

ITEM 3(c)

Minutes of the meeting of **DEVELOPMENT CONTROL COMMITTEE** held on **THURSDAY 8 OCTOBER 2020** at 7.00 pm.

Present: Councillor Brown (Chair)
Councillors Bint, Bowyer (Substituting for Councillor Lancaster),
Brackenbury (Substituting for Councillor Alexander), Cryer-
Whitehead, Exon, Legg, McLean, Petchey, Trendall and Wallis.

Officers: T Darke (Director, Planning, Strategic Transport and Placemaking),
M Joyce (Interim Development Management Manager), E Verdegem
(Team Leader, West), R Edgington (Senior Planning Officer),
L Peacock (Senior Planning Officer), E Gineikiene (Principal Lawyer)
and D Imbimbo (Committee Manager)

Apologies: Councillors Alexander and Lancaster

DCC38 INTRODUCTION AND WELCOME

The Chair welcomed members of the public and councillors to the meeting, The Chair stated that the meeting was being held remotely and would be broadcast live on YouTube, he further explained the procedures to be adopted.

DCC39 DECLARATION OF INTERESTS

Councillor Bint asked that it be noted that in respect of application 20/00942/OUT, one of the Objectors was Mr T Skelton representing MK Forum, Cllr Bint was the Council's appointed member of that group but he had not engaged in any discussion in respect of the application.

Councillor Brown asked that it be noted that in respect of application 20/00551/FUL, the site was within his Ward and he had been involved in discussions with residents over a two year period and was pre-determined. He would therefore step down from the Committee during consideration of the application.

Councillor Bowyer asked that it be noted that he was a Trustee and Director of the Parks Trust but had no specific issues with the applications to be considered.

Councillor Petchey asked that it be noted that in respect of application 20/00942/OUT, he was a member of the Regeneration Committee and had visited the site at an early stage, he had however not been involved in discussing the specifics of the application and would determine it on its merits.

DCC40**PUBLIC PARTICIPATION****Questions**

The Committee received a question from Ms S Malleson;

‘In regard to the planning application 19 02141 FUL for retrospective permission for a dwelling already built on land west of 1 London End Lane, Bow Brickhill, validated on 27 August 2019, but not refused permission by the DCC until 3 September 2020, what actions have enforcement officers taken in the last month?’.

The Interim Development Management Manager responded by saying ‘The Council’s Planning and Legal team are currently considering the most appropriate enforcement action following the recent decision by the Committee and an enforcement notice is being prepared’.

DCC41**REPRESENTATIONS ON APPLICATIONS**

Mr T Skelton and Councillor Rankine (Ward Councillor) spoke in objection to application 20/00942/OUT, Hybrid application for the redevelopment of the Lakes Estate, comprising:

a) Full consent for development of 'Phase A' to provide 308 dwellings, 160sqm flexible retail floorspace, 613sqm community hub floorspace, 220sqm light industrial floorspace, 200sqm for a nursery and an energy centre, and various works; and

b) Outline consent (all matters reserved except access, layout and scale) for the demolition of Serpentine Court and the development of 'Phase B' to provide 217 residential dwellings, an extra care facility providing 64 homes, 756sqm of flexible retail floorspace (Use Class A1-A5), car parking, cycle parking and associated landscaping.

At Lakes Estate, Stoke Road, Bletchley, Milton Keynes.

Councillor Hume (Bletchley and Fenny Stratford Town Council, and Ward Councillors Darlington and Khan spoke in support of the application.

The Applicant, Mr R Munday representing Milton Keynes Council exercised the right of reply.

DCC42**PLANNING APPLICATIONS**

Councillor Brown, having declared himself pre-determined in respect of application 20/00551/FUL stepped down from the Chair and the Committee during consideration of the application. Councillor Bint

(Vice Chair) took the Chair.

20/00551/FUL ERECTION OF NEW TEMPLE AND COMMUNITY HALL (USE CLASS D1) AND ASSOCIATED WORKS INCLUDING ACCESS, PARKING AND LANDSCAPING AT LAND TO THE EAST OF ST AGNES WAY, TATTENHOE, MILTON KEYNES FOR MR R KAMMELA

The Senior Planning Officer told the Committee that an additional public consultation had been required, that consultation did not expire until after the date of the Committee, and therefore in the interests of fairness it was now recommended that the Committee defer determination of the application until November.

Councillor Bint proposed, seconded by Councillor Exon, that the application be deferred until the next meeting of the Committee to allow the consultation to be conducted.

