

# Public Document Pack



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14 July 2016

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **PLANNING COMMITTEE** on Thursday 21 July 2016 at 6.00 pm, the following report that was unavailable when the agenda was printed.

4 **MINUTES** (Pages 2-15)

To confirm the Minutes of the meeting of the Committee held on 16 June 2016.

Yours sincerely

A handwritten signature in black ink, appearing to read "N. Smith", written over a horizontal line.

Chief Executive

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 16 June 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  
D P Murphy  
G Rapley  
P M Wallace (Minute Nos 17 to 24 only)

Officers: Head of Regeneration and Development  
Principal Planner  
Principal Planner  
Principal Planner  
Principal Heritage Officer  
Planning Officer  
Planning and Delivery Manager  
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/15/00292 & DOV/15/00293	Mr Tim Flisher	Mr Alex Lister
DOV/16/00227	Mrs Brenda Baker	-----
DOV/16/00180	Mr Steve Mellor	-----

15 APOLOGIES

It was noted that an apology for absence had been received from Councillor A F Richardson.

16 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor G Rapley had been appointed as a substitute for Councillor A F Richardson.

17 DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest.

18 MINUTES

In response to concerns raised by Councillor B Gardner about the accuracy of the minutes in relation to viability reports, the Chairman advised that a meeting would

be arranged with Officers to discuss the procedure for Members to have sight of viability reports. Councillor Gardner would be invited to join the meeting.

The Minutes of the meeting held on 26 May 2016 were approved as a correct record and signed by the Chairman.

19 ITEMS DEFERRED

The Chairman advised that Application No DOV/15/00952 (Aylesham Village Expansion) remained deferred, but it was hoped that a report would be brought to Committee in July.

Councillor Gardner suggested that the deferred application and Agenda Item 8 (Application No DOV/16/00180 – Aylesham Village Expansion (Phase 1B)) were inextricably linked and Agenda Item 8 should also be deferred so that they could be considered together. The Chairman disagreed, stating that they were two separate applications. In any case, if the Committee wished to defer Agenda item 8, it would need to do so under the appropriate agenda item, having considered the report, Officers' comments and the public speaker's representations. For reasons of fairness and practicality, he was not willing to vary the order of business to allow Agenda Item 8 to be considered with Agenda Item 5.

20 APPLICATION NOS DOV/15/00292 AND DOV/15/00293 - THE RED LION, CANTERBURY ROAD, WINGHAM

The Committee was shown photographs, plans and drawings of the application site which was located at the junction of the A257 Sandwich to Canterbury and B2046 Wingham to Aylesham roads. The Head of Regeneration and Development (HRD) advised Members that the building to be converted had been Grade II\*-listed in 1952. It had formerly been used as a sessions house, and contained several features of historical interest, including an octagonal crown post, a stone fireplace and an 18<sup>th</sup> century staircase. The building had been extended in the mid-19<sup>th</sup> century with the conversion of the stables. Internal works to create an open bar area and fire lobby had resulted in the loss of historic fabric.

The application sought planning permission for conversion to two houses and the demolition of a lean-to, outbuilding and a toilet block, together with the creation of car parking. The plans as originally submitted had proposed one house and three flats, but these had been amended as a result of advice from Officers who had considered that the proposals would be too harmful to the historic fabric and character of the building.

The HRD reminded the Committee that the application had been withdrawn from the agenda of the Planning Committee meeting held on 26 May 2016 due to the receipt of extensive submissions from objectors the evening before the meeting. Officers had not had sufficient time to assess these submissions before the meeting, and had therefore taken the decision to withdraw the application. A supplementary report to the report of 26 May was before Members. This addressed the issues raised in those submissions, and contained a copy of the public speaker's speaking note and legal opinion.

As an update, the HRD referred Members to a submission received from Mr Jonathan Crawley which purportedly provided an independent analysis of the viability of the pub use and the asking price. This had been circulated to Members. Officers were of the view that the submission raised no new issues. The applicant

had submitted a response which had also been circulated to Members and with which Officers agreed.

