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19 September 2016

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **PLANNING COMMITTEE** on Thursday 22 September 2016 at 6.00 pm, the following report that was unavailable when the agenda was printed.

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

To confirm the Minutes of the meeting of the Committee held on 25 August 2016.

Yours sincerely

A handwritten signature in black ink, appearing to be "N. Smith", 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, 25 August 2016 at 6.00 pm.

Present:

Chairman: Councillor F J W Scales

Councillors: J S Back
P M Beresford
T A Bond
D G Cronk
M R Eddy
B J Glayzer
D P Murphy
M J Ovenden
P M Wallace

Officers: Principal Planner
Principal Planner
Principal Planner
Senior Planner
Senior Planner
Senior Heritage Officer
Trainee Solicitor
Democratic Support 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/15/01100	Mr Iain Warner	-----
DOV/15/01293	Mr John Peall	Mr John Leslie
DOV/15/001184	Mr Ian Bull	-----

41 APOLOGIES

It was noted that apologies for absence had been received from Councillors T J Bartlett, B W Butcher, B Gardner and A F Richardson.

42 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors M J Ovenden, P M Beresford, M R Eddy and B Glayzer had been appointed as substitute members for Councillors T J Bartlett, B W Butcher, B Gardner and A F Richardson respectively.

43 DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest.

44 MINUTES

The Minutes of the meeting held on 21 July 2016 were approved as a correct record and signed by the Chairman.

45 ITEMS DEFERRED

The Chairman advised that the items listed remained deferred. It was clarified that the second item related to land adjacent and fronting Roseacre, East Langdon Road, Martin.

46 APPLICATION NO DOV/15/01100 - LAND TO THE SOUTH OF HAWARDEN PLACE, CANTERBURY ROAD, WINGHAM

Members were shown plans, drawings and photographs of the application site. The Senior Planner advised that since the report was written three additional representations had been received, raising issues including the inappropriateness of commercial activity in this location and reiterating concerns outlined in the Officer's report. In addition, an e-mail and letter had been received from the applicant's agent raising various issues, including pedestrian access to School Lane. These representations had been circulated to Committee members in advance of the meeting. The Senior Planner summarised that the site was within the settlement confines and, subject to amendments, a satisfactory scheme could be achieved. However, in its current form, the proposed scheme was considered unacceptable for the reasons set out in paragraphs 3.1 and 3.2 of the report.

In response to Councillor M J Ovenden, the Chairman advised that C2 units would not contribute towards the housing shortfall, and supported the concerns she had raised regarding noise and disturbance issues caused by the stacking of the flats; an issue highlighted by the Council's Environmental Health Officer. Councillor T A Bond stated that he did not like the design of the proposed units but recognised that this was a subjective matter. However, flooding and surface water drainage were of concern to him given that the site was within a Water Gathering zone.

The Senior Planner responded that Southern Water had confirmed that surface water could be adequately dealt with on site, and conditions should be attached accordingly. The Environment Agency had raised no objections in relation to flooding. The Chairman commented that, whilst there was obviously a need for such facilities in the district, the Committee would need to consider whether this was an appropriate location for them, given the proposed design of the buildings and their proximity to a Conservation Area and listed buildings.

In response to Councillor Ovenden, the Senior Planner confirmed that the gate for pedestrian access would be in a fence rather than the listed curtilage wall. Councillor M R Eddy supported the use of the land for this purpose. However, he questioned whether the development was right for Wingham, arguing that the proposed style of development would strike a dissonant chord along the southern entrance to the village. There was an opportunity to achieve a suitable design for the site, but the application under consideration would not do that.

The Senior Heritage Officer referred to paragraph 2.14 of the report. It was considered that the proposal was likely to dominate the Grade I-listed church and spire which were significant landmarks in the approach to Wingham. The Design Strategy submitted with the application had provided no evidence that the architectural character or appearance of Wingham had been considered. The materials and design features proposed were not commonly found in the Conservation Area as a whole or within this part of the Conservation Area. It was considered that they would be dominant and overbearing when viewed against the Conservation Area and listed buildings nearby. In response to concerns raised

about the height of the proposed buildings, it was confirmed that the highest ridge point would be 13.5 metres.

