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14 June 2016

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **PLANNING COMMITTEE** on Thursday 16 June 2016 at 6.00 pm, the following report that was unavailable when the agenda was printed.

4 **MINUTES** (Pages 2-11)

To confirm the Minutes of the meeting of the Committee held on 26 May 2016.

Yours sincerely


Chief Executive

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 26 May 2016 at 6.00 pm.

Present:

Chairman: Councillor F J W Scales

Councillors: B W Butcher
J S Back
T J Bartlett
T A Bond
D G Cronk
B Gardner (Minute Nos 8 to 14 only)
D P Murphy
A F Richardson
P M Wallace

Officers: Principal Planner
Principal Planner
Principal Heritage Officer
Senior Planner
Planning Officer
Planning Consultant
Planning Consultant
Locum Planning Solicitor
Trainee Solicitor
Democratic Support Officer

The following persons were also present and spoke in connection with the applications indicated:

| <u>Application No</u> | <u>For</u> | <u>Against</u> |
|--------------------------------|------------------------|----------------|
| DOV/16/00055 & DOV/16/00056 | Councillor M D Conolly | ----- |
| DOV/15/0707 | Mr Nathan Anthony | ----- |
| DOV/16/00214 | Mr Andy Davidson | ----- |
| | Ms Charlotte Palmer | ----- |

1 APOLOGIES

It was noted that there were no apologies for absence.

2 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that there were no substitute members.

3 DECLARATIONS OF INTEREST

Councillor A F Richardson made a Voluntary Announcement of Other Interests in respect of agenda item 12 (Application No DOV/15/00123 - Land at 191 and Forge Bungalow, London Road, Temple Ewell) by reason that archaeological conditions were attached to the application, and he was an employee of the Canterbury Archaeological Trust.

4 MINUTES

The Minutes of the meeting held on 21 April 2016 were approved as a correct record and signed by the Chairman.

5 ITEMS DEFERRED

The Chairman advised that the engineers' report in respect of Application No DOV/15/00952 (Aylesham Village Expansion) was complete and would be reported to the Committee in due course.

6 CHAIRMAN'S ANNOUNCEMENT

The Chairman advised that Application Nos DOV/15/00292 and DOV/15/00293 (The Red Lion, Canterbury Road, Wingham) had been withdrawn from the agenda, and would be considered by the Committee at its next meeting.

7 APPLICATION NOS DOV/16/00055 AND DOV/16/00056 - THE WILDERNESS AND FORMER ALL SAINTS CHURCH, CHURCH LANE, WEST STOURMOUTH

The Committee was shown photographs, plans and drawings of the application site. The Planning Consultant advised that the application sought permission for the erection of a new dwelling and workshop, and the conversion of a Grade II-listed former school building for residential use. The workshop would be used for the repair and building of organs. To the north of the school building was a Grade I-listed church which would be used occasionally for activities associated with the organ business. The new dwelling would be attached to the Grade II-listed building by means of a link. Both the new dwelling and the workshop (located in the eastern corner of the site) would be set into a bank. A Public Right of Way (PROW) traversed the churchyard and exited to the rear of the site. The site was in open countryside and outside the settlement confines.

The applicant's business was currently located at The Old Cartwright School in Ash. The applicant claimed that the existing workshop was no longer suitable for the needs of the business. The applicant had also made a case that the proposed development would provide accommodation on-site and, therefore, increased security for the business. However, the applicant had provided no substantial or detailed evidence that there was no other site available within settlement confines. The proposal was contrary to Core Strategy Policies DM1, DM3, DM4, DM11, DM15 and the National Planning Policy Framework (NPPF) due to its unsustainable location. Moreover, there were no overriding reasons or exceptional circumstances that justified this scale and type of development in the countryside, whose character and appearance would be harmed.

Councillor Richardson commented that the Planning Officer had reached a reasonable conclusion on the basis of planning policies. However, the application and site were unusual. Whilst he strongly believed that the countryside should be protected, this was an old quarry site and the impact of the development on the countryside was not likely to be significant. In his view, the benefits of protecting the Grade I-listed church and securing a local and long-standing business outweighed any harm that might be caused. Furthermore, given the isolated location of the Grade II-listed building, it was difficult to see a viable future for it without this development. He therefore proposed that the application should be approved. Councillor T J Bartlett concurred, adding that this was a unique opportunity to support the expansion of a local business whilst safeguarding the future of two listed buildings. The new dwelling was well-designed and likely to improve the visual

impact of this site. Councillor B W Butcher was in favour of the development which would put the site to good use, and support a reputable business which offered apprenticeships and training opportunities.

