

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 10 October 2019 at 6.00 pm.

Present:

Chairman: Councillor J S Back

Councillors: D G Beaney  
E A Biggs  
T A Bond  
J P J Burman  
D G Cronk  
N S Kenton  
D P Murphy  
O C de R Richardson  
H M Williams

Also present: Councillor P D Jull

Officers: Team Leader (Development Management)  
Principal Planner  
Planning Officer  
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/19/00962	Mrs Jill Griffiths -----	Councillor S S Chandler Mr William Dale
DOV/19/00669	Mrs Rachel Humber	Mr Anthony Lake Councillor J Rose
DOV/19/00968	Councillor S S Chandler Mr Daniel Edelman	-----

45 APOLOGIES

It was noted that an apology for absence had been received from Councillor R S Walkden.

46 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor N S Kenton had been appointed as a substitute member for Councillor R S Walkden.

47 DECLARATIONS OF INTEREST

There were no declarations of interest.

48 MINUTES

The minutes of the meeting held on 12 September 2019 were approved as a correct record and signed by the Chairman.

49 ITEMS DEFERRED

It was noted that there were no deferred items.

50 APPLICATION NO DOV/19/00962 - 16 LOOP STREET, SANDWICH

Members viewed an aerial view, drawings, plans and photographs of the application site which was situated within a modern (1990s) development in the centre of Sandwich. The Planning Officer advised that the application sought planning permission for minor alterations to an existing dwelling and the demolition of a double garage. Since publication of the report, Sandwich Town Council had submitted objections to the proposal, citing concerns about potential harm to the character and appearance of the conservation area and the risk of setting a precedent for the demolition of garages within the Tannery development. An e-mail had also been circulated raising concerns that the demolition would open up views of neighbouring properties and cause harm to residential amenity.

In respect of precedent, the Planning Officer advised that the creation of a precedent was capable of being a material consideration when determining a planning application. However, it was a matter of judgement for the Committee to determine how much weight should be attached to it and to determine each application on its own merits. The courts had held that Local Planning Authorities (LPA) could refuse planning permission for developments if their approval was likely to lead to a proliferation of applications for similar development which the LPA would then find difficult to refuse. This approach would carry more weight where the granting of permission would cause demonstrable harm. There would also need to be evidence that granting permission would lead to other applications; mere fear or a generalised concern would not be sufficient. Since no harm had been identified in relation to this particular proposal, and the effect on surrounding properties would invariably be unique to each proposal, the matter of precedent was not considered to be relevant in this case.

The Committee was advised that in other locations the demolition of the garage would not necessarily require planning permission. However, because of the garage's exposed location and the fact that there were views of it from the public footpath within a conservation area that was subject to an Article 4(2) direction, permission was required. The garage in question was not readily visible from Loop Street, and Officers considered that its demolition would not cause harm to the area or increase opportunities for overlooking or inter-looking within the development which already existed to some extent.

Councillor E A Biggs expressed support for the applicants' wish to replace a garage with open parking given that older garages were often unable to accommodate modern vehicles. Councillor O C de R Richardson referred to Kent Police's suggestion that 1.5-metre hedges should be planted on both sides of the boundary wall to maintain security. Councillor T A Bond reminded the Committee that there was a presumption in the National Planning Policy Framework to consider sustainable applications favourably. Given that there was already some overlooking, he doubted that any increase caused by the demolition warranted refusal of the application.

The Planning Officer stressed that there was no evidence in the case files to suggest that the garage had been built as a defensive screen or barrier. The applicants did not own the land outside the wall and would not be able to plant a hedge there. Moreover, planting a hedge on the inside of the wall would cause a considerable loss of parking space. Members were advised that there were two garages further along the boundary wall that would fall foul of the Article 4 direction because they were highly visible from The Butts. Others that were street-facing could be demolished without planning permission.

RESOLVED: (a) That Application No DOV/19/00962 be APPROVED subject to the following conditions:

- (i) 3-year time commencement;
- (ii) Approved plans;
- (iii) Sample of brick to be used in rear garden wall;
- (iv) Details to be submitted to show the finishing of the lowered parapet, wall adjacent to the main entrance door and boundary wall to The Butts;
- (v) Details of the proposed railings and wirework screens;
- (vi) Details of the housing box for the awning and colour of awning;
- (vii) New parking spaces shall be laid to hardstanding matching that used in the parking court;
- (viii) Details of replacement side door.

(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.

51 APPLICATION NO DOV/19/00669 - LAND BETWEEN NUMBERS 107 AND 127 CAPEL STREET, CAPEL-LE-FERNE

The Committee was shown an aerial view, drawings and plans of the proposed development which would be situated within the village confines of Capel-le-Ferne. The Principal Planner advised that the application sought outline permission for the erection of 34 dwellings on a site which had been allocated for development in 2015 under Policy LA26 of the Land Allocations Local Plan (LALP). All matters were reserved, except for access and associated landscaping. Whilst indicative layout plans had been submitted, there was no guarantee that these would be replicated at the reserved matters stage.