The Committee heard from Councillor Lancaster and the Applicant's Agent, Ms. J Long, during consideration of the Item.

On being put to the vote the proposal to defer the determination of the application until the next meeting of the Committee was carried with members of the Committee voting unanimously in favour of the motion to defer.

RESOLVED:

That the determination of the application be deferred until the meeting of the Committee in November to allow the conclusion of the additional consultation.

Councillor Brown resumed the Chair for the remainder of the meeting.

20/00942/OUT HYBRID APPLICATION FOR THE REDEVELOPMENT OF THE LAKES ESTATE, COMPRISING:

A) FULL CONSENT FOR DEVELOPMENT OF 'PHASE A' TO PROVIDE 308 DWELLINGS, 160SQM FLEXIBLE RETAIL FLOORSPACE, 613SQM COMMUNITY HUB FLOORSPACE, 220SQM LIGHT INDUSTRIAL

FLOORSPACE, 200SQM FOR A NURSERY AND AN ENERGY CENTRE, AND VARIOUS WORKS; AND

B) OUTLINE CONSENT (ALL MATTERS RESERVED EXCEPT ACCESS, LAYOUT AND SCALE) FOR THE DEMOLITION OF SERPENTINE COURT AND THE DEVELOPMENT OF 'PHASE B' TO PROVIDE 217 RESIDENTIAL DWELLINGS, AN EXTRA CARE FACILITY PROVIDING 64 HOMES, 756SQM OF FLEXIBLE RETAIL FLOORSPACE (USE CLASS A1-A5), CAR PARKING, CYCLE PARKING AND ASSOCIATED LANDSCAPING.

AT LAKES ESTATE, STOKE ROAD, BLETCHLEY, MILTON KEYNES FOR MILTON KEYNES COUNCIL.

The Senior Planning Officer introduced the application with a presentation.

The Committee was reminded that an update paper had been published which detailed additional conditions and the proposed contributions to be included in the Memorandum of Understanding.

It was confirmed that the recommendation remained to grant the application subject to the conditions detailed in the Committee report together with those detailed in the published update paper and the signing of a Memorandum of Understanding.

The Committee heard from Objectors, who raised the following concerns;

- The proposals do not make provision for adequate retail units in a local centre.
- There is no provision of a supermarket during the construction of Phase B.
- A suggestion that a temporary shop be provided during construction needs to be a firm proposal, and should be conditioned.
- Councillor Rankine told the Committee that he supported the principle of the development and the application in general but had serious reservations in respect of the proposed Energy Centre.
- There are Planning risks associated with

the Energy Centre not reported in the Committee papers, for example the report takes no account of the health risks associated with the technology which has not been tested on the scale proposed.

- There are cheaper, more affordable, and tested Energy Solutions available.
- An Internal Audit investigation was underway into the suitability of the energy Centre and should the application be approved a condition to require the findings of that report should be included.

The Committee heard from a representative of the Town Council and two Ward Councillors in support of the application. It was commented that the application had been drawn up after significant consultation with local residents and a referendum, and represented the aspirations of the people who would later occupy the development, and should be approved as applied for. There remained some concerns in respect of the deficit in parking provision and some of the proposals in respect of Highway layout, however in the absence of objections from Highways Engineers the proposals were accepted.

The Applicant's Agent told the Committee that the Lakes Estate was in need of a full urban redevelopment, it was after considerable consultation with residents and other stakeholders, and reviewing various options the application had been drawn up.

The loss of retail was recognised, however, Market Assessments had been conducted to ensure that the scheme met the needs of the future residents. In respect of the concerns about the lack of provision of a grocery store during the reconstruction of Serpentine Court, various options were being explored and one option was to use the light industrial unit, which was being built in Phase A as a temporary store.

The Energy Strategy had been developed around the needs to meet the requirements of Policy SE1 in Plan:MK, Alternative solutions had been considered but the proposed Energy Centre met the policy criteria required to be satisfied.

The Senior Planning Officer told the Committee that the suggested condition in respect of provision of retail facilities during construction would not meet the six tests and was therefore not a reasonable condition to apply.

The Committee also heard that a condition to require the development to take account of the findings of the Internal Audit investigation was also unreasonable as that would likewise not meet the six tests of reasonableness, particularly as the outcomes were unknown.

In response to a question, the Team Leader, West, explained that the conditions asked for by the Canal and River Trust would be incorporated and form part of the Construction Management Plan, which was required by condition.

The Senior Planning Officer confirmed that there would be a shortfall in the required Parking Provision, but it had been assessed by the Highways Engineers and taking account of all factors and on balance the proposal was deemed acceptable.

