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21 November 2016

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **PLANNING COMMITTEE** on Thursday 24 November 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 20 October 2016.

Yours sincerely

A handwritten signature in black ink, appearing to be "Nicky", is written over the text "Chief Executive". The signature is fluid and cursive, extending across the line and slightly above and below it.

Chief Executive

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 20 October 2016 at 6.00 pm.

Present:

Chairman: Councillor F J W Scales

Councillors: B W Butcher
T A Bond
S S Chandler
D G Cronk
B Gardner
D P Murphy
A F Richardson
P M Wallace

Officers: Head of Regeneration and Development
Principal Planner
Principal Planner
Planning Officer
Planning Delivery Manager
Locum Planning 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/16/00032	Mr Roy Deacon Councillor M J Ovenden	Mr Peter Bell
DOV/16/00396	Mr G Lymer	-----
DOV/15/00/00864	Mr Julian Sinstadt	Mr Les Craggs

64 APOLOGIES

It was noted that an apology for absence had been received from Councillor T J Bartlett.

65 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor S S Chandler had been appointed as a substitute member for Councillor T J Bartlett.

66 DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest.

67 MINUTES

The Minutes of the meeting held on 22 September 2016 were approved as a correct record and signed by the Chairman.

68 ITEMS DEFERRED

The Chairman advised that the two items listed remained deferred.

69 CHAIRMAN'S ANNOUNCEMENT

The Chairman advised that Application No DOV/16/00931 (135 Middle Street, Deal) and Application No DOV/16/00838 (24 and 24A Mill Hill, Deal) had been withdrawn from the agenda.

70 APPLICATION NO DOV/16/00032 - DEACON LANDSCAPE MANAGEMENT, WOOTTON LANE, WOOTTON

The Committee viewed plans and photographs of the application site. The Planning Officer advised Members that the application site was situated on the edge of Wootton, outside the urban boundaries and rural settlement confines and in an Area of Outstanding Natural Beauty (AONB). Part of the site was also within the Wootton Conservation Area. There were effectively two halves to the site; one being previously developed land and the other classified as greenfield land. As well as hardstanding and a car park, there were three existing buildings on the developed part of the site. The undeveloped, northern part of the site had some temporary structures on it. Whilst the application site did not display the typical characteristics of one situated in an AONB, it was considered that the dense boundaries along the edge of the site contributed towards it.

The proposal before Members sought outline permission for the erection of eight dwellings, with appearance, landscaping and scale being reserved matters. The existing access would be retained and narrowed to provide access to a small car park for the use of village hall patrons. The main access point would be moved along Wootton Lane. A children's play area was to be provided at the request of the parish council. 46 letters of support and 13 letters of objection had been received. It was confirmed that no comments had been submitted by Denton with Wootton Parish Council.

The site currently had extant permission for employment use Classes B1(a) and B8. Some of the company's current activities were likely to fall under use Class B2 which supported claims that it had outgrown the site. There would be implications for the company if enforcement action were taken in relation to these activities.

The applicant had advised that, whilst the sale of the land would fund the company's relocation, it would not be sufficient to provide affordable housing, a view supported by the Council's independent assessor. However, the applicant had set aside £65,000 as a community contribution and it was anticipated that, once the costs of the playground and car park were accounted for, there would be approximately £40,000 remaining for off-site affordable housing. The applicant had also agreed a clawback clause which required the applicant to make an increased contribution towards affordable housing in the event that the site sold for more than predicted.

The relocation of the company to a new site within the district would generate additional employment. Officers were of the view that the removal of the business and HGV traffic from the AONB would be beneficial to residents and to the character of the AONB and Conservation Area. The Committee was reminded that the district's lack of a 5-year housing land supply meant that the Council's development policies (e.g. Core Strategy Policy CP1 and DM1) were considered out of date. In these circumstances, Members were required to consider the National Planning Policy Framework (NPPF), and whether the positive benefits of the

development justified a departure from local planning policies. Whilst there were conflicts with the Council's Development Plan, Core Strategy Policy DM2 partially supported the principle of re-developing the site, specifically the previously developed part.