The HRD read out the applicant's response for the Committee. The objectors' submission added nothing material such as to lead to a different conclusion in the context of paragraph 1.78 of Core Strategy Policy DM24. It remained the case that no formal offer (through the selling agent) had been made, viable or otherwise. The submission did not amount to an offer and no specific figure had been stated, with a reference made merely to a range of £100,000 within with the previous offer had fallen. The information set out in the submission was based on assumptions and speculation, and lacked any evidence of a detailed business plan or having received appropriate professional advice. It was thus unsubstantiated. In particular, there was no evidence that advice from suitably qualified and experienced professionals, such as a surveyor with detailed knowledge of the pub market or an historic buildings consultant familiar with important listed buildings, had been taken on the offer range or the potentially severe difficulties of opening up further rooms as guest rooms. In fact, the risks were recognised (but not quantified) in the penultimate paragraph of the submission, thus effectively recognising the reality. In contrast, the applicant had employed a highly reputable, long-established and highly experienced national firm to assess the market value of the Red Lion. Finally, the Dog Inn had recently changed hands for a figure in excess of £700,000 plus VAT. Comparables were a frequently used tool in assessing market values. The Dog Inn was very close to the Red Lion and was also Grade II\*-listed and of similar size. Its sale price reinforced the market realism of the value of £425-450,000 placed on the Red Lion, and the view that the offer made of £240,000 was unrealistic.

The HRD advised that the report before Committee gave an assessment of the proposals which was extensive and complex. He would therefore summarise the core issues. Firstly, and taking into account Core Strategy Policy DM24, Members would need to consider the implications of the change of use from a public house to residential. If the Committee were of the view that the loss of the pub would result in harm to the social and economic viability of the community, it was required to consider whether genuine and adequate attempts to market the pub had been made. Secondly, the Committee would need to consider whether the proposals were acceptable with regard to the impact on residential amenity. Thirdly, Members were required to consider whether any harm would be caused to the heritage asset and Conservation Area and, if so, whether any benefits outweighed this harm.

Assessing these issues in turn, Officers were of the view that there was no specific evidence that the loss of the pub would harm the community nor lead to the community's needs not being met. They also considered that the marketing of the pub had been a genuine exercise. The location of the development, parking provision and impact on residential amenity were considered acceptable. Finally, the proposals complied with relevant heritage policies and legal requirements.

In response to the Chairman, the Principal Heritage Officer clarified that, in order to open up more rooms to increase the viability of the business, alterations would be needed to meet fire regulations, and these would be far more intrusive than those in the proposal before Committee.

Councillor J S Back raised concerns that the application had been withdrawn from the previous agenda as a result of late representations submitted by objectors. There was a deadline for the receipt of representations on planning applications, and it appeared that the Save the Red Lion Campaign had been treated differently to individuals who made representations, in that their late submissions had been

able to delay the application. Turning to other matters, a publican had visited the pub and declared it unviable. Given that the Dog Inn had gone for £700,000, it was unrealistic to expect, as the campaigners did, that an offer of £240,000 would be taken seriously, particularly since this was below the price paid by the applicant for the property.

Councillor T A Bond stated that he was not satisfied that the property had been marketed properly. He also questioned why more habitable rooms could not be created to make the pub use a more viable proposition. Councillor B Gardner also expressed concern that the campaign group had submitted its representations so late. He commented that the property had been on the market for two years. Nobody had come forward in that time with a viable business plan. This included a celebrity chef who, despite claims being made that he was interested, had not contacted the marketing agent. Whilst the case had not been made to keep the pub, neither had it been made to convert it into residential accommodation. He was of the opinion that further information was needed before a decision could be made.

Councillor T J Bartlett agreed with Councillor Gardner. Once converted, the pub would be lost for ever. Wingham was a thriving village which would be enhanced by the retention of the Red Lion, and could, in his opinion, support three pubs. The Dog Inn had sold for £700,000 because it was an ongoing business and needed no repairs. The Chairman commented that Members recognised that the harm to the community was unlikely to be significant given that the pub had been closed for two years, and there were other pubs and facilities in the village.

