

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 21 April 2016 at 6.01 pm.

Present:

Chairman: Councillor F J W Scales

Councillors: B W Butcher
J S Back
S F Bannister
T A Bond
B Gardner
N S Kenton
D P Murphy
A F Richardson
P M Wallace

Officers: Principal Planner
Principal Planner
Planning Officer
Planning Officer
Planning Consultant
Planning Consultant
Development Planner (KCC Highways, Transportation and Waste)
Ms Sarah Mason (Savills)
Planning Delivery Manager
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/15/00525	Mr Ian Bull	Mr Christopher Norris
DOV/15/01035	Mr Nicholas Mulholland	Mr James Tillitt
DOV/16/00063	-----	Mr Miles Thompson
DOV/16/00090	Mr Gary Holmes	Mr Jordan Godden
DOV/16/00021	Ms Grace Mollart	-----
DOV/15/00457	Mr Robert Hughes	Mr Jeremy Proctor
DOV/16/00057	Councillor S C Manion	-----
	Mr Alan Dewar	
DOV/16/00072	Mr Nicholas Blake	-----

127 APOLOGIES

It was noted that Councillor T J Bartlett had sent an apology for absence.

128 APPOINTMENT OF SUBSTITUTE MEMBERS

In accordance with Council Procedure Rule 12.4, it was noted that Councillor N S Kenton had been appointed as a substitute member for Councillor T J Bartlett.

129 DECLARATIONS OF INTEREST

Councillor B Gardner made a Voluntary Announcement of Other Interests in respect of Application No DOV/16/00090 (Former public conveniences, Route One Cycle, 70 Beach Street, Deal) by reason that he was a member of Dover District Council's Regulatory Committee that had granted the café a premises licence.

130 MINUTES

In respect of Minute No 124, Councillor Gardner requested that 'would' be substituted for 'could' in the final sentence.

In respect of Minute No 122, Councillor Gardner requested that the minutes be amended to reflect the fact that the Principal Planner had assured the Committee that the oversight in not notifying Members of the viability assessment would not recur.

Subject to the amendments to Minute Nos 122 and 124, the minutes of the meeting held on 17 March 2016 were approved as a correct record and signed by the Chairman.

131 ITEMS DEFERRED

The Chairman advised Members that Application No DOV/15/00525 was dealt with elsewhere on the agenda. Independent engineers had been commissioned to draw up a scheme in relation to Application No DOV/15/00952 (Aylesham Village Expansion) which would come back to the Committee in due course.

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

The Committee viewed plans and photographs of the application site which had been allocated for the development of 50 dwellings under Policy LA24 of the Council's Land Allocations Local Plan (LALP). The Principal Planner advised that the site lay 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. The Area of Outstanding Natural Beauty (AONB) was located to the north and south of the site, with Heritage Coast also lying to the south.

Members were advised that paragraph 49 of the National Planning Policy Framework (NPPF) was relevant. This stated that the Local Planning Authority's (LPA) policies could not be considered up-to-date where it was unable to demonstrate a 5-year supply of housing sites. In this circumstance, paragraph 14 of the NPPF, which presumed in favour of sustainable development, had to be considered. This set out that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF as a whole or against specific policies in the NPPF which indicated that development should be restricted. That said, the Committee should give considerable weight to the fact that this site had been allocated for housing within the LALP, a recently adopted Local Plan document. However, the overall presumption in favour of sustainable development set out in paragraph 14 took precedence.

It was proposed to develop the northern part of the site with 40 dwellings, and to reinstate chalk grassland on the southern part. Whilst a settlement boundary was

shown across the site in the LALP, as outlined in Policy LA24, the exact boundary between the developed and undeveloped parts of the site would be established on the basis of ecological evidence. This evidence had been provided with the application and, although the developable part of the site was shown to extend beyond the settlement confines, the size of the chalk grassland and the developed area was considered acceptable. With reference to paragraph 4.24 of the report, Members were advised that proposals to plant trees on the southern boundary of the site were no longer appropriate as ecologists had advised that they would have a negative impact on the grassland. This was a material consideration which was considered to justify setting aside criterion iii of Policy LA24.

Of the 40 dwellings, six would be affordable homes, equating to 15% provision. A further contribution of £295,000 would be made towards off-site affordable housing. Officers were satisfied that the proposals were in keeping with surrounding properties. On the eastern side, the proposed dwellings would be no closer than 10 metres to the boundary with the caravan park. External lighting would be secured by condition in order to minimise any impact on the AONB. Southern Water had confirmed that there were no public surface water sewers serving the site and alternative means of disposal would therefore be necessary. Southern Water, along with Kent County Council (KCC) as the local flood authority, had suggested conditions to address concerns over surface water disposal.