The Chairman suggested that a site visit should be held to assess the dwelling's impact on the listed building and countryside. Councillor T A Bond raised concerns about the linkage of the new dwelling with the Grade-II listed building. Councillor Butcher argued that there had been no objections to the development from local residents. This was an ideal site for the business, and the condition of the church was likely to deteriorate if left unused. Councillor P M Wallace indicated that, whilst he would normally be opposed to development in the countryside, this was an exceptional case due to the positive impact on the listed buildings and business.

Councillor Richardson added that these were an unusual set of circumstances which were highly unlikely to occur again. In response to a suggestion from the Chairman, he agreed that a condition should be added to the planning permission, if granted, linking the use of the dwelling to the workshop. In his view, the case for the dwelling had been made as the business needed an overnight presence on site in order to deter vandalism and thefts. The Principal Planner confirmed that such a condition was enforceable. The Chairman added that attaching such a condition reinforced the exceptional circumstances of the application. This was a significant point given that the siting of a dwelling in the countryside was contrary to the Local Planning Authority's (LPA) policies.

RESOLVED: (a) That, notwithstanding the Officer's recommendation, Application No DOV/16/00055 be APPROVED on the grounds that, in this instance, the special circumstances of the application, including the benefits of securing a viable future for the Grade I-listed and Grade II-listed buildings and enabling economic development related to a long-standing business, outweigh the development's unsustainable location and detrimental impact on the countryside. In addition, conditions to address the following should be attached to the planning permission:

- (i) Restricting the occupation of the dwelling to a person and/or a dependant of a person working or employed in connection with the business/workshop use subject of the approval and removing permitted development rights to restrict any subsequent change of use of the workshop – such restrictions being necessary as the site is outside any area in which residential development would normally be permitted and planning permission is only granted due to the special circumstances of the application.
- (b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the report and as resolved by the Planning Committee.
- (c) That, notwithstanding the Officer's recommendation, Application No DOV/16/00056 be APPROVED on the grounds that the benefits of securing a viable future for the Grade II-listed building outweighs the harm from the extension to the building.

8 APPLICATION NO DOV/15/00445 - ST GILES COTTAGE, OLD FOLKESTONE ROAD, AYCLIFFE

The Committee viewed plans of the proposals. The Planning Consultant advised that the application sought a variation to condition 2 of planning permission DOV/13/00370 granted in 2013. The buildings had been completed and the applicant wished to vary some minor matters, namely the location of the bicycle and refuse storage and landscaping configuration. It was explained that the application was before Committee due to the large number of objections received in response to the original application.

RESOLVED: (a) That Application No DOV/15/00445 be APPROVED subject to the following conditions:

- (i) To repeat the relevant conditions on the approved application no DOV/13/00370;
 - (ii) To require the development to be carried out with the plans now approved.
- (b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

9 APPLICATION NO DOV/15/0707 - LAND FRONTING THE ZETLAND ARMS PUBLIC HOUSE, WELLINGTON PARADE, KINGSDOWN

Members were shown photographs and plans of the application site which was in a sensitive location within the Kingsdown Conservation Area. The Planning Consultant advised that the application sought to change the use of land, which was currently public space, for an additional six benches associated with the use of The Zetland Arms as a public house. The new benches would be sited next to the existing six benches which had been granted planning permission in 2009. At the time of submission of the current application, the site had lain outside the Conservation Area. The seating area itself was within a Site of Nature Conservation Interest. To the south of the site, the land fell within a Site of Special Scientific Interest and, further south, was an Area of Outstanding Natural Beauty (AONB). Surrounding the site was a relatively high density area of housing.

