

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 26 January 2017 at 6.00 pm.

Present:

Chairman: Councillor F J W Scales

Councillors: B W Butcher  
J S Back  
T J Bartlett  
T A Bond  
D G Cronk  
B Gardner  
D P Murphy  
G Rapley (Minute Nos 102-118 only)  
P M Wallace

Officers: Team Leader (Development Management)  
Team Leader (Development Management)  
Principal Planner  
Principal Planner  
Senior Planner  
Planning Officer  
Planning Consultant  
Planning Consultant  
Planning Consultant  
Planning Delivery Manager  
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/16/01120	Mrs Kim Gower	Mrs Jane Hussein
DOV/16/01099	Mr Bob Edden	-----
DOV/16/01132	Mr Jeremy Saynor	Mr John Boag
DOV/16/00044	Mr Jon Bradburn	Mr Michael Matthews
DOV/16/00524	Mr Sean McNamara	Mr Jon Bradburn
CON/10/01010MM	Mr Philip Jeans	-----
DOV/16/01038	Mr Nigel Brown	Mrs Donna Foster
DOV/16/00800	Mr Huw Evans	Mr Graham Foat
	Mr Alan Noake	Councillor Sue Chandler

102 APOLOGIES

It was noted that an apology for absence had been received from Councillor A F Richardson.

103 CHAIRMAN'S ANNOUNCEMENT

The Chairman warned members of the public that the Committee would take a vote at 10.00pm to decide whether to continue with the remaining business

on the agenda. This meant that there was a possibility that not all the applications on the agenda would be determined that evening.

104 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor G Rapley had been appointed as a substitute for Councillor A F Richardson.

105 DECLARATIONS OF INTEREST

Councillor G Rapley declared an Other Significant Interest in respect of Agenda Item 10 (Application No DOV/16/01176 – Land opposite Walmer Castle, Kingsdown Road, Walmer) by reason that she did voluntary work for English Heritage.

106 MINUTES

The Minutes of the meeting held on 15 December 2016 were approved as a correct record and signed by the Chairman.

107 ITEMS DEFERRED

The Chairman advised that both items listed remained deferred.

108 APPLICATION NO DOV/16/1120 - COXHILL FARM, COXHILL, SHEPHERDSWELL

The Committee viewed plans and photographs of the application site. As an update, the Senior Planner advised that a further e-mail had been received stating that an engine-tuning business was occupying the premises. Concerns had also been raised about a unit which was not the subject of this application. Both matters were being investigated by Planning Enforcement. Neighbours had raised concerns about noise and disturbance caused by the proposed Class B1 use. However, Members were referred to paragraph 3.6 of the report which set out that a B1 use was one which could be carried out in a residential area providing there was no detriment to the area caused by noise, ash, fumes, etc. The Senior Planner advised that the applicant would be prepared to relocate an internal gate to prevent traffic moving through the site. Appropriate conditions would be attached. The proposal was in accordance with Policy DM4 of the Council's Core Strategy and the National Planning Policy Framework (NPPF), and approval was therefore recommended.

Councillor P M Wallace stated that he was minded to approve the application, providing there was certainty that the B2 use had genuinely ceased, and future activities were kept to a light level. The Chairman commented that it appeared that Planning Enforcement had been effective in restricting activities at the site, working with the owner who had been cooperative.

RESOLVED: (a) That Application No DOV/16/01120 be APPROVED subject to the following conditions:

- (i) Standard Time Limit;
  - (ii) Development to be carried out in accordance with the approved details;
  - (iii) Times of operation to be restricted between 08.00 and 18.00 hrs Monday-Saturday; no operations permitted on Sundays and Bank Holidays;
  - (iv) Details of parking/turning arrangements (which will involve the removal/relocation of the container);
  - (v) Restricted to a Class B1 use;
  - (vi) Controls over lighting.
- (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.

109 APPLICATION NO DOV/16/00620 - POPPYLAND, NORMAN ROAD, ST MARGARET'S BAY

The Committee was shown plans and photographs of the application site. The Planning Officer advised that the application site lay on the eastern side of Norman Road and comprised a chalet bungalow and detached garage. The area was wholly residential in character, with largely two-storey, detached properties. Members were referred to section d) of the report which set out issues relating to the refusal of a previous application and the subsequent dismissal at appeal.

The proposal sought permission to carry out works to the dwelling-house and to convert the garage in order to provide a kitchenette, bedroom and shower-room. Works to the main house included the addition of a side dormer roof extension, a Juliette-style balcony and a large skylight. These works were considered acceptable in terms of overlooking. The garage would be used as ancillary residential accommodation to the main dwelling, and there would be no division of the plot. The garage doors would be retained so the garage's appearance in the street scene would remain unchanged. A condition would be attached to control the use of the garage as ancillary accommodation.

In response to concerns raised by several Members, the Chairman advised that the previous refusal had been on the grounds that, amongst other things, the plot would be sub-divided to create a separate dwelling-house. He reminded the Committee that conditions had to pass six tests and be

reasonable; restricting permitted development rights might be considered as unreasonable. The Planning Officer advised that the proposed condition restricting the use to ancillary accommodation should be sufficient. Any use as a holiday let would be subject to enforcement action. He stressed that the Committee was required to judge the application on its merits. Given the level of local concern, he was confident that any breach of planning permission (for example, lots of vehicle movements indicating holiday use) would be picked up quickly by neighbours. The Planning Lawyer added that, in this instance, the sub-division of the plot, or indeed use as a holiday let, would require the submission of separate planning applications.

RESOLVED: (a) That Application No DOV/16/00620 be APPROVED subject to the following conditions:

- (i) Full time;
  - (ii) Approved plans;
  - (iii) Restrict to ancillary accommodation to Poppyland.
- (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.

