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Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 9 November 2023 at 6.00 pm.

Present:

Chairman: Councillor M J Nee

Councillors: D G Cronk
J S Back
D G Beaney
E A Biggs
N S Kenton
R M Knight
J P Loffman (Minute Nos 71-77 only)
S M S Mamjan
H M Williams

Officers: Team Leader (Development Management) - North Team
Planning and Development Manager
Senior Planner
Senior Planner
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/23/00546	Mr Michael Barnes	Mr Paul Tapsell
DOV/22/01210	-----	Mrs Brenda Baker
DOV/22/00471	Mr Nigel Brown	Mr Brynley Hawkins
DOV/21/01237	Ms Karen Banks	Councillor M P Porter

65 APOLOGIES

It was noted that there were no apologies for absence.

66 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute members appointed.

67 DECLARATIONS OF INTEREST

There were no declarations of interest.

68 MINUTES

The minutes of the meeting held on 12 October 2023 were approved as a correct record and signed by the Chairman.

69 ORDER OF BUSINESS

Due to the late arrival of the Planning Consultant responsible for the first two planning applications on the agenda, the Chairman proposed that the order of business should be varied to consider Agenda Item 7 (Application No DOV/23/00546 – Land east side of Short Lane, Alkham) first.

RESOLVED: That, in accordance with Council Procedure Rule 14, the order of business be varied to consider Agenda Item 7 (Application No DOV/23/00546 – Land east side of Short Lane, Alkham) first due to the Planning Consultant being delayed by a road traffic accident.

70 ANNOUNCEMENT

The Team Leader Development Management provided a policy update in respect of Agenda Items 7 (Land east side of Short Lane, Alkham) and 8 (Phase II, Land south of Mill Field, Ash). As both sites were in designated rural areas, Policy SP5 of the emerging Local Plan was a material planning consideration. The policy required developments of six dwellings or more in designated rural areas to provide affordable housing. However, given the status of the emerging Plan, it could only be given moderate weight at this time. The current policy position on both applications was therefore taken from the National Planning Policy Framework (NPPF) which allowed affordable housing to be secured on sites of ten dwellings or more or sites larger than 0.5 hectares.

71 APPLICATION NO DOV/23/00546 - LAND EAST SIDE OF SHORT LANE, ALKHAM

The Committee was shown an aerial view, drawings and photographs of the application site which was located adjacent to but outside the settlement confines of Alkham and within the Kent Downs Area of Outstanding Natural Beauty (AONB). The Senior Planner advised that planning permission was sought for the erection of eight dwellings with associated access and landscaping. As an update to the report, she advised that an additional condition was proposed requiring details of ground levels. The AONB unit had raised no objections and structural tree planting was proposed along the southern and eastern boundaries to screen the development from the AONB. She noted that the site was allocated for development in the Draft Local Plan under Policy SAP43. Given that the current policies for assessing the application were considered to be out-of-date, and the Draft Local Plan carried limited weight, the 'tilted balance' described in the NPPF became relevant. This prescribed that sustainable development should be approved unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Councillor D G Beaney raised concerns that it was the only piece of land in Alkham allocated for development yet included no affordable housing which he considered unfair on Alkham residents. He lamented the fact that if the application were to come forward the following year, affordable housing would be required as the Draft Local Plan would then come into effect. He viewed it as a missed opportunity. Councillor H M Williams supported this view and queried sewerage arrangements.

The Chairman advised that connecting to the sewerage network was outside the scope of planning and it was the responsibility of the applicant to make their own arrangements with Southern Water (SW). SW would then be required to provide additional capacity in the event that there was no capacity. Providing an appropriate condition was attached, that was the extent of Planning's interest. The

Senior Planner confirmed that affordable housing was not required under the current policy, but 30% affordable housing would be required under the new policy unless there were viability issues.

The Principal Planning Solicitor clarified that, whilst developers had the right to connect to the sewerage network, and it was their responsibility to enter into an agreement with SW, there was case law that recognised the right of a Local Planning Authority (LPA) to impose a condition requiring details of foul sewage arrangements where there was a known drainage issue. He confirmed that the Committee had the powers to impose such a condition if it wished. The Senior Planner added that SW had been consulted and had raised no objections regarding foul drainage capacity. SW would require a formal application from the developer for connection to the sewer. In response to Councillor Williams who mentioned the attendance of tankers on a regular basis to pump out sewage, the Senior Planner emphasised that SW had not raised any objections or concerns about the application. Imposing a condition could therefore be viewed as unreasonable.