Turning to access and highways, Members were advised that a contribution of £54,000 would be made to resurface the bridleway on the north side of New Dover Road in order to promote it as a pedestrian route. The proposed vehicle access point to the site fell within the 60mph speed limit zone, and a right-hand turning lane was proposed at the junction, along with a splitter lane at the eastern end. The applicant had offered to fund the relocation of the existing entry gateway – currently west of the site on New Dover Road - to a location east of the application site. A Construction Management Plan had been submitted which indicated that construction traffic would use the A20 in order to avoid right-hand turning into the site. In addition, the applicant had indicated that a temporary 40mph zone could be provided.

In assessing the application against the NPPF, the Principal Planner clarified that the benefits of the development were that it would provide 40 dwellings within an allocated site in a sustainable location. The relocation of the gateway, upgrading of the bridleway and reinstatement of the chalk grassland would also provide benefits. Whilst there would be a loss of countryside and an impact on the Heritage Coast, Officers had concluded that these adverse impacts were broadly commensurate with what was anticipated in the LALP allocation (under Policy LA24) and did not outweigh the benefits, and the granting of planning permission was therefore recommended.

Councillor A F Richardson referred to Policy LA24 which stated that planning permission should only be granted if the proposals were sensitively designed in terms of height, massing, etc, and provided there would be no adverse impact on the countryside. The Kent Downs AONB Unit had raised objections on the grounds that the development would have an adverse impact due to its design and inappropriate landscaping. In response, the Principal Planner clarified that the AONB Unit's comments had been in relation to the original scheme which had a different layout and a frontage onto New Dover Road. Following discussions with the applicant, a landscape buffer had been created to protect the AONB. Although the AONB Unit had not been re-consulted on the amended scheme (due to a general change in the consultation arrangements with the AONB Unit), the Council's

own expert was satisfied with the proposed safeguards to the AONB. Councillor Richardson expressed surprise that the AONB Unit had not been re-consulted, and suggested re-consultation should be normal practice in future.

Whilst he accepted the principle of development on the site which was established by the LPA's planning policies, this proposal pushed the boundaries. Not only was he uncomfortable with the uncertainty surrounding the split between development and biodiversity, but also by the fact that there would be encroachment beyond the settlement confines by 20 metres. He disliked the proposed designs of the dwellings which did not relate well to, or complement, the existing dwellings in the village.

Councillor Gardner pointed to the huge difference between the figures in the developer's viability assessment and the one commissioned by the LPA. The developer had initially indicated that they could not afford to provide any on-site affordable housing. Although they were now offering six units, he remained concerned that the LPA was not getting what was due to it. The developer was only offering two-bed houses which would be grouped in one corner of the site which he considered unacceptable. For this reason, together with the encroachment beyond the settlement confines, the application should be refused.

Councillor F J W Scales commented that the Parish Council and local residents had supported this site as being the best one for development. However, the proposals, albeit an improvement on the originals, were still not suitable for Capel. The case for encroaching beyond the settlement confines by 20/30 metres had not been substantiated, and the amount of land left for chalk grassland was insufficient. Although the relocation of the 40mph speed limit was to be welcomed, he suggested that it should start from the roundabout, with the A20 to the east of the site. Further discussions should be held between the Parish Council and KCC to consider this matter. He had held discussions with the Parish Council which, like him, firmly believed that the splitter lane should be in place before construction commenced. He was struggling to accept that the wider public benefits, such as tarmacking the bridleway and moving the gateway, outweighed the harm caused by developing outside the settlement confines since he would have expected these measures to be taken for a smaller development which did not adversely impact upon the AONB. He accepted that the reinstatement of chalk grassland would be a cost to the developer. However, ecological improvements to the southern half of the site had been an essential element in the allocation of this land for development.

Councillor T A Bond also raised concerns about encroachment beyond the settlement confines, the impact on the AONB and reduction in the size of chalk grassland. In his view, the development was not sustainable. The local primary school had limited places which would mean children having to travel by car or bus to attend school. He was also concerned that further information about drainage had yet to be provided. The pedestrian crossing should be moved further down, and measures should be taken to slow traffic given that the proposed access point was in a dangerous location.