Councillor T A Bond stated that, whilst he was comfortable with building on the previously developed part of the site, he had reservations about developing the greenfield area given that it was in an AONB and in an unsustainable location which lacked public transport links, schools and other amenities. Whilst he understood the argument for facilitating the relocation of the business to Whitfield, this could not be secured unconditionally. He welcomed the contribution towards affordable housing, but was sceptical that the playground and car park could be delivered for only £25,000. Councillor B Gardner expressed disappointment at the small contribution towards affordable housing, and was of the opinion that a larger contribution should be made given that the applicant had indicated that the business was expected to grow by 25% over the following five years. In the event that planning permission was granted, he wished to see all reserved matters come back to the Committee for determination, and a condition attached relating to construction traffic.

Councillor S S Chandler commented that assessing the application was a question of balancing the positive aspects of the proposed developments against the negatives. A key benefit would be the continuation of a successful business which was likely to lead to an increase in jobs. There were also community benefits, such as the new car park for the village hall and an increase in Wootton's population. Whilst the site was within the AONB, it was accepted that the undeveloped part did not make a substantial contribution towards it and would therefore not constitute a significant loss should it be developed. The site was also well screened. Taking into account the evidence on viability, any contribution towards affordable housing was to be welcomed. Finally, the Committee had to be mindful that the district lacked a 5-year housing land supply which affected the way it assessed planning applications.

Councillor B W Butcher concurred with the rationale behind the company's move, but was concerned that, whilst the site was presently well screened, the visual impact of the development could increase if trees and hedges were removed in future. In response to Councillor Bond, the Chairman clarified that Paragraph 49 of the NPPF meant that the Council's Development Plan could not be given as much weight since the district lacked a 5-year supply of land for housing. In this circumstance, the NPPF set out that there should be a presumption of approval, unless the development was unsustainable. It was a matter of the Committee weighing up individual policies within the Development Plan and deciding how much weight to attach to them.

Councillor A F Richardson stated that the potential impact on the AONB weighed heavily with him. However, there had been no objections from the parish council, the Campaign to Protect Rural England or the Kent Downs AONB Unit. Eight houses with large gardens might even have a positive impact on biodiversity. However, screening conditions would need to be robust to ensure long-term protection.

The Chairman reminded Members that the benefits of the development needed to be considered. These included the removal of an industrial site from the AONB, the protection of local employment and the introduction of good quality housing which would add to the mix of housing types within the district.

In response to Members' concerns, the Principal Planner advised that matters such as routing of construction vehicles could be addressed in the Construction Management Plan. The Chairman clarified that it was more usual to ask for a construction plan at the detailed matters stage, once a formal application had been submitted. As part of the application process, Officers would examine the plan and ask for modifications if necessary. The plan would then be presented to the Committee for discussion. It was also clarified that the Section 106 agreement would incorporate clauses to safeguard the affordable housing contribution. The Planning Officer confirmed that any additional contributions would go towards affordable housing.

The Planning Officer advised that the shared management areas situated outside private gardens would be covered by conditions, as would trees. In response to concerns expressed by Councillor P M Wallace regarding affordable housing and employment, the Committee was advised that these matters were difficult to control. The applicant had accepted conditions which sought to guarantee the company's relocation within the district by imposing trigger points relating to the number of houses built. However, legally this would be difficult to enforce. The Chairman added that these conditions, together with the clawback clause on land value, provided some reassurance regarding employment and affordable housing contributions. He welcomed the fact that the viability appraisals had been made publicly available.

It was moved by Councillor S S Chandler and duly seconded that the application be APPROVED as per the report recommendations, subject to the application for reserved matters being determined by the Committee.

RESOLVED: (a) That, subject to a Section 106 Agreement to secure contributions, Application No DOV/16/00032 be APPROVED, subject to the following conditions:

- (i) Approved plans;
- (ii) Samples of materials to be used;
- (iii) Tree retentions plan;
- (iv) Provision of car parking;
- (v) Provision of cycle parking;
- (vi) Provision and retention of access;
- (vii) Construction Management Plan (to be submitted with reserved matters application);
- (viii) Details of ecological enhancements;
- (ix) Removal of permitted development rights relating to extensions, enlargements and alterations;
- (x) Full details of surface water drainage scheme, including maintenance;

- (xi) Full details of foul water drainage scheme, including maintenance;
 - (xii) Provision of refuse storage.
- (b) That powers be delegated to the Head of Regeneration to settle any necessary planning conditions and to agree a Section 106 agreement, in line with the issues set out in the recommendation and as resolved by the Planning Committee.
 - (c) Any reserved matters application submitted pursuant to the outline permission shall be reported to, and determined by, the Planning Committee.

