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11 July 2022


Dear Councillor

I am now able to enclose, for consideration at the meeting of the **PLANNING COMMITTEE** on Thursday 14 July 2022 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 23 June 2022.

Yours sincerely



Chief Executive

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 23 June 2022 at 6.00 pm.

Present:

Chairman: Councillor J S Back

Councillors: R S Walkden
E A Biggs
T A Bond
S S Chandler
D G Cronk
D A Hawkes
P D Jull
C A Vinson
C F Woodgate

Officers: Planning and Development Manager
Team Leader (Development Management) - North Team
Senior Planner
Senior Planner
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/21/01926	Ms Jane Scott	Mr Adam Limbrey
DOV/21/01903	Dr Tej Bahadur	Mr David Long
DOV/22/00495	Mr Mark Hall	-----

14 APOLOGIES

It was noted that apologies had been received from Councillors M Bates and D G Beaney.

15 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors C A Vinson and S S Chandler had been appointed as substitute members for Councillors M Bates and D G Beaney respectively.

16 DECLARATIONS OF INTEREST

Councillor S S Chandler made a Voluntary Announcement of Other Interests in Agenda Item 5 (Application No DOV/21/01926 – Upper Goldstone Farm, Cop Street Road, Ash) by reason that her son was a director of the company acting as agent for the application. She advised that she would not participate in the debate or the vote on this application.

17 MINUTES

The minutes of the meeting held on 26 May 2022 were approved as a correct record and signed by the Chairman.

18 APPLICATION NO DOV/21/01926 - UPPER GOLDSTONE FARM, COP STREET ROAD, ASH

The Committee was shown an aerial view, drawings, plans and photographs of the application site which was outside the settlement confines of Ash. The Planning Officer advised that planning permission was sought for the erection of a detached dwelling and the demolition of an existing agricultural building. The existing building had received prior approval for its conversion to a dwellinghouse following an allowed appeal in June 2020. This amounted to a 'fall-back' position which was a material consideration when assessing the application.

Members were advised that, as a site outside the settlement confines, it was considered to be unsustainable. However, some of the policies that were relevant in determining the application were in tension with the National Planning Policy Framework (NPPF) and, as such, the 'tilted balance' approach of paragraph 11 of the NPPF should be applied. This set out a presumption that sustainable developments should be approved unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. There was prior approval for a dwelling on the site. This, together with the scheme's improved setting in the landscape and increased distance from the listed building in comparison to the conversion already approved, weighed in favour of the application which was recommended for approval.

Councillor E A Biggs stated that he found Class Q permitted development rights confusing and apparently open to different interpretations by local authorities. His understanding was that the aim of Class Q was to retain agricultural buildings in the landscape which would not be the case with this proposal. If prior approval had not been given, his view was that approval would be unlikely. It appeared that Class Q approval was a back-door way of getting a residential dwelling in a countryside location where it would not normally be approved. The Team Leader Development Management (TLDM) advised that the Class Q process was an opportunity for farms to realise their assets for commercial purposes. A court ruling some years previously had ruled that an application approved under Class Q was a reasonable fall-back position. Officers were of the view that the proposed scheme was an improvement on the conversion approved under Class Q permitted development rights. The existing building would be replaced with a dwelling which would be of Kentish vernacular design, in a better position and with improved parking and building regulations standards and electric vehicle charging.

Councillor P D Jull was of the view that the existing building did not contribute in a positive way to the landscape and proposed that the application should be approved. Councillor T A Bond sympathised with Councillor Biggs's views, but recognised that the principle of development on the site had been established. Nevertheless, he raised concerns about the height of the building which was acceptable in an urban setting but out-of-place in a rural location. The Planning and Development Manager emphasised that the existing building was unremarkable and positioned closer to the listed building. The proposed scheme would move the dwelling away from the listed building, thus enhancing its setting. Officers were bound by the Class Q process which was a factor in making their recommendation.