The Principal Planner advised that the Council's Housing Manager had been consulted and was content with the mix of affordable housing provision. Registered Social Landlords (RSLs) generally preferred to have affordable housing units grouped together, particularly on smaller sites, as this arrangement was more practical to manage. Members were reminded that the precise boundary between development and biodiversity would be based on ecological evidence. Although the size of the chalk grassland area had diminished, the fact remained that it would not

be reinstated without this development activity. The Council's Ecology Officer was satisfied that the biodiversity proposal was a proportionate response which would improve, and add to, the existing grassland. KCC had not requested a financial contribution for school places due to there being another school nearby.

The applicant had indicated that they were willing to address local concerns with their Construction Management Plan but, at the same time, this had to be viable and practical. Officers could look at the wording of this to address matters raised, including potentially the provision of a right-hand turn facility before construction. However, a balance had to be struck between the applicant's and local interests, and any condition which was likely to prevent construction commencing in a timely manner might be viewed as unreasonable.

Southern Water had consulted KCC's Flood Team and both were content with conditions being attached to deal with drainage and flooding matters. In response to Councillor Bond, the Principal Planner added that, if Southern Water had considered there to be any risks, details of drainage arrangements would have been sought before the grant of permission. As it was, its view was that there were no inherent risks and the attachment of conditions would adequately address drainage matters.

The KCC Development Planner advised Members that the 40mph speed limit zone would be temporarily extended to the island to cover the site and access to the A20. This was not a planning requirement and it would be unreasonable to expect the applicant to extend it to the junction on a permanent basis. Turning right from the site was not an unusual arrangement and there was adequate visibility. Studies indicated that speeds along this road were close to the 40mph speed limit, and further evidence would be needed if the zone was to be extended. Councillor Scales stated that an opportunity was being missed to use the developer's £20,000 contribution to fund a permanent, more satisfactory solution. The Development Planner raised concerns about where additional funding, if needed, would come from, but suggested that the Parish Council approach KCC for discussions.

The Principal Planner reminded the Committee that, in the absence of a 5-year housing supply, the policies that defined the village confines were considered out of date. The Committee also needed to be satisfied that the adverse impacts significantly and demonstrably outweighed any benefits. Furthermore, if Members were minded to include a lack of affordable housing in the grounds for refusal, they needed to be aware that this would go against expert advice that 15% was now an acceptable figure. He advised that this figure had been reached through further negotiations and a re-examination of the costs that would be incurred by the developer on this site.

Councillor Gardner remained concerned that the conclusions of the two viability reports were so far apart. He questioned why the LPA was ignoring the advice of its own expert whose original investigations had concluded that twelve affordable housing units could be provided on site. Councillor Richardson accepted that 30% could not be provided. However, he believed that 15% was insufficient and wanted to understand why it was not possible to achieve a higher number.

The Savills representative advised that they had independently reviewed the viability assessment provided by the developer, examining costings, finance, profit return, etc. There was room for manoeuvre with each of these elements which were inevitably also open to some negotiation. The biggest difference between Savills' initial assessment and the developer's had been build costs. At the request of the

LPA, Savills had prepared a second appraisal, this time using Building Cost Information Service (BCIS) build cost figures relating to Dover district and taking into account the quality of build offered by the developer. The result was an increase in build costs of £9 per square foot; a small increase which had a big impact on overall build costs. Also of relevance was that the developer had made an assumption about the level of off-site financial contribution required. However, it turned out that this would be lower. It was clarified that utilising the off-site financial contribution towards affordable housing on-site would add only one or two extra units. It was also clarified that any increase in market values had been taken into account when calculating costings. It was stressed that Savills had gathered its own evidence, made its own calculations regarding build costs and had not been influenced by data put forward by the developer.

- RESOLVED:
- (a) That, notwithstanding the Officer's recommendation, Application No DOV/15/00525 be REFUSED on the following grounds: (i) That the proposed development would encroach beyond the settlement confines of Capel-le-Ferne and, by reason of the design, height, style and massing of the development, would appear out-of-keeping with the prevailing character of the area and, in particular, would adversely affect the scenic beauty and character of the adjoining Area of Outstanding Natural Beauty and Heritage Coast, contrary to the provisions of Policy LA24 (ii) of the Dover District Land Allocations Local Plan, Saved Policy CO5 of the Dover District Local Plan and the objectives of Paragraph 114 and 115 of the National Planning Policy Framework; (ii) That insufficient evidence has been submitted to demonstrate that the development would be unable to provide 30% affordable housing (on site) and, as such, the proposal is contrary to the provisions of Policy DM5 of the Dover District Core Strategy; and (iii) By reason of grounds 1 and 2 above, the proposal would not constitute sustainable development in that the adverse impacts of the development would significantly and demonstrably outweigh its benefits contrary to Paragraph 14 of the National Planning Policy Framework.
 - (b) That the precise wording of the refusal notice be delegated to Officers, in consultation with the Chairman of the Planning Committee.

