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15 May 2024

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **PLANNING COMMITTEE** on Thursday 16 May 2024 at 6.00 pm, the following report that was unavailable when the agenda was printed.

3 **MINUTES** (Pages 2-10)

To confirm the attached minutes of the meeting of the Committee held on 11 April 2024.

Yours sincerely

A handwritten signature in black ink, appearing to be "N. Smith", written over a white, wave-like shape that matches the Dover District Council logo.

Chief Executive

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 11 April 2024 at 6.00 pm.

Present:

Chairman: Councillor M J Nee

Councillors: J S Back
D G Beaney
E A Biggs
S Hill
N S Kenton
J P Loffman
S M S Mamjan
O C de R Richardson
H M Williams

Officers: Planning and Development Manager
Principal Planner (Strategic Sites and Places)
Senior Planner
Planning Officer
Principal Planning Solicitor
Property/Planning Lawyer
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/23/01282	Mr Gareth Dominique	Mr Mark Rose
DOV/23/00222	Mr Andrew Street	Ms Tamsyn Young
DOV/23/01324	Mr Matt Parnham	Cllr C A Vinson Mr David Jamison
DOV/23/00974	Ms Rosalyn Cheetham	Mr Neil Dymant

138 APOLOGIES

It was noted that apologies for absence had been received from Councillors D G Cronk and R M Knight.

139 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors S Hill and O C de R Richardson had been appointed as substitute members for Councillors D G Cronk and R M Knight respectively.

140 DECLARATIONS OF INTEREST

There were no declarations of interest.

141 MINUTES

The minutes of the meeting held on 14 March 2024 were approved as a correct record and signed by the Chairman.

142 DRAFT LOCAL PLAN UPDATE

The Principal Planner (Strategic Sites and Places) advised that, since the committee reports had been published, the 6-week consultation on the main modifications to the draft Local Plan had commenced. Officers had reviewed the main modifications and it was considered that they did not alter any of the recommendations to the Committee.

143 APPLICATION NO DOV/23/01282 - 26-27 TOWER HAMLETS STREET, DOVER

The Committee was shown an aerial view, a map and photographs of the application site which was situated in the settlement confines of Dover. The Planning Officer advised that planning permission was sought for a change of use from a public house to a House in Multiple Occupation (HMO). Since submission, the proposal had been amended by the removal of a rear dormer. Subject to the addition of a condition requiring the submission of a Housing Management Plan, approval was recommended.

Councillor S M S Mamjan queried whether there would be a resident manager and what recourse local residents would have in the event of problems arising. The Chairman advised that the successful operation of the HMO would hinge on the Housing Management Plan which would need to be detailed. Should problems arise, the plan would give recourse to the Council to take appropriate action, and he was confident that Officers would approve a robust plan. Councillor O C de R Richardson commented that there were a number of HMOs in Dover, some of which were poorly run, and queried what measures could be taken to ensure this one was managed properly. The Principal Planner reassured Members that the management plan would set out the operational parameters for the building. Only once it had been reviewed and approved by Officers could the building be occupied as an HMO. Councillor D G Beaney stated that he disliked HMOs and was of the view that approving another one was out of step with the Council's efforts to improve the town. Dover Town Council had rejected the proposal due to its detrimental impact and he suggested that the application should be refused on that basis.

The Principal Planner advised that there was policy support for HMOs in the Draft Local Plan which carried moderate weight. He stressed that there was a need for this type of accommodation which was often a first step for young people leaving home. In response to Councillor H M Williams who queried how the Council could ensure that the management plan was implemented and adhered to in the future, the Planning Officer advised that the wording of the condition would secure that. She clarified that the requirement to comply with the plan would exist for the duration of the building's use as an HMO. In the event of problems arising, they could be reported to Planning or Environmental Protection by members of the public or tenants. Councillor Williams also expressed concerns about the standard of the proposed accommodation, particularly the amount of natural light in the dining area. In this respect, the Chairman reported that he had checked, and the proposals met all the relevant standards.

Councillor Mamjan referred to paragraphs 2.2 to 2.4 of the report, noting that there was policy support for HMOs, providing there would not be 'unacceptable impacts on highway safety, caused by insufficient on-site parking provision thereby resulting in an unacceptable increase in on-street parking. She had visited the area and seen for herself that traffic and parking in the street were problematic. Kent County Council (KCC) Highways' response was the standard one which concerned her as

there would undoubtedly be an adverse impact on traffic and parking in the neighbourhood as a result of this development. In her view, this size and type of development was disproportionate to the neighbourhood. The Chairman referred to the parking survey submitted with the application which indicated that there was very little on-street parking capacity on evening weekends. That being said, parking was always difficult in town centres, particularly where there were terraced properties, and he was not convinced the development would make matters materially worse.

