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16 January 2025

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **PLANNING COMMITTEE** on Thursday 16 January 2025 at 6.00 pm, the following report that was unavailable when the agenda was printed.

4 **MINUTES** (Pages 2-12)

To confirm the attached minutes of the meeting of the Committee held on 19 December 2024.

Yours sincerely

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

Chief Executive

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 19 December 2024 at 6.00 pm.

Present:

Chairman: Councillor M J Nee

Councillors: J P Loffman
J S Back
D G Beaney
D G Cronk
N S Kenton
R M Knight
H M Williams
L M Wright

Officers: Team Leader (Development Management) - Strategic Sites
Principal Planner
Principal Planner
Senior Planner
Principal Heritage Officer
Principal 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/24/00293	Mr Ben Fox	Ms Olivia Chessell Mr Ashley Payne
DOV/24/00700	-----	Mr David Clements
DOV/23/00951	-----	Mr David Fleck
DOV/24/00797	Mr Antony Iren	-----
DOV/24/00179	Mr Chris Sharp	Mrs Sophie Mackenzie Councillor Maria Mamjan

71 APOLOGIES

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

72 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor L M Wright had been appointed as substitute member for Councillor S Hill.

73 DECLARATIONS OF INTEREST

There were no declarations of interest.

74 MINUTES

The minutes of the meeting held on 21 November 2024 were approved as a correct record and signed by the Chairman.

75 ITEMS DEFERRED

The Chairman advised that the application listed remained deferred.

76 UPDATE ON NATIONAL PLANNING POLICY FRAMEWORK

The Team Leader (Development Management) (TLDM) advised the Committee that a revised National Planning Policy Framework (NPPF) had been published on 12 December, after the publication of the meeting agenda. The NPPF's policies were material considerations when determining planning applications (in so far as they were relevant to the individual applications being considered) and should be taken into account.

He advised that some of the paragraph references in the committee reports could now be out of date. Although it was not considered that the changes to the NPPF altered any of the report recommendations, Officers would provide a specific update on how the changes affected their assessment of the individual cases.

Some of the changes most relevant to this evening's cases were:

- The need to deliver housing remained, with an updated standard methodology for assessing the minimum number of homes that should be planned for, and added support for SME (small and medium-sized) housebuilders (albeit that the updated standard methodology did not apply to the Council at this time because it had a recently adopted Local Plan). The Council still had a five-year housing land supply.
- There was expanded support for storage and distribution operations.
- A vision-based approach must be taken to sustainable transport to create sustainable and popular places to live, rather than building roads to accommodate predicted peak car usage.
- Greater emphasis was placed on supporting healthy lives, through the promotion of good health and preventing ill health, in particular by placing limits on hot food takeaways.
- Substantial weight should still be given to the value of using brownfield (or previously developed) land within settlements for homes and other identified needs, and there was added clarification that such proposals should be approved unless substantial harm would be caused.
- The definition of previously developed land had been amended to incorporate hardstandings.
- The requirement to support a transition to a low carbon future in a changing climate had been replaced by a need to support a transition to net zero by 2050 and to take full account of all climate impacts.

77 APPLICATION NO DOV/24/00293 - LAND AT CORNER OF TOWNWALL STREET AND WOOLCOMBER STREET, DOVER

Members viewed CGIs, a plan and photographs of the application site which was adjacent to Dover town centre. The Principal Planner advised that planning permission was sought for the erection of a 'drive through' restaurant, car parking, landscaping, etc on a site formerly occupied by the town's leisure centre. As an update to the report, she advised that five additional objections had been received which raised concerns previously submitted but also the following: a) no condition for boundary treatment to St James's church; b) effect on primary shopping area; c) short notice of Planning Committee date; d) criticism of meeting date so close to

Christmas; and e) negative aspects still outweighed any benefits. In addition, an extra condition was needed requiring details of roof plant and photovoltaic array details to be submitted and approved.

The Principal Planner advised that the revised NPPF included paragraph 97 which stated that 'local planning authorities should refuse applications for hot food takeaways and fast-food outlets: (a) within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre; or (b) in locations where there is evidence that a concentration of such uses is having an adverse impact on local health, pollution or anti-social behaviour.' The wording of paragraph 125 had also been amended and now stated that 'Planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused.'

The Principal Planner clarified that the revised NPPF was a material consideration in the determination of the application, and it was still a requirement that applications be determined in accordance with the Local Plan, unless material considerations indicated otherwise. She added that the application complied with the new Local Plan.