110 APPLICATION NO DOV/16/01099 - FORMER THREE HORSESHOES PUBLIC HOUSE, CHURCH HOUGHAM, DOVER

Members viewed plans and photographs of the application site which was located at the end of Parsonage Farm Road, on the north-eastern fringe of Church Hougham. The site now hosted a small timber barn, but had previously contained a public house and two cottages which had been destroyed during the Second World War. This was before the Planning system came into existence in 1948, and the site was therefore now classified as greenfield land. It was a prominent site in the area, surrounded by fields and in an Area of Outstanding Natural Beauty (AONB).

The Planning Officer advised that the application sought permission to erect a two-storey, two-bedroomed house with two/three car parking spaces at the front, with access onto Parsonage Farm Road. Section d) of the report provided details of a previous application for a considerably smaller bungalow in a similar location. That application had been refused. A further e-mail (circulated to Members) had been received from the applicants setting out the background to their application, and particularly their need to be close to the stables.

In policy terms, the application was contrary to Policy CP1 of the Council's Core Strategy. Church Hougham was classified as a hamlet and therefore unsuitable for development. Furthermore, the application site was outside

the rural settlement confines and therefore contrary to Policy DM1 of the Core Strategy. Given that the Council lacked a five-year housing land supply, paragraphs 2.6, 2.7 and 2.8 of the report set out the issues to be considered when assessing the application against paragraph 55 of the NPPF which was relevant in this case. The site's location in the AONB was particularly pertinent and made it subject to Policies DM15 and 16 which were designed to protect the character and visual amenity of the countryside and the AONB.

Whilst the proposal was acceptable (with conditions) in respect of highways and parking, it would generate travel and was therefore contrary to Policy DM11. The site was in an isolated location with no significant facilities, surrounded by narrow lanes with no footpaths. The proposal would therefore increase the number of private car journeys in a countryside location, thus putting pressure on the rural road network. Officers considered that the proposal was an unsustainable form of development, being visually intrusive in the landscape and harmful to the AONB. For these reasons, it was recommended that the application be refused.

The Chairman advised that he wished to speak as the ward Member, making it clear that he was still undecided on the application. The site was in an AONB and should technically be refused, unless it could be demonstrated that no harm would be caused to the AONB or that there were special circumstances. The appearance of the area had changed in recent years, with surrounding land having been sold off, sub-divided and stables built. He supported the Parish Council's views that the proposal was sustainable when viewed against the fact that it would be the first dwelling built in Church Hougham for approximately 35 years. He emphasised the difference between West Hougham and Church Hougham, the latter being on the bus route and having several facilities such as a pub, restaurant and garage. He suggested that a site visit would be helpful.

The Planning Officer clarified that the site was not classed as brownfield land. Planning legislation had come into force on 1 July 1948, and any uses not present on the site at that time would have been regarded as defunct. Although there was evidence of rubble and foundations, the site had been abandoned prior to 1948. He emphasised that the site, being in an AONB, enjoyed the highest level of protection, and that planning permission, if granted, would be attached to the land and not the occupier. The Planning Lawyer added that the refusal and reasons for refusal of the previous application were material considerations in this case.

Councillor T A Bond commented that the aerial view of the site indicated an untidy surrounding area. Whilst the Committee was required to apply Planning policies and legislation to this case, common sense indicated that the area was far from being one of outstanding natural beauty. For this reason, he would support a site visit. Councillor Wallace queried the grounds for approving the application when it was contrary to the NPPF and the Council's Core Strategy. The Chairman agreed that the Committee should be guided by Planning legislation. However, common sense could

not always be left aside and a site visit would allow Members to assess the application against recent developments in the same area.

RESOLVED: That, notwithstanding the Officer's recommendation, Application No DOV/16/01099 be DEFERRED for a site visit to be held on Monday, 20 February 2017 to allow Members to assess the impact of the application, if approved, on the setting and character of the Area of Outstanding Natural Beauty, and Councillors J S Back, D G Cronk, B Gardner, D P Murphy and A F Richardson (reserve: Councillor T A Bond) be appointed to visit the site.

111     APPLICATION NO DOV/16/00866 - TOWNSEND PADDOCK, TOWNSEND FARM ROAD, ST MARGARET'S-AT-CLIFFE

The Committee viewed plans, drawings and photographs of the application site. The Planning Officer advised that corrections were required to the report. Firstly, the application was for the erection of six dwellings rather than six detached dwellings. Secondly, it was necessary to split condition (viii) into two, restricting the installation of windows in roofs and elevations to Plots 1, 3 and 6, and removing permitted development rights in respect of outbuildings and extensions for Plots 1, 4 and 5. The former was designed to safeguard residential amenity and the latter to protect the setting of, and views through to, St Margaret's Church, a Grade I-listed building.

The application site was currently laid to grass, with trees along the south-western boundary. The land was gently sloping upwards from the Townsend Farm Road frontage, with a steeper, raised area to the rear of the site. The site was bounded on the north, east and south by bungalows and two-storey houses. To the west was open countryside which fell within the AONB.

Since the site had been designated as suitable for development under Policy LA43 in the Council's Land Allocations Local Plan (LALP), there were no objections in principle to the development of the site. However, a previous application for the erection of seven dwellings had been refused due to concerns over the scale, bulk and massing of the dwellings, the regimented layout and the effect it would have on the church, and the loss of privacy to the occupiers of the bungalows on Townsend Farm Road. The new scheme had removed one unit which now provided a more spacious and less regimented layout. Bulk and massing had been reduced and there was now a better transition between the neighbouring bungalows and the development. The new layout also preserved views through to the church. The impact on the AONB had also been lessened by reducing the bulk and height of the dwellings at the front of the site and removing the hard surfacing.

In summary, there were now no concerns regarding overlooking or the loss of privacy or amenity of adjoining properties. The internal layout had been improved, providing acceptable amenity space and preserving views of the church. Access and parking provision met the recognised standards. The

trees on the south-western boundary would be retained and protected by condition during construction. There were no protected species on the site, and archaeology and groundwater would be dealt with by conditions.