RESOLVED That Application No DOV/15/01100 be DEFERRED for a site visit to be held on Wednesday, 21 September 2016 in order to assist Members in assessing how the design (including layout) will affect and impact upon heritage assets; and Councillors P M Beresford, B Gardner, D P Murphy, M J Ovenden and F J W Scales (reserve: Councillor P M Wallace) be appointed to visit the site.

47 APPLICATION NO DOV/15/01293 - LAND ADJACENT TO ST MARTINS, NORTHBOURNE ROAD, GREAT MONGEHAM

The Committee viewed plans, drawings and photographs of the application site. The Senior Planner advised that the application sought planning permission for the erection of a single dwelling on a site which currently formed the side garden to the dwelling known as St Martins. The proposal also included a piece of land (not currently within the applicant's ownership) at the front of St Martins that would be used to improve access visibility. One of the reasons for the recommendation to refuse the application was the proposed design of the dwelling. There were a number of disparate elements within its design, including eaves heights, the garage and a 'bolt on' stairwell which was more typical of a commercial building. Overall, the proposed design features did not form a cohesive appearance when compared with neighbouring properties. Moreover, there was a substantial area of glazing proposed to the front elevation of the dwelling which, together with the rear balcony access, would give rise to the perception of overlooking on to Mongeham Lodge, the boundary of which was 15 metres away. Finally, no proof had been provided that the additional land required to achieve a visibility splay of 2 x 43 metres had been secured. In any case, were the land to be secured, works would be required to regrade the embankment. These, with the resultant loss of hedgerow, would be considered unacceptable due to the harm that would be caused to the semi-rural appearance of the street scene.

In response to Councillor D G Cronk, the Senior Planner confirmed that the application might be acceptable on highways grounds if the existing access were utilised. However, that was not what was proposed in the application. Both Councillors Bond and Ovenden raised concerns about overlooking caused by the rear balcony. The Chairman clarified that the glazed windows to the front of the property were 6 metres from Mongeham Lodge which he regarded as being close.

RESOLVED: That Application No DOV/15/01293 be REFUSED on the following grounds:

- (a) The proposed development, if permitted, by virtue of its design, scale and appearance, materials and finish, which would be visible from public vantage points, would appear alien in the context of the surrounding forms of development in this semi-rural character area and this, including the loss of hedgerow which would expose the site to the street, would cause undue harm to the character, appearance and environmental quality of the street scene and be detrimental to visual amenity, contrary to the aims and objectives of the National Planning Policy Framework at paragraphs 17, 60 and 61 in particular and to the provisions of the Kent Design Guide at page 59 relating to design in context.

- (b) The proposed development, if permitted, by virtue of its siting, fenestration and balcony/access arrangements, would give rise to unacceptable overlooking and the perception of overlooking, causing unjustified harm to the residential amenity of neighbouring occupants at Mongeham Lodge, contrary to the aims and objectives of the National Planning Policy Framework at paragraphs 17 and 61 in particular and to the provisions of the Kent Design Guide at page 92 relating to privacy.
- (c) In the absence of sufficient information to demonstrate otherwise, it is not possible to determine, in the interests of highway safety, that the proposed access can achieve acceptable highway visibility standards in a manner that ensures the safe operation/use of the access on to Northbourne Road. Accordingly, the proposal is contrary to the aims and objectives of the National Planning Policy Framework at paragraphs 17 and 56 and contrary to the Kent Design Guide: Supplementary Guidance – Visibility (Interim Guidance Note 2).

48 APPLICATION NO DOV/16/00521 - LAND EAST OF 1 AND 2 WOODNESBOROUGH LANE, EASTRY

The Committee was shown plans, drawings and photographs of the application site. The Principal Planner advised that the application sought planning permission for the erection of twelve dwellings on a site which lay adjacent to, but outside of, the settlement confines of Eastry. Whilst the development was therefore contrary to Policy DM1 of the Council's Core Strategy, the lack of a five-year housing land supply added significant weight in favour of the application. The proposed scheme would be a cul-de-sac and of a similar density to neighbouring buildings. It was considered that the scheme responded well to the design characteristics of existing properties in the village. Proposed parking provision would be in accordance with guidance and the scheme was unlikely to create additional pressure on parking in Eastry. Furthermore, given that visibility from the existing access would be improved and was also in accordance with guidance, KCC Highways had raised no objections. Contributions of £195,000 for off-site affordable housing and £4,351 towards play space improvements would be secured by a Section 106 agreement.