Councillor J P Loffman regretted that the pub had not been designated as an asset of community value, and remarked that 29 residents had objected to the proposal. He questioned the definition of adverse impact and could not accept that it would have no impact on local residents. He was also concerned that the Council had no policy on the number and density of HMOs allowed in a specific area.

The Principal Planner stressed that the proposal had been assessed by Officers in respect of residential amenity, visual impact, noise disturbance, etc. Their conclusion was that the proposal would not have an adverse impact. There was a high bar under the National Planning Policy Framework (NPPF) for a proposal to be deemed as having a severe impact in highways terms, and it was a matter of fact that KCC Highways had raised no objections to the proposal. He added that there was no requirement for the development to provide parking. In terms of HMO density, Policy H7 required an assessment to be undertaken of the impact of an HMO, in combination with others nearby. An assessment had been carried out and it was judged that there would be no cumulative impact since other HMOs were on an adjacent road and some distance away.

Councillor S Hill voiced concerns that Tower Hamlets was seen as a neglected area. She argued that people should be given the opportunity to get on the housing ladder and some had no choice but to start at the bottom. Councillor Richardson referred to paragraphs 2.7 and 2.8 of the report which dealt with the loss of community facilities. He queried why the building could not continue as a pub. The Planning Officer advised that the pub had been closed for a while and there were other establishments within a short walking distance.

Councillor E A Biggs stressed that HMOs were a necessary form of accommodation in Dover. Whilst he understood people's concerns, the management plan was key and, if adhered to, should prevent problems occurring. Terraced houses were not built for modern needs so parking would always be a problem in areas like Tower Hamlets. The use of pubs had declined and, in any case, there would potentially be more disturbance if the building continued as a pub due to the comings and goings of patrons. HMOs were a reality of modern living and this one could be a success if the management plan was robust and enforceable.

RESOLVED: (a) That Application No DOV/23/01282 be APPROVED subject to the following conditions:

- (i) Time limit;
- (ii) Approved plans;
- (iii) Restriction of number of residents to 16;
- (iv) Boundary treatment;

- (v) Bicycle storage;
- (vi) Bin storage;
- (vii) Submission of Housing Management Plan.

- (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.

144 APPLICATION NO DOV/23/00222 - WARREN HOUSE, BUCKLAND LANE, STAPLE

Members viewed an aerial view, drawings and photographs of the application site. The Planning Officer advised that planning permission was sought for the erection of four dwellings on garden land situated outside the settlement confines of Staple. It was recommended that the application should be refused.

Councillor N S Kenton referred to an appeal ruling which had deemed that garden land in rural areas was brownfield land. That being the case, he queried whether it was a factor that should affect Members' approach in weighing up the tilted balance. Given that the Council was between policies and there had been a number of recent developments in Staple, he questioned the recommendation to refuse the application. He also queried whether the applicant had submitted a landscape and visual impact assessment (LVIA) as the acceptability of the proposal would rest on that.

The Principal Planner advised that the definition of previously developed or brownfield land in the NPPF only excluded garden land in built-up areas. Being in the countryside, this site was regarded as previously developed land. However, a caveat to this was that developing the whole curtilage of a site would not be permitted if the proposals would cause visual harm. He confirmed that an LVIA had been submitted. The recommendation to refuse the application was based on the localised visual harm arising from the proposal due to the elevated position of the site, a factor mentioned by the planning inspector in a previous appeal decision. Furthermore, there was a clear pattern of ribbon development in Staple which was sporadic and of low density. Building four dwellings on the edge of the village would move further away from the existing linear development, introducing domestic paraphernalia to the edge of the village.

In clarification, the Principal Planner confirmed that the applicant's LVIA had been assessed and, having regard to the supporting information for the Draft Local Plan, it had been concluded that the proposed development would cause visual harm, a conclusion that agreed with the planning inspector's decision on the previous appeal. Councillor D G Beaney commented that the 2018 planning inspector's decision had been based on an outline application with all matters reserved. He referred to Policy SP4 and the fact that the site was suitable for development since it was garden land situated within the countryside. He expressed concerns that significant weight was being attached to a planning inspector's decision from 2018, and the only problem he could see with the proposal was its impact on a listed building.