(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.)

133 ADJOURNMENT OF MEETING

The meeting was adjourned at 7.43pm for a short break and reconvened at 7.50pm.

134 APPLICATION NO DOV/15/01035 - MOT CENTRE, 46 WEST STREET, DEAL

The Committee viewed photographs and drawings of the application site. The Planning Consultant advised that the application sought permission for the erection of a three-storey block containing 17 one and two-bedroom apartments and maisonettes. The existing building had already been demolished. The application had been subject to significant negotiations and had generated a lot of public

interest. Since the report was written, an additional letter had been received which raised no new material considerations.

The building now proposed was of a similar height and bulk to the garage/testing station which had previously stood on the site, but would be set further forward. The design originally submitted was considered too bulky but, following amendments, was now considered of an acceptable standard for a site on the edge of a residential/town centre area. Whilst no parking would be provided, this was considered acceptable in what was a highly sustainable location. It was recognised that the development would add to pressure on existing parking facilities, but KCC Highways had raised no objections.

Flooding was a key consideration. The Environment Agency had raised no concerns, but sought the attachment of conditions regarding floor levels. The KCC Flood Team had made a holding objection on the basis that the proposal sought to discharge surface water into the existing foul water sewer. As an update, the Committee was advised that Southern Water had since agreed to such an arrangement which would need to be carefully conditioned. Private amenity space was another significant issue. Officers did not consider that the new building would be overbearing or lead to an additional loss of light for existing residents as it was similar in scale to the building which had previously stood on the site. The site stood opposite a row of trees and shrubs which, together with public realm space nearby, would provide screening and prevent overlooking.

In summary, the proposal accorded with Policy DM5 of the Council's Core Strategy in terms of the number of affordable housing units that would be provided. A financial contribution to library book-stock would also be made. The applicant had addressed a number of issues raised in relation to the original application. Although concerns over parking were recognised, this was a highly sustainable location. Subject to the conclusion of a Section 106 agreement and the finalisation of drainage details, it was recommended that planning permission be granted.

Councillor Gardner raised concerns over construction traffic and the storage of building materials. Surrounding streets were already oversubscribed in terms of parking capacity, and Sainsbury's had indicated that they would not allow residents to park in its car park. There were no apartment blocks in this part of the ward and the proposal was out of keeping with the area. Although the affordable housing provision was to be welcomed, the proposal would crowd a small site. He recommended that the application be refused. Councillor Richardson agreed, commenting that parking was a real issue and it was unrealistic to think that residents would use Pay and Display car parks. In design terms, he agreed that a pastiche design was not the answer, but neither was a big modern block that bore no relation to surrounding buildings. A contemporary design could work but this was not it. Councillor B W Butcher agreed that the design was inappropriate for the area and needed to be revisited. The Chairman referred to other industrial/commercial buildings nearby, such as Sainsbury's, which could not be ignored. However, he agreed that the proposed design was not sufficiently residential. He clarified that, for him, refusal on the grounds of parking was related to highway safety rather than convenience.

The Planning Consultant advised Members that, if they were minded to refuse the application on the grounds of parking, this would be difficult to defend at appeal since the site was in a sustainable location, close to the town centre, train station, bus services, etc. It was clarified that the Core Strategy sought a maximum of one parking space for a one or two-bedroomed flat.

RESOLVED: That, notwithstanding the Officer's recommendation, Application No DOV/15/01035 be REFUSED on the following grounds: (i) The proposed development, if permitted, would result in unacceptable overlooking into the gardens of adjoining properties to the detriment of the living conditions of neighbouring residential occupiers; and (ii) The proposed development, if permitted, would be of a scale and form that would fail to respond positively to the character and appearance of the locality and Conservation Area.

135 APPLICATION NO DOV/16/00063 - THE BARN, NORTH OF 7 MILLFIELD, ST MARGARET'S-AT-CLIFFE

Members were shown photographs and plans of the site which was the subject of the application. The Planning Consultant advised the Committee that the application sought planning permission to vary three conditions and remove one condition imposed when planning permission was granted in 2015 for the mixed use of a barn building. Since the report was written, a letter had been received from the applicant's agent requesting that a site visit be held. In addition, in the event that the Committee granted planning permission to vary Condition 6, an amendment to condition II of the report would be necessary. This would enable the LPA to re-issue planning permission to reflect the amended hours of operation.