In respect of matters relating to paragraph 97 of the NPPF, Members were advised that there was one primary school approximately 200 metres or 5 minutes' walk from the site. Whilst the location of the proposed restaurant was not within a designated town centre, it was directly adjacent to the town centre and primary shopping area where there were already a number of hot food takeaways and fast-food outlets.

Members were advised that the site had been identified as an opportunity area under Policy SP8. The policy considered development of this site, together with main town centre uses and the general principles for new development within the town centre. It was considered that the site would be functionally linked to the town centre and primary retail area of Dover. Substantial weight could be given to the development of the site as brownfield land within the settlement confines for an identified need. Moreover, as set out in the report, significant weight was attributed to the socio-economic benefits of the proposal such as the provision of employment and the benefits to town centre vitality and the local economy overall. The report discussed the provisions of paragraph 96 of the NPPF which sought to achieve healthy places, including access to healthier food. Officers had already given some limited weight to this when assessing the planning balance. Increased weight could also be given to the proposal not being in accordance with paragraph 97 of the NPPF. Taken together, these factors weighed against the scheme. However, Officers were of the view that the harm identified was limited due to the existence of fast-food outlets and hot food takeaways within the St James' retail park nearby.

In summary, the principle of development at this edge of town centre location was considered acceptable, and the proposal would make significant positive contributions to the vitality and viability of the town centre. Substantial weight could be given to the re-use of a brownfield site which was identified in the Local Plan as an opportunity area. Whilst it was considered that the scheme would result in less than substantial harm to the setting of heritage assets, the application had demonstrated that such harm would be minimised through the design, layout and siting of the proposed building and appropriate landscaping. Moreover, it was Officers' view that the development could be achieved without adversely affecting

the amenity of existing residents or the safety and operation of the highway network. Notwithstanding that the scheme would result in less than substantial harm to heritage assets, this harm would be outweighed by the significant public benefits of the proposal.

Councillor D G Beaney stated that he disagreed with the advice he had received that an assessment of the impact of the proposed development on local businesses was not warranted due to its size. He queried whether the traffic movements submitted by McDonalds had been taken at face value or checked. The Principal Planner clarified that McDonalds had carried out its own transport surveys of restaurants in urban locations with similar populations. The results had been analysed against the industry-standard TRICS database and were not dissimilar. National Highways and Kent County Council (KCC) Highways had been consulted and were satisfied with the trip generation numbers identified in the transport assessment and the modelling carried out on the impact on junctions. She commented that McDonalds had gone beyond what would normally be expected in carrying out its own surveys.

Councillor D G Cronk commented that the proposal was in the wrong place due to its location on a busy route to the port. At peak times lorries were stacked up along the road, and the traffic generated by the restaurant (including delivery vehicles) would add to the traffic chaos around that junction. Councillor J P Loffman expressed surprise that a transport comparison had been made with a restaurant in Yorkshire which could hardly be comparable to this proposal located on a busy port road. It was disappointing that councillors were unable to take into account community wellbeing or question KCC Highways' assessment of the proposals.

Councillor J S Back pointed out that there had been a leisure centre on the site for many years which would also have generated significant traffic movements. There would be 55 parking spaces and the restaurant would provide employment, generate business rates and relieve pressure on the Whitfield roundabout caused by cars visiting the McDonalds there. The proposed building would be single storey as opposed to the two-storey building previously on the site. Moreover, KCC Highways had no objections.

The Principal Planner clarified that matters associated with TAP (Traffic Access Protocol) had been covered in the report. Surveys carried out in September 2023 had recorded the number of HGVs passing the site on Townwall Street and they had been included in the modelling. Although in different counties, the survey restaurants had been chosen because the buildings were of a similar size to the one proposed in Dover, as were the surrounding urban areas and average daily traffic figures. Customer surveys carried out at the restaurants had identified the number of new journeys generated which had also been included in the modelling. She added that the drive through lanes could accommodate 23 cars which was considered sufficient, and no concerns had been raised by National Highways.

