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Minutes of the remote meeting of the **PLANNING COMMITTEE** held on Thursday, 23 July 2020 at 6.00 pm.

Present:

Chairman: Councillor J S Back

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

Officers: Principal Planner  
Planning Officer  
Trainee Planner  
Planning Consultant  
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/20/00181	Mr Daniel Whalley	Mr Graham Sullivan
DOV/19/00487	Mr Geoffrey Hawkins	Mr James Murray
DOV/20/00353	Mr Graham Chisnell	Mr James Chandler
DOV/20/00254	Councillor Trevor Bartlett Ms Jane Scott	-----

## 1 APOLOGIES

It was noted that an apology for absence had been received from Councillor D G Beaney.

## 2 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor P D Jull had been appointed as a substitute member for Councillor D G Beaney.

## 3 DECLARATIONS OF INTEREST

There were no declarations of interest.

## 4 MINUTES

The minutes of the meeting held on 11 June 2020 were approved as a correct record and signed by the Chairman.

Members viewed drawings, a plan and photographs of the building which was the subject of the application. The Planning Consultant advised that planning permission was sought for the replacement of timber windows and a door with uPVC windows and a door. The building was in a prominent position at the junction of Victoria Road and Ranelagh Road, within the Middle Street Conservation Area of Deal. Previous applications for similar replacements had consistently been resisted, with the Council's approach being supported at appeal. In this case, it had been concluded that the proposal, if approved, would cause less than substantial harm. However, this was still a level of harm that had to be outweighed by public benefits in order for Officers to recommend approval. This was not the case and refusal was therefore recommended.

Councillor J P J Burman referred to similar applications for local buildings that had been approved. Councillor P D Jull argued that energy efficiency was not just a private benefit but of wider national benefit. Councillor T A Bond pointed to the fact that the building was not a heritage asset. It was located at a busy junction and therefore any changes were unlikely to be noticed by vehicular traffic.

The Planning Consultant reminded Members that each application should be determined on its own merits. In this particular case, Members should assess the application on the specifications and drawings submitted by the applicant. He emphasised that the applicant had been advised at the pre-planning stage that uPVC windows would not be acceptable, and that double-glazed timber windows would offer the same energy efficiency benefits. Furthermore, timber was a renewable, sustainable material that could replicate the fine detailing of the existing windows. This could not be achieved with plastic windows which were glossy and bland.

He added that not everybody travelled by car and pedestrians would certainly notice the visual impact of the proposal. One or two properties in Ranelagh Road had installed uPVC windows. However, unlike those properties, the application building was in a prominent and highly visible position. Whilst not a heritage asset, it was in the conservation area. Addressing a point raised by the applicant, he advised that, provided they could be opened, there was no reason to believe that timber windows would be inferior in fire safety terms.

The Principal Planner reminded the Committee that, under the Planning (Listed Buildings and Conservation Areas) Act 1990, the Local Planning Authority was required to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. The application site was 80 metres from Deal Castle and approximately 90 metres from the nearest listed buildings. The fact remained that the thermal efficiency of double-glazed timber windows was equally as good as plastic, but without the harm caused by plastic windows which were not biodegradable and had a shorter life. Guidance from Historic England was clear that, whilst some plastic windows were better than others, they would never be truly able to replicate timber.

Councillor Burman welcomed Officers' clarification of the issues. He recognised that timber windows would be more expensive than uPVC, but they were appropriate in such a location and would undoubtedly enhance the value of the property in the longer term.

RESOLVED: (a) That Application No DOV/20/00181 be REFUSED on the ground that the proposed uPVC windows and door would detract from the appearance of this non-designated heritage asset and would harm the character and appearance of the surrounding Conservation Area, with limited public benefits. The proposal therefore runs contrary to the aims and objectives of the National Planning Policy Framework 2019 as well as the National Design Guide 2019.

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

6 APPLICATION NO DOV/19/00487 - LAND AT CAPTAIN'S GARDENS COTTAGE, VICTORIA ROAD, DEAL

The Committee was shown an aerial view, plans, drawings and photographs of the application site. The Planning Consultant advised that the application sought permission for a change of use of a former lodge building from a one-bedroom dwelling to a café/restaurant, including the placing of tables and chairs in front of the building. The premises would be open from 8.00am to 10.00pm daily, with food prepared and served for consumption within the building, in the grounds or as a take-away. The serving of alcohol was ancillary to the use of the building as a café and would be controlled by planning condition.

As an update to the report, Members were advised that it was proposed to remove condition 8) which referred to controlling the consumption of alcohol to within the building. This was incorrect in that customers would be able to consume alcohol outside the building - but the serving of alcohol would remain ancillary to the main use as set out at condition 9). One additional letter of support and one letter of objection had been received since the report was published, the latter stating that the crossing was in a dangerous location, being too close to the bend, and should be controlled by traffic lights. Lastly, Walmer Parish Council had requested that it be pointed out that its submissions had been made on 5 February and 14 May.

