

# Public Document Pack



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23 January 2019

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **PLANNING COMMITTEE** on Thursday 24 January 2019 at 6.00 pm, the following report that was unavailable when the agenda was printed.

4 **MINUTES** (Pages 2-11)

To confirm the Minutes of the meeting of the Committee held on 20 December 2018.

Yours sincerely

A handwritten signature in black ink, appearing to read "Nicky", written over a white background. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Chief Executive

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 20 December 2018 at 6.00 pm.

Present:

Chairman: Councillor F J W Scales

Councillors: B W Butcher  
P M Beresford  
T A Bond  
D G Cronk  
M R Eddy  
B Gardner  
P J Hawkins  
M J Ovenden  
P M Wallace

Also present: Councillor P D Jull  
Councillor K E Morris  
Head of Inward Investment

Officers: Head of Regeneration and Development  
Team Leader (Development Management)  
Principal Planner  
Principal Planner  
Senior Planner  
Planning Consultant  
Planning Solicitor  
Democratic Services 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/18/00751	-----	Mr Andrew King
DOV/18/01084	Mr Rob Lithgow	Mr Simon Phillips
DOV/18/01113	Mr Sam Dewar	-----

102 APOLOGIES

It was noted that there were no apologies for absence.

103 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that there were no substitute members appointed.

104 DECLARATIONS OF INTEREST

There were no declarations of interest.

105 MINUTES

The minutes of the meeting held on 22 November 2018 were approved as a correct record and signed by the Chairman, subject to the public speakers being added.

106 ITEMS DEFERRED

The Chairman advised that the deferred items would be coming forward in due course.

107 APPLICATION NO DOV/18/00242 - SUMMERFIELD NURSERY, BARNSOLE ROAD, BARNSOLE, STAPLE

The Committee viewed a map, drawings and photographs of the application site. The Head of Regeneration and Development reminded Members that the application had been considered at the November meeting where the Committee had resolved to grant planning permission contrary to the report's recommendation. Due to an oversight, the permission had not been made subject to conditions and a Section 106 agreement. The application was therefore before the Committee for a second time so that it could confirm the reasons for granting planning permission and add the appropriate conditions and S106 agreement.

As an update to the November report, Members were advised that further material had been received from the applicant, including a legal opinion regarding sustainable development. As covered in the report and supported by an appeal decision, Officers remained of the view that the presumption in favour of sustainable development did not apply in this case. A point in favour of the application was the introduction of a new pilot bus service the following year. However, this was tempered by the uncertainty of whether it would become a permanent service. Members were advised that the NHS request for a financial contribution was not considered to be compliant with the regulations as it failed to demonstrate how it was related to the scale and need generated by the application.

The Head of Regeneration and Development reported that two e-mails had been received from the parish council raising concerns about the local road infrastructure, parking provision and the width of the roads, and requesting that traffic calming measures be considered. In response, Members were advised that the traffic impacts had been fully explored in the November report. The proposal was considered acceptable by Kent County Council (KCC) Highways, and there was therefore no basis for seeking any other traffic measures. The parish council had also pointed out that the current report did not mention the parish council's opposition to the proposal. Furthermore, the November report had mistakenly referred to there being local services in both Staple and Barnsole when there were no services in Staple. The parish council's views had been covered in the November report and had not changed since. Whilst a pub had closed and the bus service to Staple had ceased, the other facilities in Staple remained.

Finally, a letter had been received from a local action group called Turtle Dove Summer Field requesting that the Section 106 agreement should control the provision and maintenance of the proposed turtle-dove area, and that building work be timed to take place outside the nesting/feeding season. Officers' view was that these provisions should be split between the Section 106 agreement and conditions, the latter requiring a construction management plan, with measures to avoid disturbance to turtle-doves during the nesting/feeding season, and a full landscaping plan that would incorporate measures for the creation of suitable habitat for turtle- doves.

For the benefit of Members who had not been present, the Chairman read out the reasons outlined in the report for granting planning permission at the November meeting.

Councillor B Gardner commented that, whilst the visual impact of the development was a significant argument against it, compared to other nearby developments such as the one at the former pub site in Staple, it was less crowded and of a similar design to other developments that had been approved.