Councillor L M Wright noted that the site had been vacant for 5 years. Although revitalising our town centres was vital, this site was on the boundary and she was therefore not persuaded that the proposal would necessarily improve Dover's town centre vitality. She welcomed the increased weight attached to healthy living in the revised NPPF. However, she did not understand why the proposal was considered acceptable because there were other fast-food outlets nearby when it was 200 metres away from a primary school. The district's health statistics were poor, with obesity in children being particularly high. The proposal appeared to be at odds with the NPPF's greater emphasis on restricting fast-food outlets, and Policy SP2 of

the Local Plan which sought to promote physical health. Whilst she understood the appeal of using a brownfield site and employment generation, there was also a responsibility to consider the health of the district's residents.

In considering the planning balance, the Principal Planner advised that increased weight could be given to the revised NPPF and the new paragraph that looked to restrict fast-food outlets and hot food takeaways. That said, Officers considered that more significant weight could be afforded to the socio-economic benefits of the proposal, and it was for Members to decide which of these carried more weight. She confirmed that staff parking had been taken into consideration overall and there would be a sustainable travel plan for staff which would be monitored by McDonalds.

Councillor N S Kenton commented that the principle of a development of some sort had already been established so the site would be developed at some point. He saw no mileage in making a challenge on highways/parking matters as it would go nowhere given that KCC Highways, the statutory consultee, found the proposals acceptable. In respect of listed buildings, the design of the building was good and it would have only a low impact on the castle which was miles away. However, the impact on the church and views of it were more concerning. He understood that the original plan had involved the building facing the A20, with parking situated more towards the church. In his view, the new layout had created poorer views of the church. The Principal Planner advised that, following a design review undertaken as part of the pre-application process, when the impact on heritage assets and the connectivity of the site had been considered, it had been decided that the building's proposed location to the south-west of the site would have more of an impact on the setting of the castle. Whilst moving the building up to the northern corner would have more of an impact on the church, it would reduce the impact on the setting of the castle and the conservation area which was considered preferable. The building had been set back from the church and angled away so as to appear subservient to the church. Historic England's comments about the church had been taken on board and increased soft landscaping had been added.

The Principal Heritage Officer clarified that St James's church had two designations, being a scheduled monument and the upstanding remains Grade II-listed. The scheme had been designed so that, although the restaurant building would be closer, it had been orientated away from the church so that the west front of the church maintained its prominence. In addition, improved soft landscaping would help to mitigate the impact of the busy, urban junction. The use of appropriate materials such as flint would pick up the local vernacular and help the development recede into the background.

Councillor Beaney commented that he would like to refuse the application on highways grounds alone. He commented that the old leisure centre's entrance had been at the rear of the site for a reason. Traffic movements would be similar to those generated by St James's, and he was concerned about lorries accelerating away from the traffic lights then having to brake suddenly to let cars out of the McDonalds junction.

Councillor Beaney proposed that the application should be refused due to the impact on heritage assets and paragraph 97 of the NPPF which sought to restrict the number of fast-food outlets and hot food takeaways.

Councillor J S Back proposed, and it was duly seconded, that the application should be approved in accordance with the report recommendation.

Councillor R M Knight recognised the health implications raised by other Members. However, there had previously been a McDonalds restaurant in Dover town centre. Furthermore, this was a brownfield site which needed regeneration. The proposed building was well designed, and he was of the view that the impact on heritage assets would be minimal. He welcomed the provision of electric vehicle charging points and an alternative to the Whitfield McDonalds.

Councillor H M Williams expressed concerns about traffic congestion during the port's busiest periods and seconded Councillor Beaney's proposal.

RESOLVED: (a) That Application No DOV/24/00293 be APPROVED subject to the following conditions:

- (i) Time limit;
- (ii) Approved plans;
- (iii) Final hard and soft landscaping and boundary treatment details;
- (iv) Retention and protection of trees;
- (v) Biodiversity method statement;
- (vi) Ecological design and management strategy;
- (vii) External lighting/bat-sensitive lighting;
- (viii) Construction Environmental Management Plan;
- (ix) Measures to prevent discharge of surface water onto the highway;
- (x) Provision and retention of vehicle parking spaces;
- (xi) Provision and retention of cycle parking facilities;
- (xii) Highway Access Works;
- (xiii) Provision and maintenance of visibility splays;
- (xiv) Updated scheme of parking restrictions to infill missing section on St James's Street and upgrade existing parking restrictions in the immediate vicinity to include loading ban;
- (xv) Delivery Management Plan;
- (xvi) Detailed sustainable surface water drainage scheme;
- (xvii) Verification Report for surface water drainage scheme;
- (xviii) Foul drainage details;

- (xix) Travel Plan;
- (xx) Litter picking plan;
- (xxi) Implementation of a programme of archaeological work;
- (xxii) Heritage interpretation strategy;
- (xxiii) Contamination remediation scheme;
- (xxiv) Contamination verification scheme;
- (xxv) Unexpected contamination;
- (xxvi) Noise levels;
- (xxvii) Odour control system.

