

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 23 March 2023 at 6.00 pm.

Present:

Chairman: Councillor J S Back

Councillors: R S Walkden
M Bates
D G Beaney
E A Biggs
T A Bond
D G Cronk
D A Hawkes
P D Jull

Also present: Mr Conor Fegan (FTB Chambers) (*attended remotely*)
Mr Paul Lulham (DHA Transport)

Officers: Transport and Development Planning Manager (KCC Highways) (*attended remotely*)
Principal Transport and Development Planner (KCC Highways) (*attended remotely*)
Team Leader (Development Management) - North Team
Team Leader (Development Management) - South Team (*attended remotely*)
Principal Planner
Senior Planner
Senior Planner
Planning Officer
Planning Officer
Planning Consultant
Planning Consultant
Principal Planning Solicitor
Property/Planning Lawyer
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/22/00644	Ms Christina Wells	-----
DOV/22/01511	Mr Guy Osborne	-----
DOV/22/00688	Mr Joe Wall	-----
DOV/22/01090	Ms Jane Scott	-----
DOV/22/01289	Mr Guy Hollaway	-----

134 APOLOGIES

It was noted that there were no apologies for absence.

135 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute members appointed.

136 DECLARATIONS OF INTEREST

Councillor P D Jull made a Voluntary Announcement of Other Interests in Agenda Item 7 (Application No DOV/22/01511 – Wellington Fields, Lowslip Hill, West Hougham). He advised that he had been contacted by the agent for the application. Whilst he had called the application in, he maintained an open mind in relation to its determination.

Councillor D A Hawkes declared an Other Significant Interest in Agenda Item 6 (Application No DOV/22/00644 - 17 St Richards Road, Deal) by reason that he knew the owner of the business.

137 MINUTES

The minutes of the meeting held on 23 February 2023 were approved as a correct record and signed by the Chairman.

138 ITEMS DEFERRED

The Chairman advised that one of the two deferred items (Application No DOV/22/01225 – Land adjacent to Fitzwalter’s Meadow, Boyes Lane, Goodnestone) was due to be considered at the meeting.

139 APPLICATION NO DOV/22/00644 - 17 ST RICHARDS ROAD, DEAL

The Committee viewed photographs of the application site which was situated within the settlement confines of Deal. The Planning Consultant advised that the application sought planning permission for a change of use to a residential care home for children aged 8 to 18. As corrections to the report, he advised that the description should be amended to Class C2 and ‘residential’ in paragraph 2.19 should read ‘residual’. Information had also been received that the plans did not show the extension next door. However, this could be seen in the photographs included in the presentation. Finally, it was proposed that an additional condition should be added dealing with Secure by Design/crime prevention, and that a different plan should be submitted showing the site layout and the retention of the existing boundary fence behind the parking spaces.

In response to a query from Councillor M Bates, the Planning Consultant clarified that fire safety issues would be addressed through Building Regulations. He confirmed that the home was not seeking to accommodate physically disabled children, but access for disabled visitors could be achieved by providing a ramp at the side entrance. In response to Councillor D G Cronk, he clarified that, whilst the plans showed seven parking spaces on site, Kent County Council Highways (KCC) had advised that only five could be safely accommodated and, in reality, two or three spaces would have to be on the highway. Tandem parking was not ideal but, with some reorganisation, three tandem spaces could be achieved to the side of the building and would be acceptable.

Councillor T A Bond referred to an incident of anti-social behaviour at another facility and expressed concerns about the number of staff on duty. The Planning Consultant advised that, whilst staffing was not a planning matter, details like these could be covered in the management plan in order to address any concerns around

the impact on neighbours and anti-social behaviour. Such matters would undoubtedly be covered by other legislation in any case.

In response to Councillor R S Walkden who referred to Deal Town Council's objection on highway safety grounds, the Planning Consultant advised that KCC had stated that there had been no reported accidents within the immediate area within the last five years. This did not mean that no accidents had occurred and evidence had been submitted from local residents showing photographs of accidents which did not appear to have been of a minor nature. However, it was for the police to provide the accident data to KCC. KCC had provided further information that day for a wider area which showed that there had been one reported accident close to Lydia Road. KCC had acknowledged that there would be some overflow parking on the road and that the parking arrangements on the site could lead to cars reversing into the road. Notwithstanding this, KCC maintained that there would not be undue harm to highway safety due to the number of vehicles likely to be involved.

