

## **MAIDSTONE BOROUGH COUNCIL**

### **Planning Referrals Committee**

#### **MINUTES OF THE MEETING HELD ON THURSDAY 11 MAY 2017**

**Present:** Councillors Mrs Hinder, D Mortimer and J Sams  
(Chairman)

**Also Present:** Councillors Mrs Blackmore, Clark, Garland,  
Garten, Newton, Perry, Powell, Prendergast,  
Mrs Ring, Spooner, Springett and Mrs Stockell

1. **APOLOGIES**

It was noted that apologies were received from Councillor B Mortimer.

2. **NOTIFICATION OF SUBSTITUTE MEMBERS**

Councillor D Mortimer was present as a substitute for Councillor B Mortimer.

3. **ELECTION OF CHAIRMAN**

**RESOLVED:**

- 1) That Councillor J Sams be elected as Chairman of the Committee.
- 2) That the election of a Vice Chairman is not required as it is the last meeting of this Committee for this municipal year.

4. **URGENT ITEMS**

The Chairman stated that there was an urgent update relating to item 13. Land at Woodcut Farm, Ashford Road, Hollingbourne, Maidstone, Kent.

5. **NOTIFICATION OF VISITING MEMBERS**

The following visiting members were present, and indicated they wished to speak on item 13. Land at Woodcut Farm, Ashford Road, Hollingbourne, Maidstone, Kent:

- Councillor Prendergast
- Councillor Garten
- Councillor Perry
- Councillor Newton
- Councillor Springett
- Councillor Spooner
- Councillor Powell
- Councillor Clark

- Councillor Garland

The following visiting members were present at the meeting and did not indicate that they wished to speak on items on the agenda:

- Councillor Stockell
- Councillor Ring
- Councillor Blackmore
- Councillor Cuming

6. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by members and Officers.

7. DISCLOSURES OF LOBBYING

All members of the Committee had been lobbied on item 13. Land at Woodcut Farm, Ashford Road, Hollingbourne, Maidstone, Kent.

8. EXEMPT ITEMS

**RESOLVED:** That the exempt appendix on Part II of the agenda be taken in private.

9. MINUTES OF THE MEETING HELD ON 11 MAY 2015

**RESOLVED:** That the minutes (Part I and II) of the meeting held on 11 May 2015 be approved as a correct record and signed.

10. PRESENTATION OF PETITIONS (IF ANY)

There were no petitions.

11. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC (IF ANY)

Mr John Horne made asked the following question of the Chairman:

*As Woodcut Farm has twice been refused by your Planning Committee colleagues, do you feel let down that Officers do not feel inclined to defend that position, despite their inadequate drafting on the grounds for refusal?*

The Chairman responded that Officers had given professional advice to the Planning Committee both with respect to the original consideration of proposals for Woodcut farm and subsequently with respect to the appeal. The reason for refusal was based upon the discussion and grounds put forward by Members at the original Planning Committee meeting.

In addition Officers have ensured that the position concerning the reasons for refusal agreed by the Planning Committee had been properly reviewed

given the change in circumstances arising from the Local Plan Examination. This was good practice.

Officers had continued to give their professional advice to Councillors at this Committee.

Consideration of the matter at the Planning Referrals Committee was in line with the Council's agreed Constitutional procedure on such matters.

Mr Horne then asked the following supplementary question:

*If the Committee decides to continue to defend the appeal tonight, will you mandate Officers to strongly defend the appeal, despite the fact that the costs represented only 0.5% of the New Homes Bonus that is due to be received by this Council from central government?*

The Chairman responded that the Council would ask Officers to provide a robust defence of the appeal grounds if the Committee was minded to continue the defence of the appeal.

Mr Gary Thomas asked the following question of the Chairman:

*As the Planning Inspector has not yet issued his final report on MBC's Draft Local Plan, will it be reasonable for your Committee to be asked to assume that Woodcut Farm is firmly in the final Plan?*

The Chairman responded that the Committee was considering the position in the context of the stage that the Local Plan had reached, decisions that Full Council and the Strategic Planning, Sustainability and Transport Committee had made and the outcomes of the Local Plan Examination.

