

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 13 June 2024 at 6.00 pm.

Present:

Chairman: Councillor M J Nee

Councillors: D G Cronk
D G Beaney
D R Friend
S Hill
N S Kenton
J P Loffman
C A Vinson
H M Williams
C F Woodgate

Officers: Team Leader (Development Management) - North Team
Senior Planner
Planning Officer
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/24/00277	Mrs Alice Cannon	Ms Julia Bennett
DOV/24/00205	Mr Simon Lock	Mr Robin Burkhardt
DOV/24/00068	Ms Carey Newton	-----
DOV/24/00542	Ms Jane Scott	Mr Brian Clark

165 APOLOGIES

It was noted that apologies for absence had been received from Councillors J S Back and R M Knight.

166 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors C A Vinson and D R Friend had been appointed as substitute members for Councillors J S Back and R M Knight respectively.

167 DECLARATIONS OF INTEREST

There were no declarations of interest.

168 MINUTES

The minutes of the meeting held on 16 May 2024 was approved as a correct record and signed by the Chairman.

APPLICATION NO DOV/24/00277 - FIR TREE FARM, CHAPEL LANE, ASHLEY

The Committee was shown an aerial view and photographs of the application site. The Planning Consultant advised that an extension of temporary planning permission was sought to 31 May 2026 to enable the applicant to retain the caravan on site until the construction of her new house on the other side of Chapel Lane was completed. The previous temporary permission had expired on 31 May 2024. The roof of the new build had recently been finished and it was anticipated that the walls would be fitted in July, with a watertight building in place by September.

In response to Councillor D G Cronk, the Planning Consultant advised that considerable weight could be attached to the Draft Local Plan when assessing the application. He clarified that the application site was outside the settlement boundary of Ashley and that the removal of the caravan and domestic paraphernalia at the end of the temporary permission period was included in the conditions. Councillor Cronk expressed sympathy for the applicant's circumstances in that her husband was simultaneously running the farm and building the house.

Councillor J P Loffman queried the confusion around the date the previous temporary permission had been granted, and sought advice on what would happen in the event of the applicant applying for a further temporary permission. The Chairman advised that the discrepancy in the report about the date had no bearing on the Committee's consideration of the current application. Whilst there was nothing to prevent the applicant from applying for another temporary planning permission, it was possible that Members would be less sympathetic to a future application. The Chairman expressed disappointment that the application had been called in by a Member, yet the Member in question had not done the Committee the courtesy of attending the meeting to explain why.

RESOLVED: (a) That Application No DOV/24/00277 be APPROVED to vary Condition 2 of Planning Permission DOV/21/00628 subject to the following conditions:

- (i) The residential use of the land should cease by or before 31 May 2026;
- (ii) The caravan and all domestic paraphernalia associated with the residential use of the caravan shall be removed from the site by or before 31 May 2026;
- (iii) The caravan shall only be occupied by the applicant and her family.

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

APPLICATION NO DOV/24/00205 - 143 SNARGATE STREET, DOVER

Members viewed plans and photographs of the application site which was situated within Dover town centre. The Senior Planner advised that planning permission was sought for a change of use from the current (vacant) retail use to a bar and music venue.

The Committee was advised that the application related to a constrained site that was in close proximity to neighbouring residential properties. The Senior Planner drew Members' attention to the fact that the upper floors of the application building, as well as the adjoining and nearby buildings, were in residential use. The proposals were for the ground floor to be used as a bar with seating, the external courtyard to serve as a beer garden/seating area and the warehouse building (which partially adjoined 142 Snargate Street) as a bar and music venue. Despite a request for evidence in the form of an acoustic report to demonstrate that the proposals would have an acceptable impact on the residential amenity of neighbouring occupants, none had been submitted. Due to the configuration and constrained nature of the site, its close proximity to neighbours, the type of proposed use, and the absence of evidence to the contrary regarding its impact on residential amenity, it was considered that the proposal would result in significant harm and loss of amenity for neighbouring residents from noise, disturbance and vibrations, and the application was therefore recommended for refusal.

