

**MAIDSTONE BOROUGH COUNCIL**

**PLANNING COMMITTEE**

**MINUTES OF THE MEETING HELD ON 30 NOVEMBER 2017**  
**ADJOURNED TO 7 DECEMBER 2017**

**Present:** Councillor English (Chairman) and  
**30 November** Councillors Boughton, Clark, Cox, Harwood,  
**2017** Munford, Powell, Prendergast, Round, Spooner,  
Mrs Stockell and Vizzard

**Also Present:** Councillors Cuming, Garten, B Mortimer,  
Newton, Perry and Springett

287. RECORDING OF PROCEEDINGS

Mr Alan Smith of the Kent Messenger newspaper said that he would be filming the voting on application 17/502331 (Land at Woodcut Farm, Ashford Road, Hollingbourne, Kent).

288. APOLOGIES FOR ABSENCE

There were no apologies for absence.

289. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

290. NOTIFICATION OF VISITING MEMBERS

Councillors Cuming, Garten, Perry and Springett indicated their wish to speak on the report of the Head of Planning and Development relating to application 17/502331 (Land at Woodcut Farm, Ashford Road, Hollingbourne, Kent).

Councillor B Mortimer indicated his wish to speak on the report of the Head of Planning and Development relating to application 16/505401 (Vicarage Field at Wares Farm, Linton Hill, Linton, Kent).

Councillor Newton indicated his wish to speak on the reports of the Head of Planning and Development relating to applications 17/502331 (Land at Woodcut Farm, Ashford Road, Hollingbourne, Kent) and 17/503043 (Land South of Avery Lane and Land South of Sutton Road, Otham, Kent).

291. ITEMS WITHDRAWN FROM THE AGENDA

**RESOLVED:** That agreement be given to the withdrawal of the following reports of the Head of Planning and Development from the agenda:

16/506436 - The Green Barn, Water Lane, Hunton, Kent  
17/504314 - Land Rear of 161 Heath Road, Coxheath, Kent

292. URGENT ITEMS

The Chairman stated that, in his opinion, the update reports of the Head of Planning and Development should be taken as urgent items as they contained further information relating to the applications to be considered at the meeting.

293. LEGAL ADVICE IN RELATION TO PRE-ACTION PROTOCOL LETTERS

A Member referred to the urgent update reports of the Head of Planning and Development relating to applications 16/507035 (Gibbs Hill Farm, Grigg Lane, Headcorn, Kent) and 17/502331 (Land at Woodcut Farm, Ashford Road, Hollingbourne, Kent), and asked whether the Pre-Action Protocol Letters giving notice of the intention to bring Statutory Challenges under Section 113 of the Planning and Compulsory Purchase Act 2004 in relation to parts of the Local Plan were deemed to be new information or material considerations, and whether legal advice had been taken to establish this. Further, if legal advice had been taken, and it was available to Members of the Planning Committee, should consideration of the applications referred to above be deferred given that Members had not had the opportunity or sufficient time to read all of the documentation.

The representative of the Head of Legal Partnership explained that legal advice had been taken, but given the lateness of receipt of the Pre-Action Protocol Letters (27 November 2017 afternoon/evening), the advice was that the Letters should have no bearing as applications should be considered on their merits having regard to the legal and policy framework. Further correspondence had been received just prior to the meeting reiterating the same points in the Letters.

Section 38 of the Planning and Compulsory Purchase Act 2004 required determination of planning applications to be in accordance with the Development Plan, unless material considerations indicated otherwise.

The Council had an adopted Local Plan, and the policies in it would be used to make decisions on planning applications. The Letters were Pre-Action Protocol Letters. There was presently no challenge to the adopted Local Plan. The Pre-Action Protocol Letters did not constitute the commencement of proceedings, and there was no guarantee that proceedings would be commenced within the specified time period (by Wednesday 6 December 2017).

