

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 23 July 2015 at 6.00 pm.

Present:

Chairman: Councillor F J W Scales

Councillors: B W Butcher
S F Bannister
T J Bartlett
T A Bond
K E Morris
D P Murphy
A F Richardson
P M Wallace

Officers: Principal Planner
Principal Planner
Principal Planner
Senior Planner
Planning Officer
Planning Delivery Manager
Solicitor to the Council (Minute Nos 31-38 only)
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/15/00147 | Mrs Debbie Delbaere | Councillor P M Beresford |
| DOV/15/00101 | Mr Shaun Whyman | Dr Angeline Kanagasooriam |
| DOV/15/00444 | Mr Jonathan Rodger | Councillor L A Keen |
| DOV/15/00296 | Mr Peter Drever | Councillor K E Morris |
| | Mr Peter Larsen | Dr Bruce Campbell |

25 APOLOGIES

It was noted that apologies for absence had been received from Councillors J S Back and B Gardner.

26 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor K E Morris had been appointed as a substitute for Councillor J S Back.

27 DECLARATIONS OF INTEREST

There were no declarations of interest.

28 MINUTES

The minutes of the meeting held on 25 June 2015 were approved as a correct record and signed by the Chairman.

29 ITEMS DEFERRED

The Chairman requested that Officers provide an update for the Committee at its next meeting in respect of Application No DOV/14/01013 (The Beacon Church and Christian Centre, London Road, Dover) which had been deferred at the meeting held on 12 March 2015 and was not for consideration. Application Nos DOV/15/00147 and DOV/15/00101 were dealt with elsewhere on the agenda.

30 APPLICATION NO DOV/15/00147 - 22 LYNDHURST ROAD, RIVER

The Committee viewed plans and photographs of the site. The Principal Planner reminded Members that the application had been deferred by the Committee at its meeting on 25 June for a site visit to be held in order to assess the impact on neighbouring properties. The application was part retrospective since the screening, unlike the balcony, had not yet been erected. The house was a two-storey property with no direct access from the house into the garden. The Officer recommendation was for approval, with the inclusion of screening.

At the invitation of the Chairman, Councillor T A Bond reported on the site visit which had taken place on 21 July 2015. He advised the Committee that the panel had concluded that the application should be refused on the basis that the balcony, with the inclusion of the proposed screening, would create an overbearing structure that would adversely affect the visual amenity of neighbouring properties. The panel considered that, if the screening were not included, the structure would materially increase overlooking into neighbouring properties to an unacceptable degree. Members were informed that it had been a challenging decision, and the recommendation to refuse had been one made on balance.

Councillor S F Bannister agreed that it had been a finely balanced decision. Whilst he had sympathised with neighbours' concerns regarding overlooking, he had been in favour of approving the application. The balcony was a significant distance from the gardens of nos 6 and 8 Ash Close and, with screening, would not afford views into these houses, even by someone standing up. He did not consider that the privacy of other houses in Ash Close, which were even further away, would be affected as only oblique views of these were possible from the balcony. He recommended that the application should be approved, particularly in the light of the applicant's additional proposal to soften and screen the structure with plants.

Councillor A F Richardson stated that he had been in favour of refusal at the site visit as he had been of the opinion that the balcony exacerbated overlooking into neighbouring properties by virtue of the fact that it was a permanent structure designed for sitting out, unlike views from inside the house which would only be glimpsed. Moreover, the structure was much larger than was needed to provide access to the garden. At the time of the site visit, he had been of the view that the screening would make the balcony even more overbearing and out of place. However, on reflection and, given that the applicant was proposing a planting scheme, he was coming round to the view that the impact of the structure could be reduced. He was now of the opinion that the previous factors militating against approval were not sufficient grounds for refusal.

Councillor Bond referred to the fact that the garden dropped sharply away which meant that the structure was, by necessity, a large one. However, he sympathised with neighbours' concerns and particularly with the residents of no 6 Ash Close whose garden would be overlooked. Councillor Richardson added that

neighbouring houses were much nearer and the views into gardens much clearer than the photographs indicated. However, whilst he was not a fan of the structure, he did not believe that it was so overbearing that it merited refusal.

