

# **Merton Council**

## **Planning Applications Committee**

**19 March 2020**

### **Supplementary agenda**

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## **Committee: Planning Applications Committee**

**Date: 19 March 2020**

Wards:

### **Subject: Delegation of Planning Decisions to Officers**

Lead officer: Louise Round

Lead member: Councillor Linda Kirby

Contact officer Louise Round/ Neil Milligan

Reasons for Urgency: The Chair has approved the submission of this late report on the grounds that arrangements need to be made urgently for decision making in light of the national Covid-19 crisis and fast changing government advice.

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#### **Recommendations:**

- A. That Committee agrees to delegate authority to make decisions on the matters listed in paragraphs 7.2(a) to (o) of Appendix A to the Director Environment and Regeneration, in consultation with the Chair of the Planning Applications Committee, in cases where, in his reasonable opinion, to delay the decision to the next quorate meeting of the Committee would be detrimental to the interests of the Council or the applicant.
  - B. To agree that the Director of Environment may choose to delegate the authority delegated to him to the Head of Development Control should he consider it necessary and appropriate
  - C. That this delegation be reviewed after six months or if the law is changed to allow Committee Meetings to be conducted virtually, on the assumption that in such circumstances, meetings of the Committee will be resumed, whichever is the earlier.
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#### **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. The purpose of this report is to set out the arrangements for decision making in planning matters which will operate over the coming months whilst the situation in relation to the Covid-19 pandemic pertains. Although the Council will be focussing on keep essential services going and supporting the most vulnerable in our community, it is important the normal administration of the Council is able to continue in the interim in order to promote good governance and to ensure that the Council is prepared to act swiftly once the country moves into recovery phase.
- 1.2. The Government is expected to bring legislation into force allowing meetings to take place on a virtual basis but until that time although informal measures can be put into place allowing remote dial ins for officers and members of the public, committee members are still required to physically attend meetings and the requirement to allow members of the public admission to the meetings still apply. Given the increasingly strong advice about the need for social isolation, continuing to hold meetings to determine applications seems unlikely to be an option.

## **2 DETAILS**

- 2.1. The Council's constitution operates to allow most decisions to be taken by officers although such provisions do not prevent member bodies from taking such decisions themselves. However, in the case of planning decisions, certain decisions are reserved for the Planning Applications Committee. An extract from the constitution setting out the scheme of delegation in respect of planning decisions is as attached as Appendix A. It will be noted that paragraph 7.1 gives the Chief Executive the power to determine most planning matters; he in turn has delegated that authority to the Director of Environment and Regeneration. However, those matters listed in paragraph 7.2 (a) to (o) are reserved to the Planning Applications Committee itself.
- 2.2. There is no statutory requirement for those matters to be reserved for member decision although in the interests of democratic accountability, the approach of the Council is that they should be. However, we are now in unprecedented circumstances and it is therefore suggested that for an initial six month period these decisions should be able to be taken by the Director of Environment and Regeneration or an officer nominated by him where there is a risk that delay would be prejudicial to either the Council (for instance where that delay might lead to an appeal for non-determination) or the applicant. Officers would consult with the Chair of the Committee before exercising this authority and the position would be kept under review so if the law changes to allow virtual meetings, the reference to committee could be re-instated.
- 2.3. Although it has been custom and practice to allow members of the public to participate in meetings of the Planning Applications Committee, this is neither a legal nor constitutional requirement. Such speaking is at the discretion of the chair. When officers make their decisions, they will of course take into account any relevant planning considerations which have been raised through the statutory consultation process. They will also consider how best to publicise in advance those decisions which they intend to take under their newly delegated powers.

## **3 ALTERNATIVE OPTIONS**

- 3.1. As stated above, it would not seem prudent to continue with public planning committee meetings over the next weeks and possibly months and there may well be cases where to delay until the crisis is over is not feasible or desirable.

## **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. There is no requirement for public consultation on these proposals.

## **5 TIMETABLE**

- 5.1. It is proposed these measures be put in place with immediate effect.

## **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

There are no real resource implications at this stage as the decisions envisaged would in any event have required significant decision and input.

**7 LEGAL AND STATUTORY IMPLICATIONS**

7.1. Section 101(2) of the Local Government act 1972 provides that where a Council has delegated a function to a committee, then unless the Council otherwise directs (which it has not done in this case), that Committee may delegate those functions to an officer, as proposed in this report.

