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08 August 2022

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **PLANNING COMMITTEE** on Thursday 11 August 2022 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 14 July 2022.

Yours sincerely

A handwritten signature in black ink, appearing to read "Nicky", written over the printed name "Chief Executive".

Chief Executive

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 14 July 2022 at 6.00 pm.

Present:

Chairman: Councillor J S Back

Councillors: M Bates
D G Beaney
E A Biggs
T A Bond
D G Cronk
D R Friend
D A Hawkes
P D Jull
C F Woodgate

Officers: Planning and Development Manager
Team Leader (Development Management) - South Team
Planning Officer
Planning Consultant
Planning Consultant
Planning Solicitor
Democratic Services Officer

The following persons were also present and spoke in connection with the applications indicated:

<u>Application No</u>	<u>For</u>	<u>Against</u>
DOV/21/01564	Mr Mark Hall	Mr Chris Saville
DOV/20/01482	Ms Karen Banks	Ms Helen Bunch
DOV/21/01847	Mr Richard Elliott	-----
DOV/21/00967	Councillor D G Beaney Mr Geoff Lymer	-----

25 APOLOGIES

It was noted that an apology for absence had been received from Councillor R S Walkden.

26 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor D R Friend had been appointed as a substitute member for Councillor R S Walkden.

27 DECLARATIONS OF INTEREST

Councillor D G Beaney made a declaration of Other Significant Interests in relation to Agenda Item 8 (Application No DOV/21/00967 – Land south of Ferne Lane and east of Warren Lane, Alkham) by reason that the applicant was a family member. He advised that he had registered to speak in support of the application and would leave the meeting once he had spoken.

Councillor P D Jull made a Voluntary Announcement of Other Interests in relation to Agenda Item 5 (Application No DOV/21/01564 – The Old Rectory, Mongeham Church Close, Great Mongeham) by reason that he, like the applicant, was a member of Deal and Walmer Chamber of Trade. He also stated that he knew some of the objectors. However, he was of the view that none of these persons was an 'Associated Person' for the purposes of the Kent Model Code of Conduct.

28 MINUTES

The minutes of the meeting held on 23 June 2022 were approved as a correct record and signed by the Chairman.

29 CHAIRMAN'S ANNOUNCEMENT

The Chairman advised members of the press and public that one of the public speakers on Agenda Item 8 (DOV/21/00967 - Land south of Ferne Lane and east of Warren Lane, Alkham) had advised that he would be referring to personal and sensitive data concerning the applicant and his family during his 3-minute speech. The speech would not therefore be broadcast and the press and public would be excluded from that part of the meeting.

The Committee would also be asked to raise any questions in relation to this personal and sensitive information whilst members of the press and public were excluded. The broadcast would resume, and members of the press and public would be readmitted to the Council Chamber, when the speech had finished and the Committee's discussions about the sensitive information had concluded.

If a further need arose to discuss the sensitive data during the Committee's public debate on the application, the press and public would be excluded from the meeting again and the broadcast would be suspended temporarily. The press and public would be readmitted to the meeting and the broadcast would resume for the debate and vote in public.

30 APPLICATION NO DOV/21/01564 - THE OLD RECTORY, MONGEHAM CHURCH CLOSE, GREAT MONGEHAM

The Committee was shown drawings and plans of the proposal. The Planning Consultant advised that the application sought planning permission for the erection of an outdoor toilet block and the demolition of an existing shed. The proposal affected a Grade II-listed house that was situated within a conservation area. The proposed block would be located in the eastern corner of the walled garden where only limited views would be glimpsed. The proposal accorded with the National Planning Policy Framework (NPPF), and the Council's Heritage Officer had identified no harm arising from the proposal. Whilst there had been several objections, including from the parish council, the application was recommended for approval.