The Council's Local Plan adopted on 25 October 2017 had to be given full weight. No Court had given any direction to the Council to not apply the Local Plan, so full weight had to be given to the Local Plan policies.

294. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

295. EXEMPT ITEMS

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

296. MINUTES OF THE MEETING HELD ON 9 NOVEMBER 2017 ADJOURNED TO 16 NOVEMBER 2017

**RESOLVED:**

1. That the Minutes of the meeting held on 9 November 2017 adjourned to 16 November 2017 be approved as a correct record and signed subject to the amendment of the first sentence of condition 5 (Landscaping) set out in the second resolution contained in Minute 279 relating to application 17/503284 (Church Farm, Ulcombe Hill, Ulcombe, Kent) to read:

The development hereby approved shall not commence until a landscape scheme designed in accordance with the principles of the Maidstone Landscape Character Assessment Supplement 2012 has been submitted to and approved in writing by the Head of Planning and Development in consultation with **Ward Members and** the Political Group Spokespersons of the Planning Committee.

2. That the Head of Planning and Development be given delegated powers in consultation with Ward Members and Councillor Harwood to review and amend as appropriate the wording of condition 5 relating to application 17/503284.

297. PRESENTATION OF PETITIONS

There were no petitions.

298. DEFERRED ITEMS

16/506349 - VARIATION OF CONDITION APPLICATION IN RELATION TO INSTALLATION OF 6 NO. FLOODLIGHTING COLUMNS REF. MA/09/1616 (ALLOWED ON APPEAL) WITH AMENDMENT TO CONDITION 3) THE FLOODLIGHTING SHALL NOT BE USED BETWEEN 1ST MAY AND 31ST AUGUST IN ANY CALENDAR YEAR; AND CONDITION 4) THE FLOODLIGHTING SHALL NOT BE USED OUTSIDE THE HOURS OF 15:00-22:30 ON TUESDAYS, WEDNESDAYS AND THURSDAYS, 15:00-21:30 ON SATURDAYS AND NOT AT ALL ON ANY OTHER DAY OF THE WEEK - BEARSTED FOOTBALL CLUB, HONEY LANE, OTHAM, KENT

17/501477 - USE OF LAND FOR THE SITING OF 1 NO. MOBILE HOME, PARKING FOR 1 NO. TOURING CARAVAN AND ERECTION OF AN AMENITY BUILDING FOR A MEMBER OF THE TRAVELLING COMMUNITY - LAND AT PYE CORNER, ULCOMBE, KENT

The Development Manager advised the Committee that he had nothing further to report in respect of these applications at present.

A Member asked whether extension of time agreements were in place in respect of these applications. The Development Manager said that he would find out and report back to the Member direct.

299. 17/502331 - OUTLINE APPLICATION FOR A MIXED COMMERCIAL DEVELOPMENT COMPRISING B1(A), B1(B), B1(C) AND B8 UNITS, WITH A MAXIMUM FLOOR SPACE OF 45,295 SQUARE METRES (ACCESS BEING SOUGHT) (RESUBMISSION OF 15/503288/OUT) - LAND AT WOODCUT FARM, ASHFORD ROAD, HOLLINGBOURNE, KENT

All Members stated that they had been lobbied.

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

Mr Lupton, an objector, Councillor Bennett of Hollingbourne Parish Council, Councillor Waite of Thurnham Parish Council, Mr Blake, for the applicant, and Councillors Garten, Springett, Cuming, Newton and Perry (Visiting Members) addressed the meeting.