RESOLVED: (a) That Application No DOV/15/00147 be APPROVED subject to the following conditions:

- (i) The glazed screening panels, as shown in drawing DDD006 Rev 2 received 10/06/2015, be provided within one month of the date of any permission and be maintained as such thereafter. Reason: To ensure the amenity of neighbouring properties is maintained.
 - (ii) The raised decking area and the screening panels shall be completed in accordance with the approved drawings. Reason: To ensure the amenity of neighbouring properties is maintained.
 - (iii) The obscurity of the glazing shall be at Pilkington Screening Level 3, its equivalent or above. Reason: To ensure the amenity of neighbouring properties is maintained.
 - (iv) Submission of hard and soft landscaping scheme within one month of the date of any permission.
- (b) That powers be delegated to the Head of Regeneration 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/15/00101 - LAND NORTH OF BEAUCHAMPS, BEAUCHAMPS LANE, NONINGTON

Members viewed maps indicating coverage and the location of listed buildings nearby. The Principal Planner advised that the application had been deferred by the Committee at its meeting held on 28 May in order to hold a site visit to assist Members in assessing the relationship between the proposed development and nearby heritage assets. At the meeting on 28 May, Members had also asked for additional information regarding coverage, alternative sites and heritage assets. This information had now been provided by way of maps and an additional report.

Initially, nine alternative sites had been considered by the applicant. In addition, the applicant had investigated the use of Snowdown Colliery following a suggestion made by the Committee on 28 May. This site had duly been assessed but ruled out since a mast situated here would cover 6 fewer 'notspots' and 24 fewer properties than the Beauchamps Lane site. Given that there were no available or preferable sites, the Officer recommendation was that the application should be approved.

At the invitation of the Chairman, Councillor D P Murphy reported on the outcome of the site visit held on 23 June. Representatives for and against the development had spoken, including the applicant. Members had walked the site and visited two listed buildings nearby, entering one of them. Having given special regard to the setting of the nearby heritage assets, the site visit panel had concluded that the harm

caused by the mast would be less than substantial and that the public benefit of the mast outweighed the harm.

The Chairman and Councillor Bannister recognised the beauty of the countryside surrounding the site. However, the mast would be relatively insignificant in wider views. Balancing the need for, and benefits of, the mast against the limited amount of harm that would be caused, it was considered that any harm would be outweighed.

- RESOLVED: (a) That Application No DOV/15/00101 be APPROVED subject to the following conditions:
- (i) Standard time;
 - (ii) Approved plans;
 - (iii) The mast must be removed once it is no longer required.
- (b) That powers be delegated to the Head of Regeneration 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.

32 APPLICATION NO DOV/15/00444 - AYLESHAM VILLAGE EXPANSION

The Committee viewed a plan showing the existing junction configuration. The Principal Planner advised that when planning permission had been granted in 2009, the Secretary of State for Transport had directed that a condition requiring junction improvements should be imposed. The need for such improvements had also been identified in the Aylesham Masterplan. The proposal had been to extend the 'hard nose' of the slip road and to widen its carriageway. These improvements were in recognition that the existing junction was sub-standard, and to address the increase in traffic that would be generated by development at Snowdown. However, the Snowdown development was no longer going ahead and, most significantly, the conditioned improvements were now considered to be sub-standard. Current standards would now require a 'lane gain merge' improvement which would necessitate the permanent reduction of the main A2 carriageway to one lane at this point. It was considered that such a change involving loss of capacity on the trunk road was not justified given accident rates and projected traffic flows.

Members were informed that the Parish Council and the ward Councillor vigorously objected to the variation of the condition. Notwithstanding these concerns, the Local Planning Authority (LPA) had a duty to apply conditions correctly. Given that Highways England's view was that the condition should be varied and the junction improvement no longer pursued, it was unlikely that the condition, as presently worded, would be considered enforceable or reasonable. It was for the Committee to consider local concerns and the environmental impact of the works. Members would also need to consider whether the deletion of the requirement from the condition would result in a safe form of access, and whether the six tests for the imposition of planning conditions had been satisfied. The Chairman reminded the Committee that planning conditions could not be used to correct an existing deficiency.