RESOLVED: (a) That Application No DOV/21/01926 be APPROVED subject to the following conditions:

- (i) 3-year time limit for commencement;
- (ii) Compliance with the approved plans;
- (iii) Samples of materials;
- (iv) Removal of existing barn;
- (v) Disposal of foul sewage details;
- (vi) Drainage details;
- (vii) Removal of permitted development rights;
- (viii) Building to be incidental to main dwelling;
- (ix) Landscaping scheme;
- (x) Rooflights condition;
- (xi) External lighting shall be motion activated;
- (xii) Refuse and recycling storage;
- (xiii) Provision and retention of parking spaces;
- (xiv) Electric vehicle charging points.

(b) That powers be delegated to the Head of Planning and Development to settle any necessary issues in line with the matters set out in the recommendation and as resolved by the Planning Committee.

(Councillor S S Chandler did not take part in the debate or vote on this application but remained in the Council Chamber.)

19 APPLICATION NO DOV/22/00044 - LAND SOUTH OF CROSSWAYS AND EAST OF DOVER ROAD, EASTRY

Members viewed an aerial view, plans and photographs of the application site which was situated outside the settlement confines of Eastry. The Planning Officer advised that the application sought planning permission for a change of use of a field as an enclosure for dog walking, including the erection of a 1.8-metre fence and gates. Members were advised that an additional representation had been received since publication of the report, arguing that there was a need for the facility and questioning why Tilmanstone Parish Council had not been consulted. In respect of the latter, the Planning Officer clarified that there was no requirement to consult the parish council.

The Planning Officer advised that the proposals would affect a scheduled monument, this being a large cemetery which included an early medieval inhumation cemetery containing densely populated burials and associated ring

ditches and pits. Whilst a heritage statement had been submitted, no evidence had been provided to demonstrate the significance of the heritage asset nor to support its claim that no harm would be caused. Historic England had raised significant concerns about the proposal's impact on archaeological remains and the setting of the scheduled monument, and was unable to comment further given the lack of information provided in the application. Kent County Council (KCC) Highways had requested details of visibility splays and other information which had not been forthcoming and therefore raised questions about highway safety. Finally, KCC had requested information on ecology which the applicant had also failed to provide. Given the inadequacy of the information submitted, refusal was recommended.

Councillor Bond commented that he understood Officers' concerns regarding the lack of information provided. However, conditions could be attached that would deal with these. Moreover, he noted that there were electricity pylons crossing the field and questioned whether these had required permission due to their impact on the scheduled monument. He suggested that Officers were perhaps being overly bureaucratic over a facility that would be of benefit to Eastry residents. Councillor S S Chandler backed the principle of the proposal which was on a suitable site and would fulfil a need. It was therefore a pity that the information that would enable the application to be approved had not been provided.

The TLDM advised that conditions could be imposed in the event that an application might otherwise be refused. However, in this case the information that was missing was fundamentally material to the application and without it a judgement or assessment could not be made. If permission were granted and the information provided indicated that the outstanding matters could not be resolved satisfactorily, Officers would be left in a difficult position as the permission could still be implemented. In response to Councillor C F Woodgate, it was clarified that the burials were quite close to the surface and the installation of fence posts could therefore have a harmful impact on them.

Councillor Bond mentioned that it was only part of the field that would be dug up and he failed to understand what harm would therefore be caused by the proposal. With appropriate conditions, he proposed that the application should be approved. Councillor Chandler responded that she understood the archaeological concerns because the fence would be placed across the centre of the field and would therefore cause significant damage to the burials. Whilst the proposal was a good one, the site chosen was an unfortunate one. Councillor C A Vinson agreed that the principle of the use was reasonable. However, he was uncomfortable with approving an application which had failed to provide the requisite information that would enable Members to make an informed decision. It would be unfortunate for the Committee to approve the application to then find that damage had been caused to a scheduled monument. The Planning Officer clarified that the applicant had not responded in relation to her e-mail requesting additional crucial details in relation to the heritage asset, ecology and highways.

