However, the relative frequency in which these referrals are now being made (by just two Members (proposer and seconder)), suggests that the “exceptional circumstance” high bar is not being reached when these decisions are made. Officers consider that the Standing Order should be revised to increase the number of Members that are needed to support the referral. In addition, the current wording does not clearly identify what is the expectation when the matter is considered by Full Council. Officers consider that the Standing Order should set out that upon referral Full Council is expected to agree and confirm the outcome of the decision arrived at DCC.
32. It is proposed;

**An application can be referred to Full Council when this is motioned by a Member of Development Control Committee and seconded by another Member of DCC. The proposal must then be put to vote and supported by at least 5 Members. Upon referral, Full Council must proceed to determine the application**

## Summary

Recommendation	Part of constitution is affected	What decision is DCC making?
<p>The ability to refer a planning application to Full Council is reviewed.</p> <p>The proposed changes are set out para 32 (above).</p>	Part 4 – SO 68.	View

### *Renaming Committee*

**33.** Most Councils have now replaced the terminology “Development Control” with “Development Management” to better describe the purpose and role of the Planning process and to bring it into line with the ethos Central Government is advocating. The Council have accordingly updated the name of the service itself however the name of the Committee lags behind. This was an early recommendation of the Peer Review team.

**34.** Similarly, the constitution refers to “Planning Manager” however there is currently no one in post under that title. A better reference should be “Head of Planning or its equivalent”.

### **35. Summary**

Recommendation	Part of constitution is affected	What decision is DCC making?
DCC is renamed Development Management Committee and “Planning Manager” is replaced with the “Head of Planning or its equivalent”.	The references appear throughout the constitution.	View

### **36. Concluding Remarks**

**37.** These changes are recommended because they are considered necessary for creating a framework that enhances and supports elected Members and officers to make effective, lawful and timely decisions, implemented in a transparent and accountable way, in furtherance of our objective to be a ‘Future Ready’ modern, 21st Century Council. These changes are considered to improve efficiencies, reduce unnecessary costs and delays, empower Members and positively position the Council in terms of perception, reputation, effectiveness, performance and delivery.

**38.** Members are invited to agree the recommendations.

<b>HEAD OF DEVELOPMENT MANAGEMENT</b>	Emergency Del 1/1 DC	Save as provided by the provisions contained in Emergency Delegation 1/3 DC, 1/4 DC and 1/5 DC, to approve all applications for planning permission, approval and consent (including the imposition of appropriate conditions).	<ol style="list-style-type: none"> <li>1. Subject to the interpretation at 2 below, the following are excepted from the power delegated under Emergency Delegations 1/1 DC: <ol style="list-style-type: none"> <li>1.1. Applications for outline or full planning permission for residential schemes involving the development of 0.5 hectares or more of land or the erection of 10 dwellings or more.</li> <li>1.2. Change of use of buildings involving the creation of 10 units or more of residential accommodation.</li> <li>1.3. Applications for outline or full planning permission for non-residential schemes involving the development of 1 hectare or more of land or the creation of 1,000 square metres or more of floorspace.</li> <li>1.4. Changes of use involving non-residential accommodation exceeding 1,000 square metres of floorspace.</li> <li>1.5. Where the decision would be contrary to the provisions of the development plan then in force for the area, except in the case of minor variations from approved planning standards (as described in Paragraph 2.1 below).</li> <li>1.6. Where the decision would be contrary to <del>15</del> 10 or more written representations from separate addresses or households or to a petition containing <del>15</del> 10 or more signatures from separate addresses or households received within the period specified for representations from members of the public (other than the applicant or their agent) having regard to, subject to Paragraph 2.2 below, material planning considerations.</li> </ol> </li> </ol>



			<p>1.7. Where a Member of the Council or the Chief Executive has requested that a decision on an application be made by the Development Control Committee.</p> <p>1.8. Where an application for permanent development (i.e. not temporary buildings or structures) has been submitted by or on behalf of the Council or relates to land owned or occupied by the Council which is recommended for approval and which is:</p> <p>a) Subject to a written objection from a consultee or member of the public (where their name and address has been provided) raising, subject to Paragraph 2.2 below, material planning considerations; or</p> <p>b) Is contrary to the development plan.</p> <p>1.9. Where an application has been submitted by or on behalf of a Member or officer of the Council which is recommended for approval and which is:</p> <p>a) Subject to a written objection from a consultee or member of the public (where their name and address has been provided) raising, subject to Paragraph 2.2 below, material planning considerations; or</p> <p>b) Is contrary to the development plan.</p> <p>1.10. Where the decision of the Head of Development Management would run counter to an earlier decision or condition imposed by the Development Control Committee in respect of the same site.</p>
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			<p>1.11. Where the decision of the Head of Development Management would run counter to the minimum gross internal floor areas set out within the 'Technical Housing Standards – Nationally Described Space Standards' (MHCLG, March 2015) (or subsequent updates or equivalent standards).</p> <p><b>2. <u>Interpretation</u></b></p> <p>2.1. The minor variations referred to in Paragraph 1.5 above are variations to the Council's standards in respect of driveway lengths, the provision of garaging and parking, minimum garden sizes, distances between buildings, etc.</p> <p>2.2. The following shall not be regarded as material planning considerations:</p> <ul style="list-style-type: none"> <li>a) An objection to the principle of development where the proposal is not contrary to the policies of the approved development plan;</li> <li>b) A trade objection which anticipates competition from the proposed development;</li> <li>c) Objections relating to trespass on to the objector's property, inclusive of matters relating to rights of way and shared access;</li> <li>d) Noise and other forms of disturbance arising during and solely as a result of any building operations involved in the development;</li> </ul>
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			<p>e) The question of future maintenance of the objector's property, perceived loss of value to an objector's property, drainage and other issues covered by building control procedures;</p> <p>f) Issues which are covered by other legislation and over which planning controls do not exist;</p> <p>g) Alleged unauthorised activities or works directly relating to the proposal under consideration and which might be dealt with through other planning investigations;</p> <p>h) Comments of a wholly personal nature, including opinions of morality and comments which are abusive or discriminatory in nature; or</p> <p>i) The wording or context of proposed advertisements.</p>
	Emergency Del 1/2 DC	Save as provided for in Emergency Delegation 1/4 DC and 1/5 DC, to refuse applications for planning permission, approval and consent.	<p>3. The following are excepted from the power delegated under Emergency Delegation 1/2 DC:</p> <p>3.1. Where the decision would be contrary to <del>15</del> 10 or more written representations from separate addresses or households or to a petition containing 15 or more signatures from separate addresses or households received within the period specified for representations from members of the public (other than the applicant or their agent).</p> <p>3.2. Where a Member of the Council or the Chief Executive has requested that a decision on an application be made by the Development Control Committee.</p>

			<p>3.3. Where the decision of the Head of Development Management would run counter to an earlier decision or condition imposed by the Development Control Committee in respect of the same site.</p>
	Emergency Del 1/3 DC	<p>To determine the planning applications (including the imposition of appropriate conditions) as follows:</p> <ul style="list-style-type: none"> <li>(a) To approve any minor material variation to an existing planning permission (Section 73) or non-material amendment application (Section 96A) to an existing planning permission and enter any related planning obligation (Section 106 Agreement);</li> <li>(b) To enter into a planning obligation (Section 106 Agreement);</li> <li>(c) To approve any application to vary an existing Section 106 Agreement (Section 106A) and to enter into that Agreement; and</li> <li>(d) To approve any reserved matters relating to an existing outline planning permission.</li> </ul>	<p>4. The following are excepted from the power delegated under Emergency Delegation 1/3 DC:</p> <ul style="list-style-type: none"> <li>4.1. Where the decision would be contrary to the provisions of the development plan then in force for the area, except in the case of minor variations from approved planning standards as described in Paragraph 2.1 above.</li> <li>4.2. Where the decision would be contrary to <del>15</del> 10 or more written representations from separate addresses or households or to a petition containing 15 or more signatures from separate addresses or households objecting to the application received within, where applicable, the period specified for representations from members of the public (other than the applicant or their agent) having regard to, subject to Paragraph 2.2 above, material planning considerations.</li> <li>4.3. Where a Member of the Council or the Chief Executive has requested that a decision on an application be made by the Development Control Committee.</li> <li>4.4. Where an application for permanent development (i.e. not temporary buildings or structures) has been submitted by or on behalf of the Council or relates to land owned or occupied by the Council which is recommended for approval and which is:</li> </ul>

			<p>a) Subject to a written objection from a consultee or member of the public (where their name and address has been provided) raising, subject to Paragraph 2.2 above, material planning considerations; or</p> <p>b) Is contrary to the development plan.</p> <p>4.5. Where an application has been submitted by or on behalf of a Member or officer of the Council which is recommended for approval and which is:</p> <p>a) Subject to a written objection from a consultee or member of the public (where their name and address has been provided) raising, subject to Paragraph 2.2 above, material planning considerations; or</p> <p>b) Is contrary to the development plan.</p> <p>4.6. Where the decision of the Head of Development Management would run counter to the minimum gross internal floor areas set out within the 'Technical Housing Standards – Nationally Described Space Standards' (MHCLG, March 2015) (or subsequent updates or equivalent standards).</p>
	Emergency Del 1/4 DC	To determine all applications for planning permission, approval or consent (including the imposition of appropriate conditions) as follows:	

		<p>(a) To approve or refuse any application made to discharge a condition relating to an existing planning permission or consent;</p> <p>(b) To approve or refuse any application made for a determination of whether the prior approval of the local planning authority will be required prior to the commencement of that development (prior approval/notification applications); and</p> <p>(c) To approve or refuse any application made for an 'Additional Environmental Approval' (AEA); for variation of the approved hours of construction; or, pursuant to any time-limited COVID-19-related legislation, which may be forthcoming.</p>	
	Emergency Del 1/5 DC	To approve or refuse all applications for temporary planning permission, approval or consent (including the imposition of appropriate conditions).	<p>5. The following are excepted from the power delegated under Emergency Delegation 1/5 DC:</p> <p>5.1. Where the application would be recommended for approval and the decision would be contrary to <del>15</del> 10 or more written representations from separate addresses or households or to a petition containing 15</p>

			or more signatures from separate addresses or households objecting to the application received within, where applicable, the period specified for representations from members of the public (other than the applicant or their agent) having regard to, subject to Paragraph 2.2 above, material planning considerations.
	Emergency Del 1/6 DC	In the absence of the Head of Development Management, the Team Leader – Planning Applications or Team Leader – Strategic Applications may exercise the delegations contained in Emergency Delegations 1/1 DC, 1/2 DC, 1/3 DC, 1/4 DC and 1/5 DC.	