The applicant was seeking to vary Condition 2 in order to insert a set of double doors into the internal partition in order to provide an internal link between the two areas of the barn. In addition, a variation to Condition 5 was sought to swap over the uses of the two sections of the barn building. This would result in the agricultural use taking place in the front section of the barn and the building use taking place in the rear section. The applicant had suggested that these conditions would enable plant and machinery to be moved around within the barn rather than around the building which was likely to cause harm to the condition of the ground and to the character and appearance of the countryside. The final variation was to extend the hours of operation from 8.00am to 7.30am on Mondays to Saturdays and the hours of use on Saturdays from 1.00pm to 6.00pm. The removal of Condition 3 which related to noise insulation was also sought, the applicant arguing that it was not necessary since the other conditions would regulate the use of the building.

Discussions at the Planning Committee meeting held on 9 April 2015 at which planning permission had been granted, had centred around balancing business use with the need to safeguard residential amenity and the countryside, etc. Members were referred to the previous Committee report at Appendix 2 and asked to note the Planning Inspector's comments. Officers were concerned that permitting the variation of Conditions 2, 3 and 5 would fail to safeguard residential amenity and the countryside. For these reasons, refusal of a variation to these conditions was recommended. Officers considered that a slight extension to the hours of operation as a variation to Condition 6 was reasonable, as set out at paragraphs 3.19 to 3.21 of the report. It was therefore recommended that this variation be approved.

Councillor Bond commented that he agreed with the Officer's recommendation, but could not accept a variation to Condition 6. The applicant had a history of non-compliance so he failed to see why the Committee should give him more. Councillors Richardson and P M Wallace concurred and recommended that the application should be refused. The Chairman added that the Committee had genuinely tried in its determination the preceding year to identify conditions that would enable it to grant planning permission and support the business. However,

the proposed variations would lead to an intensification of use and refusal was the correct decision.

Councillor Gardner questioned why enforcement action had not been taken against the applicant. The Committee had been assured when granting planning permission in 2015 that the conditions were reasonable and enforceable. Should the applicant fail to comply with these conditions, enforcement action must be taken. Councillor N S Kenton questioned whether the conditions were enforceable and whether the applicant's activities could be monitored.

In response, the Planning Consultant advised that it was easier to enforce and monitor physical changes such as the partition. Monitoring the hours of operation was more difficult although, at the Committee's behest, the installation of CCTV had been included in the previous conditions in order to identify breaches in operational hours. Officers had the right to monitor conditions on an ongoing basis even if, for example, the applicant had already erected the partition. Action could be taken against a breach of condition if this action was taken within ten years. Enforcement action could be taken within four years for operational development and ten years for uses of land. He accepted that applicants could not be relied upon to provide their own evidence of breaches. In such circumstances, the LPA often relied upon complaints. Members were reminded that a one-off breach of conditions did not necessarily mean that a continuous breach was taking place. Evidence of a continuous breach was needed in order to take enforcement action. It was confirmed that the applicant had been requested to provide CCTV footage of activity at the barn on a specific date and time.

RESOLVED: (a) That Application No DOV/16/0063 be REFUSED on the following grounds:

- (i) The variation of Condition 2 would give rise to an unrestricted and uncontrollable intensification of the use of the barn building for business storage which would cause harm to the living conditions of the occupiers of nearby residential properties, contrary to Policy DM3 of the Dover Core Strategy and paragraphs 17, 56-59 and 64 of the National Planning Policy Framework;
- (ii) The removal of Condition 3 would fail to demonstrate that the future living conditions of the occupiers of nearby residential properties would be adequately safeguarded, contrary to paragraphs 17 and 123 of the National Planning Policy Framework;
- (iii) The variation of Condition 5 would give rise to additional commercial activities and comings and goings within the open countryside and Area of Outstanding Natural Beauty (AONB). These would result in an incongruous and obtrusive encroachment into the landscape which would cause harm to the character and appearance of the rural area, the setting of the Public Right of Way, the setting of the Conservation Area and the natural beauty and landscape of the AONB, contrary to paragraphs 17, 15, 75 and 134 of the National Planning Policy Framework;

(iv) The variation of Condition 6 would give rise to a further intensification of the use of the land that would be likely to result in harm to the residential amenities of occupiers of nearby properties.