RESOLVED: That Application No DOV/18/00242 be APPROVED on the grounds that:

- (a) The Committee considers that Development Plan Policies CP1, DM1 and DM11 are not consistent with the National Planning Policy Framework and, when combined with the Council's current inability to be able to demonstrate a five-year supply of housing land, should be given less weight than that ascribed in the Officer's report. The Committee considers that the application's attributes, in particular: its proximity to local services in both Barnsole and Staple, the provision of 40% affordable housing and the Committee's assessment that any visual impact of the scheme would be very localised and sufficiently mitigated by the proposed replacement indigenous hedgerow planting, are material considerations that justify a departure from the Development Plan;

and subject to the completion of a Section 106 legal agreement and the following conditions:

- (b) (i) Standard time condition;
- (ii) Approved plans;
- (iii) Provision of accesses;
- (iv) Provision of visibility splays;
- (v) Provision of passing place;
- (vi) Provision of turning and parking area;
- (vii) Provision of final hard surfacing of roads and footpaths;
- (viii) Provision of cycle parking;
- (ix) Construction management plan;
- (x) Full details of foul drainage;
- (xi) Full details of surface water drainage;
- (xii) No infiltration other than for those areas which are approved;
- (xiii) Submission of samples of materials;

- (xiv) Submission of full landscaping plan (including timetable for its provision and maintenance programme);
- (xv) Protection of existing hedges which are to be retained;
- (xvi) Remove permitted development rights for roof extensions, outbuildings and means of enclosure to northern, southern, south- western and western boundaries of site;
- (xvii) Archaeological watching brief;
- (xviii) Provision of refuse storage;
- (xix) Provision of ecological enhancements;
- (xx) Investigation and remediation of any contamination on site;
- (xxi) Secure 40% on-site affordable housing;
- (xxii) Library contribution;
- (xxiii) Provision and maintenance of turtle-dove area shown on plans;
- (xxiv) SAC/SPA mitigation payment.

(c) 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.

108 APPLICATION NO DOV/18/00751 - LAND AT 5 AND 6 WOODSIDE CLOSE, KEARSNEY

Members were shown drawings, plans and photographs of the application site. The Planning Consultant advised that the application sought planning permission for the erection of two semi-detached dwellings in an urban area and was therefore considered acceptable. Concerns had been raised about the use of a private driveway to access the site, and some objectors had referred to land owned by the applicant that was outside the application site. Whilst the applicant was afforded rights to use the drive to access the existing garage/workshop, these rights did not extend further east of the site. However, this was a private matter and not one for the Committee to consider. It was recommended that a condition be added to require the submission and approval of surface and foul water drainage details prior to commencement.

In response to Councillor P M Beresford, the Planning Consultant advised that each parking space was 2.7 by 6 metres long. The concerns raised had centred around the occupants, delivery vehicles and construction traffic using the adjacent private land for parking or turning. It was clarified that the parking spaces met KCC Highways standards and were of an adequate size to permit turning and manoeuvring. In addition, the absence of a fence in front of the spaces was helpful in that it would allow greater flexibility for manoeuvring. Councillor T A Bond commented that there appeared to be no planning grounds for refusing the application. He recommended that, subject to the inclusion of a condition

preventing the erection of a boundary enclosure between the front car parking spaces, the application should be approved.

RESOLVED: (a) That Application No DOV/18/00751 be APPROVED subject to the following conditions:

- (i) Standard three years to implement permission;
- (ii) The application to be built in accordance with the approved drawings;
- (iii) The submission of samples of all external finishes for prior approval;
- (iv) The provision of the front parking spaces before the houses are first occupied and permanently retained thereafter;
- (v) The submission of cycle and refuse storage facilities for prior approval;
- (vi) No further openings to be inserted into the upper floors of the dwellings;
- (vii) Removal of permitted development rights for extensions (to the building and roof);
- (viii) Prior approval required for the existing and proposed levels of the site and ground-floor thresholds;
- (ix) Hard and soft landscaping scheme to be submitted for approval;
- (x) Foul and surface water drainage scheme to be submitted and approved before commencement of development;
- (xi) No boundary enclosure to be erected between car parking spaces in front of dwellings.

(b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the recommendation and as resolved by the Planning Committee.

