

# Public Document Pack



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17 March 2017

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **PLANNING COMMITTEE** on Thursday 23 March 2017 at 6.00 pm, the following report that was unavailable when the agenda was printed.

4 **MINUTES** (Pages 2-12)

To confirm the Minutes of the meeting of the Committee held on 23 February 2017.

Yours sincerely

A handwritten signature in black ink, appearing to read "Nicky", written over the printed name "Chief Executive".

Chief Executive

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 23 February 2017 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  
A F Richardson  
P M Wallace (Minute Nos 131-137 only)

Officers: Team Leader (Development Management)  
Principal Planner  
Senior Planner  
Planning Officer  
Planning Consultant  
Planning Delivery Manager  
Planning Solicitor  
Team Leader – Democratic Support  
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/16/01099	Mr Bob Edden	Mr Eddie Collins
DOV/16/00875	-----	Mrs Janet McKechnie
DOV/16/00968	Ms Jeanne Taylor	Mr Christopher Shaw

125 APOLOGIES

It was noted that there were no apologies for absence.

126 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that there were no substitute members.

127 DECLARATIONS OF INTEREST

Councillor A F Richardson made a Voluntary Announcement of Other Interests in respect of Agenda Item 8 (Application No DOV/16/00968 – Land at West Side, Westside, East Langdon) by reason of his employment with the Canterbury Archaeological Trust and the fact that an archaeological condition was attached to the application.

128 MINUTES

The Minutes of the meeting held on 26 January 2017 were approved as a correct record and signed by the Chairman.

129 ITEMS DEFERRED

The Chairman advised that, apart from Application No DOV/16/01099 (Former Three Horseshoes Public House, Church Hougham) which had been deferred for a site visit and was due for consideration at the meeting, the items listed remained deferred.

130 APPLICATION NO DOV/16/01099 - FORMER THREE HORSESHOES PUBLIC HOUSE, CHURCH HOUGHAM, DOVER

Members were shown plans, drawings and photographs of the application site. Members were reminded that the application sought the erection of a detached house on a site within an Area of Outstanding Natural Beauty (AONB). A public house and cottages had previously been present on the site but had been bombed during the Second World War. In support of their application, the applicants had cited their long links with the village and their need to live at the site in order to look after their horses.

Several planning applications relating to the site had been refused since 1974, ending with the most recent refusal in 2015. These refusals were material planning considerations which should be given due weight by Members. In policy terms, Church Hougham was classified as a hamlet and therefore unsuitable for development, as defined in Policy CP1 of the Council's Core Strategy. The application site was outside the rural settlement confines and therefore also contrary to Policy DM1 of the Core Strategy. Since the Council lacked a five-year housing land supply, Members were also required to consider paragraph 55 of the National Planning Policy Framework (NPPF) which permitted development in the countryside in exceptional circumstances. However, there were no exceptional circumstances in this case. Policies DM15 and 16 were also relevant as they sought to protect the character and visual amenity of the countryside. Furthermore, the site was within the Kent Downs AONB which afforded it the highest level of protection.

Whilst the proposal was acceptable (with conditions) in respect of highways and parking, the site was in an isolated location, with no significant facilities in Church Hougham, the closest settlement. Surrounded by narrow lanes with no footpaths, the proposed development would generate private car journeys, putting increased pressure on the rural road network. For these reasons it was contrary to Policy DM11.

In clarification, Members were advised that the NPPF defined previously developed land as being land which is or was occupied by a permanent structure. The key consideration for the Committee was whether the abandoned structure had blended into the landscape in the course of time. Although there was evidence on site of tiling and concrete flooring from the public house building, it was the view of Officers that the structure had blended into the landscape.

Councillor D P Murphy reported that a site visit had been held on 20 February to allow Members to assess the impact of the proposal on the setting and character of the AONB. Having walked the site and taken representations from members of the public, the Members present had come to the conclusion that there would be no detrimental harm caused by the development to the setting and character of the AONB. Councillor B Gardner expressed dismay that planning permission had been

granted for agricultural buildings on and opposite the site which he regarded as eyesores. In his view the presence of these buildings had already caused harm to the AONB. Moreover, it was his opinion that the structural remains of the pub had not blended in to their surroundings. Notwithstanding these points, he could not support the application. However, he proposed that references to the AONB should be removed from any grounds for refusal.