The HRD referred Members to paragraph 2.7 of the report. The marketing exercise had been undertaken by Sydney Phillips, a specialist agent, and was therefore considered appropriate by Officers. Marketing had commenced on 21 May 2015 and, with an extension requested by Officers, a final report on the results had been submitted on 29 February 2016. With the extension, Officers had considered that it was a reasonable period with which to test the market. Whilst the pub had not been advertised in a local newspaper, Officers recognised that the internet was now used extensively for such sales. Sydney Phillips had advised on the asking price which Officers accepted given that Sydney Phillips was a firm of chartered surveyors and therefore professionally qualified to give such advice. Four people had viewed the property but no offers had been received. The reasons behind this were set out at paragraphs 2.8 and 2.9 of the report. In summary, Officers were of the view that the marketing exercise met the requirements of Policy DM24.

Councillor P M Wallace stated that the building was a valuable asset with unique features which would be lost to public view if it were converted. Its closure for two years had to be viewed in the context of its use as a public building for over 700 years. In his view the marketing had not been as extensive as it might have been. The fact that the Red Lion had celebrity backing, and more character than the other two thriving pubs in the village, pointed to a bright future for the pub, which would have a different role and purpose to the existing pubs.

Councillor Bond opined that the applicant had always intended to develop the site for housing, given that planning permission had been sought so soon after purchase. He questioned the level of effort put into the marketing exercise, and why the property had been marketed with only one agent. In his view the applicant had purchased the property in the hope of making a significant profit by developing it for residential use. Selling the property as a pub could never offer the same return on the applicant's investment.

The Chairman considered it relevant that a viable proposal had not come forward. He reminded the Committee that Officers had advised that the marketing had been undertaken with a reputable agent and for a suitable period of time. The community could have come forward with a viable plan during this period but had not. The building's future needed to be secured, and it was for the Committee to decide whether this would be as a pub or not. He reminded Members that profit made by the developer was not a material planning consideration.

Councillor Gardner advised that he had contacted the campaign group for further information, but had heard nothing from it. His fear was that the celebrity chef would come forward with a business plan after planning permission had been granted. Although the campaign group had had two years to make an offer, he proposed that the application should be deferred for three months in order to give them a limited amount of time to submit a written plan. Whilst he did not want to lose the building as a pub, he did not want the owner of the property held to ransom indefinitely.

The Chairman was incredulous that some Members were moving to defer the application. He advised that there would be a strong case against the Local Planning Authority (LPA) for non-determination if the application were deferred. The building's viability as a pub had not been proven, and its future needed to be safeguarded.

The HRD echoed the Chairman's comments, stating that there had been sufficient time for marketing and for offers to be made. Deferral was unlikely to take matters forward. He reminded the Committee that if it considered that the marketing had been inadequate, it would need to consider the first part of Policy DM24 and the National Planning Policy Framework (NPPF). These related to the loss of the pub causing harm to the social and economic viability of the community, and whether the community's day-to-day needs would be met.

Councillor Bond commented that the loss of the pub would be regrettable given that the population of Wingham was growing. He wished to see genuine efforts made to market the pub, and a delay of three months would not be significant at this stage. The developer had been very patient and if a viable offer was not received, planning permission would be granted. The Chairman reminded the Committee in the strongest terms that it had to consider, in the first instance, whether the loss of the pub would harm the community or its ability to meet its day-to-day needs. If so, then the adequacy of the marketing exercise could be considered.

Councillor Wallace offered the opinion that harm would come from the loss of access to the building. The public had enjoyed access to the building for over 700 years, and it would be harmful to the community if this access were taken away. Moreover, the loss of a village pub was different to the loss of a town pub. Each pub in a village could have a distinct role, and the loss of one would therefore mean that the community was unable to meet its day-to-day needs. In defence of the campaign group and their failure to submit a business plan, he commented that it was made up of volunteers who juggled the campaign alongside other commitments such as work, family, etc. In contrast, the planning consultant acting on behalf of the applicant was a former employee of the LPA and well versed in planning legislation. Councillor Bartlett added that the loss of the pub interior would be harmful to the community. The Chairman reminded Councillor Wallace that the campaign group had benefited from the services of a Queen's Counsel.