The new Local Plan was at an advanced stage and the Council had prepared a comprehensive evidence base to underpin the Plan, which included an objective assessment of the amount and type of new employment land that will be required to 2031.

The Woodcut Farm allocation had been considered and agreed by Full Council.

Woodcut farm was by far the largest B class employment allocation in the Plan; it addressed the evidenced need for a strategically well-located employment site in the borough and was consistent with the Council's Economic Development Strategy which was also agreed by Full Council.

The Local Plan's approach to employment land, including the allocation of Woodcut Farm, was discussed at length and in detail during the Local Plan hearings. Following this full debate, and as outlined at paragraph 5.16 of the main report, the advice from Officers was that the Inspector had endorsed the general principle of the Woodcut Farm employment allocation because it was necessary to meet identified need for employment development in the period to 2031.

Mr Thomas then asked the following supplementary question:

*As the Council did not follow the principles in the National Planning Policy Framework in relation to the duty to co-operate when drafting the Local Plan, was it safe to assume that Woodcut Farm would be in the final Local Plan?*

The Chairman responded that the need for employment land had been validated by the inspector and that Officers had followed the National Planning Policy Framework when drafting the Local Plan.

Mrs Cheryl Taylor Maggio asked the following question of the Chairman:

*Given the defined MBC constitutional procedure, is your Committee comfortable with being invoked on this matter at this time?*

The Chairman responded that the Committee was set up specifically to deal with planning decisions which may have significant costs implications for the Council. It was appropriate for the Planning Committee to consider the impact on this case of the changed circumstances following the Local Plan Inspector's report and the implications of costs at appeal. It was also appropriate to refer the decision of the Planning Committee to the Planning Referrals Committee for further consideration, as was allowed under the Constitution.

Mrs Taylor Maggio asked a supplementary question. However the Chairman judged that the supplementary question did not relate to the original question asked.

Mr Peter Coulling asked the following question of the Chairman:

*As this is such a contentious, strategic matter, do you think it is right that you should be asked to put "costs" above the decision of the Planning Committee?*

The Chairman responded that the costs regime was an integral part of the planning appeals system and if any of the parties failed to fully substantiate its case, then it would be open to an award of costs. The Council had an obligation to consider both whether it could substantiate its case and whether it was at risk of costs. Therefore Officers were simply advising on the costs risks due to the change in circumstances since the decision so Members could make an informed decision.

These costs could be very substantial in a complex case such as this, where it will be dealt with at a Public Inquiry lasting 2-3 weeks, with large numbers of expert witnesses and barristers representing each party. The Council had an obligation to consider both whether it could substantiate its case and whether it was at risk of costs.

Mr Coulling asked the following supplementary question:

*As the potential costs of defending and subsequently losing the appeal are trivial - 0.5% in relation to the New Homes Bonus earned by the borough - do you think the Planning Committee have not already considered the merits in defending the appeal.*

The Chairman asked The Director of Regeneration and Place to answer on her behalf. The Director of Regeneration and Place explained that the costs were not trivial, and that New Homes Bonus had been allocated to the Council's capital programme. As the money had already been allocated to the Capital Programme, with specific projects and investments already identified, the Council would have to substantially change its spending plans if it lost an appeal on this application and had to pay costs.

12. REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT - APPLICATION 15/503288/OUT - LAND AT WOODCUT FARM, ASHFORD ROAD, HOLLINGBOURNE, MAIDSTONE, KENT

At the beginning of the item, members of the public spoke against the Officer recommendation for the Committee to 'agree that the sole reason for refusal recorded in the Council's decision notice, should not be defended at appeal'. The members of the public who spoke on this item were:

- Councillor Mrs Cheryl Taylor Maggio, speaking on behalf of the Kent Association of Local Councils
- Councillor Horne, speaking on behalf of the Joint Parishes Group
- Mr Roger Vidler, speaking on behalf of the Bearsted and Thurnham Society
- Mr Gary Thomas, speaking on behalf of the Campaign to Protect Rural England
- Councillor Bennett, speaking on behalf of Hollingbourne Parish Council

Following public speaking, the Principle Planning Officer and Head of Planning and Development made a presentation to the committee which summarised the Council's current position in relation to planning application MA/15/503288/OUT – Land at Woodcut Farm, Ashford Road, Hollingbourne, Kent:

- The application was originally taken to Planning Committee on 30 June 2016, with an Officer recommendation to approve the application. The committee resolved to refuse the application due to it being harmful to the character of the countryside, Special Landscape Area and the setting of the Kent Downs Area of Outstanding Natural Beauty and any benefits were considered to be outweighed by this harm. The Committee also gave the grounds for refusal that the development would cause less than substantial harm to a Grade II listed building (Woodcut Farm) and the public benefits were not considered to outweigh this harm. At this stage the Local Plan was an early draft and had not been examined by the Inspector.

- The developers appealed against this refusal. The appeal commenced on 27 January 2017 and a public enquiry was due to commence on 10 October 2017.
- Since the application was refused, and before the public enquiry was due to commence, the Draft Local Plan was examined at public hearings and the Inspector published his Interim Findings. The Woodcut Farm site was an allocated employment site in the Draft Local Plan, and the Inspector did not request that the site was rejected (as he did with several housing sites) and did not dispute the figures given for proposed employment need.
- Continuing to sustain the grounds for refusal at appeal could lead to the Council being liable for paying costs. This was because the refusal was contrary to the Draft Local Plan policies, an employment allocation had been made at the site in the Draft Local Plan and the refusal did not recognise the site's importance in providing for the employment need in the borough.
- A new application for the site had also been received by Council, which at the time of the meeting appeared to be policy compliant with the Local Plan.

After the Officers made their presentation, Visiting Members spoke on this item. The following visiting members spoke against the Officer recommendation to not defend the reasons for refusal at appeal:

- Councillor Perry
- Councillor Garten
- Councillor Prendergast
- Councillor Springett
- Councillor Spooner
- Councillor Newton
- Councillor Powell

Councillor Garland spoke in favour of the Officer's recommendation and Councillor Clark provided the Committee with further information on how the Planning Committee reached their decision.

In response to the points raised by visiting members, the Head of Planning and Development clarified the following:

- The Draft Local Plan, including an allocation for Employment Land at this site, had been approved by Full Council.
- The Inspector had confirmed that the Council had fulfilled its duty to co-operate with other boroughs.
- No other neighbouring districts had agreed to take Maidstone's employment need, therefore it fell to Maidstone Borough Council to provide for this need within the boundaries of the borough.

- The site in question would provide a significant amount of the office space needed in the borough.

Following public speaking, and speaking by Visiting Members, the Committee considered the Officer's report and presentation.

In response to questions from the Committee, the Head of Planning and Development confirmed that:

- The grounds for refusal were drafted on the basis of the debate at Planning Committee, with the reasons for refusal being supplied by Planning Committee and the specific refusal being drafted in full by Planning Officers.
- If the Council removed the site from the Local Plan, it would need to find an alternative site to provide the employment allocation required.
- The Council were not able to add any further reasons for refusal to the decision before it was heard at appeal.

At the conclusion of the debate, the committee voted on the Officer's recommendation, which was:

*'To agree that the sole reason for refusal recorded in the Council's decision notice, should not be defended on appeal'*

Voting: For - 1 Ag - 2 Ab - 0

Therefore the Officer's recommendation was not carried.

**RESOLVED:**

That the sole reason for refusal in the Council's decision notice should be defended at appeal.

Voting: For - 2 Ag - 1 Ab - 0

Note – as the committee decided to continue to defend the appeal, the remaining Officer recommendation was not required.

13. DURATION OF MEETING

6.32 p.m. to 8.23 p.m.