Councillor Bannister was of the view that the junction was not safe and traffic flow was increasing irrespective of the Snowdown development. That said, it was unreasonable to expect the developer to bear the full cost of extending the slip road. He suggested that the application be deferred to explore a jointly funded solution with Highways England. Councillor Richardson agreed that the junction was unsafe and that it was only by luck that more accidents had not occurred. He accepted that the condition could not be enforced due to Highways England's lack of support. It was also a non-starter to propose that the A2 carriageway be reduced to one lane. However, a substantial number of new houses were being built at Aylesham which would put more pressure on the junction. The developer should bear some responsibility, even if this only extended to improving visibility. Councillor Bond spoke against removing the requirement entirely, arguing that the junction was dangerous and that the developer should contribute to a solution since the new houses would undoubtedly generate additional traffic.

The Chairman suggested that a jointly funded solution with Highways England was out of the question given that it no longer supported junction improvements of the type proposed by the condition. He agreed that the junction had risks, but was of the opinion that visibility was acceptable if drivers took sensible precautions.

The Principal Planner clarified that the independent traffic study modelling had included the new dwellings at Aylesham, for a period up to 2020. He reiterated that a condition could not be imposed to remedy an existing problem that had not been created by the development. That said, it would be acceptable to add an informative regarding visibility and signage. The Chairman stated that it was reasonable to expect the developers to introduce measures to mitigate the additional traffic that would be generated by the new development.

The meeting was adjourned at 7.26pm to allow Officers to consult. The meeting reconvened at 7.38pm.

The Chairman recapped that the Committee considered that there would be an impact on the junction due to an increase in traffic caused by the new development. The Committee considered that the proposal should be deferred as the measures that were required were not within the developer's control. Deferral would allow discussions to take place between Highways England, the developer and Planning Officers to consider what measures could be taken.

RESOLVED: That Application No DOV/15/00444 be deferred in order to allow discussions to take place between Highways England, the developer and the Local Planning Authority to consider what measures can be taken at the A2/A260 junction to mitigate the increased use of the junction as a result of the Aylesham development.

33 APPLICATION NO DOV/15/00391 - THE HAVEN, 19 MONASTERY AVENUE, DOVER

The Chairman advised that Application No DOV/15/00391 had been withdrawn by the applicant and would not therefore be considered at the meeting.

34 APPLICATION NO DOV/15/00252 - 43/45 CHERRY TREE AVENUE, DOVER

Members viewed plans and photographs of the application site. The Planning Officer introduced the report which set out the details relating to a change of use application to a restaurant/hot food takeaway. Members were mindful that there was

a primary school in close proximity to the proposed takeaway, but were of the opinion that the risk of pupils using the takeaway was low given the fact that primary school pupils were not allowed out during the school day. It was confirmed that the school in question did not have a healthy eating policy.

RESOLVED: (a) That Application No DOV/15/00252 be APPROVED subject to the following conditions:

- (i) Timescale of commencement of development;
 - (ii) A list of the approved plans;
 - (iii) Details of the extraction system;
 - (iv) Details of a scheme for sound insulation;
 - (v) Refuse storage area to be provided and maintained;
 - (vi) Hours of opening shall not be outside of 10.00am to 10.00pm Monday to Friday and 10.00am to 10.00pm Saturdays, Sundays and Bank Holidays.
- (b) That powers be delegated to the Head of Regeneration 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.

35 APPLICATION NO DOV/15/00296 - SITE REAR OF THE SHRUBBERY, ST MARGARET'S ROAD, ST MARGARET'S BAY

The Committee viewed plans and photographs of the site. The Principal Planner advised that the application site was within the village confines of St Margaret's and comprised land which had been severed from The Shrubbery. Planning permission for a detached bungalow had been granted in 2012 and this was extant. Approval had been given the preceding year for the removal of trees on the site. The application was part retrospective as some works had already taken place on the site.

The current proposal differed from the proposal granted permission in 2012 in that the dwelling would be sited slightly nearer to The Shrubbery. The ground floor level would also be lower, giving the finished dwelling an overall height which was between 1.6 and 2.5 metres lower than the original scheme. First-floor accommodation (with balconies) had also been introduced. Amended plans had been submitted in respect of the first-floor balconies which had been reduced in depth and set into the roof. For this reason, the recommendation at g) of the report would need to be amended.

