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Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 10 August 2023 at 6.00 pm.

Present:

Chairman: Councillor M J Nee

Councillors: D G Cronk
J S Back
D G Beaney
E A Biggs
D R Friend
S M S Mamjan
M P Porter
H M Williams
L M Wright

Officers: Team Leader (Development Management) - Strategic Sites
Principal Planner
Principal Planner
Senior Planner
Planning Officer
Planning Officer
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/22/01402	-----	Mr Andrew Harris-Rowley
DOV/23/00123	Mr Nathaniel Green	Ms Linda Hedley
DOV/23/00039	-----	Ms Janet Thorpe Jones
DOV/23/00480	Mr Matthew Colley-Banks	Ms Brenda Baker Councillor Dan Friend
DOV/22/01497	Ms Lucy Wilford	Mr Andrew Harris-Rowley
DOV/21/01822	Mr John Mackenzie	Mrs Lynn French

32 APOLOGIES

It was noted that apologies for absence had been received from Councillors N S Kenton, R M Knight and J P Loffman.

33 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors D R Friend, M P Porter and L M Wright had been appointed as substitute members for Councillors N S Kenton, R M Knight and J P Loffman respectively.

34 DECLARATIONS OF INTEREST

There were no declarations of interest made under this item.

35 MINUTES

The minutes of the meeting held on 13 July 2023 were approved as a correct record and signed by the Chairman.

36 APPLICATION NO DOV/23/00551 - FLAT 2, 42 THE MARINA, DEAL

The Committee was shown photographs of the application site. The Planning Officer advised that planning permission was sought for the erection of a first-floor rear extension. In response to Councillor H M Williams, she clarified that the type of window included under condition 3 would be covered by Building Regulations.

RESOLVED: (a) That Application No DOV/23/00551 be APPROVED subject to the following conditions:

- (i) Standard time condition;
- (ii) In accordance with approved plans;
- (iii) Non-opening window with obscure glazing.

(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.

37 APPLICATION NO DOV/22/01402 - 98 NEW STREET, ASH

Members viewed an aerial view, plan and photographs of the application site which was situated within the settlement confines of Ash. The Planning Officer advised that planning permission was sought for the erection of a detached dwelling and a double garage to serve the existing dwelling.

RESOLVED: (a) That Application No DOV/22/01402 be APPROVED subject to the following conditions:

- (i) Time limit;
- (ii) Plans;
- (iii) Samples/details of materials;
- (iv) Cycle storage details;
- (v) Refuse storage details;
- (vi) Ecological enhancements;
- (vii) Pre-commencement tree protection and tree replacement details;
- (viii) Parking spaces to be provided and retained prior to occupation;

- (ix) Permitted development – no additional windows in south-east or north-west elevations.

(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.

38 APPLICATION NO DOV/23/00123 - LAND AT POPPLES FARM, DOVER ROAD, RINGWOULD

The Committee was shown drawings, plans and photographs of the application site which was situated outside the settlement boundary of Ringwould. The Trainee Planning Officer advised that planning permission was sought for the erection of a replacement stable block, store, etc and a change of use of the land for the keeping of horses. She clarified that the report recommendation was subject to no new material considerations being raised during the remainder of the consultation period which had not yet expired.

In response to Councillor L M Wright, the Team Leader Development Management (TLDM) clarified that the application site included a bridleway and the granting of planning permission would not override any other rights attached to the land. It was for the applicant to ensure that they had sufficient rights or to seek a further easement if necessary. He emphasised that the Committee was solely considering whether planning permission should be granted and should not concern itself with matters that were for the applicant to resolve. He confirmed that the change of use of the land was accepted by dint of the report which recommended that planning permission should be granted. In response to Councillor D Cronk who raised concerns about access for trailers and septic tank lorries, the Trainee Planning Officer noted that the current use of the site for agricultural purposes demonstrated that vehicles of that size were already accessing it satisfactorily.

