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8 October 2019

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **PLANNING COMMITTEE** on Thursday 10 October 2019 at 6.00 pm, the following reports that were unavailable when the agenda was printed.

4 **MINUTES** (Pages 2-8)

To confirm the attached minutes of the meeting of the Committee held on 12 September 2019.

10 **APPEALS AND INFORMAL HEARINGS** (Pages 9-10)

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

To consider the attached report.

Yours sincerely

A handwritten signature in black ink, appearing to read "Nicky", written over a large, sweeping flourish that extends to the right.

Chief Executive

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 12 September 2019 at 6.00 pm.

Present:

Chairman: Councillor J S Back

Councillors: R S Walkden
D G Beaney
E A Biggs
T A Bond
J P J Burman
D G Cronk
D P Murphy
O C de R Richardson
H M Williams

Also present: Councillor P D Jull

Officers: Principal Planner
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/18/01263	Mr Mark Hall	Councillor P M Brivio Ms Sharon Clarke
DOV/19/00658	Mr Nigel Avery	-----

35 APOLOGIES

It was noted that there were no apologies for absence.

36 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that there were no substitute members appointed.

37 DECLARATIONS OF INTEREST

There were no declarations of interest.

38 MINUTES

At the request of Councillor H M Williams, and to provide balance in respect of comments made in support of the application, the Democratic Services Officer agreed to make an amendment to the penultimate sentence of paragraph 6 of Minute No. 30 so that it would read: 'Moreover, it was incorrect to describe the location as sustainable when it was poorly served by buses and the cycle path was unlit at night'. Subject to this amendment, the minutes of the meeting held on 15 August 2019 were approved as a correct record and signed by the Chairman.

39 ITEMS DEFERRED

The Chairman reported that there were no deferred items.

40 APPLICATION NO DOV/19/00403 - SHEMARA FARM, WOODNESBOROUGH LANE, EASTRY

Members viewed a map, an aerial view and photographs of the application site. The Principal Planner advised that the application sought outline permission for the erection of 28 dwellings. As a correction to the report, Members were advised that a reference to the Annual Monitoring Report 2018/19 at paragraph 2.8 should read Authority Monitoring Report 2017/18. One further letter of objection had been received since the report was written which raised no new issues.

The application site was situated outside of, but adjacent to, the settlement confines of Eastry. The site was considered to be within the countryside, and development would therefore be contrary to Policies DM1, DM11 and DM15 of the Core Strategy. However, the National Planning Policy Framework (NPPF) indicated that, where the most important policies for determining an application were out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh any benefits, when assessed against NPPF policies. The Local Planning Authority (LPA) was now required to deliver 629 dwellings per annum, 124 more than the number required in the Council's 2010 Core Strategy which was currently under review. As a result, Officers were of the opinion that Policy DM1, the most critical policy for assessing the application, was out-of-date and should therefore carry only limited weight. Furthermore, given that it was adjacent to the confines and next to an approved development, Officers considered that the proposal was acceptable.

The proposed development was in a sustainable location whose occupants would support the village's existing facilities and transport services. Unlike a number of other schemes, this scheme would deliver affordable housing and electric vehicle charging points. These factors, along with the need to deliver a larger number of dwellings, had led Officers to recommend approval. To the north-east of the site was a Grade II-listed building from whose garden views of the development would be seen. To limit the impact of these views, there would be a landscape buffer and an informal layout that would provide a gradual transition from Eastry to the countryside beyond. Whilst the layout was only indicative, Officers were satisfied that the proposal would not cause harm to the character of the landscape or the wider character of the area. Following amendments, and subject to conditions (including the widening of the access to 4.8 metres and the widening of Woodnesborough Lane to allow two cars to pass), Kent County Council (KCC) Highways had indicated that the proposal was acceptable.

Councillor T A Bond expressed concerns that approval was being recommended for a development that was contrary to Policies DM1, DM11 and DM15, and when the LPA could demonstrate a 5-year supply of housing land. He also questioned how the age restriction would be controlled, and whether such a restriction would be considered discriminatory. The Planning Solicitor advised that the legal mechanism for restricting the age of occupiers would be a Section 106 agreement. Whilst this imposed a burden on the LPA, there had been several court judgements that had ruled that this was the correct way to control such development. Moreover, the courts had not found that such restrictions were discriminatory, possibly due to the recognised need to provide appropriate housing for older people.

The Principal Planner recapped that the indicative details identified that there would be two blocks for the over 55s. Policy DM1 was considered out-of-date because it did not accord with the NPPF. For this reason, having regard for the development plan policies as a whole, the 'tilted balance' was engaged which suggested that permission should be granted unless there were specific NPPF policies against doing so or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In response to Councillor D G Beaney, he advised that, whilst the submitted details were indicative only, a landscape buffer would be required in order to avoid unacceptable impacts on the setting of the listed building, and a reserved matters application which removed or changed this was likely to be refused.