A further letter of objection had been received from the occupants of The Shrubbery, raising concerns about access to the retaining wall which they suggested had been built without planning permission. Unless the wall was moved further back from the boundary, the residents would hold the LPA responsible for any problems. The Council's Head of Building Control had advised that, whilst building regulations approval had not been required for the wall, the applicant had a general duty of care to ensure that the wall was soundly constructed. There was nothing to indicate that there were any deficiencies in the way that the wall had

been built. Furthermore, the applicant had confirmed that there was sufficient distance between the retaining wall and the boundary with The Shrubbery to allow both the wall and the house to be adequately maintained. The Principal Planner emphasised that, in any case, this was a civil matter which the Committee was not required to take into account when reaching its decision.

The key consideration for the Committee was the impact on the amenity of other properties. The separation distance of the proposed dwelling from The Shrubbery would be 21 metres and Officers therefore considered that there would be no overlooking to this property. In terms of the impact on Seven Seas Cottage, concerns had been raised over overlooking and inter-looking from the first-floor balconies into this property and its private amenity space. Whilst there was the potential for overlooking, the views obtained would be oblique and would not therefore adversely affect the property's amenity area. In any case, the impact would be less than the original proposal following the submission of revised plans showing the balconies reduced in size (being further away from Seven Seas Cottage and effectively 'within' the roof slope of the dwelling). The occupants of Seven Seas Cottage had written a further letter of objection, raising concerns that the removal of trees along the boundary would increase overlooking. However, permission to remove the trees, which were in poor condition, had already been given and would be difficult to revoke. With the landscaping scheme, oblique views and separation distance, Officers were satisfied that there would be no overlooking. There would also be views into the rear garden of 11 St Margaret's Road. Whilst this would normally be a planning concern, the privacy of the garden was already compromised by overlooking from the first-floor windows of Seven Seas Cottage. The occupants of 11 St Margaret's Road had also written a letter of support.

Councillor Bannister welcomed the report and recommended that the application be approved. The Chairman referred to the advantages of the proposed scheme over that which currently had permission.

RESOLVED: (a) That Application No DOV/15/00296 be APPROVED subject to the following conditions:

- (i) Timescale for commencement of development;
- (ii) A list of the approved plans;
- (iii) Landscaping scheme shall be provided prior to first occupation and thereafter maintained;
- (iv) Details of protection to existing trees on site during construction;
- (v) No windows in the rear (north-west facing) roofslope;
- (vi) Screening to be provided to side of balconies prior to first occupation and thereafter maintained;
- (vii) Domestic sprinkler system to be installed prior to first occupation and thereafter maintained;
- (viii) Samples of materials;
- (ix) No storage of material on footpath;

- (x) Footpath should not be used for the parking of vehicles or machinery during construction;
 - (xi) No balcony to be constructed on the roof area of the dwelling;
 - (xii) Restriction on use of the first-floor balconies to the areas shown within the demise of the balcony screens/balustrades.
- (b) That powers be delegated to the Head of Regeneration 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.

(Councillor K E Morris advised that he was registered to speak against the application as the ward Member. On the grounds of predetermination, he would speak, listen to the Officer's introduction and then take no further part in proceedings. Councillor Morris left the Chamber during the debate on this item.)

36 APPLICATION NO DOV/15/00299 - ADELAIDE FILLING STATION, SANDWICH ROAD, SHOLDEN

The Committee was shown a block plan and photographs of the application site. The Senior Planner advised that the application related to a change of use from a hand car wash to car sales at a location which was largely rural in character. The application was partly retrospective as a portable building was already in situ. The proposal included the concreting over of a fenced compound at the rear of the site which was currently overgrown. This would increase the ground area of the development by about 40%. One further comment had been received from the Campaign to Protect Rural England (CPRE) which signalled its support for the application on the basis that it would help to improve the area which had been an eyesore for years. The Senior Planner clarified that the CPRE was not a statutory consultee but rather a pressure group. No significant weight should therefore be attached to its representation.