Councillor A F Richardson stated that he knew the site very well. The AONB was a large and varied area, not all of it particularly beautiful. However, the protection afforded to the AONB still applied to this site. Whilst he accepted that the unappealing barns and other agricultural buildings detracted from the AONB, the fact remained that the site was in a rural setting which remained largely unspoilt and deserved protection. The justification given by the applicants for building in the countryside was the need to care for their horses. However, if the Committee afforded any weight to this argument it would be setting a dangerous precedent given the number of horse-owners in the area. Furthermore, if the Committee accepted the principle that the site was brownfield land on the basis that there had been a pub and cottages there many years previously, it would be difficult to refuse other applications for sites in the surrounding area which contained the remains of abandoned barns and agricultural buildings. The site was outside the settlement confines and there had been no recognised settlement on it since 1944. Unless there were robust reasons for disregarding the Council's Core Strategy policies, he could not support the notion of development on the site. Councillor T J Bartlett agreed that granting planning permission would set a precedent, and had heard nothing that persuaded him to vote against the Officer recommendation to refuse the application.

Councillor F J W Scales informed the Committee that he had attended the site visit as the ward Member. He agreed that land within the AONB needed to be protected and managed appropriately. However, he recognised that the area surrounding the application site had changed in recent years. He had also taken note of the applicants' strong links with the local community. Whilst he believed that a dwelling would be beneficial in terms of managing the AONB, the policies governing development in the AONB were so robust that he had concluded that there were no exceptional circumstances in this case which would justify such a dwelling.

Councillor T A Bond agreed with the comments made. However, he suggested that an amendment be made to Councillor Gardner's motion to reinstate the references to the AONB in the grounds for refusal, arguing that the AONB was a key factor in the grounds for refusal and decision-making process.

Councillor J S Back informed Members that he had also attended the site visit. The site was surrounded by unattractive agricultural buildings which detracted from the AONB. There had previously been a property on the site, and the proposed dwelling would sit well within the old footprint of the public house. The applicants had long-standing links with the community, and would make fewer car journeys if allowed to live at the site.

Councillor Gardner emphasised that the Members attending the site visit had been unanimous in the view that the site itself was of no merit to the AONB. However, there had been a split of 2:1 in Members who thought that a building on the site would be an improvement. Councillor Bond commented that improvement of the site was not a matter for consideration, but rather the visual impact of the proposed dwelling on a rural area. Councillor Richardson emphasised that the site was not

considered previously developed land. He also cautioned against granting permission as it would open the floodgates to other development.

The Planning Officer referred to Section 85 of the Countryside and Rights of Way Act which placed a public duty on Local Planning Authorities (LPA) to conserve and enhance the natural beauty of the AONB. Building a dwelling on the site would not conserve the natural beauty of the AONB and would introduce an alien element to the countryside. Views on their appearance were subjective, but nearby buildings were related to equine use and appropriate for a rural area within the AONB.

Councillor Scales returned to the matter of whether the site could be construed as previously developed land, arguing that the definition of structures having blended into the landscape was an inadequate one. The Planning Officer advised that appeal decisions had referred to the definition as being a subjective judgement. However, in this case, whilst there were residual structural elements on site, it was considered that these had blended into the landscape.

It was proposed by Councillor B Gardner and duly seconded that Application No DOV/16/01099 be REFUSED on the grounds set out in the report, but that all references to the AONB should be removed.

It was moved by Councillor T A Bond and duly seconded that an amendment be made to Councillor Gardner's motion in order to reinstate references to the AONB in the grounds for refusal.

On being put to the vote, the amendment was CARRIED.

The Chairman then called for the substantive motion to be voted upon, namely that Application No DOV/16/01099 be REFUSED on the grounds set out in the report.