In response to a query about the size of the stables, the Trainee Planning Officer stated that the building would be slightly taller and larger overall than the existing stables. In response to Councillor Williams who raised concerns about highway safety, she advised that Kent County Council (KCC) Highways had declined to comment on the application as the scale of development was below its threshold for consultation. However, she stressed that the stables would remain in private use and consequently there should be no increase in traffic to the site. The Chairman expressed frustration that KCC Highways' consideration of highway safety was predicated on an index that measured the number of accidents/fatalities on a road over a given period rather than using the knowledge of local residents.

The TLDM reminded Members that it should only consider the application in front of it and whether the proposal would affect the safety of the road network. It was important to remember that this was a smaller scale development on a site which already generated traffic movements. He emphasised that it did not merit refusal on highway grounds, not least because it would not meet the National Planning Policy Framework (NPPF) threshold of prejudicing highway safety.

RESOLVED: (a) That, subject to no new material considerations being raised during the remaining consultation period, Application No DOV/23/00123 be APPROVED subject to the following conditions:

- (i) Time limit;

- (ii) Approved plans;
- (iii) External materials;
- (iv) Controlled external lighting;
- (v) Personal use only (no livery);
- (vi) Location of manure heap;
- (vii) Septic tank details;
- (viii) Landscaping 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 recommendation and as resolved by the Planning Committee.

39 APPLICATION NO DOV/23/00039 - GARAGES AT CENTRE OF CAVELL SQUARE, DEAL

The Committee viewed a plan and photographs of the application site which was situated within the settlement confines of Deal. The Principal Planner advised that the application sought planning permission for the erection of four dwellings and was essentially an amendment to a previous application which had extant planning permission. The main difference between the applications was that this one was proposing an additional dwelling and less parking.

Councillors J S Back and D G Beaney spoke in favour of the application, citing the loss of only one parking space, the footprint being the same as the previous application and the fact that the current use of the site had the potential to generate significant traffic movements. Councillor Williams expressed concerns about access into and out of the site as it was only 2.8 metres wide, meaning that longer vehicles had to swing round and mount the opposite pavement. She also raised concerns about cars parking opposite the access, and requested that a construction management plan be required.

The Principal Planner reminded Members that it was an existing vehicle access serving a number of garages and conditioning a construction management plan could be considered unreasonable. The TLDM cautioned against imposing conditions on third-party land as Planning could not lawfully control what happened outside the site, including people parking opposite the access. Moreover, conditions had to be enforceable and a construction management plan for this site would not be practically enforceable.

The Chairman commented that it was a sensitive site being closely surrounded by houses, and suggested that conditions could be imposed to monitor construction hours and deal with contamination. He raised reservations about the garden areas which he considered bland. The TLDM accepted that a contamination condition would be reasonable, and advised that there was a landscaping condition that would help to soften the communal garden areas.

RESOLVED: (a) That Application No DOV/23/00039 be APPROVED subject to the

following conditions:

- (i) Time condition;
- (ii) List of approved plans;
- (iii) Samples of materials;
- (iv) Boundary treatments;
- (v) Landscaping within communal area;
- (vi) Removal of permitted development rights for Schedule 2, Part 1, Classes A, B and C;
- (vii) Implementation of cycle storage/refuse storage.

(b) That powers be delegated to the Head of Planning and Development to settle the Section 106 agreement and any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

40 APPLICATION NO DOV/23/00480 - STREET FARM HOUSE, THE STREET, WOODNESBOROUGH

The Committee viewed photographs of the application site. The Senior Planner advised that planning permission was sought for the change of use of a garage to a holiday let. She confirmed that, whilst the proposal did not comply with Policy DM1, it did comply with Policies DM4 and DM11.

RESOLVED: (a) That, subject to the completion of a Section 106 agreement to secure a habitat mitigation payment, Application No DOV/23/00480 be APPROVED subject to the following conditions:

- (i) Time limit;
- (ii) Approved plans;
- (iii) Use as holiday accommodation;
- (iv) Visibility splays.