Some Members requested that a condition be attached governing the standard of the roadway which should be built to an adoptable standard. The Chairman suggested that the condition should be delegated to Officers (in consultation with him), and cover the standard of the road up to the final finished surface.

RESOLVED: (a) That Application No DOV/16/00866 be APPROVED subject to the following conditions:

- (i) Commencement within 3 years;
  - (ii) Carried out in accordance with approved drawings;
  - (iii) Sample materials;
  - (iv) Land levels;
  - (v) Hard and soft landscaping scheme;
  - (vi) Provision and retention of car parking;
  - (vii) Provision of cycle parking;
  - (viii) Archaeological field evaluation;
  - (ix) Street-lighting details;
  - (x) Removal of permitted development rights to Plots 1, 3 and 6 relating to windows in roofs and elevations in order to safeguard residential amenity;
  - (xi) Removal of permitted development rights to Plots 1, 4 and 5 relating to outbuildings and extensions to protect the setting of, and views through to, the Grade I-listed church.
  - (xii) Implementation of ecological enhancements;
  - (xiii) Standard of road (wording to be delegated to Officers in consultation with the Chairman of Planning Committee).
- (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.

112     APPLICATION NO DOV/16/01176 - LAND OPPOSITE WALMER CASTLE, KINGSDOWN ROAD, WALMER, DEAL

The Committee was shown drawings and photographs of the application site. The Planning Consultant advised that the application related to the installation of a charging machine and signage at an existing car park owned by English Heritage (EH). Since the original application had been submitted, the signage had been moved to the side of the machine to improve visual amenity.

Councillors J S Back and D P Murphy raised concerns at the lack of consultation undertaken by EH and the fact that there were no plans to resurface the car park which was in a very poor state. Councillor Wallace expressed particular concerns regarding the lack of consultation with disabled users. The Chairman clarified that the application had gone through the 28-day consultation period required by Planning legislation. Members were reminded that the machine and car park would be managed by EH and any concerns should be raised directly with them. The management of the machine and charging policy were not relevant to the determination of the planning application. The Committee was solely required to consider whether the machine and signage should be sited as proposed.

Councillor Bond questioned the visual impact of installing a 1.8-metre machine and signage in a beach area. In his view, these would have a detrimental effect on the foreshore. The Committee had struggled with a planning application to install tables and chairs in a similar location along the road, and he did not see why this application should be considered differently.

RESOLVED: That, notwithstanding the Officer's recommendation, Application No DOV/16/01176 be REFUSED on the grounds that it would be harmful to the visual amenity and character of the area.

(Councillor G Rapley withdrew from the Chamber during consideration of this application.)

113     APPLICATION NO DOV/16/01132 - 8 RIVERDALE, RIVER, DOVER

Members were shown plans and photographs of the application site. The Planning Consultant advised that the proposal sought permission for the erection of a close-boarded fence between properties at 8 and 9 Riverdale. The proposed enclosure would exceed 2 metres in height above the natural land level of the property at 9 Riverdale and therefore required planning permission.

Councillor Bond understood the applicant's wish to keep her children safe, but queried why it was not therefore proposed to enclose the front of the



garden as well. The proposed fence would certainly cast a shadow over the front patio area of no. 9. The Chairman agreed that the presence of the fence so close to no. 9's boundary would increase overbearing and dominance. The Planning Consultant clarified that the orientation of the neighbours' patio was such that the residents could enjoy sunshine from 1.00 pm onwards. This would be reduced in the late afternoon by the new structure. The land levels of the site flowed naturally downwards. The applicant was entitled to erect a 2-metre high fence above natural ground level without planning permission under permitted development rights. Such a structure would have a more detrimental effect on the neighbouring property.

The Chairman commented that, whilst he understood the occupants of no. 9 would not be happy with the outcome, the proposed fence would be preferable to that which could be erected by the applicant under permitted development rights.

RESOLVED: (a) That Application No DOV/16/01132 be APPROVED subject to the following conditions:

- (i) Standard time limit;
  - (ii) In accordance with approved plans;
  - (iii) Treatment of the fence with natural staining.
- (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.

114     APPLICATION NO DOV/16/01143 - 5 BEECH TREE AVENUE, SHOLDEN

The Committee was shown drawings and photographs of the application site. The Planning Consultant advised that the proposal sought permission for the installation of a timber garage door and the erection of a verandah. Local residents had raised a number of concerns relating to disturbance caused by late-night parties at the property, arguing that the proposed verandah would lead to more disturbance. Whilst the use of the verandah could not be controlled, he understood that the new occupants would be an elderly couple. A number of applications for the installation of timber garage doors on the estate had been approved. However, an application to install metal doors at 6 Beech Tree Avenue had been refused and upheld at appeal.

Councillor Back questioned why a condition originally imposed to make the application acceptable was now being ignored. Councillor B Gardner queried why Kent County Council (KCC) Highways had requested the condition originally, but now considered it no longer necessary. Councillor Bond expressed disappointment that other applications to install garage doors had not come before the Committee, given the emphasis that had been put on the condition at the time planning permission was granted.

Permitting the installation of doors would affect the street scene and he could not support the application.

In response to Councillor D G Cronk, the Chairman advised that the condition had been changed as a result of individual applications from householders seeking to remove the condition from their properties. These applications had not attracted objections and had therefore been approved by Officers using delegated powers. A precedent had not been set and applications should be judged on their individual merits. Whilst it was correct that KCC Highways had requested that the condition be imposed, it had subsequently removed the objection, advising that the condition was no longer needed. With so many changes to conditions, it was simply not practicable to bring every one back to the Committee for determination.

RESOLVED: That, notwithstanding the Officer's recommendation, Application No DOV/16/01143 be REFUSED on the ground that it would be detrimental and harmful to the street scene.