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

**RESOLVED** That Application No DOV/16/01099 be REFUSED on the grounds that the development does not comply with the Core Planning Principles set out in the National Planning Policy Framework and Development Plan Policy. It is unjustified development located beyond any confines, in an isolated and prominent location and, if permitted, would detract from and harm the setting, character, appearance and functioning of the Kent Downs Area of Outstanding Natural Beauty, and would not generate social benefits nor benefit the wider economy. Accordingly, the development is not sustainable and is contrary to the aims and objectives of the National Planning Policy Framework, in particular paragraphs 7, 14, 55, 109 and 115, and Development Plan Policies DM1, DM11, DM15 and DM16 and the Kent Downs AONB Management Plan, in particular Policies SD1 and LLC1.

(Councillor F J W Scales relinquished the chairmanship of the meeting for this item on the grounds that it was an application for a site within his ward and he wished to play a full part in the debate, unfettered by being Chairman. Councillor B W Butcher assumed the chairmanship of the meeting for this item.)

131 APPLICATION NO DOV/16/00875 - SITE AT CASINO GARAGE, CANTERBURY ROAD, WINGHAM

The Committee viewed plans, drawings and photographs of the application site which was located within a linear form of development around half a mile outside the village of Wingham. The Planning Consultant advised that an additional letter of objection had been received from the occupier of the car body shop located to the rear of the application site, raising concerns about silicon contamination from cleaning materials, toilet facilities and the carwash blocking views of the body shop.

Members were referred to paragraph 2.10 of the report. It was clarified that there would be a canopied structure with screens at the sides and doors at one end. This contained structure, which would reduce the noise impact, had been agreed by the Council's Environmental Health Officer. Three amendments to the conditions outlined in the report were required. In relation to condition ii), the hours of use would be limited to 8.30am to 6.00pm on Mondays to Saturdays. In respect of condition ix), the drawing reference was incorrect and the condition should be amended to refer to drawing 003/15A, this being an amended drawing submitted since the report had been written. Finally, condition xii) should be amended to read 'The office building to only be used for purposes ancillary to the use of the land'.

In response to concerns raised by Councillor Bartlett, the Planning Consultant clarified that vehicles would enter and exit the site via the existing entrance to the petrol station. In the light of this clarification, Councillors Bartlett and Murphy stated that they could not support the application due to concerns about access and highway safety. The Chairman commented that, whilst Kent County Council (KCC) Highways had raised no objections to the proposals, he thought further clarification on access arrangements was required. He also raised concerns about the poor quality of the drawing used to show these arrangements.

Councillor Gardner suggested that the application should be deferred for a site visit to assess the proposal's highways impact and how vehicles would move within the site itself. KCC Highways should be invited to attend the visit. Councillor P M Wallace raised concerns about contamination, toilet facilities, light pollution, noise and queueing cars. Councillor Bond agreed that queueing, and cars turning into the site from the A257, were safety concerns that required further investigation.

RESOLVED: That Application No DOV/16/00875 be DEFERRED for a site visit to be held on Tuesday 21 March 2017 to allow Members to assess the highways, pollution, visual and noise impacts and the impact on adjoining properties, and Councillors T J Bartlett, B W Butcher, B Gardner, A F Richardson and P M Wallace (reserve: Councillor F J W Scales) be appointed to visit the site.

132 APPLICATION NO DOV/16/00968 - LAND AT WEST SIDE, WESTSIDE, EAST LANGDON, DOVER

The Committee was shown plans, drawings and photographs of the application site. The Senior Planner advised that the application sought planning permission for the erection of ten dwellings within the settlement boundary of East Langdon, on a site allocated for development under Policy LA34 of the Council's Land Allocations Local Plan (LALP). Policy LA34 required that boundary trees and hedges should be retained. However, with the agreement of the Council's Trees Officer, poor specimens would be removed and the boundaries strengthened with new tree and hedgerow planting. Planning permission had been granted for a single dwelling on an adjacent site and this was under construction.

A significant number of concerns had been raised regarding the proposal's impact on traffic and highways. In this regard, Langdon Parish Council had commissioned an independent study, in response to which KCC Highways had commented that there would be no harm arising from the development.