Following a proposal by Councillor Bond, the Principal Planner advised that signature of a Section 38 agreement could not be attached as a planning condition as there were no plans to have the access road formally adopted, although it would be designed to adoptable standards. That said, a condition had been included to safeguard future maintenance of the road.

Councillor J S Back questioned why approval was recommended for a site situated outside the settlement confines. This was not consistent with previous applications for sites outside the settlement confines which Officers had recommended for refusal. The Principal Planner advised that each scheme should be assessed on its own merits, with careful consideration given to the relationship of the development to the existing settlement, and what contribution the development would make to the Council's overall housing deficit. The Chairman concurred, but emphasised that the housing deficit should not necessarily override the Council's policies or the need to make sound decisions in planning terms. In response to Councillor Ovenden, the Principal Planner advised that it was proposed to install a dropped kerb within the site and outside the site on the other side of Woodnesborough Lane. Although

there was no footpath running the entire length of the lane, there were alternative pedestrian routes into Eastry, for example via Peak Drive.

RESOLVED: (a) That, subject to the submission and agreement of a Section 106 agreement to secure contributions, Application No DOV/16/00521 be APPROVED subject to the following conditions:

- (i) Approved plans;
 - (ii) Samples of materials to be used;
 - (iii) Landscaping;
 - (iv) Provision and retention of car parking;
 - (v) Provision and retention of cycle parking;
 - (vi) Provision and retention of access;
 - (vii) Construction Management Plan;
 - (viii) Provision and retention of visibility splays;
 - (ix) Provision of off-site highway works;
 - (x) Archaeology;
 - (xi) Removal of permitted development rights relating to extensions, enlargements, alterations (including windows) to Unit 1;
 - (xii) Details of ecological enhancements;
 - (xiii) Full details of surface water drainage scheme, including maintenance;
 - (xiv) Full details of foul water drainage scheme, including maintenance;
 - (xv) Provision of refuse storage.
- (b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions and to agree a Section 106 agreement, in line with the issues set out in the recommendation and as resolved by the Planning Committee.

49 APPLICATION NO DOV/15/01184- LAND REAR OF 114 CANTERBURY ROAD, LYDDEN

Members were shown plans and photographs of the application site which had been allocated for residential development under Policy LA40 of the Land Allocations Local Plan, with an estimated capacity of 40 dwellings. The Principal Planner advised that the application sought permission for 31 dwellings on the site which lay between Canterbury Road and Stonehall Road, both residential in character. To the east of the site was Lydden Primary School. There were several listed buildings nearby, including St Mary's Church and Lydden Court Farmhouse. Land to the

south of Canterbury Road was designated as being within the East Kent Downs Area of Outstanding Natural Beauty (AONB), whilst land to the north and south of the village was designated as a Site of Special Scientific Interest (SSSI). Land to the north of the village was also designated as a Special Area of Conservation.

In summary, the Principal Planner advised that the village was highly visible within the landscape, and the proposed development would appear as a continuation of the village when viewed from the north. Two and three-storey dwellings were proposed with modern features designed to mirror existing miners' houses in the village, including cast stone, timber detailing and synthetic slate roofs. The application had been supported by a viability assessment which had been independently assessed by the LPA's consultant who had concluded that the development could not support a contribution towards affordable housing. The Chairman commented that the applicant's viability appraisal had been robustly challenged by the LPA's consultant, and it was accepted that there were additional costs associated with developing this site.

