

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 17 March 2016 at 6.00 pm.

Present:

Chairman: Councillor F J W Scales

Councillors: B W Butcher  
J S Back  
S F Bannister  
T J Bartlett  
P M Beresford  
B Gardner  
M J Ovenden  
G Rapley

Officers: Principal Planner  
Principal Planner  
Principal Planner  
Senior Planner  
Development Planner (KCC Highways, Transportation and Waste)  
Locum Planning Solicitor  
Trainee Solicitor  
Democratic Support Officer

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

<u>Application No</u>	<u>For</u>	<u>Against</u>
DOV/15/00730	Mr Bob Britnell	Ms Karen Rice
DOV/15/00525	Mr Ian Bull	Mr Keith Pilcher
DOV/15/01032	Ms Valerie Owen	Mr David Evans
DOV/15/01026	Mr Anthony Reid	-----

115 APOLOGIES

It was noted that Councillors T A Bond, D P Murphy, A F Richardson and P M Wallace had sent apologies for absence.

116 APPOINTMENT OF SUBSTITUTE MEMBERS

In accordance with Council Procedure Rule 12.4, it was noted that Councillors M J Ovenden, P M Beresford and G Rapley had been appointed as substitute members for Councillors T A Bond, D P Murphy and A F Richardson respectively.

117 DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest.

118 MINUTES

The minutes of the meeting held on 25 February 2016 were approved as a correct record and signed by the Chairman.

119 ITEMS DEFERRED

The Chairman advised Members that Application No DOV/15/00730 was dealt with elsewhere on the agenda. In respect of Application No DOV/15/00952 (Aylesham Village Expansion), three tenders had been issued in relation to commissioning highways consultants to provide independent advice. In the meantime, the application remained deferred.

120 CHAIRMAN'S ANNOUNCEMENT

The Chairman advised that Application No DOV/15/0707 (Land fronting The Zetland Arms Public House, Wellington Parade, Kingsdown) had been withdrawn from the agenda as a result of recent changes to the Kingsdown Conservation Area which surrounded the application site. These changes meant that the application would need to be re-advertised, following which it would come back to the Committee.

121 APPLICATION NO DOV/15/00730 - LAND ADJACENT TO 53 CHURCH PATH, DEAL

The Committee viewed photographs and plans of the application site. The Senior Planner reminded Members that the application had been deferred at the Planning Committee meeting held on 25 February 2016 for a site visit, the purpose of which was to assist Members in assessing the proposed development's impact on visual amenity, road access and location; the condition of the TPO (Tree Preservation Order) tree and whether it would be an overdevelopment of the site.

The Senior Planner recapped that the site had formed part of the garden of no 53 Church Path which had been granted planning permission under DOV/1300951. However, it appeared that the site had never been used for that purpose and was fenced off. The site adjoined Sutherland Road and was located south-east of Berkeley House, a Grade II-listed property. Whilst the site lay within Flood Zone 3A, it had passed sequential tests submitted in support of the application for no 53, and was therefore considered acceptable in terms of flood risk.

The proposed three-bedroom dwelling would have a similar footprint to that of no 53, with no off-street parking. The proposed design mimicked nearby properties and was considered acceptable. The first-floor windows facing north-east and south-east, which offered the most potential for overlooking, would be obscure glazed and fixed shut. The proposed dwelling would sit south-east of no 53 and, as a result, some shadows would be cast on to no 53. However, this was considered acceptable given that there were a limited number of windows on the facing elevation. Officers had considered all issues relating to overshadowing, overlooking and outlook and had concluded that, on balance, these were acceptable.

In clarification, the Senior Planner advised that in 2009 the Planning Inspector, in considering an appeal against the refusal of planning permission for a pair of semi-detached properties on the same site, had ruled that the absence of off-street parking was not a reason for refusal per se.

The applicant proposed to plant two hornbeam trees to replace a sycamore tree which was the subject of a TPO. These trees would also be covered by a TPO. A condition had been attached to the planning permission granted under DOV/13/00951 limiting any reduction in the crown of the sycamore tree to 20%. A subsequent application to fell the tree had been refused and dismissed at appeal in

2015. Works to reduce the crown had commenced in late March/early April 2015 and, following a call from a member of the public, the Council's Tree Officer had visited the site and had noted a number of diseased and dying limbs. Works had recommenced in late April and had resulted in a reduction of more than 20%. However, the Tree Officer had advised that the removal of diseased and dying limbs did not require permission.

