

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 22 September 2016 at 6.01 pm.

Present:

Chairman: Councillor F J W Scales

Councillors: B W Butcher
J S Back
T J Bartlett
B Gardner
D P Murphy
M J Ovenden
A F Richardson
P M Wallace

Officers: Head of Regeneration and Development
Principal Planner
Planning Delivery Manager
Principal Heritage Officer
Planning 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/15/00292 & DOV/15/00293	-----	Mr Alex Lister
DOV/15/01100 DOV/16/00442	Dr Mike Leeming Mr Mike Goddard	----- Mr Mark Salisbury

53 APOLOGIES

It was noted that an apology for absence had been received from Councillor T A Bond.

54 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor M J Ovenden had been appointed as a substitute member for Councillor T A Bond.

55 DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest.

56 MINUTES

The Minutes of the meeting held on 25 August 2016 were approved as a correct record and signed by the Chairman.

57 ITEMS DEFERRED

The Chairman advised that two of the deferred items listed were to be considered at the meeting. The third item relating to land adjacent and fronting Roseacre, East Langdon Road, Martin remained deferred.

58 APPLICATION NOS DOV/15/00292 AND DOV/15/00293 - THE RED LION, CANTERBURY ROAD, WINGHAM

The Committee viewed plans and photographs of the application site which was located at the junction of the A257 Sandwich to Canterbury and B2046 Wingham to Aylesham roads. The Head of Regeneration and Development (HRD) reminded the Committee that the application had been due to be considered by the Committee in May but had been withdrawn from the agenda due to the large number of late representations submitted by objectors. The application had then been deferred at the Committee meeting held in June, for the reasons set out in paragraph 1 of the report. Both the May and June reports were appended to the current report, together with an assessment of the marketing, as requested by the Committee, at Appendix 4. Members were advised that, since the deferral in June, the applicant had lodged appeals against non-determination with the Planning Inspectorate in respect of both applications. The applications would now be determined by the Inspectorate. However, the Committee was being asked to indicate how it would have determined the applications as this would form the basis of the Council's case to the Inspectorate.

Members were reminded that the building was Grade II*-listed and had formerly also been used as a sessions house. It contained several features of historical interest, including an octagonal crown post, a stone fireplace and an 18th-century staircase. The building had a double jetty which could be appreciated internally at ground-floor level where the original timber framing was still exposed. Extensions carried out during the 19th-century and other works had resulted in the loss of historic fabric. It was proposed to convert the building to two houses and to demolish an outbuilding, lean-to and toilet block.

The applications before Committee required careful assessment as there were a number of complex issues to consider. Firstly, if it was considered that the change of use would cause harm to the community, Members were required to consider the viability of the building as a pub and whether adequate marketing had taken place. Secondly, the Committee would need to consider whether its conversion to residential use was acceptable. Finally, whether harm would be caused to the heritage asset and Conservation Area and, if so, whether such harm would be outweighed by the public benefits of the proposal.

In terms of change of use, Officers were of the view that there was no evidence that the loss of the pub would cause harm to the community nor lead to the community's needs not being met. The assessment of the independent expert, commissioned by the Council, was that the marketing had been a genuine and adequate exercise, and that the building was no longer viable as a pub. In summary, the exercise complied with Core Strategy Policy DM24. The site was within the village confines and acceptable in terms of amenity and parking. The proposals also complied with the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 and, in relation to the National Planning Policy Framework (NPPF), it was considered that the proposals would cause less than substantial harm to the heritage asset which was outweighed by the benefits of the scheme. Officers recommended that the applications should be approved.