It was proposed by Councillor D G Cronk and duly seconded that Application No DOV/22/00044 be REFUSED in accordance with the report recommendation.

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

RESOLVED: (a) That Application No DOV/22/00044 be REFUSED on the following grounds:

- (i) Insufficient information has been submitted to allow a full assessment to be made of the implications of the development on below ground archaeology and the setting of a scheduled monument and the development would therefore be contrary to paragraphs 194 to 208 of the National Planning Policy Framework (2021).
 - (ii) Insufficient information has been submitted to allow a full assessment to be made of the implications of the development on the ecology and wildlife within the site and the ecological and nature conservation value of the site. The proposal is thus contrary to paragraph 174 of the National Planning Policy Framework (2021).
 - (iii) Insufficient information has been submitted to allow a full assessment to be made of the implications of the development on highway safety and the development would therefore be contrary to paragraphs 110 and 111 of the National Planning Policy Framework (2021).
- (b) That powers be delegated to the Head of Planning and Development to settle any necessary issues in line with the matters set out in the recommendation and as resolved by the Planning Committee.

20 APPLICATION NO DOV/21/01903 - SITE REAR OF 19 AND 21 BEWSBURY CRESCENT, WHITFIELD

The Committee was shown aerial views, plans and photographs of the application site which was within the settlement confines of Whitfield. The Senior Planner advised that the application sought planning permission for the erection of a detached dwelling, driveway and associated parking on a site which was currently garden land for 19 and 21 Bewsbury Crescent. A number of dwellings had been constructed in the rear gardens of properties in this vicinity. The application site had been subject to various applications over a number of years, including the erection of three detached dwellings and, most recently, the erection of one detached dwelling which had been refused in 2021. Several earlier applications had been refused and then dismissed at appeal. Whilst the planning inspector had accepted the principle of backland development at appeal, the key areas of concern in relation to applications for development at this site had been noise and disturbance arising from the use of the driveway.

Members were advised that amendments had been made to the scheme submitted in 2021 and, whilst it was a finely balanced judgement, these were considered to have addressed the previous reasons for refusal, such that the proposal was now recommended for approval. The amendments were set out in paragraph 2.16 of the report and included a separate parking area at the front of no. 21 to serve that dwelling, a 2-metre-high acoustic fence installed either side of the access and a bound surface for the entire length of the driveway. In respect of Kent Fire & Rescue, she added that a sprinkler system would be installed in the property that would address the concerns raised.

In response to Councillor Jull who referred to neighbouring properties having dormer windows, the TLDM acknowledged that it was probably not reasonable to remove permitted development rights for roof-lights in the application property.

Councillor Jull proposed that the application should be approved in line with the report recommendation, subject to the removal of condition 11 relating to permitted development rights. The Senior Planner clarified that there would be a hedge running the length of the driveway, details of which were required by condition, but she was unable to shed any light on its ownership. In response to Councillor D A Hawkes who queried the impact of the acoustic fence on no. 23, she advised that there were no windows in the flank wall of the property and there would be one metre distance between the acoustic fence and the wall of no 23.

Councillor Woodgate commented that the acoustic fence made the proposal worse not better. He was of the view that the site's long history of applications and the uncertainty associated with that was having a detrimental impact on neighbours. He agreed with Whitfield Parish Council which objected to the proposal. Councillor Biggs commented that the proposal appeared to be an over-intensive backland development and the positioning of a driveway along the side of a dwelling was unacceptable. He also disliked the parking area at the front of the property which was out-of-keeping with the existing street scene. He, like Councillor Woodgate, was concerned about the impact that the site's application history was having on neighbours. He proposed that the application should be refused on the grounds that it was an over-intensive form of development, would disrupt the linear pattern of the street scene, and the parking at the front of the property would interrupt the design of the crescent.

