

# Public Document Pack



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21 July 2020

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **PLANNING COMMITTEE** on Thursday 23 July 2020 at 6.00 pm, the following report that was unavailable when the agenda was printed.

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

To confirm the minutes of the meeting of the Committee held on 11 June 2020.

Yours sincerely

A handwritten signature in black ink, appearing to be "Nicky", written over a horizontal line. The signature is fluid and cursive.

Chief Executive

Minutes of the remote meeting of the **PLANNING COMMITTEE** held on Thursday, 11 June 2020 at 6.00 pm.

Present:

Chairman: Councillor J S Back

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

Officers: Team Leader (Development Management)  
Principal Planner  
Planning Officer  
Planning Consultant  
Planning Consultant  
Planning Enforcement Manager  
Planning Solicitor  
Democratic Services Manager  
Democratic Services Officer

The following persons submitted written statements which were read out by the Democratic Services Manager in lieu of public speaking:

<u>Application No</u>	<u>For</u>	<u>Against</u>
DOV/20/00197	Ms Sigrid Winkler	Mr Reginald Harrison
DOV/20/00146	Ms Emma Angel	Ms Yvonne Buddle/ Ms Tamzin Dunstone
DOV/19/00821	Persimmon/Barratt Homes	Councillor Linda Keen Mr Jon Flaig

126 APOLOGIES

It was noted that an apology for absence had been received from Councillor D P Murphy.

127 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor M Bates had been appointed as a substitute member for Councillor D P Murphy.

128 DECLARATIONS OF INTEREST

There were no declarations of interest.

129 ITEMS DEFERRED

Members noted that the one deferred item was not for consideration at the meeting.

130 APPLICATION NO DOV/20/00197 - 26 BALMORAL ROAD, KINGSDOWN

Members viewed an aerial view, drawings, a plan and photographs of the application site. The Planning Consultant advised that planning permission was sought for the erection of a single storey rear extension, front and rear dormers and a raised side terrace. The site sloped gently from front to rear (north-west to south-east), but the presence of a substantial hedge would prevent any significant impact from overlooking on the property at the rear of the site in Carlton Road. He advised that the proposed rear dormer was classed as permitted development and as such did not need planning permission.

Councillor D G Cronk queried whether, if permitted, a condition could be attached to prevent the hedge being cut back below a certain height. Councillor T A Bond referred to the fact that two previous applications had been refused and questioned how this one differed. In his opinion the rear dormer was not an appealing proposition for the residents of Hilmor and Stillwater. The Planning Consultant advised that the proposed rear dormer would be similar to one that was on the house opposite, save for the windows being over the full width of the dormer. The previous applications had been refused principally because of the roof terrace.

In response to concerns raised by other Members about overlooking, the Planning Consultant emphasised that, whilst the rear dormer had been included in the application, it did not require planning permission as it complied with the permitted development legislation. He added that the Kent Design Guide sought to prevent development where there would be fewer than 21 metres between the windows of the proposed and an existing property.

RESOLVED: (a) That Application No DOV/20/00197 be APPROVED subject to the following conditions:

- (i) Time;
  - (ii) Compliance with plans;
  - (iii) Matching materials;
  - (iv) A continuous hedge to a height of 3.25 metres shall at all times be retained along the south-east boundary of 26 Balmoral Road.
- (b) That powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary issues in line with the matters set out in the recommendation and as resolved by the Planning Committee.

131 APPLICATION NO DOV/20/00146 - 27 COWPER ROAD, RIVER

The Committee was shown plans, drawings and photographs of the application site which was within the settlement confines of River. The Trainee Planner advised that the application sought (partly retrospective) planning permission for the erection of a first-floor extension, roof extension with two dormer windows, a front porch, the insertion of four rooflights and alterations to existing doors and windows, together with landscaping, terracing and external steps.

Members were advised that Cowper Road sloped upwards towards the south-west, and was an area dominated by bungalows and chalet bungalows. The road consisted of different ground levels, with dwellings following an irregular layout and some set back from the road. The existing dwelling on the site was a three-bedroomed bungalow. The proposed first-floor extension would create two additional bedrooms, making five in total. The ridge height of the dwelling would be increased by approximately 1.7 metres.