115     ADJOURNMENT OF MEETING

The meeting was adjourned at 8.30pm for a short break and reconvened at 8.36pm.

116     APPLICATION NO DOV/16/00044 - LAND AT RICHBOROUGH, RAMSGATE ROAD, SANDWICH

The Committee viewed plans, drawings and photographs of the application site. The Planning Consultant advised Members that this was the first of two applications to be considered at the meeting. It was important that each application was considered separately and on its own merits.

The application sought planning permission for the erection of a 322-metre telecommunications mast on a site which was approximately 1.5 kilometres west of the coastline and south of the site formerly used as Manston Airport. Sandwich lay to the south of the site, with Cliffsend, Ramsgate and Minster to the north. Also to the south was Richborough Roman Fort, a Grade I-listed building and scheduled monument. The location of the mast had been chosen in order to be as near as possible to the optimum line of sight to a corresponding mast in Belgium. The applicant claimed that this would facilitate faster data links between the financial markets in London and Europe.

The Committee was required to consider the merits of the proposed development. The proposal was considered acceptable in respect of highways, transport, drainage and any health impact. However, a 322-metre mast would appear very prominent in the landscape. The applicant had submitted a landscape and visual impact assessment. Nevertheless, it was the view of Officers and KCC that the significance of the effect on the landscape had been understated by the applicant. In their view the proposed mast would have significant landscape and visual impacts, including on the Ash Levels, Richborough Roman Fort, Sandwich and Pegwell Bays and the

Saxon Shore Way, as well as from residential properties and the viewing platform of St Peter's Church in Sandwich.

Members were advised that the Planning (Listed Buildings and Conservation Areas) Act 1990 required the Local Planning Authority (LPA) to give special regard to the desirability of preserving heritage assets. In accordance with the NPPF, any harm identified had to be weighed against the public benefits of the proposed development.

Historic England (HE) had provided clear advice that the development would have a significant impact on the heritage significance of Richborough Roman Fort. KCC's Archaeology Officer had also concluded that the mast would be harmful to the significance of Richborough Roman Fort. The Council's Heritage Officer had raised concerns regarding the impact of the development on views from the viewing platform of St Peter's Church in Sandwich, a Grade I-listed building.

In respect of the former Manston Airport site, the applicant had asserted that the proposed development would not render the site unusable as an airport. Thanet District Council had recently published a consultation on a revision to its Preferred Options for its emerging Local Plan which had removed any need to safeguard an aviation capability at the site. However, objections had been received from Riveroak Investment Corp. The Civil Aviation Authority had advised that the mast would have a degree of impact on any potential future operations, but that such impacts would not render future use impossible.

The applicant had advised that the proposed development would assist with the growth of the financial technology sector. However, the economic benefits were still described by the applicant as being minor. The provision and actual benefit of broadband and radio facilities for local households was unknown and, as such, carried limited weight. A financial contribution towards enhancing the Saxon Shore Way was considered minor at best, and a contribution towards Richborough Roman Fort would not mitigate or outweigh the impact of the mast. Other offers put forward by the applicant were not necessary to make it acceptable and did not satisfy the Community Infrastructure Levy (CIL) Regulations. For example, the Employment, Community and Heritage Benefit Fund did not meet the CIL Regulations and carried no weight in favour of the proposal. In summary, the benefits of the development did not outweigh the harm that would be caused.

The applicant had made a commitment to sharing its mast. However, given that the NPPF required that the number of masts should be kept to a minimum, it was recommended that the application should also be refused on this ground.

Since the report was written, further objections had been received from local residents commenting, amongst other things, that high frequency trading was soon to be obsolete and highlighting the potential harm to public health. A letter of objection had also been received from the applicant of the other

telecommunications mast application referring to various matters, including ecological impact, removal of vegetation, impact on public rights of way, conflict with the Richborough Connection Project, the width of the access route, gifts that were not CIL-compliant, the unjustified height of the mast and offers to share being subject to unacceptable constraints.

Commenting on these issues, Officers advised that a Construction, Environmental and Transport Management Plan could be secured by condition. KCC Highways had no objections to the mast. The impact of the proposal on the Saxon Shore Way public right of way had been noted, and the weight to be placed on the offer of contributions was addressed in the report. The height of the mast had been considered on its merits, on the basis of the scheme put forward by the applicant. Finally, an additional reason for refusal was now recommended relating to ecology.

Referring to a remark made by the public speaker, the Planning Consultant clarified that the mast would be a permanent structure and the application had referred to it as such. Even if the mast were to have only a 20-year life span, as suggested by the speaker, the recommendation to the Committee would remain the same.

To summarise, Officers recommended that the application should be refused due to: (i) its impact on heritage, landscape and visual appearance; (ii) current objections from the National Grid; (iii) harm from the proliferation of two masts; and (iv) the absence of sufficient ecological assessment.

Councillor B W Butcher advised that the application site fell within his ward. In his view, the proposal would be unsightly and was in the wrong location. Although situated within an industrial area, much of the existing industrial activity was kept within the curtilages of individual businesses. The proposal could not be compared to Richborough Power Station since that had provided employment and energy – significant public benefits. He supported the reopening of Manston Airport and understood that the proposal would have an impact on aircraft navigation. Given the lack of local benefits and the effect on the setting of Richborough Roman Fort, he was strongly against the proposal. Councillor Gardner agreed, stating that the proposal would bring no proven benefits to the local community - such as increased mobile and broadband coverage - yet the community would have to suffer views of the mast.

Councillor Wallace commented that the fact that there were different companies jostling to site a mast in the area led him to believe that there was a significant commercial need for the mast. It was also relevant that they had made significant offers to the local community. He was more in favour of the proposal than against, but wanted to understand better its potential national importance and whether there was an alternative site within the District that Officers would find acceptable for the mast.

