

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 29 NOVEMBER 2018

Present: Councillor English (Chairman) and
Councillors Adkinson, M Burton, Harwood, Kimmance,
Munford, Parfitt-Reid, Perry, Round, Spooner, Vizzard
and Wilby

Also Present: Councillors Garten, Lewins and Mrs Robertson

196. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillor Boughton and that Councillors Bartlett and Kimmance would be late in arriving at the meeting. In the event, Councillor Bartlett was unable to attend the meeting and submitted his apologies.

197. NOTIFICATION OF SUBSTITUTE MEMBERS

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

198. NOTIFICATION OF VISITING MEMBERS

Councillor Garten indicated his wish to speak on the reports of the Head of Planning and Development relating to applications 18/501312/FULL – Swanton Farm, Bicknor Road, Bicknor, Kent; 18/501626/FULL – Yelsted Farm, Yelsted Road, Sittingbourne, Kent; and 18/501979/FULL – Seaview Farm, South Street Road, Stockbury, Sittingbourne, Kent.

Councillors Lewins and Mrs Robertson indicated their wish to speak on the report of the Head of Planning and Development relating to application 18/501745/REM – Land to the East of Hermitage Lane, Maidstone, Kent.

199. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

200. 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.

201. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

202. EXEMPT ITEMS

RESOLVED: That the exempt report of the Head of Planning and Development relating to the Enforcement Tracker be taken in private as proposed.

203. MINUTES OF THE MEETING HELD ON 8 NOVEMBER 2018

RESOLVED: That the Minutes of the meeting held on 8 November 2018 be approved as a correct record and signed.

204. PRESENTATION OF PETITIONS

There were none.

205. DEFERRED ITEM

17/503291 - ERECTION OF 6 NO. LIGHTWEIGHT COMMERCIAL/INDUSTRIAL UNITS - THE PACKHOUSE, QUEEN STREET, PADDOCK WOOD, TONBRIDGE, KENT

The Interim Major Projects Manager advised the Committee that this application had been withdrawn by the applicant and a new application had been submitted for residential development at the site. That application was currently invalid.

206. PLANNING COMMITTEE MEMBER AND SUBSTITUTE MEMBER TRAINING

The Head of Planning and Development submitted a report setting out a proposed training programme to enable Members and Substitute Members of the Committee to fulfil their responsibilities under the Council's Constitution and their individual responsibilities to maintain their knowledge and understanding of local and national planning policy and legislation.

RESOLVED: That

1. New Planning Committee Members and new Substitute Members must complete Planning Training by the end of February 2019, covering the Development Plan, Planning Policies and Guidance, Legislation, Planning Conditions, Grounds of Refusal of Planning Applications, Section 106 Agreements and Legal Training including Pre-determination of Planning Applications (General and Constitution background), and Planning Judicial Reviews (General process) in order to fulfil the requirements in the Constitution.
2. Existing Planning Committee Members and Substitute Members must complete training by the end of February 2019 covering annual refresher

training on recent changes to Planning Policies and Guidance, Legislation, Procedures and Legal Training including Pre-determination of Planning Applications (General and Constitution background), and Planning Judicial Reviews (General process) in order to fulfil the requirements in the Constitution and that every two years Members must undertake refresher training covering Planning Conditions and Grounds of Refusal.

3. Planning Committee Members and Substitute Members are strongly recommended to complete the following optional training sessions:
- Maidstone's Local Plan/CIL – How its policies will continue to deliver high quality development and key aspects of CIL implementation.
 - Between 1-3 specialised/best practice subject area sessions potentially covering but not limited to design, air quality and biodiversity, but to be agreed by the Head of Planning and Development in consultation with Members of the Committee. (This would be likely to be run by an external trainer/body).