Citing paragraphs 135(f) and 180(e) of the National Planning Policy Framework (NPPF), Councillor Loffman raised concerns about the lack of acoustic evidence and supported the refusal of the application accordingly. He added that, whilst this was a good business proposal, it was in the wrong place. The Senior Planner clarified that the applicant had suggested that they would be installing a sound tunnel (amongst other measures), but the details had not been formally submitted and, without the acoustic report required by Environmental Health, the information provided was simply insufficient.

RESOLVED: (a) That Application No DOV/24/00205 be REFUSED on the grounds that the proposed use of the site as a bar and music venue with amplified music, by virtue of the configuration and constrained nature of the application site and its relationship and proximity to surrounding adjacent residential neighbours, and in the absence of any evidence to the contrary, would result in significant harm to the residential amenities of the occupants of the surrounding residential properties (particularly Nos 142, 144 and 145 Snargate Street) from associated noise, vibrations and disturbance. The proposal would therefore fail to provide a high standard of amenity for existing and future users, contrary to paragraphs 135, 180 and 191 of the National Planning Policy Framework.

171 APPLICATION NO DOV/23/01171 - 1 LASCELLES ROAD, DOVER

Members were shown plans and a photograph of the application site which was situated in a predominantly residential area of Dover. The Senior Planner advised that retrospective planning permission was sought for the erection of a rear extension and pergola. The extension was modest in depth and the pergola structure was unassuming and modest. In addition, the development was not out of character with other developments to the rear of the terrace. A degree of noise and activity arising from the use of the garden was to be expected in a residential area. Following concerns raised about noise and disturbance arising from the use of the pergola, Environmental Health had carried out an assessment and concluded that the pergola was not causing noise to be amplified. In conclusion, it was considered that there would be no harm to the residential amenity of neighbouring properties and approval was recommended.

Councillor C A Vinson queried how much of the plot was covered by the pergola, relative to the footprint of the dwelling, explaining that he wished to understand the

scale of projection of the new development. The Senior Planner advised that a previous extension (now demolished) had projected less than the new extension with the pergola, adding that the pergola extended 7.75 metres from the rear projection.

RESOLVED: (a) That Application No DOV/23/01171 be APPROVED subject to the following condition:

(i) Approved plans and details.

(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 report and as resolved by the Planning Committee.

172 APPLICATION NO DOV/24/00068 - 6 ST PETER'S STREET, SANDWICH

The Committee was shown plans and a photograph of the application site which was situated within the urban boundary of Sandwich and a conservation area. The Planning Officer advised that, despite resulting in the loss of a building previously in retail use, in a primary shopping area in Sandwich, the proposal was not considered to cause significant harm to the vitality and viability of the town centre and approval was therefore recommended. She added that there was an extant planning permission granted in 2022 which already allowed the change of use and could be implemented immediately if the applicant wished.

Councillor D R Friend expressed disappointment that the Member who had called in the application was not in attendance to explain his reasons for doing so. The Chairman echoed his concerns. Councillor Friend commented that the building had been empty for the best part of a decade and the proposal would be an improvement in terms of visual amenity. Councillor Loffman referred to Policy R1 of the Draft Local Plan and questioned why it had been overridden in this case. The Planning Officer clarified that when the extant planning permission had been granted in 2022, Policy R1 (as part of the then emerging Local Plan) had not carried as much weight. Moreover, the Core Strategy, against which the application had then been assessed, had not gone into as much detail in relation to shopping areas.

RESOLVED: (a) That Application No DOV/24/00068 be APPROVED subject to the following conditions:

(i) Time limit;

(ii) Approved plans;

(iii) Samples/Details relating to bricks and joinery.

(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 report and as resolved by the Planning Committee.