In response to Councillor Cronk, the Principal Planner advised that the attenuation pond had a capacity designed to withstand a 1 in 100-year storm event plus an additional 30% for climate change. Both Southern Water and the Lead Local Flood Authority were satisfied with the proposals. Councillor Ovenden commented that the construction management plan should prohibit traffic using Church Lane and Stonehall Road, the latter being very narrow with few passing places. She welcomed the inclusion of a condition to mitigate light pollution, and stressed that the attenuation pond should be as far away from the play area as possible.

In response to Councillor Back, the Principal Planner advised that it was initially proposed that the development would be connected to the main sewer in Canterbury Road, this being the closest. However, following advice from Southern Water that this could not accommodate the scheme, the proposal had been amended and a connection would now be made to a separate sewer in Stonehall Road which would be the subject of a separate agreement between the applicant and Southern Water under the Water Industries Act. In response to concerns raised by other Members regarding drainage arrangements and the need to ensure that roads were fully completed, the Principal Planner advised that the provision of the attenuation pond, including its maintenance, would be conditioned. However, a condition could also be attached to govern when the pond would be in place. Full drainage details would need to be submitted to KCC when application was made for the adoption of roads within the scheme. This would ensure that the drainage was fit for purpose and guard against future liabilities arising for KCC. A condition or clause could be added to the required Section 106 agreement to ensure that all roads were fully surfaced. In response to further concerns raised regarding drainage, the Chairman confirmed that a condition would be added to ensure that the connection to the Stonehall sewer was in place at an early stage.

The Chairman advised that it would be for KCC to decide how the educational contribution secured under the Section 106 agreement was spent. Whilst the primary school might currently be full to capacity due to intake from outside the village, over time it was likely that children living in Lydden would be able to attend the school. Given the proximity of the site to the AONB, he had reservations about the design of the dwellings and their potential impact.

RESOLVED: (a) That, subject to the submission and agreement of a Section 106 agreement to secure contributions, Application No DOV/15/01184 be APPROVED subject to the following

conditions:

- (i) Approved plans;
 - (ii) Development in accordance with submitted samples;
 - (iii) Full details of hard and soft landscaping;
 - (iv) Provision of certain highway works in advance of first occupation;
 - (v) Provision and retention of cycle parking;
 - (vi) Provision and retention of access;
 - (vii) Construction Management Plan;
 - (viii) Provision and retention of visibility splays;
 - (ix) Full details of foul drainage including maintenance;
 - (x) Full details of surface water drainage including maintenance;
 - (xi) Removal of permitted development rights relating to extensions, enlargements, alterations;
 - (xii) Assessment of landfill gas and ground gas;
 - (xiii) Previously unidentified contamination;
 - (xiv) Details of reptile translocation;
 - (xv) Ecological enhancements;
 - (xvi) Badger mitigation;
 - (xvii) Details of lighting;
 - (xviii) Provision of refuse storage;
 - (xix) Details of measures to prevent the discharge of surface water onto the highway;
 - (xx) Use of a bound surface material for the first five metres of the accesses.
- (b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions and to agree a Section 106 agreement, in line with the issues set out in the recommendation and as resolved by the Planning Committee.

WHITFIELD URBAN EXPANSION - REQUESTED VARIATIONS TO SECTION 106 AGREEMENT ATTACHED TO APPLICATION NO DOV/10/01010

The Principal Planner introduced the report, advising that the developer was seeking changes to the Section 106 agreement connected with planning application DOV/10/01010, such changes being known as a Deed of Variation. Most of the changes were non-controversial but one change in particular, to preclude the occupation (as opposed to the construction) of any houses before completion of the new A256 roundabout and Primary Street works, required careful consideration by the Committee, not least because it had elicited a strong response from Whitfield Parish Council (WPC). WPC had also raised concerns regarding the use of Archers Court Road (ACR) by construction vehicles, a change to the outline planning permission which had been agreed as part of the Construction Traffic Management Plan (CTMP) by Officers using delegated powers. Following concerns raised by local residents and WPC about construction traffic on ACR, Officers had visited the site where it was evident that construction work on the residential units had already started, notwithstanding that the highway works were nowhere near completion. This was technically a breach of the Section 106 as currently drafted and therefore needed to be addressed. Members were advised that, if approved, paragraph 16 could be deleted from the report recommendation.