A significant number of letters of objection had been received. These raised a variety of matters such as enforcement, land ownership and management of the site. Some comments had related to parked cars obstructing the PROW which crossed the site. Questions had been raised about who owned the land directly in front of the pub which had been terraced. Concerns had also been raised about noise and disturbance and the use of the road by pub-users. Since the report was written, two further representations had been received and circulated, and these raised no new planning matters. Members were advised that there would be no permanent fixings for the proposed benches and the amount of land to be used was modest. Officers also considered that the impact on the Conservation Area would not be significant. Moreover, the objectives of the LPA's Local Plan and the NPPF would be met in terms of supporting a local business.

In response to Councillor B Gardner who advised that Members had received complaints about the existing benches being moved around, the Planning Consultant reported that there had been no complaints made to the Council's environmental health team about the benches, only the extraction system. Councillor Gardner indicated that he could not support the application as there was no guarantee the benches would stay in place. The Chairman interjected that the seating area would be roped which made it more unlikely that the benches would be moved. His recollection was that a management plan had been a condition of the previous application, and he queried whether this had been submitted.

Councillor Bond appreciated that the site was a sensitive one and that there had been numerous objections. However, the proposal was seeking only a modest number of additional benches and, in his view, roping off the area would tidy it up. The presence of public benches and beach huts nearby already detracted from the setting. Furthermore, a precedent had already been set by the recent granting of planning permission for a similar site in Deal. He recommended that the application be approved.

Councillor P M Wallace raised concerns about tables being moved around, conditions not being complied with and overnight camping and parties. Given that the applicant had failed to comply with previous conditions, he was not confident they would do so in future. The Chairman acknowledged that local residents had various issues with the pub. However, matters such as unauthorised overnight camping and partying were not planning matters, and Planning could not be expected to control or address them. In response to Councillor Gardner, the Chairman commented that enforcement of planning conditions could not be guaranteed. Planning enforcement was not a mandatory service and decisions on enforcement had to be taken on the basis that there was a public interest in doing so.

In response to Members' concerns, the Planning Consultant advised that condition iv) of the report could be amended, such that details of the management regime would be required to be submitted and approved before any use commenced. Condition v) would also need to be amended to reflect the number of existing and proposed benches at the site. He also clarified that the applicant would require a licence from the landowners (Dover District Council and Kingsdown Parish Council) in order to carry out roping on the site. For this reason, the LPA could only approve roping details but could not guarantee that roping would take place since it was dependent upon another body. In any case, without this licence, planning permission could not be implemented.

RESOLVED: (a) That Application No DOV/15/0707 be APPROVED subject to the following conditions:

- (i) Commencement within 3 years;
- (ii) Carried out in accordance with the approved drawings;
- (iii) No permanent works or operational development;
- (iv) A management regime to control the areas in front of the public house to be submitted and approved before any use commences;

- (v) Only 12 benches shall be sited and no other ancillary function or use of the land shall take place;
 - (vi) Details of the detail and arrangements for the roping off and stands.
- (b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

10 APPLICATION NO DOV/16/00072 - SITE ADJOINING THE COTTAGE, ST MONICA'S ROAD, KINGSDOWN

Members viewed photographs, plans and drawings of the application site. The Planning Officer reminded the Committee that the application had been deferred at its meeting held on 21 April 2016 for a site visit to assess the impact of the development on the character of the area, non-designated heritage assets and the Conservation Area. In the meantime, the applicant had submitted an amended tree plan, indicating that additional trees would be retained. However, whilst the amended plans brought some benefits, the loss of the hedgerow and other trees led Officers to conclude that the proposals would still be harmful.

Councillor Richardson reported the outcome of the site visit held on 24 May 2016. The site visit panel had concluded that there would be no negative impact on the character of the road. Although some hedgerow would be lost through the creation of a new access, this would be offset by the infilling of an existing entrance. The panel also believed that the impact from the loss of trees was not so significant as to warrant refusal. The principal concern for Members had been the size of the dwelling which they considered too big. The other point for consideration was that if planning permission were granted, it would be imperative to retain a strong 'green' barrier at the rear of the property where several mature trees were currently located. A barrier here would screen views of the dwelling from the churchyard and lessen the development's impact on the church and Conservation Area. However, given the close proximity of these trees to the proposed dwelling, Officers had raised concerns that pressure would arise in the future to have them removed. It was an 'on balance' decision and Members had held marginal views, some believing the proposal was just about acceptable and others not, due to the scale of the dwelling and its impact on the church and Conservation Area.