Councillor Vinson stated that, whilst he sympathised with neighbours who lived near sites where there were repeated planning applications, there were no limitations on individuals making numerous applications. That said, he voiced concerns about the width of the access and how much room there would be for cars to move once the acoustic fence and hedge were installed. The Senior Planner advised that the driveway would be 3 metres wide, and a condition would require details of the hedge, planting and maintenance to be submitted.

Councillor Chandler sought clarification in respect of the current arrangements as the plans appeared to show that cars using the existing driveway would drive past no. 23 anyway. Councillor Bond stated that, whilst he was not in favour of backland developments, there was already a driveway in place and he did not believe there were valid planning reasons to refuse the application. In response to Councillor Hawkes, it was clarified that the height of the acoustic fence had been reduced from 2.5 to 2 metres, the latter being within permitted development rights in any case.

The Planning and Development Manager reminded the Committee that the previous application was very similar to the one under consideration and the reasons for the refusal of that application had been focused on the disturbance and noise impact of the access; to introduce different reasons for refusal at this stage could be problematic. The Senior Planner clarified that the previous reason for refusal, set out in paragraph 2.15 of the report, had centred on the extension of the driveway and its use by pedestrians, vehicles, visitors and occupiers and the harm they would cause to the living conditions of the occupiers of 21 and 23 Bewsbury Crescent.

The Planning Solicitor suggested that, if minded to refuse the application, the Committee might wish to use the previous reasons for refusal on the basis that Members were of the view that the amendments made to the scheme had not adequately addressed the concerns raised in respect of the previous scheme.

It was proposed by Councillor E A Biggs and duly seconded that Application No DOV/21/01903 be REFUSED on the grounds that the proposed scheme had not

adequately addressed concerns raised in relation to the previous application, namely that the extension of the driveway to the proposed dwelling would, by reason of its use, the comings and goings of pedestrians and vehicles and associated levels of activity along it by the occupiers of and visitors to the proposed dwelling, harm the living conditions of the occupiers of Nos. 21 and 23 Bewsbury Crescent.

On being put to the vote, there was an equality of votes and the motion FAILED.

In response to Councillor Chandler, the Senior Planner clarified that the removal of Class B permitted development rights would prevent the erection of additions to the roof of the dwelling such as dormer windows and roof extensions.

It was proposed by Councillor P D Jull and duly seconded that Application No DOV/21/01903 be APPROVED as per the report recommendation, subject to the removal of condition (11) relating to permitted development rights.

There being an equality of votes, the Chairman used his casting vote and the motion was CARRIED.

RESOLVED: That Application No DOV/21/01903 be APPROVED subject to the following conditions:

- (i) Standard time condition;
- (ii) List of approved plans;
- (iii) Samples of materials;
- (iv) Details of soft and hard landscaping (including elevations showing boundary treatments and driveway/hardstanding surfaces) and schedule of planting (with details of root protection measures for the proposed boundary hedgerow due to the proximity of the proposed fencing);
- (v) Provision and retention of the parking area with drainage measures installed and completion of the dropped kerb for the new access before first use;
- (vi) Details of surface water disposal;
- (vii) Window on west elevation of No. 21 Bewsbury Crescent to be blocked in prior to first occupation of the new bungalow;
- (viii) Cables for electric vehicle charging points;
- (ix) Details of secured cycle storage;
- (x) Provision of refuse and recycling storage shown on plan;
- (xi) Details to be submitted of a sprinkler system to be installed in the new bungalow.

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

21 APPLICATION NO DOV/22/00495 - LAND AT 5 BEECHWOOD CLOSE, WHITFIELD

Members were shown drawings, plans and photographs of the application site which was situated within the settlement confines of Whitfield. The Senior Planner advised that planning permission was sought for the erection of a detached dwelling on a modest plot which currently formed part of the existing garden of 5 Beechwood Close. The application had originally proposed a 3-bedroomed, 1.5-storey chalet bungalow. However, following concerns raised by Officers, the application had been amended and a 2-bedroomed, single storey bungalow was now proposed. The amendments had overcome Officers' concerns, and the application was therefore recommended for approval.