It was clarified that the Whitfield Urban Expansion Supplementary Planning Document (SPD) and outline planning permission had envisaged that construction traffic would use the A256 rather than ACR. However, as the process for discharging the pre-commencement planning conditions, including the CTMP, had unfolded, it was recognised that the developer would need to gain access from ACR to construct the new roundabout and access off the A256. As part of the approval of the CTMP in May 2016, permission was given for construction traffic to use ACR for 22 weeks from the start of the contract to build the roundabout and Primary Street, following which both temporary accesses to ACR would be closed. The formal date for when works had started, i.e. the date that would trigger the commencement of the 22-week period, was awaited and was expected to be confirmed shortly.

Residents, WPC and ward Members had raised numerous concerns about the use of ACR by construction traffic. These concerns were understandable and had been taken very seriously by Officers. These parties had been put in touch with the site manager who had followed up concerns raised in a timely and helpful manner, although it was recognised that there had been some glitches.

WPC had submitted a written objection to the proposed variation which had been circulated to Committee members in advance of the meeting. The Principal Planner summarised and responded to these objections in turn. The SPD and original planning permission had envisaged that access would be from the A256 rather than through Whitfield. He emphasised that this would still be the case, with construction traffic only using ACR for a limited period of 22 weeks for the first phase of 94 units. Proportionally, this represented only 7.5% of the 1,250 units that were to be constructed in phase 1 of the development. Condition 13 of the outline planning permission had allowed for a change in circumstances provided it was approved beforehand by the Local Planning Authority (LPA). This had been done by discharging the condition, Officers having first satisfied themselves regarding the revised CTMP and Code of Construction Practice (COCP). These matters were typically dealt with under delegated powers so there had been no diversion from the usual procedures in this case.

In response to claims that assurances given to residents in April had been disregarded, the Principal Planner commented that neither their concerns nor their safety had been disregarded. The LPA had simply had to respond to changing circumstances. Access from the A256 could not physically be achieved for initial set-up, delivery of plant and materials, etc. Officers had met WPC and explained the issues before the CTMP was granted, and had kept it apprised of recent developments, albeit that a recent e-mail had regrettably gone astray due to an incorrect e-mail address being used. WPC had also been put in touch with the site manager who had attended a parish council meeting.

WPC had questioned why the CTMP had been approved when it was known that it conflicted with the Section 106 agreement. Members were advised that they had become 'misaligned' due to delays in discussions with Kent County Council (KCC). However, the CTMP was primarily concerned with technical issues associated with the use of ACR, whereas the S106 variation was primarily concerned with the timing of the commencement of housing. It was reiterated that, even if the variation to the Section 106 agreement were not approved by Committee, the developer could continue to use ACR for the delivery of construction vehicles for highway related activity since it was permitted within the CTMP which had already been approved.

In its written objection, WPC had stated that it was primarily opposed to the use of ACR by HGVs for safety reasons. These reasons were as relevant now as they had been in April. The original 40-week use of ACR applied for by the developer had been reduced to 22 weeks due to objections raised by the Parish Council. To restart the 22-week period after 19 weeks of use of ACR would simply be permitting the original 40-week period applied for by the developer. The Principal Planner responded that safeguarding measures had been thoroughly explored before agreeing to the temporary use of ACR. These had included reducing the period to 22 weeks; ensuring deliveries arrived outside school drop-off and collection times; fully involving KCC Highways who had raised no objections on traffic safety grounds following further restrictions on speed limits and single yellow lines being provided along the length of ACR; and other environmental measures such as dust-monitoring and wheel-washing. These measures all formed part of the approved COCP and CTMP.

Notwithstanding that activity had commenced in April, it had been largely low-key (e.g. site clearance, construction of site compounds, temporary access road, etc), with the works undertaken not being part of the 22-week highway contract. The site manager had confirmed that a maximum of 10 lorries were using ACR per day. A recent site visit had indicated that this was accurate, given that 2 lorries had been seen in 3 hours. The site manager had taken swift action when concerns were raised with him, but further pressure could be exerted if problems persisted. The developer had also advised of practical issues, such as a year's lead-in time to secure the delivery of bricks and blocks.

