

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 17 MARCH 2011

Present: **Councillor Lusty (Chairman) and
Councillors Ash, Chittenden, English, Harwood,
Hinder, Nelson-Gracie, Paine, Paterson,
Mrs Robertson, Thick and Mrs Wilson**

316. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Barned and J A Wilson.

317. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Thick was substituting for Councillor Barned.

318. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

319. URGENT ITEMS

Update Report

The Chairman stated that, in his opinion, the update report of the Head of Development Management should be taken as an urgent item because it contained further information relating to matters to be considered at the meeting.

320. ITEMS WITHDRAWN FROM THE AGENDA

ENF/11249 - Without planning permission, the erection of polytunnels approximately 5 metres in width and 4 metres in height consisting of tubular steelwork to form a convexed framework with polythene sheeting applied over, and the erection of further convexed framework structures of approximately 3 metres in width and 4 metres in height comprising vertical timber poles with fixed roof support beams and wire supports and with netting and clear sheeting applied over – Land at Gallants Farm, Gallants Lane, East Farleigh

RESOLVED: That agreement be given to the withdrawal of the report of the Head of Development Management relating to the above enforcement case from the agenda in order that consultation can be undertaken with East Farleigh Parish Council.

321. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

322. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed.

323. MINUTES OF THE MEETING HELD ON 24 FEBRUARY 2011

RESOLVED: That the Minutes of the meeting held on 24 February 2011 be approved as a correct record and signed.

324. PRESENTATION OF PETITIONS

There were no petitions.

325. DEFERRED ITEMS

- (1) MA/10/0202 – PLANNING APPLICATION FOR ERECTION OF 14 DWELLINGS – SHARP HOUSE, TOVIL GREEN, TOVIL, MAIDSTONE

The Head of Development Management advised the Committee that revised and amplified plans had been received and put out to consultation.

- (2) MA/09/1751 – ERECTION OF 5 DWELLINGS WITH INTEGRAL PARKING – LAND ADJACENT TO SURRENDEN MEWS, HIGH STREET, STAPLEHURST

The Head of Development Management advised the Committee that additional and amended plans had been received and consulted upon. He hoped to be in a position to report the application back to Committee in April.

- (3) MA/10/0839 – CONVERSION OF OAST HOUSE TO 5 NO. LIVE-WORK UNITS AND EXTERNAL ALTERATIONS, ASSOCIATED GARAGING, PARKING AND LANDSCAPING – TUTSHAM HALL, TUTSHAM FARM, WEST FARLEIGH, MAIDSTONE

The Head of Development Management advised the Committee that work was progressing on the draft Section 106 agreement.

- (4) MA/10/2065 – DEMOLITION OF EXISTING BUILDING AND SHED AND ERECTION OF TWO NEW STORAGE BUILDINGS – HILLVIEW, OLD LIDSING ROAD, LIDSING, GILLINGHAM

The Head of Development Management advised the Committee that negotiations were continuing in respect of this application.

- (5) MA/10/1023 – INSTALLATION OF SOLAR PHOTOVOLTAIC PANELS AT GROUND LEVEL WITH PLANT/INVERTER HOUSING UNIT – GML

CONSTRUCTION LTD, ORCHARD HOUSE, WESTERHILL ROAD,
COXHEATH, MAIDSTONE

The Head of Development Management advised the Committee that this application had been withdrawn.

- (6) MA/10/1878 – ERECTION OF 1 NO. BUNGALOW (PLOT 2) WITH
DETACHED GARAGE, ACCESS AND ASSOCIATED WORKS (RE-
SUBMISSION OF APPLICATION MA/10/1149) – LAND ADJACENT TO
THE RETREAT, WARE STREET, WEAVERING, MAIDSTONE

The Head of Development Management advised the Committee that the County Council's Ecological Officer had confirmed the need for an ecological survey, and this was being discussed with the applicant.

326. MA/09/2333 - ERECTION OF 3 ATTACHED RESIDENTIAL APARTMENT
BLOCKS ACCOMMODATING 10 ONE BED AND 16 TWO BED FLATS FOR
PERSONS AGED OVER 50'S INCLUDING PEDESTRIAN ACCESS, MOBILITY
SCOOTER PARKING, AMENITY AND GARDEN AREAS AND REFUSE
ENCLOSURES - LAND AT CHURCH STREET, MAIDSTONE

Councillors Chittenden, English, Harwood, Paine and Mrs Wilson stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Development Management.

Mr Blundell addressed the meeting on behalf of the applicant.

RESOLVED:

1. That subject to the prior completion of a S106 legal agreement, in such terms as the Head of Legal Services may advise, to ensure that all residential units are provided for affordable housing for those over 50 years of age, and maintained as such, the Head of Development Management be given delegated powers to grant permission subject to the conditions and informatives set out in the report, as amended by the urgent update report (with the deletion of condition 18, its replacement by condition 21 and the amendment of the related informative as a consequence), the additional condition and informatives set out in the urgent update report and the following additional informatives:-

Details submitted in accordance with condition 3 should investigate the provision of a natural water feature rather than a bird bath.