Following concerns raised by Kent County Council (KCC) Highways regarding the difficulty for pedestrians in crossing the road in one attempt due to its width, a pedestrian crossing with an island had been introduced. The applicant's proposal had been supported by a swept path analysis and a road safety audit. KCC Highways had subsequently withdrawn its objections. However, objections remained from Deal Town and Walmer Parish Councils which considered the crossing to be in the wrong place due to its being too close to the junction to the north and the harmful impact on the setting of Deal Castle and the conservation area.

Historic England had initially raised an objection due to the building's proximity to Deal Castle, a Scheduled Ancient Monument. As a result, the applicant had undertaken an options appraisal, demonstrating that the location of the crossing was in the optimum location. Historic England had subsequently indicated that, whilst it recognised that some harm might arise to the setting of the castle, the proposal now met the requirements of the National Planning Policy Framework (NPPF).

Members were advised that no objections had been received in relation to the change of use of the building, the idea of which appeared to be generally supported. Likewise, the potential impact upon the heritage assets was not considered to be harmful enough to outweigh the benefits of the proposal. The main issue had now become the pedestrian crossing.

In this regard, the Planning Consultant drew Members' attention to several points. Firstly, the need to site the crossing in the 'desire line' of pedestrians - namely the most direct and convenient route available to them. If the crossing were sited too far away from this, pedestrians were likely to cross somewhere else where there were no safety measures in place. Secondly, the location of the crossing and its design had been the subject of a road safety audit which had been accepted by KCC Highways. He emphasised that the proposed road safety works had been through a thorough process of due diligence and technical assessment by at least three highway professionals who had concluded that the proposed island would mitigate the potential harm to highway safety arising from the proposal. It was not for the applicant to resolve wider issues of highway safety. Finally, moving the bus-stop(s) further south as suggested would require an assessment of whether and where they could be relocated which would require the agreement of KCC and Stagecoach, with no guarantee of final approval. This process would give rise to delay and would place an unacceptable burden on the applicant.

Councillor D G Cronk suggested that the proposed safety measures needed to go further, by removing the island, widening the road and installing a pelican crossing and railings. The Planning Consultant advised that the proposed measures had to strike a balance between pedestrian safety and visual impact on the castle. Installing lights and railings would make the proposal unacceptable to Historic England because of their impact on the castle. He stressed that the applicant's proposal was designed to mitigate the harm from this change of use and not to address wider road safety issues. That said, the measures would be monitored, and it was possible that KCC Highways could decide in future that additional street furniture was necessary.

Councillor O C de R Richardson supported the change of use and, with no objections from KCC Highways, Historic England or Environmental Health, he proposed that the application should be approved.

Councillor H M Williams raised concerns about the siting of the crossing which was close to three junctions and bus-stops. Cars frequently sped round Castle Deal Road and there had been at least one crash and a pedestrian fatality the previous year. She proposed that a site visit should be held. Councillor T A Bond also expressed surprise at the location but, on balance, supported the proposal given the advice received on the robustness of the road safety audit. Councillor Burman welcomed the applicant's willingness to provide a crossing and the support for a local business. However, he could not support the type of crossing proposed.

It was moved by Councillor H M Williams and duly seconded that Application No DOV/19/00487 be DEFERRED for a site visit in order for Members to receive clarification of the highway safety aspects of the proposal from KCC Highways.

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

In response to Councillor Cronk who proposed that a 20mph speed limit should be introduced, the Planning Consultant advised that this was not a matter for the Committee. Such a proposal required public consultation and a Traffic Regulation

Order and, in any case, the application was already deemed to be acceptable without a reduction in the speed limit.

RESOLVED: (a) That Application No DOV/19/00487 be APPROVED subject to the following conditions:

- (i) 3-year time limit to commence development;
  - (ii) The layout of the building to be in accordance with the submitted drawings;
  - (iii) Before the use commences, the pedestrian crossing, as shown on the approved drawings, shall be provided;
  - (iv) Samples of materials to be used in the pedestrian crossing and the replacement brickwork on the building shall be submitted for the Council's approval;
  - (v) Joinery details for the new entrance door to be submitted for the Council's approval;
  - (vi) The use shall not take place between 22.00 and 08.00 hours on any day;
  - (vii) Upon closing, all seats shall be brought into the building;
  - (viii) The sale of alcohol for consumption on the premises shall be incidental to the use of the site as a café/restaurant;
  - ix) No amplified music shall be played on the application site;
  - x) Provision and retention of vehicle turning facilities on site.
- (b) That powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary wording in line with the recommendations and as resolved by the Planning Committee.

7 APPLICATION NO DOV/20/00353 - THE OLD BAKEHOUSE, LOWER STREET, TILMANSTONE

Members were shown drawings, a plan and photographs of the application site. The Planning Officer advised that the application sought planning permission for the erection of a single storey rear extension on the west elevation of an existing building. The proposed extension would not be visible from the public highway and dense planting along the boundary to the rear of the garden would obscure views from an adjacent field. Furthermore, no undue harm would be caused to the residential amenity of neighbouring properties. As an update to the report, Members were advised that Tilmanstone Parish Council had now submitted comments, supporting the application and the proposed building finishes which would be sympathetic to the character of the existing building and surrounding area.