The Chairman advised that the offers made by the developer to the local community were not compliant with CIL Regulations and, in any case, would

not mitigate the harm caused to heritage assets. He understood that the mast would provide a small benefit in speeding up data links, but the case for how this would help the national economy (to outweigh the identified harm) had not been made by the applicant. Conversely, the significant harm that would be caused to heritage assets and the landscape was very clear.

The Planning Consultant clarified that the national economic benefits set out in the report had been taken from the applicant's economic statement which described them as minor. He reminded the Committee that it was the public benefits that must be considered and not any private benefits. Whilst the applicant's contributions towards Richborough Roman Fort were capable of being CIL compliant, these would not overcome the harm caused so as to make the proposal acceptable.

RESOLVED: That Application No DOV/16/00044 be REFUSED for the following reasons:

- (a) The proposed mast, by reason of its height and general scale, located within the setting of Richborough Fort Scheduled Monument and Richborough Castle, a Grade I-listed building, and its impact on the interrelationship between St Peter's Church in Sandwich and the Church of St Mary in Minster (both Grade I-listed), would be materially harmful to the significance of the setting of these heritage assets which are of the highest importance. In this, regard is had to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that special regard is to be had to the desirability of preserving the setting of a listed building. The proposed development is contrary to Section 12 of the National Planning Policy Framework, including paragraphs 131, 132 and 134. The harm in relation to these heritage assets is considered to be less than substantial with regard to paragraph 134 of the NPPF, but this harm is not outweighed by the public benefits of the proposal.
- (b) The impact of the proposed mast would significantly adversely affect and be harmful to the landscape character including the Ash Levels, Richborough Marshes, Richborough Fort and Sandwich Bay and, from particular representative viewpoints and receptors, including the Saxon Shore Way, Richborough Fort, residential properties and other public rights of way, there would be further significant adverse effects and harm. Accordingly, the proposed development is contrary to Policy DM16 of the Dover District Core Strategy (adopted February 2010), Saved Policy CO5 of the Dover District Local Plan (adopted 2002), and the National Planning Policy Framework, including paragraphs 109, 113 and 114, as well as the core planning principles at paragraph 17.

- (c) In the absence of agreement from National Grid that the proposed mast would not unacceptably impact access routes required for the construction of the Richborough Connection Project (a proposed nationally important infrastructure development of overhead electricity lines), it cannot be concluded that the mast would not prejudice the delivery of that development. As such, the access arrangements of the mast development are contrary to Policies CP6 and DM12 of the Dover District Core Strategy and paragraph 32 of the National Planning Policy Framework.
- (d) In the absence of (i) an appropriate baseline (Phase 1) ecological assessment of the whole of the application site, and (ii) a suitable species-specific assessment of any effects on water voles, it cannot be concluded that the proposed development, including temporary access routes, would have an acceptable impact on the ecology and biodiversity of the site and wider area. Accordingly, the proposed development is contrary to Policy DM15 of the Dover District Core Strategy and the National Planning Policy Framework, including paragraphs 109, 113, 114 and 118, as well as the core planning principles at paragraph 17.
- (e) Together, the proposed mast and that proposed under application DOV/16/00524, would result in materially greater adverse impacts on the heritage significance, landscape character and appearance of the area. Such a proliferation of structures, especially as each applicant considers that their mast is capable of accommodating the other's equipment, is contrary to paragraph 43 of the National Planning Policy Framework which requires that the number of telecommunications masts and the sites for such installations be kept to a minimum, as consistent with the operation of the network. However, when considered by itself, on its own merits (for the reasons set out at (a), (b), (c) and (d) above, the proposed mast is not acceptable in planning terms.

117      APPLICATION NO DOV/16/00524 - LAND TO THE NORTH OF KINGS END FARM, RICHBOROUGH, SANDWICH

Members were shown plans, drawings and photographs of the application site. The Planning Consultant advised that the application sought planning permission for the erection of a 305-metre telecommunications mast on land north of Kings End Farm. The site was approximately 1 kilometre north of Richborough, to the south of the River Stour and approximately 3 kilometres

west of the coastline. Minster, Cliffsend and Minster were to the north, and Sandwich to the south.

As with the previous application, the site had been chosen by the applicant because it was within the optimum line of sight to a corresponding mast in Belgium. Alternative locations had been considered, such as Swingate and Hougham, but these were too far from the geodesic line. The applicant had advised that the mast would provide faster data links between financial markets in London and Europe.

The Committee was required to consider the merits of the proposed development. The application was considered acceptable in terms of highways, drainage, flood risk and ecology. The applicant had submitted a landscape and visual impact assessment. Comments received from consultees indicated that there would be significant impacts to the landscape and visual amenity of the area, affecting the Ash Levels, Richborough Roman Fort, Pegwell Bay, public rights of way, residential properties and views from the viewing platform of St Peter's Church in Sandwich.

Members were advised that the Planning (Listing Buildings and Conservation Areas) Act 1990 required the LPA to give special regard to the desirability of preserving heritage assets. In accordance with the NPPF, any harm identified had to be weighed against the public benefits of the proposed development. In this respect, HE had provided clear advice that the development would have a significant impact on the heritage significance of Richborough Roman Fort. KCC's Archaeology Officer had also concluded that the mast would be harmful to the significance of Richborough Roman Fort. In addition, the Council's Heritage Officer had raised concerns relating to the impact of the development on views from the viewing platform of St Peter's Church in Sandwich, a Grade I-listed building.

Objections had been received from Riveroak Investment Corp in respect of the impact of the development on any future use of Manston as an airport. The CAA had advised that the mast would have a degree of impact on any potential future operations, but such impacts would not render any future use impossible. Moreover, Thanet District Council had recently published a consultation on a revision to its Preferred Options for its emerging Local Plan which had removed any need to safeguard an aviation capability at Manston.