Voting: 10 – For 0 – Against 1 – Abstention

207. 18/504734/FULL - THE REDEVELOPMENT OF MAIDSTONE MOSQUE WITH ASSOCIATED FACILITIES INCLUDING A RESIDENTIAL FLAT, TWO RETAIL UNITS AND ANCILLARY ACCOMMODATION (RESUBMISSION OF 18/502567/FULL) - 20-28 MOTE ROAD, MAIDSTONE, KENT

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

Ms Kane, an objector, addressed the meeting.

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

FURTHER RESOLVED: That the Parking Services Section be asked to look at parking management and measures that can be taken in Mote Road, Kingsley Road, Melville Road and surrounding roads in the area.

Voting: 11 – For 0 – Against 0 – Abstentions

Note: Having entered the meeting during consideration of this application (6.15 p.m.), Councillor Kimmance sat in the public gallery and did not participate in the discussion and the voting on the proposed development.

208. 18/501745/REM - APPROVAL OF RESERVED MATTERS FOR APPEARANCE, LANDSCAPING, LAYOUT AND SCALE FOR PHASE 4 COMPRISING 71 DWELLINGS WITH ASSOCIATED INFRASTRUCTURE, PURSUANT TO OUTLINE APPROVAL 13/1749 - LAND TO THE EAST OF HERMITAGE LANE, MAIDSTONE, KENT

All Members stated that they had been lobbied.

The Committee considered the report of the Head of Planning and Development relating to application 18/501745/REM. It was noted that:

- This reserved matters application was originally reported to the Committee on 27 September 2018 with a recommendation for approval. The layout details recommended for approval included a route (Option 3) through ancient woodland in order to link the site to earlier phases of the approved development. The Committee deferred a decision to examine in more detail the impact of two route options within the layout.
- The applicant carried out additional work on these options and the application was reported back to the Committee on 8 November 2018. At that meeting, the Committee agreed to refuse permission for the reasons set out in paragraph 3.3 of the report.
- Prior to the vote being taken, the Development Manager (a) advised the Committee that the proposed reasons for refusal were not sustainable and could result in significant costs against the Council at appeal and (b) issued a significant costs warning.
- Since a significant costs warning had been issued, and the Committee agreed to refuse permission, the decision was deferred until the next meeting of the Committee pursuant to paragraph 30.3 (a) of Part 3.1 of the Council's Constitution and paragraph 17 (a) of the Local Code of Conduct for Councillors and Officers Dealing with Planning Matters (Part 4.4 of the Constitution).
- Counsel's advice had been sought on the proposed grounds for refusal, the likelihood of success at appeal, and the financial implications.
- The advice was that this was an application for the approval of reserved matters details pursuant to an outline application which was allowed at appeal by the Secretary of State who decided that a route (Option 3) through the ancient woodland to Phase 4 of the development was acceptable and that the compensation measures for the minor loss were acceptable. Reserved matters approval could not now be withheld on a ground that had already been decided in principle at the grant of outline planning permission. Otherwise, this would reopen an issue already decided, frustrate the permission that had been granted, and be unreasonable.
- Officers continued to recommend the shortest route (Option 3) which involved the loss of a small amount of ancient woodland and which the Secretary of State had found to be acceptable at appeal. However, there was also a route (Option 2) that avoided the ancient woodland, but resulted in a much longer road through the woodland as a whole.

- The second part of the advice related to the grounds for refusal put forward by Members. Since this was a reserved matters application, not a full application or an outline application, paragraph 175 (c) of the National Planning Policy Framework did not apply.
- It was therefore the Officers' advice that the Council's reasons for refusal could not be sustained at appeal and that attempting to defend them would be unreasonable and expose the Council to a significant adverse costs award in addition to having to bear its own costs defending the appeal. It was therefore recommended that the Committee should not pursue the reasons for refusal of the reserved matters details as advanced at its meeting held on 8 November 2018, and that it should approve the reserved matters details subject to conditions, and agree either route Option 3 or 2.

Mrs Poletti of the New Allington Action Group, an objector, and Councillors Mrs Robertson and Lewins (Visiting Members) addressed the meeting.