As an update to the report, the HRD advised that an e-mail had been received on 16 September from the Save the Red Lion campaign group (SRLCG). This had been circulated to Members and raised concerns regarding access, signage and a conflict of interest. It had also argued that the Committee could reject the applications if it were not proved beyond reasonable doubt that the building was unsustainable as a pub business. The Committee was advised that 'beyond reasonable doubt' was not a test recognised in Planning legislation, against which applications had to be assessed. It was for the owner to decide whether to grant access to his property. The SRLCG had raised concerns that there had been no 'For Sale' signs placed on the property. However, the applicant had undertaken marketing which, in the opinion of Officers and the independent reviewer, had been conducted satisfactorily and met the Council's policy requirements. In respect of the conflict of interest, neither the independent reviewer nor the Council's Solicitor considered this to be the case, the extent of the former's involvement with Punch Taverns being set out on page 2 of his report. The Council had not asked the independent reviewer to consider any matters relating to a time when Punch Taverns (who no longer had an interest in the building) owned the property. He was not an employee of Punch Taverns, but currently provided rent review advice to them on a consultancy basis. As a member of the RICS (Royal Institution of Chartered Surveyors), the reviewer's assurances regarding the conflict of interest should be accepted. A further e-mail had been received that afternoon which referred to inadequate marketing, the owner prohibiting access and the conflict of interest.

Since the report was written, the applicant had submitted barrellage figures and a letter from Sidney Philips which stated that there were no historical trading or accounts records available. Although no breakdown had been given of the £150,000 estimation of works required to refurbish the property, this estimate had been based on Sidney Phillips' experience as licensed property specialists. Sidney Phillips had now advised that these costs were likely to be higher than estimated.

Councillor P M Wallace questioned the adequacy of the marketing given that the owner had refused to allow potential buyers to view the property. He also reiterated points made at the previous meeting regarding the property's long history as a publicly accessible building and the need to protect it for future generations. He remained of the view that the loss of the pub would cause harm to the community. Councillor A F Richardson understood why Officers had reached the conclusions outlined in the report, particularly when the independent reviewer's report on marketing was taken into account. However, the fact that several potential buyers had expressed an interest in viewing the building indicated that it was potentially still viable as a pub business. The marketing had been a half-hearted, tick-box exercise which met the Council's requirements but nothing more. Whilst he accepted that the reviewer did not have a conflict of interest, it was regrettable that the Council could not have found a chartered surveyor with no links at all to Punch Taverns. He also accepted that it was the owner's right to prohibit access. However, there was no credible reason for refusing access and this raised doubts about how genuine the original marketing exercise had been. In his view, the recent expressions of interest from potential buyers were a material consideration.

The Chairman reminded Members that the marketing exercise had been conducted in 2014 when there had been viewings but no offers made. The Committee had to be satisfied that the exercise had complied with Policy DM24 which Officers were advising was the case. He shared others' views about the nature of the marketing exercise. However, the fact remained that no offers had been forthcoming in the last two years, and interest expressed in recent months had come too late. It was

incumbent upon the Committee to stay true to the Council's Planning policies and, in his opinion, the applications met these.

Councillor B Gardner expressed disappointment at what had happened over the last three months. The owner had disregarded the Committee's wishes by not allowing access to the property. At the same time, the Committee had received no evidence of any offers being made by the community or direct from third parties. Although objectors had referred in correspondence to potential buyers and offers, nothing concrete had been submitted. Whilst he did not personally wish to see the pub go, the law was on the side of the applicant.

Councillor M J Ovenden stressed that if permission were granted, Officers must ensure that there was no further loss to the historic fabric of the building. Councillor B W Butcher agreed that safeguards were required to ensure that the original fabric of the building was protected. Whilst he would prefer to see the building continue as a pub, the owner had the right to do with it as he wished. Moreover, the Committee had a responsibility to consider the applications in accordance with Planning legislation.

The HRD reminded Members that Policy DM24 prescribed that planning permission should only be granted if the loss of the pub would not harm the economic and social viability of the community that it served. Only if harm would be caused should the adequacy of marketing be considered.

The Principal Heritage Officer clarified that listed building consent was only required for physical alterations and not for a change of use. Substantial harm would equate to the loss of historic fabric, something which was not proposed here. In fact, the works were likely to benefit the building as partitioning around the 18th-century staircase was to be removed and the line of an original wall reinstated at ground-floor level. The new party wall would be located between timbers and therefore involved the least intervention possible. Whilst there would be an impact on the planform of the building, it would remain legible. Officers considered the works acceptable and that there would be less than substantial harm caused to the building.