Following concerns raised by objectors, a window originally proposed on the south-west elevation at first-floor level had been removed. In the interests of neighbours' privacy, a condition was proposed for the bathroom windows and rooflights to be fitted with obscured glazing and, in the case of the rooflights on the flank roof slope, to be non-opening. Referring to paragraphs 2.3 to 2.5 of the report, the Trainee Planner confirmed that, subject to the proposed condition relating to samples of external materials, it was considered that the proposal would modernise the appearance of the existing property whilst preserving the character and appearance of the street scene. Furthermore, it had been concluded that, subject to the use of obscured glazing, the proposal was unlikely to result in significant harm to residential amenity. Finally, to address concerns raised about the impact of construction traffic on the narrow road, a construction management plan would be required.

Councillor E A Biggs raised concerns about the height of the proposed dwelling in relation to surrounding properties, and its potentially dominating appearance. Councillor M Bates commented on the narrowness of the road and how the construction management plan would be enforced. The Trainee Planner advised that the wording of the construction management plan condition would require it to be complied with throughout the construction period, such that it would be enforceable. Councillor Bond observed that there were dwellings surrounding the application site which were higher than, and at some distance from, the proposed dwelling. Access problems caused by construction deliveries would be for a short period of time only and were not sufficient to warrant a refusal of the application. Councillor O C de R Richardson commented on the roof tiles which would have a significant impact on the appearance of the dwelling in the street scene. He requested that samples be submitted and an informative added. The Trainee Planner reassured Members that samples would be requested to ensure that they were in keeping with surrounding roof types and the overall street scene.

RESOLVED: (a) That Application No DOV/20/00146 be APPROVED subject to the following conditions:

- (i) Standard time condition;
- (ii) List of approved plans;
- (iii) Samples of materials (including roof tiles);
- (iv) Details of hard and soft landscaping, including boundary treatments;
- (v) Restriction of permitted development rights for the installation of windows at first-floor level in the south-west and north-east elevations;

- (vi) Installation of obscured glazing in the first-floor level en-suite bathroom windows and rooflight, and installation of obscured glazing and non-opening rooflights on the north-east roof slope;
  - (vii) Construction Management Plan (to include details of loading and unloading of plant and materials, parking for construction workers and hours of construction working).
- (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.

Informative: Samples of proposed roof tiles to be submitted to establish that they are in keeping with surrounding roofs and the overall street scene of Cowper Road.

132 APPLICATION NO DOV/19/00821 - AYLESHAM VILLAGE EXPANSION, AYLESHAM

The Committee viewed aerial views and plans of the application site. Recapping the history of the scheme, the Principal Planner advised that the original application for the expansion of Aylesham had been agreed in principle in 2007. Following extensive public consultation and the agreement of Supplementary Planning Guidance and Design Code documents to guide the development in its various phases, planning permission had finally been granted in 2012. Over 700 homes had since been built and occupied. The current application – to increase the total number of dwellings by 150 to 1,360 - had come about as a result of concerns over viability and changing market conditions. A key point for Members to remember was that the original outline planning permission remained current and could be implemented, notwithstanding that the application before the Committee would, if approved, create a new outline permission. As a correction to paragraph 2.40 of the report, Members were advised that a financial contribution of £9,825 towards youth provision had been omitted in error.

The increase in dwellings would largely be achieved by a slight increase in density, storey heights and the construction of additional smaller units. No new land would be built on. Officers were satisfied that the increases in density and building heights could be accommodated without affecting the character and form of the development. In terms of affordable housing, the approved scheme had provided for 20% affordable housing throughout the site. Developers were now looking at providing 25% affordable housing in the remaining phases of development. This would achieve 22% affordable housing across all phases of the development – or 300 dwellings. These would be distributed throughout the site and integrated with both new and existing housing.

At the Council's request, the applicants had provided an up-to-date analysis of open space in accordance with the standards set out in Policy DM27 of the 2015 Housing Allocations Plan. This indicated that Aylesham had an over-provision of informal open space and play areas, and a slight under-provision of formal open space. In the short-term, the latter would be addressed by the developer making a contribution towards the upgrading of the 3G pitch at the Aylesham Welfare Sports Ground (AWSG). In the longer term, there would be an appraisal of the sports

ground to identify the scope for increasing formal sports provision there, along with other leisure uses generally.