It was further commented that the separation distances between dwellings was, in places, slightly short of the 22m required by policy but in the context of the development these had also been assessed to be acceptable.

In response to a question, the Team Leader, West, commented that as 'informatives' were unenforceable it was not usual practice to list all those that would later appear on the Decision Notice, Members of the Committee expressed concern as it was believed that any informative should be agreed by the Committee, the Director, Planning, Strategic Transport and Placemaking, explained that there were a series of informatives

that were written on the Decision notice, as standard, however should the Committee wish to have a specific informative added it was at liberty to require that.

Councillor Bint commented that the Council Policy in respect of Parking required that each dwelling had a minimum of one allocated space and was concerned that the parking spaces were unallocated.

It was further commented that the housing mix was such that the affordable housing provision far exceeded the Council policy at about 70%, The Team Leader, West, told the Committee that the housing mix when calculated taking account of both the 'FUL' and 'OUTLINE' elements of the application was nearer 51% affordable and therefore more in line with Policy.

Members of the Committee were reminded that the application was in many respects unique in so far as considerable consultation had been undertaken with the residents in terms of what they wanted from the regeneration project and the proposals before the Committee had been drawn up in those terms for example the residents had expressly stated that they did not want parking spaces allocated. All the findings of the Consultation process had been considered and assessed in depth. It was however in the gift of the Committee to make amendments to conditions should it so wish.

The Director, Planning, Strategic Transport and Placemaking, reminded the Committee that should it wish an informative could be added requiring the provision of retail facilities during the construction of the development, whilst it was recognised that this could not be enforced, as the applicant was the Council, it was highly likely that this would be given due regard.

Councillor Brown, seconded by Councillor Exon, proposed that the Officer recommendation to grant the application subject to the conditions detailed in the Committee report and the update report and

the signing of a Memorandum of Understanding.

Members of the Committee expressed support for the application in general, however recognised the concerns in respect of the untried technology proposed for the Energy Centre. It was further commented that the suggestion to use the Light Industrial Unit as a temporary shop was supported.

Councillor Bint stated that he believed that a Parking Management Plan, including a provision to have one allocated space per residence was required and proposed that this be required by condition, this was seconded by Councillor Brackenbury.

Councillor Trendall commented that despite all the recognized risks and policy issues the proposal was that which had been voted for by the residents and it was therefore appropriate to approve as presented.

Councillor Bowyer proposed that a condition requiring the permission to be subject to making amendments as recommended following the outcomes of the ongoing Audit Investigation into the Energy Centre.

Councillor Brackenbury stated that, despite the concerns expressed, the Energy Centre was something that should be supported, he also commented that he did not believe that it was appropriate to condition the application be amended to take account of the Audit findings, but rather, an informative added to require the proposals to be reviewed in light of those findings.

Councillor Petchey reminded the Committee that it was important to recognise the wishes of the residents over what the Committee thinks the community wants.

The Chair told the Committee that he echoed the views expressed by Councillor Petchey. He proposed that the Committee agree an informative in respect of the provision of a temporary shop for the duration of the development. Councillor

McLean proposed that the informative include the recommendation that it be done at an early stage of Phase A' of the scheme. The Director, Planning, Strategic Transport and Placemaking, recommended that the Committee agree to delegate the wording to the Head of Planning in consultation with the Chair and Vice Chairs to ensure that it was delivered at an appropriate and early stage of the scheme, this was agreed by acclamation.

In respect of the proposal from Councillor Bint to require allocated parking of a minimum of one space per dwelling, Councillor Brackenbury recognising the wishes of the residents not to have allocated parking, stated that he was no longer as supportive of the proposal but would support a more flexible Parking Management Plan.

Councillor Bint stated that he believed that it was necessary to allocate spaces which a resident could give up for the duration of their tenancy but must be available for future tenants.

On being put to the vote the proposal to add a condition for a Parking Management Plan was lost with Councillors Bint, Brackenbury, Bowyer, McLean and Wallis voting in favour and Councillors Brown, Cryer-Whitehead, Exon, Legg, Petchey and Trendall voting against.

The Director, Planning, Strategic Transport and Placemaking, told the Committee that the proposal to add a condition requiring the applicant to adhere to any findings from the Audit would not be appropriate and would not meet the legal tests, should there be outcomes from that review that needed to be applied the applicant could apply for a variation to the application should it be required.

Councillor Bowyer stated that he accepted that advice and would withdraw his motion.