RESOLVED: That

1. The reasons for refusal of application 18/501745/REM as advanced by the Committee at its meeting held on 8 November 2018 should not be pursued.

Voting: 6 – For 5 – Against 1 – Abstention

2. Application 18/501745/REM be approved subject to the conditions set out in the report to the meeting of the Committee held on 8 November 2018 with the amendment of conditions 1 and 16 to reflect the Committee's expressed preference for route Option 2 and that the Head of Planning and Development be given delegated powers to negotiate (a) the deletion of the footpath link which would run from the northwest corner of the development into the ancient woodland to link up with public footpath KB51 and (b) additional defensive planting to the woodland buffer, and to add or amend any necessary planning conditions as appropriate.

Voting: 6 – For 5 – Against 2 – Abstentions

Chairman's casting vote in favour.

Note: Councillor Kimmance joined the meeting prior to consideration of this application.

209. 18/501312/FULL - PROVISION OF A COLD STORE, CONCRETE HARDSTANDING, IRRIGATION LAGOON AND ASSOCIATED ENGINEERING OPERATIONS (INCLUDING LAND RAISING/EARTHWORKS) AND THE UPGRADING OF AN EXISTING TRACK AND ACCESS WITH STRUCTURAL LANDSCAPE ENHANCEMENT AND SCREENING - SWANTON FARM, BICKNOR ROAD, BICKNOR, KENT

The Chairman and Councillors Harwood, Munford, Round and Wilby stated that they had been lobbied.

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

In presenting the application, the Interim Major Projects Manager advised the Committee that he wished to amend the final sentence of paragraph 2.07 of the report to read:

The scheme should therefore not have the suggested condition 19 imposed from the 6 September 2018 agenda.

Mr Wainman, an objector, Mr Ogden, for the applicant, and Councillor Garten (Visiting Member) addressed the meeting.

The Chairman drew the Committee's attention to a note which he had received from Mr Peter Moore of Bicknor Parish Meeting apologising for not being able to attend the meeting and making reference to a representation from Payne's Stores, a local business, raising objections to the vehicle movements and pointing out that there is a need for the road infrastructure to be in place before the application is determined.

RESOLVED: That subject to:

- (a) The prior completion of a S106 legal agreement in such terms as the Head of Legal Partnership may advise to provide for the Heads of Terms set out in the report; AND
- (b) The conditions and informatives set out in the report, as amended by the urgent update report, with the addition of the following:
 - The amendment of proposed conditions 18 (Landscaping) and 19 (Landscaping Implementation) to specify that any trees or plants which within a period of **ten** years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species etc.;
 - The amendment of proposed conditions 2 (Plans) and 18 (Landscaping) to change the species mix from 30% Holly to 20% Holly and 10% Yew; the change to be negotiated by the Head of Planning and Development acting under delegated powers;
 - An informative suggesting that there may be opportunities arising from the surface water drainage scheme to address existing flooding issues; and
 - An informative encouraging the applicant to endeavour to reduce noise from HGV refrigeration units by using plug-ins;

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.

Voting: 12 – For 0 – Against 0 – Abstentions

210. 18/502925/FULL - SECTION 73 APPLICATION FOR REMOVAL OF CONDITION 17 (DECENTRALISED AND RENEWABLE OR LOW-CARBON SOURCES OF ENERGY) OF APPLICATION 16/508660/FULL FOR ERECTION OF 65 RESIDENTIAL DWELLINGS, TOGETHER WITH ACCESS, PARKING AND DRAINAGE - LAND AT VICARAGE ROAD, YALDING, KENT

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

Mr Hawkins addressed the meeting on behalf of the applicant.

RESOLVED: That

1. The Head of Planning and Development be given delegated powers to secure the incorporation of renewable energy measures within the affordable housing element of the development.
2. If the Head of Planning and Development is unable to secure the incorporation of renewable energy measures as set out above, the application must be reported back to the Committee.