Members were informed that the size of the development did not permit the LPA to seek an affordable housing contribution, the criterion being eleven dwellings or more, with at least 1,000 square metres of combined floor space. With regards to open space, a contribution could not be sought since Langdon Playing Fields had recently been upgraded and could accommodate the needs of the development. The Council's Policy and Projects Manager had also advised that maintenance payments towards the upkeep of the play area could not be requested as Policy DM27 did not allow for maintenance payments to be made where improvements were not required. It was emphasised that there was no sound basis for seeking contributions within the criteria imposed by Regulation 122 of the Community Infrastructure Levy.

Councillor Wallace raised concerns about the development's impact on car parking, access, and traffic. Whilst KCC had raised no objections, local residents clearly had concerns and he gave more weight to these. He stated that he was unhappy with the approach taken by the developer.

Councillor Bond stated that, whilst he recognised that the principle of development on the site could not be questioned, he was against the proposal. Westside was a narrow, one-way road with on-street parking only which would be reduced even further once the adjacent dwelling was completed. If the application were to be approved, he requested that a condition be added requiring that the road surface be finished to the wearing course/KCC Highways' adoptable standard. Councillor Bartlett also raised concerns about parking and traffic, highlighting that the independent traffic study had concluded that the development would cause harm. The Chairman reminded the Committee that KCC Highways had stated that no significant harm would be caused by the development. It was for the Committee to assess that harm and whether it was significant. Strong grounds would be needed to refuse an application for a site which had already been allocated for development within the LALP.

In respect of parking, the Senior Planner advised that 0.2 visitor spaces per dwelling, or two spaces in total, were required. However, the developer would be providing five spaces. This was in addition to the number of spaces required to meet the guidelines for residents' parking. It was clarified that the play area was within 600 metres of the proposed development, the distance stipulated by Policy DM27, and had been upgraded two years previously.

Councillor Richardson stated that, whilst he sympathised with the concerns raised about parking and highways access and the lack of community benefits, he failed to see how the proposal could be refused. The Chairman added that he was of the view that KCC Highways had satisfactorily addressed the concerns raised about highways matters. However, the public speaker had mentioned that there had been little consultation or contact with the parish council or the community by the developer which was disappointing.

The Team Leader (Development Management) reminded Members that, as a site allocated in the Local Plan, the highways impact of development would have been considered and consulted upon as part of a lengthy process. Furthermore, the developer was providing more parking spaces than required under guidelines. The

impact on highways would need to be severe if the application were to be refused on those grounds. The Senior Planner clarified that the removal of permitted development rights would ensure that any further impact on the local landscape was controlled.

RESOLVED: (a) That Application No DOV/16/00968 be APPROVED subject to the following conditions:

- (i) Standard time limit;
- (ii) Approved plans;
- (iii) Samples of materials to be used;
- (iv) Tree and hedge protection measures;
- (v) Retained trees/shrubs;
- (vi) Hard and soft landscaping plan, including specifications and timetable;
- (vii) Ecological enhancements;
- (viii) Lighting strategy;
- (ix) Foul water drainage details;
- (x) Surface water drainage details, timetable and implementation;
- (xi) Details of connection to mains water;
- (xii) Site sections and thresholds;
- (xiii) Earthwork details;
- (xiv) Provision of access;
- (xv) Provision of parking/garaging;
- (xvi) Provision and retention of turning area;
- (xvii) Measures to prevent surface water discharge onto public highway;
- (xviii) Bound surface for first 5 metres of each private access from the edge of the highway;
- (xix) Completion of specified highway works before first occupation of each dwelling;
- (xx) Bin and cycle storage;
- (xxi) Programme of archaeological works;
- (xxii) Construction management plan;
- (xxiii) Removal of permitted development rights (roof extensions);



(xxiv) Standard of road – finished to wearing course/KCC Highways’ adoptable standard;

(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.

133 ADJOURNMENT OF MEETING

The meeting was adjourned at 8.13pm for a short break and reconvened at 8.20pm.