The HRD advised that, as set out in the report, Officers had looked at the issue of harm to the community, but had concluded that the comments made by objectors were very general in nature. Objectors had had two years to assemble evidence of the harm caused, but none had been forthcoming. There was therefore little tangible evidence on which to base a refusal.

The Chairman noted that there was a motion on the table to defer the application for three months to allow a viable alternative proposal to come forward. Nevertheless, there was no clear evidence of community harm or that the community's day-to-day needs would not be met. In the circumstances, he was of the view that it would be better to defer the application pending an analysis of the marketing exercise. However, he was against a time limit being placed on this. The HRD doubted that three months was sufficient time to conduct a further marketing exercise, and that such a delay would be regarded as reasonable. Of more value would be for Officers to seek an independent, specialist review of the marketing exercise to establish whether it met the requirements of the LPA's policy. This could be achieved more quickly than three months.

Councillor Gardner clarified that the purpose of a three-month deferral was to give the Save the Red Lion campaign group the opportunity to produce a viable plan. The Chairman urged the Committee to vote against such a motion which was legally questionable. To defer the application to allow one side to do more work was totally unfair and disadvantaged the applicant. His preference was that the application should be deferred in order to obtain an independent analysis of the marketing study and viability issues.

The Legal Officer advised that Members should first identify whether there would be any harm to the economic and social viability of the community. If it was concluded that there would be harm, then the adequacy of the marketing exercise and whether it had been genuine should be considered. The Chairman added that deferring for this reason would also give the campaign group time to submit something in writing, albeit that it would be incidental to the reason for deferral.

Councillor Bond commented that there was certainly a perceived loss to the community. This was evident by the number of members of the public who had turned up to the meeting. Three months would not be sufficient time to re-market the pub, but it would give the community time to indicate their interest – potentially to the independent person.

Councillor Gardner clarified that his motion was to defer the application for three months on two grounds. Firstly, to allow the community group to submit a viable plan and, secondly, to enable Officers to obtain a report on the marketing exercise and viability issues from an independent expert. He emphasised that he could not support an open-ended deferral as this would be unfair on the applicant. The Chairman stated that he could not support a deferral on the basis of the first ground.

**RESOLVED:** That, notwithstanding the Officer's recommendation, Application Nos DOV/15/00292 and DOV/15/00293 be DEFERRED for three months for the following reasons:

- (i) To allow the community group(s) to submit a viable plan;
- (ii) To enable Officers to obtain a report on the marketing exercise/viability issues from an independent expert.

21 APPLICATION NO DOV/16/00227 - WOODNESBOROUGH VILLAGE HALL, THE STREET, WOODNESBOROUGH

The Committee viewed photographs and a plan of the application site. The village hall was located in the western part of Woodnesborough, to the south of a recently completed development of 24 houses, some of which were now occupied, known as Elmwood Park. The new village hall (to replace the existing listed hall that was currently being converted to a single dwelling) had been approved under planning permission DOV/11/00965, and had been constructed and was now in use. The application sought to vary a condition imposed with planning permission DOV/11/00965 which specified the hours of opening.

The condition restricted the hours of use to 8.30am to 10.00pm every day of the week, with the exception of days when the hall was used as an electoral polling station. The applicant had sought to extend these hours to allow opening from 7.00am to 12.00 midnight, seven days a week. However, following negotiations with Officers, these hours had been amended to 07.30 am to 10.30 pm Monday to Thursday, and 07.00 am to 11.30 pm Friday, Saturday, Sunday and Bank Holidays. The hours of operation for local/parliamentary elections would be 06.15 am to 11.30 pm. The Principal Planner recommended that it be conditioned that the hall would be fully vacated no later than half an hour after the last hour of use permitted.

Members were advised of a correction to paragraph 3.16 of the report which should have read: 'Any hirers using the hall that want to sell or consume alcohol will be responsible for getting their own licence. The applicant advises that the advice from DDC Licensing is that a licence is not needed from 8am until 11pm for the playing of music.' Members were asked to note that an informative had been suggested drawing the applicant's attention to the licensing regulatory regime.