The applicant should liaise with the Council's Planning Officers and Parking Officers to ensure that deliveries to the site can be made with the minimum disruption to traffic flow.

2. That the details submitted in accordance with conditions 2 (materials), 3 (landscaping) and 18 (railings) shall be referred to Ward Members for comment prior to determination.
3. That the details submitted in accordance with condition 3 (landscaping) shall also be referred to Councillor Harwood for comment prior to determination.

Voting: 11 – For 0 – Against 1 – Abstention

327. MA/10/1766 - ERECTION OF A TWO STOREY REAR EXTENSION - CANDLE COTTAGE, THE STREET, ULCOMBE, MAIDSTONE

All Members stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Development Management.

Mr Bishop, for objectors, Councillor Beale of Ulcombe Parish Council (against) and Mrs Chappell-Tay, the applicant, addressed the meeting.

RESOLVED: That permission be granted subject to the conditions set out in the report, as amended by the urgent update report, the additional conditions set out in the urgent update report and the following informative:-

The applicant should seek to incorporate swift bricks and bat boxes into the development.

Voting: 7 – For 4 – Against 1 – Abstention

Note: Councillor Thick left the meeting after consideration of this application (7.32 p.m.).

328. LAND AT FORMER TREBOR BASSETT SITE (NOW SCOTNEY GARDENS), ST PETERS STREET, MAIDSTONE - PROPOSED VARIATION TO THE TERMS OF AN EXISTING S106 AGREEMENT DATED 15 NOVEMBER 2002 IN RESPECT OF PLANNING APPLICATION MA/02/0820 (DEMOLITION OF ALL BUILDINGS UPON THE SITE AND THE ERECTION OF TWO, FOUR AND FIVE STOREY BUILDINGS ACCOMMODATING 307 FLATS (INCLUDING 77 AFFORDABLE DWELLINGS) AND 280 CAR PARKING SPACES).

The Committee considered the report of the Head of Development Management setting out details of a proposed variation to the terms of the existing S106 agreement dated 15 November 2002 in relation to application MA/02/0820. It was noted that:-

- The S106 agreement potentially secured a financial contribution of up to £500,000 towards the provision of a new footbridge over the River Medway and/or improvements to the high level footbridge (adjacent to the railway bridge) over the River Medway in the

vicinity of the development and/or the extension of the riverside walkway northwards from the site.

- There were a number of issues relating to the S106 agreement as currently worded. The contributions secured could not be used for the purchase of land in order to carry out the improvement works, only for their construction and operation. In addition, all of the necessary permissions and pedestrian consents needed to be in place before the Council could draw the money from the developer. This would potentially involve significant expenditure that could not be set against the contributions at a later date. Furthermore, the sum stated in the S106 agreement was up to £500,000 and not necessarily £500,000.
- Given that the provision of a new footbridge over the River Medway was unlikely, primarily due to the high cost, and that a considerable period of time had elapsed since the agreement was signed and the agreement as currently worded did not provide absolute certainty in relation to the actual contribution, which was dependent on all necessary permissions and consents first being in place, and this had not occurred to date, the Assistant Director of Regeneration and Cultural Services had negotiated and informally agreed an alternative course of action with the developer.
- It was now proposed that the developer would make a single payment of £300,000 to the Council, rather than the potential contribution of up to £500,000, and that this payment would not be dependent on all necessary consents and permissions being in place. In return the Council would covenant to spend the contribution on works that would include the improvement of the towpath to the north of Scotney Gardens to assist in the provision of currently missing links to existing stretches of riverside walkway and also works to improve the high level footbridge.
- The potentially revised contribution had been considered in relation to the requirements of Regulation 122 of the CIL Regulations, which set out three tests against which S106 contributions should be judged. Obligations should be:-
 - necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.

The Assistant Director of Regeneration and Cultural Services considered that providing the missing towpath links and undertaking improvements to the high level pedestrian footbridge were key to enhancing the leisure and tourism potential of the riverside (a long term aim of the Council) and also improving links over the River between Maidstone East and Maidstone Barracks railway stations, thus also aiding the regeneration of this part of the

Town Centre. The contribution now proposed would make the development acceptable in planning terms and also be directly related to the development in that it would result in improved pedestrian access from the development site along the River Medway to the high level footbridge potentially resulting in better access to Maidstone East railway station from the site. Access northwards towards Whatman Park would also be potentially improved as the improvement works could link up with footpaths already secured on other sites. In addition, the contribution would be in compliance with policy ENV7 of the Maidstone Borough-Wide Local Plan 2000 which sought the provision, inter-alia, of riverside walks as part of new development. It was considered that the revised contribution remained fairly and reasonably related to the development.