In response to WPC, it was clarified that some operations (such as set-up and construction access) did not constitute a formal start of development and would not, therefore, trigger conditions or clauses in the Section 106 agreement. As set out in the CTMP, at the end of the 22-week period the northern access to the site would be closed and the southern access retained for emergency use only. The Committee was advised that the only reason for preventing a commencement on housing within the Section 106 agreement was to ensure that an adequate road and access were in place to serve the houses. This aspect would soon be addressed given that highway works were due to start imminently.

In response to concerns raised by WPC about the implications of approving the variation, the Principal Planner advised that the contractor had estimated that, once construction had started in earnest, there would be 30 HGV round trips per day, along with 40 to 60 car/van trips associated with the highway works plus some, mainly light, traffic associated with the housing works. These movements were not considered overly significant when viewed in the context of a wide road with no parking and a 30mph speed limit throughout, and footpaths on either side where there were residential properties. Whilst there had been isolated incidents of non-compliance, Officers were of the view that these had been overstated, possibly due to the fact that some vehicle movements had been in connection with another building site in ACR and the Abbey Homes site in Sandwich Road.

To put the proposed variation into perspective, there would be a limited number of HGVs and other light traffic using ACR for what was a small part of the overall construction period for a site which was critically important in terms of meeting the district's future housing needs. KCC had agreed the variation as had, it was understood, all the other signatories. Whilst it was regrettable – and could not be condoned - that construction works had started, the developer had been open about the need to commence construction as soon as possible in order to recoup some of the investment made into substantial infrastructure works. Approving the Section 106 variation would regularise the situation, and help to progress the scheme which was in the Council's interests given the lack of a 5-year housing land supply.

Councillor Back commented that the developer had claimed one week after development had started that the A256 could not be used for access on health and safety grounds. However, they had subsequently accessed the site via the A256 to install drainage. That said, he welcomed the provision of double yellow lines along ACR which no longer meant cars having to mount the pavement to pass each other. These lines should be retained. He personally had not seen too many lorries using ACR (around 6 a day transporting materials), and the number of complaints from residents had reduced. This development had been relatively unproblematic when compared to Phase 1A (Abbey Homes site). The contractors appeared more responsible and acted quickly when problems were brought to their attention. Overall, he was of the view that the proposed variation was unlikely to make a significant difference. In response to Councillor Back, the Principal Planner advised that the Section 106 agreement made provision for additional housing if the nursing home were not to materialise.

In clarification, the Principal Planner advised that the developer had initially requested a variation to the Section 106 agreement in February 2016. During negotiations on the CTMP, the developer had requested the use of ACR for 40 weeks, but this had been reduced to 22 weeks at the request of Officers. It was clarified that the commencement of development was defined in the Town and Country Planning Act, and the setting up of compounds was excluded. In addition, the disturbance of ground as a trigger for the start of development had been excluded from the definition included in the Section 106 agreement.

The Chairman added that 22 weeks was the period during which the developer had permission to use ACR for highway works. The Section 106 agreement related to the building of houses. The Committee was required to determine whether to agree the developer's proposed variation to the agreement to allow construction to commence before the highway works were in place. Given that construction on the houses had already started, and highway works were imminent, the situation was likely to have corrected itself by the time any enforcement action was undertaken or a judicial review process had run its course.

Councillor Back raised concerns that the Committee had received assurances that construction traffic would use the A256. If decisions on such matters were to be taken by Officers using delegated powers, he would prefer to see conditions prioritised by the Committee. The Chairman reminded Councillor Back that this condition had been changed as a result of a request by the developer and not by Officers through choice. In response to Councillor Bond, the Legal Officer advised that further modifications could not be made to the Section 106 agreement, the conditions relating to which had already been agreed as part of the original planning permission.

RESOLVED: That the Deed of Variation to the Section 106 Agreement attached to Application No DOV/10/01010 be agreed.

51 APPEALS AND INFORMAL HEARINGS

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

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

The Committee noted that no action had been taken since the last meeting.

The meeting ended at 8.43 pm.