Councillor B W Butcher praised the new building which was already a success due to the hard work of local councillors. The hours of operation requested were fewer than many other village halls, and he was confident that the hours would be adhered to. Councillor T A Bond advised that he had initially been against increasing the hours of operation, but had since come round to the proposal because he was of the view that local councillors would have a vested interest in administering the operation as it was they who would be held accountable in the event of any problems.

RESOLVED: (a) That Application No DOV/16/00227 be APPROVED subject to the following conditions:

(i) The use of the community building hereby permitted shall operate in accordance with the following hours of use restrictions: 0730 hours to 2230 hours Monday to Thursday and 0700 hours to 2330 hours Friday, Saturday, Sunday and Bank Holidays and 0615 hours to 2330 hours for purposes/duties associated with the holding of local/parliamentary elections on those election days, and the premises shall be fully vacated no later than half an hour after the latest hours of use permitted;

(ii) Prior to the first use of the community hall for any function finishing later than 2200 hours, a management plan shall be



submitted to and approved in writing by the local planning authority detailing measures to be implemented to ensure that noise levels associated with the holding of functions are minimised. Such measures shall include: Arrangements for closing all external hall windows during the playing of amplified music; the fitting of all external fire exit doors with break-glass bolts; the placement of signage at exit doors to advise users to keep noise levels to a minimum; the placement of signage on the access road limiting speeds to 10mph; and arrangements for advising users of the hall that parking and the dropping-off and picking-up of persons to/from the hall should only take place within the hall grounds and not in Elmwood Park. The hall shall operate in accordance with the measures set out in the approved management plan;

(iii) Development to be carried out in accordance with the approved plans;

(iv) Works to the footpath shown on drawing number WOOD DR2 (dated 28 Jan 2013), details of which are to be submitted to and approved in writing by the Local Planning authority pursuant to condition 2 of application DOV/11/00965, shall be carried out in accordance with such details as are approved prior to the first occupation of the development;

(v) Development shall be carried out in accordance with the approved archaeological brief;

(vi) Development shall be carried out in accordance with the desk-top study and associated contaminated land reports approved on 16/07/2015;

(vii) Contamination found during development not previously identified to be reported in writing;

(viii) Soft and hard landscaping on the residential part of the site shall be carried out in accordance with the details approved on 28/09/2015 and be provided within 12 months of the first use of the development. Details of the proposed soft and hard landscaping to the village hall and car park shall be submitted for approval;

(ix) Replacement planting to be provided;

(x) The use shall not commence until space has been laid out and surfaced for the parking of vehicles and vehicle turning facilities and that space and the vehicular access to it thereafter shall not be used for any purpose other than the parking of vehicles;

(xi) Space for the provision of the parking of four bicycles to serve the new community building to be submitted. Cycle parking for the residential units shall be provided

in accordance with the details approved on 19/06/2015. The use of the community building and the residential units shall not commence until the approved spaces have been laid out and surfaced to serve the respective units;

(xii) Removal of permitted development rights for further development;

(xiii) Tree protection measures during construction in accordance with the details approved on 25/09/2015;

(xiv) Development to be carried out with the materials approved on 19/06/2015;

(xv) Joinery details for the windows and doors in accordance with the details approved on 27/08/2015;

(xvi) All rainwater goods shall be Polypipe Elegance OGEE notched, as approved under application DOV/11/00965B;

(xvii) All new meter boxes, vents and flues shall be provided in accordance with the details approved on 25/09/2015;

(xviii) Details of all new means of enclosure to the village hall and car park. All means of enclosures on the residential part of the development shall be provided in accordance with the details approved on 25/09/2015;

(xix) No external lighting other than that shown on the drawing numbered 676 P30 and approved on 05/06/2015;

(xx) Provision of visibility splays and no obstruction of them after provision;

(xxi) Surface Water Drainage shall be carried out in accordance with the surface water drainage scheme approved on 28/09/2015;

(xxii) Prior to the first occupation of the community building, an equipped play area shall be provided within the site, details of which shall first be submitted to and approved in writing by the Local Planning Authority. The play area shall be implemented and maintained in accordance with the approved plan;

(xxiii) Development shall be carried out in accordance with the construction method statement approved on 26/05/2015;