Councillor Beaney proposed that the application should be refused. In his view the application was premature and the development should come forward the following year when affordable housing would be required under the new Local Plan.

Councillor N S Kenton understood the discontent surrounding the development. However, he stressed that the emerging Local Plan process should not hinder applications coming forward. Members must consider the application in front of them and disregard future requirements. There were flooding and landscaping issues with the site which was probably why only eight houses were proposed. It was a well-contained site and he proposed that the application should be approved. He confirmed that, whilst the additional condition on drainage was well-meaning, it was not reasonable and he was therefore not willing to add it to his proposal. Councillors E A Biggs and R M Knight concurred, pointing out that the AONB unit was content with the proposal and mitigation measures would be in place to address flooding and landscaping. The application had been through the appropriate consultation process and was considered acceptable by Officers.

RESOLVED: (a) That, subject to a Section 106 agreement to secure the required children's equipped play space contribution and the provision, maintenance and management of the landscape buffers and relevant safeguarding conditions, Application No DOV/23/00546 be APPROVED subject to the following conditions:

- (i) Time limit;
- (ii) Approved plans;
- (iii) Samples of materials;
- (iv) Windows/doors set in reveals
- (v) Landscaping;
- (vi) Obscure glazing to first-floor window to Unit 3;
- (vii) Tree protection measures to northern boundary;
- (viii) Refuse and cycle storage;

- (ix) Construction environmental management plan;
- (x) Details and specifications of highway works;
- (xi) Provision and retention of parking;
- (xii) Visibility splays;
- (xiii) Bound surface first 5 metres;
- (xiv) Measures to prevent discharge of surface water to highway;
- (xv) Flood mitigation measures;
- (xvi) Sustainable surface water drainage scheme;
- (xvii) Verification report;
- (xviii) Removal of some permitted development rights;
- (xix) Biodiversity method statement;
- (xx) Badger survey;
- (xxi) Lighting design strategy for biodiversity;
- (xxii) Landscaping and ecological design;
- (xxiii) Habitat management and monitoring plan
- (xxiv) Details of levels.

(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.

72 APPLICATION NO DOV/22/01210 - HOLLYOAK, MARSHBOROUGH ROAD, MARSHBOROUGH

Members viewed an aerial view, plans and photographs of the application site. The Planning Consultant advised that planning permission was sought for a change of use of land for the keeping of horses and the stationing of five caravans including no more than four static caravans and the erection of a communal dayroom. The Committee was advised that there were currently two static caravans on the site without planning permission. It was also clarified that although a number of bus-stops were shown as being in close proximity to the site, the number of buses serving Marshborough had been scaled back in recent years and they were principally for school children.

Members were advised that the site had a long and complex planning history which was set out in section d) and paragraphs 2.9 and 2.10 of the report. The current application sought to increase the number of static caravans on the site from one to

four, to install hardstanding and to erect a dayroom building for shared use. The static caravans would be located on the western part of the site, behind the access. In 2012 the applicant had been granted permission on appeal to station a caravan on the portion of the site that was behind the hedgerow screen on the northern boundary of the site. At the time the Planning Inspector had stated that a proposal to station the caravan in the more open part of the site which was visible from the highway would be unacceptable. A 2017 application for the siting of a caravan in the more exposed location had been refused and an appeal subsequently withdrawn. Not only did the current application once again seek to use the more exposed part of the site (previously deemed unacceptable by the Planning Inspector and the LPA), but to increase the number of caravans from one to four and to erect a building and hardstanding. Previous attempts at providing screening had failed, and doing so in this part of the site would not be possible as it would hinder the use of the access.

Councillor J P Loffman commented that the LPA had a sufficient number of gypsy and traveller pitches. The Council's policies were clear and this application, for a site that had generated concerns over a number of years, was contrary to those policies. Councillor Kenton commented that there was a long and protracted history to the site. Nothing had changed since the last appeal decision when the siting of caravans in the part of the site now proposed had been deemed unacceptable. Whilst he had no objections to the site being used for traveller accommodation, it was obvious that what was being proposed was an overdevelopment.

In response to Councillor Beaney who asked whether the applicants had been asked about planting, the Planning Consultant advised that it was difficult to ensure there was continued planting/screening once the standard condition period of five years had expired. In any case, given that the caravans would be situated directly behind the access, planting would not be possible. He added that there was nothing to stop the applicant coming back with a different scheme which would be assessed afresh. The Chairman expressed surprise at the choice of location which was so categorically unacceptable. He passed comment that, although there were sufficient gypsy/traveller sites in the district, that did not mean that people from those communities necessarily wanted to live in them.