Councillor M Bates referred to the fact that there was no reference in the report to the Grampian condition that had been attached to the original application requiring visibility splays to be provided, without which the proposed use of the house as a wedding venue could not go ahead. Furthermore, a recent letter from Kent County Council (KCC) Highways had reiterated its objections as a result of the land required for the splays not being within the applicant's ownership. Given that it was unlikely the condition could be discharged, he questioned how the Committee could approve the erection of a modern-looking block close to a listed building when the

use with which it was associated had not been resolved. He was mindful that the Committee was required to accord great weight to the conservation of designated heritage assets, as set out in paragraph 199 of the NPPF. The proposal offered no substantial public benefits and he proposed that the application should be refused on the grounds that it did not satisfy paragraphs 199 and 202 of the NPPF.

In response to Councillor P D Jull, the Team Leader Development Management (TLDM) clarified that permitted development rights did not apply to listed buildings where planning permission would be required for any development taking place within the grounds of the building. The Planning Consultant advised that it was for Members to come to their own judgement about the harm. However, the Heritage Officer had advised that the proposal would not cause any harm and, as such, there was no need to weigh up the public benefits of the proposal.

It was moved by Councillor M Bates and duly seconded that Application No DOV21/01564 be REFUSED on the grounds that the erection of a toilet block close to a Grade II-listed building using materials that were unsympathetic and did not complement the listed building and others close by, and which would be seen above the garden wall in limited views, would cause less than substantial harm. The proposal offered no public benefits and, as such, was contrary to paragraphs 199 and 202 of the National Planning Policy Framework.

On being put to the vote, the motion FAILED.

It was moved by Councillor D G Beaney and duly seconded that Application No DOV/21/01564 be APPROVED in accordance with the report recommendation.

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

RESOLVED: (a) That Application No DOV/21/01564 be APPROVED subject to the following conditions:

- (i) Standard time limit;
- (ii) List of approved plans;
- (iii) Material samples to be approved;
- (iv) Details of external flues and vents.

(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.

31 APPLICATION NO DOV/20/01482 - LAND BETWEEN 82 AND 86 WELLINGTON PARADE, WALMER

Members viewed an aerial view, drawings and plans of the proposal. The Planning Consultant advised that planning permission was sought for the erection of a detached dwelling and associated parking on a plot that fronted Wellington Parade, an unadopted road and public right of way. As an update to the report, Members were advised that an objection had been received raising concerns about the design of the dwelling and the impact on the road. In respect of the latter, the

Planning Consultant advised that this was a civil matter. He also advised that an additional ecology condition was required.

The site was beyond the settlement boundaries of Kingsdown and Walmer but close to them. Whilst the site was largely absent of wildlife, a three-metre strip of land would be retained at the rear to serve as an 'ecological area' in recognition of the plot's location in the Kingsdown and Walmer Beach Local Wildlife Site (LWS). Furthermore, the applicant had agreed to make a contribution of £20,000 towards the LWS. During the course of consultation, concerns had been raised about construction traffic. These were noted and would be addressed by pre-commencement conditions. In terms of flooding, no objections had been raised by the Environment Agency and the application had met the sequential and exceptions tests.

Councillor Jull remarked that the proposed design of the dwelling would be similar to one recently built and another that had been granted planning permission. These would stand out in a road that was notable for its varied and attractive mix of dwelling types. He also raised concerns about the enforcement of the construction management plan. The Planning Consultant responded that there was unlikely to be harm caused by having properties of a similar design. In any case, there were differences between the proposed dwelling and others already constructed. The construction management plan would have to be submitted prior to commencement, and non-compliance would be a breach. Councillor D G Cronk queried what impact the construction of a rear access road would have, and raised concerns about public safety if construction access was via Wellington Parade.

The Planning Consultant clarified that the option of an alternative access point within the LWS was not viable as the land was outside the applicant's control and the impact on wildlife would raise concerns. It was for the applicant to come up with a construction management plan that would ensure that construction vehicles and parking were managed properly. The TLDM added that there was a need to ensure that construction traffic was controlled given the popularity of Wellington Parade with dog-walkers, children, etc. Restricting the weight and size of lorries was an option but, whatever the case, the wording of the condition would be closely scrutinised. Planning conditions could only go so far, and Officers had to have a reasonable expectation that vehicles would comply with the requirements. Being a public right of way, any breaches of the plan could also be controlled by KCC's Public Rights of Way team.