Councillor E A Biggs supported the proposal which was a modest extension that would use sympathetic materials in keeping with the building's surroundings.

RESOLVED: (a) That Application No DOV/20/00353 be APPROVED subject to the following conditions:

- (i) 3-year time limit for commencement;
  - (ii) Compliance with approved plans.
- (b) That powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary issues in line with the matters set out in the recommendation and as resolved by the Planning Committee.

8 APPLICATION NO DOV/20/00254 - BARN AT POTTS FARM, RICHBOROUGH ROAD, ASH

The Committee viewed an aerial view, plans and photographs of the application site which comprised a group of farm buildings. The Planning Officer advised Members that the application sought planning permission for the change of use and conversion of a timber barn and cart shed, and the erection of a single storey extension to facilitate the conversion of the barn and shed into a single, four-bedroom dwelling. The existing single storey lean-to extension to the timber barn and the Atcost barn would be demolished.

Members were advised that the application site was in the countryside, outside any defined settlement confines and at a significant distance from existing settlements. The justification for the conversion was based on the fact that the barn was potentially historic and worthy of retention, although the applicant's planning statement acknowledged that the barn might not be the same one as that shown on historic maps. The Planning Officer acknowledged that the re-use or conversion of structurally sound, permanent buildings beyond the confines was permitted under Policy DM4 of the Core Strategy and supported by paragraph 79 (c) of the NPPF. However, the buildings that were the subject of the application were insubstantial structures and were considered incapable of being converted. Equally, they were not considered worthy of retention as they were not considered to hold any historic or heritage value. Therefore, the proposed scheme was not supported by Policy DM4 or paragraph 79 of the NPPF.

In summary, the application site lay outside the confines where development was strictly controlled and, in the absence of the exceptions allowed for by policy, development in this location would be unacceptable in principle, contrary to Policy DM1 of the Core Strategy. Moreover, the proposed development would appear incongruous and visually intrusive, thus causing significant harm to the character and appearance of the countryside, contrary to Policy DM15 and paragraph 170 of the NPPF. Finally, by virtue of its location at a significant distance from existing settlements and bus-stops, it would be an unsustainable form of development. For these reasons, refusal was recommended.

Councillor Biggs expressed disappointment that the application was before the Committee when the application site was outside settlement confines, in an unsustainable location and the buildings were incapable of being converted. He queried whether the approval of the Ham Barn application, which was a similar development brought to Committee, had set a precedent.

In response, the Planning Solicitor advised that the courts accepted that setting a precedent was a valid reason for refusal and it was certainly a material

consideration. Approval was even more likely to set a precedent if it were granted in breach of planning policies; the relevant policies had been clearly identified by the Planning Officer in this case. Whilst it was necessary to present evidence of a precedent being set, the courts had also indicated that, in some cases, the facts spoke for themselves. In this instance the presence of other farm buildings outside the confines and in the countryside would indicate that approval of this application could lead to others of a similar nature being submitted. The Planning Officer clarified that the application was before the Committee because it had been called in by one of the ward councillors.

Councillor Richardson argued that the barn would continue to deteriorate and, whilst policies indicated that it should be refused, he was in favour of approval. In respect of one of the written statements submitted, Councillor P D Jull commented that online shopping was far from sustainable as it would generate delivery van traffic. He also expressed concerns that the Atcost barn could be converted at a later date. Councillor Bond stated that the case for refusal was sound. He also pointed out that it was not beyond the means of the owner to carry out repairs to the barn to prevent it deteriorating further. He requested clarification on policies.

In clarification, the Principal Planner advised that there was a good deal of case law in respect of agricultural conversions. The Atcost barn was regarded as an ephemeral building because of its open sides. Substantial works would be required which made it unsuitable for conversion. In his view, there was no planning route that would allow it to be converted. Turning to policies, the Committee was required to determine applications in accordance with the Development Plan unless material considerations indicated otherwise. Whilst some of the Plan's policies carried reduced weight (namely DM1 and, to a lesser extent DM11 and DM15), Members should not disregard them altogether, particularly in this case where the harm arising from the proposed development was robustly evidenced.

RESOLVED: a) That Application No DOV/20/00254 be REFUSED on the grounds that the proposed development, if permitted, would result in an unjustified dwelling-house outside of any defined urban or village confines, the need for which has not been demonstrated sufficiently to override normal restraint policies. The proposal would constitute unsustainable, unjustified residential development in this rural location, resulting in additional vehicle movements and the need to travel by private car, and would result in an overtly domestic form of development in the rural area, significantly and demonstrably harming the rural character and appearance of the locality contrary to Policies CP1, DM1, DM11 and DM15 of the Core Strategy (2010) and paragraphs 78, 110, 127, 130 and 170 of the National Planning Policy Framework (2019).

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

## 9 APPEALS AND INFORMAL HEARINGS

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

10 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 8.58 pm.