

**MAIDSTONE BOROUGH COUNCIL**

**POLICY AND RESOURCES COMMITTEE**

**MINUTES OF THE MEETING HELD ON WEDNESDAY 3 FEBRUARY 2021**

**Present:** Councillors Brice, M Burton, Chappell-Tay, Clark, Cox(Chairman), English, Mrs Gooch, Harvey, McKay, Mortimer, Newton, Perry, Round, Springett and de Wiggondene-Sheppard

127. APOLOGIES FOR ABSENCE

There were no apologies.

128. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

129. URGENT ITEMS

There were no urgent items.

130. NOTIFICATION OF VISITING MEMBERS

There were no visiting members.

131. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

132. DISCLOSURES OF LOBBYING

Councillors Chappell-Tay, English, Harvey, McKay, Mortimer, Newton, Perry, Round and de Wiggondene-Sheppard had been lobbied on Item 12 – Review of Planning Inspectorate Decisions – Church Road, Otham.

133. EXEMPT ITEMS

**RESOLVED:** That item 12 – Review of Planning Inspectorate Decisions – Church Road, Otham be taken in private due to the possible disclosure of exempt information.

134. PRESENTATION OF PETITIONS

There were no petitions.

135. QUESTIONS AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

136. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

137. APPRAISAL SUB-COMMITTEE

**RESOLVED:** That

1. The Appraisal Sub-Committee be appointed to carry out the Annual Appraisal process for the Chief Executive and Directors; and
2. The Sub-Committee's membership be politically balanced with the membership in accordance with the wishes of Group Leaders.

138. 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 reason specified, having applied the Public Interest Test:

**Head of Schedule 12A and Brief Description**

Review of Planning Inspectorate Decision – Church Road, Otham                      5 – Legal professional privilege

139. REVIEW OF PLANNING INSPECTORATE DECISIONS - CHURCH ROAD, OTHAM

The Head of Planning and Development introduced the report, referencing the site's inclusion in the Council's adopted Local Plan and outlined the timeline of events up until the outcome of the appeal.

The Head of Mid-Kent Legal outlined the steps that would need to be taken if a statutory challenge under section 288 of the Town and Country Planning Act 1990 was requested. The grounds of challenge involved showing (a) there has been a failure to comply with relevant procedural requirements, or (b) the decision is not within the powers of the 1990 Act which entails requiring the High Court to review the Inspector's decision on the grounds of illegality, irrationality or procedural unfairness.

The Committee were informed that Counsel had advised in their detailed opinion, that there were no grounds, with any reasonable chance of success, to commence the statutory challenge against the Inspector's decision. The Head of Mid-Kent Legal reiterated that the Inspector had considered a wide range of public documents, including planned highways improvements and Section 106 monies, during the appeals process. The risk of further reputational damage to the Council was noted.

The costs incurred to date were outlined.

The Committee felt that it was not viable to conduct a legal challenge. Members expressed their views regarding the site's inclusion in the Council's adopted Local Plan (agreed by a majority of Full Council in 2017).

The Committee supported an internal review into the Church Road decision.

**RESOLVED:** That

1. Counsel's opinion about the prospect of a successful challenge against the Inspector's decision in the High Court be noted;
2. The legal implications and the Council's statutory requirements when considering legal challenges be noted;
3. No legal proceedings against the Inspector's decisions be pursued, and therefore that no further action be taken by Maidstone Borough Council concerning the outcome of the planning appeals with respect to Church Road, Otham;
4. The Council issues a statement that explains the position as fully as possible, to be produced in consultation with the Chair and Vice-Chair of the Committee, as well as Councillors McKay and Newton; and
5. Lessons be learned from the experienced of the Church Road application; and that the terms of reference and lines of enquiry be suggested and presented to the Democracy and General Purposes Committee for consideration.

140. DURATION OF MEETING

6.30 p.m. to 9.33 p.m.