RESOLVED: (a) That Application No DOV/22/01210 be REFUSED on the following grounds:

- (i) The proposed development would, by reason of its location, scale of development and levels of associated activity, result in an incongruous visual and conspicuous incursion into the countryside that would be poorly related, and fail to contribute, to and enhance the natural and local environment, causing harm to the intrinsic character and beauty of the countryside, contrary to Policies DM7, DM15 and DM16 of the Core Strategy, Policy H4 of the Draft District Local Plan, Paragraph 26 of the Planning Policy for Traveller Sites and Paragraphs 130 and 174 of the National Planning Policy Framework.
- (ii) In the absence of information to suggest to the contrary, the application fails to demonstrate that the proposal would minimise the impact on and provide

net gains for biodiversity and the natural environment, contrary to Policy NE1 of the Draft District Local Plan and Paragraph 174 of the National Planning Policy Framework.

- (iii) In the absence of securing the necessary planning obligation in respect of the Thanet Coast and Sandwich Bay SPA Mitigation and Monitoring Strategy, the proposed development is unacceptable by virtue of failing to mitigate its impact. The proposal is therefore contrary to Policy NE3 of the Submission Draft Dover District Local Plan and Paragraphs 179 and 180 of the National Planning Policy Framework.

(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.

73

APPLICATION NO DOV/22/00471 - 3 MIDDLE DEAL ROAD, DEAL

The Committee was shown drawings, plans and photographs of the application site. The Planning Consultant advised that planning permission was sought for the erection of four attached dwellings with undercroft parking at a site within the urban confines of Deal. As an update to the report, he advised that an additional representation had been received in respect of 5 Middle Deal Road. He added that the approved drawing numbers would be specified in the condition, and conditions would be added requiring details of energy efficiency measures and specifying that there should be no sleeping accommodation on the ground floor.

The Committee was advised that a previous application had been refused and dismissed at appeal on the basis of the design, scale and impact of the scheme. However, the Planning Inspector had concluded that the proposal would not have an unacceptable impact on 5 Middle Deal Road. The scheme had since been the subject of negotiations to reduce the scale and massing of the development. The applicant had submitted a sunlight/daylight report which indicated that there would be no significant impacts on no. 5 or on dwellings in Church Path, although there would be some loss of sunlight at certain times.

The site was in a flood zone and, as such, was subject to the 'sequential test' which aimed to steer new development towards areas at lower risk of flooding. However, given the site's location in the centre of Deal, access to public transport and other facilities, and the visual benefit of redeveloping the site, it was agreed that the proposal met the wider sustainability benefits required by the 'sequential test'. Whilst the Environment Agency had sought to impose a condition that would prevent habitable accommodation being provided on the ground floor of the building, the proposal had come forward with habitable accommodation on the ground floors of three of the houses. Rather than redesigning the scheme, the applicant had submitted a flood risk assessment prepared by an expert setting out what mitigation measures could be taken to address flooding. Modelling indicated that the site would not flood if the existing sea defences were maintained, unless there was a breach as part of a worst-case scenario. The current defences provided a standard of protection of a 1 in 300 chance of being overtopped in any year. In Officers' view the proposed mitigation measures were satisfactory and, as such, the proposal met the exception test and was acceptable on balance.

Councillor J S Back spoke in favour of the application, noting that there were two sheds between the application site and no. 5 which suggested that concerns about overshadowing/loss of daylight caused by the proposal were without foundation. Councillor Kenton commented that the development of a brownfield site was to be welcomed. With the amendments made to its scale and design, and a condition to prevent sleeping on the ground floor, the proposal was now acceptable. Councillor Beaney noted the reduced scale of the proposal and the fact it had been moved back from the footpath. Councillor Biggs viewed the scheme as an improvement on the original and welcomed it as a good addition to a residential area. In respect of flood mitigation, he sought reassurance on what information would be provided to future occupants. The Planning Consultant advised that there would be an emergency plan which would include information about the flood line, dry refuge locations, etc. Whilst there would still be a risk, it would be minimised by the mitigation measures. In response to questions, he recommended that the condition about no sleeping on the ground floor should be specified separately to the one on flood resilience measures.

The Chairman underlined his wish to include a condition requiring details of energy efficiency measures given that this was something the applicant had offered. There was a draft policy in the emerging Local Plan that could be used as the basis for agreement.