(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.

(Under this item, Councillor D R Friend advised that he was opposed to the application, had registered to speak against it at the meeting and would not take part in the debate due to having predetermined the application. He left the meeting during consideration of this item.)

41 APPLICATION NO DOV/22/01497 - LAND AT 52 NEW STREET, ASH

Members were shown plans and photographs of the application site which was located on the eastern side of Ash. The Principal Planner advised that outline planning permission was sought for the erection of up to 53 dwellings with associated parking, etc and the demolition of the existing buildings. As an update to the report, she advised that an additional representation had been received questioning the mechanism for securing connectivity between the three sites. This issue had been addressed by way of a condition requiring highways details. In addition, the report recommendation would require amending to include reference to a Section 106 agreement and the submission and approval of a breeding bird survey, as well as a pre-commencement condition requiring the submission and approval of a bat survey. Finally, she advised that a site-wide Tree Protection Order (TPO) had been withdrawn and a new TPO covering individual trees and groups of trees had been submitted.

Councillor M P Porter lamented the fact that the wider allocated site was not being developed as one project as this would have facilitated the provision of a 10-metre buffer zone to allow wildlife to move around the site and into other areas. Turtle doves were definitely present on the site, and the fact that trees had been hacked about during nesting season in some parts of the wider site did not bode well for the future protection of wildlife under this development. The downgrading of the TPO was also a concern. He found the situation relating to the ownership and development of the land confusing, and suggested that the Ash Neighbourhood Development Plan (ANDP) was being ignored to get the development over the line.

The TLDM advised that the Land Allocations Local Plan and the ANDP both required applications for the site to be preceded by a development brief for the site as a whole. He confirmed that a development brief had not been submitted and agreed. However, an illustrative masterplan had accompanied the application and demonstrated how the individual parcels of land would interconnect. He also confirmed that the ANDP carried full weight. Whilst it was disappointing that the owners had not conferred with each other and looked at the site in a more holistic way, the application in front of the Committee would provide benefits (including affordable housing) and was acceptable in planning terms.

He went on to clarify that the application before the Committee related to land at the centre of a wider site. The land to the east of this plot had received hybrid (outline and full) planning permission for up to 37 units, and land at Cherry Garden Lane had been refused planning permission for 9 units. The illustrative masterplan had demonstrated the ability to create both vehicular and pedestrian connections between the different developments. Although it was regrettable that the applications had been brought forward separately, there was a cohesion as to how they had been planned.

The Principal Planner stressed that the illustrative masterplan had been submitted as part of the application and indicated what was proposed for the eastern plot of land, the application for which had been determined by the Committee in July. There was no requirement in the ANDP to provide a 10-metre buffer for this site. That said, there were opportunities for biodiversity enhancements and these were included in conditions. In response to Councillor Williams, she advised that it was commonplace to submit an illustrative plan at outline stage indicating how dwellings could be accommodated on a site. A parameter plan had also been submitted showing the zones allocated as open space and those allocated as residential.

Councillor Williams commented that the amount of green space provided was very small and asked that it be increased. In addition, she asked whether steps could be

taken to get the three landowners to cooperate with each other. The TLDM responded that the parameter plan indicated that there would be no less than 1.2 hectares of open space which the Council's Planning Policy team had considered acceptable. He emphasised that, once submitted, the Council was duty bound to determine the application and to do so on its planning merits.

Councillor Beaney expressed concerns that the parish council had invested its resources into producing a neighbourhood plan which was about to be discarded. He regarded the illustrative masterplan submitted with the application as meaningless, and proposed that the application should be deferred to enable the respective developers to work with each other and pending further details of the development. Councillor Biggs commented that the way the site was being developed was frustrating. He asked that an additional affordable unit be provided and requested that the developers be required to achieve 10% biodiversity as a gesture of goodwill. Councillor Porter referred to the Chequer Lane development where a 10-metre buffer zone had been achieved. He stressed that the piecemeal development of the site was causing bitterness in the village. Councillor S M S Mamjan questioned the lack of open space and play areas, arguing that squeezing houses into village developments was an urbanisation of rural areas.