The Committee was mindful that there had been a failure so far to deliver these improvements to infrastructure due to overall costs, land ownership issues and the inflexible terms of the existing S106 agreement. The revised obligations in the proposed Deed of Variation were more likely to deliver the improvements as there would be greater financial certainty and flexibility as to how the projects were developed. However, it was felt that the first call on the monies should be the improvements to the high level footbridge and then the improvements to the towpath.

RESOLVED:

1. That a Deed of Variation to the terms of the S106 agreement dated 15 November 2002 in respect of application MA/02/0820 be completed, the effect of which being the deletion of reference to The Pedestrian Works Contribution, The Pedestrian Consents and The Pedestrian Consents Notices in the 2002 agreement and the insertion of a planning obligation that secures a payment of £300,000 from the developer, Fairview Homes, rather than the original contribution of up to £500,000.
2. That the Council covenant to spend the contribution of £300,000 on currently unspecified improvements to the towpath along the River Medway to the north of the former "Trebor Bassett" (Scotney Gardens) site and the high level footbridge over the River Medway (adjacent to the railway bridge).
3. That the contribution of £300,000 should be spent first on improvements to the high level footbridge and then improvements to the towpath and that there should be a twin track approach to the implementation of the works.

329. MA/11/0135 - ERECTION OF A SINGLE STOREY DWELLING WITH ASSOCIATED PARKING AND WORKS - 1 NORTHDOWN CLOSE, MAIDSTONE

All Members stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Development Management.

Mr Rhodes, for objectors, and Mr Panter, for the applicant, addressed the meeting.

Contrary to the recommendation of the Head of Development Management, the Committee agreed to refuse permission. In making this decision, Members felt that the proposed dwelling would, by reason of its scale, layout and unsympathetic design, be out of character with the prevailing pattern and form of development in Northdown Close, thus causing harm to the overall character and appearance of the area. To permit the development would therefore be contrary to policies CC1, CC6 and BE1 of the South East Plan 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development and PPS3 Housing.

RESOLVED: That permission be refused for the following reason:-

The proposed dwelling would, by reason of its scale, layout and unsympathetic design, be out of character with the prevailing pattern and form of development in Northdown Close, thus causing harm to the overall character and appearance of the area. To permit the development would therefore be contrary to policies CC1, CC6 and BE1 of the South East Plan 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development and PPS3 Housing.

Voting: 9 – For 1 – Against 1 – Abstention

330. MA/11/0037 - ERECTION OF A DWELLINGHOUSE - 34 STANLEY CLOSE, STAPLEHURST, TONBRIDGE

The Committee considered the report and the urgent update report of the Head of Development Management.

Councillor Arger of Staplehurst Parish Council (against) addressed the meeting.

RESOLVED: That permission be granted subject to the conditions and informatics set out in the report with the amendment of condition 5 as follows:-

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall also include the retention of the existing hedgerow on the eastern boundary of

the site and details of protection measures for securing the hedge, which shall include barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Reason: No such details have been submitted in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan 2000 and BE1 and CC6 of the South East Plan 2009.

Voting: 11 – For 0 – Against 0 – Abstentions

331. MA/10/1985 - CONVERSION OF EXISTING BUNGALOW TO 2 NO. CHALET BUNGALOWS (INCLUDING EXTENSION AND RAISED RIDGE HEIGHT WITH DORMERS), PLUS ERECTION OF A DETACHED GARAGE - 45 QUESTED WAY, HARRIETSHAM, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Development Management.

RESOLVED: That subject to the receipt of no representations raising new issues as a result of outstanding consultation, the Head of Development Management be given delegated powers to grant permission subject to the conditions and informatives set out in the report and the additional condition and informative set out in the urgent update report.

Voting: 11 – For 0 – Against 0 – Abstentions

332. MA/11/0071 - CHANGE OF USE FROM VEHICLE WORKSHOP TO BUILDERS MERCHANT WITH TRADE COUNTER - TWENTY TWENTY INDUSTRIAL ESTATE, ST LAURENCE AVENUE, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Development Management.

RESOLVED: That permission be granted subject to the conditions and informatives set out in the report as amended by the urgent update report.

Voting: 11 – For 0 – Against 0 – Abstentions

333. ENF/11249 - LAND AT GALLANTS FARM, GALLANTS LANE, EAST FARLEIGH, MAIDSTONE

See Minute 320 above.

334. APPEAL DECISIONS

The Committee considered the report of the Head of Development Management setting out details of appeal decisions received since the last meeting.

RESOLVED: That the report be noted.

335. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that:-

- A Members' Workshop on strategic employment issues would be held at 6.00 p.m. on Monday 28 March 2011. He would like to take the opportunity to compliment the Officers on recent training sessions.
- He was concerned that a Member had left the meeting without making him aware that he was leaving.

Arising from the Chairman's announcements, Members made a number of suggestions regarding future training sessions, including the formulation of reasons for refusal with examples.

336. UPDATE ON MATTERS REFERRED TO THE CABINET MEMBERS FOR ENVIRONMENT/REGENERATION

It was noted that there was nothing to report at present.

337. DURATION OF MEETING

6.00 p.m. to 8.45 p.m.