71 APPLICATION NO DOV/16/00721 - 10 LAMBTON ROAD, DOVER

The Committee was shown photographs of the application site which was in a sustainable location. The Principal Planner referred Members to paragraphs 1.4 and 1.8 of the report. Temporary permission for a part change of use from residential to business had previously been granted and had expired in December 2015. During that time, there had been no complaints to the Council's Environmental Health or Planning Enforcement teams. The potential for noise and disturbance was recognised, but the absence of problems to date gave Officers no reason to believe that these were likely to occur in the future.

The Committee was advised that conditions iv) and vi) of the report contained typographical errors which would be corrected. In addition, the standard paragraph giving delegated powers to the Head of Regeneration and Development would need to be added.

Councillor J S Back accepted the report's recommendation, but suggested that a personal permission should be given to ensure that the business use ended when the applicant moved out. Councillor Butcher expressed surprise that there had been no complaints, but recognised that this indicated that the applicant had been running the business responsibly.

Councillor Gardner raised concerns at the number of dogs that could potentially be present at the premises. The proposed restriction on numbers related to adult dogs only, and it was therefore possible that a considerable number of dogs could be present if any of the bitches kept for breeding had given birth. The report failed to address this scenario. Whilst he recognised that there had been no complaints during the temporary permission period, this might not be the case once full permission was granted. Councillor Wallace recognised that the applicant was currently doing a good job, but agreed that there was the potential for things to go wrong.

The Chairman clarified that, of the ten dogs permitted to be kept at any one time, five belonged to the applicant (one stud dog and four bitches) and the rest would be dogs for re-homing. The applicant had indicated that she would reduce the number of dogs taken in for re-homing when there were litters in order to keep numbers down. The applicant had also indicated that she was willing to have a personal permission which could be granted in exceptional circumstances. In response to reservations expressed by Councillor Bond, the Chairman clarified that a similar application, where the notion of a personal permission had been rejected by the Committee, had not met the criteria which would have allowed a personal

permission to be granted. Like other Members, he was not in favour of granting a further temporary permission.

The Planning Solicitor advised Members that Planning Practice Guidance outlined that planning permission was associated with land and not people. Whilst personal permissions were rarely granted, they could be used in exceptional circumstances where there was a planning reason to do so. In this case, the applicant was running the business in a responsible manner, but this could not be guaranteed should the house be sold and the business taken over.

The Chairman reminded the Committee that such operations were heavily licensed. In the event of noise and other nuisances, the Environmental Health team would be obliged to inform the Council's Licensing team.

RESOLVED: (a) That Planning Permission be GRANTED subject to conditions addressing the following matters:

- (i) Carried out in accordance with the approved details;
- (ii) Permission personal to the applicant;
- (iii) No customers or deliveries shall be admitted to the site outside the times of 0900 to 1800 on weekdays and Saturdays, and at no times on Sundays and public holidays;
- (iv) No customers shall visit or attend the site without pre-arranged appointments;
- (v) No more than ten dogs shall be kept on the site at any one time;
- (vi) An appointment book shall be maintained at all times and shall contain names, reason for visit, date and time of visits to the site of all customers. This appointment book shall be made available for inspection, on demand at any reasonable hour by an officer of the Local Planning Authority;
- (vii) A log book shall be maintained with a list of the dogs on site at all times. This book shall be made available for inspection, on demand at any reasonable hour by an officer of the Local Planning Authority.

(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.

72 APPLICATION NO DOV/16/00396 - LAND AT SHORT LANE, ALKHAM

Members viewed plans and photographs of the application site. The Principal Planner advised that the application sought outline permission for three bungalows,

with all matters reserved. The site was situated outside the village confines of Alkham, in an AONB.

