

Minutes of the meeting of the **PLANNING COMMITTEE** held remotely on Thursday, 21 May 2020 at 6.00 pm.

Present:

Chairman: Councillor J S Back

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

Officers: Team Leader (Development Management)  
Principal Planner  
Senior Planner  
Planning Consultant  
Planning Solicitor  
Democratic Services Manager  
Democratic Services Officer

The following persons submitted written statements which were read out by the Democratic Services Manager in lieu of public speaking:

<u>Application No</u>	<u>For</u>	<u>Against</u>
DOV/20/00086	Mr Clive Tidmarsh	Mr & Mrs Louis Thompson
DOV/20/00268	Ms Valerie Owen	Mr Richard White
DOV/19/00895	Mr Alister Hume	Mr Digby Brans

116 APOLOGIES

It was noted that there were no apologies for absence.

117 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute members appointed.

118 DECLARATIONS OF INTEREST

Councillor D P Murphy declared an Other Significant Interest in Agenda Item 8 (Application No DOV/19/00895 – Land to the rear of Freeman’s Way, Deal) by reason that he was a vice-governor, and chairman of the Finance Committee, of Deal Parochial Primary School which would be a beneficiary of Section 106 monies arising from the development.

119 MINUTES

The minutes of the meeting held on 12 March 2020 were approved as a correct record and signed by the Chairman.

120 ITEMS DEFERRED

Members noted that the deferred item was not for consideration at the meeting.

121 APPLICATION NO DOV/20/00086 - LAND NORTH-EAST OF THE CLOSE NURSERY, STATION ROAD, ST MARGARET'S-AT-CLIFFE

Members viewed aerial imagery, a map, drawings, plans and photographs of the application site which lay outside the village confines of St Margaret's, in the countryside and within the Kent Downs Area of Outstanding Natural Beauty (AONB). The Planning Consultant advised that two further representations had been received since the report was written, raising issues such as damage to walls, highway safety and inaccuracies in the application forms. He commented that damage to walls was a private matter, for resolution between the applicant and the third party. The Planning Inspector had already ruled that harm to highway safety was not a reason for dismissing the 2019 appeal. Lastly, the application forms had been updated, with previous discrepancies suitably corrected, providing sufficient information to determine the application.

The Planning Consultant advised the Committee that a previous application had been refused and subsequently dismissed at appeal in June 2019. He reminded Members that the Planning Inspector's judgement was a material consideration for the assessment of the application given that the physical appearance and condition of the site had largely remained unchanged since 2019, and there had been no change in policies since that time. The appeal had been refused on the basis that the proposed development would be a sporadic form of development that would encroach into the countryside and would, together with the visual impact of the residential use of the land, suburbanise the site, eroding the rural qualities of the area and the AONB. Furthermore, the site would be clearly visible from surrounding properties, the two public rights of way and across the valley from Kingsdown Road. Referring to paragraph 2.17 of the report, Members were advised that the difference in site coverage between the 2017 (determined in 2019) and current applications was virtually indistinguishable.

The principal consideration for the Committee was whether the proposed development would cause material harm to the character and appearance of the area and the AONB. The proposed dwelling would be visible from surrounding properties and public vantage points. The topography of the site, which was not considered to be a natural extension of the village confines, rose steeply from south to north which meant that it would be difficult to screen the development and the domestic paraphernalia associated with a residential dwelling. Moreover, some of the hedgerow that currently provided a level of screening was outside the ownership of the applicant and its future loss could not therefore be controlled by adding a condition to retain it or replace it should it be removed.

Whilst the proposed development was contrary to Core Strategy Policies DM1, DM11 and, potentially, DM15, these policies were, to a greater or lesser extent, in tension with the National Planning Policy Framework (NPPF), as set out in paragraphs 2.1 to 2.13 of the report. With the exception of DM15, the weight that should be accorded to these policies was reduced as a consequence, and the 'tilted balance' in favour of sustainable development would therefore normally be engaged. However, paragraph 11 of the NPPF made it clear that, should it be considered that there would be harm to the AONB, the presumption in favour of sustainable development should not be engaged.

Although precedent was rarely a valid reason for refusing planning permission, and each application should be determined on its own merits, there was likely to be greater pressure to develop the adjoining site if this application were granted. The application site made a positive contribution to the character and beauty of the countryside, and acted as an important visual buffer between the village confines and farmland to the south. It was Officers' opinion that the proposed development would appear as a visual incursion into the AONB, and refusal was therefore recommended.

Councillor T A Bond was of the view that the application had not addressed previous issues, and he could see no reason to approve the development which was in an unsustainable location and, in his view, an example of 'village creep'. Councillor E A Biggs pointed to the potential impact on the AONB and failed to understand how design improvements would be able to address that.