The TLDM reiterated that the ANDP carried full weight and was an important material consideration. The Committee was looking at an outline application and it was perfectly reasonable for the applicant to have submitted an illustrative masterplan that demonstrated how the scheme could be achieved on the site. The application, if approved, would mean that approximately four additional dwellings would be built above the estimated capacity of 95 dwellings set out in the relevant policies, taking into account the 37 dwellings forming part of the hybrid application to the east and the nine dwellings that had formed part of the refused development to the west. The Chequer Lane site had been a separate allocation and had been subject to the provision of a 10-metre buffer zone with the Ash bypass and on the western side of the site. There was no such requirement for this site. He referred to pages 62 and 63 of the report that detailed the calculations behind and contributions towards playing pitches and sports facilities in relation to this application.

The Chairman cautioned against deferring the application as this was contrary to the report recommendation and could be considered perverse. It was not unusual for developments to proceed by way of an outline application and for negotiations on the details to take place at the reserved matters stage. The amount of open space was a calculation and dictated by the NPPF. He suggested that the reserved matters application should come back to the Committee so Members could ensure that the layout and units were suitable and in accordance with the ANDP.

Councillor Beaney commented that the development would increase the population of Ash by around 6% and the Committee needed to see more detail. Councillor D R Friend expressed frustrations around the masterplan and biodiversity net gain.

(The meeting was adjourned at 7.51pm to allow Officers to confer and reconvened at 8.04pm.)

The Principal Planning Solicitor reminded Members that applications should be determined in accordance with the Development Plan unless material considerations indicated otherwise. Whilst there were two points of conflict with the ANDP (10% biodiversity net gain and a comprehensive development brief), when considered in the round, and taking account of all the relevant policies, it was the

view of Officers that the proposal did accord with the Development Plan as a whole. Material considerations that supported the application included the delivery of a significant number of new homes and particularly affordable housing, of which there was a deficit in the district. Whilst the Committee had expressed dissatisfaction with an outline application, it was the Government that had made outline applications permissible in order to establish the principle of development on application sites. Notwithstanding that, the emerging Local Plan and ANDP had already established the principle of development on the site. Masterplans were routinely submitted with outline applications and it was for the Committee to decide whether the scheme was appropriate at the reserved matters stage. The masterplan submitted with the application was a serious document and demonstrated that an acceptable scheme was possible. Both the emerging Local Plan and ANDP contemplated piecemeal applications, providing they did not prejudice other developments on the site. It was not unusual for there to be no consultation between owners of separate plots within one development site. He cautioned against a deferral of this application when an application for the related adjacent site (within the wider allocated site) had been granted planning permission by the Committee the previous month. It was important for there to be consistency in the Committee's decision-making and Members had not distinguished why they sought to treat this application differently.

The Chairman added that the application was now out of time for determination which left the Council open to an application for non-determination if the Committee deferred the application this evening.

As a result of this advice, Councillor Beaney stated that he had no choice but to do the responsible thing and withdraw his motion.

It was moved by Councillor D G Cronk and duly seconded that Application No DOV/22/01497 be APPROVED as per the report recommendation and subject to the Reserved Matters application coming back to the Planning Committee for determination.