(xxiv) The recreational zone (for informal recreation and the provision of play equipment as required by condition 21 of application DOV/11/00965) and the land forming the curtilage of the community facility building, details of which are to be submitted to and approved in writing by the Local Planning Authority pursuant to condition 24 of application

DOV/11/00965, shall be provided in accordance with the approved details;

(xxv) Management of the landscaped areas shall be carried out in accordance with the management plan approved on 18/08/2015;

(xxvi) Works to hedgerows shall only be undertaken outside the bird nesting season;

(xxvii) Sewage and drainage works shall be carried out in accordance with details approved on 28/09/2015;

(xxviii) Each private driveway serving properties within the development shall have a bound surface for the first 5 metres;

(xxix) Prior to the first use of the community building, details of the plant and ventilation for the community building shall be submitted to and approved in writing by the Local Planning Authority;

(xxx) The works associated with the formation of the access road and the widening of The Street, as illustrated on drawing number 553 P56 G, shall be completed prior to the first occupation of any dwelling and the first use of the community facility and shall thereafter be so maintained;

(xxxi) Prior to the first occupation of any dwelling, works between that dwelling and the adopted highway shall be completed in accordance with the approved details – footways and footpaths and carriageways;

(xxxii) The hedge to the rear boundary of the site (as identified in plan 1208/12/4 submitted under application DOV/11/00965) shall be retained;

(xxxiii) Railings, walls, fences and other means of enclosure shall be provided in accordance with the details approved on 07/09/2015;

(xxxiv) Development shall be carried out in accordance with the report – OHES Environmental OHES Project Ref: 7236 in respect of bats, approved on 18/06/2015;

(xxxv) Surface water run-off to be provided in accordance with the details approved on 26/06/2015.

(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.

(c) Informatives: (1) The applicants may need to consider altering premises licence conditions if applicable; (2) It is recommended

that break-glass bolts are fitted to the fire doors on the east (rear) elevation of the village hall to prevent the repeated opening by hirers during events.

22 APPLICATION NO DOV/16/00180 - AYLESHAM VILLAGE EXPANSION (PHASE 1B)

Members were shown photographs, site plans and drawings of the application site. As an update to the report, the Principal Planner advised that Environmental Health had advised that the contaminated land reports were acceptable. In addition, Kent County Council's (KCC) Archaeology unit had confirmed that the archaeological schemes submitted were acceptable.

The Committee was advised that the site lay within the designated Aylesham Expansion area. Referring to the plans, Members were advised that full planning permission had been granted for two 'fans' of development within the area, and these had largely been constructed. In addition, Reserved Matters approval had been granted the preceding year for a further 71 and 69 units respectively. The site which was the subject of this application had been granted outline planning permission for the erection of up to 1,210 dwellings and associated development. The application before Committee was a Reserved Matters application which sought consent for 277 dwellings divided between two parcels of land. Parcel 1 was located to the north of Phase 1A and would contain 211 dwellings. Parcel 2 was located to the south of Dorman Avenue North and would comprise 66 dwellings.

The layout of both developments would take the form of loose perimeter blocks, facing outwards onto roads. A detailed landscaping scheme had been submitted which would see a variety of native trees and shrubs planted. Concerns had been raised by the local community about the loss of a footpath along the north-western boundary of the primary school between Dorman Avenue North and Vale View Road. Whilst it was not a registered footpath or Public Right of Way, there was evidence that it had been used for a considerable period of time. The footpath would be replaced with a new path which, while slightly longer, would be well-lit and paved. In any case, Kent Police had indicated that they would not be able to support the retention of the old footpath due to the opportunities it offered for anti-social behaviour.

Overall, Officers considered that the proposal was a high quality scheme which responded positively to existing schemes in the Aylesham Expansion area. It was therefore recommended that permission be granted.

Councillor Gardner stated that he had no objection to the application. However, he raised concerns that a condition attached to Application No DOV/15/00952, relating to junction improvements, had not been discharged. Residents of the proposed development before Committee would use this junction, and he therefore believed that permission should not be granted until the Committee had considered a further report relating to Application No DOV/15/00952.