The Planning Consultant clarified that the Planning Inspector had been satisfied that the access for one additional dwelling would be acceptable. In response to queries from Councillor D G Beaney, he stressed that it was the role of the Committee to afford the highest level of protection to the AONB. Councillor R S Walkden questioned why the application should be refused given that a less strict approach was being taken towards developments that were adjacent to or just outside the village confines. In this case, only one floor would be seen above ground level which he regarded as less intrusive. The matter of design was subjective in any case. Councillor O C de R Richardson commented that the site looked like an area of scrubland and would benefit from development.

The Chairman reminded Members that, where it was proposed to build in the AONB, dwellings were required to be of outstanding or innovative design. The Planning Consultant added that, whilst well-designed, the proposed dwelling was not considered to be outstanding or innovative.

It was moved by Councillor T A Bond and duly seconded that Application No DOV/20/00086 be REFUSED as per the Officer's recommendation.

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

The Planning Consultant reminded Members that AONB status was a national designation. There would be sites within the AONB that would not be in the same condition or look the same as the application site and some of the surrounding land. It was important not to examine each one forensically to make comparisons between different sites as they contributed individually to the overall appearance and beauty of the area. If developed, the site would not relate well to the pattern of existing development behind it.

The application having not been determined, it was moved by Councillor R S Walkden and duly seconded that Application No DOV/20/00086 be APPROVED on the grounds stated by the Planning Consultant.

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

The application having not been determined, it was moved by Councillor D G Cronk and duly seconded that Application No DOV/20/00086 be REFUSED as per the Officer's recommendation.

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

RESOLVED: (a) That Application No DOV/20/00086 be REFUSED on the grounds that the proposed development is unjustified and would be located outside the identified settlement confines of St Margaret's-at-Cliffe, within an Area of Outstanding Natural Beauty. By reason of the siting, design, prominence, location, the operational development proposed on the site and the site's residential use, the proposal would visually and physically encroach into the open countryside and cause harm to the intrinsic character and beauty of the area, and in particular the landscape and scenic beauty of the Area of Outstanding Natural Beauty, contrary to Policies DM1, DM15 and DM16 of the Dover District Core Strategy and Paragraphs 124, 127, 130, 170 and 172 of the National Planning Policy Framework, and the aims and objectives of policies SD1 and SD2 of the Kent Downs AONB Management Plan.

(b) That powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary wording in line with the recommendation and as resolved by the Planning Committee.

122 APPLICATION NO DOV/20/00268 - 17 SOMERSET ROAD, WALMER

The Committee was shown an aerial view, drawings, plans and photographs of the application site which was a back garden within the settlement confines of Deal/Walmer. Since the report was written, the applicant's agent had submitted a new statement that indicated that the landscaping strip could be used to provide additional parking.

The Senior Planner advised that planning permission was sought to erect a pair of semi-detached houses in the 28-metre long garden of an existing property. The application raised a number of issues including the impact on the character of the area, size of plot, lack of amenity space, standard of accommodation and overlooking. The plot was very confined and, if developed, would form a back-land development which was out of keeping with surrounding properties. As described in the report, bedroom sizes would be small and the amenity spaces for all three properties would be very limited and overlooked, with the outside space for no. 17 also being affected by vehicle activity due to the proximity of the proposed parking spaces. In summary, the proposal would be an over-development of the site, providing a poor standard of residential amenity and failing to meet the objectives of paragraphs 122 and 127 of the NPPF. Refusal was therefore recommended.

Councillor H M Williams commented that the proposal was an over-development of a small plot. Councillor E A Biggs agreed that there was no merit in the scheme which would offer limited parking and poor standards of internal accommodation and external amenity space. Councillors Bond and Richardson added that parking provision was inadequate.

RESOLVED: (a) That Application No DOV/20/00268 be REFUSED on the following grounds:

- (i) The proposal would result in the creation of a back-land plot of very small size, being out-of-keeping with the established pattern and character of the area and contrary to the aims of Paragraphs 122(d) and 127(c) of the National Planning Policy Framework.

- (ii) The sub-division of this site and the introduction of a pair of semi-detached houses of the design proposed would result in a contrived over-development of the rear garden of number 17 Somerset Road, harmful to the sense of space, separation from adjacent buildings and the spatial and visual appearance and character of the area, contrary to the aims of Paragraphs 122(d) and 127 of the National Planning Policy Framework.
  - (iii) The proposed development would not result in a high standard of amenity for the occupants of the proposed properties by reason of the restricted size of the site, the cramped and confined internal and external living space and overlooking from existing adjoining properties, contrary to the aims of Paragraph 127(f) of the National Planning Policy Framework.
  - (iv) The proposed development would be detrimental to the amenities of the occupants of the neighbouring properties by reason of the close siting and overbearing impact, loss of light, overlooking and loss of privacy and noise disturbance associated with the introduction of vehicle activity adjacent to external amenity areas. The proposal would therefore be contrary to the aims of Paragraph 127(f) of the National Planning Policy Framework.
- (b) That powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary wording in line with the recommendation and as resolved by the Planning Committee.