# **Planning Service Peer Challenge**

## **Luton Council**

*November 2019*

### **Feedback Report**

Final Version (issued Feb 2020)



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## 1. Background & Context

- 1.1. Luton council adopted its Local Plan in 2017 – it includes several strategic regeneration and growth areas including Century Park, Power Court, High Town and Marsh Farm. Expectations are high and the council is taking an opportunity to be bold.
- 1.2. Alongside the Local Plan is the Luton Investment Framework also adopted in 2017 which sets a 20-year vision for major transformation including the delivery of 5,700 new homes and 18,500 new jobs. Couple this with the expansion of London Luton Airport and the direct air to rail transit (DART) system, and you have an impressive and ambitious development agenda.
- 1.3. The inspector's report following the examination of the Local Plan recommended that it be subject to an 'early review' towards the end of 2019. This is to address issues such as school provision, the development of the Town Centre, strategic site allocations, and giving time to allow neighbouring areas to progress their local plans – particularly important in addressing Luton's unmet housing need.
- 1.4. Luton is a key partner in the wider region including the 'Oxford to Cambridge arc' - earmarked by the Government as an area of significant economic potential. Luton is densely developed, and the lack of available space makes the Borough dependent on its surrounding neighbours to help meet its housing needs. As such, Luton must continue to work with its neighbours to realise benefits from significant opportunities that exist outside its administrative borders.
- 1.5. The council wholly owns London Luton Airport. The contribution the airport plays in terms of investment, income, profile, and jobs is significant. Some of this comes at a cost and the council must take care to ensure that these benefits are enjoyed by all its present communities as well as those it is hoping to attract. However, the decline of traditional employers including Vauxhall and the impact on the town centre mean that the continued prosperity of Luton is intrinsically linked to the strength of the airport and the business which support it.
- 1.6. Luton is diverse – it has a large BME population, a significant transient population, is attracting a young professional demographic and has high levels of deprivation. Many staff are residents and the planning service staff are reflective of the community.
- 1.7. After a period of instability, a new Head of Development Management was appointed in August 2019 and has been tasked with improving things 'across the board'; realigning the service and its culture to facilitate the delivery of the Council's ambitious regeneration and growth objectives. This will require the rapid modernisation of some deeply embedded traditional approaches in both the political and officer spaces.
- 1.8. To help with identifying the priorities and direction for change, the Corporate Director for Place and Infrastructure invited Planning Advisory Service (PAS) to independently and objectively consider how well placed the planning service is to deliver the council's corporate development agenda.



## 2. Executive Summary

- 2.1 Luton council and its planning service is facing a key 'moment in time'. It has successfully established an ambitious growth agenda predicated around the Luton Investment Framework. The Leader and Chief Executive want the planning service at the heart of the effort to deliver its corporate ambitions. To do this the planning service needs a better platform to interact and communicate with the rest of the council especially internal partners - housing, regeneration, economic growth. The present way of operating results in the good work and value added by the planning team going unnoticed at best and, at worst, unintentionally positions the planning service as a barrier to delivery.
- 2.2 The council has appointed a new Chief Executive and Head of Development Management, this year. After 18 months of instability, with only acting up arrangements in DM, the planning service now has a reasonably settled workforce. There is a willingness at all levels, including within the service itself, for planning to take on the role of being enablers of development, and there is an active development community that is ready to invest. All of this adds up to a clear opportunity to restate planning's mandate and for the service itself to 'step up' and play a leading role in the corporate effort to co-ordinate a high-quality, place based approach to development across the borough.
- 2.3 The early review of the Local Plan is a key opportunity for planning to bring the various elements of the council together and take a truly multi-disciplined place-based approach to delivery; consolidating the planning, housing and regeneration agendas into a single, corporately owned document which sets a clear spatial vision for the next 10 years. There is also a constitutional review being carried out - a good opportunity to review the role of committee, call-in and delegation procedures.
- 2.4 Luton benefits from its airport which has an Enterprise Zone. There is great potential to attract planning applications of great magnitude. In order for Luton to be an attractive area to receive planning applications, a robust, seamless planning service needs to be in place. The planning service must take the opportunity presented to it to find a new balance between its reputation as a regulator and establish itself as a supportive facilitator of the council's growth agenda for all of Luton's communities.

### **Vision & Leadership**

- 2.5 The council's vision for growth and regeneration is clearly set out in its Corporate Plan, the Luton Investment Framework and the Local Plan. These plans were all adopted in 2017, and the Luton Investment Framework is recognised by most internal and external stakeholders as the key framework for inclusive growth.
- 2.6 The Chief Executive and Council leader want planning on the front line of delivering its growth agenda but at the moment the role for planning is not well defined or communicated. Planning has not played any significant role in the development of the Luton Investment Framework but it must now push itself forward and take a more prominent role within the council. This review provides an opportunity for the planning service to 'step up' and play a greater role in influencing corporate thinking and strategy.
- 2.7 Beyond securing a better-defined corporate role the planning service needs to carry out fundamental modernisation and improvement to its current ways of working (see also 'Theme 2 Decision Making'). Whilst much of this is related to improvements to systems

and processes, a significant proportion relates to seemingly longstanding cultural and structural issues which must be addressed for the service to become more efficient

- 2.8 Growth needs to be corporately owned and everyone needs to focus on delivering the right decisions for Luton. Planning is currently 'off-centre' but has an opportunity, through the review of the Local Plan, to take the lead in establishing greater levels of collaboration by bringing together senior staff from Planning, Property, Housing, and Economic Growth to establish ways of working together and joining-up on delivery of the 'place agenda'. This will set a single, clear context for investors and developers against which the DM service can make decisions.
- 2.9 The council needs to appreciate that the planning service has a statutory function to perform and that the strength of the process it follows can be the difference between securing an implementable consent or seeing schemes mired in judicial review and external challenge.
- 2.10 The present structure is not helping - it needs to be more coherent. Having Development Management and Policy in different teams and the physical and/or managerial separation of the DM, technical, building control, and Planning Policy teams means that many of the traditional alliances enjoyed in other authorities do not exist in Luton. This has removed strategic capacity from the DM service and risks further isolation of DM from wider corporate thinking. Efforts should be made to bring these services closer together services physically and operationally.
- 2.11 The lack of clarity around the role of planning and the lack of a joined up corporate approach, has contributed to a blurring of functions with senior members of the Council's staff being perceived as simultaneously acting as strategic relationship managers, stakeholder managers and doing the 'planning piece' somewhat in isolation on the big strategic sites alongside specialist consultants. This represents several risks; planning advice on some larger schemes gets fragmented/confused, there is the potential for conflicts of interest or legal challenges to eventual planning decisions, the potential for 'single points of failure' increases, and investor/developer confidence is negatively affected.
- 2.12 At present planning is viewed at best as the 'regulatory step' and at worst as 'getting in the way'. This is damaging and de-motivating to staff. The service (both professionally and politically) must tackle this head-on. Planning needs to be 'championed' as the enabler of growth, but it also needs to be comfortable taking on that mantle.
- 2.13 A better dialogue is needed between officers and members. Greater levels of understanding and trust need to be developed between the two groups if the service and committee is going to successfully modernise and introduce new ways of working. The most successful places operate in an atmosphere of collaboration between officers and members. At the moment most of the officer/councillor interaction is narrowly focused on what happens around committee with little opportunity taken to engage on strategic matters or development proposals much earlier in the process. The planning service needs to work with members to create a narrative around the growth agenda that they can own publicly.

### **Decision making and service delivery**

- 2.14 The planning service is keen to take a more proactive role and change perceptions that the service is traditional and regulatory focused. The service is actively seeking to improve, and developers think that, fundamentally, the service is doing a good job. There

are process issues to address but there is good positive feedback about how accessible the planners are. A few developers said that, given a choice, they would choose Luton over its immediate neighbours as easier to deal with.