(b) That powers be delegated to the Head of Regeneration and Development to settle any reasons for refusal in line with the recommendations and as resolved by the Planning Committee.

136 APPLICATION NO DOV16/00090 - FORMER PUBLIC CONVENIENCES, ROUTE ONE CYCLE, 70 BEACH STREET, DEAL

The Committee was shown photographs of the site. The Principal Planner advised that the application site was in Flood Zone 3 and within the Middle Street Conservation Area. The proposal sought planning permission for the creation of a seating area to the south of the café, providing 7 tables and 28 chairs in a temporary enclosure which would be removed outside opening hours. Concerns had been raised regarding the width of the walkway that would maintain access to the promenade. At its narrowest it would be 1.3 metres wide which was considered sufficient to provide adequate access for wheelchairs and pedestrians to the promenade from the area to the south of the building and vice versa. The seating area was well separated from the residential area, and there were no concerns surrounding anti-social behaviour. Representations had been received about the lack of cycle parking facilities at the café. To address this concern, it was recommended that an additional condition be imposed which would require that parking stands for 16 bicycles be provided prior to the first use of the seating area. It was understood that the applicant had served the requisite notice on KCC which owned the land on which the seating area was to be provided.

Councillor Gardner commented that, whilst the application was a reasonable one, Deal promenade was a popular place for pedestrians and, without more cycle storage at the cafe, the proposals were likely to obstruct access. There had previously been problems with cycles being left haphazardly, thus blocking the footpath. The Chairman stated that it would be important to establish where the cycle racks would go as this would affect access. The Principal Planner advised that permission had previously been granted for cycle storage on the eastern side of the café. Details of this had been provided as conditioned, but the racks had yet to be installed – although he understood they were on order. The intention to put netting around the area was welcomed by Councillor Bond who thought this was essential to ensure that the 1.3-metre access was maintained. The Principal Planner confirmed that the approved plans were conditioned and included a reference to the 1.3-metre access.

RESOLVED: (a) That Application No DOV/16/00090 be APPROVED subject to the following conditions:

- (i) A list of the approved plans;
- (ii) Details of the proposed temporary means of enclosure to be submitted to the Local Planning Authority prior to the first use of the outside seating area and the means of enclosure removed from the land at the end of each day's close of business and stored within the building;

- (iii) No more than 7 tables and 28 chairs may be placed on the site at any one time;
 - (iv) All tables, chairs and barriers should be removed and stored within the building overnight;
 - (v) Hours of use of outside seating area shall not be outside of 8.00am to 6.00pm Monday to Sunday and Bank Holidays;
 - (vi) Eight bicycle stands (for 16 cycles) to be provided prior to first use of the external seating area.
- (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.

137 APPLICATION NO DOV/16/00021 - 47 HIGH STREET, DEAL

Members were shown photographs and plans of the application site which was in Deal town centre and Flood Zone 3. The Planning Officer advised that the application sought permission for a change of use from a retail shop (Use A1) to a coffee shop (Use A3) with internal seating for 36. No external alterations were proposed. Since the report was written further letters of objection and support had been received, and these now totalled 92 and 10 respectively. The new representations raised no new issues that were not already covered in the report. Officers considered that the change of use would promote competitiveness and increase footfall into the town centre, and therefore recommended that permission be granted.

Councillor Gardner stated that he was content with the proposal, provided an informative was added stating that planning permission for outside seating must be sought. However, Councillor Bond disagreed, stating that such an informative was unnecessary. Councillor Butcher commented that the number of other cafés nearby was irrelevant in Planning terms.

RESOLVED: (a) That Application No DOV/16/00021 be APPROVED subject to the following conditions:

- (i) Timescale of commencement of development;
 - (ii) A list of approved plans;
 - (iii) Prior to the erection or installation of a flue/extraction fan/air-conditioning unit, details shall be submitted to, and approved in writing by, 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.

The Committee viewed photographs and plans of the application site which lay outside the settlement confines where development would normally be restricted, and within the AONB and Heritage Coast. The Principal Planner advised that The Leas was an area of low density development, undulating in nature, with chalk grassland to the east of the site and a golf course to the west. The proposal was for the erection of a detached, three-bedroomed dwelling which would be partially sunken at ground-floor level.