Councillor Gardner added that conversion to a residential dwelling after the building had been accessible to the community for 700 years could be considered as a loss. Councillor Wallace questioned that the building was no longer viable as a pub business. The Legal Officer reminded the Committee that it had to take a dispassionate view and focus on whether the applications were compliant with the relevant policies. The application had been deferred by the Committee at the last meeting and a report commissioned at its request. It would therefore need to give clear reasons for disagreeing with the findings of the report.

It was moved by Councillor P M Wallace and duly seconded that the Committee should indicate that the applications would have been REFUSED on the following grounds: (i) Loss of inside of building/heritage asset to the community given its 700-year history as a public house and sessions house; (ii) The proposals would cause substantial harm to the heritage asset; (iii) The proposed development was not the best use of a listed building as a community asset; and (iv) The marketing undertaken by the applicant had not been a genuine exercise and did not comply with Policy DM24.

There being an equality of votes, the Chairman used his casting vote and the motion for refusal was LOST.

It was moved by Councillor B W Butcher and duly seconded that the Committee should indicate that the applications would have been APPROVED as per the recommendations set out at paragraph 13 of the report.

There being an equality of votes, the Chairman used his casting vote and the motion for approval was CARRIED.

RESOLVED: (a) That the Planning Committee indicates that it would have resolved to grant Planning Permission and Listed Building Consent had it determined Application Nos DOV/15/00292 and DOV/15/00293, subject to the following conditions:

DOV/15/00292 (Planning Permission):

- i) Commencement within 3 years;
- ii) Carried out in accordance with the approved drawings;
- iii) Materials to be submitted;
- iv) Details of cycle and refuse storage areas shall be submitted to and approved in writing by the Local Planning Authority, and put in place before the first occupation of the dwellings commences and maintained for such purposes thereafter;
- v) Sample panel of brickwork to show bonding, type and style of pointing for the proposed boundary wall;
- vi) Any conditions requested by Kent County Council Highways;
- vii) Archaeological watching brief.

DOV/15/00293 (Listed Building Consent):

- i) Commencement within 3 years;
- ii) Carried out in accordance with approved drawings;
- iii) The works shall not be carried out otherwise than in accordance with detailed drawings;
- iv) Such drawings to be submitted to and approved by the Local Planning Authority in writing to show details of any mechanical ventilation, flues, soil, vent or other pipes and joinery details for new window;
- v) No cleaning of internal and external timbers;
- vi) The Sessions Book will remain *in situ* and shall not be removed or relocated without formal approval from the Local Planning Authority.

- (b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning permission/listed building consent conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

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

Members viewed plans and photographs of the application site. The Committee was reminded by the Principal Planner that it had deferred the application at its meeting held on 25 August in order for a site visit to be held to assess how the design of the proposed development would affect and impact upon heritage assets. An update report was before Members.

Members were advised that the application proposed the erection of 15 Class C2 retirement units, together with an extension to an existing barn to provide communal space and guest accommodation. It was confirmed that the units would contribute towards the Council's 5-year housing land supply deficit which was welcomed, as was the provision of accommodation for older people. The site lay within the village confines and had a largely natural appearance. Whilst part of the site was protected open space under Policy DM25 of the Council's Core Strategy, it was proposed to retain this for use by residents. It was proposed that vehicles would use the existing access, and Kent County Council Highways was content with the proposed sightlines. One of the reasons given for refusal was the lack of pedestrian access, an objection raised by KCC Highways. However, Officers considered that this aspect of refusal could easily be overcome.

The scheme comprised predominantly two-storey buildings which would be weather-boarded and reminiscent of Kent oast-house buildings. There would be a small number of three-storey buildings located in the lower part of the site which stepped up in level towards School Lane. The frontage to School Lane was currently partially screened by a number of mature trees. However, the plans submitted indicated that these would be removed and only a hedge would be retained. Given the proximity of the proposed dwellings to this boundary, it was likely that there would, in time, be pressure from residents for them to be cut back or removed due to loss of light if they were retained. The scheme included proposals for planting, habitat creation and allotments for residents.