RESOLVED: (a) That Application No DOV/22/00644 be APPROVED subject to the following conditions:

- (i) Standard time limit;
- (ii) Approved plans;
- (iii) Parking provision and retention;
- (iv) Retention of boundary fence;
- (v) Limit of 5 children at any time;
- (vi) Cycle and refuse storage facilities;
- (vii) Submission of a management plan (to include details of staffing);
- (vii) Closure of the north-western access;
- (viii) Replacement of hard surfacing with landscaping;
- (ix) Secure by Design/crime prevention.

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

(Councillor D A Hawkes left the meeting during consideration of this item.)

140 APPLICATION NO DOV/22/01511 - WELLINGTON FIELDS, LOWSLIP HILL, WEST HOUGHAM

Members were shown photographs of the application site. The Team Leader Development Management (TLDM) advised that planning permission was sought for the erection of a detached dwelling in an area of outstanding natural beauty (AONB). This would replace an existing dwelling which consisted of linked shipping

containers. She advised that the Kent Downs AONB unit had raised no objections and the proposal would cause no visual harm, being an improvement on the existing dwelling.

Councillor P D Jull raised concerns that the valley and road were plagued by developments without planning permission. He was aware of at least one other site where planning permission had been refused but containers had been brought onto the site. This situation was completely unacceptable in an AONB which was supposed to enjoy high levels of protection. He agreed with comments made by the parish council about setting a precedent and stressed the need for more planning enforcement in the area. He questioned whether the proposal would have been recommended for approval had the containers not already been on site. He also referred to Policy DM8 of the Local Plan which stated that replacement dwellings had to be for permanent structures which were in lawful use. In his opinion shipping containers could not be regarded as permanent structures which was surely evidenced by the fact that the applicant wanted to replace them. He also raised concerns about water discharge into a groundwater protection zone 2 and the size of the proposed dwelling which was overly large in his view.

The TLDM advised that the containers were fixed and had been on site for four years which was the relevant period in planning terms. Their use as dwellings had been established under a lawful development certificate. She stressed that no new development would be permitted in the AONB, but this proposal was not considered to be new development. Turning to other matters, she advised that the issue of drainage was controlled by the sewage company and was not a matter for planning. In terms of size, the proposed building was considered acceptable and not overly large on the basis of the plans submitted. In response to a query from Councillor E A Biggs, she clarified that a full assessment of the site would have been undertaken as part of the lawful development certificate process. The applicant would have been required to submit evidence that the use of the containers as a dwellinghouse had existed for four years or more. Officers, including the Planning Solicitor, had reviewed the information submitted and determined that there was a lawful use.

Councillor Bond agreed with Councillor Jull, arguing that the applicant had circumvented the planning system by putting a couple of containers on the site and then applying for lawful use after four years. In his view the applicant's actions were a violation of the Local Plan and the regulations that sought to protect the AONB.

RESOLVED: (a) That Application No DOV/22/01511 be APPROVED subject to the following conditions:

- (i) Standard time limit;
- (ii) Approved plans;
- (iii) Slab level details;
- (iv) Material samples;
- (v) Removal of permitted development rights for extensions and alterations;
- (vi) Landscaping scheme;

- (vii) Biodiversity enhancements;
- (viii) Details of foul drainage treatment plant.

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

141 APPLICATION NO DOV/22/00688 - LONG VIEW, UPPER STREET, KINGSDOWN

The Committee viewed photographs of the application site which was situated within the settlement confines of Kingsdown and within a conservation area. The Planning Officer advised that retrospective planning permission was sought for the erection of raised decking, fencing, a ramp and handrail for the daily siting of a mobile café van. As an update to the report, she advised that additional objections had been received and the total number of objections now numbered 48, with 19 representations received in support. Ringwould with Kingsdown Parish Council had also submitted an additional objection raising the loss of two parking spaces amongst other matters. The issues were set out in the report, but the proposal had a negative impact on the conservation area and residential amenity, and refusal was therefore recommended.