**8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

8.1. None

**9 CRIME AND DISORDER IMPLICATIONS**

None

**10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1. The arrangements outlined in this report are being put in place to reduce the risk to members, officers and the public in participating in planning committee meetings in the foreseeable future until alternative virtual arrangements are made lawful.

**11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- Appendix A –List of matters currently reserved for decision by the Planning Applications Committee

**12 BACKGROUND PAPERS**

12.1. None

## **Planning Applications Committee 19 April – Appendix A: Scheme of Delegation for Planning Matters**

### **7 Planning Applications Committee**

#### **7.1 Town Planning Development Control and Miscellaneous Matters**

7.2 Except for matters reserved to this committee or for the decision of members or other decision makers, all matters relating to the exercise of this committee's functions are delegated to the Chief Executive and Head of Paid Service. These powers are to be exercised within the overall resources allocated by the Council, AND in accordance with Council policies and objectives. Accordingly the Chief Executive is authorised to determine all planning applications, Listed Building Consent applications and Conservation Area Consent applications except the following which are reserved to Committee: -

- (a) where a written request is received from a Council Member that a particular application/applications should be determined by Committee;
- (b) where objections have been received which cannot be overcome by conditions but where the application is considered to be in accordance with the Development Plan and so recommended for approval (minor developments or changes of use may be excluded from this exception);
- (c) where the proposals are significantly contrary to Development Plan Policy, unless recommended for refusal.
- (d) proposals which are subject to Section 106 agreement that would contain any heads of terms or contributions that are not a standard requirement of the local plan or (for proposals where a standard requirement has been subject to modification through negotiation or otherwise) depart significantly from the standard requirement of the Local Plan; or applications for release or significant modification/variation from such obligations
- (e) where conflict arises between the officer's recommendation and the advice issued by English Heritage or other body with similar statutory status;
- (f) determinations in cases where an appeal has been lodged against non-determination which involves a Public Inquiry or Informal Hearing;
- (g) revocation/modification of planning permission and discontinuance order
- (h) where the Council may be involved in compensation or service of a purchase notice (except in relation to stop notices);
- (i) where proposals accord with the Development Plan but are recommended for refusal;
- (j) where the proposal involves the Council either as applicant or landowner

and the scheme is not of a minor nature;

(k) where enforcement action will follow on from a refusal of planning permission;

(l) where an Environmental Impact Assessment has been provided or requested;

(m) where the applicant is a councillor or Council officer

(n) Where officers consider that the application should be determined by Committee

(o) Major hazardous substances

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## Planning Applications Committee 19<sup>th</sup> March 2020 Supplementary Agenda (Modifications Sheet)

### Item 5. 98A Hartfield Road, Wimbledon SW19 – 20/P0339 – Dundonald Ward

### Item 6. Land rear of 27 Leaffield Road, Merton Park SW19 – 19/P2382 – Merton Park Ward.

#### Consultation (page 24)

One late representation was received, objecting, raising the following concerns:

- **Access**
  - Residents have a legal right to access at all times to their properties via the alley. No guarantees or re-assurance this will be upheld by the new property owners. Maintenance of the right of way, and how to access during and after construction.
- **Character and appearance**
  - The properties are not in keeping with existing properties on Aylward and Leaffield Roads. They have very small gardens compared to size of property.
  - Previous planning for one property rejected for over massing but now 2 properties being considered.
- **Impact on neighbouring amenity**
  - The 3 bed dwelling would be visually imposing toward 25 and 27 Leaffield Road.
  - Plans do not mention impact of the proposed build on property 25 Leaffield
  - The planned drawings are misleading on the impact on views toward 27, the drawings are shown at garden level when all the properties on Leaffield stand at least 2 feet higher than the gardens – so the visual impact is greater than shown in the drawings.
  - Increased noise, pollution & smells.
  - Guarantee screening planting would remain after construction? Request further planting to aid the visual impact to neighbouring property.
  - Under the Human rights act Protocol 1 a person has the right to peaceful enjoyment of all their possessions including their properties, article 8 has the right to respect my private life.
- **Ground Stability**
  - Flooding has occurred since removal of all trees on the plot;
  - The plans show no provision made for lawnmower and garden equipment, therefore further outbuildings would need to be erected for both new properties to house these – more foundations for sheds etc, more flooding.
- **Cycle store**
  - If cars are parked, cannot move bicycles.