A letter from the applicant dated 23 January 2017 reaffirmed its commitment to including a deconstruction clause should the mast prejudice any future aircraft operations at Manston.

The applicant had stated that the mast would bring benefits in that it would assist in the growth of the financial technology sector. However, on the applicant's own assessment, these were identified as being no more than minor in nature. The applicant estimated that 90 direct or indirect jobs would be created during the construction phase and 2 or 3 jobs during the operational phase. Officers considered that this would not increase the economic benefits beyond being minor.

To seek to mitigate the impacts of the development, the applicant had offered a financial contribution of £100,000 towards facilities at Richborough Roman Fort, as well as camera surveillance and video footage. The applicant had also offered to prepare a strategy to support appropriate local training initiatives with local education providers in order to enhance skills and knowledge relating to technology, communications and engineering. The applicant proposed to set up a Community Interest Company which would allocate not less than £100,000 per annum to local community groups. Finally, the applicant had also made a commitment to mast sharing, including with local radio, broadband suppliers and other third parties. These offers were set out by the applicant in a draft Heads of Terms document. However, as addressed in the report, many of the obligations offered did not meet the requirements of the CIL Regulations in that they were not necessary to make the development acceptable. In summary, the benefits of the development did not outweigh the harm that would be caused.

Whilst the applicant had made a commitment to sharing its mast, two masts were still proposed. Given that the NPPF required the number of masts to be kept to a minimum, it was recommended that the application also be refused on this ground.

A further letter of objection had been received referring to construction traffic and visual appearance. It was noted that Worth Parish Council had expressed support for the scheme.

To summarise, it was recommended that the application should be refused due to its impacts on heritage, landscape and visual appearance, and the harm caused by the proliferation of two masts.

Councillor Butcher reiterated his concerns that the mast would be unsightly, bring limited public benefits, detrimentally affect heritage assets and potentially have an impact on the future use of Manston as an airport. Councillor Gardner agreed that some of the reasons for refusing the preceding application applied to this one. He recognised the applicant's offer of setting up a Community Interest Company, but this could not be taken into account as it did not comply with CIL Regulations. The Chairman reiterated that planning obligations should only be sought where they were necessary to make the proposal acceptable in planning terms. This provision in the NPPF guarded against planning permission being 'bought' by developers. Councillor Wallace welcomed the application but recognised that the benefits of the proposal were not significant.

The Planning Consultant clarified that, to meet the technological needs of the applicants, any mast would need to be within the optimum line of sight of the corresponding mast in Belgium. The mast was required to be within 1 kilometre either side of the line of sight, and as close to the coastline as possible. The further away from the coastline, the higher the mast would need to be.



RESOLVED: That Application No DOV/16/00524 be REFUSED on the following grounds:

- (a) The proposed mast, by reason of its height and general scale, located within the setting of Richborough Fort Scheduled Monument and Richborough Castle, a Grade I-listed building, and its impact on the interrelationship between St Peter's Church in Sandwich and the Church of St Mary in Minster (both Grade I-listed), would be materially harmful to the significance of the setting of these heritage assets which are of the highest importance. In this, regard is had to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that special regard is to be had to the desirability of preserving the setting of a listed building. The proposed development is contrary to Section 12 of the National Planning Policy Framework, including paragraphs 131, 132 and 134. The harm in relation to these heritage assets is considered to be less than substantial with regard to paragraph 134 of the NPPF, but this harm is not outweighed by the public benefits of the proposal.
- (b) The impact of the proposed mast would significantly adversely affect and be harmful to the landscape character including the Ash Levels and Richborough Castle and, from particular representative viewpoints and receptors, including Richborough Fort, residential properties and public rights of way, there would be further significant adverse effects and harm. Accordingly, the proposed development is contrary to Policy DM16 of the Dover District Core Strategy (adopted February 2010), Saved Policy CO5 of the Dover District Local Plan (adopted 2002), and the National Planning Policy Framework, including paragraphs 109, 113 and 114, as well as the core planning principles at paragraph 17.
- (c) Together, the proposed mast and that proposed under application DOV/16/00044, would result in materially greater adverse impacts on the heritage significance, landscape character and appearance of the area. Such a proliferation of structures, especially as each applicant considers that their mast is capable of accommodating the other's equipment, is contrary to paragraph 43 of the National Planning Policy Framework which requires that the number of telecommunications masts and the sites for such installations be kept to a minimum, as consistent with the operation of the network. However, when considered by itself, on its own merits, for the reasons set out at (a) and (b) above, the proposed mast is not acceptable in planning terms.

118 EXTENSION OF MEETING

The Chairman advised the Committee that, in accordance with Council Procedure Rule 9, the Committee was required to pass a resolution to continue the meeting beyond 10.00pm.

RESOLVED: That the meeting should continue until 11.30pm or to the conclusion of the item being considered at that time, as appropriate.

119 CON/10/01010/MM - PHASE 1 OF WHITFIELD URBAN EXPANSION, WHITFIELD, DOVER

The Principal Planner advised that an appeal had been lodged by the applicant against non-determination. A public enquiry was due to be held later in the year and the Council was not therefore now in a position to make a decision on the submitted details. However, it needed to decide what position it would take at the enquiry, and this was the reason for bringing the report to the Committee.

Members were advised that Condition 51 attached to the original planning permission had been compliant with the NPPF. It had required details to be submitted on matters such as storage tanks, pumping stations, connection points, etc for the disposal of sewage and foul water on site. The developer had not previously sought to appeal the condition and it was lawful. However, all that had been submitted by the applicant was a drainage strategy containing insufficient details. Officers had therefore considered that the details submitted were not acceptable to discharge the condition.