Councillor Jull asked if a residential property would be able to erect decking under permitted development rights, and whether a van would be permitted to park and trade on the hardstanding. The TLDM advised that if it was a residential property and the van was required for commercial trade or business, planning permission would be required. The erection of decking under permitted development rights would depend upon whether it constituted a change of use of the land and the degree of permanency. If it was intended for the van to be stationed there permanently, then planning permission would almost certainly be needed. Before submitting the application, the applicant had applied for a lawful development certificate. However, it had been established through that process that planning permission was required.

In response to Councillor D G Beaney, the Planning Officer clarified that the Council's Heritage Officer had deemed that the proposal would be dominant in the street scene and would cause less than substantial harm which, whilst not significant, still amounted to harm. Councillor Beaney agreed that the decking area was unattractive but, if built to a better standard, would be acceptable. The only harm in his view was the loss of two parking spaces. Councillor Biggs commented that he had visited the site when the original structure was in situ and had found it to be unattractive and unacceptable in the street scene. Councillor Bond pointed out that the applicant could still park his van there without the decking. As for the street scene, the area outside the shop consisted of parking bays and a lot of concrete and was not particularly attractive. Personally, aside from the road being narrow, he supported the proposal and did not believe it would damage the street scene. Councillor Jull was of the view that there was already overlooking from the property. Councillor Hawkes commented that the loss of two parking spaces was not to be underestimated, and there was the potential for congestion in this narrow area if the decking were to be permitted.

The TLDM advised that the key test for proposals was whether they preserved the character and appearance of a conservation area. She referred to Figure 3 in the report which showed the side elevation of the proposed decking. People standing

on the decking would be at a higher level and able to look into the windows of neighbouring properties, thus affecting the occupants' residential amenity. She was reasonably certain that the height of the proposed decking exceeded the height limit allowed for permitted development. She emphasised that it was the raised decking that caused the most harm and that was the application being considered by the Committee. The Planning Officer advised that the road was very tight and the number of passing places limited. She confirmed that an Article 4 Direction was in force which enhanced the level of protection afforded to a conservation area, requiring boundary treatments such as a fence to have planning permission.

It was proposed by Councillor E A Biggs and duly seconded that Application No DOV/22/00688 be REFUSED in accordance with the report recommendation.

On being put to the vote, the motion FAILED.

In response to Members who spoke in support of the application, the TLDM stressed that the harmful impact from overlooking stemmed from people standing on the decking which allowed them to look into the neighbouring properties. Additional screening was not recommended as it would cause further harm to the conservation area. In terms of highway safety, it was clarified that KCC had not been consulted given the nature of the application.

It was proposed by Councillor T A Bond and duly seconded that Application No DOV/22/00688 be APPROVED for the following reasons: (i) It was considered that the development would not cause harm to the character and appearance of the Kingsdown Conservation Area; (ii) The impact on the residential amenity of neighbouring properties was not such that it would result in significant harm that warranted refusal; and (iii) The loss of two parking spaces would not be harmful to highway safety.

On being put to the vote, the motion FAILED.

Councillor Bates suggested removing grounds 2 and 3 for refusal included in the report recommendation. Councillor Jull agreed with this approach.

It was proposed by Councillor P D Jull that Application No DOV/22/00688 be REFUSED on ground 1, as set out in the report recommendation.

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

RESOLVED: (a) That Application No DOV/22/00688 be REFUSED on the ground that the proposal, by virtue of its siting, scale and material finish, would result in development that is out-of-keeping with the prevailing character of the area, detracting from the street scene which predominantly includes low level flint and brick walls and low picket fences bordering the road. As a result, the development would neither preserve nor enhance the character and appearance of the designated Kingsdown Conservation Area, contrary to paragraphs 189-208 of the National Planning Policy Framework (2021) and Policy HE2 of the Draft Dover District Local Plan (2022).

(b) That powers be delegated to the Head of Planning and Development to settle any necessary reasons for refusal in line with the issues set out in the recommendation and as resolved by the Planning Committee.

142 APPLICATION NO DOV/22/01090 - GLIDING CLUB CLUBHOUSE, SANDWICH ROAD, WALDERSHARE

Members viewed an aerial view and photographs of the application site. The Planning Officer advised that planning permission was sought for a change of use and conversion of an existing building into two residential properties – one to be used as a holiday let and the other as an estate worker’s dwelling. In response to Councillor Bates and comments made by the Kent Fire and Rescue Service, the TLDM advised that a sprinkler condition could be added.