- **Inadequate Turning Circle**
  - Size of circle will only work if no vehicles are parked in the parking bays.
- **No visitors parking**
  - Should not be parked along the right of way.
- **Refuse**
  - Residents will want bins next to their homes.
  - Only 2 green bins per property but a family would need more than 2.
  - No provision made for Garden Waste bins.
  - 4 wheelie bins would need to be placed precisely in the allocated space to avoid blocking access.
  - Assumption made bins will be returned on the day of collection, any bin left out will block the access of the shared right of way.

**Item 7. Former Mitcham Fire Station, 30 Lowewer Green West Mitcham CR4 – 19/P3904 – Cricket Green Ward**

Relevant planning history (page 40)

Insert new paragraph 4.3.

Planning application 20/P0802 has been received for CONVERSION OF FORMER FIRE STATION TO PROVIDE 9 X RESIDENTIAL UNITS INVOLVING ERECTION OF REAR AND SIDE EXTENSIONS TO EXISTING BUILDING.

**Item 8. 15, 15A and 17 Russell Road Wimbledon SW19 – 19/P3836 – Dundonald Ward.**

Consultation (page 50)

One additional objection received raising the following points:

- Development will not offer affordable housing.
- It is wrong to say the development overlooks one part of the Theatre which is not fundamental to the rest of the building.
- Proposed materials are an anomaly with blue/black brick and colour bronze cladding. Cladding should be discouraged.
- Historic England did not look at the planning application. Objector questions where the conservation officers report is.
- The structure is overbearing in relation to the surrounding residential properties by virtue of scale and size.
- Development does not address government-led push for high quality design and sustainability. Landscaping is at minimal; no effort has been made to address the need for net zero carbon balance in new developments.
- An application for flats on Trinity Princess Road of a similar design as that proposed was rejected by the officer for overdevelopment and not fitting in with the character of the road.
- Council continues to see 'acceptable' developments as the one proposed here which causes a harmful anomaly and promotes poor design.
- Merton is producing more than its housing quota and there is no need to be forging ahead with poor quality homes to produce housing numbers.

**Item 9. Abbey Wall Works, Station Road Colliers Wood SW19 - 19/P4266 and 19/P4268 – Abbey Ward**

Description (page 67)

Proposed description relating to the listed building consent (19/P4268), refers to 72 flats, the scheme has been amended to 70.

The description is amended as follows:

(2) Listed building consent for demolition of existing buildings and redevelopment of site to provide a part three, part five and part six story block of 70 flats and A commercial unit (204 sqm) at ground floor level (comprising flexible A1 (excluding supermarket), A2, A3, B1, & D1 uses) and an associated landscaping, bin/cycle storage, parking, highway works and alterations to listed wall.

Proposals (page 73)

Paragraph 3.10

Update section 3.10 to define play space equipment.

Update 3.10 as follows:

There would be two communal amenities at third floor level. Each space would include soft landscaping proposals and play space equipment (landscape features allowing for doorstep play for young children).

Paragraph 3.16

Update section 3.16, to make it clear that the new pedestrian openings relate to openings in proposed boundary wall (not in the parts of the existing listed wall).

Updated 3.16 as follows:

Pedestrian access to the building is directly from Station Road, either between the existing gaps in the listed wall or from openings in the new section of wall.

Consultation (Page 76)

1 additional letters of objection have been received raising the following points:

- Lack of adequate cycle parking

Paragraph 5.15

The Councils Design Officer comments in section 5.15, relate to comments at Pre-Application stage. The applicant has responded to these points in evolution of the design at the full planning application stage. No further full comments provided by the Council Design Officer at the planning application stage.

### Paragraph 5.22

The Design and Review Panel (25 September 2019) were comments made at pre-application stage. The scheme has been amended since pre-application stage, taking on board comments made by DRP so that officers are content to recommend approval of permission.

### Paragraph 5.28

Update 5.28 as follows:

#### Councils Climate Change Officer

Based on the updated Energy Strategy and supporting evidence provided, I am content that the proposed energy approach to the development is policy compliant and recommend that Merton's Standard Sustainable Design and Construction (New Build Residential - Major) Pre-Occupation Condition is applied to the development. As per the updated Energy Strategy (dated 13 March 2020), a carbon offset contribution of £77,716.20 is required to offset the carbon shortfall for the development.

