

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 15 August 2019 at 6.00 pm.

Present:

Chairman: Councillor J S Back

Councillors: R S Walkden
D G Beaney
P M Brivio
S S Chandler
J P Haste
D P Murphy
O C de R Richardson
H M Williams

Also present: Councillor P D Jull

Officers: Principal Planner
Principal Planner
Planning Officer
Planning Officer
Planning Solicitor
Democratic Services Officer

The following persons were also present and spoke in connection with the applications indicated:

| <u>Application No</u> | <u>For</u> | <u>Against</u> |
|-----------------------|----------------|-----------------|
| DOV/18/01168 | Mr Pete Hadley | Mr David Harris |

25 APOLOGIES

It was noted that apologies for absence had been received from Councillors E A Biggs, T A Bond, J P J Burman and D G Cronk.

26 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors J P Haste, S S Chandler and P M Brivio had been appointed as substitute members for Councillors E A Biggs, T A Bond and J P J Burman respectively.

27 DECLARATIONS OF INTEREST

There were no declarations of interest.

28 MINUTES

The minutes of the meeting held on 18 July 2019 were approved as a correct record and signed by the Chairman.

29 ITEMS DEFERRED

The Chairman noted that the one deferred item would be considered at the meeting.

Members viewed drawings, plans and photographs of the application site. The Principal Planner explained the extent and scope of the proposals. Three representations had been received since the report was written: one reiterating objections to the application, one in support, and a third from the Wellington Parade Residents' Association which, amongst other things, contested that the existing property should not be judged solely as a nursing home when it had existed as a private residence for 81 years.

The Principal Planner referred to a legal opinion submitted by an objector which raised legal concerns about the report in respect of the setting of heritage assets, whether the former use of the site should be taken into account and whether the 'tilted balance' should be applied. Members had received a written Officer response to these matters prior to the meeting, essentially advising Members that they could lawfully reach a decision on the application based on its planning merits and the issues before them. A further response had been received from the objector which took issue with the Officer's written response in respect of continued concerns regarding highway issues and whether the 'tilted balance' should be applied.

The Principal Planner advised Members that, in Officers' judgement, the 'tilted balance' found in paragraph 11 of the National Planning Policy Framework (NPPF) should be applied as the 'most important policies for determining the application' were considered to be out-of-date due to inconsistency with the NPPF and in the context of recent case law. This was, in major part, due to the fact that Policy DM1 was considered to be out-of-date and many of the other important policies for the determination of the application were linked to this policy. Irrespective of that, however, Members were not precluded from reaching a contrary view to Officers on the application, which may be based on design and highway issues.

Officers had nothing further to add in respect of design issues other than what was in the report. With regard to highway issues, the Committee was referred to the written advice in that, even without reliance on the fall-back position, Officers and Kent County Council (KCC) Highways considered the development to be acceptable.

Councillor R S Walkden reported on the site visit held on 13 August which had been well attended. By a ratio of 3:2, Members had concluded that the proposal would be acceptable since it would have a lower profile and a similar footprint to the existing building, and due to the quality of detailing and materials to be used.

Councillor D P Murphy raised concerns about the design of the proposed development which, in his opinion, would be detrimental to the street scene. Councillor H M Williams agreed, adding that the proposed block of flats did not reflect the character of the area, as required by the NPPF, which comprised large family houses. Moreover, it was incorrect to describe the location as sustainable when it was poorly served by buses and the cycle path was unlit at night. Whilst the proposed design was good for an urban setting, in her view it was not appropriate for a seaside location.

The Chairman pointed out that the development was unlikely to generate any more traffic movements than the nursing home. In response to a point made about hardstanding and the amount of surface water run-off, Councillor S S Chandler

requested that any materials used for hardstanding should be porous. She stated that she had studied the various documents and representations made. The proposed building would be replacing something equally as high and substantial. The existing building's most recent use was as a nursing home, and it was this use that the Committee was required to compare the proposal with. In her view, there would have been a considerable number of traffic movements associated with the nursing home and the proposed development was unlikely to generate more. In any case, KCC Highways had advised that the proposal was acceptable. In respect of the roadway, this was private and its condition and use was a legal matter for the owners of the site and not a consideration for the Committee. A bus service was available and the nearby cycle-path added to the site's sustainability. There would be no impact on Walmer Castle as the building could not be seen from the castle. The development would bring benefits in that it would provide housing units which were needed. All of these factors considered, she proposed that the application should be approved.