A previous application for a more intensive development had been refused and dismissed at appeal in 2016. Concerns surrounding that application had centred on its impact on the Kent Downs Area of Outstanding Natural Beauty and the character and appearance of the street scene. The block of flats and two and a half storey buildings included in the previous application had now been removed. In contrast to the previous application, only 34 dwellings were proposed and a footpath

would now be provided, albeit that this would lead to the loss of the boundary hedge. The previous scheme had also been much more urban and uniform in appearance. The need for housing in the district could not currently be met, and bringing forward this allocated site therefore played an important role in enabling the LPA to deliver its housing target.

A transport assessment submitted by the applicant had estimated that the development would generate approximately 19 two-way vehicle movements in the morning and evening peak hours. Due to the narrowness of the road and nearby school, highway works were proposed. These had been safety audited by Kent County Council (KCC) Highways and found to be satisfactory. A Section 106 agreement would secure these works, as well as the installation of double yellow lines to prevent parking by the school, an informal crossing point for schoolchildren and the provision of some replacement parking spaces within the development.

In response to Councillor J P J Burman, the Principal Planner advised that the scheme's proposed mix of affordable housing units had been supported by the Council's housing team. Furthermore, it was in accordance with the Council's Strategic Housing Market Assessment. Councillor D G Cronk raised concerns about the volume of traffic, especially at school times, the narrowness of the road and the lack of a financial contribution towards the primary school. The Principal Planner advised that access into the site was of a standard width, allowing two vehicles to pass each other. A turning area within the site was sufficient for refuse and other large vehicles. She clarified that KCC had not requested a financial contribution towards the primary school, and the LPA was unable to pursue this further as KCC was the expert consultee.

Councillor D G Beaney emphasised the difficulties in parking along Capel Street, especially at school times. Whilst he supported development in the village, it had to be in the right place. He was also concerned that what was included at outline stage would not come forward at the reserved matters stage. Councillor Richardson proposed that KCC Highways should appear before the Committee to justify its conclusions in respect of traffic and highways which were known to be a problem locally. Councillor N S Kenton commented that the principle of development on the site had been established by its inclusion in the LALP. However, whilst the design and layout of the site was vastly improved in comparison to the previous application, the issue was parking and whether the village could cope with the increase in traffic generated by the development.

The Principal Planner reminded Members that some parking spaces would be provided along the access road in order to offset the loss of on-street spaces. When considering the previous appeal, the Planning Inspector had found the highways aspects of the application acceptable. She stressed that the Committee should only consider refusal if, in its opinion, the impact on parking would be severe. In response to concerns raised by Councillor Bond, she advised that a new footpath would be provided along the frontage of Capel Street and on the opposite side of the road between the site's entrance and the school to enable children to walk safely to school. She also advised that it would be permissible to ask the applicant to include a description of the proposed housing and layout in the application.

**RESOLVED:** (a) That, notwithstanding the Officer's recommendation, Application No DOV/19/00669 be DEFERRED pending further highways information, including: (i) Clarification from Kent County Council Highways on its conclusion that the proposal is acceptable; (ii) KCC's highways engineer to attend the Planning Committee meeting to

answer questions; and (iii) Location of footpaths and visitor car parking spaces.

52 APPLICATION NO DOV/19/00907 - 65 CORNWALLIS AVENUE, AYLESHAM

Members were shown drawings, a plan and photographs of the application site which was situated in a parade of retail units within the settlement confines of Aylesham. The Planning Officer advised that the application sought planning permission for a change of use to a hot food takeaway and some external alterations. As an amendment to the report, she proposed that a standard condition of three years should be added to the conditions. A number of concerns had been raised and these were addressed in the report. It was considered that the replacement of the existing shop-front and other alterations would have a neutral effect on the street scene and were in accordance with Policy DM20 of the Core Strategy. Given that the takeaway would be open no later than the other units in the parade, approval was recommended.

RESOLVED: (a) That Application No DOV/19/00907 be APPROVED subject to the following conditions:

- (i) 3-year time commencement;
- (ii) The development hereby permitted shall only be carried out in accordance with the following approved plans/documents: 19\_1147\_01 to 19\_1147\_07 inclusive and Application Form received 29 July 2019. Reason: For the avoidance of doubt.
- (iii) The premises shall not be open to the public other than between the hours of 12.00 and 23.00 on any day. The premises shall cease operating at 23.00 hours each evening. Reason: To protect the residential amenity of the adjoining properties.
- (iv) Prior to the first use of the development hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority showing that, when operating, the design and installation of new items of fixed plant shall be such that the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at one metre from the façade of the nearest noise sensitive premises, shall be a rating level of 5dB (A) below the background noise level LAf90 Tbg. The development shall be carried out in accordance with the approved details. Reason: In the interests of residential amenity.
- (v) Prior to the first use of the development hereby permitted, a scheme showing how the extraction system will alleviate fumes and odours and how the extraction trunking will be isolated from the structure of the flat above the development (to prevent vibrations) shall be submitted to and approved in writing by the Local Planning Authority. The scheme

shall be implemented in accordance with the approved details before the development hereby approved first commences and shall thereafter be permanently maintained and operated when the premises are in use. Reason: In the interests of residential amenity.