#### Planning considerations (page 124)

### Paragraph 7.2.1

Update section 7.2.1, to remove reference that there is no reduction in affordable housing. There is a reduction, see details of the updated affordable provision in section 8 of the report.

### Paragraph 7.4.39

Update section 7.4.39, as the applicant has agreed to make restoration improvements (painting, straighten up etc) to the listed lampposts as to be agreed with the Councils Conservation Officer. This is already included in the heads of terms section in the committee report.

Update 7.4.39 as follows:

7.4.39 The two listed lampposts located outside 12 and 34 Station Road would not be affected by the proposed development. In fact, the improvements to the listed wall, opening up of the southern footpath and formal arrangement of car parking on the southern side of the Station Road are considered to improve the setting of the listed lampposts. The applicant has also agreed to make some restorations/maintenance improvements to the listed lampposts. The level of works, for example painting, straightening up of one of the lampposts, is subject of agreement with the Councils Conservation Officer.

### Paragraph 7.7.3

The applicant has submitted an independent sun, daylight and overshadowing report produced by Calford Seadon not GIA as stated in section 7.7.3 of the report.

#### Paragraph 7.7.5

Update section 7.7.5 to state that the houses would also be opposite the 3 storey elements.

7.7.5 2-38 Station Road...would be located opposite the 3/4/5 storey element of the proposed building.

#### Paragraph 7.8.26

Update 7.8.26 to delete words underlined.

The Council has agreed with the applicant that this turning area will be kept free, however once the development is complete, a shared surface will be introduced to reduced to retain a turning area and improve pedestrian and cycle movement. A financial contribution towards these works can be secured within the S106 agreement.

#### Paragraph 7.10.4

The Councils Climate officer has confirmed the carbon off set contribution (£77,716.20).

Update paragraph 7.10.4 as follows:

7.10.4 As the proposal is for a major residential development a S.106 agreement for the carbon offset cash in lieu contribution will need to be finalised prior to planning approval in line with Policy 5.2 of the London Plan. Based on the carbon shortfall and offset contributions set out in the updated energy statement. In this instance, the carbon off-set shortfall is (£77,716.20), would be secured within the S106 agreement.

& head of term number 7

7. Carbon shortfall Contribution – (£77,716.20).

#### Recommendation (page 168)

##### Condition/Informative

Add a new planning condition & informative, following comments from the Councils Climate Change Officer

50 No part of the development hereby approved shall be occupied until evidence has been submitted to the Local Planning Authority confirming that the development has achieved CO2 reductions in accordance with those outlined in

the Energy Strategy (dated 13 March 2020), and wholesome water consumption rates of no greater than 105 litres per person per day.

Reason: To ensure that the development achieves a high standard of sustainability and makes efficient use of resources and to comply with the following Development Plan policies for Merton: Policy 5.2 of the London Plan 2016 and Policy CS15 of Merton's Core Planning Strategy 2011.

Informative:

9. Carbon emissions evidence requirements for Post Construction stage assessments must provide:
- Detailed documentary evidence confirming the Target Emission Rate (TER), Dwelling Emission Rate (DER) and percentage improvement of DER over TER based on 'As Built' SAP outputs (i.e. dated outputs with accredited energy assessor name and registration number, assessment status, plot number and development address); **OR**, where applicable:
  - A copy of revised/final calculations as detailed in the assessment methodology based on 'As Built' SAP outputs; **AND**
  - Confirmation of Fabric Energy Efficiency (FEE) performance where SAP section 16 allowances (i.e. CO2 emissions associated with appliances and cooking, and site-wide electricity generation technologies) have been included in the calculation

Water efficiency evidence requirements for Post Construction Stage assessments must provide:

- Documentary evidence representing the dwellings 'As Built'; detailing:
- the type of appliances/ fittings that use water in the dwelling (including any specific water reduction equipment with the capacity / flow rate of equipment);
- the size and details of any rainwater and grey-water collection systems provided for use in the dwelling; **AND:**
- Water Efficiency Calculator for New Dwellings; **OR**
- Where different from design stage, provide revised Water Efficiency Calculator for New Dwellings and detailed documentary evidence (as listed above) representing the dwellings 'As Built'