In terms of traffic, the original predictions, based on nationally accepted traffic modelling data, indicated that there would be an additional 753 traffic movements in the morning peak hours and 786 in the afternoon peak hours. However, the current data were based on surveys from actual movements of existing traffic which showed an overall reduction in the numbers predicted - even allowing for the increase of 150 houses. The new predicted movements were 723 and 737 respectively. These predictions were considered acceptable by KCC Highways, and by Highways England in terms of the impact on the A2. A condition was proposed which would require the submission of a village traffic impact assessment with each reserved matter application. Whilst traffic surveys had been deferred because of the pandemic, it was hoped they would resume in September.

The original framework of development contributions had been established as a result of consulting technical bodies and community groups. The contributions had been agreed by the Council, and largely rolled forward with this application, having been tested against the Community Infrastructure Levy (CIL) Regulations. The Principal Planner reiterated that there were strict tests in relation to contributions, which had to be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. Contributions were not a 'wish-list' of projects and were not designed to address an existing deficiency. The contributions process had delivered nearly £5 million for Aylesham to date, and a further £1 million would be delivered through this application.

Aside from secondary education contributions, all of the £1 million would be used to support new and existing infrastructure in Aylesham. Whilst the four community bids received were laudable and community-driven, none of them was sufficiently developed or proven to be necessary to satisfy the CIL Regulations. The Community Hub proposal was the most well-developed proposal and had merit. It had not been discounted, and there might be other ways of bringing it forward. For example, as part of the project to deliver a new sports hall at the AWSG, for which £720,000 had been allocated. To do so would involve widening the definition of the project to cover sports and leisure purposes generally.

The viability of the remaining development was a key issue. The additional 150 houses could be accommodated without departing from the principles of development established to date and, together with the additional £1 million in development contributions, led Officers to recommend that planning permission be granted, subject to resolving the revised conditions and the completion of a revised Section 106 agreement.

In response to Councillor H M Williams, the Principal Planner clarified that the Aylesham community development post was funded by Section 106 monies rather than the Council due to the scale of the development, and in recognition that new residents needed support with integrating into the existing community. Councillor J P J Burman raised concerns about the transparency and relative inaccessibility of the bidding process for development contributions, particularly for smaller community groups. Nevertheless, he welcomed the idea of integrating the Community Hub proposal into the project for improving facilities at the Sports Ground. The Principal Planner commented that there was no guarantee the project could be delivered and further work was needed. In the past there had been

challenges in managing the sports club, but its organisation and operation was an area outside the Committee's remit.

In response to Councillor Biggs, it was clarified that the live/work units had been removed due to there being no demand for them, a finding which was supported by the Council's own research. Their inclusion had been subject to that caveat, and it would not be considered reasonable to insist on their reinstatement. Councillor Biggs voiced his disappointment at the removal of the units, and the marginal increase in affordable housing being offered by one of the country's biggest developers. The Principal Planner emphasised the lack of demand for the units, and reminded Members that they were required to assess the application before them. He clarified that the affordable housing provision had been approved as part of the reserved matters. A condition would require full details of how the units would be managed and retained as affordable housing.

Councillor Richardson commented that, in his view, the developer was not contributing enough to improve sports facilities in Aylesham which was commutable and therefore likely to attract an influx of people from outside the area. One playing field was not sufficient to accommodate the proposed increase in residents. He also asked for further clarification on viability. The Principal Planner reminded the Committee that the developer had submitted an open space assessment measured against current standards which demonstrated that informal open space and equipped children's play area provision in Aylesham exceeded current standards. In contrast, formal open space provision was currently in deficit. Contributions from this development would go towards upgrading the 3G pitch at the AWSG which was presently under-used. Moreover, there could be an opportunity to improve wider formal sports provision at the AWSG.

In clarification, the Principal Planner advised that additional development costs had arisen as the project progressed. Contamination had recently been found which would increase these costs. In response to suggestions that the Council should push for 30% affordable housing provision, Members were reminded that the viability of the scheme was already marginal and, in any case, the developer could opt to build only 20% affordable housing as that was the provision contained in the extant outline planning permission. It was therefore welcome that the developer was looking to increase the affordable housing provision in the remaining phases of the development to 25%.

The Principal Planner referred Members to the website which contained a good deal of information on Section 106 contributions and the bidding process. However, he undertook to include Members when reviewing this information to ensure that it was accessible and easily understood.

RESOLVED: (a) That, subject to the completion of a Section 106 agreement in relation to Development Contributions, and the amendment of conditions as set out in paragraph 2.51 of the report, Outline Planning Permission for DOV/19/00821 be APPROVED.

