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Democratic Services
White Cliffs Business Park
Dover
Kent CT16 3PJ

Telephone: (01304) 821199
Fax: (01304) 872452
DX: 6312
Minicom: (01304) 820115
Website: www.dover.gov.uk
e-mail: democraticservices@dover.gov.uk

17 April 2019

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **PLANNING COMMITTEE** on Thursday 18 April 2019 at 6.00 pm, the following reports that were unavailable when the agenda was printed.

4 **MINUTES** (Pages 2-9)

To confirm the minutes of the meeting of the Committee held on 21 March 2019.

11 **APPEALS AND INFORMAL HEARINGS** (Pages 10-14)

To receive information relating to Appeals and Informal Hearings, and appoint Members as appropriate.

Yours sincerely

A handwritten signature in black ink, appearing to be "Nicky", written over a white background.

Chief Executive

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 21 March 2019 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

Also present: Councillor P D Jull

Officers: Principal Planner
Principal Planner
Planning Officer
Planning Officer
Planning Officer
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/18/00913	Ms Jenny Parrott	-----
DOV/18/01323	-----	Mr Pierce Fennelly
DOV/18/01379	Mr David Cason	-----
DOV/17/01225	Ms Valerie Owen	-----

136 APOLOGIES

It was noted that there were no apologies for absence.

137 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that there were no substitute members appointed.

138 DECLARATIONS OF INTEREST

There were no declarations of interest.

139 MINUTES

The minutes of the meeting held on 28 February 2018 were approved as a correct record and signed by the Chairman.

140 ITEMS DEFERRED

The Chairman advised that there was no news on the one deferred item.

141 APPLICATION NO DOV/18/00913 - THE ODD FELLOWS HALL, 19 CENTURY WALK, DEAL

The Planning Solicitor advised Members that the Authority Monitoring Report (AMR) had been approved by Cabinet on 4 March. The AMR demonstrated that the Council now had a five-year supply of housing land which had implications for the Local Development Plan, and was a material consideration for planning purposes.

The Committee viewed plans, drawings and photographs of the application site. The Planning Officer advised that the application sought permission to raise the roof of an existing garage for its conversion into an artist's studio. As set out in the report, the amended application had been re-advertised and no further representations had been received. The proposed studio would be used by the occupants for writing and developing photographs, and its use would be ancillary to the main house. There were no concerns regarding loss of privacy, overshadowing or overbearing and, on balance, the proposal was considered acceptable.

Councillor B W Butcher indicated his overall support for the proposal, but expressed concerns that it could be used as habitable accommodation in the future. Councillor B Gardner raised concerns about the size of the proposed development, and queried why a bathroom was needed if the intention was not to use it as habitable accommodation. The Planning Officer explained that conditions iii) and v) could be strengthened to address these concerns, including prohibiting the insertion of windows/openings in the roof.

RESOLVED: (a) That Application No DOV/18/00913 be APPROVED subject to the following conditions:

- (i) Standard time;
- (ii) Approved plans;
- (iii) Removal of permitted development rights for the insertion of windows/openings in the roof and flank (east) elevation of the development;
- (iv) Obscured glazing to be used for the window on the west elevation serving the bathroom;
- (v) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as The Odd Fellows Hall, 19 Century Walk, Deal and shall not be used for habitable accommodation. It shall not be severed from the main dwelling, sold off or used as rental property at any time independent of the main dwelling. Reason: To prevent an over-intensive use and development of the site which may otherwise be refused.

(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.

142 APPLICATION NO DOV/18/01323 - 14 KING EDWARD ROAD, DEAL

Members were shown plans, drawings and photographs of the application site. The Planning Officer advised Members of corrections to the report, namely that the number of objections stated in the report should read 21 and, in the last sentence of paragraph 2.10, 'as a result of' should read 'prior to'. The application sought planning permission for two single storey side extensions, one at ground floor and the other at first-floor level. The ground-floor extension would serve as a flat-roofed storage area. The application had been amended since it was first submitted to reduce overlooking to 5A Godwyn Road.

Officers were of the view that, whilst the proposal was pushing the host building to its development limits, it would not cause harm. Objections had been raised about the loss of light to 5A Godwyn Road. Members were advised that, as a rule of thumb, for every metre in height, the building should be half a metre away from the boundary. In this case, at its shortest, the proposed extension would be 5.8 metres distant from the boundary, and Officers therefore considered that the application overcame these concerns. A previous application had proposed a full depth side extension to the front and a second rear ground-floor extension. The side extension now proposed would be half the size and one metre less in width. Previous proposals for a change of use as a takeaway had been removed. Concerns had been raised about the TPO (Tree Preservation Order) tree. However, the new proposal would be set further back from the tree and, furthermore, it was considered that hand-digging would ensure that no harm would arise to the root system during construction.