It was moved by Councillor Harwood, seconded by the Chairman (Councillor English), that subject to (a) the prior completion of a legal agreement to provide for the Heads of Terms set out in the report, as amended by the urgent update report, and the additional Head of Terms set out in the urgent update report, with the inclusion of Councillor Springett as a member of the proposed Development Monitoring Group, and (b) the conditions set out in the report, as amended by the urgent update report, the Head of Planning and Development be given delegated powers to grant outline permission and to be able to settle or amend any necessary Heads of Terms and conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

During the discussion, with the agreement of the mover and the seconder, the motion was amended as follows:

- Amend Head of Terms No. 7 (Master Plan) to read:

Securing a Master Plan to be agreed between the applicant and the Council (with involvement of the Planning Committee Political Group Spokespersons, the Chairman and Vice-Chairman of the Planning Committee, the North Downs Ward Member and Councillors Springett and de Wiggondene-Sheppard), prior to the submission of the first reserved matters application to include high level parameters such as the phasing of the development; layout of built areas; strategic landscaping; general building design, form and scale; road layout, and materials.

- Amend Head of Terms No. 8 (Development Monitoring Group) to include the Chairman and Vice-Chairman of the Planning Committee and Councillor de Wiggondene-Sheppard as members of the proposed Development Monitoring Group.

- Add an informative as follows:

The applicant is informed that the illustrative Master Plan submitted with the outline application is not considered to provide for a spacious parkland setting as required by the site allocation policy and would therefore not be acceptable to the Council if submitted.

Contrary to the recommendation of the Head of Planning and Development, an amendment was moved by Councillor Spooner, seconded by Councillor Mrs Stockell, that outline permission be refused for the following summarised reasons:

The proposed development is contrary to policy EMP1 (4) of the Maidstone Local Plan 2017 because the employment floorspace figure provided would not allow for the development of a parkland setting. Also, the proposed development would be contrary to policy SP17 of the Maidstone Local Plan 2017 because an employment development in this sensitive and conspicuous gateway location in anything but a parkland setting would be harmful to the character and appearance of the local countryside and the nearby Kent Downs AONB.

The Principal Planning Officer advised the Committee that he considered these grounds to be unsustainable and unreasonable and that they would result in significant costs being awarded against the Council in the event of an appeal.

In accordance with Council Procedure Rule 21.4, three Members of the Committee requested that named votes be taken on this application.

The voting on the amendment was as follows:

FOR (5)	AGAINST (7)
Councillor Powell	Councillor Boughton
Councillor Prendergast	Councillor Clark
Councillor Round	Councillor Cox
Councillor Spooner	Councillor English
Councillor Mrs Stockell	Councillor Harwood
	Councillor Munford
	Councillor Vizzard

#### AMENDMENT LOST

Contrary to the recommendation of the Head of Planning and Development, an amendment was moved by Councillor Powell, seconded by Councillor Prendergast, that outline permission be refused on the basis that, notwithstanding the advice of the Council's Environmental Health Officer, the evidence submitted by the applicant to comply with policy DM6 of the Maidstone Local Plan 2017 was not sufficient.

The Principal Planning Officer advised the Committee that he considered these grounds to be unsustainable and unreasonable and that there was a risk of significant costs being awarded against the Council in the event of an appeal.

The voting on the amendment was as follows:

FOR (4)	AGAINST (7)	ABSTAINED (1)
Councillor Powell	Councillor Clark	Councillor Boughton
Councillor Prendergast	Councillor Cox	
Councillor Round	Councillor English	
Councillor Mrs Stockell	Councillor Harwood	
	Councillor Munford	
	Councillor Spooner	
	Councillor Vizzard	

#### AMENDMENT LOST

The original motion, with the amendments accepted by the mover and seconder during the discussion, was then put to the vote. The voting was as follows:

FOR (7)	AGAINST (5)
Councillor Boughton	Councillor Powell
Councillor Clark	Councillor Prendergast
Councillor Cox	Councillor Round
Councillor English	Councillor Spooner
Councillor Harwood	Councillor Mrs Stockell
Councillor Munford	
Councillor Vizzard	