Councillor B Gardner advised that he, along with two other Members, had attended the site visit held on 15 March. Having viewed the site, including from the rear garden of 28 Sutherland Road, Members had concluded that the application should be refused on the grounds that it would be an overdevelopment which would cause harm to the spatial character and quality of the street scene, and detract from the setting of the listed building. Moreover, the loss of the TPO tree would result in unacceptable harm to the visual amenity, quality, appearance and character of the street scene and, finally, the absence of off-street parking would increase the use of existing limited on-street parking which would cause harm to the quality of amenity of existing residents.

Views of the listed building could be seen from the far end of Sutherland Road and beyond. These views contributed to the visual amenity of the area and would be lost were the development to go ahead. The new development, if permitted, would add to the pressure on on-street parking, the lack of which was already a cause for concern. A previous application for two houses on the same site had been refused and then dismissed on appeal. Planning permission for a dwelling at no 53 had subsequently been granted. However, in contrast to the application plans submitted, the site had not been utilised as garden space for no 53 but had been fenced off. The dwelling now proposed would have a tiny amount of amenity space, and it was difficult to understand how two hornbeams would fit into this space, let alone flourish as mature trees. If planning permission were granted, it was inevitable that the occupier would, at some point in the future, seek permission to fell the trees because they were interfering with the house and wall. Finally, contrary to what had been said at the site visit, there was absolutely no evidence that the sycamore tree had caused damage to the wall or pavement.

In respect of parking, Councillor S F Bannister added that the parking situation had changed since 2009 when the Inspector had ruled that parking was not a reason for refusal in its own right. Since that time there had been a 20% increase in cars on the road. The addition of even one or two more cars trying to park in surrounding roads should not be underestimated in terms of neighbour relations. Parking spaces had been scarce at the time of the site visit in the morning, so the pressure on spaces in the evening would undoubtedly be much worse. He echoed Councillor Gardner's view that there was insufficient amenity space to accommodate two large hornbeams.

In response to Councillor M J Ovenden, the Senior Planner advised that emergency vehicles would be able to access the site by extending a hose from the grounds of the church hall. In response to concerns raised about the hornbeams, he confirmed that he had consulted the Tree Officer again who had confirmed that the site could accommodate two hornbeams which would be subject to ongoing maintenance by the occupier.

**RESOLVED:** That, notwithstanding the Officer's recommendation, Application No DOV/15/00730 be REFUSED on the following grounds: (i) The new dwelling, due to its scale and the restricted size of the site, if permitted, would result in a cramped form of development and

therefore overdevelopment of the site, causing harm to the spatial character and quality of the street scene, and would detract from the setting of the nearby listed building, causing an unacceptable level of harm where that harm would not be outweighed by any public benefits, contrary to the aims and objectives of the National Planning Policy Framework at paragraphs 17, 56, 57, 61 and 131-134 in particular; (ii) The development, involving the loss of a TPO sycamore tree, would result in unacceptable harm to the visual amenity, quality, appearance and character of the street scene, contrary to the aims and objectives of the National Planning Policy Framework at paragraphs 7, 17, 56 and 61 in particular; and (iii) The proposed development, which does not include dedicated off-street parking, if permitted, would result in an increased use of existing limited on-street parking which would cause harm to the quality of amenity enjoyed by existing residents, contrary to the sustainability aims and objectives of the National Planning Policy Framework at paragraphs 7, 17, 56 and 61 in particular.

122 APPLICATION NO DOV/15/00525 - LAND SOUTH OF NEW DOVER ROAD, CAPEL-LE-FERNE

The Committee viewed photographs and plans of the application site. The Principal Planner advised that the site lay on the eastern edge of Capel-le-Ferne, between New Dover Road to the north and Old Dover Road to the south, with Helena Road to the west and the caravan park to the east. A bridleway abutted the western boundary of the site and continued north towards the public play area and school. The site, a rectangular shaped parcel of land, was allocated for the development of 50 dwellings under policy LA24 of the Council's Land Allocations Local Plan (LALP).

The cliffs and coastline located to the south of the site were designated as Heritage Coast, an Area of Outstanding Natural Beauty (AONB) and a Site of Special Scientific Interest (SSSI). The land was also protected open space. It was proposed to develop the northern part of the site with 40 houses. A lack of management had led to the southern part of the site turning into scrubland; this would be reinstated as chalk grassland under the development proposals. The majority of trees had been removed from the site in preparation for reinstating the grassland, although some vegetation remained on the north, east and west boundaries. Significant new planting was proposed on the site boundaries, including a dense buffer strip on the northern boundary and specimen trees on the southern boundary.