The application was largely a re-submission of one refused previously in January 2015 on three grounds. These were that it did not functionally require such a location, would have an urbanising effect on the Hacklinge area and was unsustainable in that its location would generate the need to travel by car. That application had therefore been contrary to Core Strategy Policies CP1, DM1 and DM3. Officers considered that the applicant had failed to satisfactorily address the reasons for the previous refusal, and that the current application did not meet the aims and objectives of the National Planning Policy Framework. In summary, the previous reasons for refusal remained valid.

Councillor B W Butcher commented that the site had quite a history, having been a petrol station in the past. The current site was unsightly but there had been more buildings on the site in previous years. He was of the view that conditions could make the proposal more acceptable to the environment and local residents. He confirmed that there were bus-stops on both sides of the road outside the site.

Councillor Richardson stated that it would be easy to argue that, since there was already some development in this area, a little more would do no harm. However,

there was a principle at stake. The site was in an area which was largely rural in character, and a car sales business would not be conducive to maintaining this character. Moreover, it was clearly contrary to policy, illustrated by the fact that the site had a long history of planning permission refusals. He recommended that the application should be refused. Councillor Bannister agreed, arguing that it was clearly against policy to concrete over green space.

The Chairman reminded the Committee that policies designed to protect the countryside did not necessarily preclude the taking of any land at all. He also encouraged Members to consider whether such a business at this site would generate additional traffic.

Councillors Bond and P M Wallace supported the proposal. The site had previously been a petrol station and there was already a car sales business further along the road. The appearance of the site would undoubtedly be improved and the business was likely to generate fewer car visits than the car wash. Councillor Bond referred to the fact that the parish councils had objected to the previous application but now supported the current scheme. Councillor Wallace commented that there was already hard-standing on the site which it would be as well to utilise and encourage business.

The Senior Planner clarified that a planning application would be required in order for the business to revert to a petrol station. Members were reminded that development in the countryside was not permitted unless it functionally required a countryside location or was ancillary to an existing operation. It was incumbent upon Members to consider whether these two points had been met. The Principal Planner emphasised that the previous application had been the subject of a very robust refusal. Officers were of the view that the current application fell far short of the point where reversal of that refusal could be justified. In summary, there were serious objections to the application in policy terms.

Councillor Richardson emphasised the fact that a similar application had been refused only a few months previously. He urged the Committee not to go against the LPA's policies, the previous refusal and the Officer's recommendation. Councillor Bannister supported this position.

It was moved by Councillor A F Richardson and duly seconded that Application No DOV/15/00299 be REFUSED as per the report recommendation.

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

It was moved by Councillor P M Wallace and duly seconded that Application No DOV/15/00299 be APPROVED on the grounds that: a) no substantial harm would be caused to the rural setting; b) the taking of additional countryside is appropriate in scale for the application; and c) public transport is accessible. Weighing those factors against the current use, the Committee considered that there would be no appreciable, additional harm. Conditions to be delegated and to include the number of vehicles to be kept on site, the hours of operation and transporters on site.

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

RESOLVED: (a) That Application No DOV/15/00299 be APPROVED on the following grounds:

- (i) No substantial harm would be caused to the rural setting;
- (ii) The taking of additional countryside is appropriate in scale for the application;
- (iii) Public transport in this location is accessible.

Weighing these factors against the current use, the Committee considers that there would be no appreciable, additional harm.

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

37 APPEALS AND INFORMAL HEARINGS

The Planning and Delivery Manager advised Members that three appeals had been determined – and dismissed - between April and June 2015. The LPA's annual target had been reduced and now no more than 20% of appeals should be upheld.

The Committee was reminded that it had refused an application for 28 dwellings at the rear of Archers Court Road, Whitfield. An appeal had been lodged and dismissed by the Inspector. However, the applicant had made a challenge to the Inspector's decision in the High Court under Section 288 of the Town and Country Planning Act 1990. Having considered the grounds of that challenge, the Secretary of State had consented to the Court making an order setting aside the Inspector's decision and requiring that the appeal should be sent back to the Inspector for a new decision. This was likely to result in a further informal hearing. The Chairman advised new Members that Committee members attended informal hearings. As ward Member, Councillor J S Back would attend the informal hearing for Archers Court Road, along with the Chairman.

RESOLVED: That the report be noted.

38 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 9.06 pm.