109 APPLICATION NO DOV/18/01084 - CO-OP FOODSTORE, PARK STREET, DEAL

The Committee viewed drawings, plans and photographs of the application site. As an update to the report, the Principal Planner advised that two letters of support and two letters of objection had been received, the latter reiterating concerns that were fully covered in the report. It was recommended that condition 16) of the report should be amended to require that 10% of the parking spaces should be fitted with electric charging facilities, with another 10% fitted with ducting for their future conversion.

Members were reminded that a previous application had been refused by the Committee in September 2018 due to the loss of trees and residential units. Whilst the application before the Committee was a re-submission of the previous application, it came with a signed unilateral undertaking for the payment of £15,000 towards new and replacement trees in Deal town centre.

The proposal would lead to the removal of ten trees to make way for car parking, three of which were subject to a Tree Preservation Order (TRO). The loss of the trees was a concern raised by the majority of objectors due to its visual impact on the character and appearance of the street scene and area. Members were advised that there were no national or local policies on the retention of residential units. Aldi was also in discussions regarding the provision of a plaque to commemorate two schoolboys killed on the site during the Second World War which would be the subject of an informative. Officers considered that all other matters were acceptable or could be addressed by conditions. The application complied fully with national planning policy, particularly paragraph 11 of the National Planning Policy Framework (NPPF) which set out a presumption in favour of sustainable development providing it would cause no significant or demonstrable harm.

Councillor Gardner commented that the application was no different to the previous one and, whilst he would like to see a new store on the site, he could not support the application because of the loss of mature trees. He proposed that the application should be refused this time solely on the grounds that trees would be lost.

Councillor Bond expressed sympathy for Councillor Gardner's views, but did not consider the grounds for refusal as sufficiently robust and, if carried, would mean that the opportunity to acquire 21 new trees would be lost. The existing store was ugly and a new foodstore would offer people choice. Councillor B W Butcher commented that, whilst the loss of the trees was regrettable, the benefits of a new store were significant, and conditions should protect the delivery of the new trees.

Councillor M R Eddy stated that he knew the person who had spoken against the application as a fellow member of the Green Party and his gardener. However, this association would not influence his decision. He questioned whether the trees towards the bottom end of the site could be retained as he understood that only five parking spaces would be lost as a result. He also suggested that the proposed shrubs along the West Street frontage should be allowed to grow higher in order to address concerns about air pollution. In addition, imposing a minimum percentage on electric charging points would address concerns about the impact on climate change. Councillor P M Hawkins spoke against the loss of the trees due to the impact on wildlife and their wellbeing benefits. She was disappointed that Aldi had not been willing to adjust its parking strategy to accommodate the trees.

The Chairman reminded Members that they were required to weigh up the potential benefits of the proposal against any harm that might be caused. This harm would have to be significant and demonstrable. In his view the proposal included measures which would mitigate any harmful impact. The Committee was also required to determine the application before it; it could not grant planning permission on the one hand and then impose a condition to retain certain trees.

It was moved by Councillor B Gardner and duly seconded that Application No DOV18/01084 be REFUSED on the grounds that the loss of trees on the site would result in harm to the visual amenities of the street scene and town centre.

On there being an equality of votes, the Chairman used his casting vote and the motion was LOST.

In response to suggestions made by Members, the Principal Planner advised that the report contained a recommended condition of a minimum of 10% car charging spaces, with another 10% potentially convertible through the installation of ducting. Imposing a higher minimum percentage would not make the development acceptable nor pass the conditions test. It was suggested that an informative be used to deal with charging points for electric bicycles. She also clarified that drawings and plans showed the retention of the stained glass windows in Park Street. However, these could be protected by amending condition 3) of the report.