As originally submitted, the scheme had proposed 41 dwellings, with a mix of 12 x 2 bedroom, 4 x 3 bedroom and 25 x 4-bedroom houses. It had since been amended to provide a more appropriate mix of housing: 12 x 2 bedroom, 14 x 3 bedroom and 14 x 4-bedroom houses. The internal layout of the site and the design of dwellings had also been amended to address issues such as overlooking and visual impact. Off-site highway works were proposed on New Dover Road, to include a right-hand turn splitter lane, a road island and extensions to the public footpath.

A draft Section 106 agreement had already been submitted which would secure the provision of six affordable housing units on site, and a financial contribution of £300,000 towards off-site affordable housing. The applicant had already secured a social registered housing provider – Southern Housing Group – to manage the affordable housing units. Other contributions secured by the agreement related to

the Thanet Coast and Sandwich Bay SPA mitigation strategy; local library book stocks and the upgrading of the northern part of the bridleway.

The policy proposals map indicated that the southern half of the site lay beyond the urban confines, meaning that a small proportion of the built development (approximately 20 metres) would be beyond the confines and technically within the countryside. The Committee would therefore need to give due weight to countryside and housing policies and the Council's general lack of a five-year housing supply.

Concerns had been raised regarding the exact proportions of the site to be developed. The proposals map indicated that approximately half the site would be developed, and it was suggested that there was a conflict between the map and the policy requirements. The application proposed 40 dwellings (considerably less than the policy maximum) over a larger area than 1.42 hectares. The area to be developed was approximately 2.24 hectares which equated to 17.8 dwellings per hectare. A higher density in a more restricted area would result in a cramped form of development which would be at odds with the spatial character of the area. For example, the density of adjacent residential roads (Avondale and Helena Roads) was equivalent to 19.8 dwellings per hectare.

The preamble and criterion I of policy LA24 stated that the precise boundary between the developed and undeveloped parts of the site would be established on the basis of ecological evidence. To this end, the applicant had commissioned specialist consultants to carry out detailed ecological surveys and soil analysis to establish the parameters for the development footprint and layout. These surveys had been agreed by the Council's Ecology Officer. In summary, Officers were satisfied that the proportion of the site to be developed was acceptable.

The Committee was advised that it was required to consider paragraph 14 of the National Planning Policy Framework (NPPF) to assess whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the proposal when weighed against the policies in the NPPF. Furthermore, whether there were specific policies in the NPPF which indicated that development should be restricted. Whilst the development would result in significant benefits (as set out in the report), it would also result in the loss of countryside, thus conflicting with Policy DM15 of the Core Strategy. However, it was considered that the harm would be limited in the existing context of the site. Officers were of the view that there were no compelling and overriding reasons to justify a refusal of planning permission, particularly when considered in the context of there being no five-year housing land supply. Weight should also be given to the delivery of 15% affordable housing and the off-site contribution. Weighing up all the material considerations, it was concluded that the limited adverse impacts of the proposed development would not outweigh the benefits, and the granting of planning permission was therefore recommended.

Councillor F J W Scales stated that Capel-le-Ferne Parish Council was opposed to the development. The Parish Council and local residents had worked closely with the Council through the development of its Local Development Plan and Core Strategy, and had agreed this site as the preferred location for development. However, the proposed density and general design were not appropriate for this rural location. The Local Development Plan and the LALP had identified a lower density of dwellings for the site, and the case for extending the development beyond 50%, thus reducing the amount of reinstated chalk grassland to 30%, had not been proven.

On highways matters, he raised concerns about the location of the proposed road island. This needed to join the bridleway in order to provide a safe crossing point for children using the bridleway to get to school. He was also firmly of the view that the proposed splitter lane should be in place before construction commenced in order to minimise disruption to road users. Being a member of the village's Speedwatch initiative, he was concerned about the speeds identified by the applicant's traffic speed survey which differed considerably from those found by Speedwatch. The speed restriction on both New Dover Road and Old Dover Road should start at Winehouse Lane. It was not acceptable to argue that the speed limit should not be extended because it was currently not enforced by Kent Police.

It was the developer's intention to use weatherboarding on the dwellings. Capel was not a seaside area and the use of such materials was out of keeping with the rest of the village. The mix of house types, although better, was still not right. For example, a larger number of 2-bedroom dwellings, potentially for people with links to Capel, should be provided and the number of 4-bedroom dwellings should be reduced. He was of the view that the development was of poor design and, overall, not the right one for Capel.