- 2.15 Statutory performance is good. The planning service is performing well against all the government's national planning performance indicators. The recently completed PAS DM self-assessment and the commissioning of this planning peer challenge is a clear indicator of the service's commitment to continuous improvement.
- 2.16 The service would benefit from looking more closely at how resources could be better used taking account of the variety in the work, opportunities to eliminate duplication and hand-offs and giving officers more responsibility to sign-off work. To some extent this will depend on the authority's attitude to and tolerance of risk.
- 2.17 Managers need the capacity to be able to lead on the change agenda. There are several discreet process/procedural projects that senior management is 'stepping down' into which could reduce their capacity to drive the change needed.
- 2.18 The planning service is only just getting to grips with the commercial agenda. There are clear opportunities for (and customers are supportive of) learning from others to rapidly introduce a more commercial approach by creating a clearer value-add offer for the pre-application service, making Planning Performance Agreements (PPA's) the 'bedrock' of all major schemes and commercialising some of the lower level services such as charging for the duty service and charging for copying documents.
- 2.19 There are also opportunities to regularise the approach to some applications, particularly householders. Whilst the currently flexible and open approach to negotiation is valued by agents, even they recognised the resource constraints this is placing on the service. A more consistent, firmer approach on pre-app and negotiation would greatly reduce the burden of a significant area of work which is currently considered to be 'sticking the gears' of the planning service.
- 2.20 Developers are keen for planning performance agreements (PPAs) to be put in place. They are happy to pay for what they see as tool for engagement and keeping communications open across the council and to be more confident about the allocation of resources to get developments through in a timely manner and to generate income to be reinvested to ensure a good service can be provided.

### **Planning Decision Making – Committee**

- 2.21 There is a question whether in their present form and structure the committee arrangements are making the most of opportunities to represent a more open and engaging experience for the public, and whether opportunities are being missed for resolving issues earlier in the decision-making process.
- 2.22 It is right that there is a process that allows development that is of legitimate concern to councillors, communities and officers to be assessed in public by committee. The current delegation and call-in procedures can however result in a large number of agenda items which are often focussed on small applications with few objections. This is increasingly unusual and should be reviewed. Consideration should also be given to the arrangements in respect of deferrals, site visits and public speakers all of which impact on the effectiveness of the committee and its ability to efficiently conduct its business.

- 2.23 Engagement and debate on development proposals is often skewed towards planning committee. This is very late in the decision-making process. Reviewing the delegation and call-in procedures, empowering officers and councillors to resolve issues at a local level and involving committee members earlier (e.g. at pre-application stage) will create a more engaged process for all, and a better focus for committee resources.
- 2.24 Committee members and officers need to be more creative in presenting and debating schemes. Often debates focus on issues that have already been resolved or are the subject of clear policies (e.g. parking) and detract from the positive aspects of schemes. Officers can help by positioning development proposals in terms of strategy/policy allowing a more balanced focus on the key issues.

### **Community, Partners & Outcomes**

- 2.25 Luton is delivering – the development pipeline is strong with the growth of the airport, the town centre regeneration, stadium, and consented sites. The housing targets in the Luton Local Plan 2011-2031 are being met, and Luton's Housing Delivery Test result is +178%.
- 2.26 The provision of affordable housing remains a challenge; there has been significant under-delivery when compared to the 50% target from the previous Local Plan, things are presently broadly in-line with the 20% policy expectation in the new Luton Local Plan 2011-2031 but there is a concern over whether the homes being delivered are meeting the needs of the local community.
- 2.27 Luton must continue to work positively across its boundaries; especially about its unmet housing need. Most of Luton's neighbours are some way behind Luton in adopting their Local Plans, and there are varying degrees of certainty from neighbouring councils regarding actual commitments to accommodate an element of Luton's unmet need.
- 2.28 Luton needs to take a more strategic approach to building positive relationships between officers and members if it is to fulfil the potential of the geographical opportunities open to it e.g. the 'OxCam Arc'. Luton's approach appears not joined up and to have no strategic lead. There appears to be a lack of clarity over who is doing what.
- 2.29 Following the recommendations in this report, PAS expects to see a more confident, better engaged planning service that can focus its attention on supporting the corporate effort to achieving the right outcomes for Luton. At the moment, individual departments can end up 'defending their ground' rather than looking to deliver objectively on the overall outcomes the council is trying to achieve.



### 3. Key Recommendations

This section summarises the key / priority recommendations and some more detail on each one can be found in the main body of the report. It is important that Luton consider these recommendations alongside its own transformation plan to ensure that the recommendations in this report are aligned to a clear set of outcomes.

R1	<p><b>Planning needs a clear role and strategy for delivering the corporate vision.</b></p> <p>The council's regeneration and growth objectives are clearly set out in its Corporate Plan, the Luton Investment Framework and the Local Plan. These objectives now need to be turned into a clear set of prioritised objectives for the planning service and communicated across the organisation.</p>
R2	<p><b>Planning has become detached from the rest of the organisation and needs to have a greater influence over corporate strategy.</b></p> <p>Town Planning should be at the heart of the organisation but is currently 'off-centre'. The planning service's leadership team needs to 'step up' and play a greater role in influencing corporate thinking &amp; strategy. Planning, Property, Housing, and Economic Growth senior staff need to seek out ways of joining-up the efforts to deliver a 'place-based agenda'. Everyone needs to focus on delivering the right decisions for Luton and the planners need to be confident in playing a leading role in this. The critical ingredient of success, whichever route is taken, is that the cultural leadership in all key services must be committed to joined-up, corporate planning and delivery. This would also help to "de risk" complicated corporate projects.</p>
R3	<p><b><u>The present structure is not helping, is not understood internally or externally and needs reviewing.</u></b></p> <p>The physical and/or managerial separation of the DM, technical and Planning Policy teams and relocation of the GIS service, means that many of the traditional alliances enjoyed in other authorities do not exist in Luton. This has removed strategic capacity from the DM service and risks further isolation of DM from wider corporate thinking. Efforts should be made to bring these services closer together services physically and operationally.</p>
R4	<p><b>Planning needs a mechanism that gives it strategic oversight of and an opportunity to input into major development schemes.</b></p> <p>A mechanism (e.g. a 'Board') should be established, potentially above the existing Housing Delivery Board, to provide a more transparent and robust governance structure for the development of the growth agenda and the definition/agreement of corporate priorities. A Board, set up with appropriate political support and departmental representation, would help the planning service influence decision making from the outset and ultimately give clarity to its role in facilitating the delivery of major development schemes.</p>
R5	<p><b>There needs to be more formal approach to relationship management with the council's strategic partners.</b></p>



	<p>There is currently a confused picture over who manages the planning relationships with Luton's key investment partners. The council has several long-term strategic partners and at present the relationship management from a planning perspective is fragmented across different people and parts of the organisation.</p>
R6	<p><b>The early review of the Local Plan should be the focal point for a more formal and joined up approach to place-making across the whole council.</b></p> <p>The required review of the Local Plan is an opportunity to establish more formal and joined-up levels of collaboration and shared ownership of 'place-making' across the whole council. There needs to be a commitment to how departments will work together (and on what) and include a clear set of objectives and timetabled priorities that meet all of the council's agendas.</p>
R7	<p><b>The planning service needs 'championing' – both by senior management and politicians</b></p> <p>The planning service and its staff has been somewhat entrenched and felt ignored. The service has a reputation both internally and externally for taking a traditional, regulatory-focused approach. The service leadership must tackle this head-on and needs to champion the planning service as the enabler of growth, not, as is the case at present, that it is the 'regulatory step that gets in the way'. Consideration should be given to creating a portfolio holder role for development management. The planning service needs to work with members to create a narrative around the growth agenda that they can own publicly.</p>
R8	<p><b>Planning senior management resources need re-focusing on strategic management and delivery</b></p> <p>Senior management needs to re-focus its resources and bring together the wider corporate team to do the 'planning piece' on the big strategic projects. At the moment this work is being done in a slightly detached way by senior management or by specialist consultants, which is creating confusion internally and affecting developer confidence. It is also an effective development opportunity for staff.</p>
R9	<p><b>Committee practices and procedures should be reviewed to create a platform for a more open and engaging experience for the public, more firmly focused on strategic applications.</b></p> <p>Planning committee is the shop window for how the council makes planning and place-shaping decisions. The review should consider:</p> <ul style="list-style-type: none"> <li>- How effective the call-in powers and scheme of delegation is in ensuring that committee is focused on the discussion of significant schemes;</li> <li>- Arrangements around public speaking, deferrals and site visits to ensure that the committee operates effectively and efficiently when it meets;</li> </ul>

	<ul style="list-style-type: none"> <li>- Creating opportunities for the presentation of pre-application schemes to committee and possibly formal pre-application public meetings in advance of committee to give members more involvement in strategic schemes and reduce the reliance on committee as the sole point of influence;</li> <li>- Introducing a programme of briefings throughout the lifetime of a scheme's development and rely less on reports presented as part of the committee preparation process;</li> <li>- The introduction of a 'screening' role for the Chair before cases are allowed on the agenda.</li> </ul>
R10	<p><b>Extend the range of topics provided in committee and councillor training.</b></p> <p>Training needs to be open to all councillors, not just committee members, and needs to extend beyond functional matters (e.g. probity, declarations of interests etc.) into a broader set of topics e.g. the new/reviewed local plan policies, LEP, OxCam Arc, affordable housing, density, parking standards, design, and viability.</p>
R11	<p><b>Stop the negative internal 'narrative' on resourcing.</b></p> <p>The planning service needs to change its narrative from one that currently says, 'we are under-resourced', to one that focuses on how the planning team will use the peer challenge and its own internal improvement projects to re-focus the service, release capacity, connect with internal partners and focus on the value being added. Commercialisation is a significant opportunity to add to the available resources, bringing in specialists where required.</p>
R12	<p><b>Resources need reorganising and re-focusing.</b></p> <p>Development Management service has the resources to deliver the current day-to-day service but needs reorganising and re-focusing to be more effective and efficient. This could start by looking at ways of using the variety in the work of planning to take different approaches, a review of processes to eliminate duplication and hand-offs, and consideration given to ways of giving officers more responsibility to sign-off work.</p>
R13	<p><b>Delegate decision making among a greater number of staff.</b></p> <p>The planning department deals with a variety of work and has experienced and competent staff at all levels. Allowing decision making to filter across a greater number of staff will create capacity, a more consistent and efficient service for customers, support career development, increase staff confidence and encourage more aligned local decision making. This would also have the associated benefit of identifying potential efficiency gains and better use of resources.</p>
R14	<p><b>The service should adopt a more consistent approach to determining non-major applications.</b></p> <p>Finding ways of resolving objections and negotiating with agents and applicants as early as possible will help deliver a more customer-oriented</p>

	service and improve efficiency, reduce cost, reduce the number of withdrawn applications/refusals and the number of resubmissions and appeals.
R15	<p><b>The planning service needs to continue to review and support the work of the technical team.</b></p> <p>There are issues with the validation process which reflect poorly on the service, reduce the time available for determination and drive additional work in negotiating extensions of time.</p>