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

78 APPLICATION NO DOV/24/00700 - 8 ORCHARD CLOSE, WHITFIELD

The Committee was shown an aerial view and photographs of the application site which was the rear garden of a bungalow at the end of a cul-de-sac. The Principal Planner advised Members that planning permission was sought for the erection of an outbuilding for use as a beauty treatment business and the extension of the driveway parking area. An application for the 'continued use of part of a dwelling as a treatment room' made this year had been refused. The proposal was based on one client visiting the site for treatment in the outbuilding. She confirmed that training that had previously been offered at the site had moved elsewhere.

Councillor Loffman commented that there had been some toxicity around this application but that such matters were not the concern of the Planning Committee. Nevertheless, he sought advice on what local residents could do if planning permission were granted, and the applicant subsequently breached any of the planning conditions. In planning terms, he could see no valid reasons for refusing the application. Contrary to comments made by the public speaker, he noted that KCC Highways had approved the dropped kerbs. Councillor Kenton commented that neighbour disputes were irrelevant when considering the application as it was the Committee's remit to look solely at whether the proposal was acceptable in planning terms. He proposed that the application should be approved, with a slight amendment to condition 5 to change the reference to visiting client.

The TLDM advised that the six conditions included a restriction on the hours of operation, the number of clients visiting at any one time (i.e. one only) and stipulated that one parking space must always be kept available for the visiting client. In the event that the business expanded into the existing property or went beyond the permitted hours of operation or number of clients, it would be open to residents to make a complaint to the Council. If it was identified that material harm was being caused to neighbours, the Council had powers to take enforcement action, such as issuing a stop notice.

RESOLVED: (a) That Application No DOV/24/00700 be APPROVED subject to the following conditions:

- (i) Time limit;
- (ii) Approved plans;
- (iii) Materials as plans;
- (iv) Hours of operation during the hours of 09.00 to 18.00 Monday, Tuesday, Friday and Saturday; 09.00 to 19.30 Wednesday and Thursday. No operation on Sundays.
- (v) No more than one visiting client at any one time;
- (vi) One parking space to be kept available for the visiting client.

(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.

79 APPLICATION NO DOV/23/00951 - PHASE 3 PARCEL 1 OF LAND FOR AYLESHAM VILLAGE EXPANSION NORTH OF DORMAN AVENUE NORTH, AYLESHAM

The Committee viewed an aerial view, plans and photographs of the application site. The Principal Planner reminded Members that the application had been presented to the Committee in July 2024. At that meeting, the Committee had resolved to approve the reserved matters application subject to the approval of a village traffic impact assessment, improvements to pedestrian connectivity, a Section 106 agreement to secure financial contributions and off-site reptile mitigation measures. The application was returning to the Committee due to amendments to pedestrian connectivity, which had previously been delegated to Officers to resolve after the July committee meeting, and the amended financial contributions being sought. Other amendments to the previous resolution included reptile translocation being secured separately to this application by a separate legal agreement or unilateral undertaking, and the village traffic impact assessment now being secured separately by condition of the outline consent.

As an update to the report, Members were advised that an additional representation had been received from Aylesham Parish Council, maintaining its objection to the proposal and raising concerns about poor street lighting on Ratling Road, unadopted internal roads, crash data reliability, biodiversity net gain legislation not applying, capacity of Ratling Road, pedestrian connectivity to the north of footpath EE283 and the nature reserve. In addition, an updated arboricultural report and tree protection plan had been submitted since the committee report was published which indicated that two trees previously shown as being removed would now be retained.

The Chairman commented about biodiversity net gain which had not applied at the time outline permission had been granted. He emphasised that at the last meeting a lot of the principles of the outline application had been agreed so it was only these

outstanding matters that remained to be discussed. Councillor Beaney queried whether there was any more funding for the Connect bus link. The service was running out of Section 106 money and he asked that further funding be explored.