RESOLVED: (a) That Application No DOV/22/01090 be APPROVED subject to the following conditions:

- (i) Standard time limit;
- (ii) Approved plans;
- (iii) Materials to match existing;
- (iv) Ancillary/agricultural use associated with Waldershare Park;
- (v) Occupation as holiday let;
- (vi) Sprinkler system to be installed.

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

143 APPLICATION NO DOV/22/01289 - 1 AND 2 ST MARGARET'S ROAD, ST MARGARET'S BAY

The Committee was shown CGIs and photographs of the application site which was situated within the St Margaret’s Bay Conservation Area. The Senior Planner advised that planning permission was sought for the erection of two detached dwellings and the demolition of the existing building. Amendments had been made to address concerns surrounding the character and appearance of the conservation area and ecology. The application was considered acceptable and approval was therefore recommended.

In response to Councillor Jull, the Senior Planner clarified that the site was in two distinct parts, separated by an historic brick wall. The proposed dwellings (with their gardens and driveways) would be located in the front portion of the site, with the land to the south of the wall retained in perpetuity as an informal meadow and separate reptile receptor area. The front part of the site was within the settlement confines and the rear part (the meadow and receptor area) was outside and there would be no built development on it. A previous application for three much larger dwellings of two storeys which proposed to demolish the brick wall and build on the other part of the site had been refused and dismissed at appeal. This application had sought to address the reasons for refusal and was considered to be sympathetic to, and compatible with, the surrounding area. In response to Councillor Walkden, she advised that the existing building was not designated as a

heritage asset. It was situated in an isolated position and, whilst its demolition would have an impact on the conservation area at a discrete level, it would not have a significant negative impact on the character of the wider conservation area.

RESOLVED: (a) That Application No DOV/22/01289 be APPROVED subject to the following conditions:

- (i) Standard time limit;
- (ii) Approved plans;
- (iii) Samples of materials;
- (iv) Windows/doors aluminium-framed set in reveals;
- (v) Landscaping;
- (vi) Protection of trees;
- (vii) Refuse and cycle storage;
- (viii) Provision and retention of parking;
- (ix) Visibility splays;
- (x) Removal of permitted development rights;
- (xi) Area to the east of wall maintained as landscaped meadow, with no structures;
- (xii) Reptile receptor area to be provided;
- (xiii) Biodiversity method statement;
- (xiv) Ecological design strategy;
- (xv) Habitat management and monitoring plan;
- (xvi) Lighting design strategy for biodiversity.

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

144 APPLICATION NO DOV/21/00882 - LAND OPPOSITE THE CONIFERS, COLDRED ROAD, COLDRED

The Committee was shown an aerial view and photographs of the application site. The Senior Planner advised that outline planning permission was sought for the erection of five detached dwellings. Whilst the site was situated outside the settlement confines, it had been allocated for development in the draft Local Plan. The Council's Heritage Officer had raised concerns about the indicative site layout which would need to be addressed at the reserved matters stage.

In response to queries, the Senior Planner advised that a request for Section 106 contributions had been made by Kent County Council based on the size of the site.

She referred to paragraph 2.18 of the report which recommended a parameter plan or design code for reserved matters to control the built form of the development. This had been used for other sites and would help to achieve a cohesive development. She clarified that the Heritage Officer would be consulted on the parameter plan and then probably informally as each dwelling came forward. It was confirmed that applications could be refused if the design or configuration were considered unacceptable, particularly in the case of dwellings located along the front of the site.

Councillor Hawkes referred to previous refusals and queried why this application was considered acceptable. Councillor Bond also raised concerns about the site's location outside the settlement confines and unsustainable location. The Senior Planner advised that it had been a significant time since the most recent application had been considered and noted that it would have been assessed against the 2002 Local Plan. The site had been allocated for a development of five dwellings under the Regulation 19 draft Local Plan and the proposal was in compliance with that. The TLDM added that the latter was due to be submitted soon and, as part of the site's inclusion, a strict assessment would have been undertaken, looking at suitability, highways, etc. Concerns about the site would have been addressed through the allocations process. She reminded Members that this was only an outline application and the details would be settled at the reserved matters stage.