On being put to the vote the motion to grant the application subject to the conditions detailed in the Committee Report, together with the conditions

detailed within the published update paper and an additional informative in respect of the requirement to ensure that there was a convenience store provided on a temporary basis from an early point in the development, the wording of which to be delegated to the Head of Planning in consultation with the Chair and Vice Chairs, and the signing of a Memorandum of Understanding was carried with all members voting in favour of the proposal.

RESOLVED: -

That the application be granted subject to the conditions detailed in the Committee Report, together with the conditions detailed within the published update paper and an additional informative in respect of the requirement to ensure that there was a convenience store provided on a temporary basis from an early point in the development, the wording of which to be delegated to the Head of Planning in consultation with the Chair and Vice Chairs, and the signing of a Memorandum of Understanding.

20/01134/FUL

DEMOLITION OF EXISTING BUILDING AND THE ERECTION OF APPROXIMATELY 24,000 SQM (GIA) OF B1C AND/ OR B8 USES WITH ANCILLARY B1 OFFICES, ASSOCIATED ACCESS, LANDSCAPING AND PARKING (RESUBMISSION OF 19/02406/FUL) AT WILLEN HOUSE, EMERALD GATE, FOX MILNE, TONGWELL STREET H5 TO H6, MILTON KEYNES FOR GAZELEY UK LIMITED.

The Senior Planning Officer introduced the application.

The Committee was reminded that the application had been considered by the Committee in March 2020 when it had been refused on the grounds of the shortfall in parking provision and visual impact from the Willen Lake side.

It was confirmed that there was no further update on the Committee report and published update paper, which now set out the updated s106 contributions, and that the recommendation remained to grant the application subject to the conditions detailed in the Committee report and published update paper together with the signing of a s106 agreement .

In response to questions the Senior Planning Officer

confirmed that the 303 allocated parking spaces included the Electric Charging spaces and in respect of the tracking for HGV movements, which had featured as being of concern when the application had been considered previously, was acceptable to the Council Highway Engineers who had not objected to the application.

Councillor Brown, seconded by Councillor Exon proposed that the Officer recommendation be agreed.

Members of the Committee welcomed the revised application which addressed the concerns raised by the Committee when the application was first considered.

On being put to the vote the proposal to grant the application was carried unanimously.

RESOLVED –

That the application be granted subject to the conditions detailed in the Committee report and the signing of a s106 agreement.

DCC43

REVISION OF THE MILTON KEYNES PLANNING LOCAL ENFORCEMENT PLAN.

The Committee received a report in respect a revised Milton Keynes Planning Local Enforcement Plan.

The Development Management Manager introduced the report and told the Committee that revised plan sought to streamline what had previously been a collection of documents. It was further commented that new legislation had been taken account of in drawing the Plan up. He invited any comment from the Committee as part of a consultation exercise.

The Chair reminded the Committee that any detailed comments should be submitted to the Head of Planning by 23 October 2020 for consideration.

Councillor McLean asked that an inconsistency in the report referring to the General Data Protection Regulations and later the Data Protection Act 1998 be corrected.

In response to a question it was confirmed that a Tree Replacement Notice would ordinarily require a like for like replacement.

It was further commented in response to a question that the Plan sought to set a timetable for prioritisation of initial actions and investigation being undertaken, the timetable for 'expediency' and enforcement action would however be dictated by circumstances on a case by case basis determined, including some factors which were not within the control of the Council.

Councillor Bowyer suggested that comments within the Plan referring to Enforcement Action being taken as a last resort should be removed, it was accepted that was a necessary course of action but stating it within the Plan risked undermining the seriousness of the potential for action should someone offend against planning control.

RESOLVED-

That the report be noted, and, that Members of the Committee be invited to submit any detailed comments to the Head of Planning by 23 October 2020.

DCC44

REPORT ON THE ACTIONS OF THE PLANNING DEPARTMENT SURROUNDING THE DEVELOPMENTS AT MOUNTS HOUSE, EMBERTON

The Committee received a report in respect of actions of the Planning Department surrounding the developments at Mounts House, Emberton.

The Development Management Manager introduced the report.

The Committee heard from two Ward Councillors and a member of the public who, whilst welcoming some elements of the report, questioned the findings and raised a number of concerns in respect of omissions and errors in the findings which were detailed in the published update papers. The Chair reminded the Committee that it was not the usual practice to circulate papers in respect of a report to Committee, however, on this occasion he had agreed to it.