173 APPLICATION NO DOV/24/00542 - THE STABLES, GREAT KNELL FARM, KNELL LANE, ASH

The Committee viewed plans and photographs of the application site which was located outside the settlement confines of Ash. The Planning Officer advised that planning permission was sought for a change of use of land to extend the residential curtilage to include an outbuilding which would be demolished to make way for the erection of a detached building for garage/workshop use, ancillary to the main dwelling. As a correction to the report, she advised that paragraph 2.12 should read that there would be no identified harm to the residential amenities of the future occupants of the dwelling approved to the east of the site.

Members were informed that, since publication of the report, ten additional objections had been received raising issues including: contrary to ANP1 of the Ash Neighbourhood Plan, policies DM1, DM15 and DM16 of the Core Strategy and H6 of the Draft Local Plan; visual impact from bridleway and adjacent open farmland had been understated; proposed building not in keeping with the host dwelling; size and scale not proportionate to ancillary use; proposal would lead to future overdevelopment of site; overlooking and inter-looking; appropriate to control future use with a Section 106 agreement; inaccuracies in plan, etc. In response, the Planning Officer advised that the report addressed visual impact in paragraphs 2.7 to 2.9. There was a bridleway to the west of the site and a public right of way (PROW) to the north-east. The report acknowledged that there were open views from the west and the north-east, but these were limited due to existing buildings. As a result, there would be no significant harm and no further planting (nor the retention of existing planting) was necessary. The size, scale and function of the proposed building was considered acceptable. In terms of residential amenity, also covered in the report, she advised that any inter-looking would be at an oblique angle so there would be no harm arising. In relation to the future use of the building for residential accommodation (also covered in the report in paragraphs 2.15 to 2.17), she advised that requiring a Section 106 agreement would be seen as unreasonable and, in any case, planning permission would be required for such use.

The Property & Planning Lawyer advised that there had been a recent decision to grant planning permission for an identical application. It was acknowledged that the decision had been flawed in that the application should have been referred to the Planning Committee for determination. The previous decision was not a material consideration and the application now in front of the Committee should be determined on its own merits.

In response to Councillor Vinson who sought clarification on what had happened, the Chairman advised that the previous decision had been issued in error and the Committee should view the application in front of it as a brand new one.

The Principal Planning Solicitor clarified that sufficient representations had been made in objection to the previous application that required it to go to the Committee for determination. However, the application had been determined by officers in error using delegated powers, and planning permission had been granted. The previous decision was therefore *ultra vires* and, if challenged, would have to be quashed. As a pragmatic way of dealing with the situation, it had been agreed with the applicant that a duplicate application should be submitted, for determination by the Committee. Should Members wish to refuse the current application or impose additional conditions, the Council would look to quash the previous decision by way of a judicial review. He stressed that no weight should be attached to the previous decision, nor to the consequences of the Council having to judicially review its own decision.

Councillor Vinson expressed disappointment and embarrassment that such an error had occurred for a second time in recent years. That being said, he was of the view that the development appeared reasonable and proposed that the application should be approved. Councillor Loffman questioned what authority the Ash Neighbourhood Plan had in relation to other plans, and shared concerns that there would be an application for a dwelling in the near future. Councillor Kenton commented that objectors had raised serious issues, overlooking being one of the main concerns. He was of the view that the proposed building was too tall and obscure glazing the top windows would at least allay some of the neighbours' concerns.

The Team Leader Development Management confirmed that the impact of windows on the amenity of neighbouring residents and the loss of privacy had been fully considered. Officers had concluded that there would be no significant harm and a condition was not therefore justified. She reminded Members that conditions were required to meet six tests, including whether they were reasonable. Officers' professional judgement was that there would not be a sufficient harmful impact. The Chairman added that, whilst 'significant' was a matter of opinion, officers had given their professional advice and it was for Members to decide whether they followed it.

RESOLVED: (a) That Application No DOV/24/00542 be APPROVED subject to the following conditions:

- (i) Time limit;
- (ii) Approved plans;
- (iii) Incidental use only.

(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.

174 APPEALS AND INFORMAL HEARINGS

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

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

The Committee noted that no action had been taken.

The meeting ended at 7.10 pm.