Councillor Gardner raised concerns that the confidential viability appraisal review report, which he wished to refer to, had been circulated to Members at such short notice. Councillor Scales pointed out that substitute Members had not received the report.

In response to Councillor G Rapley, the Principal Planner advised that the proposal had been extensively discussed for over a year, and all issues (including parking, materials, etc) had been considered afresh when she assumed responsibility for the application as Case Officer. Material samples had been submitted and she was satisfied that the proposals would achieve a reasonable development on the site. Retirement flats had been suggested, but these would create a dense form of development on the edge of the village which would be distant from local amenities and out of keeping with the character of the village.

In response to Councillor Bannister, the Principal Planner reported that KCC had advised that no additional primary school spaces would be needed. Whilst the school was full to capacity, this was due to the school taking children from outside the District. In future, Capel children would be given priority. Councillor Bannister advised that this was not the information he had received from the school which apparently had no additional capacity. He suggested that this was an issue which needed further discussion with KCC.

In response to questions raised, the KCC Highways Development Planner advised that highways conditions would be resolved by the submission of evidence. It was intended that there would be a connection linking the short distance between the bridleway and the road island. It was not considered reasonable to ask the applicant to install the splitter lane before construction. However, they could be asked to implement temporary construction measures. Since there was no reason to doubt the results of the traffic speed survey, an extension of the speed limit by the developer was not required. Councillor Scales pointed to the fact that construction plans were not always enforced, often with negative consequences for local communities. He questioned why the speed limit could not be extended when it was unlikely to cost the developer much more to do so.

The Principal Planner advised that Southern Water had confirmed that there were no public surface water sewers in the area. Alternative means of drainage would be required as disposal to the main foul water sewer was not permitted. Consultants had indicated that the use of soakaways would be acceptable. Condition 9 would deal with these matters, requiring details of foul and surface water disposal to be submitted and approved.

Councillor Ovenden raised several issues, including the public use of the chalk grassland and safety barriers at access points to the bridleway. The Principal Planner advised that the grassland would be public open space. However, although there would be no physical barrier to accessing it, its wider use would be discouraged by providing only a mown grass path through the site. The bridleway would not be re-tarmacked. Safety barriers at bridleway access points had not been considered but a condition could be added to address this matter. In respect of boundary treatment, Members were advised that additional plans had recently been received showing a 1.8-metre close-boarded fence and vegetation strips along the boundary with the caravan park.

It was moved by Councillor F J W Scales and duly seconded that the press and public be excluded from the meeting.

RESOLVED: That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the remainder of the business on the grounds that the item to be considered involves the likely disclosure of exempt information as defined in paragraph 3 of Part I of Schedule 12A of the Act.

Councillor P M Beresford, supported by Councillor Ovenden, indicated that she would not participate in the vote as she had not had time to consider the viability appraisal review. Councillor Gardner raised concerns that, having been given assurances that all Members would receive viability assessments, the report had only been received by Members on the preceding Saturday. The Principal Planner stressed that the viability appraisal review had been available since January and Members could have sought sight of it. Moreover, the review was summarised in the report to Committee. However, Members were assured that the oversight in not notifying them of the existence of the viability assessment would not recur.

The Chairman advised Members that there were three options: (a) to defer the application; (b) for substitute Members to absent themselves from proceedings; or (c) to determine the application with all Members present.

The Committee was advised that, in the interests of openness and transparency, members of the press and public should be present to hear the Committee's determination of the application.

It was moved by Councillor J S Back and duly seconded that the press and public be re-admitted to the meeting.

RESOLVED: That the press and public be readmitted.

Following the re-admittance of the press and public, the Committee moved to the vote.

It was moved by Councillor P M Beresford and duly seconded that the application be DEFERRED. On being put to the vote, the motion was CARRIED.

RESOLVED: That Application No DOV/15/01032 be DEFERRED on the grounds that substitute Members had not had sufficient time to consider the contents of the viability appraisal review.

(The Chairman 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.)

123 APPLICATION NO DOV/15/01032 - LAND ADJACENT TO ALLOTMENTS, FOLKESTONE ROAD, DOVER

Members viewed photographs and plans of the application site. The Principal Planner advised that, since the report was written, two additional letters of objection had been received, raising concerns about the impact on the AONB, inappropriate access to the site and additional infrastructure. The application site lay outside the settlement boundaries of Dover and was therefore contrary to Policy DM1 of the Council's Core Strategy. However, as the District was unable to demonstrate a 5-year housing land supply, Policy DM1 carried less weight and it was therefore also necessary for Members to consider paragraphs 14 and 49 of the NPPF which presumed that permission should be granted unless the development was unsustainable or overruled by specific policies in the NPPF.