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

RESOLVED: (a) That, subject to a Section 106 agreement in relation to development contributions as set out in the report, and the submission and approval of a breeding bird survey and mitigation as necessary, Application No DOV/22/01497 be APPROVED subject to the following conditions:

- (i) Submission of reserved matters;
- (ii) Time limits;
- (iii) Approved plans;
- (iv) Samples of materials;
- (v) Provision of refuse/recycling storage;
- (vi) Provision of bicycle storage;
- (vii) Provision of vehicle parking spaces;

- (viii) Strategy for potential contamination risks;
- (ix) Previously unidentified contamination;
- (x) Measures to prevent the discharge of surface water onto the highway;
- (xi) Use of a bound surface for the first 5 metres of the access from the edge of the highway;
- (xii) Completion and maintenance of the access;
- (xiii) Provision and maintenance of the visibility splays;
- (xiv) Submission of highways details;
- (xv) Submission and approval of off-site highway works;
- (xvi) Submission of details for double yellow lines at New Street and the relocation of the speed limit on Sandwich Road (including relocated dragon's teeth and red surfacing);
- (xvii) Construction management plan;
- (xviii) Details of surface water management;
- (xix) Verification report for surface water drainage;
- (xx) Details of foul drainage;
- (xxi) Programme of archaeological works;
- (xxii) Provision of Broadband;
- (xxiii) Housing to meet Building Regulations M4(2) standard;
- (xxiv) Designing out crime measures;
- (xxv) Final arboricultural impact assessment and tree/hedge protection plan and measures;
- (xxvi) Biodiversity Method Statement;
- (xxvii) Lighting design;
- (xxviii) Ecological Design Strategy (on-site only biodiversity net gain and enhancements);
- (xxix) Habitat Management and Monitoring Plan (on-site);
- (xxx) Sound reduction for windows;
- (xxxi) Submission of bat survey.

(b) That the Reserved Matters application be determined by the Planning Committee.

(c) 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.

42 APPLICATION NO DOV/21/01822 - LAND ON WEST SIDE OF CROSS ROAD, DEAL

The Committee was shown plans and photographs of the application site. The TLDM advised that outline planning permission was sought for the erection of up to 140 dwellings with all matters reserved except for access. As an update to the report, he advised that three further representations had been received, raising no new material considerations but commenting on the cumulative impact and planning history of the site.

Members were advised that the site had been allocated for development in the emerging Local Plan. A site to the east of Cross Road had already been granted full planning permission for 100 dwellings. An indicative masterplan had been submitted with the application showing that there would be green space, with some existing trees retained as well as new ones planted. The planning permission for the adjacent site had imposed a pre-commencement condition for footpath works. Whilst these had started, they were currently on hold due to nesting birds. He advised that a similar condition should be imposed on this application.

Councillor Cronk raised concerns about highways and, in particular, the junction with Station Road, questioning why Section 106 contributions were not being used to make improvements there.

The TLDM recapped that a pre-commencement condition had been attached to the site to the east of Cross Road which required that a one-metre footway be provided, and a Section 278 agreement had been completed to that effect. However, after works had started nesting birds had been discovered in the hedge and the works had been suspended until the chicks had fledged. A similar condition was proposed for this site, and he assured Members that the works would be completed. He also reassured members that Cross Road would be widened at the proposed access. The new footpath would link to existing footpaths on Cross Road and cross the neighbouring site through to Station Road.

In terms of highway safety, he confirmed that KCC Highways had reviewed vehicle movements at this scheme and other nearby committed developments, including the one opposite. It had concluded that there would be no impact on highway safety due to the way Cross Road split. He noted that the Council's Infrastructure Delivery Plan was the Council's evidence base behind the emerging Local Plan. This included a junction improvement scheme for the Station Road junction that was designed to improve traffic flow and would be part signalled. The scheme would be secured via a Section 106 agreement and developers would be required to part-fund the works. Other developer contributions would be sought for the proposed improvement works to the Duke of York's roundabout.

In response to Councillor Cronk, he advised that local improvements would be carried out at the same time as the construction of this development, but the wider improvements would be undertaken later once third-party funding had been

secured. Councillor Williams pointed out that, aside from highways, other infrastructure such as GP surgeries and additional school places were badly needed to support these new developments.