## 4. Scope of the review

- 4.1. Luton has requested that the Planning Advisory Service (PAS) carry out a peer challenge of its development management planning function. The council asked for an independent and objective assessment of how well placed it is for delivering the council's corporate priorities and its own change and improvement programme.
- 4.2. The PAS review is carried out by fellow local government planning professionals and a senior councillor, not consultants, inspectors or lawyers.
- 4.3. The review focused on 4 key areas as they relate to the Development Management service:
  - 3.1.1 Theme 1: Vision & Leadership
  - 3.1.2 Theme 2: Decision Making & Service delivery
  - 3.1.3 Theme 3: Planning Committee
  - 3.1.4 Theme 4: Community, Partners & Outcomes
- 4.4. It is important to stress that this review is not an inspection; it is improvement focussed and designed to complement and add value to a council's own performance and improvement plans. The review is not designed to provide an in-depth or technical assessment but for the peer team to use their experience and knowledge to reflect on the information presented to them by people they met, things they saw and material that they read while on site.
- 4.5. This report is a summary of the peer team's findings. By its nature, the review represents a snapshot in time. We appreciate that some of the feedback in this report may touch on things that Luton is already addressing and progressing.
- 4.6. The PAS review team has presented a verbal summary of this report and recommendations to an audience made up of those that took part in / were interviewed as part of the review.
- 4.7. The PAS review team would like to thank the community representatives, councillors, staff, customers and partners for their open, honest and constructive responses during the review process. All information collected is on a non-attributable basis. The team was made to feel very welcome and would especially like to mention the invaluable assistance and excellent onsite support provided by Luton's planning and support team.

## 5. Planning Advisory Service (PAS)

- 5.1. PAS is a Local Government Association (LGA) programme which is funded primarily by a grant from the Ministry of Housing Communities and Local Government (MHCLG).
- 5.2. It is our principal mission to ensure that local planning authorities (LPAs) are continuously improving in their execution and delivery of planning services.
- 5.3. To achieve this, the PAS work programme focuses on:
  - a) Helping local government officers and councillors to stay effective and up to date by guiding them on the implementation of the latest reforms to planning.
  - b) Promoting a 'sector-led' improvement programme that encourages and facilitates local authorities to help each other through peer support and the sharing of best practice.
  - c) Providing consultancy and peer support, designing and delivering training and learning events, and publishing a range of resources online.
  - d) Facilitating organisational change, improvement and capacity building programmes - promoting, sharing and helping implement the very latest and best ways of delivering the planning service.
- 5.4. PAS also delivers some of its services on a commercial basis including change and improvement programmes for individual and groups of planning authorities in England, Scotland, Wales and Northern Ireland.

## 6. The review team

- 6.1. The peer team is made up of serving council officers, a serving councillor and a PAS review manager:
  - **Phil Mason - *Strategic Director Economic Growth and Development*, Cornwall Council**
  - **Ian Ward – *Leader Birmingham City Council***
  - **Matthew Essex - *Operational Director of Regeneration, Property and Planning*, London Borough of Redbridge**
  - **Marilyn Smith – *Planning Decisions Manager*, London Borough Barking & Dagenham**
  - **Martin Hutchings - *Planning Advisory Service, Peer Challenge Manager***

## 7. Theme 1: Vision & Leadership

- 7.1. The council's vision for growth and regeneration is set out in its Corporate Plan, the Luton Investment Framework and the Local Plan, all of which were adopted in 2017. The Chief Executive and Council Leader, as well as others, are clear that they want planning on the front line, working with colleagues across the Council to facilitate the delivery of an exciting and significant growth agenda. However, there are concerns that the planning service is not currently ready or able to perform this function.
- 7.2. It feels as though the planning service is at a critical moment in time. A long period of consistent management brought stability but resulted in a lack of innovation in terms of systems and processes and some deeply embedded, traditional approaches to the role of Development Management. This stability was ultimately lost following a period of high staff turnover (there was no DM manager for 6 months) but has the potential to return following the very recent appointment of a new Head of Development Management in addition to the Service Director for Planning and Transportation.
- 7.3. This review represents an opportunity for the planning service to 'step up' and play a greater role in influencing corporate thinking and strategy around the growth agenda. Recent experiences, notably the determination of the applications for and supporting the new Luton Town FC stadium, have given rise to a significant credibility gap, as the planning service has had to manage the expectations of the public while getting the balance right between its own corporate ambitions and planning policy. As well as the modernisation which all parties acknowledge is required, the planning service is going to need to address its own culture and become much more comfortable and confident acting in a leading role to facilitate and enabling growth if the Council's full ambitions are going to be realised.
- 7.4. The Local Plan clearly sets out the spatial framework and is positioned correctly as the delivery vehicle for change and growth. This has subsequently been added to by the Corporate Plan and Luton Investment Framework as well as the housing delivery aspirations. This is not an unusual occurrence in authorities promoting rapid growth where various plans and strategies get developed to meet a range of different needs and agendas, however it does seem to have presented the planning service with particular challenges around primacy/legitimacy of these strategies against the Local Plan and their role in delivering against what they consider to be non-statutory documents. Despite the misgivings of some in the planning service, the Luton Investment Framework is recognised by most internal and external stakeholders as the key framework for inclusive growth. The challenge for Luton is to use the early review of the Local Plan as an opportunity to translate these various strategies into a single, shared place-based vision for the borough which can inform a clear set of expectations for the planning service with timetabled priorities.
- 7.5. Growth needs to be corporately owned. Everyone needs to focus on delivering the right decisions for Luton but acknowledge that, on occasion, this will require difficult decisions for different parties. The council needs to appreciate that the planning service has a statutory function to perform and that the strength of the process it follows can be the difference between securing an implementable consent or seeing schemes mired in judicial review and external challenge. Conversely, the planning service needs to build its own confidence so that it is comfortable both advising on the challenges and issues arising from schemes and identifying the mitigation actions that would make proposals acceptable.

- 7.6. At the moment, the organisation has not found the appropriate balance and, as a result, planning is currently 'off-centre'. It now has an opportunity however to take a leading role in establishing greater levels of collaboration by bringing together senior staff from Planning, Property, Housing, and Economic Growth to establish ways of working together and joining-up to secure the delivery of the council's place-based agenda. To perform this role effectively there are some fundamental service modernisations and improvements to ways of working required (see 'Theme 2 Decision Making'). However, there are first some cultural and structural issues to address.
- 7.7. At a corporate and senior management level there is little evidence of structured collaboration on place-making. The only readily identifiable group, the Housing Delivery Board, is geared to driving forward the delivery of committed council housing projects and doesn't appear to have a role in setting the strategic agenda, considering how private sector led projects should be facilitated or supported or considering anything not related to housing. Whilst this does not appear to have overtly hindered progress to date, it is notable that there is no corporate forum to discuss differences of opinion and there are signs emerging that the absence of a structured approach could represent a risk to delivery of the council's agenda going forward. Evidence of the risk this represents is illustrated by the Wandon Park development where different parts of the organisation have starkly contrasting views as to whether the issues regarding the mitigation of the loss of public open space have been satisfactorily resolved yet.
- 7.8. Most people interviewed are confused by the current corporate departmental structure. It needs to be more coherent. Having Development Management and Policy in different teams and the physical and/or managerial separation of the DM, technical, and Planning Policy teams and relocation of the GIS service, for instance, means that many of the traditional alliances enjoyed in other authorities do not exist in Luton. This has removed strategic capacity from the DM service and risks further isolation of DM from wider corporate thinking. Efforts should be made to bring these services functionally and operationally closer together. Whilst this does not necessarily require wholesale changes to the management structure, senior leaders should work harder to find opportunities to bring the various teams together around a variety of thematic and specific topics to build relationships and, critically, understanding of the motivations and drivers for different parts of the organisation.
- 7.9. Aligned to better inter-departmental collaboration is the need for a better strategic oversight of the major development schemes coming forward and what they are delivering. The council should consider establishing a mechanism (e.g. a 'Board') to achieve a more transparent and robust governance structure for strategic decision making and major development schemes across the whole borough. Governance is in place for decision-making via the planning committee, but there is a gap when it comes to the strategic oversight of development across the whole council. A Board set up with appropriate political support and representation from Housing, Economic Growth, and Foxhall Homes could help the planning service work corporately to actively steer the delivery of major development schemes.
- 7.10. The planning service has felt and entrenched and ignored. This has been damaging and de-motivating to staff. Without a clear role for the whole service in delivering the growth agenda, it is struggling to shake off a reputation both internally and externally for taking a traditional, regulatory-focused approach. The service leadership must tackle this head-on and needs to champion the planning service as



the facilitator/enabler of growth and not, as is the case at present, just a 'regulatory step that gets in the way'. The perception issues are being somewhat perpetuated by the service itself – it refers to itself and many of its functions and job titles as development 'control' rather than development 'management' – a small but important quick win.