The Principal Planner advised that the Whitfield Urban Expansion Supplementary Planning Document identified the need for foul water infrastructure for each phase of development at Whitfield, including at Light Hill. The applicant argued that it was Southern Water's responsibility to upgrade this infrastructure. However, Officers contested that this was a flawed interpretation of the relationship between the Water Industry Act and Planning legislation. Case law indicated that, whilst the developer had a right of connection to the public sewerage network, there was no obligation on Southern Water to improve the existing foul sewerage network on a timescale to suit the developer. Accordingly, the LPA had a key role to play in ensuring that new developments did not add to existing drainage problems.

The developer was seeking to argue these issues in the context of the current appeal. Members were advised that, procedurally, this was not the correct approach. If the developer considered that the condition was unnecessary, the proper approach would have been to submit an application under Section 73 of the Act. The application before Members was straightforward. The condition required the submission of details which had not been submitted, and the application could not therefore have been approved had the Council been in a position to do so.

Councillor Back stated that Southern Water had stated repeatedly over several years that there was inadequate capacity in the existing drainage network at Whitfield, yet nothing had been done about this. Moreover, he understood that the company had no plans to deal with infrastructure until 2020. The Chairman commented that the developer's appeal against non-determination was not the best way of resolving these wider issues.

RESOLVED: (a) That the Committee confirms that it would have refused to approve the details reserved by Condition 51 submitted under Application No DOV/10/01010/MM, had it been in a position to do so, for the reasons set out in the report.

(b) That powers be delegated to the Head of Regeneration and Development to settle the detailed wording of the case for the Local Planning Authority in line with the issues set out in the report and as resolved by the Planning Committee.

120      APPLICATION NO DOV/16/01038 - 43 DOLA AVENUE, DEAL

The Committee was shown drawings and photographs of the application site. The Principal Planner advised that the application was a Section 73 application for a variation of Condition 2 of planning permission DOV/15/00327. The changes which were the subject of the application related to eight semi-detached properties. It was the applicant's intention to reduce the side windows in size. The new dormer windows proposed at the rear of the properties would be 1.8 metres above floor level but comparable to those approved under the original scheme. The reason for this particular change was that during construction it had been discovered that the original design of the dormers provided insufficient headroom. Officers considered that these changes had no material impact and were therefore acceptable.

Members were reminded that a condition had been attached to the original scheme relating to the boundary wall between Dola Avenue and Foster Way. A fence rather than a brick wall had been constructed. Whilst the fence did not strictly adhere to the condition, it had been robustly built. A new condition could be attached requiring that the fence be retained in perpetuity.

Councillor Bond expressed surprise that the inadequacies of the original design of the dormers had only been identified during construction. The new dormers were a significant change from those granted planning permission and would alter the appearance of the houses. This would have an impact on residents of Foster Way. For this reason he could not support the application. Councillor Cronk agreed that the new windows would have an overbearing effect on nearby residents. The Chairman disagreed, arguing that there would be less glazing in the new windows, and he considered the alteration reasonable in that it was necessary to provide more headroom. The Principal Planner clarified that, whilst the reason for the change was not a material consideration, any impact arising from the change would be.

In respect of the brick wall, Councillor Gardner voiced serious concerns that it had not been built before construction commenced, as conditioned. Planning Enforcement should have spotted this and taken appropriate action. The Chairman advised that the wall/fence was not part of the application before Committee, although he noted that a condition relating to the boundary fence was included in the report. The Principal Planner advised that a further application for the change to the boundary wall could be considered. However, he suggested that the condition included in the report could be amended so as to ensure that the fence was replaced with a brick wall.

RESOLVED: That, notwithstanding the Officer's recommendation, Application No DOV/16/01038 be REFUSED on the grounds that the alterations to the dormer windows would: (i) be harmful to the character of the area; and (ii) have an overbearing effect on residents of Foster Way.

121     APPLICATION NO DOV/16/01049 - LAND OFF CHEQUER LANE, ASH

Members were shown photographs of the application site. As an update to the report the Principal Planner advised that KCC Highways had now provided the full wording for the conditions it had requested. In addition, a further representation had been received from a member of the public suggesting that the main access be relocated towards the north of the eastern boundary of the site.

The application sought outline planning permission for 90 dwellings on a site which had been allocated for development under Policy LA20 of the LALP. The principle of development on the site was therefore accepted, subject to the application meeting six criteria. The density of buildings would be reduced towards the peripheries of the site in order to minimise landscape impact. A landscape buffer would also be provided to the west of the site.

The two public footpaths running through and adjacent to the site would be upgraded. A second access onto Molland Lea had been removed following concerns raised by local residents. A second access for emergency use only would be provided to the north-east of the site, onto Chequer Lane, part of which would be widened to accommodate the development. The highways impact of the proposed development had been assessed in conjunction with the effects of the second Ash application, and was considered to be acceptable. Finally, the applicant had made a commitment to provide 30% affordable housing and had made an undertaking on all the financial contributions sought.

Councillor Bond commented that there were no grounds on which to refuse the application, given that the site had been allocated in the LALP. However, he had concerns over whether the existing infrastructure of Ash could cope with such a large influx of people. In response to Councillor Gardner, it was confirmed that the condition relating to affordable housing could be tightened

up to require the applicant to provide details of the siting and mix of housing, as well as the usual details such as layout and tenure.

The Principal Planner clarified for Councillor Bond that, at this stage, the applicant was not proposing any specific sewerage works. However, Southern Water had confirmed that the existing capacity was insufficient to meet the needs of the new development. A condition would therefore be attached to any planning permission and this could include off-site works. He also clarified that the settlement confines of Ash had been amended in order to include the site in the LALP. At the time of allocation it had been taken into account that the village had a wide range of facilities and could therefore sustain a relatively high level of development.