Having attended the site visit, Councillor Bond commented that two other houses could be seen from the churchyard, albeit that they were smaller in scale than the proposed dwelling. He was inclined to approve the application since he believed that the harm caused would not be so significant to warrant refusal. Councillor Butcher praised the design of the dwelling, but considered it too large and, without a condition relating to the retention and protection of trees, unacceptable. The Chairman advised that the size of the dwelling could not be varied at this stage. If Members believed that the proposed dwelling was too large, the application should be refused. Councillor Richardson commented that it was a finely balanced decision. Most aspects of the proposed development were acceptable, but he was concerned that the dwelling was too big for the site and too close to trees at the rear. It was likely that a fresh application which addressed these points would be considered favourably.

In response to Councillor Bond who referred to the existence of other sizeable houses in the street, the Chairman clarified that the bigger properties were on the other side of the street and not in close proximity to the non-designated heritage asset and Conservation Area. It was these factors that concerned Members.

RESOLVED: That Application No DOV/16/00072 be REFUSED on the grounds that the development, if permitted, would, by virtue of its appearance, scale, form and massing, result in a form of development that would be harmful to the adjacent Conservation Area and the non-designated heritage asset, contrary to the aims and objectives of the National Planning Policy Framework, in particular paragraphs 17, 56, 60, 63, 64, 126, 129, 131, 132, 133, 134 and 135.

11 APPLICATION NO DOV/16/00214 - LAND AT WARDEN HOUSE MEWS, DEAL

The Committee viewed photographs, plans and drawings of the application site. The Senior Planner advised that the proposal related to the erection of a two-storey, four-bedroomed dwelling within an existing development. There was a considerable planning history associated with the site, and the Planning Inspector's decision of 2002, set out at paragraphs 3.19 to 3.22 of the report, was particularly relevant. Members were asked to note that a horse chestnut tree, which had been the subject of a Tree Protection Order, and three failed applications for its removal, had since died and been removed.

Members were advised that the proposed dwelling would sit at an angle on the corner of the entrance to Warden House Mews, a loose-knit development of the 1990s. The side elevation would be flat and parallel to the brick wall, and two elevations of the dwelling would be visible from London Road. The ridge height of the dwelling would be 8.7 metres, and there would be 1.8 metres between the corner of the dwelling and the footpath. Opposite the site were a number of Grade II-listed properties, located in the Upper Deal Conservation Area. The brick wall was a prominent feature of this part of London Road, forming an enclosure to the street and Warden House Mews. Several trees were visible above the wall and these gave a green feel to the street. Overall, the dwelling's size and proximity to the road were at odds with the character of the area and the setting of the Conservation Area and listed buildings.

Planning permission had been granted in February 2016 for a single storey dwelling on the same site. The applicant had originally sought permission for a two-storey dwelling where the same issues had arisen. Following extensive negotiations, Officers had secured amendments for a single storey dwelling, to be located on another corner of the application site. The applicant had subsequently submitted the application which was now before Committee.

Councillor Bond welcomed the fact that the proposed dwelling would be similar to others within the Warden House Mews development. A bungalow which had previously been given permission would be out of keeping with surrounding properties. He was not convinced that there would be a detrimental impact on nearby listed buildings since it was difficult to see the listed buildings from London Road due to the amount of vegetation present. Although he would prefer to see the dwelling more square on to the street, Deal Town Council and local residents had raised no objections to the proposal, and he therefore supported it. Councillor Gardner commented that he too would prefer to see the dwelling squarer on, but understood that this would not be possible. He considered this proposal preferable to the bungalow which had already been granted permission.

RESOLVED: (a) That, notwithstanding the Officer's recommendation, Application No DOV/16/00214 be APPROVED on the following grounds:

- (i) That the Committee does not consider that the proposed development will have an adverse impact on the spatial and open character of the area;
 - (ii) That the Committee considers that the proposed development will be in keeping with other houses in the locality.
- (b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the report and as resolved by the Planning Committee.