RESOLVED: (a) That, subject to the completion of a Section 106 legal agreement to secure the required contributions, Outline Planning Permission for Application No DOV/21/00882 be APPROVED subject to the following conditions:

- (i) Approval of reserved matters;
- (ii) Time condition;
- (iii) List of approved plans;
- (iv) Samples of materials;
- (v) Scheme for biodiversity protection and enhancements;
- (vi) Submission of parameter plan/design code;
- (vii) Visibility splays.

(b) That powers be delegated to the Head of Planning and Development to settle any necessary planning conditions and legal agreements in line with the issues set out in the recommendation and as resolved by the Planning Committee.

145 APPLICATION NO DOV/22/01225 - LAND ADJACENT TO FITZWALTER'S MEADOW, BOYES LANE, GOODNESTONE

Members viewed a plan of the application site which was situated outside but adjacent to the settlement confines of Goodnestone. The Principal Planner reminded the Committee that the application had been deferred at the 23 February meeting due to concerns about parking and turning areas, pedestrian access/safety and refuse storage. Since publication of the report, an additional public representation had been received, commenting on turning areas, refuse and road

safety. An updated site plan had also been received which showed that plot 2 had been amended to address concerns about turning and parking. With the revised site layout, Officers were satisfied that all concerns had been addressed.

RESOLVED: (a) That, subject to a Section 106 agreement to secure the translocation of reptiles, Application No DOV/22/01225 be APPROVED subject to the following conditions:

- (i) Standard time limit;
- (ii) Approved plans;
- (iii) Samples of materials;
- (iv) Bicycle storage;
- (v) Vehicle parking;
- (vi) Method statement for the protection of reptiles, nesting birds and hedgehogs;
- (vii) Biodiversity enhancements;
- (viii) Measures to avoid damage to trees;
- (ix) Hedgerows shall be retained and protected;
- (x) Details of means of enclosure;
- (xi) Hard and soft landscaping;
- (xii) Archaeology;
- (xiii) Removal of permitted development Classes A, AA and B of Part 1 and Class A of Part 2.

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

146 APPLICATION NO DOV/22/01319 - LAND BETWEEN ARABLE DRIVE AND FIELD VIEW ROAD, WHITFIELD

The Committee was shown an aerial view of the site. The Senior Planner advised that planning permission was sought for the erection of a two-storey medical centre on land that had been allocated for development under Policy CP11 of the Core Strategy in connection with the managed expansion of Whitfield. As an update, she advised that further information had been provided to justify a reduction in parking spaces. This and plans had been shared with KCC but a response was yet to be received.

Members welcomed the proposed medical centre which was badly needed. In response to Councillor Hawkes, the Senior Planner advised that if developers

wanted to convert some of the building to housing in the future, planning permission would probably be required and an assessment would be made at that stage.

RESOLVED: (a) That, subject to the receipt of further comments from Kent County Council Highways and any subsequent minor revisions to plans required, and completion of a legal agreement to secure a contribution to the travel plan monitoring, Application No DOV/22/01319 be APPROVED subject to the following conditions:

- (i) Standard time limit;
- (ii) Approved plans;
- (iii) Samples;
- (iv) No external lighting unless details (location, design, height of columns, levels and direction of luminance) are submitted;
- (v) Operational noise levels of fixed plant;
- (vi) Opening hours to the public;
- (vii) Car parking spaces, delivery space and ambulance space;
- (viii) Submission of Stage 1 safety audit;
- (ix) Completion of the access, footpaths, dropped kerbs and tactile paving;
- (x) Visibility splays;
- (xi) Provision of a minimum of 6 electric vehicle charging points;
- (xii) Covered bicycle parking facilities;
- (xiii) Refuse and recycling storage;
- (xiv) BREEAM pre-assessment statement;
- (xv) Landscaping scheme;
- (xvi) Unexpected archaeology;
- (xvii) Pre-commencement for a surface water drainage scheme.

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

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

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

The Committee noted that no action had been taken.

149 EXCLUSION OF THE PRESS AND PUBLIC

It was moved by Councillor J S Back, duly seconded and

RESOLVED: That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the remainder of the business on the grounds that the item to be considered involved the likely disclosure of exempt information as defined in paragraph 5 of Part I of Schedule 12A of the Act.