RESOLVED: (a) That, subject to the submission and agreement of a Section 106 Agreement to secure contributions, Application No DOV/16/01049 be APPROVED subject to the following conditions:

- (i) Outline time limits;
- (ii) Approved plans;
- (iii) Affordable housing scheme (including details of housing mix and siting);
- (iv) Previously unidentified contamination;
- (v) No infiltration of surface water other than that which is agreed;
- (vi) Construction Management Plan;
- (vii) Full details of surface water drainage, timetable for implementation and maintenance;
- (viii) Full details of both on-site and off-site foul drainage and timetable;
- (ix) Ecological mitigation and enhancements;
- (x) Lighting strategy;
- (xi) Full details of landscape buffer zones to northern and western boundaries;
- (xii) Full details of works to the Public Rights of Way (EE112 and EE113);

- (xiii) Full details of landscaping;
- (xiv) Details of boundary treatments;
- (xv) Archaeology;
- (xvi) Reserved matters to include sections through the application site and adjoining land, floor levels and thresholds, roof heights, samples of materials and street scenes;
- (xvii) Details of all off-site highway works and a timetable;
- (xviii) Completion of access road and emergency access;
- (xix) Provision of car parking;
- (xx) Provision of cycle parking;
- (xxi) Completion of certain highway works prior to first occupation of each dwelling;
- (xxii) Provision of visibility splays;
- (xxiii) Measure to prevent discharge of water onto the highway;
- (xxiv) Use of a bound surface material for first 5 metres of access road;
- (xxv) Completion of certain highway works which are to first be approved.

(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.

122 APPLICATION NO DOV/16/00800 - LAND OFF SANDWICH ROAD, ASH

The Committee viewed photographs of the application site. As an update to the report, the Principal Planner advised that three additional representations had been received supporting the application. Amongst other things, these made reference to the provision of a new building for the scout group, the need for housing and the development being sympathetic. One further letter

of objection had been received which raised matters regarding the harm to the character of the village, the highway network and GP surgery.

The application sought outline planning permission (with all matters reserved) for 104 dwellings on a site which lay to the south of the A257. The proposed layout meant that the properties would be well separated. A transport assessment had been submitted with the application, as had full details of pedestrian and cycle access. A bell-mouth junction would be provided in each direction, thus providing safe access. KCC Highways had raised no objections. The scheme incorporated a play area, circular walking path and open space. The applicant had indicated that 30% affordable housing would be provided on site and details of this had been provided. Financial contributions towards education and health provision, amongst others, would be made.

The Principal Planner advised that the Committee would need to make a balanced decision given that the site was outside the settlement confines of Ash and therefore contrary to Policy DM1 of the Core Strategy. Moreover, the development would lead to the loss of Best and Most Versatile (BMV) agricultural land, and have a detrimental impact on the character of Sandwich Road and Ash in general. However, it was considered that the benefits of the proposed development outweighed the negative aspects.

Councillor Butcher raised strong concerns about the proposed development which would have a serious visual impact on the countryside and an adverse impact on the village and its heritage. These factors made it contrary to Policies DM15 and DM16 of the Core Strategy. In his view the loss of BMV agricultural land was not acceptable. Whilst there was a bus service, residents were more likely to drive into the village centre. In addition, Southern Water had stated that the existing drainage network could not accommodate the needs of the new development. For these reasons, he proposed that the application should be refused. Councillor Back agreed and seconded his proposal.

Councillor Gardner stated that he was in favour of the proposal which offered the right amount of affordable housing and a replacement scout hut. Given that the District was short of housing and Sholden and Whitfield had already shouldered a lot of the housing burden, he argued that Ash should play its part. The Chairman commented that the scout hut was not CIL-compliant and should therefore be discounted as a material planning consideration. It should also be remembered that Whitfield and Sholden had been allocated for development in the Local Plan following a lengthy and comprehensive identification process. The site which was the subject of the application had not been allocated in the Local Plan. The latter should not be discarded simply because there was a shortage of housing in the District.

Councillor T J Bartlett recognised the need for more housing, but argued that Ash was not the right location for it, particularly when the site in question was outside the village confines. Ash had already offered three sites for development following extensive consultation. He was aware that recently-

built houses in Preston and Woodnesborough had been slow to sell, in contrast to schemes in Sholden and Whitfield. In his view, this indicated that there was more demand for houses in towns or edge-of-town locations than rural areas. The proposed scheme would have a devastating impact on the character and appearance of Ash and, in his opinion, was unsustainable.

Councillor Bond expressed concerns at the impact a 30% increase in population would have on the village's infrastructure. As it was, 30-40% of children in Deal were now forced to go to school outside the town due to insufficient capacity. The loss of agricultural land also concerned him.

RESOLVED: (a) That, notwithstanding the Officer's recommendation, Application No DOV/16/00800 be REFUSED on the following grounds: (i) That the proposed development is outside the settlement confines and therefore contrary to Policy DM1 of the Core Strategy, and is unsustainable, as defined by the National Planning Policy Framework; (ii) That the proposed development would lead to the loss of Best and Most Versatile Land; and (iii) Due to its scale and density, the proposed development would create unacceptable urbanisation of a rural village and cause unacceptable harm to the character and appearance of the area.

(b) That the precise wording of the reasons for refusal be delegated to the Head of Regeneration and Development.

## 123 APPEALS AND INFORMAL HEARINGS

The Planning Delivery Manager presented the report, advising that 44% of all appeals had been lost in 2016. Mr Kim Bennett of the Council's Planning Team (and also a Planning Inspector), had undertaken an analysis of some of the appeals upheld between July and September 2016 to identify whether the Council was out of step with the Planning Inspectorate. This report was also appended and concluded that, aside from a couple of cases where possibly too rigid a line had been taken, the Council was not out of step in its decision-making. Overall, Dover's success rate compared favourably with the rest of Kent and at a national level. Members were advised that the Government had recently informed LPAs of amendments to performance targets on appeals, and these would be reflected in the next report.

RESOLVED: That the report be noted.

## 124 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 11.41 pm.