123 APPLICATION NO DOV/19/00895 - LAND TO THE REAR OF FREEMEN'S WAY, DEAL

The Committee was shown a map, plans and photographs of the application site which was located within the settlement confines of Deal and designated as open space. The Principal Planner advised that the application sought planning permission for the erection of 88 dwellings, an artificial sports pitch and a clubhouse with car parking. As a correction to paragraph 2.19 of the report, it was clarified that Policy DM1 was considered to be out-of-date. Nevertheless, for the purposes of assessing this application, it was consistent with the NPPF and continued to carry significant weight when determining the application. Since the report was published, the applicant's agent had confirmed that electrical charging points would be installed, and condition 6 would therefore be amended to require details of the vehicle charging points.

Members were advised that the existing site was one of low amenity value and had not been used as a playing field for a number of years. The proposed development would provide an amenity space that would be usable all year round, together with a children's play area. The scheme would provide 30% affordable housing. Whilst there was a lack of one-bedroom dwellings within the scheme, the mix of dwellings broadly corresponded with the District's identified need. The scheme's layout had been amended during the application process and now had an organic feel. There were no concerns in respect of overlooking, loss of light or sense of enclosure to neighbouring properties. To address concerns raised about the clubhouse's potential for noise and disruption, a management plan would be required to control

the bar, opening times, etc. The existing point of access would be used which Kent County Council (KCC) Highways had deemed acceptable. The development would generate a limited number (approximately 37-43) of two-way movements during peak hours. Finally, amongst a number of other contributions, £66,300 would be allocated to increasing primary care capacity in Deal and Sandwich.

Councillor Williams welcomed the proposed development, particularly the good level of affordable housing provision. She noted that if it wished to serve alcohol, the clubhouse would need to apply for a licence which would set its hours of opening. In order to allay residents' concerns, she suggested that a condition should be added to allow local residents to be involved in the group tasked with managing the operation of the clubhouse. The Principal Planner commented that such a condition might be onerous to set up and implement on an ongoing basis. It was arguable whether the impact of the development was such that the suggested condition was required to make the application acceptable, and it could therefore be considered unreasonable. An alternative solution would be to include an informative advising that Members wished to see such a provision included in the management plan.

Councillor Richardson raised concerns about the lack of parking for users of the clubhouse, charging points and access for refuse lorries. He also asked for an update on Sport England which had originally raised objections to the scheme. The Principal Planner advised that the number of car parking spaces had been increased as a result of comments made by KCC and Sport England on the original proposal. The number now proposed was in accordance with Football Association (FA) guidelines and KCC had accepted them. He clarified that the applicant was proposing to install electrical charging points for every dwelling and some visitor spaces. The relevant condition would require details of the location and functionality of these points. Internal roads would be built to adoptable standards, and the Council's waste team would be consulted when details were submitted to ensure that refuse vehicles could be accommodated.

Sport England had raised objections to the application as originally submitted and the issues raised had been addressed. The organisation was unable to recognise the scheme as a qualitative improvement because it was not included in an up-to-date playing pitch strategy. However, a new strategy was being developed as part of the review of the Local Plan. Whilst not yet adopted, the evidence demonstrated that there would be a need for football pitches in the Deal area. Sport England supported the principle of the development but had a number of concerns around usage strategy and pricing policy. The pitch had been designed in such a way as to maximise its use, thus providing the most community benefit. An acoustic fence would be erected where the pitch was closest to neighbouring houses to minimise noise disturbance to residents.

In response to questions from Councillor Cronk, the Principal Planner clarified that, in order to qualify for FA accreditation, the pitch would be required to meet certain standards and these had been taken into account in its design. Two schools – Goodwin Academy and Sir Roger Manwood's – had been nominated to receive the Section 106 contributions. The funding would go to whichever school's scheme came forward first, and that splitting it 50/50 could lead to delays or funding shortfalls. It was confirmed that KCC had found the disabled parking provision at the clubhouse acceptable.

Members were advised that a legal agreement would seek to secure the provision, retention and maintenance of the pitch, clubhouse, etc., and require details of management arrangements for the clubhouse to be submitted.

Councillor Bond expressed disappointment that the pitch had not been offered to other sports which were crying out for facilities. He also questioned the absence of high screen netting, ownership of the pitch and clubhouse, lack of room for spectators and raised concerns about flooding. He expressed doubts that the pitch and clubhouse would materialise, leading to the loss of an area of open space.