150 ADJOURNMENT OF MEETING

The meeting was adjourned at 8.18pm for a short break and reconvened at 8.27pm.

151 UPDATE ON APPLICATION NO DOV/22/00652 - LAND SOUTH-WEST OF LONDON ROAD, DEAL

The Planning Consultant reminded the Committee that an appeal had been lodged on the grounds of non-determination in respect of the application which related to land south-west of London Road, Deal. The public inquiry was due to open on 16 May 2023. The Local Planning Authority (LPA) was required to submit a statement of case to the Planning Inspectorate by 24 March, providing full details of the case it would be putting forward at the appeal.

The Planning Consultant recapped that, at its meeting held on 23 February, the Committee had resolved that it would have refused the application had it been in a position to determine it. At that time, the grounds for recommending refusal had been based on advice received from KCC that the additional vehicle trips generated by the proposed development through the sensitive junctions of London Road/Manor Road and London Road/Mongeham Road would exacerbate existing congestion on the highway network and raised safety concerns. This advice had been qualified that, should the applicant provide additional traffic survey data to demonstrate that baseline levels had changed since 2019 (to the extent that the proposed development could be accommodated without mitigation), KCC would remove its objection. Since the meeting, additional traffic survey data had been received from the applicant and assessed by an independent expert. As a result, KCC had withdrawn its objection.

The key points for consideration were that there would not be sufficient impacts or harm caused to the highway network by the development to warrant refusal, the threshold for which was high and set out in paragraph 111 of the National Planning Policy Framework (NPPF). Congestion and inconvenience were not sufficient in themselves to trigger refusal, these conditions also being commonplace in other medium and larger towns in Kent and the wider south-east at peak times. In addition, the safety concerns could not be substantiated.

Turning to the landscape and visual impact reasons for refusal, it was considered that these on their own fell short of significantly and demonstrably outweighing the benefits of the development. Counsel's advice was that a costs award was likely to be made against the Council at appeal if it presented a case that planning permission should be refused on the grounds of highways and landscape visual impacts.

One Member expressed his opposition to the proposal and queried KCC's change of position on highways. It appeared that the applicant was attempting to rush the development through before the emerging Local Plan had been adopted. Whilst an independent transport review had been undertaken, the key consideration for him was that local residents did not want the development. Another Member questioned why the new traffic assessment had not addressed impacts on the Middle Deal Road/London Road junction where traffic was regularly queued back at peak hours. He also queried the queueing time for vehicles turning right out of the Mongeham Road/London Road junction.

Members raised concerns about the condition of the road network generally, and proposals to improve cycling provision and footpaths which were not practical given the nature of Deal's roads. One Member questioned why nothing had happened in relation to building a north Deal road. He disliked the proposal and was of the view that there were solid reasons to refuse it. Another Member expressed doubts that families occupying 3/4-bedroomed houses would be using the bus as a regular means of transport. He also questioned the veracity of the transport data given that they had been provided by the applicant.

The Principal Transport and Development Planner (KCC) (PTDP) advised that KCC's primary concern was to protect the highway network. The traffic situation at Middle Deal Road had changed and only 30% of development traffic was using that junction. Moreover, there was barely an accident profile at the junction. He clarified that impact assessments had been carried out, primarily at Mongeham Road, and that figures quoted for Mongeham Road/London Road could possibly relate to construction traffic. He emphasised that the new traffic data submitted by the applicant had been assessed by independent experts. He also confirmed that physical traffic counts had been carried out, with somebody standing and counting vehicle numbers as well as turning movements. He clarified that traffic surveys had been carried out in 2019, November 2022 and January 2023, following normal practice. Permitted but unconstructed developments and growth forecasts had also been factored into the final figures.