Councillor Bond suggested that the application should be deferred to explore whether an access road could be constructed to the rear of the site. Councillor Beaney supported this suggestion, commenting that transporting materials in smaller vehicles would cost more and be likely to cause more aggravation to neighbours due to the increase in vehicle trips. The TLDM stressed that building an access road through the LWS was not an appropriate option. The Council had a responsibility to conserve and protect the site and building a road through it would be contrary to that. In response to Councillor D A Hawkes, the Planning and Development Manager advised that a 2012 application had not shown an access to the rear. He stressed that the Committee's focus should be on the proposed dwelling rather than the access. There was reasonable access to the site for construction vehicles and it was for the parties involved to resolve any problems should they arise.

In response to Councillor E A Biggs, the Planning Solicitor advised that the Local Planning Authority (LPA) was required to consider whether the access was safe. It

was not the Committee's role to think about whether residents could restrict or control the developer's access to the route. It was KCC's public rights of way team that had raised the issue of road safety and suggested a construction management plan to address it. He urged Members not to defer the application when similar applications had not been deferred, and it was not known whether a rear access road was even practicable in terms of its impact on ecology. He encouraged Members to focus their attention on the use of the land and erection of the dwelling, and not on a temporary matter such as construction access.

Councillor D R Friend commented that it was a sensitive site and, whilst the Section 106 agreement would help to mitigate concerns, he shared Officers' concerns about wildlife. He proposed that the application should be approved.

Councillor Bond noted the advice given by the Planning and Development Manager and the Planning Solicitor. He accepted that conditions could not be imposed that involved third parties, and recognised that issues surrounding the use of a private road were a civil matter. For these reasons, he confirmed that he was withdrawing his motion to defer the application.

RESOLVED: (a) That Application No DOV/20/01482 be APPROVED subject to the following conditions:

- (i) Standard time limit;
- (ii) List of approved plans;
- (iii) Material samples;
- (iv) Obscure glazing to above ground, side-facing windows;
- (v) Ecological enhancements;
- (vi) Implementation of ecological impact avoidance measures;
- (vii) Flood risk mitigation measures;
- (viii) Retention of biodiversity enhancement area;
- (ix) Hard and soft landscaping;
- (x) Detailed surface water drainage scheme;
- (xi) Construction management plan;
- (xii) Parking spaces – provision and retention;
- (xiii) Bin and cycle storage details;
- (xiv) Electric vehicle charging point;
- (xv) Removal of permitted development rights.

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

32 APPLICATION NO DOV/21/01847 - 6 WILLINGDON PLACE, WALMER

Members were shown an aerial view, drawings and photographs of the application site. The Planning Officer advised that the application sought planning permission for the replacement of a porch and single storey side element with single storey rear, side and front extensions and replacement windows. Concerns had been raised about the dormer windows which had now been amended. She confirmed that the proposed solar panels fell within permitted development rights.

RESOLVED: (a) That Application No DOV/21/01847 be APPROVED subject to the following conditions:

- (i) 3-year time limit for commencement;
- (ii) Compliance with the approved plans.

(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.

33 APPLICATION NO DOV/21/00967 - LAND SOUTH OF FERNE LANE AND EAST OF WARREN LANE, ALKHAM

The Committee was shown an aerial view, a map, plans and photographs of the application site which was situated outside any settlement boundaries. The Planning Consultant advised that retrospective planning permission was sought for the stationing of three static homes for gypsy/traveller accommodation on a site which was on a plateau within the Alkham Valley, surrounded by open countryside and within an Area of Outstanding Natural Beauty (AONB). Public right of way ER150 was located to the south of the application site. Since the report was published, additional information had been submitted by the applicant, including letters of support from local businesses and people. The Planning Consultant advised that if Members wished to discuss the applicant's personal circumstances, they could do so once members of the press and public had been excluded from the meeting. He referred to page 34 of the report which set out the appeal history of an adjoining site known as The Paddocks.