134 APPLICATION NO DOV/15/01277 - PHASE II OF WHITFIELD URBAN EXPANSION, WHITFIELD

Members were shown plans and photographs of the application site. The Principal Planner advised Members that, since the report had been written, KCC Highways had confirmed its objections to the proposal. Sutton Parish Council had also submitted a further letter, reiterating its concerns over vehicular traffic from the new development travelling along Napchester Road and, subsequently, through Sutton.

The application sought outline planning permission, with all matters reserved, for Phase 2 of the Whitfield Urban Expansion scheme. This phase related to Parsonage Whitfield and Shepherd’s Cross neighbourhoods and would provide 1,190 dwellings. The applicant had appealed to the Planning Inspectorate against non-determination of the planning application. The Committee was therefore requested to indicate how it would have determined the application, had it been in a position to do so. The Committee’s resolution would then form the basis of the Council’s defence at the appeal hearing.

Members were advised that a report would be presented to Cabinet on 1 March 2017 which demonstrated that the Council had a five-year housing land supply. However, this document had not yet been approved and therefore carried limited weight. In any case, given that the application related to an allocated site, it was not considered to be of great consequence.

Policy CP11 of the Core Strategy had allocated an area of land for development at Whitfield, and required that housing would be accompanied by the necessary infrastructure. In line with CP11, the Whitfield Urban Expansion Supplementary Planning Document (SPD) had been adopted by the Council in 2011 and provided a framework for the assessment of all applications associated with the development scheme at Whitfield. The SPD included a concept masterplan which provided parameters against which applications would be assessed.

Paragraphs 2.94 to 2.97 of the report set out the potential benefits of the application that included the provision of a substantial number of dwellings and affordable housing. These were benefits to which significant weight should be attributed. The indicative plans also demonstrated that, subject to the submission of acceptable applications for reserved matters and appropriate conditions, the site could accommodate the proposed development without causing unacceptable harm to the character and appearance of the area, the settings of heritage assets, the living conditions of neighbours or future occupiers, flood risk or contamination. However, there were strong concerns relating to the provision of infrastructure, highway impacts and impacts on off-site ecology.

Phase 2 would be dependent upon infrastructure provided as part of Phases 1 and 1A. For example, highway infrastructure would be required to link the development to the A256. The applicant had proposed to control the commencement of Phase 2 by way of a legal obligation so that it followed the substantial completion of Phase 1. However, no draft legal agreement had been submitted. In addition, in the absence of an acceptable legal obligation, the provision of infrastructure such as primary and secondary schools and library, youth services and adult social services capacity had not been secured, nor had the required mitigation necessary to avoid an unacceptable increase in recreational pressure on the Lydden and Temple Ewell Special Area of Conservation or the Thanet Coast and Sandwich Bay Special Protection Area.

Details of proposals for a bus rapid transit system, required by the SPD, were also lacking. Furthermore, the transport statement submitted by the applicant was based on out-of-date information and, as such, had failed to provide an acceptable model of the highways impacts of the development. Whilst no viable solution had been put forward for the disposal of foul sewerage, it was considered that, on balance, this could be dealt with by condition, requiring a detailed scheme to be submitted in advance of the first application for reserved matters. In conclusion, although the application offered significant benefits, its shortcomings were substantial and refusal was recommended.

Councillor Back queried how construction traffic would access the site. Highways England and KCC Highways were against development until the Whitfield and Duke of York roundabouts had been upgraded. The sewerage system could not cope with the new development and there were no plans to upgrade the network until 2020. A sewage pipe had recently burst due to pressure from the Phase 1 development, and he urged the Council, Southern Water and the developer to meet to find a solution. In his opinion, the developer had scant regard for conditions, as evidenced by the fact that construction traffic was using Archers Court Road rather than the A256, and some houses in Phase 1A had already been occupied in breach of conditions.