12 APPLICATION NO DOV/15/00123 - LAND AT 191 AND FORGE BUNGALOW, LONDON ROAD, TEMPLE EWELL

Members were shown photographs and plans of the application site which lay within the settlement confines and adjacent to the Temple Ewell Conservation Area. The Principal Planner advised that two additional representations had been received since the report was written: one objecting and one with a neutral stance. The letter of objection had raised access arrangements during construction and parking in London Road. The neutral letter mentioned the impact of development on the foundations of neighbouring properties. The proposal would see the demolition of the existing bungalow and another building which was currently used for car sales and servicing. The site would be redeveloped to provide ten dwellings. Seven of the properties would have a frontage onto London Road and the remaining three properties would be situated at the rear, accessed via Watersend. Parking courts for eight and twelve cars respectively would be provided. An alleyway would connect the two halves of the development.

Some dwellings would have two storeys at the front and three storeys at the rear, taking advantage of the sloping land. The design of the buildings had changed through the course of the application, and now made reference to neighbouring properties, drawing on features such as brick plinths, headers and sills and natural slate roofs. Because the LPA could not demonstrate a 5-year housing supply, the proposed development carried significant weight. Although Officers would have preferred the dwellings to front onto London Road, this approach was not possible as the development would lack off-street parking as a result. The proposed design did at least mimic the forecourt arrangement of the existing business.

In terms of viability, there were minor differences between the applicant's calculations and Savills'. However, the overall conclusion was that the development would not be viable if an affordable housing contribution were sought. Members were also advised that, following a Court of Appeal decision, National Planning Policy Guidance had been amended and now stated that an affordable housing contribution should not be sought for developments of ten units or fewer or with fewer than 1,000 square metres of floor space. Whilst this was guidance only, it defined the Government's position and was a material consideration.

Councillor Gardner stated that he could not support the application due to concerns about contaminated land and the safety issues raised by Kent Police. He

questioned why the applicant would develop the land for such a small profit. He also queried why Members had not been advised when the viability report was available, as previously promised by Officers. The Chairman commented that it was pointless reading a viability report when the Committee report was unavailable, even assuming the application would be going to Committee. He accepted that Members should have the viability report earlier for significant applications, but was content that this particular one had been circulated with the agenda. Savills had also questioned why the applicant would develop the site for such a small profit. The Committee could only surmise, but it had always been a problem site and the proposal would secure its future.

Councillor Richardson remarked that it was unusual for Kent Police to comment on planning applications so the fact it had commented on this application weighed heavily with him. The Principal Planner advised that the alleyway was short in length and both accesses were well observed by neighbouring properties. A balance had to be struck between maintaining the safety of the alleyway and protecting the privacy of properties adjoining it. On balance, he considered that this issue was not so harmful as to warrant refusal. Councillor Bond remarked that the path was relatively short, and similar developments had not experienced problems with anti-social behaviour. The Chairman welcomed Kent Police's comments but considered that, on balance, the design was acceptable.

The Principal Planner advised that contamination matters were addressed in paragraphs 2.33 to 2.38 of the report. The Environment Agency and the Council's Environmental Health team had commented that, whilst there was contamination on the site, this should not prohibit development. Accordingly, they had requested that a lengthy condition be added requiring further analysis of the site and mitigation measures to render the site suitable for human habitation.

RESOLVED: (a) That Application No DOV/15/00123 be APPROVED subject to the following conditions:

- (i) Approved plans;
- (ii) Samples of materials to be used;
- (iii) Landscaping;
- (iv) Provision and retention of car parking;
- (v) Provision and retention of cycle parking;
- (vi) Provision and retention of access;
- (vii) Construction management plan;
- (viii) Provision and retention of visibility splays;
- (ix) Windows to be set in reveals;
- (x) Archaeology;

- (xi) Removal of permitted development rights relating to extensions, enlargements, alterations (including windows) and outbuildings;
- (xii) Windows to the eastern elevation of plot 1 at ground and first-floor levels to be obscure glazed and non-opening;
- (xiii) Assessment and mitigation of contaminated land;
- (xiv) Removal of asbestos;
- (xv) Provision of refuse storage.

(b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

13 APPEALS AND INFORMAL HEARINGS

The Committee noted that there was no information to receive regarding appeals or informal hearings.

14 ACTION TAKEN IN ACCORDANCE WITH THE ORDINARY DECISIONS (COUNCIL BUSINESS) URGENCY PROCEDURE

The Committee noted that no action had been taken since the last meeting.

The meeting ended at 8.29 pm.