In the light of the district's lack of a 5-year housing land supply, the Committee was required to consider paragraph 14 of the NPPF in which there was a presumption that permission should be granted unless there would be adverse impacts or where specific policies in the NPPF recommended against doing so. There were specific policies which indicated that harm would be caused by the proposed development. Members were referred to paragraphs 2.5 onwards of the report which set out the likely impact on the countryside, AONB and surrounding area. Paragraphs 109 and 115 of the NPPF were relevant, with the latter affording additional weight to protecting the AONB, and reflecting statutory obligations enshrined in Section 85 of the Countryside and Rights of Way Act 2000.

The Committee was also directed to the findings of Planning Inspectors following two previous applications which had been refused and dismissed at appeal (paragraphs 2.11 and 2.12 of the report). Ecology was also a concern as it was likely that protected species were present at the site. It was clarified that the eight dwellings to the north of the site, also outside the village confines, had been built approximately 25 years previously under a rural exception scheme.

As an update to the report, the Principal Planner reported that views had now been received from the Local Lead Flood Authority which had referred to the site as suffering from flash flooding. It had therefore recommended that a condition be attached to raise dwellings 6.6 metres above ground levels. This condition would make the development even more visible within the AONB. For the reasons outlined in the report, together with the additional impact of the raised dwellings, refusal was recommended.

Several Members agreed that the development offered no benefits that would outweigh the harmful impact caused to the AONB. The Chairman commented that when Alkham had formed part of his ward he had argued against the rural exception scheme development and another at Hogbrook Lane. This was a special area that needed to be protected, but he could understand why the applicant would query why other developments in the area were acceptable but his was not. It was worth mentioning that the difference between this application and the one considered earlier by the Committee was that the Wootton scheme offered offered wider public benefits. Councillor Chandler noted that the affordable housing units provided under the rural exception scheme had been the subject of a long process, involving consultation with the local community.

RESOLVED: That Application No DOV/16/00396 be REFUSED on the following grounds:

- (a) The proposed development would result in a linear, obtrusive and urban form of development in the open countryside, beyond the settlement confines, which would detract from the unspoilt rural character of the area and the setting of the village of Alkham and the character and appearance of the Area of Outstanding Natural Beauty within which the site lies. In particular, the proposal would be contrary to Dover District Core Strategy Policies DM1, DM15, DM16, Paragraphs 109 and 115 of the National Planning Policy Framework and Policies SD2 and SD03

of the Kent Downs Area of Outstanding Natural Beauty Action Management Plan 2014-19;

- (b) The proposal fails to demonstrate that there would be no harm to reptiles, failing to preserve or enhance biodiversity, contrary to Paragraph 118 of the National Planning Policy Framework.

73 APPLICATION NO DOV/15/00864 - 377 LONDON ROAD, DEAL

The Committee was shown drawings and photographs of the application site which was situated within the urban confines of Deal where the principle of residential development was considered acceptable. The Principal Planner advised that the application sought permission for the erection of four detached dwellings. Members were advised that they were required to assess the potential impact of the development on adjoining occupiers, highway safety and the visual character of the area. The planning history of the site was set out on page 119 of the report. One of the reasons for refusal in 2002 had been the close proximity of the proposed access to 375 London Road and its impact on residents' amenity.

This part of London Road was characterised by large properties set in generous plots with mature trees fronting the road. Paragraph 3.5 of the report addressed the impact that the development was likely to have when viewed from the public area. Whilst the site contributed to the character of the area by virtue of the number of mature trees, many were small in nature and most of those at the rear of the site were to be retained. The changes proposed to the front of the site were similar to properties further along London Road which had less tree cover and some hard-standings.

The existing garage for no 377 would be demolished to provide access. The application had sought to address one of the previous reasons for refusal by moving the access 5 metres from the boundary with no 375 and by 4 metres from the boundary with no 377. Officers considered that this measure had adequately addressed previous concerns regarding access. In summary, matters such as the effect on the character of the area, overlooking, highway safety and residential amenity were considered acceptable, and it was recommended that planning permission be granted.