It was moved by Councillor M J Oviden and duly seconded and

RESOLVED: (a) That Application No DOV/18/01084 be APPROVED subject to the following conditions:

- (i) Standard time;
- (ii) Approved plans list;
- (iii) Details of external materials, including the retention of stained glass windows on Park Street frontage;
- (iv) Programme of archaeological works;
- (v) Scheme of sustainable urban drainage;
- (vi) Maintenance of sustainable urban drainage system;
- (vii) Remediation strategy;
- (viii) Contamination verification report;
- (ix) Contamination safeguarding;
- (x) No infiltration drainage;
- (xi) No piling without consent;
- (xii) Construction Management Plan;
- (xiii) Construction Environmental Management Plan;
- (xiv) Control of noise from plant equipment;
- (xv) Details of foul and surface water disposal;
- (xvi) Provision and retention of car parking spaces and submission of a parking management strategy, to include details of scheme for 10% of parking spaces to be fitted with electric charging facilities and 10% of parking spaces to be fitted with ducting to enable future conversion;

- (xvii) Vehicle loading, unloading and turning facilities;
- (xviii) Provision and retention of cycle parking;
- (xix) Details of external lighting and street furniture including seating;
- (xx) Retention of trees;
- (xxi) Detailed hard and soft landscaping scheme to be submitted for approval including root guards to prevent encroachment under the highway, planting systems and boundary treatments;
- (xxii) BREEAM 'very good' standard;
- (xxiii) A1 Class Use only;
- (xxiv) Control of delivery hours: 06.00-23.00 hrs Monday to Saturday and 08.00-21.00 hrs Sunday;
- (xxv) Tree protection measures/fencing;
- (xxvi) Landscape maintenance and management plans including measures to provide clear stems of 2.1 metres.

(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.

Informatives: In relation to highways, Southern Water connections, the use of flood resilient construction methods and the Flood Warning Service, and the provision of charging points for electric bicycles.

110 APPLICATION NO DOV/18/01113 - LAND SOUTH WEST OF FIELDINGS, STONEHEAP ROAD, EAST STUDDAL

Members were shown drawings, plans and photographs of the application site. The Senior Planner advised that the application sought planning permission for the erection of a detached dwelling in the countryside, the settlement boundary of East Studdal having been defined as a result of a previous appeal which had been dismissed. The proposal involved engineering works which would significantly alter land levels and result in a dwelling which would be seen as an artificial mound within the street scene and change the intrinsic character of the natural environment of the area. Moreover, the proposed landscaping scheme would result in planting which would be uncharacteristic of Stoneheap Road and the surrounding area. In relation to this matter at the appeal the Planning Inspector had concluded that the built-up residential nature of the site would be clearly apparent to passers-by. It was considered that the application had not overcome the previous reasons for refusal, and would be an unjustified dwelling in the countryside.

Councillor Butcher expressed his dislike for the proposal which would result in an ugly bund in the middle of the countryside. He could see no merits in the proposed dwelling and proposed that the application should be refused.

The Planning Solicitor clarified that the Council was unable to demonstrate a five-year supply of housing land. As a result, the Council's planning policies were considered to be out-of-date. This would ordinarily mean that the presumption in favour of sustainable development set out in paragraph 117 of the NPPF would apply. However, following the European Court of Justice decision in the 'People Over Wind' case, this presumption no longer applied where a development was required to undergo an ecology assessment due to its potential impact on a habitats site. In effect, this resulted in a level playing field when assessing the application against the NPPF.

RESOLVED: That Application No DOV/18/01113 be REFUSED on the following grounds:

- (a) The proposed site lies outside of the defined settlement confines and within the countryside, resulting in the loss of countryside, failing to recognise the intrinsic character and beauty of the countryside and failing to achieve a sustainable pattern of development, contrary to Core Strategy Policies DM1, DM11 and DM15 and paragraphs 8 and 170 of the National Planning Policy Framework.
- (b) The proposed development, by virtue of its location, the creation of a vehicular access, the excavation and land raising and the height and roof form of the dwelling, would create a visually intrusive form of development which would cause substantial harm to the unspoilt rural character and appearance of the area, contrary to Core Strategy Policy DM15 and paragraphs 127 and 170 of the National Planning Policy Framework.
- (c) The proposed site provides a habitat for reptiles (slow-worms), which are a protected species. The application has failed to demonstrate that an appropriate receptor site would be secured to mitigate for the loss of habitat and, consequently, the development would adversely affect the reptiles as a protected species contrary to paragraph 175a of the National Planning Policy Framework and paragraph 98 of Circular 06/2005 'Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System'.

#### 111 APPEALS AND INFORMAL HEARINGS

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

#### 112 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 7.47 pm.