The Planning Officer reminded Members that previous decisions relating to a site were material considerations. The planning inspector's views did not necessarily

override other considerations but should be considered along with everything else in the planning balance. In response to Councillor J S Back, the Planning Officer clarified that the site was not regarded as an infill site due to its being a large and open parcel of land outside the settlement confines. In response to concerns expressed by Councillor Back, the Principal Planner stressed that there was a clear character to the area, with the nearest properties fronting onto the road and having large rear gardens. There was a gap between these properties and the application site which had a large host dwelling. The proposal was for four dwellings built across the entire site which was clearly not characteristic of an infill development. Moreover, the application did not meet the criterion of draft Policy SP4 which only permitted minor residential development or infilling of a scale commensurate with the existing settlement on sites within the settlement boundary of Staple.

Councillor Biggs pointed to the aerial view which demonstrated that the applicant was proposing a very large development that was out of context with anything nearby. It was clear that the development would be completely dominant due to the elevated level of the site. It was the Committee's role to assess whether proposals were in keeping and this one was clearly not appropriate.

Councillor Beaney commented that one of his aims as a member of the Council's project advisory group responsible for identifying sites for development as part of the new Local Plan process had been to resolve the issue of developments on sites that were adjacent to/bordering the settlement confines. He had been led to believe that SP4 would resolve the problem, but it appeared that in this case it had not been a solution. The Principal Planner stressed that the site did not meet criterion 2 of SP4 since it was outside the settlement confines of Staple.

RESOLVED: (a) That Application No DOV/23/00222 be REFUSED on the following grounds:

- (i) That the development would result in an unjustified development located in an unsustainable location beyond the settlement confines, where occupants would be isolated from the facilities and services upon which they would rely. The development would represent encroachment of built form into the countryside and, by virtue of its location, scale and layout, would introduce an urbanising development that would detract from the open, rural quality of the area. This would cause visual harm to the character and beauty of the countryside. Consequently, the development would be contrary to Core Strategy Policies DM1, DM11, DM15 and DM16; paragraphs 83, 128, 135 and 180 of the National Planning Policy Framework and Policies SP4, PM1 and NE2 of the draft Local Plan.
- (ii) The proposal, by virtue of its location, scale and layout, would cause a loss of openness to the site and a dominant relationship with the Grade II-listed Reed Cottage, resulting in less than substantial harm to the significance of the listed building which is not outweighed by any public benefits of the development. As such, the proposal is contrary to Policies HE1 of the draft Dover District Local Plan and paragraph 208 of the National Planning Policy Framework 2023.

The Committee viewed an aerial view, drawings, plans and photographs of the application site. The Senior Planner advised that planning permission was sought for the erection of a dwelling with associated parking in the settlement confines of Walmer. As a correction to the report, she advised that the second reference in paragraph 1.2 should be to 64 Liverpool Road. The principle of development in this location was acceptable. The proposed dwelling was a comparable height to neighbouring dwellings and respected the existing building line. With conditions for samples, obscure glazing, privacy screening, landscaping and a legal agreement, the application was recommended for approval.

Councillor Williams raised concerns about overlooking and proposed that part of the L-shaped, floor-to-ceiling window in the corner should be obscure glazed in order to prevent this. She also requested more tree planting. The Chairman advised that the design originally submitted had been deemed unacceptable due to overlooking. Amended plans had been received with a window moved to the front from the side to avoid overlooking into a rear garden. With these amendments, he was now content that the design was acceptable. In response to Councillor J P Loffman, the Senior Planner advised that 100-year-old trees were not within the application site, and she was not aware of any pressure for their removal caused by this proposal.

Councillor Kenton commented that the key issues for Members to consider were visual amenity and overlooking. Whilst the principle of development was not at issue, he thought the proposed dwelling was poorly designed and too large for the plot. He referred to concerns raised by Councillor Williams and agreed that the lower part of the floor-to-ceiling window that wrapped around the corner should be obscure glazed. Whilst he noted that there were conditions for obscure glazing to the first-floor dressing-room window, he asked whether a barrier could be installed on the balcony to alleviate concerns around overlooking. The Senior Planner clarified that condition 4 required the first-floor dressing-room window to be obscure glazed, and condition 5 required a privacy screen to be fitted to the southern balcony prior to first use, although no details of this had been provided. Members requested that the lower half of the wraparound, floor-to-ceiling windows should also be obscure glazed, up to at least 1.8 metres.

RESOLVED: (a) That, subject to the completion of a legal agreement to secure financial payments towards mitigating the impact of the development on the Thanet Coast & Sandwich Bay SPA, Application No DOV/23/01324 be APPROVED subject to the following conditions:

- (i) Time condition;
- (ii) List of approved plans;
- (iii) Samples of external materials;
- (iv) First-floor dressing-room window on the south elevation and lower part (at least up to 1.8 metres) of windows serving bedroom 1 to be fitted with obscure glazing prior to first occupation;
- (v) 1.8-metre privacy screen to be installed prior to first use of the southernmost balcony (as shown on the plans);

(vi) Hard and soft landscaping scheme and maintenance for 5 years following completion;

(vii) Unexpected archaeology.