Councillor D G Cronk raised concerns regarding access to the site by HGVs during construction. He viewed the proposal as an overdevelopment of the site, and feared that approval would set a precedent. He also had concerns about overlooking and the impact on neighbouring properties. Councillor Chandler questioned what had altered in policy terms since the previous refusal which had referred to backland development. The Principal Planner advised that the previous application had been in outline only whereas the current application had enabled a full assessment to be made of the likely impacts. The NPPF had also changed the Planning landscape since there was now a presumption in favour of development unless the harm that would be caused outweighed any benefits. As a consequence, there was now a higher bar for refusing an application than had been the case in 2002. Applications seeking the use of backland sites were likely to be the subject of an 'on balance' assessment by Members.

Councillor Gardner commented that the proposal was completely out of character with this part of London Road which had a large number of detached houses with large gardens. Like Councillor Cronk, he regarded it as an overdevelopment of the

site and could not support the proposal. Councillor Bond accepted that the NPPF did not exist in 2002 and that there were no housing land supply targets then. However, the proposal had increased from two to four dwellings and would involve the removal of a large swathe of trees which would undoubtedly have a negative visual and ecological impact. He was also concerned at the proposed parking provision which he viewed as inadequate. In addition, the road was a busy one and there would be implications for highway safety and traffic flow. Councillor Back expressed his objections to backland developments and in particular to this one which would see the loss of a considerable amount of green space.

Councillor Chandler accepted that the proposed development would not significantly alter the appearance of the site when viewed from London Road. However, the large number of mature trees at the rear of the site and beyond created a green corridor which contributed to the amenity of surrounding properties. She believed that its diminution would have a significant impact on the character of the area.

In response to Councillor Chandler, the Principal Planner advised that precedent and cumulative impact were difficult areas. In relation to a planning application at Alkham which had been dismissed on appeal, the Planning Inspector had referred to the fact that approval would have made it difficult for the Local Planning Authority (LPA) to resist applications to build on adjoining land. In this particular case, precedent could be considered but it was not a matter to which significant weight should be attached. In response to concerns raised regarding overlooking, the Committee was advised that the principal elevations of the dwellings would face away from adjoining gardens, although there was scope for oblique views. It was clarified that views down an adjoining garden were considered more acceptable than those across. Proposed boundary screening would also help to mitigate overlooking.

RESOLVED: (a) That, notwithstanding the Officer's recommendation, Application No DOV/15/00864 be REFUSED on the ground that the proposal would constitute unacceptable backland development, out of keeping with the established pattern of development in the locality, and would set an undesirable precedent for the development of other backland sites in the immediate vicinity. In particular, the development would appear as a cramped overdevelopment of the site and, through loss of tree cover, would erode, be at odds with and appear detrimental to the prevailing spatial and visual character of the area. The proposal would be contrary to the National Planning Policy Framework, in particular paragraphs 17, 56, 57 and 58.

(b) That powers be delegated to the Head of Regeneration and Development to finalise the precise reasons and wording for refusal, in line with the issues raised by the Planning Committee.

74 ENFORCEMENT - HISTORIC REVIEW

The Planning Delivery Manager introduced the report, advising Members to ignore paragraph 2 which contained inaccurate figures.

Councillor Gardner raised concerns which he had also raised at the previous Committee meeting. Of the 600 cases outstanding in March 2014, only 50 remained. Whilst he understood that around 300 were to be written off, this left 250 which had simply disappeared. He was disappointed that these cases had been

dropped when assurances had been given. The Planning Delivery Manager responded that 247 cases had been closed in 2014, but these could have been generated in the same year. To compare these figures with those advised to Members in 2014 was not a like-for-like comparison.

The Chairman advised that this was not a matter for the Planning Committee, but rather one for full Council. He suggested that Councillor Gardner should hold discussions outside the Committee to look more closely at the figures. Councillor Bond raised concerns that there had been only two prosecutions since 2010, and agreed that these issues should be addressed by Scrutiny or Council.

The Committee noted the report.

75 APPEALS AND INFORMAL HEARINGS

The Planning Delivery Manager introduced the report which indicated that the number of appeals being lost had risen significantly to 47%. In order to identify the causes of this, one of the Planning Officers who also worked as a Planning Inspector was reviewing cases lost in the last quarter and would report back. It was clarified that the Government required LPAs to count listed building consent applications separately for the purposes of reporting lost appeals. The number of decisions overturned on appeal for major applications was a consideration for placing an LPA into special measures.

The Committee noted the report.

76 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 9.03 pm.