Councillor Richardson praised Officers for their efforts in trying to ensure that important developments at Aylesham and Whitfield were beneficial to the district and not disruptive to local residents. It was therefore disappointing to see that the construction of Phase 1 had experienced problems, with a developer who was playing fast and loose with the system. The application before Committee was highly inadequate and, to add insult to injury, the developer was appealing against non-determination. It was not unreasonable for developers to request that conditions be amended or changed if they were genuinely impractical. However, in this case, the developer was attempting to extricate himself from commitments given, and the Council should take a firm stand against this. Councillor Gardner stressed the importance of ensuring that the requisite infrastructure was in place. Without this, the developer could walk away after construction and the Council would be left to fund road improvement and sewerage works.

In response to Councillor Back, the Principal Planner advised that the plans showed a spine access road running between the A257 and the A2 and through the site. However, in the absence of a legal agreement, there was no way of ensuring that this road would be provided. A strongly-worded construction management plan could be conditioned to manage construction traffic or, alternatively, a legal agreement which might be more appropriate given the size of the development.

On drainage, Members were advised that substantial off-site sewerage infrastructure would be required to serve the development, with the upgrading of the Broomfield Park pumping station a current solution. Such works were likely to be part-funded by the developer. A strongly-worded condition could adequately deal with drainage issues. The Chairman emphasised that details of the proposals would need to be submitted before the submission of the reserved matters application. It was clarified that the disposal of sewage and foul drainage had not been included in the reasons for refusal as these could be secured with a Section 106 agreement if necessary.

RESOLVED: (a) That the Committee confirms that it would have refused to grant planning permission, had it been in a position to do so, for the following reasons:

- (i) The proposed development has failed to demonstrate that the development would be phased to allow for the provision of all forms of infrastructure upon which it would rely, contrary to Dover District Core Strategy Policy CP11, the Whitfield Urban Expansion Supplementary Planning Document and paragraphs 17, 29, 30, 32, 34, 35, 69, 72, 73, 113 and 118 of the National Planning Policy Framework;
- (ii) The proposed development, in the absence of sufficient evidence to the contrary, has failed to demonstrate that it would not cause severe residual cumulative impacts to the local highway network, in particular to the Whitfield Roundabout on the A2 and the Duke of York Roundabout on the A2, contrary to Policies CP11 and DM12 of the Dover District Core Strategy, the Whitfield Urban Expansion Supplementary Planning Document and paragraphs 17 and 32 of the National Planning Policy Framework;
- (iii) The proposed development, in the absence of sufficient evidence to the contrary, has failed to demonstrate that it would provide a Bus Rapid Transit initiative and would, consequently, fail to create a modal shift towards a more sustainable pattern of transport, contrary to Policies CP11 and DM11 of the Dover District Core Strategy, the Whitfield Urban Expansion Supplementary Planning Document and paragraphs 17, 29, 30, 32, 34 and 35 of the National Planning Policy Framework;
- (iv) The proposed development fails to provide the necessary mitigation against increased recreational pressure on the Lydden and Temple Ewell Special Area of Conservation and the Thanet Coast and Sandwich Bay Special Protection Area, contrary to paragraphs 1.21 to 1.24 of Annex 1 of the Dover District Land Allocations Local Plan, the Whitfield Urban Expansion Supplementary Planning Document and paragraphs 109, 113 and 118 of the National Planning Policy Framework;

(v) The proposed development fails to provide the necessary infrastructure, in respect of community learning, libraries, youth services, adult social services, primary schools and secondary schools, to meet the needs which would be generated by the development, contrary to Policy CP6 of the Dover District Core Strategy, the Whitfield Urban Expansion Supplementary Planning Document and paragraphs 17, 69 and 72 of the National Planning Policy Framework.

(b) That powers be delegated to the Head of Regeneration and Development to settle the detailed wording of the case for the Local Planning Authority, in line with the issues set out in the report and as resolved by the Planning Committee.

135 REVIEW OF THE CONSTITUTION

The Team Leader – Democratic Support introduced the report that had previously been to the Governance Committee and Council. The report was unchanged from the one considered by Council on 25 January 2017. None of the changes proposed affected the balance of Member/Officer decision-making. The changes affecting Planning delegations reflected changes in legislation or were a general tidying up of the existing delegations.

RESOLVED: That the report be noted.

136 APPEALS AND INFORMAL HEARINGS

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

137 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 8.51 pm.