Councillor Gardner expressed concerns about the application. He had been advised by residents that the report was incorrect in that it would be a living-room rather than a dining-room at no. 5A that would be overshadowed. The building was already too large and the tree, being the only one in the road, was a special feature. He recommended that the application should be refused on the grounds of harm to the tree, visual impact on the street scene and over-development of the site.

Councillor Butcher commented that, whilst he could understand why local residents were not happy with the proposal, the application had overcome the previous reasons for refusal, and he thought a refusal would be difficult to defend at appeal.

In response to Councillor M J Ovenden, the Planning Officer confirmed that any proposal for a change of use to a takeaway would be subject to a fresh application. He also clarified that the 1.8-metre fence was important in that it defined the boundary and hid unsightly elements of the site. He advised that the applicant could not commence development until a tree survey had been completed.

It was proposed by Councillor B Gardner and duly seconded that Application No DOV/18/01323 be refused on the grounds that it was out of scale and out of keeping with the character of the area. Moreover, it would cause overshadowing to the living-room of 5a Godwyn Road, and cause harm to a tree which was subject to a TPO.

At the Chairman's suggestion, Councillor Gardner agreed to remove the tree from the reasons for refusal on the basis that this ground would be harder to defend at appeal.

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

RESOLVED: (a) That, notwithstanding the Officer's recommendation, Application No DOV/18/01323 be REFUSED on the following grounds:

- (i) The proposed development, by virtue of the proposed design, scale, form and prominent location, would result in an incongruous and unsympathetic alteration to the building resulting in undue prominence within the street scene, out of keeping with the spatial character, form and visual amenity of the area and, as such, the proposal would be contrary to paragraphs 127 and 130 of the National Planning Policy Framework.
- (ii) The proposed development, by virtue of the proposed design, bulk and proximity, would result in an unacceptable level of harm to the residential amenity of No 5A Godwyn Road through overshadowing and, as such, the proposal would be contrary to paragraph 127 of the National Planning Policy Framework.

143 APPLICATION NO DOV/18/01379 - 64 ARCHERS COURT ROAD, WHITFIELD, DOVER

The Committee was shown drawings, plans and photographs of the application site. The Planning Officer advised that the application was a reserved matters application for the erection of a detached dwelling, with access, appearance, landscaping, layout and scale for consideration. Members were advised that the reference to River Parish Council on page 30 of the report should be to Whitfield Parish Council. An additional three objections had been received raising issues that were similar to those already covered in the report.

The proposal was for a detached dwelling and garage. The application had been refused but allowed at appeal. The Planning Inspector had attached thirteen conditions, including the blocking up of the side window of 64 Archers Court Road and details of schemes for the disposal of surface water and foul sewage. A number of objectors had referred to the proposed dwelling being larger than indicated at the outline stage. However, that had been indicative only and the size of the dwelling was considered acceptable due to the size of the plot.

Councillor P M Hawkins was concerned that the proposal would lead to over-development and set an unwelcome precedent. The Chairman reminded Members that the principle of development had already been approved, and emphasised that the outline plan had been indicative only. The issue for Members to consider was whether the increase in size would cause harm to residential amenity or the character of the area. However, he questioned how much bigger the proposal was than the one seen at outline stage. Councillor D G Cronk expressed concerns about access for construction traffic and parking. Councillor T A Bond sympathised with the views expressed, particularly as he disapproved of building in back gardens. However, the principle of development had already been accepted and he would therefore have to support approval.

The Planning Officer clarified that the proposed dwelling was approximately 50 square metres larger than originally indicated. The Chairman agreed that the access was particularly narrow and, for this reason, a construction management plan should be required.

RESOLVED: (a) That Application No DOV/18/01379 be APPROVED subject to the following conditions:

- (i) Approved plans;
- (ii) Samples of materials to be submitted;
- (iii) Window on south-west facing elevation serving the bedroom of dwelling hereby approved to be obscure glazed and non-opening;
- (iv) Details of refuse and recycling collection to be submitted;
- (v) Provision and retention of parking and turning spaces;
- (vi) Existing and proposed slab levels to be submitted;
- (vii) Sprinkler system to be installed;
- (viii) Tree pruning restricted to no more than two metres on the northern side only;
- (ix) Installation of ground protection measures for trees;
- (x) Submission and approval of a construction management plan.

(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.