The Chairman advised the Committee that it would be necessary to exclude members of the press and public from the meeting during the speech by one of the public speakers, Mr Geoff Lymer, as he had indicated that he intended to refer to the applicant's medical circumstances. Members would also be able to discuss the applicant's personal circumstances whilst the meeting was in private session.

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 part of this item on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part I of Schedule 12A of the Act.

The Committee heard the speech from Mr Lymer. Members then asked questions and debated the personal circumstances of the applicant and his family.

The Chairman advised the Committee that it was necessary to resolve to readmit members of the press and public to the meeting.

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

RESOLVED: That members of the press and public be readmitted to the meeting.

The Planning Consultant advised that there was a five-year supply of gypsy and traveller pitches within the district. It was Officers' view that there was space for the applicant and his family at the Meadows site. When weighing the applicant's personal circumstances against the harm caused, Members were reminded that land within the AONB should be given the greatest level of protection. Any development outside the confines should be strictly limited and this proposal would undoubtedly cause significant harm to the AONB. Officers believed that the applicant's circumstances did not carry sufficient weight to justify granting planning permission in this case. The issue of conflict between English and Irish travellers often came up, but there was no Government guidance on this matter. There were sites, such as Hay Hill, which accommodated travellers from both communities.

In respect of human rights, the Planning Consultant advised that a decision made in the public interest could outweigh the rights of the applicant where it was aimed at protecting the AONB and promoting sustainable development. The Planning Solicitor added that the Public Sector Equality Duty required the Council to eliminate discrimination and harassment, and to foster good relations between people who shared protected characteristics. The Government's Planning Policy Statement for Travellers did not distinguish between English and Irish travellers, and the facts did not appear to substantiate claims of antipathy between the two communities.

Councillor Biggs commented that he did not believe the applicant's personal circumstances justified permitting development in the AONB and in such an unsustainable location. Councillor Bates agreed, commenting that the conflict between English and Irish travellers appeared to be the underlying reason behind the proposal. Councillor Biggs noted that the Council's gypsy and traveller policy was under review as part of the emerging Local Plan. He understood that this issue had come up during consultation on the draft Plan, and questioned why it was apparently now being ignored. The TLDM reported that she had sought advice from the Planning Policy and Projects Manager who had advised that the policy was at an early stage and evidence was still being gathered. The majority of gypsy/traveller sites were Irish sites, but there were five sites available for English travellers.

RESOLVED: (a) That Application No DOV/21/00967 be REFUSED on the following grounds: (i) The proposed development, by reason of the scale of the site, development and associated works on and around the site, gives rise to significant harm to the open landscape character, appearance and scenic beauty of the countryside contrary to Policies DM1, DM15 and DM16 of the Core Strategy, the principles of SD2, SD3, SD7 and LLC1 of the Kent Downs AONB Management Plan and Paragraphs 130, 174 and 176 of the National Planning Policy Framework; and (ii) The proposed development would be over-reliant on the use of the private motor car to reasonably access education, health, welfare and employment and

social infrastructure contrary to Policies DM1, DM7 and DM11 of the Core Strategy, Paragraph 25 of the Planning Policy for Traveller Sites and Paragraphs 110 and 112 of the National Planning Policy Framework.

(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.

(Councillor D G Beaney left the meeting after he had spoken in support of the application.)

34 APPEALS AND INFORMAL HEARINGS

The Planning and Development Manager presented the report. He advised that 23% of appeals made against the Council's decisions in 2021/22 had been lost which compared favourably with the national average. In response to Councillor Hawkes, he confirmed that costs associated with upheld appeals were met from a contingency budget earmarked for this purpose.

RESOLVED: That the report be noted.

35 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 8.10 pm.