The Chairman reminded Members that contributions towards infrastructure would be secured via a Section 106 agreement, a normal part of the planning process. Monies secured via these agreements were based on requests made by other bodies, such as KCC, and how they were spent was outside the Council's control. The TLDM provided assurances that when contributions were secured in this way, Officers ensured that they were put towards facilities that would benefit future occupants of the development and specific schools and NHS catchment areas. In other words, that they were used where the need for them would arise.

Councillor Beaney requested that cycle paths be included in the scheme. He also queried the monies set aside for habitat mitigation at Sandwich and Pegwell Bays and whether they could be used elsewhere. The Principal Planning Solicitor advised that the Council was required by regulations to seek contributions from developers where schemes were considered to have an impact on the Thanet Coast and Sandwich Bay Special Protection Area (SPA). The contributions were designed to mitigate the impact on birds that overwintered at the sites. The impact was closely monitored and, all the while the Council had a strategy to address this matter, funding would be collected and used for this purpose.

In respect of cycle paths, the TLDM clarified that, although the Kent Design Guide looked for footpaths to be 1.8 metres wide, it was not possible to deliver a footpath wider than one metre on Station Road. Due to the constraints of the site, it was unfortunate but pedestrian links could not be achieved to an ideal standard. In summary, he commented that, ultimately, KCC Highways had raised no objections to the application and, in all other respects, it was policy compliant.

Councillor Cronk acknowledged the advice given regarding highway works and developer contributions and moved to approve the application, subject to the reserved matters application being brought to the Committee for determination. The Chairman commented that it would not be appropriate to do so when there were no contentious issues. The Committee should entrust Officers with agreeing reserved matters and achieving a scheme that was acceptable to Members.

RESOLVED: (a) That, subject to a Section 106 agreement to secure the required contributions, provision and retention of a play area and mitigation, and a proportionate contribution to the off-site highway improvement works, Application No DOV/21/01822 be APPROVED subject to the following conditions:

- (i) Reserved matters details;
- (ii) Outline time limits;
- (iii) Approved plans;
- (iv) Existing and the proposed site levels and building heights;
- (v) Biodiversity Net Gain and Biodiversity Management and Monitoring Plan;

- (vi) Biodiversity Method Statement including biodiversity mitigation and enhancement (including bat sensitive lighting);
- (vii) Construction Management Plan (including assessment of impacts on groundwater and dust suppression);
- (viii) Highway conditions (vehicle parking, bicycle parking, visibility splays, turning facilities and details of the construction of roads);
- (ix) Affordable housing provision (numbers, type, tenure, location, timing of construction, housing provider and occupancy criteria scheme) (if not covered in the Section 106);
- (x) Landscaping details and maintenance of green spaces;
- (xi) Open space management plan;
- (xii) Protection of trees and hedges;
- (xiii) Hard landscaping works and boundary details/enclosures;
- (xiv) Contamination;
- (xv) Full details of surface water drainage (prior to commencement of the development), including a Hydrological Risk Assessment;
- (xvi) Verification of the implementation of surface water drainage scheme;
- (xvii) No other infiltration on site other than that approved;
- (xviii) Internal acoustic requirements for dwellings;
- (xix) Programme of archaeological works;
- (xx) Full details of foul drainage, including timetable for implementation and connection;
- (xxi) Details for the protection of existing public sewers;
- (xxii) Broadband connection;
- (xxiii) Off-site highway works prior to commencement;
- (xxiv) Samples of materials;
- (xxv) Full details of windows and doors, including the depth of reveals;
- (xxvi) Details of foundation design;

(xxvii) Details of refuse and recycling facilities;

(xxviii) No flues, vents, grilles or meter boxes.

(b) That powers be delegated to the Head of Planning and Development to agree a contribution for off-site highway works, settle any necessary planning conditions and secure a legal agreement, in line with the issues set out in the recommendation and as resolved by the Planning Committee.

43 APPEALS AND INFORMAL HEARINGS

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

44 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 8.50 pm.