(c) Informatives: It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

144 APPLICATION NO DOV/17/01225 - FERRYBRIDGE HOUSE, ABBEY ROAD, DOVER

Members viewed an aerial view, plans and photographs of the application site which was within the Kent Downs Area of Outstanding Natural Beauty (AONB). The Principal Planner advised that the outline application sought planning permission for the erection of 31 dwellings, including blocks of flats. He referred to concerns raised by the agent regarding consultation with Kent County Council (KCC) Highways on the supplementary transport document. It was confirmed that the KCC Highways Officer (HO) had been consulted and his recommendation for refusal had not changed. An additional objection had been received which repeated concerns raised previously about traffic going into River.

The Committee was advised that the site was adjacent to the settlement boundary, situated on the side of the valley. There was some disagreement about land over which the visibility splay would be provided, with the HO being dissatisfied with the information given and advising that the visibility splay could not be secured over land in perpetuity. Moreover, retaining structures would need to be created involving excavation and the removal of vegetation. Abbey Road was not wide enough for two vehicles to pass each other. This, together with poor forward visibility, had led the HO to raise concerns that there would be an increase in vehicles having to reverse back up the road if the development were approved. The works needed to create a footpath would also be harmful. Whilst the applicant had agreed to all the developer contributions requested, affordable housing plans had yet to be submitted.

In summary, the location of the site away from existing development, the dispute over highways land and the nature of the access road all militated against the application. Furthermore, the Local Planning Authority (LPA) was now able to demonstrate a housing land supply of 5.56 years which tilted the balance towards existing policies and away from the National Planning Policy Framework's presumption in favour of sustainable development.

Councillor P M Beresford stated that the road was very narrow and difficult to negotiate when a car was coming the other way. With no footpath or street lighting, it was also unsuitable for pedestrians, especially school children. This was not the right place for development, and she agreed with the Officer's recommendation to refuse the application. Several Members raised similar concerns about road safety. Councillor Ovenden added that the site was outside the confines and, given that the LPA now had a five-year housing land supply, the application should be refused. The Chairman reminded the Committee that the site was also in the AONB, and detached from the existing community at Coombe Valley which made it unlikely to pass a sustainability test.

RESOLVED: (a) That Application No DOV/17/01225 be REFUSED on the following grounds:

(i) The proposed development, if permitted, by virtue of its location outside of the Dover urban boundary, detached and isolated from the existing residential settlement in Coombe Valley with inadequate pedestrian links connecting to that settlement, would represent a socially and environmentally unsustainable, and spatially incongruous, form of development, contrary to the aims and objectives of Core Strategy policy DM1 and the aims and objectives of the National Planning Policy Framework at paragraphs 8, 11, 91, 127, 130 and 172 in particular.

(ii) The proposed development, if permitted, by virtue of its character, location, siting and form, would result in an inappropriate and poorly related development, at odds with its sensitive and transitional countryside/edge of settlement location. This would lead to the loss of open countryside which would have an adverse and harmful effect upon this distinctive rural landscape and the natural beauty of the Kent Downs Area of Outstanding Natural Beauty, resulting in a loss of green infrastructure, contrary to Core Strategy policies CP7, DM15 and DM16, the aims and objectives of the National Planning Policy Framework at paragraphs 127, 130, 170, and 172 in particular, the Kent Design Guide and the Kent Downs Area of Outstanding Natural Beauty Management Plan 2014-2019.

(iii) In the absence of sufficient information to demonstrate otherwise, it is not possible to determine, in the interests of highway safety, that the proposed access can achieve acceptable highway visibility standards, south-east from the proposed access, in a manner that ensures the safe operation/use of the access on to Abbey Road. Accordingly the proposal is contrary to the aims and objectives of the National Planning Policy Framework at paragraphs 124 and 130 and contrary to the Kent Design Guide: Supplementary Guidance – Visibility (Interim Guidance Note 2).

(iv) In the absence of sufficient information to demonstrate otherwise, it is not possible to determine, in the interests of pedestrian and highway safety, that on Abbey Road between the site and the junction of Barwick Road/St Radigund's Road, sufficient space is available within highway land to accommodate a connecting pedestrian footway and a single vehicle passing space, which would enable the safe use of the highway for travel between those locations. Accordingly the proposal is contrary to the aims and objectives of the National Planning Policy Framework at paragraphs 8, 91, 124, 127 and 130 and contrary to the Kent Design Guide: Supplementary Guidance – Visibility (Interim Guidance Note 2).

(b) That powers be delegated to the Head of Regeneration and Development to settle any reasons for refusal in line with the issues set out in the recommendation, as resolved by the Planning

Committee, and as may be indicated in any consultation responses received during the consultation period after the committee meeting.