- 7.11. For the service to successfully take on a facilitating/enabling role it needs to be comfortable acting in a way that is likely to be very different to its historic approach. There is a perception drawn from the discussions held that the service is holding itself back from fully embracing this new challenge; that planning is more comfortable acting as the 'council's conscience' and waiting for others to invite the service to join existing discussions than playing a leading role and expecting to be included as a partner in a shared endeavour to deliver change. The service's management team will have to make a conscious effort to introduce and support the behaviours that will be needed to bring about this change in culture.
- 7.12. Managers need the capacity to be able to lead on the change agenda. The review team found that due to the fire-fighting nature of the work at the moment, managers are finding themselves 'stepping down' into the detailed work at officer level which is reducing their capacity to manage the teams and therefore drive the change needed. The managers need to be disciplined and focus on the team / service improvements tasks to build resilience, mutual support and a shared sense of purpose.
- 7.13. A quick step in terms of cultural change would be to stop using the 'we are under-resourced' narrative. This is having a negative affect both in terms of confidence to drive the development management service forward and staff morale. It is being used too often to justify the service's own decisions to opt out of key pieces of work, such as the recent affordable housing SPD, which as corporate priorities should be a key focus for the planning service. The planning team needs to present a united, positive and confident front and can use the peer challenge findings and its own internal improvement projects to re-focus the resources of the service on real priorities, connect with internal partners and focus on the value that the planning team can undoubtedly add.
- 7.14. If resources are genuinely considered to be an issue, then the commercialisation of the service offers a clear opportunity to increase capacity relatively quickly at no broader cost to the wider organisation. Luton is starting its thinking on commercialisation relatively late in comparison to other authorities. The benefit of this is that there is a wealth of existing practice to learn from and potentially adopt allowing the service to commercialise rapidly. The service is already considering these opportunities and is encouraged to accelerate this thinking into implementation. Critically, the service needs to take the opportunity to not only raise revenue through commercialisation but also professionalise elements of its service using much improved management information to deliver greater efficiencies and release further capacity.
- 7.15. Beyond the culture, it is undeniably apparent that the planning service requires urgent modernisation. Alongside establishing a clearer strategic role (see above) and updating of the Committee (see Theme 3), the service needs to implement a review of processes, systems and resources, particularly around validation, and set itself on a more commercial footing with a greater focus on productivity linked to outcomes. The service has been late in providing staff with modern laptops and phones, despite 'investment in IT' being the priority



recommendation when the council had a corporate peer challenge in 2018. The service is also being held back by a poorly serviced back office system.

- 7.16. There needs to be an improved dialogue between officers and members. At the moment most of the officer/councillor interaction is narrowly focused on what happens around committee, with little opportunity taken to engage on development proposals much earlier in the process. The whole planning service, including committee, needs to make a big leap if it is to modernise, but any change it makes must be alongside a package of organisational changes that allow it to operate in a modern and effective way. The most successful places operate in an atmosphere of collaboration between officers and members. Buy-in to change is required by officers and councillors and trust will be key. The planning service needs to understand that for any change to successfully embed it has to be able to demonstrate a clear benefit to members as well as officers.

## 8. Theme 2 - Decision Making & Service Delivery

- 8.1. The PAS review team found a very professional and dedicated development management team that really wants to do a good job and who are committed to working with and providing a better service to residents. Staff are supportive of each other and the review team found that even among groups critical of the council, there is a general recognition of the quality of individual staff in the planning team.
- 8.2. Planning staff care about delivering the DM planning service in a way that benefits the borough as a whole. They demonstrated a good understanding of the issues and challenges in the community – many of them are residents – however they would benefit from a better understanding of the role planning is expected to play away from the day-to-day service delivery and in delivering the strategic growth and regeneration agenda.
- 8.3. The planning service needs a better platform to interact and communicate in a more structured way with the rest of the council especially internal partners such as housing, regeneration, economic growth. The present way of operating and communicating results in the good work and value added by the planning team going unnoticed at best, and at worst can be a risk to development.
- 8.4. The staff of the service are committed to sustaining improved performance and customer service. In workshops, excellent customer service was strongly identified as a key priority by staff as was the desire to provide a timely service to applicants that is not reliant on extension of time agreements.
- 8.5. Luton has a well-performing planning service in respect of the statutory performance indicators. The leadership and staff are clear that performing well on 'paper' is not enough and that it will be through better engagement, transparent decision-making and good quality customer service that its communities will ultimately judge it on.
- 8.6. Developers and agents are complimentary. Developers interviewed said that, fundamentally, the service is doing a good job. There is good positive feedback about how accessible the planners are, and, that, given a choice, most agents and developers interviewed said they would choose Luton over its immediate neighbours to work with. In terms of areas to improve, developers highlighted that the registration and validation process is slow, inconsistent and needed attention. There were reports of household applications regularly taking 4-5 weeks to get validated which then has a knock-on impact on timescales for determination which results in a higher than expected use of extensions of time.
- 8.7. Discussions with the technical team highlighted the issues caused by the existing, very old, validation checklist which was resulting in 50% of applications being invalidated. The team also highlighted issues about relationships, roles and responsibilities, a lack of consistent training and poor IT systems as being contributory factors. These things need tackling alongside the more immediate update of the checklist to secure a sustainable improvement in validation. It may also allow an opportunity to reallocate technical officers to deal with some householder applications which are considered to be 'clogging up the gears' of the planning service.
- 8.8. The development management service has around 10 planners including an officer that has skills and interests in dealing with conservation matters, 3 enforcement officers, a S106 monitoring officer and 5 technical support staff which the peer

challenge team feels should be enough to deal with the workload which is typically c.2,000 applications a year. However, the reality is that staff do feel under pressure and 'run at capacity every day'. This suggests that the service needs to re-think how it deploys the resources at its disposal, prioritises its effort, and how reviewing the operation of resource-intensive procedures (e.g. committee) can free-up resources

- 8.9. The service should re-focus its current resources by taking account of the variety in the work (e.g. does the same approach need to be taken to all types of application?), eliminate duplication and hand-offs within the service and consider giving officers more responsibility to sign-off work. To some extent this final point will depend on the authority's attitude to and tolerance of risk, but it has already been demonstrated in a number of authorities that this can increase the speed of decision making, reduce workloads and empower staff.
- 8.10. In terms of the planning service's current systems, the service is not getting as much out of its IDOX system in terms of performance and workflow management as it could be. An upgrade to the existing IDOX system should be a priority with a drive to stronger workflow management and the use of standardisation (reports, decision notices, conditions etc) to increase efficiency and free up capacity. This is a common problem and the peer challenge team are encouraged that the new Head of Planning is bringing forward ideas and is working with IDOX to better understand how it can use the 'Enterprise' workflow and performance management system better, correct errors in the current system, create templates and introduce more useful management reports.
- 8.11. It was not possible to complete a full review and establish a clear opinion on resources and structures in the limited time available on site. While the structure may eventually benefit from a more in-depth review, more value is likely to be extracted from the current arrangement by looking at ways of using existing capacity differently to more consistently drive the various strands of modernisation and improvement.
- 8.12. At present, the Head of Development Management is leading the change agenda and is focussed on several specific projects including the review of the validation checklist, introduction of Planning Performance Agreements (PPAs) and commercialisation alongside the day to day management of the service. As noted in Theme 1, whilst these improvements are very much needed, they are not going to deliver the fundamental change that is being sought from the planning service without wider, council wide strategic and cultural change. Consideration should be given to using the additional capacity that may exist to enable the Service Director Planning and Transportation to focus on securing these broader corporate changes.
- 8.13. From the discussions held with staff and stakeholders, including external partners, it is apparent that the current approach to managing relationships with key partners from a planning perspective, i.e. investors and developers, should be reviewed. Whilst the use of external expertise to deal with specialist matters is commonplace, consultants would not typically be expected to form the main link with a developer as is the case with the airport. This gives rise to risks around single points of failure but also removes the opportunities for permanent staff to gain experience working on some of the council's most exciting projects. Consideration should be given to establishing small planning project teams made up of a mix of senior and more junior staff to lead the work on major schemes such as the airport, football club and larger housing schemes. Some staff reported that these

arrangements had been tried in the past but had broken down owing to competing priorities, it is for all parties to prioritise this way of working if it is to be successful.