RESOLVED: (a) That, subject to a Section 106 agreement to secure financial contributions and an updated arboricultural report and the Tree Protection Plan, Reserved Matters Application No DOV/23/00951 be APPROVED subject to the following conditions:

- (i) Approved plans;
- (ii) Samples of materials for external surfaces of homes;
- (iii) Details and provision of bat-sensitive lighting;
- (iv) Details and provision of off-site highways works – footway to connect to existing footway on Ratling Road to south of site;
- (v) Details and provision of off-site highways works – uncontrolled pedestrian crossings to west/south of site, to be provided prior to commencement above ground;
- (vi) Provision and maintenance of vehicle visibility splays;
- (vii) Provision and maintenance of pedestrian visibility splays;
- (viii) Details of the construction of highways, footways and shared surface areas;
- (ix) Noise and vibration report for impact from railway;
- (x) Programme for landscaping and open space implementation, and maintenance of buffer with railway line;
- (xi) Final details of boundary treatments.

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

80 APPLICATION NO DOV/24/00797 - LAND OPPOSITE 32 TO 38 CAULDHAM LANE, CAPEL-LE-FERNE

Members were shown an aerial view, drawings and plans of the application site. The Planning Officer advised that the application was a reserved matters application for details of landscaping, layout, scale and appearance and the discharge of various conditions pursuant to outline permission granted for the erection of up to 16 dwellings.

As updates to the report, Members were advised that Capel-le-Ferne Parish Council had considered the developer's response to the conditions attached to the application and was of the view that sufficient information had been provided to discharge them. KCC Highways had requested drawings to be submitted that demonstrated cycling storage of one space per bedroom which would be secured by condition. The Kent Downs Area of Outstanding Natural Beauty (AONB) unit had submitted its consultation response on 16 December, seeking clarification regarding the approved plans for the material finish of the dwellings. It had transpired that drawing no. 115 was incorrect but had now been superseded. The unit had also raised concerns regarding the landscape buffer to the south of the site, in relation to which it was deemed necessary to include a landscaping condition that would seek additional planting along the southern boundary.

In response to the Chairman, the Planning Officer advised that KCC Highways was working with the applicant and the applicant for an adjacent development to ensure that a footpath joining both developments at the front would come forward. She confirmed that the other development was the subject of a live application.

RESOLVED: (a) That Reserved Matters Application No DOV/24/00797 be APPROVED subject to the following conditions:

- (i) Approved plans;
- (ii) No meter boxes, vent, flues to principal elevations;
- (iii) Details of bicycle storage facilities to be submitted and approved in writing by the Local Planning Authority before occupation;
- (iv) Landscaping scheme (including additional planting along the southern boundary) to be submitted and approved in writing by the Local Planning Authority before occupation;
- (v) Air Source Heat Pumps not on principal elevations and noise levels.

(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.

81 APPLICATION NO DOV/24/00179 - RESIDENTIAL GARAGES, MILNER CLOSE, ELVINGTON

The Committee was shown an aerial view, plan and photographs of the application site which was a car park situated within the settlement confines of Elvington. The Senior Planner advised that planning permission was sought for a change of use of land and the siting of two storage containers and the erection of one double garage. Since the committee report was published, three further objections had been received, raising no new material considerations. She confirmed that the proposal was for storage only and that there would be no business use. Should business use arise, enforcement action could be taken.

In response to Councillor Back, the Senior Planner confirmed that the containers would be no higher than what was already on the site and would back onto rear gardens only. Councillor Back noted that Policy E1 supported business use. The TLDM pointed out that there was a condition that restricted the hours of use of the storage containers to ensure that the noise caused by opening and closing the doors was within acceptable hours. In response to Councillor Williams, he clarified that if a complaint was made about the applicant using the containers to conduct business, it would be for planning enforcement to investigate and take action if appropriate. In response to Councillor Knight, the Senior Planner explained that the restriction on the hours of operation was a belt and braces approach taken to address concerns raised by residents about noise and was not considered unreasonable. She confirmed that there would be a gap of at least a metre between the containers and rear garden fences. Following concerns raised about parking and access, the proposal had been set well away from the access point and there had been only one vehicle parked in the car park when she visited at lunchtime.

RESOLVED: (a) That Application No DOV/24/00179 be APPROVED subject to the following conditions:

- (i) Standard time condition;
- (ii) Approved plans;
- (iii) Use to remain as storage only;
- (iv) Restriction on hours of use.

(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.

82 APPEALS AND INFORMAL HEARINGS

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

83 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 7.56 pm.