145 APPEALS AND INFORMAL HEARINGS

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

146 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 7.43 pm.

PLANNING APPEALS 2018-19 (Q4)

1. There were 10 planning appeals and 2 enforcement Appeals determined between late December 2018 and March 2019. All of the appeals relate to delegated decisions.

A breakdown is at section 3 below.

2. Members have been issued with the full decisions. The table at **Appendix A** details those that were dismissed or upheld and identifying the main issues that the Inspectorate considered. This is to identify whether there are any patterns in the Inspectorate's decision making and to further inform our own approach. For information this also includes the Case Officer and Planning Inspector.

The national PI is that less than 10% of all decisions made are overturned at Appeal. This is assessed over a retrospective 2 year period. Our performance on appeals for Major applications remains within target, but given the low number of Major applications generally, it will not take too many allowed appeals to risk reaching the designation threshold. The enforcement appeals are excluded from these statistics.

Of those applications that do go the Inspectorate, on average about 33% are lost. Our results for the year so far are sitting at 22%.

3.1 Appeal data for decisions made by Planning Committee

Quarter	Committee Appeals	Appeal Dismissed	Appeal Upheld	% Upheld
1	1	1	0	0
2	8	7	1	14
3	3	3	0	0
4	0	0	0	0

3.2 Appeal data for delegated decisions

Quarter	Delegated Appeals	Appeal Dismissed	Appeal Upheld	% Upheld
1	12	8	4	25
2	11	10	1	10
3	6	3	3	50
4	10	8	2	20

3.3 Appeal data for all decisions

Year to date	All appeals	Appeals Dismissed	Appeals Upheld	% Upheld
Q1	13	9	4	23
Q2	19	17	2	11
Q3	9	6	3	33
Q4	10	8	2	20
Total	51	40	11	22

3.4 Appeal data for Government P.I

This table looks at the percentage appeals allowed as a % of all applications decided.

	Major Applications Decided	Appeals Upheld		% Upheld
Q1	6	1		16
Q2	20	1		5
Q3	13	0		0
Q4	13	1		7.6
Total	52	3		5.7
	Non-Major Apps Decided			
Q1	201	2		2.68
Q2	225	1		0.40
Q3	203	3		1.47
Q4	162	1		0.67
Total	791	7		0.88

4. Learning Points

The appeal for Sandwich Leisure Park related to the imposition of a planning condition that aimed to secure access to an adjoining development. There are established tests for planning conditions and the Inspector concluded that not all of these were met. The Inspector stated that “To the extent that the condition seeks in effect to grant new permanent public or private access rights over private land, that would be unreasonable” The condition is “not precise, enforceable, necessary or reasonable...”

As a result of the Council imposing this condition a costs award granted.

The learning point is that Officers should always be mindful of the tests when imposing a condition.

Dave Robinson

April 2019

Attachments

Appendix A Breakdown of all appeal cases Q4

Appendix A

Quarter 4

2018

Case	Major Y(N) or other	Address	Dele/ Com	Allowed /Dismissed	Against officer Rec?	Case Officer	Inspector	Issues
17/01 081	N	Sandwich Leisure Park	Dele	Allowed with Costs	N/A	VH	Mellor	Planning condition re access road
18/00 324	N	Temple Way	Dele	Allowed	N/A	KEV		Character and Appearance of area
18/00 467	N	Sandwich Rd – Ash	Dele	Dismissed	N/A	VH	Lock	Character and appearance of area
18/00 377	N	Station Road St Margarets	Dele	Dismissed	N/A	ELM	Miles	Impact on neighbours/character and appearance of area
17/00 280	Y	Kumor Nursery	Dele	Dismissed	N/A	LB	Parker	Acceptable mix of housing
17/01 333	N	Balmoral Road	Dele	Dismissed	N/A	VH	Lock	Planning condition
16/00 626	Y	Alpine Nursey	Dele	Dismissed	N/A	CH	Wood	Impact on neighbours and character and appearance of area
18/00 200	N	Strand Street	Dele	Dismissed	N/A	AW	Holdsworth	Character and appearance of area
17/00 950	N	New Dover Road	Dele	Dismissed	N/A	DB	Holdsworth	Location of residential dwelling
17/00 821	N	Beacon Lane	Dele	Dismissed	N/A	DB	Parsons	Planning Policy
ENF/16/002 81	N/A	High Street	Dele	Enforcement notice varied	N/A	ENF	Williams	Impact on listed building
ENF/16/001 02	N/A	Singledge Lane	Dele	Enforcement notice is varied	N/A	ENF	Williams	Character and appearance of the area