

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 16 MARCH 2017

Present: Councillor Perry (Chairman) and Councillors Boughton, M Burton, Clark, Cox, English, Harwood, Hastie, Munford, Powell, Prendergast, Round and Mrs Stockell

Also Present: Councillors Adkinson and Harper

325. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillor Hemsley.

326. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor M Burton was substituting for Councillor Hemsley.

327. NOTIFICATION OF VISITING MEMBERS

Councillors Adkinson and Harper indicated their wish to speak on the report of the Head of Planning and Development relating to application 16/507491.

328. ITEMS WITHDRAWN FROM THE AGENDA

16/505966 - CHANGE OF USE AND CONVERSION OF THE RAILWAY TAVERN TO ONE DWELLING AND THE ERECTION OF A NEW DETACHED DWELLING WITH PARKING AND LANDSCAPING - RAILWAY TAVERN, STATION ROAD, STAPLEHURST, KENT

The Development Manager sought the agreement of the Committee to the withdrawal of application 16/505966 from the agenda to enable the viability report which had been submitted with the application to be put out to public consultation. The Development Manager explained that the report had been withheld because the Officers considered that it contained sensitive information, but it now transpired that the report should have been made available for the public to view.

RESOLVED: That agreement be given to the withdrawal of application 16/505966 from the agenda to enable the viability report submitted with the application to be put out to public consultation.

329. 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.

330. DISCLOSURES BY MEMBERS AND OFFICERS

With regard to the report of the Head of Planning and Development relating to application 16/502993, Councillor Munford stated that he was the Chairman of Boughton Monchelsea Parish Council. However, since he had not taken part in the Parish Council's Planning Committee's discussions on the proposed development, and he did not attend the public meeting, he intended to speak and vote when the application was considered.

331. EXEMPT ITEMS

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

332. MINUTES OF THE MEETING HELD ON 23 FEBRUARY 2017

RESOLVED: That the Minutes of the meeting held on 23 February 2017 be approved as a correct record and signed.

333. PRESENTATION OF PETITIONS

It was noted that a petition might be referred to in relation to application 16/502993.

334. DEFERRED ITEMS

14/504109 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 2 NO. NON-ILLUMINATED METAL POLE MOUNTED SIGNS (RETROSPECTIVE APPLICATION) - HUNTON C OF E PRIMARY SCHOOL, BISHOPS LANE, HUNTON, KENT

15/504300 - OUTLINE APPLICATION FOR TWO STOREY DETACHED HOUSE WITH ACCESS, LAYOUT, SCALE AND APPEARANCE TO BE CONSIDERED - LAND NORTH OF 61 KNAVES ACRE, HEADCORN, KENT

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

335. 16/507491 - DEMOLITION OF EXISTING BUILDING AND ERECTION OF 19 NO. APARTMENTS - 3 TONBRIDGE ROAD, MAIDSTONE, KENT

All Members stated that they had been lobbied.

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

Mr Thurlow, for an objector, Mr Stroud, for the applicant, and Councillors Adkinson and Harper (Visiting Members) addressed the meeting.

RESOLVED: That consideration of this application be deferred to:

- (a) Obtain an Air Quality Assessment; and
- (b) Reconsider the design and layout in the light of the Air Quality Assessment; this to be landscape-led, including trees and planting on the Tonbridge Road frontage, and the treatment of the elevations to be reconsidered to improve amenity for future occupants.

Voting: 13 – For 0 – Against 0 – Abstentions

336. 16/502993 - DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF 18 NEW C2 EXTRA CARE RETIREMENT HOMES, CLUB HOUSE, CAR PORTS, BIN STORES, LANDSCAPE SCHEME AND ACCESS ROAD. DEMOLITION OF GARAGE TO REAR OF 70 CHURCH STREET AND ERECTION OF NEW OAK FRAMED CAR PORT TO REAR GARDEN - LAND TO WEST OF 70 CHURCH STREET, BOUGHTON MONCHELSEA, 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 Edmunds, an objector, Councillor Martin of Boughton Monchelsea Parish Council, and Mr Osborne (for the applicant)/Mr Unwins (in support) addressed the meeting.

RESOLVED: That subject to the prior completion of a S106 legal agreement in such terms as the Interim Head of Legal Partnership may advise to secure the following:

- The provision of 20% affordable housing on site (with option for off-site contributions if a registered provider cannot be secured) in line with DM13;
- The restriction of the units to persons of 55 years of age and over and that occupants are subject to care need assessment and are required to commit to a minimum care package to be agreed with the Local Planning Authority; and
- A healthcare contribution of £15,163.20 (the Head of Planning and Development acting under delegated powers to investigate with the CCG whether the healthcare contribution can be used to deliver medical facilities in Boughton Monchelsea, and, subject to the outcome of those discussions, to finalise where it is to be spent),

the Head of Planning and Development be given delegated powers to grant permission subject to the conditions set out in the report and the additional condition set out in the urgent update report with:

- An additional condition regarding the cutting back of the hedge on the boundary with Church Street to maintain visibility splays, these splays to subsequently be maintained at all times (the precise wording of the additional condition to be finalised by the Head of Planning and Development acting under delegated powers); and
- An informative to the effect that the Ward Member should be involved in approval of details relating to landscaping (the precise wording of the informative to be finalised by the Head of Planning and Development acting under delegated powers).

Voting: 7 – For 6 – Against 0 – Abstentions

Councillor Munford requested that his dissent be recorded.

337. 16/507377 - ERECTION OF ONE DETACHED DWELLING WITH CAR PARKING PROVISION, NEW ACCESS - THE GABLES, MAIDSTONE ROAD, SUTTON VALENCE, KENT

Councillor Prendergast stated that she had been lobbied.