Voting: 12 – For 0 – Against 0 – Abstentions

211. 18/501626/FULL - DEMOLITION OF EXISTING STORAGE BUILDINGS AND SITING OF A MOBILE HOME WITHIN THE RESIDENTIAL CURTILAGE OF THE MAIN DWELLING FOR OCCUPATION BY A GYPSY AND TRAVELLER FAMILY (RETROSPECTIVE) - YELSTED FARM, YELSTED ROAD, YELSTED, SITTINGBOURNE, KENT

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

Councillor Woods of Stockbury Parish Council, Mr Wood, the agent for the applicant, and Councillor Garten (Visiting Member) addressed the meeting.

RESOLVED: That

1. Permission be granted subject to the conditions set out in the report with an informative emphasising that implementation of condition 6 relating to the demolition of the storage buildings and removal of the resulting materials from the site is fundamental to the acceptability of the application.

2. The Head of Planning and Development be given delegated powers to finalise the wording of the additional informative.

Voting: 12 – For 0 – Against 0 – Abstentions

212. 18/503763/FULL - ERECTION OF TWO NEW DWELLINGS - LAND TO THE REAR OF 244 - 250 UPPER FANT ROAD, MAIDSTONE, KENT

Councillors Adkinson and Wilby stated that they had been lobbied.

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

In presenting the report, the Senior Planning Officer advised the Committee that she wished to:

- Amend condition 7 (Obscure Glazing) to remove the landing window and the dining room window, but to add obscure glazing to the corrugated cladding on the upper section of the garage belonging to dwelling 1. The reason for this was that on further examination, the setback of the living area would create a void within the layout of the property that would prevent occupiers from standing in front of the landing window and limit any views to the front of the site with long views up the access road. The dining room window was a sufficient height from the floor level for the obscure glazing to be unnecessary. The garage was high enough to insert a mezzanine floor which could potentially result in overlooking issues for the neighbouring properties.
- Add a condition relating to delivery and service arrangements (bins etc.) to ensure that neighbours were not compromised by the development.

Mr Blake, an objector, and Mr Anthony, for the applicant, addressed the meeting.

During the discussion on the application, Councillor Adkinson stated that he was the Chairman of the Fant Wildlife Group which managed the Fant Wildlife Nature Reserve that was overlooked by the proposed development. Councillor Adkinson was advised that this did not represent an Other Significant Interest in the application, and that he could continue to participate in the discussion and the voting.

RESOLVED: That consideration of this application be deferred to:

- Seek the submission of a reptile survey;
- Negotiate the incorporation of renewable energy measures such as decentralised energy generation within the development and integrated niches for wildlife (bat tubes or bird bricks);
- Negotiate the retention of a percentage of the cordwood on the site to provide habitat for wildlife; and
- Seek details of a vehicle tracking programme.

Voting: 12 – For 0 – Against 0 – Abstentions

213. 18/501979/FULL - RETROSPECTIVE APPLICATION TO ALLOW SITING OF FOUR ADDITIONAL RESIDENTIAL MOBILE HOMES ON SITE - SEAVIEW FARM, SOUTH STREET ROAD, STOCKBURY, SITTINGBOURNE, KENT

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

Mrs Butler, the applicant, and Councillor Garten (Visiting Member) addressed the meeting.

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

Voting: 12 – For 0 – Against 0 – Abstentions

214. 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.

RESOLVED: That the report be noted.

215. EXCLUSION OF THE PUBLIC FROM THE MEETING

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

Enforcement Tracker

2 – Identity of an Individual
6 (a) and (b) – Enforcement/Court Proceedings
7 – Prevention, Investigation or Prosecution of Crime

216. ENFORCEMENT TRACKER

The Committee considered the report of the Head of Planning and Development setting out the Enforcement Tracker which provided the current status of enforcement cases that had had formal notices served.

During the discussion reference was made to the resource implications of proactive enforcement and it was noted that, in future, as much information as possible relating to enforcement cases would be reported in the public domain.

RESOLVED: That the report be noted.

217. DURATION OF MEETING

6.00 p.m. to 10.20 p.m.