Mr Paul Lulham (DHA Transport) clarified that traffic surveys undertaken in 2022 indicated that traffic flows had reduced by up to 15% at peak periods, a development seen elsewhere in Kent. He cautioned against relying too much on the data and advised that the situation was still settling down post-pandemic. He stressed that his advice to KCC Highways had been based on the original transport assessment which had in turn been based on pre-pandemic baseline figures and data. There was no doubt that the proposed development would have an impact and his advice reflected that. In terms of survey methods, he added that the applicant's consultants had carried out a series of one-day manual counts, supplemented by automatic counts which had collected data over a week-long period so that any one-off 'kinks' affecting traffic levels were evened out, giving a fuller picture of traffic flows. Transport modelling was only a representation and, whilst not infallible, it was the best option available. It was for consultants to use their professional judgement and experience to assess the data. It was recognised that there would be congestion in peak periods and the issue for KCC was whether

highway capacity should be enhanced, thus encouraging shorter car journeys, or whether resources should be focused on more strategic routes. Reflecting national policy, KCC was looking to make a step-change by focusing on sustainable locations and transport methods. Physical constraints meant that junctions could not continue being enhanced and the imperative was to give people a choice. It was a fact that many of the journeys made by car to schools, town centres, etc could be made by sustainable means which was a better use of resources.

The PTDP agreed, stressing that post-Covid data had shown a decrease in network flows, including reductions at the Mongeham Road/London Road and Manor Road/London Road junctions. The development site was well positioned to improve sustainable transport choices, and it was proposed that incentives should be given to encourage the use of public transport, such as discounted tickets for residents. These measures would increase the use of services, thus helping to secure their long-term future.

Mr Lulham emphasised that a key test of the NPPF was whether a proposed development would have an unacceptable impact on highway safety. Very few appeal decisions had succeeded on highway capacity constraints alone, almost always being linked to highway safety issues as well. The LPA would need to demonstrate that the cumulative residual impacts on the highway would be severe. Congestion and constraints caused by the historic nature of the network were not sufficient reasons for a refusal or, more to the point, unusual in the south-east.

The Transport and Development Planning Manager (KCC) (TDPM) clarified that improved cycling and walking routes would be provided along Sholden New Road and into Hyton Drive. She advised that planning inspectors were, broadly speaking, only interested in the amount of additional traffic generated by a development rather than existing traffic issues. KCC, like other authorities, had been told that it should move towards a policy of improving sustainable travel options at new developments rather than modifying the network to accommodate more cars. The fact was that the road network could not keep expanding.

The Planning Consultant advised that, although the site had not been deemed suitable in the context of the emerging Local Plan, that factor carried limited weight at the planning application stage. He reminded Members that the landscape assessments carried out for the planning application had been much more detailed than the work done to support the draft Local Plan.

One Member disagreed that all the easy options for improvements to the existing network in Deal had been taken. Deal was regularly gridlocked, and a road had yet to be built that would assist traffic in getting around and out of Deal, the latter being the main cause of congestion rather than traffic entering Deal. In his view it was not effective planning to continue allowing houses to be built without contributing to a relief road.

Mr Lulham advised that the independent transport review had covered a five-year period, looking forward to 2027, and had taken into account the earlier phase of this development and other developments, as well as growth in the wider region. The PTDP commented that KCC's assessment of proposals for a relief road had concluded that it would move the problem elsewhere, most likely into north Deal where there was inadequate highway infrastructure to cope with additional traffic. The Team Leader Development Management (TLDM) added that the proposal for a Deal relief road had been considered over a number of years but had been deemed unviable for a number of reasons.

In response to a query, the Planning Consultant advised that the applicant would be making contributions of £140,000 towards bus travel, £120,000 towards a cycle route upgrade and £260,000 towards a sustainable highway package. He suggested that it would be wise to make these contributions index linked. Members raised concerns about the frequency of bus services and argued that it was simply unrealistic to expect families to travel by bus on a regular basis to GP surgeries, primary schools, shops, etc. One Member viewed the applicant's appeal against non-determination as a means of obtaining planning permission before the adoption of the draft Local Plan which excluded the site as being suitable for development. The Committee was advised that defending the appeal based on an argument of prematurity was unlikely to succeed and, in any case, the scale of the proposed development was such that it was unlikely to undermine the draft Local Plan. It was reiterated that the appellant had the right to appeal against non-determination and had followed the correct procedures.

In response to concerns expressed about its change in position, the TDPM reiterated that KCC's initial advice had been based on baseline traffic data from 2019, with a proviso that should additional survey data be able to demonstrate that levels had changed since 2019, its objection would be removed. The fact was that the applicant had now presented data from a recent traffic survey. The results had been surprising and trip forecasts had changed as a result of more people working from home, flexible working, etc. These changes had led to peak traffic hours being more spread out which was something being seen at a national level.