**RESOLVED:** That subject to:

- (a) The prior completion of a legal agreement to provide for the Heads of Terms set out in the report, as amended by the urgent update report, and the additional Head of Terms set out in the urgent update report, with the amendment of Heads of Terms 7 and 8 as follows:
  7. Securing a Master Plan to be agreed between the applicant and the Council (with involvement of the Planning Committee Political Group Spokespersons, the Chairman and Vice-Chairman of the Planning Committee, the North Downs Ward Member and Councillors Springett and de Wiggondene-Sheppard), prior to the submission of the first reserved matters application to include high level parameters such as the phasing of the development; layout of built areas; strategic landscaping; general building design, form and scale; road layout, and materials.
  8. The creation of a 'Development Monitoring Group' made up of Maidstone Borough Council Planning Officer(s), the Planning Committee Political Group Spokespersons, the Chairman and

Vice-Chairman of the Planning Committee, the North Downs Ward Member, Councillors Springett and de Wiggondene-Sheppard, and Hollingbourne Parish Council to monitor practical matters such as the implementation of the Section 106 Agreement, planning conditions submissions and compliance, and also to be kept up to date with potential future development of the site. To include a monitoring fee of £5,000; AND

- (b) The conditions set out in the report, as amended by the urgent update report, with an informative as follows:

The applicant is informed that the illustrative Master Plan submitted with the outline application is not considered to provide for a spacious parkland setting as required by the site allocation policy and would therefore not be acceptable to the Council if submitted.

the Head of Planning and Development be given delegated powers to grant outline permission and to be able to settle or amend any necessary Heads of Terms and conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Voting:        7 – For        5 – Against        0 – Abstentions

300. TREE PRESERVATION ORDER NO. 5015/2017 - WOODLAND WEST OF TRAPHAM ROAD, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development concerning Tree Preservation Order No. 5015/2017 which was made to protect woodland on a piece of land to the west of Trapham Road, Maidstone. It was noted that:

- Objections to the Tree Preservation Order and representations in support of the making of Tree Preservation Orders on this site had been received.
- It was considered that objections relating to the accuracy of the Tree Preservation Order boundaries had now been addressed and that the current Order accurately reflected the woodland tree cover present. A woodland designation was considered to be the most appropriate even though the woodland did not resemble natural unmanaged woodland across the whole site due to various gardening activities on some plots. The woodland remained vulnerable to development pressure, and it was considered expedient to continue to control tree works on the site.

**RESOLVED:** That Tree Preservation Order No. 5015/2017 be confirmed without modification.

Voting:        12 – For        0 – Against        0 – Abstentions

301. 17/503909 - DEMOLITION OF EXISTING GARAGE BLOCK AND CONSTRUCTION OF TWO NEW HOMES AND DOUBLE GARAGE. ALTERATION OF NORTH KERB LINE TO FORGE MEADOWS AND THE

CREATION OF NEW DRIVEWAYS TO NOS. 4 AND 37 FORGE MEADOWS - 14 KINGS ROAD AND 4 AND 37 FORGE MEADOWS, HEADCORN, ASHFORD, KENT

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

**RESOLVED:** That permission be granted subject to the conditions and informatives set out in the report.

Voting: 11 – For 0 – Against 1 – Abstention

302. 17/503615 - CHANGE OF USE FROM A TATTOO STUDIO TO A 24 HOUR PRIVATE HIRE MINICAB FIRM - 27 PUDDING LANE, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

**RESOLVED:** That permission be granted subject to the condition set out in the report.

Voting: 12 – For 0 – Against 0 – Abstentions

303. 16/507035 - CREATION OF 55 HOUSES AND ASSOCIATED ROADS, CAR PARKING, LANDSCAPING, VEHICLE ACCESS FROM GRIGG LANE AND A NEW AREA OF PUBLIC OPEN SPACE - GIBBS HILL FARM, GRIGG LANE, HEADCORN, KENT

Councillors Prendergast and Round stated that they had been lobbied.

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

Dr Ker, an objector, Councillor Dungey of Headcorn Parish Council and Mr Smith, for the applicant, addressed the meeting.