In response, the Principal Planner advised that the ownership of the pitch and clubhouse was outside the planning system. However, the provision and retention of the pitch and clubhouse would be included in a clause in the legal agreement. It was not known why the applicant had chosen football, but it was a need identified in the Council's open space strategy. A mesh fence would be erected around the pitch to prevent balls flying over. Although there was limited room for spectators, the football club was a lower tier club and therefore unlikely to attract a sizeable number of spectators. The applicant would be responsible for funding the pitch and clubhouse.

In respect of drainage and flooding, Southern Water had advised that there was no capacity to accommodate the development. Legislation required the applicant to pay a contribution towards off-site drainage works - although there was currently no timetable for these. By condition, the applicant would be required to submit full details of the scheme and timing for the off-site works which would need to be completed prior to occupation of the development.

Councillor J P J Burman welcomed the scheme which offered real benefits such as affordable housing and a sports pitch. He supported the idea of an advisory role for local residents on the management committee and queried whether this could be legally enforced. The Principal Planner confirmed that the pitch and amenity space would be publicly accessible. He reiterated the difficulties for the developer in finding someone to become involved in the management committee, and to manage that long term. Whilst it was not unheard of, Members would have to satisfy themselves that it was a reasonable request to make. The Planning Solicitor added that an informative was not legally binding, and a condition was therefore the most effective way of achieving the outcome Members were looking for.

RESOLVED: (a) That, subject to a Section 106 legal agreement to secure the necessary planning contributions, provision of affordable housing, the contribution to the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy and the provision, retention and maintenance of the pitch (including the 4G surface, pitch, markings, fencing and lighting), clubhouse, car park and open space which, for the avoidance of doubt, shall include details on how members of the public will be involved in the management of the clubhouse, and shall secure public access, including a timetable for construction and a management plan to demonstrate the hours of operation, how and when the facilities will be used and pricing policies, and the amenity open space (including an equipped children's play area), Application No DOV/19/00895 be APPROVED subject to the following conditions:

- (i) Time limit;
- (ii) Approved plans;
- (iii) Details of the acoustic fencing;

- (iv) Construction management plan;
- (v) Measures to prevent the discharge of water onto the highway;
- (vi) Details of electric vehicle charging points, including a timetable for their provision;
- (vii) Use of bound surface treatment for first 5 metres of the carriageway;
- (viii) Provision and retention of car parking for residences, visitors, users of the pitch and clubhouse, and the public;
- (ix) Cycle parking;
- (x) Completion of access;
- (xi) Completion of internal access roads and footways;
- (xii) Provision and retention of visibility splays;
- (xiii) Details of surface water drainage infrastructure with no infiltration other than that which is approved;
- (xiv) Details of foul water drainage infrastructure to be provided in accordance with a timetable to be agreed;
- (xv) Full details of all lighting, including the lighting for the pitch, car parking and residential areas;
- (xvi) Provision of refuse and recycling areas for residential areas and for the pitch and clubhouse;
- (xvii) Previously unidentified contamination;
- (xviii) No foundations which require penetrative construction methods;
- (xix) Identification of any public sewers which cross the site and details of the measures to protect or realign them;
- (xx) Programme of archaeological evaluation followed by safeguarding and/or further archaeological investigation;
- (xxi) Samples of materials, to include bricks, roof tiles, parapet coping, window surrounds, windows, doors, door canopies and dormer cheeks;
- (xxii) Details of hard and soft landscaping which shall include details of planting, samples of the materials to

be used for hardstandings and details of fences, railings and walls, and details of any minor artefacts;

- (xxiii) Windows to be set in reveals;
- (xxiv) Removal of permitted development rights for porches and roof extensions;
- (xxv) First-floor window to side elevation of plot 11 (serving a bathroom) to be obscure-glazed and non-opening;
- (xxvi) Details of any air-conditioning units, flues, ventilation or other plant to be installed;
- (xxvii) Ecological mitigation and enhancements;

(b) That powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions and to resolve a S106 agreement in line with the issues set out in the recommendation and as resolved by Planning Committee.

124 APPEALS AND INFORMAL HEARINGS

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

125 ACTION TAKEN IN ACCORDANCE WITH THE ORDINARY DECISIONS (COUNCIL BUSINESS) URGENCY PROCEDURE

The Committee received a report which set out the applications that had been determined by the Head of Planning, Regeneration and Development, in consultation with the Chairman and Vice-Chairman of the Planning Committee, under delegated powers as a result of the cancellation of the April Planning Committee meeting due to COVID-19.

RESOLVED: That the report be noted.

The meeting ended at 9.10 pm.