- (vi) Prior to the first use of the development hereby approved, a scheme for the storage of refuse shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and shall thereafter be retained in that form. Reason: To facilitate the collection of refuse and preserve visual amenity.

(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.

53 APPLICATION NO DOV/19/00968 - HAM BARN, UPDOWN ROAD, HAM, NORTHBOURNE

The Committee was shown a map, plans and photographs of the application site which was in a hamlet and outside any defined settlement confines. The Planning Officer advised Members that the application sought planning permission for the erection of a detached dwelling. A previous application for a similar scheme had been refused by the Committee in July 2019. As an update to the report, she advised that a further letter had been received which raised no relevant planning matters.

Members were reminded that hamlets were considered unsuitable for further development and this one was a substantial distance from the nearest settlements. The proposed dwelling was of a substantial nature and in a highly unsustainable location, accessible by roads that had no footpaths and lacked lighting. The existing barn was of a subdued appearance and the type of building to be expected in a rural area. Officers, including the Council's Heritage Officer, considered that the proposed building would be incongruous, intrusive and detrimental to the character and appearance of the area, and would cause harm to nearby listed buildings, particularly the church. The Planning Officer clarified that the site was not defined as previously developed land (or 'brownfield' land) as agricultural buildings were excluded from this definition. No exceptional circumstances had been put forward to justify the development in this location, nor had previous concerns such as bulk, siting and scale been addressed. Refusal was therefore recommended.

Councillor Kenton expressed his support for the application, arguing that the site was not that isolated and that the existing barn was large and ugly and jarred with Ham Manor and the church. In his view Policy DM1 was now out-of-date and therefore carried little weight. Moreover, he did not believe that the proposal was at odds with Policies DM15 or DM16. The proposed dwelling was well designed and of a smaller footprint than the existing barn. The location was a sustainable one for the farmer who farmed the surrounding land. He added that the site could be brought back into use for commercial or agricultural purposes which could potentially generate traffic movements greater than those of the proposed dwelling.

Councillor Biggs expressed disappointment that a new application was before the Committee for consideration. In his view, the proposal was an unsympathetic design in the countryside. The replacement of an agricultural barn with an egocentric dwelling should be resisted.

The Planning Solicitor advised that precedent could be a material consideration when determining a planning application. Members would need to look at the particular circumstances of the application including whether, if permission were granted, there was a likelihood of there being a proliferation of applications similar to this one which it would then be difficult to refuse. He explained that the courts had held that some types of development, such as sporadic development in the countryside, were plainly situations where the creation of a precedent would be material. He went on to explain that, unless the Committee could distinguish this application from others, there was the potential to open the LPA up to similar applications in the future. He emphasised that the previous refusal relating to this site was a material consideration as it was a similar proposal for development on the same site. Consequently, it should be given weight when determining this application. Consistency in decision-making should also be a factor in Members' deliberations.

The Development Management Team Leader reminded Members that the Committee had previously determined that the recent application for a similar proposal conflicted with Policies DM15 and DM16. In addition, he referred to the fact that, in recent appeal decisions, the Planning Inspectorate had held that Policy CP1 (Settlement Hierarchy) was broadly consistent with the National Planning Policy Framework – this policy identifying that hamlets were not suitable for further development other than for that which functionally required a rural location. The recommendation for refusal was therefore a sound one.

It was moved by Councillor N S Kenton and duly seconded that Application No DOV/19/00968 be APPROVED on the grounds that Policy DM1 was out-of-date and therefore carried limited weight, the proposed development did not conflict with Policies DM15 and DM16 and the site was brownfield land.

On there being an equality of votes, the Chairman used his casting vote and the motion was CARRIED.

RESOLVED: (a) That, notwithstanding the Officer's recommendation, Application No DOV/19/00968 be APPROVED on the following grounds: (i) That the Committee concludes that Policy DM1 of the Core Strategy is out-of-date and therefore carries limited weight when determining the application and, as such, the application has been considered using the 'tilted balance' approach; (ii) That the Committee considers that the proposed development does not conflict with Policies DM15 and DM16 of the Core Strategy; and (iii) Due to the site being brownfield land.

(Councillor D G Cronk requested that his vote against approving the application be recorded.)

## 54 APPEALS AND INFORMAL HEARINGS

The Development Management Team Leader presented the report, advising that 19% of appeals determined between April and September 2019 had been lost. This contrasted favourably with a national average of 30%.

RESOLVED: That the report be noted.

55 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 8.07 pm.