In the absence of a 5-year housing supply, which rendered the Council's planning policies out-of-date, the Committee was required to consider paragraphs 14 and 49 of the NPPF. These stated that permission should be granted unless the development was unsustainable or specific policies within the NPPF directed that permission should be refused. Since the dwelling would be in an isolated and unsustainable location, paragraph 55 of the NPPF was relevant. This set out four criteria for when isolated housing might be acceptable, including one relating to developments of exceptional quality or innovative design. The applicant claimed that this criterion was met. However, whilst the combination of proposed technologies, materials and form were considered to be innovative, the dwelling was not sensitive to the characteristics of the area and would fail to significantly enhance its immediate setting. The three remaining criteria were also not met.

Views of the dwelling from the west would be limited, and the removal of the concrete wall would be beneficial in terms of visual harm. However, the development would be highly visible from The Leas and the Saxon Shore Way to the east. Existing development along The Leas was characterised by generous plots with large separation distances between dwellings, leading to a feeling of spaciousness overall. The proposed dwelling would occupy a significant proportion of the site, and appear confined and congested within its plot when compared with neighbouring properties. Officers therefore considered that the proposed dwelling would increase the density of development and cause harm to the special character and appearance of the area which was within the AONB and Heritage Coast. Refusal was therefore recommended.

Councillor Butcher stated that the proposed dwelling would have a detrimental visual impact, with a design that was not sensitive to the surrounding area. He supported refusal of the application. Councillor Bond understood the Officer's conclusions but considered these to be subjective. In his view, the design was quite tasteful and he was minded to approve, although he recognised that granting permission could lead to similar applications. Councillor Kenton agreed that the design was to a high architectural standard and suggested that the dwelling would enhance its surroundings. Councillor Bannister agreed that it was an exciting design. However, he could not support the proposal because it was in an unsustainable location, and wild and open spaces such as this one should be protected. Councillor Richardson stated that, whilst he liked the design, the dwelling was in the wrong place. He was in two minds but, on balance, would not support the proposal because the site was an isolated one within the AONB and Heritage Coast. The Chairman also liked the innovative design but shared concerns about the sensitive location.

RESOLVED: That Planning Permission for Application No DOV/15/00457 be REFUSED on the following grounds:

- (a) The site lies outside of the settlement boundaries and, as such, the erection of a dwelling represents an unsustainable and inappropriate form of development within the countryside and within the designated Heritage Coast, contrary to Core Strategy Policy DM1, Saved Dover District Local Plan Policy CO5 and paragraphs 17, 58, 60, 61, 64, 69, 70, 73, 74, 109 and 115 of the National Planning Policy Framework.
- (b) The proposed development, by virtue of its location and scale, would urbanise the site in a sensitive countryside location, causing a severe adverse effect upon the scenic beauty of the countryside and the Area of Outstanding Natural Beauty and would result in the loss of green space and natural elements, contrary to Core Strategy Policies DM15, DM16 and CP7, Saved Dover District Local Plan Policy CO5, paragraphs 17, 58, 60, 61, 64, 109 and 115 of the National Planning Policy Framework and Policies SD1, SD3, LLC1 and HC3 of the Kent Downs Area of Outstanding Natural Beauty Management Plan 2014-2019.

139 EXTENSION OF MEETING

The Chairman advised the Committee that, under the Council's Constitution, it was required to pass a resolution to continue the meeting beyond 10.00pm.

RESOLVED: That, in accordance with Council Procedure Rule 9, the Committee does proceed with the business remaining on the agenda.

140 APPLICATION NO DOV/16/00057 - LAND SOUTH WEST OF FIELDINGS, STONEHEAP ROAD, EAST STUDDAL

Members viewed photographs of the application site. The Planning Officer advised that the application sought planning permission for the erection of a detached dwelling and garage on a site comprising a field on the south-east side of Stoneheap Road. The proposed dwelling had been advertised as an 'eco' home, and an e-mail of support had been received from the manufacturer since the report was written. There was a 34-metre hedgerow at the front of the site, and the applicant proposed to remove part of this for access. However, records showed that this land had never fallen within the residential curtilage of the site. It was therefore covered by the Hedgerow Regulations 1997 which prescribed that the LPA's consent would be needed for the removal of any hedgerow. KCC Highways had advised that to achieve the necessary vehicular access vision splays, 45-metre sight lines would be required each way. Since the applicant was only able to achieve 5 metres each way on land within his ownership, this was a concern. The site was outside the settlement confines where development would normally be restricted. However, in the absence of a 5-year housing land supply, the NPPF was relevant, particularly paragraph 55 which directed that isolated new homes should be avoided unless there were special circumstances. However, the design of the dwelling was not considered sufficiently innovative or of exceptional quality to outweigh the harm that would be caused to the setting and appearance of the countryside and rural street scene. Refusal of planning permission was therefore recommended.