RESOLVED: (a) That Application No DOV/18/01168 be APPROVED subject to the following conditions:

- (i) Standard time;
- (ii) Approved plans;
- (iii) Details of materials and architectural detailing such as ridge tiles, fascia board, etc;
- (iv) Parking and turning provision;
- (v) Cycle provision;
- (vi) Details of refuse and recycling;
- (vii) Details of landscaping scheme;
- (viii) Removal of existing trees to be carried out in accordance with ecological report;
- (ix) Ecological measures, including bat mitigation strategy to be carried out in accordance with ecological report;
- (x) Further details of surface water disposal and ongoing maintenance;
- (xi) Development to be carried out in accordance with construction management plan, to include pre-commencement photographic survey, wheel-washing, construction times and types of vehicles.

(b) That powers be delegated to the Head of Planning, Regeneration and Development to resolve any necessary planning conditions, in accordance with the issues set out in the report and as resolved by the Planning Committee.

Members were shown a map and photographs of the application property which was Grade II-listed and currently in use as offices. The Planning Officer advised that the application sought planning permission for a change of use to a single family dwelling. No external alterations were proposed and listed building consent for the internal alterations had already been granted.

In response to Councillor Walkden who queried whether it would be possible to impose a condition preventing it from becoming a House of Multiple Occupation (HMO), the Planning Officer advised that such a condition was likely to be considered unreasonable, and the imposition of such a condition could be difficult to defend at appeal. He did not think it was the applicant's intention to turn the building into an HMO, but a licence for this purpose would be required from the Council's Private Sector Housing department. To clarify, Members were advised that conditions must be assessed against the six tests found in paragraph 55 of the NPPF, namely they should be: (i) necessary (to make the application acceptable); (ii) relevant to planning; (iii) related to the application; (iv) precise; (v) enforceable; and (vi) reasonable in all other respects. Conditions must meet all six tests and, given that an extant planning permission for the property would allow use as an HMO, and in the absence of any evidence or policy support to suggest that such a use was not acceptable, it would not be advisable to impose such a condition. In this case, in the view of Officers, the condition was not necessary to make the application acceptable, nor was it considered reasonable. If appealed, costs may be awarded against the Local Planning Authority (LPA) if an inspector took the view that the LPA had acted unreasonably.

In response to Councillor Chandler, the Planning Officer clarified that the property would not require planning permission to become an HMO as such development was permitted by the General Permitted Development Order (GPDO). Essentially, under the GPDO, every family dwelling had the right to switch to a 'small' HMO. As a general rule, HMOs housing fewer than six people did not require planning permission. Prior approval would not be required and the Council would have no ability to prevent such a use.

RESOLVED: (a) That Application No DOV19/00368 be APPROVED subject to the following conditions:

- (i) 3-year time commencement;
- (ii) Approved plans;
- (iii) Provision of waste/bin storage;
- (iv) Provision of cycle storage area;
- (v) No sleeping accommodation at lower ground-floor level;
- (vi) Provision of flood mitigation measures.

(b) That powers be delegated to the Head of Planning, 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.

The Committee was shown a map, drawings, plans and photographs of the application site. The Planning Officer advised that planning permission was sought for a first-floor rear extension. The proposal shared the same footprint as the existing ground-floor extension and was low key in nature. The original submission had proposed a much larger extension than the one now under consideration. No objections had been received since the amended plans were submitted, and Officers were satisfied that all issues had been addressed.

RESOLVED: (a) That Application No DOV19/00543 be APPROVED subject to the following conditions:

- (i) Three years to commence development;
- (ii) In accordance with approved plans;
- (iii) Sample of cladding to be submitted;
- (iv) No additional windows or openings on side elevations of extension.

(b) That powers be delegated to the Head of Planning, 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.

33 APPEALS AND INFORMAL HEARINGS

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

34 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 6.50 pm.