Councillor Bond noted that Whitfield Parish Council had objected to the application because it regarded it as a backland development. However, he did not consider it as such due to the fact that there would be an access at the front of the proposed dwelling rather than a rear access. The dwelling was in keeping with its surroundings, and he proposed that the application should be approved.

RESOLVED: (a) That Application No DOV/22/00495 be APPROVED subject to the following conditions:

- (i) 3-year commencement;
- (ii) In accordance with the approved plans, notwithstanding the material annotation in relation to the roof tiles;
- (iii) Secure proposed external materials with the exception of the bricks and roof tiles;
- (iv) Samples of bricks and roof tiles to be used;
- (v) Secure provision of proposed refuse and cycle storage;
- (vi) Secure provision of hard and soft landscaping as proposed;
- (vii) Provision and retention of the parking area with drainage measures installed;
- (viii) Cables for electric vehicle charging points.

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

APPLICATION NO DOV/21/01170 - 36-38 THE DROVEWAY, ST MARGARET'S BAY

The Committee viewed drawings, plans and photographs of the application site which was situated within the village confines of St Margaret's. The Planning and Development Manager advised that the application sought to vary conditions for two detached dwellings. There had been a number of Section 73 applications in relation to the development, the most recent application having been approved by the Committee in July 2021. The proposed variations were set out in paragraph 1.5 of the report, and it was for Members to consider the differences between what had been approved by them in July and this scheme. Construction work had been going on at the site for some time, undoubtedly causing disruption to the occupiers of neighbouring properties. Additional comments had been received following the expiry of the planning advertisement on 21 June. Neighbours had raised concerns about the timing of the advertisement, whether enforcement action would be taken against breaches, works undertaken to the garages and the glazing to windows not being obscured in accordance with conditions.

In response to Members, the Planning and Development Manager clarified that the windows would be changed to obscure glazing by means of the conditions attached to the planning permission. He clarified that if the Committee refused the application, permitted development rights could not be applied to make these alterations. The scheme would be at variance to the approved plans and would therefore have to come back for approval. In response to Councillor Chandler, he advised that condition 2 would ensure that the grass bank at the front of the development was delivered. He acknowledged that the additional windows would make the dwellings more visible in longer views.

Councillor Jull commented that the Committee would need to make a judgement about whether the proposed amendments would be a material change to the appearance of the building. Councillor Bond noted that the height of the garages and the dwellings had been reduced which was to be welcomed. However, the width of the dwellings and the length of the garage were to be increased. Whilst he sympathised with neighbours of the site, he did not believe there were planning reasons to refuse the application.

RESOLVED: (a) That Planning Permission be GRANTED with the conditions on planning permission DOV/21/00284 reimposed, removed or updated as such:

- (i) Approved plans;
- (ii) Provision of the grassed bank to replace visibility of the retaining wall;
- (iii) Lowering of height of garages (retained condition as originally worded) – prior to first occupation of the dwellings;
- (iv) Previously approved obscure-glazed windows and the relevant new windows to be obscure glazed – prior to first occupation of the dwellings;
- (v) Hard and soft landscaping to be submitted for approval;

- (vi) Refuse and recycling to be provided in accordance with approved details;
- (vii) Provision of vehicle parking and retention thereof;
- (viii) No access to garage roofs except for maintenance or emergency;
- (ix) Bicycle parking to be provided in accordance with the approved details;
- (x) Bound surface to be provided;
- (xi) No surface water on highway;
- (xii) Provision of a visibility splay;
- (xiii) Permitted development removal – for Classes A, B;
- (xiv) Provision of infrastructure for electric car charging.

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

23 APPEALS AND INFORMAL HEARINGS

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

24 ACTION TAKEN IN ACCORDANCE WITH THE ORDINARY DECISIONS (COUNCIL BUSINESS) URGENCY PROCEDURE

The Committee noted that no action had been taken.

The meeting ended at 8.09 pm.