(b) That powers be delegated to the Head of Regeneration, Planning and Development to resolve details of any necessary planning conditions and matters connected with the proposed Section 106 agreement, in accordance with the issues set out in the report and as resolved by the Planning Committee.

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

134 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.

135 EXCLUSION OF THE PRESS AND PUBLIC

It was moved by Councillor J S Back, duly seconded and

RESOLVED: That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the remainder of the business on the grounds that the item to be considered involves the likely disclosure of exempt information as defined in paragraphs 3 and 5 of Part I of Schedule 12A of the Act.

136 SITE AT HOLLYOAK, MARSHBOROUGH, WOODNESBOROUGH

The Planning Consultant advised the Committee that the purpose of the report was, firstly, to apprise Members of advice received from Counsel in advance of a public inquiry scheduled for September 2020 to determine an appeal against the refusal of planning permission, and the issuing of an enforcement notice in respect of a site at Hollyoak, Marshborough. Secondly, the Committee was being asked to agree and adopt Counsel's advice, as amended. If adopted, this would guide the Council's approach at the inquiry.

The recent history of the site, ending with the last application refused by the Planning Committee in February 2018, which was the subject of the appeal to be heard in September, was set out on pages 3 to 5 of the report. Members were also referred to pages 5 and 6 of the report which set out the site's recent enforcement history.

It was moved by Councillor O C de R Richardson and duly seconded that the Officer's recommendations, as set out in the report, be approved.

RESOLVED: (a) The Council no longer relies on the stated reasons for refusal of the planning application because it accepts that the decision reached by the Committee did not pay sufficient regard to the grant of the 2012 permission (a point alluded to in the communication to the Main Parties by the Appeal Inspector) which established the principle of a residential caravan use on the site but in a different location to where it was in order to mitigate adverse impacts. In this regard, if the Council had had the opportunity to consider the scheme granted permission under the allowed appeal, it is likely to have reached a different conclusion. Accordingly, the Council instead supports the grant of planning permission for the appeal scheme, subject only to appropriate conditions securing the same layout as that approved in the 2012 permission (with extended visibility splays – which is the advice of the Council's highways expert).

(b) The Council no longer supports the enforcement notice in its present form because it should have been issued under Section

171A(1)(b) of the Town and Country Planning Act 1990 ('the 1990 Act'), rather than Section 171A(1)(a). This is in light of the existing planning permission applying to the site.

- (c) The Council invites the Appeal Inspector to correct/vary the enforcement notice under Section 176 of the 1990 Act to specify Section 171A(1)(b) and identify a breach of Condition 8 on the basis that the current layout appears to be materially different to the layout approved under Condition 8 of the 2012 permission (in terms of both caravan siting and extent of hardstanding). The Council considers that it would be 'expedient' to enforce against a breach of Condition 8 in such terms as it reflects the concerns of the Planning Committee in respect of reason 2 of the refusal of planning permission under DOV/17/01208 (and the 2012 Appeal Inspector's concerns). The varied enforcement notice would require compliance with the layout approved under Condition 8. The visibility splays have been measured by Kent County Council Highways and Dover District Council Officers and they have been, and can be, implemented in accordance with the Appeal Inspector's Condition 2 (there are some overhanging branches on the appeal site that will need to be cut back/managed – but this is within the control of the appellant). The Marshborough Action Group (MAG) does not consider that the visibility splays have been implemented or can be implemented. The Council does not consider that the varied enforcement notice should also target a breach of Condition 2 because it would not be 'expedient' to enforce against any breach of this condition. That is because the requirements regarding visibility splays have now, subject to MAG's point, been or can be complied with, albeit late. The approved layout is included in Appendix 5. This proposed course of action does not bar MAG from making its own submissions to the Inspector at the forthcoming inquiry.

With regard to recommendation (c) above, having considered the reasons why the Appeal Inspector imposed Condition 8, Officers consider that there can continue to be a reasonable case made that the current location of the static caravan (Enforcement Notice Appeal) and the proposed location of the static caravan (Planning Application Appeal) (they are not the same locations albeit within close proximity), along with the more recently extended hard-standing that has been carried out, cause harm to visual amenity and the rural character and appearance of the area.

- (d) That the Council's Officers will communicate the Committee's decision to the other parties to the appeal and to the Planning Inspectorate.

The meeting ended at 9.11 pm.