- 8.14. Although not tested in any way by the review team, anecdotally the service has a severe issue with its technology, particularly its back-office system. The issue with IT/Technology was a priority finding in the Corporate Peer Challenge carried by the LGA last year – it would appear that there is still a way to go to address the issues for planning. The service is keen to ‘urgently encourage more digital uptake of planning services’, but the review team suggest that it first concentrates on getting its current set-up working properly.
- 8.15. The service needs to take advantages of the opportunities for taking a more commercial approach. The pre-application service needs to have a clearer value-add offer - some agents see pre-application especially for householders as ‘not worth the effort’. PPAs should be the bedrock of all major schemes and are beginning to come through. There are also ‘lower level’ commercial opportunities and cost saving measures such as charging for the duty service and for copying documents.
- 8.16. Developers are keen for planning performance agreements (PPAs) to be put in place and are happy to pay if they can become a better tool for engagement and keeping communications open across the council. External partners see PPAs as a way of providing them with more confidence about the allocation of resources to get developments through in a timely manner.
- 8.17. The service does not have its own set of corporate performance or departmental targets and therefore performance management and communication of performance is not happening. The service needs to embed a performance management ‘ethos’ to help create a better understanding among staff of the service priorities, especially as they relate to the delivery of the growth programme. The service would also benefit from a set of performance measures, designed around the purpose of the service, focused more widely on quality (not simply how quickly things are done) and communicated in a more formal way to all staff.
- 8.18. The service should also establish some standards for what customers can/should expect and have a specific route for disputes to be resolved and for comments and feedback to be received. This could be created alongside the introduction of a developer’s forum. This would create a more formal way of finding out what customers want and being able to align services to deliver it (sometimes referred to and effectively marketed as ‘you said – we did’). Using the customer views on service delivery as the basis for, and a measure of success, is an extremely effective driver for improvement.

## 9. Theme 3 – Planning Committees

- 9.1 There is a need to re-establish the purpose, role and focus of the Planning Committee on more strategic applications and decisions. Some committee sessions have sat late into the night dealing with small householder applications alongside larger more strategic development proposals. The council is encouraged to review and re-establish the purpose of the planning committee alongside a wider review of the call-in and delegation procedures.
- 9.2 In terms of the practical operation of the committee the peer challenge team found a functional and well-run meeting overall. Some debates between members were repetitive and focused on 'secondary' issues (e.g. the benefits of one proposal for a significant number of homes with a healthy mix of tenures was overshadowed by a debate about parking) that should have been resolved much earlier in the process based upon the council's own policies in the Local Plan.
- 9.3 Committee members and officers need to be more creative in presenting and debating development proposals at committee. Efforts should be made to make sure that development proposals are positioned in terms of their fit with council policy/strategy, that the key issues are clear and how/if these have been or need mitigating, and the justification for why the scheme has been recommended for approval/refusal. As a meeting held in public, Planning Committee is the 'shop window' for how the council makes planning and place-shaping decisions. The committee should avoid repetitive, drawn-out debates on issues that have already been (or should have been) resolved earlier in the process e.g. parking which can overshadow positive aspects of a scheme.
- 9.4 Committee practices and procedures should be reviewed to create a platform for a more open and engaging experience for the public and to focus resources on the right types of development. The existing Council wide review of the constitution presents an ideal opportunity to make some changes and the following should be considered:
- 9.4.1 Cases can presently come before committee with 4 objections – this is a low threshold and should be increased in line with other councils;
  - 9.4.2 Tightening the rules on when and which (e.g. only ward or adjacent ward) councillors can call-in applications and planning reasons should be required;
  - 9.4.3 Increasing the minimum number of councillors requesting a call-in before it is allowed and requiring attendance of councillors who have called in an application to trigger consideration by the committee;
  - 9.4.4 Tighter enforcement of the need to be specific about the planning grounds on call-ins;
  - 9.4.5 Councillors objecting should have to attend the committee to speak to the application;
  - 9.4.6 Reviewing the nature of applications which should be considered by committee, particularly in respect of s73 and associated applications linked to larger schemes;
  - 9.4.7 Giving a 'screening' role to the Chair to consider the extent to which a call in to committee is justified before cases are allowed on the agenda.

- 9.5 The number of public speakers should be limited (there is no maximum number of speakers that can register to speak), and the time given to speak should be reduced in line with many other councils to 3 minutes. Members of the Council can also address the committee and there is currently no time limit to how long they can speak for. This is an unusual arrangement. For the purposes of good committee management consideration should be given to applying the same limit on speaking time to members as is placed on the public.
- 9.6 Training needs to be open to all councillors, not just committee members and needs to extend beyond functional matters (e.g. probity, declarations of interests etc.) into a broader set of topics e.g. the new/reviewed local plan policies, LEP, OxCam Arc, affordable housing, density, design, and viability. The recent adoption of the local plan provides a great opportunity for the council to broaden out councillor (not only committee councillors) training to include a greater range of topics especially on Luton's planning policies. There are some strong perceptions among councillors about what is/is not acceptable development in Luton, and this could be part of the process of education.
- 9.7 This training programme should extend to a programme of member briefings on major schemes targeted at the Planning Committee and ward councillors. This would provide opportunities for members to help shape proposals as they progress, build their familiarity and understanding of the issues presented by the scheme and lead to a more focussed debate at committee on anything which remains genuinely unresolved.
- 9.8 The peer challenge team heard a variety of accounts of the repeated use of deferrals and site visits by committee members and it was notable that the committee witnessed by the peer challenge team reviewed an application which had been to committee four times. Site visits are an important tool in understanding the context within which a scheme is being considered, however, they are not always necessary and a more consistent approach to their use would reduce the work of the committee and officers, lead to quicker decision making and provide greater clarity to applicants and the public. Consideration should be given to a protocol for the use of site visits with those schemes which require one identified ahead of committee discussions.

## 10. Theme 4: Community, partners, outcomes

- 10.1 The Council positions itself as a 'community leader' and a 'place shaper' in its Corporate Plan. The peer challenge process did not allow the opportunity to speak to a range of community groups so were unable to test this to any significant extent with community groups.
- 10.2 Luton is delivering – the development pipeline is strong with the growth of the airport, the town centre regeneration, stadium, and consented sites. The targets in the Luton Local Plan 2011-2031 are being met, largely as a result of a significant increase in delivery over the last two years – Luton's Housing Delivery Test result is +178%.
- 10.3 The provision of affordable housing remains a challenge; there has been significant under-delivery when compared to the 50% target from the previous Local Plan, however things are presently broadly in-line with the 20% policy expectation in the new Luton Local Plan 2011-2031.
- 10.4 While delivery of housing is healthy, there is a tension between what developers want to build and what Luton's communities' need. Many large development proposals are for 1-bedroom apartments and studios with an increasing interest from build-to-rent investors driven by proximity to London and the growth of the airport. The council's SHMA suggests that, whilst there is a need for smaller homes, there is a more significant need for larger, family accommodation – particularly as affordable housing. If the Council wants to address this it will require a corporate effort drawing in support from housing, regeneration and property as well as the planning service to ensure an appropriate policy base exists which can be used to exert greater control over the private sector's development proposals.
- 10.5 Luton must continue to work positively across its boundaries especially on its unmet housing need. The peer challenge did not give an opportunity to speak to neighbouring councils so views on this from a neighbouring council perspective could not be obtained. Most of Luton's neighbours are some way behind them in adopting their Local Plans, so there are varying degrees of certainty regarding actual commitments to accommodate an element of Luton's unmet need.
- 10.6 Luton needs to take a more strategic approach to building positive relationships if it is to fulfil the potential of the geographical opportunities open to it e.g. the 'OxCam Arc'. Luton's approach appears not joined up and to have no strategic lead. There appears to be a lack of clarity over who is doing what.
- 10.7 The council needs to get better at celebrating success. So much has been achieved in a short space of time and needs to be recognised. The progress of the stadium development is a case in point. An appreciation of the significance of the progress of this development seems to have been lost; staff focus on the fact that it is taking a long time and been challenging. The planning service should take time to step back and celebrate with staff all of its key achievements – even if, as is the present case, they feel slightly dis-engaged in the decisions that are being made.
- 10.8 Following recommendations in this report we'd expect to see a better – engaged planning service that can focus its attention on achieving the right outcomes. The Wandon Park development is a good example of how, internally, different parts of the council were approaching the mitigation of the scheme's loss of public open space.



Planning is often about mitigation and compromise – when things aren't joined up / communication isn't happening early enough, individual departments can end up 'defending their ground' rather than looking to deliver objectively on the overall outcomes.

- 10.9 Communities need a better steer on what the council means by Neighbourhood planning. The council makes it clear in its corporate plan that it intends to strengthen the role of communities through neighbourhood planning – it forms a key part of the Council's vision to become a 'place shaper' and 'community leader' in building strong, safe and cohesive communities. The community group interviewed were keen on exploring neighbourhood plans as part of the council's planning policy formulation.
- 10.10 The council needs to establish a more formal approach to relationship management with the council's strategic partners. There is currently a confused picture over who manages the planning relationships with Luton's key investment partners. The council has several long-term strategic partners and at present the relationship management from a planning perspective is fragmented across different people and parts of the organisation.
- 10.11 The council wholly owns London Luton Airport but the way the relationship is managed by the council feels very isolated / separate. The airport passenger traffic is currently 18 million passenger movements per annum and early thoughts suggest that this might ultimately rise as high as 30 million per annum, so the council needs to prepare for/understand what that means in terms of resources to deliver the enabling developments and infrastructure. There is a positive intention to develop a Planning Performance Agreement (PPA) – this should include a jointly developed delivery plan as a context for the airport developments.
- 10.12 The early review of the Local Plan and the development of the Luton Investment Framework sites will provide the means for the planning service to test the progress it has made and try to test how it intends to engage with its neighbours especially on its unmet housing need.



## 11. Implementation, next steps and further support

11.1 To be discussed with Luton Council.

The author of this report is Martin Hutchings ([martin.hutchings@local.gov.uk](mailto:martin.hutchings@local.gov.uk)), on behalf of the peer review team.

We are grateful for the support of everyone that contributed to this review.