In response to Councillor H M Williams, the Principal Planner confirmed that the developer would be making a financial contribution towards the Market Place surgery in Sandwich. Whilst it was accepted that the most direct route to the village centre was along a lane with no footpaths or street-lighting, there were other routes into Eastry that did have footpaths and lighting. Pedestrian access to the nearest bus-stops on Gore Lane could be achieved. Councillor O C de R Richardson raised concerns about the design of the scheme and the lack of exceptional circumstances that would justify the loss of countryside. The Principal Planner reminded Members that detailed designs and layout would be considered at the reserved matters stage when the same assessment process as the outline application would be followed. Due to the constraints of the site, there was limited scope for the developer to change substantially the indicative layout at the reserved matters stage. In any case, the application could be refused at that point.

He emphasised that Dover's policy on development in the countryside was more stringent than the NPPF which did not place an intrinsic ban on such development, requiring LPAs to consider various factors, including sustainability. It was clarified that the site was at risk of flooding from surface water only, but that the applicants had provided evidence that surface water infiltration could be accommodated. Whilst they would need to demonstrate a suitable solution at the reserved matters stage, Officers were confident this would be achieved.

RESOLVED: (a) That, subject to a Section 106 agreement to secure necessary planning contributions, provision of affordable housing, contribution to the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy and the restriction of 10 dwellings to occupation by people aged 55 years and over, Application No DOV/19/00403 be APPROVED subject to the following conditions:

- (i) Standard outline conditions;
- (ii) Provision of off-site highway works;
- (iii) Construction management plan;
- (iv) Provision of measures to prevent the discharge of water onto the highway;
- (v) Reserved matters to demonstrate provision of vehicle parking and turning areas;
- (vi) Reserved matters to demonstrate provision of cycle parking;

- (vii) Provision of visibility splays;
- (viii) Scheme for the provision of foul drainage, including an implementation timetable and verification report;
- (ix) Reserved matters to demonstrate a scheme for the provision of surface water drainage, and securing an implementation timetable and verification report;
- (x) Reserved matters to identify the exact position of the water main and provide details for its protection;
- (xi) Archaeology;
- (xii) Ecological mitigation and enhancements;
- (xiii) Details of external lighting;
- (xiv) Protection of existing trees to be retained;
- (xv) Detailed landscaping scheme;
- (xvi) Details of boundary treatments;
- (xvii) Samples of materials;
- (xviii) Provision of refuse and recycling facilities;
- (xix) Scheme for the provision of charging points for electric vehicles.

(b) That powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions and to agree a Section 106 agreement in line with the issues set out in the recommendation and as resolved by the Planning Committee.

41 APPLICATION NO DOV/18/01263 - FORMER UNITED REFORMED CHURCH, HIGH STREET, DOVER

The Committee was shown a map, drawings, plans and photographs of the application site. The Planning Officer advised that the application sought permission for the conversion of a derelict church building, classed as a non-designated heritage asset, to sixteen flats. The building was on a corner plot and very prominent within the street scene. Its refurbishment would enhance nearby listed buildings, the conservation area and the street scene in general. It was also in a highly sustainable location, being within walking distance of facilities and services such as public car parks and Dover Priory railway station. Bringing the building back into use would help to increase footfall in the town centre.

Officers were of the view that the concerns raised about overlooking and inter-looking into Victoria Crescent and private amenity areas had been overcome by the use of external louvres on windows, an improvement on the 2005 scheme which had proposed obscure-glazed, fixed-shut windows. In respect of overlooking to 2 Priory Hill, it was clarified that there were no windows in the rear elevation of this property. Moreover, given sloping land levels, only two windows at first-floor level of

the proposed conversion would overlook the decking area of No 2. It was confirmed that the proposed scheme would not go above the original ridge level of the building. The floors would be set back so as to reduce overlooking, and there would be no change in width.

Councillors Richardson and J P J Burman raised concerns about the accuracy of the developer's viability report. The Principal Planner advised that the report had been assessed by an independent consultant commissioned by the LPA. In this case, the difference in the conclusions reached by these specialists was relatively minor. Calculations in viability reports were based on current known build costs for similar developments and recent sales of similar properties in similar areas, indexed to inflation. Construction costs were taken from the Building Research Establishment which was renowned for its high standard of surveying. It was confirmed that the LPA did not retrospectively check the figures included in viability reports as it was evident that developers could not predict whether costs would go up or down. It was typical for developers to expect to make a profit of 15-20%, and banks would not lend money if profit margins were in doubt.

In response to Members, the Planning Officer advised that, whilst the national guidelines on space standards had not been adopted by the LPA, the proposed flats were considered to be of a decent size, with the smallest being 41 square metres and the largest 100 square metres. The Planning Solicitor added that the LPA had previously had its own space guidelines. However, the Government had made a policy decision that local authorities should either adopt national standards or have nothing at all. Accordingly, unless adopted, the LPA was not in a position to require adherence to national space standards.

Councillor Bond commented that, whilst he believed the flats were a bit small, this made them more affordable. In terms of viability, he accepted that there was likely to be only a small profit margin in renovating this type of building. He sympathised with residents over parking, but this was a widespread problem and not confined to Dover. The Chairman advised that the Dover Joint Transportation Board had last considered a residents' parking scheme for Priory Hill and Priory Grove in February when residents had indicated through consultation that they did not want a scheme.