**RESOLVED:**

1. That subject to (a) the prior completion of a legal agreement to provide for the Heads of Terms set out in the report AND (b) the conditions and informatives set out in the report, with the amendment of condition 2 (Materials) and condition 5 (Landscaping) as follows:

Condition 2 (amended)

Prior to commencement of works/development above damp-proof course (DPC) level, written details and samples of the materials to be used in the construction of the external surfaces of the buildings and hardsurfacing (as indicated on drawings PH207a-PL-003 Rev A and PH207a-PL-006 Rev A received 12/10/17 with the exception of HardiePlank weatherboarding being replaced with timber

weatherboarding) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials and maintained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a good quality appearance to the development.

Condition 5 (amended)

No development above damp proof course level shall take place until details of 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 a programme for the approved scheme's implementation and long term management, have been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and shall include:

- a) Triple row native mix hedgerow (at 45-60cm in height) interspersed with Oak trees (at 60-90cm in height) along eastern boundary of public open space;
- b) Double row native mix hedgerow (at 45-60cm in height) interspersed with Oak trees (at 60-90cm in height) along western boundary of the new housing and public open space;
- c) Reinforcement of front (northern) boundary of site with native planting;
- d) Native tree planting (of Select Standard size) across the public open space;
- e) Details of measures to prevent car parking within the section of wildlife corridor in front of plots 14, 15, 16, 17 and 18;
- f) Details of measures to prevent car parking along the northern boundary of the public open space;
- g) A minimum of a 10m buffer of native planting along the southern boundary of the public open space.

The implementation and long term management plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned domestic gardens. The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details over the period specified.

Reason: To safeguard existing trees and hedges to be retained and ensure a satisfactory external appearance to the development and a good quality of design.

the Head of Planning and Development be given delegated powers to grant permission and to be able to settle or amend any necessary Heads of Terms and conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

2. That a monitoring group be formed comprising Ward Members, representatives of Headcorn Parish Council, the developer and Planning Officers to look at permeability, adjacent connectivity to the western boundary and the future management of open space.

Voting:        6 – For        5 – Against        1 – Abstention

Note: Councillor Cox left the meeting after consideration of this application (9.45 p.m.).

304. 16/505401 - ERECTION OF 13 DWELLINGS AND GARAGES WITH ASSOCIATED ACCESS AND LANDSCAPING - VICARAGE FIELD AT WARES FARM, LINTON HILL, LINTON, KENT

All Members except Councillor Boughton stated that they had been lobbied.

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

Councillor Whitmarsh of Linton Parish Council, Mr Hawkins, for the applicant, and Councillor B Mortimer (Visiting Member) addressed the meeting.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to grant permission subject to the Heads of Terms and conditions being reported back to the Committee for approval.

In making this decision, Members noted that none of the statutory consultees had objected to the proposed development. It was considered that the development would result in less than substantial harm, and this should be weighed against the public benefit resulting from the enhancement of the Conservation Area through the high quality design of the proposed buildings and landscaping, the potential to secure a crossing in the village centre and the gain of this windfall site.

The Development Manager advised the Committee against the proposed reasons for making a decision contrary to the recommendation.

**RESOLVED:** That permission be granted subject to the Heads of Terms and conditions being reported back to the Committee for approval.

Voting:        5 – For        5 – Against        1 - Abstention

The Chairman used his casting vote in favour of approval.

305. LONG MEETING

Prior to 10.30 p.m., during consideration of the report of the Head of Planning and Development relating to application 16/505401, the Committee:

**RESOLVED:** That the meeting should continue until 11.00 p.m. if necessary.

The Chairman advised the Committee that in view of the limited time available, the reports of the Head of Planning and Development relating to applications 17/500984 (Land Between Ringleside and Ringles Gate, Grigg Lane, Headcorn, Kent) and 17/503043 (Land South of Avery Lane and Land South of Sutton Road, Otham, Kent) would be rolled over to the adjourned meeting scheduled to be held on 7 December 2017.

306. DURATION OF MEETING

6.00 p.m. to 10.40 p.m.