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

Councillor Mrs Riden of Sutton Valence Parish Council and Mr Street, for the applicant, addressed the meeting.

RESOLVED: That subject to no new planning issues (that have not already been considered) being raised as a result of the advertisement of the proposal as a departure from the Development Plan, the Head of Planning and Development be given delegated powers to grant permission subject to the conditions set out in the report.

Voting: 6 – For 2 – Against 4 – Abstentions

Note: Councillor Cox left the meeting during consideration of this application (9.28 p.m.), but returned at 9.35 p.m. prior to consideration of application 16/507996.

338. 16/507996 - RAISING OF ROOF WITH INSERTION OF 3 DORMER WINDOWS, 2 ROOF LIGHTS AND ALTERATIONS TO FENESTRATION TO PROVIDE ADDITIONAL LIVING SPACE - THE WHITE HORSE, WHITE HORSE LANE, OTHAM, KENT

Councillor English stated that he had been lobbied.

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

Councillor Mrs Gray of Otham Parish Council addressed the meeting.

RESOLVED: That permission be granted subject to the conditions set out in the report with the amendment of condition 2 to secure the use of natural slate for the roof (the precise wording of the amended condition to be finalised by the Head of Planning and Development acting under delegated powers).

Voting: 13 – For 0 – Against 0 – Abstentions

339. 16/505311 - CHANGE OF USE FROM A C3 (4 BEDROOM HOUSE) TO SUI GENERIS USE HOUSE OF MULTIPLE OCCUPATION FOR 8 FLATS - 47 FREEMAN WAY, MAIDSTONE, KENT

Councillors English and Powell stated that they had been lobbied.

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

Contrary to the recommendation of the Head of Planning and Development, a motion to grant permission subject to the conditions and informatives set out in the report was lost.

The Development Manager advised the Committee that it would be necessary to provide reasons, which could be sustained at appeal, to support a proposal to refuse permission. Any decision to refuse the application due to misuse of permitted development rights would not be defensible at appeal. Given that it could be reasonably concluded that the erection of the flank dormer window was work that could be carried out as permitted development as it was undertaken before the use of the house as an HMO had commenced, the issue for consideration was restricted to the impact on the character and appearance of the locality of the change of use of the property from an HMO for six unrelated persons (which could be carried out as permitted development) to an HMO for eight unrelated persons which required planning permission. The Officers considered the impact to be marginal.

The Committee wishing to receive further advice from the Officers in private:

RESOLVED: That the public be excluded from the meeting for the following item of business because of the likely disclosure of exempt information for the reasons specified having applied the public interest test:

Head of Schedule 12A and Brief Description

Advice Relevant to the Determination of Application 16/505311

3 – Financial/Business Affairs

5 – Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

The Development Manager reiterated that it would be necessary to provide reasons, which could be sustained at appeal, to support a proposal to refuse permission. At the moment no reasons which could be sustained at appeal had been put forward. To refuse the application for reasons which were not sustainable could result in the award of costs against the Council.

The Committee:

RESOLVED: That the public be re-admitted to the meeting.

It was moved and seconded that permission be refused on the basis that the building had been completed and inhabited without planning permission being granted. The Development Manager advised the Committee that this reason would not be sustainable at appeal. The issue was the impact on the character and appearance of the locality of the change of use of the property from an HMO for six unrelated persons to an HMO for eight unrelated persons.

An amendment was moved and seconded that permission be granted subject to the conditions and informatives set out in the report. The amendment was put to the vote and carried. The substantive motion was then put to the vote and carried.

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

Voting: 6 – For 1 – Against 6 – Abstentions

FURTHER RESOLVED: That Southern Water be asked to investigate any breach of the Water Regulations, in the interests of residential amenity.

Voting: 12 – For 0 – Against 1 – Abstention

340. LONG MEETING

During consideration of the report of the Head of Planning and Development relating to application 16/505311, the Committee:

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

341. 5025/2016/TPO - 164 ASHFORD ROAD, BEARSTED, KENT

The Committee considered the report of the Head of Planning and Development concerning Tree Preservation Order No.5025/2016 which had been made to protect trees on land at 164 Ashford Road, Bearsted. It was noted that, on balance, it was considered that the trees on the site, which were large, mature specimens visible from public viewpoints, made a significant contribution to local landscape character and amenity, and should continue to benefit from the ongoing protection of a Tree Preservation Order as it would ensure that the Council retained a measure of control over their future management.

RESOLVED: That Tree Preservation Order No.5025/2016 be confirmed without modification.

Voting: 13 – For 0 – Against 0 – Abstentions

342. S106 DELIVERY REPORT

RESOLVED: That consideration of this report be deferred until the next meeting of the Committee.

343. APPEAL DECISIONS

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

During the ensuing discussion, a Member sought clarification regarding the role of Planning Committee Members in the appeal process. It was noted that specific reference was made to this in the Code of Conduct for Councillors and Officers Dealing with Planning Matters, which formed part of the Council's Constitution.

It was suggested that, since the Chairman of the Democracy Committee had been asked to arrange for a review to be undertaken of the existing delegations to the Chief Executive and the Head of Planning and Development in relation to planning enforcement, the scope of the work be widened to include a review of other procedural matters in relation to the operation of the Planning Committee.

The Chairman of the Democracy Committee, who was present at the meeting, indicated that it would be helpful to receive recommendations from the Planning Committee on this subject.

RESOLVED:

1. That the report be noted.
2. That a report be included on the agenda for a future meeting of the Committee to enable Members to review the provisions of the

Council's Constitution relating to the Planning Committee and to consider whether to recommend any changes.

344. CHAIRMAN'S ANNOUNCEMENTS

There were no announcements on this occasion.

345. DURATION OF MEETING

6.00 p.m. to 10.55 p.m.