RESOLVED: (a) That, subject to a Section 106 agreement to secure habitat mitigation, Application No DOV/18/01263 be APPROVED, subject to the following conditions:

- (i) Timescale of commencement of development;
- (ii) A list of approved plans;
- (iii) Samples of materials;
- (iv) Provision and retention of cycle parking facilities prior to first occupation;
- (v) Measures to prevent the discharge of surface water;
- (vi) Soft and hard landscaping details;
- (vii) Details of surface water disposal;
- (viii) Provision of bin storage prior to first occupation;

- (ix) Submission of window details including window surrounds, cills, headers, mullions and window reveals;
- (x) Fixing details of the external vertical louvres to different window types prior to commencement;
- (xi) Details of foul water drainage prior to commencement;
- (xii) Submission of a detailed structural survey of the building prior to commencement;
- (xiii) Mitigation strategy for bats, breeding birds and biodiversity enhancements prior to commencement;
- (xiv) Construction Management Plan;
- (xv) Details of rainwater goods;
- (xvi) Lighting strategy.

(b) That powers be delegated to the Head of Planning, 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.

42 APPLICATION NO DOV/19/00658 - SANDWICH COARSE FISHERY, SANDWICH ROAD, ASH

Members were shown an aerial view, plans and photographs of the application site. The Planning Officer advised that the application sought planning permission for the installation of a new pond. The proposal was designed to diversify facilities at the site for existing customers rather than encouraging more visitors. No objections had been raised by consultees and approval was recommended.

Councillor Cronk welcomed the proposal and requested that an informative be added to address problems highlighted in the report regarding the postcode and signage.

RESOLVED: (a) That Application No DOV/19/00259 be APPROVED subject to the following conditions:

- (i) 3-year time commencement;
- (ii) Approved plans;
- (iii) Details/plans including an implementation schedule for the planting of trees and hedging as shown on the approved drawings;
- (iv) No vehicle access to the application site except for maintenance;
- (v) No lighting to be brought onto or installed on the site.

(b) That powers be delegated to the Head of Planning, 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) Informative to be added which highlights that some of the concerns of East Street residents could be overcome by obtaining a separate postcode and installation of additional signage.

43 APPEALS AND INFORMAL HEARINGS

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

44 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 7.46 pm.

REPORT TO PLANNING COMMITTEE

PLANNING APPEALS 2019-20 (QUARTERS 1 AND 2)

1. There were 36 planning appeals and 5 enforcement Appeals determined between April and September 2019. Members have been issued with the full decisions.

2. A breakdown is at section 3 below.

Of the 36 planning appeals, 13 were considered by Planning Committee with the remaining 23 being delegated decisions.

Our results for the year so far show that of those applications that do go the Inspectorate, 19% were lost. The average loss rate nationally is about 30%.

The National Performance Indicator which assesses the ‘quality of decisions’ measures the percentage of local authority decisions that are then subsequently overturned at appeal. The Government advise that the threshold for designating an authority as ‘underperforming’ includes if 10% of decisions are overturned at Appeal. This is assessed over a retrospective 2 year period and applies the threshold separately to decisions on Major and Non-Major applications. Our performance on appeals for Major applications (at 8%) in the current period is 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.

3. Appeal Data.

3.1 Appeal data for decisions made by Planning Committee

Quarter	Committee Appeals	Appeal Dismissed	Appeal Upheld	% Upheld
1&2	13	9	4	31%

3.2 Appeal data for delegated decisions

Quarter	Delegated Appeals	Appeal Dismissed	Appeal Upheld	% Upheld
1&2	23	20	3	13%

3.3 Appeal data for all decisions

Year to date	All appeals	Appeals Dismissed	Appeals Upheld	% Upheld
Q1&2	36	29	7	19%
Q3&4				
Total	36	29	7	19%

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&2	25	2		8%
Q3&4				
Total	25	2		8%
	Non-Major Apps Decided			
Q1&2	419	5		1%
Q3&4				
Total	419	5		1%

4. More Detailed Points

Of the 36 cases appealed, the majority (24) related to new residential development:

- Of the 24 residential schemes, 6 (25%) were allowed on appeal/upheld.
- 4 of the allowed schemes were for small-medium scale residential development within existing settlements/built-up areas where site specific issues such as design, impact on neighbours/living conditions, loss of open space etc. were at issue. The other 2 upheld appeals were for development outside but adjoining existing urban areas/settlements where the harm associated with the impact on the countryside and travel by car were judged more marginal and outweighed by the scheme benefits. This included the Churchfield Farm, Sholden development for 48 units and a 64 bedroom care home (DOV/17/01345).
- Of the 18 dismissed residential appeals, 11 were for schemes within existing settlements and 7 for development beyond built-up areas where concerns relating to countryside harm and/or travel impacts (by car) were considered more critical.

Peter Wallace
Development Management Team Leader