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

146 APPLICATION NO DOV/23/00974 - EUROPA NURSERY, HILLS COURT ROAD, ASH

Members were shown aerial views, drawings, CGIs, a plan and photographs of the application site which was located to the north of Ash. The Senior Planner advised that planning permission was sought for the erection of a controlled environment agricultural (CEA) facility, solar array and associated infrastructure. The proposal would create 25 full-time jobs and approval was recommended.

Councillor Loffman welcomed the creation of jobs but raised concerns regarding water drainage, archaeology and lighting. The Senior Planner advised that the mitigation for reptiles would be included in the Section 106 agreement. A site had been identified and further survey work would be undertaken to establish its suitability. She clarified that an archaeological report on the wider site had already been submitted which had been the subject of consultation with KCC. On its advice, a condition would be attached requiring details to be submitted of the programme of archaeological works. In terms of lighting, it was envisaged that this would be kept to a minimum because of the site's rural location. The condition required details of lighting to be submitted prior to the facility's first use to ensure that bats and other species that were sensitive to light were protected. The Chairman reminded Members that the conditions included in reports were headlines only and did not reflect the full detail of a condition which could sometimes run into many paragraphs.

In response to Councillor Williams, the Senior Planner advised that the details of reptile translocation, including place and timing, would be included in the information submitted by the applicant, as required by the Section 106 agreement. Provisionally, a site in Staple had been identified. The issue of drainage was addressed in paragraphs 2.35 and 2.36 of the report and had been the subject of consultation with KCC and the River Stour Internal Drainage Board. A number of conditions were proposed, including details of a sustainable surface water drainage scheme, and, subject to compliance with the conditions, the proposal was considered acceptable. The Chairman commented that he was content that Officers would flesh out the conditions satisfactorily, taking into account the matters raised by the Committee.

In response to Councillor Kenton who referred to the site's chequered planning history, the Senior Planner advised that planning permission for a glasshouse across this site had not been implemented and had therefore lapsed. In response to Councillor Back who raised concerns about ditch clearance, she advised that, whilst not specifically mentioned, it would be covered by condition 11 which required the applicant to demonstrate how surface water would be dealt with, including details of operational access and maintenance.

RESOLVED: (a) That, subject to the completion of a Section 106 legal agreement to secure reptile translocation, Application No DOV/23/00974 be APPROVED subject to the following conditions:

- (i) Time limit for commencement;
- (ii) Plans;
- (iii) Samples of external materials;
- (iv) Development in accordance with the soft landscaping scheme, with details of management and maintenance (including replacement of any trees/shrubs/planting which die, become diseased or are removed within 5 years);
- (v) Completion of access, turning and parking areas prior to first use;
- (vi) Programme of archaeological work;
- (vii) Details of foundation designs/proposals involving below ground investigation;
- (viii) Construction management plan (relating to highways);
- (ix) Provision of measures to prevent the discharge of surface water onto the highway;
- (x) Provision and permanent retention of the vehicle parking spaces and cycle parking facilities shown on the approved plans prior to the use of the site commencing;
- (xi) Detailed sustainable surface water drainage scheme;
- (xii) Verification report pertaining to the surface water drainage scheme;
- (xiii) Details to demonstrate that an effective outfall for surface water is provided for the development;
- (xiv) Deliveries to and collection from the site by HGVs to be conducted during 07.00am to 6.00pm on any operational day;
- (xv) Delivery management plan;
- (xvi) Demolition and construction management plan;
- (xvii) 4-part contamination condition (requiring the submission of a desk-top study of previous uses, potential contaminants, sources, pathways and receptors; an investigation and risk assessment if the desk-top study shows further investigation is necessary; a detailed remediation scheme if the investigation and risk assessment shows this is necessary; and a verification report demonstrating completion of the works in the remediation scheme if necessary);

- (xviii) Dealing with any unexpected contamination;
- (xix) Construction environmental management plan (in relation to ecology and biodiversity);
- (xx) Biodiversity method statement (with update survey provision);
- (xxi) Great Crested Newt district level licence;
- (xxii) Bat-sensitive lighting;
- (xxiii) Biodiversity enhancement measures.

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

147 APPEALS AND INFORMAL HEARINGS

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

148 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 7.50 pm.