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

RESOLVED: That, in accordance with Council Procedure Rule 9, the Committee proceeds with the business remaining on the agenda.)

One Member pointed out that planting trees in an open and rolling landscape would be detrimental and have a severe impact on a rural vista. The Planning Consultant confirmed that he had taken this into account, having visited the site and walked the footpaths. Whilst it was acknowledged that the development would have a detrimental impact, it did not amount to such a degree of harm that refusal was warranted. The TLDM commented that if the visual impact of the development could be mitigated by trees then that would be a fundamental requirement.

The Planning Solicitor advised that although the proposal was unpopular with residents, the Committee was being asked to make a decision based on the interests of the district and not just what was best for the ward and residents. The advice Members had received was that the impact of the development did not warrant a refusal. It was for the Committee to consider whether the adverse impacts of the development sufficiently outweighed the benefits.

It was moved by Councillor D G Beaney and duly seconded that the report recommendation be APPROVED, as follows:

- (a) That the Council should not present a transport/highways, landscape or ecology led case for refusal at the appeal; and
- (b) That planning permission should be granted, subject to appropriate Section 106 obligations (to secure sustainable transport measures, landscape planting, affordable housing and financial contributions set out in the report

and the report appended to it) and conditions, as delegated to the Head of Planning and Development; and

- (c) That Officers and any necessary consultants should attend the scheduled public inquiry to assist the inspector and to explain the Council's reasons for not opposing the appeal.

On being put to the vote, the motion FAILED.

In accordance with Procedure Rule 18.4, a recorded vote was held. The manner of voting was as follows:

FOR (3)	AGAINST (4)	ABSTAIN (2)
J S Back	E A Biggs	M Bates
R S Walkden	D G Cronk	T A Bond
D G Beaney	D A Hawkes	
	P D Jull	

The Planning Solicitor described the appeal process and explained that the planning inspector had set the inquiry timetable which had already been extended once. He reminded the Committee that KCC's original objection to the proposal had been caveated. Whilst Officers had originally recommended refusal on that basis, the situation had changed due to the submission of further traffic data which had been independently reviewed by Mr Lulham who had also taken a fresh look at the evidence previously submitted. He understood Members' frustration, but it was highly unlikely that another independent expert could be found or be willing to defend a reason for refusal on highways grounds. He stressed that not submitting a statement of case would be viewed negatively by the planning inspector and was not an option.

One Member sought clarification in relation to queueing lengths and times at Middle Deal Road and Mongeham Road. Mr Lulham confirmed that traffic counts were conducted in person, with people standing at junctions during peak periods counting vehicles and looking at queue lengths. The surveys had been conducted in accordance with industry standards, and he stressed that he had reviewed all the pre- and post-Covid traffic data. He clarified that the applicant's transport assessment that was directly relevant to this application was publicly available on the Council's planning portal.

It was moved by Councillor R S Walkden and duly seconded that the report recommendation be APPROVED.

On being put to the vote, the motion FAILED.

In accordance with Procedure Rule 18.4, a recorded vote was held. The manner of voting was as follows:

FOR (3)	AGAINST (5)	ABSTAIN (1)
J S Back	M Bates	T A Bond
R S Walkden	E A Biggs	
D G Beaney	D G Cronk	
	D A Hawkes	
	P D Jull	

It was moved by Councillor D A Hawkes and duly seconded that the report recommendation be APPROVED.

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

RESOLVED: a) That the Council should not present a transport/highways, landscape or ecology-led case for refusal at the appeal; and

(b) That planning permission should be granted, subject to appropriate Section 106 obligations (to secure sustainable transport measures, landscape planting, affordable housing and financial contributions set out in the report and the report appended to it) and conditions, as delegated to the Head of Planning and Development; and

(c) That officers and any necessary consultants should attend the scheduled public inquiry to assist the inspector and to explain the Council's reasons for not opposing the appeal.

In accordance with Procedure Rule 18.4, a recorded vote was held. The manner of voting was as follows:

FOR (3)	AGAINST (3)	ABSTAIN (3)
J S Back	E A Biggs	D G Beaney
R S Walkden	M Bates	T A Bond
D A Hawkes	P D Jull	D G Cronk

The meeting ended at 10.51 pm.