**Local Government Association**  
**18 Smith Square**  
**Westminster**  
**London**  
**SW1P 3HZ**

Contact us by:

- Email: [info@local.gov.uk](mailto:info@local.gov.uk)
- Telephone: 020 7664 3000
- Fax: 020 7664 3030

<b>Committee:</b>	<b>Constitution Sub-Committee</b>			
<b>Date of Meeting:</b>	04 November 2020			
<b>Subject:</b>	Constitutional Review – Matters affecting Development Control			
<b>Report Author:</b>	<b>Sunny Sahadevan</b>			
<b>Contact Officer:</b>	Sunny Sahadevan, Head of Development Management			
<b>Implications:</b>	Legal	<input checked="" type="checkbox"/>	Community Safety	<input type="checkbox"/>
	Equalities	<input type="checkbox"/>	Environment	<input type="checkbox"/>
	Financial	<input checked="" type="checkbox"/>	Consultations	<input checked="" type="checkbox"/>
	Staffing	<input checked="" type="checkbox"/>	Other	<input checked="" type="checkbox"/>
<b>Wards Affected:</b>	None			

### Purpose

1. To provide the Sub-Committee with further justification and clarification around the proposed changes set out in the “Constitution Review – A Case for Change” report which was presented to the Sub-Committee on the 21<sup>st</sup> July 2020. At that meeting, Members considered that they needed a separate meeting focussed on the implications for the proposed changes affecting Development Management functions of the Council, and how that would affect the ability of Members to serve their constituents.

### Recommendations

It is recommended that the proposals set out in this report as well as originally set out the “A Case of Change” report are considered, debated and a steer is provided on the direction of travel and next steps.

### Background

2. The Case for Change is part of the Council’s Future Ready Programme which sets out the vision of enabling the Council becoming a highly productive and efficient organisation. This includes reviewing costly processes as we continue to adjust to the rigours presented by the Emergency Budget and moving the organisation towards a new Target Operating Model (TOM). This includes reviewing the current Council Constitution with a particular focus on the delivery of effective, timely and statutorily/financially robust formal and devolved decision making, which holds the confidence of elected members and provides transparency and accountability for members of the public.
3. The Case for Change includes a number of proposals that could affect the Development Management parts of the Constitution. The Development Management service within the Council is in the process of being reviewed and transformed in line with the Council’s Future Ready Programme. It was also subject to a Local Government Association/Planning Advisory Service Peer Review, which took place in November 2019. The review resulted in a number of recommendations which have already been actioned or are now being actioned by the service. The Peer Review Report and Recommendations are set out in full in Appendix 2 of this report. The recommendations also included potential changes to the wider organisation, including changes to the Council’s Constitution. These recommendations are now presented through the Case for Change.

## Report

4. The parts of the Constitution that affects the Development Control function of the Council, that officers are now recommending potential amendments include the following;

- The Scheme of Delegation
- “Call-in” powers
- The Right to Speak procedure
- Referral to Full Council
- Renaming Committee
- Committee Reports
- Additional Meetings
- DC Members Site-Visits

5. Each of these proposals are set out below.

### *The Scheme of Delegation*

6. The Council, as a Local Planning Authority, has a statutory duty to determine planning applications submitted to it for determination. Under the Council’s existing Constitution delegated authority is granted to officers to deal with more of the “straight-forward” and non-contentious applications, such as house-holder and minor applications. Those of a more contentious or complex nature are determined at Development Control Committee (DCC).
7. Those applications that follow the DCC route for determination involve a lot more resourcing for the Council to process and adds to delay. The Transformation Team at Luton have undertaken a review of the difference in cost and resourcing of determining a typical application at DCC compared to determining a similar or same application using delegated powers. Their findings have established that the on average the cost to the Council for determining an application through the delegated process is £200 per application, whilst the cost to take it through the Committee process is £800 per application.
8. Given this, it is clear that there is a significant additional cost to the Council for dealing with planning applications through the DCC process. Many Councils have recognised the additional costs involved and have amended their SOD to reflect the need to try and deal with more business through the delegated route. Therefore there is a view that the Council’s own SOD needs to be reviewed to ensure that DCC is afforded sufficient time to concentrate mainly on strategic/controversial applications and at the same time save on resources and speed up business.
9. Currently, Committee considers a large body of applications that do not fall into the category of contentious or complex applications; including applications that have been recommended for refusal. In comparison, some Council’s do not bring applications to Committee should it be a “non-major” application, which has also not been called-in

and has been recommended for refusal. There was one occasion recently at Luton where an application for a MOT station, which was clearly contrary to policy, was recommended for refusal, and had a large number of objections and no letters of support was considered at Committee. The Committee process also included a site visit for Members prior to the meeting. The item took 30 minutes to determine at DCC, which included time for the applicant to exercise his right to speak, which they fully exercised. The application was eventually refused. The same final outcome (i.e. refusing the application) would have been the same outcome if officers were allowed to determine the application under delegated powers.

10. A further burden to the service in bringing non-major applications to Committee, that are recommended for refusal, is that by the time the Committee report is published (7 days in advance of Committee), often the applicants will use this period to make amendments to their scheme in the hope of addressing the reasons for refusal which they have now become aware of. This then necessitates the withdrawal of the scheme from the agenda as further assessment and consultation needs to be undertaken before preparing a new report. The scheme may still be unacceptable following that process, but the cycle can then repeat.
11. The scheme of delegation also requires applications to be returned to Committee for consideration should they be modified after granting permission. Particularly with large significant schemes, it is quite often the case that following grant of permission there may be some minor amendments that will be required to either the approved drawings, the conditions or the agreed S106 (legal agreement). With other Council's these matters, if they are of a minor nature, are dealt with under delegated authority. Currently at Luton, these applications have to be returned to Committee for their consideration. There was a recent example of a S106 being considered at Committee because of a proposal to delete a few words from the original drafting. The consequences of the amendment were both minor and acceptable, but took up Committee time, where it was eventually approved.
12. Following the Covid 19 pandemic lockdown, and the need to keep business moving as much as possible, officers recognised the added difficulties associated with dealing with planning applications at DCC which could now only operate in a "virtual" medium with less opportunity for Member and public participation than the situation before lockdown. In recognition of this, officers proposed for the Council to adopt a temporary emergency SOD. This was presented to DCC on the 22<sup>nd</sup> April 2020. The details of the meeting is found here;  
<https://democracy.luton.gov.uk/cm55public/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/5557/Committee/1111/Default.aspx>
13. The emergency SOD sought to reduce the volume of applications dealt with at DCC. In summary, the following category of applications would now only need to be dealt with at DCC compared to the pre-existing situation. The key changes can be summarised as follows;
  - 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 15 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
- 14.** The emergency SOD was agreed at DCC and was initially granted for a 4 month period. Members considered extending the SOD again in their meeting on the 26<sup>th</sup> August 2020. The link to that meeting is provided here;  
<https://democracy.luton.gov.uk/cm5public/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/5717/Committee/1111/Default.aspx>
- 15.** Subject to the continued agreement with Members the emergency SOD is now extended until the 1<sup>st</sup> May 2021. In agreeing to extend the original emergency SOD, it is significant that Members also agreed to increase the scope even further and increased the scope of delegated powers to include the following;
- Temporary structures and permissions.
  - Departure from the Development Plan no longer being a barrier to refusing applications under delegated authority.
- 16.** The experience of introducing the emergency SOD has largely been considered positive. Committee meetings are much more focussed with a more manageable number of applications and reports to consider. Prior to lockdown, the number of applications typically considered at DCC was in the regions of 10-12 items, and the meetings lasting more than 3 hours in some cases. The average number of items has reduced by a half. This has allowed Members more scope for detailed and focussed discussion on the applications that they do consider and to ensure that their decisions are more focused on the quality of their decisions and the quality of the outcomes. Their agreement to not only extend the emergency SOD in August but to also allow for further delegated authority is a good indication of how positively the changes have been received.
- 17.** A “by-product” of the changes in the SOD has resulted in more resources being available for officers to deal with business. At a time when other Local Planning Authorities are struggling to maintain performance during the lockdown, Luton’s performance has actually and measurably improved. A good indication of performance is the speed with which the 3 categories (Major, Minor and “Other”) of planning applications are dealt with within the statutory time period. The table below compares Luton’s performance last year (April 2019 to March 2020) compared to the first quarter this year (April to June 2020). The emergency SOD was introduced on the 22<sup>nd</sup> April 2020. The improved performance could be as a result of better allocation of resources for the service following the changes to the SOD and reducing the number of applications that now have to be considered at DCC.

	Performance (April 2019 to March 2020)	Performance (April 2020 to June 2020)
MAJOR	88.89%	100%
MINOR	94.92%	84.48%
OTHER	93.29%	96.32%

18. Apart from the endorsement of the emergency SOD from DCC, another indication of its success is that there has been no incidents of complaints or criticisms from members of the public or applicants since its introduction.
19. Officers also took the opportunity to review the existing SOD to make amendments to matters that needed minor correcting and also types of applications (such a Prior Approvals and Discharge of Conditions applications) not previously included. Any review of the existing SOD may need to include these corrections apart from reviewing the thresholds for delegation.