The Principal Planner advised that Application No DOV/15/00952 had sought permission to vary condition 14 of planning permission DOV/14/1206 in order to introduce a new form of layout for junction 21. The condition had been attached to the full planning permission granted for Phase 1A of the Aylesham Expansion scheme, and required the junction improvements to be in place by construction of the twenty-fifth dwelling. The condition was not linked to the outline planning permission which formed the basis for the Reserved Matters application now before

the Committee for determination. DOV/15/00952 was a separate application; the non-provision of the junction was therefore not relevant to the application under determination.

Councillor Gardner expressed frustration at the delay in achieving improvements to the junction, and was of the view that the grant of planning permission should be dependent on the developer making swift progress on the junction. The Chairman shared his frustrations; the consequence of granting permission would be an increase in traffic and this concerned him. However, he reminded Members that they could not punish one application for the failings of another to comply with conditions. In response to Councillor T J Bartlett, he went on to clarify that the variation to condition 14 had been to install traffic lights rather than a roundabout as originally planned. The Committee had disliked the proposals and had therefore deferred the application for an independent assessment. It was hoped that the consultant's report would come to Committee in July. It was fair to say, therefore, that the delay in discharging condition 14 had not been entirely the fault of the developer. If the Committee had not requested further information, the junction alterations would probably have already been completed.

Councillor T A Bond stated that Southern Water had indicated that it would not upgrade the drainage system at Aylesham until all phases had been signed off for development. The Principal Planner advised that principal matters such as drainage would have been considered at the outline stage. Condition 104 of the outline planning permission required details of surface water drainage to be submitted prior to development taking place. In addition, condition 106 of that permission required that no dwelling within a phase be occupied until details of foul drainage had been approved.

The Chairman advised that Southern Water had confirmed when the Aylesham Masterplan was being developed that there were no issues with the drainage infrastructure. The Head of Regeneration and Development added that developers were generally required to pay for foul and surface water drainage infrastructure. For this reason, Southern Water would not invest in infrastructure to support the development as this was the responsibility of the developers.

Councillor Gardner suggested that a condition be imposed that no dwelling was to be sold or occupied until the junction improvements had been carried out. The Chairman reminded him that such a condition could not be imposed on a Reserved Matters application. In any event, it was not known that the developer had any control over the junction improvements. The Legal Officer agreed, advising that such a condition would not comply with the 6-point test, arguably not being reasonable or necessary. The principles of the development had been established at outline stage and that is when such a condition should have been attached. It was not appropriate to rectify that error by punishing the developer with this condition. Furthermore, if the application was deferred, there was no clarity as to when it might come back to Committee which would leave the Local Planning Authority (LPA) open to an appeal for non-determination.

Councillor Butcher agreed, commenting that the junction did not form part of the application. Whilst the Committee might wish that such a condition had been imposed, regrettably that boat had sailed. If the application was deferred, the LPA could face an appeal for non-determination which was not in anyone's interests. The Chairman reminded Members that the development proposal was an exemplary scheme, with a good layout and design.

It was moved by Councillor B Gardner and duly seconded that the application be deferred in order to allow it to be considered in tandem with Application No DOV/15/00952.

On being put to the vote, the motion was LOST.

It was moved by Councillor B W Butcher and duly seconded that Application No DOV/16/00180 be APPROVED as per the report recommendations.

It was moved as an amendment by Councillor B Gardner and duly seconded that a condition should be added that no home should be sold or occupied until improvements to the road junction had been completed.

On being to the vote, the amendment was LOST.

The amendment having been lost, Councillor B W Butcher's original motion was put to the vote and the motion was CARRIED.

RESOLVED: (a) That Application No DOV/16/00180 be APPROVED subject to the following conditions:

- (i) Approved plans;
  - (ii) Provision and retention of car parking;
  - (iii) Landscaping to be carried out and retained;
  - (iv) Measures to reduce light pollution;
  - (v) Details of boundary treatments to allow the movement of native species;
  - (vi) Public access to be provided to the route between Dorman Avenue North and Vale View Road;
  - (vii) Phasing;
  - (viii) Any necessary conditions arising from the views of Kent County Council Archaeology and Environmental Health.
- (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.

## 23 APPEALS AND INFORMAL HEARINGS

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

## 24 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 8.27 pm.