Councillor Bond spoke in favour of the proposal. The site was surrounded by other properties, and he could not therefore see how the proposed dwelling would cause harm to the countryside and street scene. Councillor Kenton agreed, but

commented that the proposed design was not outstanding and for this reason he would not, on balance, support the application. Councillor Bannister referred to Policy DM11 of the Core Strategy which stated that development which would generate travel outside the rural confines should be refused unless it was justified by Local Plan policies. There was no justification for this development, and it should therefore be refused in support of the LPA's policies on the countryside and sustainable travel. Councillor Richardson stated that an 'eco' home was not in itself innovative or outstanding. Moreover, no evidence had been provided to allay concerns about the loss of ecological habitat on the site.

RESOLVED: That Planning Permission for Application No DOV/16/00057 be REFUSED on the following grounds:

- (a) The development would, if permitted, by virtue of its location, design, scale and the accompanying engineering works and loss of hedgerow, result in an unjustified, sporadic form of development, which would be visually intrusive and detrimental and harmful to the rural character and appearance of the countryside and the street scene, contrary to the aims and objectives of Core Strategy policies DM1 and DM15, Dover District Council Local Plan CO8 and the sustainability aims and objectives of the National Planning Policy Framework, in particular paragraphs 7, 14, 55, 56 and 63;
- (b) The development proposes sub-standard visibility splays at its access with Stoneheap Road. The proposal would therefore result in a detrimental impact on highway safety contrary to the aims and objectives of paragraphs 34 and 35 of the National Planning Policy Framework and policy DM11 of the Dover District Council Core Strategy;
- (c) Insufficient information, by way of an ecological scoping survey, has been submitted with the application to demonstrate the presence or otherwise of ecological habitats/protected species and, as such, whether the proposal is likely to result in the loss of, and/or harm to, such interests. Accordingly the proposal is contrary to policy DM15 of the Core Strategy and the aims and objectives of the National Planning Policy Framework, in particular paragraphs 113 and 118 and National Planning Policy Guidance.

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

The Committee viewed photographs and plans of the site. The Planning Officer advised that, since the report was written, an e-mail had been received and circulated to Members clarifying the needs of the applicant. The proposal related to the erection of a detached dwelling on a site which comprised the side garden of The Cottage. Although within the settlement confines, the site was a sensitive location, adjacent to the Kingsdown Conservation Area and within 25 metres of St John's Church, a non-designated heritage asset. Due to the scale and form of the proposed building, and the loss of hedgerow and tree cover (amongst others), Officers had concluded that significant harm would be caused to the setting of the Conservation Area and the church. Officers also had concerns over the design features and characteristics of the proposed dwelling, and for these reasons it was

considered that the proposal would be an intrusive form of development, causing harm to the visual quality and character of the street scene. In addition, the proposal sought to remove a large number of trees which Officers considered excessive given that an abnormally large turning area was to be provided. The applicant had been informed pre-application that a development in this location was unlikely to be acceptable.

Councillor Bannister recognised that the site was within the village confines on a sizeable plot, but the proposal was for a large building with the loss of a significant number of trees. He suggested that a site visit would be helpful. Councillor Butcher expressed sympathy for the applicant's circumstances, but considered the proposed dwelling to be overly large. Councillor Richardson supported the idea of a site visit. He was not familiar with the site but suggested that issues were likely to revolve around the impact on neighbouring properties and the church. The Chairman reminded Members that an applicant's personal circumstances were not a material consideration as planning permission was granted to the land and not the applicant.

RESOLVED: That Application No DOV/16/00072 be DEFERRED for a site visit to be held on Tuesday, 24 May 2016 in order to assist Members in assessing: (a) the impact on the character of the area (including the removal of trees and hedgerow), the non-designated Heritage Asset and adjoining Conservation Area; and (b) the achievement of adequate sightlines, and Councillors S F Bannister, T A Bond, N S Kenton, A F Richardson and F J W Scales (reserve: Councillor J S Back) be appointed to visit the site.

142 APPEALS AND INFORMAL HEARINGS

The Planning Delivery Manager presented the report which gave details of eleven appeals that had been determined between January and March 2016. Ten decisions of the LPA had been upheld and the appeals dismissed. The one appeal upheld had been against an Officer decision.

The Committee noted the report.

143 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 10.32 pm.