The Principal Heritage Officer advised that the site visit panel had been tasked with considering the impact of the proposals on nearby heritage assets. There were a number of Grade I and Grade II-listed buildings in the vicinity. Wingham village was a typical medieval market town with a tight urban grain and buildings situated cheek by jowl. Wingham Court, a Grade II*-listed building, and its immediate environs were different, reflecting its historic use as a collegiate site, with high status buildings in generous grounds. It was a secluded site which was not publicly accessible, and was characterised by the use of materials such as red brick, Kent peg tiles and steeply pitched roofs.

The Committee was advised that the applicant had submitted images which sought to convey the impact of the development on the wider area, particularly views from Adisham Road. Two letters of objection had been received prior to the last Committee meeting raising issues such as road safety, intensity of development, historical importance of the site, conflict with existing traffic, hazardous nature of the access and the inappropriateness of three-storey buildings. Two further letters of

objection had been handed over at the site visit raising concerns regarding over-development, removal of trees, recent traffic incidents, road safety, impact on wildlife and urbanisation.

Two letters of support had also been received, stating that there was no evidence of a breach to the School Lane wall, that views of the church would not be impeded and that the modern design would sit comfortably within its surroundings. They also questioned the reason for refusal relating to pedestrian access, arguing that there was a network of footpaths giving pedestrian access to Wingham. Incognito, the company that would provide services at the development, had also submitted a letter. A letter from the applicant's agent had been circulated to Members.

The Principal Planner summarised that the development was within the confines and, as such, was acceptable in principle. It would contribute to the Council's 5-year housing land supply deficit and provide much needed housing for older people. A number of issues were considered acceptable, including living conditions, highways, flooding, surface water disposal, ecology impact and developer contributions. However, the Committee was advised that, although the development would bring about social and economic benefits, it was considered that these would not outweigh the harm caused to the significance of heritage assets. The proposals would therefore conflict with the National Planning and Policy Framework (NPPF) and refusal was recommended. On this point, the Principal Planner read out a slightly amended reason for refusal to that included at I (i) of the report.

Councillor Gardner stated that the site visit panel had met the day before to look at how the design (including layout) would affect and impact upon heritage assets. Twenty members of the public, as well as the agent and applicant, had been present and had stated their views. After a full inspection of the site, the panel had concluded that the design and choice of materials of the proposed development would detract from nearby listed buildings and the Conservation Area. The panel had also had strong reservations regarding the layout of the proposed development, particularly the three-storey element and its positioning on one of the highest parts of the site, in close proximity to School Lane.

Councillor Gardner added that the buildings surrounding the site were predominantly red brick with Kent peg tiles. Although there was some weatherboarding already present on nearby buildings, the proposals sought to introduce a large amount which would appear incongruous. Imitation oast-house structures would also be out of character with the area. In addition, he was concerned at the loss of a number of old and well established trees fronting School Lane. He proposed that the application be refused for the reasons set out in the report, with an additional reason to cover the loss of trees. Councillor Butcher agreed with the points raised, adding that highway safety was also a concern. Councillor Ovenden welcomed the development in that it proposed high quality housing for older people. However, the design was not acceptable in its current form. The Chairman concurred, commenting that he believed the number of dwellings proposed was achievable, but a different approach to the design was required in order to achieve a development that was suitable for the site and its proximity to listed buildings.

RESOLVED: That Application No DOV/15/01100 be REFUSED on the following grounds: (i) The proposed development, by virtue of its scale, mass, layout, design and materials and the loss of tree cover, would, if permitted, result in a dominant, incongruous, unsympathetic and

poorly related form of development, out of keeping with the prevailing form of surrounding development, and would therefore be harmful to the character and appearance of the surrounding area, the setting of listed buildings, and the character and appearance of the Wingham Conservation Area, contrary to Government guidance contained within National Planning Policy Framework paragraphs 8, 14, 60, 64, 131, 132 and 134 and the provisions of Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990; and (ii) The development as proposed would fail to maximise walking, cycling and the use of public transport, contrary to paragraphs 49 of the National Planning Policy Framework and Policy DM11 of the Dover District Core Strategy.