Councillor Bint told the Committee that he did not believe that it was adequate to simply note the findings and the report, he proposed, seconded by Councillor Bowyer, that the Committee;

1. Note the report.
2. Thank Myles Joyce for producing this report in a timely way, about events that mostly took place prior to him starting work for MK Council.
3. Note Mr Joyce's conclusion that on this subject the actions of officers have "fallen short" of the standards that residents and other stakeholders might reasonably expect, involving flaws in validating applications, failures of record-keeping in application processing and enforcement activities, failures to upload documents to the public access system in a timely way, multiple failures to respond to communications properly, a failure to honour a promised site visit, and the absence of effective hand-over arrangements when cases are transferred to a different officer. We also NOTE the summary in this report of the LGO findings against the Council.
4. Welcome Mr Joyce's commitment to actions within the Development Management team (under his management on an Interim basis) to address these issues, and we encourage him to ask for any assistance that DCC Members might be able to provide, to improve public trust in council's planning service

Councillor Bint stated that he had added concerns having listened to speakers in respect of other failings in the systems within the Planning Service, including the failure of Officers to act on a Criminal Offence, the absence of Conservation Officers at meetings, failures to conduct site visits as agreed, failures to find and provide documents requested under Freedom of Information requests and the failure to accurately draw up Decision Notices including omitting elements such as the withdrawal of permitted development rights as resolved by the Committee, and welcomed any other members of the Committee to add any elements to the motion they saw to be appropriate.

Councillor Petchey stated that if the Committee felt it required greater consideration it should be referred to the Scrutiny Management Committee to look at the Planning Service rather than the Development Control Committee which he felt should concentrate on its core function of considering applications. He stated that he believed that the statements proposed by Councillor Bint were more appropriate for the Scrutiny Committee to make, should it find it appropriate to do so after

looking into the matter. He further stated that it was also a case that the motion all but named a particular member of staff and that was something that Councillors should, on principle, avoid doing.

Councillor McLean told the Committee that he lived in close proximity to the property in question and, whilst having not been directly involved he was aware of many of the issues, he stated that he believed that the early actions where Officers had apparently not taken account of the views of local stakeholders was a matter that should also be looked at. Councillor McLean told the Committee he believed that this was a matter that could be referred to the Scrutiny Committees, however felt it was also a responsibility of this Committee to make any appropriate comment and resolutions.

The Director, Planning, Strategic Transport and Placemaking, told the Committee that a wholesale review of Enforcement had been undertaken which had resulted in the revised Enforcement Plan that the Committee had considered earlier in the meeting. The Committee heard that there were issues common to this matter and other enforcement cases and that the revised Plan had been written to address those shortcomings, it was also important to note that many of the findings in respect of failings, such as record keeping, had already been addressed and systems and checks put in place to eliminate the problems.

In response to the comments from speakers it was confirmed by the Director, Planning, Strategic Transport and Placemaking, that it was acknowledged that it was a criminal offence to demolish a building in a conservation area, however a decision in respect of what action should be taken was subject to the 'expediency test', in the circumstances, at the time this matter arose, it was considered appropriate not to take formal enforcement action but instead to invite an application to rectify the situation.

The Interim Development Management Manager in response to comments from speakers about the Decision Notice not having included a clause removing Permitted Development Rights reminded the Committee that the Conservation Officer had recommended conditions in respect of the barn door and windows, and these conditions were added to the decision notice covering the Conservation Officer's main concerns and thus a further condition to remove Permitted Development Rights would be superfluous.

The Chair told the Committee that whilst he recognised the concerns raised by Councillor Bint he did not necessarily believe that the comments needed to be formalised as a resolution.

Councillor Bint in summing up stated that he was concerned that if the Committee simply 'noted' the report it gave an impression that the Committee was entirely satisfied with the report, and, in his view there were a significant matters which had not been covered adequately.

On being put to the vote the motion was lost with Councillors Bint, Bowyer and McLean voting in favour and Councillors Brackenbury, Brown, Cryer-Whitehead, Exon, Legg, Petchey, Trendall and Wallis voting against.

Councillor Bowyer proposed, seconded by Councillor Brown that the report and findings be referred to the Scrutiny Management Committee for consideration of any action deemed appropriate,

On being put to the vote the motion was carried by acclamation.

RESOLVED –

1. That the report be noted.
2. That the report be referred to the Scrutiny Management Committee for consideration.

The Chair told the Committee that he wanted to place on record that in his time in the Chair he had seen that there was a strong drive within the Planning Service to make improvements, it was acknowledged that there were many areas that needed to be worked on but there was a commitment to deliver improvement.

THE CHAIR CLOSED THE MEETING AT 10:21 PM