#### *Call-In Powers*

20. Call-in powers are considered necessary to help facilitate the democratic dimensions of the planning system and is generally supported. However, there may be a need to review the current practice in Luton, and consider whether the way it currently operates is in the best interests of the organisation and whether it needs to be modified. Currently the constitution allows a “call-in” of a planning application that would be otherwise delegated to officers. The principle is supported, as some applications may have significant or controversial dimensions which need greater consideration and assessment at DCC. The call-in powers as they operate in Luton can be invoked by any Member, at any time and without providing a reason for the “call-in” and the “call-in” mechanism does not need to be for a valid planning reason. This however sometimes results in a significant proportion of applications being considered at Committee that are of a relatively minor nature and which take up time and resources that could have been spent on determining more strategic applications. On some occasions, the Member that called in the application does not attend nor speak at Committee when the application is considered. Therefore there are no further consequences arising from that personal and unilateral decision other than additional work created for DCC Members and officers accommodating that call-in. In addition, this also impacts upon the applicants awaiting their delayed decision and has a negative impact upon the Council’s resources in general. The current practice can also be criticised for not being open and transparent and could generate accusations about impartiality or accusations around probity.
21. At some Council’s, “call-ins” are only exercised where a Member is seconded by another Member (usually a Member on the DC Committee), and where that call-in occurs within a defined period; usually 14 days of the application being publicised, and a reason for the “call-in” is provided in writing. For instance Corby Borough Council’s Constitution states the following in relation to their “call-in” powers;

*“The application to be referred to Committee when so requested by any Member with signed support of one member of Development Control Committee (not substitute) within 14 days of the application being registered (Officers having published the*

*application within 5 days of receipt) and made in writing with valid planning reasons, ideally on the attached pro forma”.*

- 22.** In the context of other Council's, the current call-in powers may benefit from a review to consider whether a better balance can be achieved in still being able to allow Members the ability to serve their constituents whilst also maintaining a Corporate focus on what is the most suitable for the organisation as a whole.

#### *The Right To Speak Procedure*

- 23.** The Right To Speak (RTS) procedure is an important part of the DCC process to consider and determine applications. It is recognised that this plays an important role in the democratic process and informs DCC and allows them to ask questions of clarification of objectors as well as supports. It also allows Ward Councillors an opportunity to address DCC. However, as part of the overall review of the Development Management process, this is another area which has been identified for potential improvements.
- 24.** Currently, all applicants, objectors and supporters have a right to speak at Committee regardless of the recommendation. Up to 5 minutes is allowed for the RTS. This has resulted on occasions where an application is acceptable in terms of planning policy, has been recommended for approval and there are no objections or objectors at Committee, but the right to speak for the applicant remains. In such situations, the applicant has occasionally used their full allotted 5 minutes expressing their gratitude for the recommendation and expressing their thanks to the officers- rather than providing anything useful for the Committee to consider that is not already covered in the report.
- 25.** Other Council's only allow a RTS to applicants if the application has been recommended for refusal. In addition, the period allowed for speaking for everyone under the RTS is reduced to no more than 3 minutes. This is a recommendation from the Peer Review team that observed DCC in action when they undertook their review.
- 26.** In addition, currently, the Constitution imposes a time restriction on speaking on the applicants and members of the public, but not on Ward Councillors. Usually Ward Councillors that have spoken at Committee have been reasonable in the amount of time they have taken up to air their views. However, there have been occasions where balance between the overall time utilised by the Ward Councillor and considering the item in a reasonable amount of time without affecting the time DCC has to consider other items may need to be re-evaluated. A review of this allowance should be considered and whether an unrestricted time allowance is in the best interests of the Council as a whole.
- 27.** As part of the emergency measures that officers sought and secured from DCC to deal with business during the Covid 19 pandemic lockdown, reports were taken seeking temporary amendments to the RTS. However, these changes were sought to allow the process to operate within the technological constraints presented by the virtual platform used to deliver DCC during this period, rather than seeking wholesale or more general changes the pre-existing RTS procedures, which this report now seeks.

#### *Referral to Full Council*

- 28.** Currently planning applications in the process of being considered at DCC can be referred up to Full Council by a Committee Member if the motion is seconded. The risk

is that if the motion is not agreed at Full Council then the application is referred back down to DCC. There is a risk that this process could be caught in a perpetual loop. There was a risk of this happening with the recent determination of the Venue 360 planning application, where a Member enacted this Constitutional ability to propose a motion to have the application referred up to Full Council for approval. The motion was seconded. At Full Council it could not be agreed to approve the motion, and therefore the application was referred back down to DC Committee. The application was eventually decided at DCC, however it identifies a weakness in the current Constitution that may need to be reviewed. The Constitutional “ambiguity” over which Committee ultimately can make the final decision is an issue that is currently under consideration by the Court of Appeal, given opponents of the Venue 360 application (and now permission) have brought a legal challenge questioning whether the Council had erred constitutionally in the process followed. An opportunity to review this part of the Constitution would therefore seem advantageous.

### *Renaming Committee*

29. Most Councils have now replaced the terminology “Development Control” with “Development Management” to better describe the purpose and role of the Planning process and to bring it into line with the ethos Central Government is advocating. The Council have accordingly updated the name of the service itself however the name of the Committee lags behind. This was an early recommendation of the Peer Review team.
30. Similarly, the constitution refers to “Planning Manager” however there is currently no one in post under that title. A better reference should be “Head of Development Management or its equivalent”.

### *Committee reports*

31. Currently DDC Committee reports largely follow the same template that all corporate reports need to follow. However, this restricts the ability of planning officers to convey and present information regarding proposals, sometimes of a complex and technical nature that the Committee need to consider in a manner that is both informative and easy to follow. The constitution should set out that some flexibility in the format reports should take is permissible if it serves the purpose of that particular Committee. Any changes will need to ensure that all reports remain in an accessible format in accordance with legislative requirements and for members of the public to follow.

### *Additional meetings*

32. One of the recommendations from the Peer Review Team was that whilst they advocated various changes to reduce the involvement of DCC in the planning process (outlined above), they did recommend that other new processes should be introduced that helped engage Members in the planning process in alternative ways. Officers have already acted on this recommendation and have set up the following;
  - The Major Sites Schedule – which is distributed monthly and provides an update to Members on all the current “live” planning applications currently under consideration.
  - Greater consultation of Ward Councillors – they are now directly consulted on all telecommunication planning applications, even though there is currently no statutory requirement to do so.



- A DCC Members and Ward Councillors are invited to pre-application briefings on major and strategic applications. This is currently provided on an informal and ad hoc basis but some Councils have introduced this engagement as part of their Constitution. Consideration regarding this could be included as part of the Constitutional Review.
- Pre-DCC briefing meeting – this is a briefing meeting provided ahead of the main DCC meeting. This provides an opportunity for Members to seek clarification and offer comments to officers. Whilst respecting the requirements around pre-determination, this practice has ensured that the actual DCC meetings have run much more smoothly than used to be the case, with very few deferments. Again, this engagement is on an ad hoc basis but could be considered as part of any Constitutional Review.

#### *DCC Members Site Visits*

33. A review of the DCC Site visits was not originally included as part of the report for A Case for Change. However, it has become apparent at a recent DCC meeting that this aspect should be included as part of any review. Officers recognise that a separate report regarding this should be brought to DCC first for their agreement before including as part of the Constitutional Review, and such a report will be considered by DCC at their meeting on the 28<sup>th</sup> October 2020. However, as a purely discussion point for the Sub-Committee it has also been included in this report.
34. There currently is no provision in the Constitution setting out how Members site visits should operate. However, it may be useful for the Council to set this out for the purposes of clarity of procedure.
35. Currently, under DCC protocol, any Member can defer an item from the agenda for a formal site visit. This happened recently at a DCC meeting, and there was vocal disagreement between the Members whether the item should be deferred and whether a site visit was needed. The Council's planning lawyer advised Members that whilst there was nothing in the Constitution regarding this, the previously established protocol at DCC was that any Member could defer the item in this manner. The site visit took place with only the local ward councillor attending with officers, there is of course nothing to stop individual ward councillor's from undertaking their own site visit. There is therefore a procedural gap that increases the use of resource and delays decision making
36. An alternative Constitutional arrangement could be to have an agreed procedure in place. The procedure could be that Members can only agree a deferment for a Member site visit where there are accessibility issues (i.e. that the site cannot be accessed without the involvement of the applicants/owners. Such a motion at DCC would need to be seconded and put to the vote. If a majority is in favour of a visit, then the item can be deferred until the site visit is undertaken. Members are also expected to undertake their own site visits to sites that are publically accessible ahead of the DCC meeting before the item is considered. The agenda is published 10 in advance of the meeting and therefore should afford enough time to undertake the visit. Having this set out in the Constitution will have significant saving on resources and also speed up the DCC decision making process. Officers are currently preparing to present an item on this issue for Members to resolve at DCC at their meeting on the 28<sup>th</sup> October 2020.
37. In summary, it is considered that all of the proposed changes to the Constitution outlined above are considered worthy of putting forwarded for further discussion and

agreement. It is considered these proposals are fully aligned with the Council's new Target Operating Model and would allow for the current constitution to become more agile, efficient and accountable in line with the Council's corporate direction of travel. .

### **Proposal/Options**

- 38.** That members provide a steer on how they would like to amend the relevant parts of the constitution in line with the recommendations and options set out above and how they wish to approach the detail of the Case for Change.

### **Appendix 1**

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

- i) National Planning Policy Framework (NPPF, or the Framework)
- ii) National Planning Practice Guidance (NPPG)
- iii) Coronavirus Act 2020 (the CV19 Act)
- iv) The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (the FLAMR 2020)
- v) Ministry of Housing Communities and Local Government (MHCLG): Chief Planners Letter (dated March 2020)
- vi) Constitution of Luton Borough Council (CLBC): Part 7 – Scheme of Delegation to Officers (Non-Executive Functions)
- vii) Probity in planning: Advice for councillors and officers making planning decisions – Planning Advisory Service Dec 2019.

## **Appendix 2**

**Local Government Association/Planning Advisory Service Peer Review Nov 2019**