60 APPLICATION NO DOV/16/00442 - THE THREE TUNS, THE STREET, STAPLE

The Committee was shown photographs, plans and a video clip of the application site. The Planning Delivery Manager (PDM) reported that amended plans had been circulated to Members, addressing concerns raised in the report. The application proposed the conversion of a Grade II-listed, 17th-century public house and the erection of 9 dwellings on a plot of land which lay partly within the village confines; the pub building and garden area being within the confines and the remainder being outside. Having consulted the Parish Council to establish what could be provided on the site for the benefit of the community, the applicant had agreed to provide a small car park. No further representations had been received since the report was issued.

The amended plans proposed an increase in tree cover and landscaping. The height of the two two-bedroomed houses would also be reduced, but the footprint of the public house conversion would remain the same. The last landlord had owned the pub from 2007 until late 2015 when the business – trading as a Bed and Breakfast – had gone into receivership. The pub had been marketed with Christies for a period of seventeen months, attracting sixteen viewings and three offers. The marketing exercise had been reviewed by an independent assessor who had found the exercise and asking price to be acceptable and therefore in compliance with Core Strategy Policy DM24. Officers considered that the building was no longer viable as a pub, and recommended that the change of use should be approved.

The Chairman questioned whether the amended plans, which included a reduction from two-storey to one-storey, constituted a substantial change and therefore required further public consultation. The PDM advised that he did not consider the changes to be material. Following further discussions with the Legal Officer, Officers advised that they considered that the changes did raise an issue of materiality and that, as such, they should be subject to further advertising/consultation. This view took into account the proximity of the proposed dwellings to a listed building. Furthermore, given that the revised plans had not been assessed by the Principal Heritage Officer, it was recommended that the application should be deferred to permit assessment.

RESOLVED: That Application No DOV/16/00442 be DEFERRED to allow the amended plans to be the subject of re-advertisement and public consultation.

61 PLANNING ENFORCEMENT

The PDM introduced the report which outlined the number of Planning enforcement cases outstanding and actions taken between April and August 2016.

Councillor Gardner welcomed the report but queried what had happened to the 600 cases which Members had been advised were outstanding in 2014. He recognised that some would have been resolved or written off but the reduction to only 61 cases was worrying. The PDM advised that the figures represented high-level enforcement cases and did not cover every ongoing case. For example, cases where ongoing negotiations were taking place to resolve breaches were not included in the statistics. Cases were also excluded if it was considered it was not in the public interest to pursue them or which, for various reasons, had to be abandoned. As Members were aware, there had been a significant backlog of cases which had been reviewed and restructured.

The Chairman commented that he favoured a short report comparing year-on-year figures and outlining what actions had been taken. He did not see the value in revisiting historic cases. Councillor Richardson agreed that regular reports of this nature should be provided, but argued that a one-off report covering historic cases might be helpful. Councillor J S Back added that he would like to see the Enforcement team taking a more robust stance when breaches had occurred.

In respect of training, the HRD advised that Officers were in the process of arranging Planning enforcement training for Members. However, before finalising the training programme, the outcome of the Scrutiny Committee meeting on 12 October was awaited as this topic was due to be considered, and the Committee's recommendations could affect the nature of the training provided.

- RESOLVED: (a) That the report be noted.
- (b) That an initial, in-depth report covering historic cases be provided to the Committee, followed by regular reports providing year-on-year statistics and outlining actions taken.

62 APPEALS AND INFORMAL HEARINGS

The HRD updated the Committee on the Farthingloe development. As the Committee was aware, the Campaign to Protect Rural England (CPRE) had gone to the High Court to have the Council's decision to grant planning permission for Farthingloe judicially reviewed. Whilst the Council had successfully defended its decision, the CPRE had been given permission to go to the Court of Appeal on one ground of appeal. The judgement had gone in favour of the CPRE, with the judge ruling that the reasons given by the Council for its decision were inadequate in relation to the NPPF. The Council was considering whether to apply to the Court of Appeal to have the ruling quashed. Further discussions would need to be held with the applicant regarding the planning application.

The Committee noted the update.

63 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 8.40 pm.