RESOLVED: (a) That, subject to the completion of the Unilateral Undertaking, Application No DOV/22/00471 be APPROVED subject to the following conditions:

- (i) Three-year time period to implement planning permission;
- (ii) Development to be carried out in accordance with the approved drawings received on 7 July and numbered 01H, 03J, 08A & 09;
- (iii) Provision and approval of details to address foul drainage and surface water run-off;
- (iv) Provision and approval of materials for the external appearance of the building;
- (v) Provision and retention of car parking spaces and cycle spaces on site;
- (vi) Provision and retention of refuse and recycling storage on site;
- (vii) Submission and approval of a landscaping scheme and retention thereof;
- (viii) Provision of boundary treatments and retention thereof;
- (ix) Provision of flood resilience measures as identified in the Flood Risk Assessment;

- (x) No sleeping accommodation on ground floors of dwellings;
- (xi) Removal of permitted development rights for extensions and roof alterations to the properties;
- (xii) Details of energy efficiency measures.

(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.

74 APPLICATION NO DOV/21/01237 - PHASE II, LAND SOUTH OF MILL FIELD, ASH

Members viewed an aerial view, drawings, a plan and photographs of the application site which had been allocated for the development of approximately nine dwellings in the Ash Neighbourhood Plan. The Senior Planner advised that planning permission was sought for the erection of nine dwellings with associated access and landscaping. She advised that a correction to paragraph 2.40 of the report was needed to amend the size of the site from 0.55 hectares to 0.48 hectares. She also confirmed that the site was in a designated rural area. Notwithstanding that draft Policy SP5 identified a lower threshold for development in designated rural areas, it had yet to be tested at examination and was therefore considered to attract only moderate weight. Taking into account the NPPF and Policy DM5, it was considered that affordable housing contributions should not be sought. Furthermore, given that the site area was below 0.5 hectares and fewer than ten dwellings were proposed, a contribution request from KCC's Economic Development team had been withdrawn. However, the contributions towards open space requested by the Planning Policy Team and referred to in paragraph 2.38 of the report would be secured via a legal agreement. Whilst a ten-metre buffer sought in the Neighbourhood Plan policy would not be provided, it was considered that the proposals would have an acceptable impact on the character of the countryside and landscape, subject to the landscaping scheme that would enhance the existing southern boundary hedge, and when seen within the context of the settlement in wider landscape views. In summary, the proposal was considered acceptable when applying the tilted balance approach and approval was therefore recommended.

Councillor Loffman stated that, whilst the site was appropriate for development, the number of dwellings proposed was excessive. He had strong reservations about the scheme and believed the badger corridor needed to be bigger. The Chairman expressed concerns about the location of the development which was on a prominent site and very visible in the landscape. To provide effective screening, he proposed that a condition should be imposed to secure planting on the ridgeline as he was concerned that residents might be tempted to erect fencing along the ridgeline to retain the view. Without question, he was in favour of whatever measures were necessary to support badgers. He suggested that Officers could resolve the final details of landscaping in negotiation with the applicant, having heard the concerns raised by the Committee. Councillor Biggs suggested that stock fencing would be suitable to use with planting.

RESOLVED: (a) That, subject to a legal agreement to secure financial contributions towards open space, Application No DOV/21/01237

be APPROVED subject to the following conditions:

- (i) Standard time condition;
- (ii) List of the approved plans;
- (iii) Samples of external materials;
- (iv) Details of any external lighting;
- (v) Parking provision and retention;
- (vi) Development to be carried out in accordance with tree survey and tree protection plan;
- (vii) Details of biodiversity enhancements;
- (viii) Implementation of measures to secure the protection of protected species;
- (ix) Obscured glazing to north-east elevation of Plot 11;
- (x) Landscaping scheme;
- (xi) Details of finished floor, eaves and ridge levels, shown on a cross-section through the site;
- (xii) Detailed surface water drainage scheme;
- (xiii) Verification report pertaining to the surface water drainage scheme;
- (xiv) Restricting infiltration of surface water within the site to parts where information is submitted to demonstrate there is no resultant unacceptable risk to controlled waters and/or ground stability;
- (xv) Implementation of a programme of archaeological work in accordance with a written specification and timetable;
- (xvi) Construction environmental management plan;
- (xvii) Restriction of meter boxes, vents and flues.

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

75 PLANNING FEES AND CHARGES 2024/25

Members received the report which presented details of the proposed planning fees and charges for 2024/25.

RESOLVED: That the report be noted.

76 APPEALS AND INFORMAL HEARINGS

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

77 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 7.39 pm.