Part of the site lay within the boundary of the Kent Downs AONB, and the entire site was designated as Open Space. As such, the site contributed to the setting of the town, and the extent of the proposed development would substantially alter this setting and cause unavoidable harm. KCC Highways had raised no objections, but had indicated that the proposed access point was not in an appropriate location and would need to be moved. Although the development would contribute towards the District's housing supply, it was not sustainable, causing adverse social and environmental impacts that significantly outweighed any benefits. For these reasons, it was recommended that the application be refused.

Councillor J S Back stated that the site had at one time been allotments and there had been buildings on it. No objections had been received from Dover Town Council, KCC Highways or Southern Water. There were as many letters in support of the application as there were against. The developer appeared to be flexible over the mix of housing provided, which included 30% affordable housing. Given that there would be no buildings on the AONB itself and that planning permission had been granted for 600 houses on a site opposite, he was of the view that the development would enhance the area. Councillor Beresford agreed, stating that the development would provide much needed housing, particularly affordable housing, for the District. In the absence of a 5-year housing land supply, she supported the proposal.

Councillor Gardner referred to page 64 of the report which set out the planning history of the site. Although the 30% offer of affordable housing was attractive, he did not want to see housing on the site. Councillor Bannister referred to Dover's unique valley system which he argued should be preserved. Such a development in a prominent site would spoil the landscape.

Referring to previous refusals, the Chairman reminded Members that these had occurred before the existence of the NPPF. Like Councillor Ovenden, he questioned the certainty of obtaining 30% affordable housing on the site. Whilst the



impact of the development on short views was less significant, its impact on long views would be considerable. The Committee had a duty to consider the harm that would be caused to the AONB because the site was linked to it.

- RESOLVED: (a) That, notwithstanding the Officer's recommendation, and subject to a satisfactory legal agreement relating to the Thanet Coast and Sandwich Bay SPA and other necessary contributions, Application No DOV/15/01032 be APPROVED on the following grounds: (i) The proposed development would deliver much needed housing (including social housing) in the context of the District's lack of a 5-year housing land supply; (ii) The proposed development is in a sustainable location; and (iii) It is considered that the impact on the adjoining Kent Downs Area of Outstanding Natural Beauty would not be severe.
- (b) That powers be delegated to the Head of Regeneration and Development to finalise the legal agreement and to settle any necessary planning conditions in line with the issues set out in the report.

(There being an equality of votes, the Chairman used his casting vote.)

124 APPLICATION NO DOV/15/01026 - 30 MILL HILL, DEAL

The Committee was shown photographs and plans of the application site. The Principal Planner advised that the application sought retrospective permission for the use of the ground floor and basement of 30 Mill Hill for a gym and fitness studio, with a first floor residential studio above for use by the applicant. A single storey extension had also been constructed to provide a fire escape and improve access. An amendment was proposed to condition 6 to ensure that the first floor flat could only be occupied by the owner/manager or employees of the gym and their resident dependants. The Principal Planner advised that a further letter of support had been received since the report was written.

The development was in a sustainable location in a residential area. The gym was located in the basement, and the ground floor would be used for weight machine activities. Noise testing had been carried out and levels were found to be acceptable. KCC Highways had advised informally that the provision of seven off-road parking spaces was acceptable. In response to a proposal by Councillor Gardner, the Principal Planner advised that marking and signage for the car parking spaces would be discussed with the applicant and condition 5 amended accordingly.

- RESOLVED: (a) That Application No DOV /15/01026 be APPROVED subject to the following conditions:
- (i) Development to be carried out in accordance with approved plans;
  - (ii) Classes to be limited to basement area;
  - (iii) Hours of operation to be limited to 06.00-22.00 Monday to Friday; 09.00-17.00 Saturdays, Sundays and Public Holidays;

- (iv) No alteration to internal sound insulation;
  - (v) Parking on forecourt to be kept available at all times, with appropriate marking and signage installed;
  - (vi) First floor flat to be occupied by the owner/manager or employees of the gym and their resident dependants.
- (b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions and matters in line with the issues set out in the recommendation and as resolved by the Planning Committee.

125 APPEALS AND INFORMAL HEARINGS

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

126 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 8.47 pm.