

**Medway Council**  
**Meeting of Planning Committee**  
**Wednesday, 29 August 2018**  
**6.30pm to 8.40pm**

**Record of the meeting**

**Subject to approval as an accurate record at the next meeting of this committee**

**Present:** Councillors: Bhutia, Mrs Diane Chambers (Chairman), Etheridge, Gilry, Griffiths, Gulvin, Hicks (Vice-Chairman), McDonald, Pendergast, Potter, Royle, Tejan, Tranter and Wicks

**Substitutes:** Councillors:  
Shaw (Substitute for Bowler)

**In Attendance:** Michael Edwards, Head of Integrated Transport  
Dave Harris, Head of Planning  
Joanna Horne, Planning Solicitor  
Vicky Nutley, Assistant Head of Legal Services  
Carly Stoddart, Planning Manager  
Ellen Wright, Democratic Services Officer

**319 Apologies for absence**

An apology for absence was received from Councillor Bowler.

**320 Record of meeting**

The record of the meeting held on 1 August 2018 was agreed and signed by the Chairman as correct.

The Committee noted the following:

Minute 228 – Planning application – MC/18/0715 – 21 – 23 New Road Chatham ME4 4QJ – It was confirmed that condition 4 included air quality for the lower ground and ground floor.

Minute 231 – Planning application – MC/18/1317 – Builders Yard at 7 Napier Road, Gillingham ME7 4HB – The following refusal grounds had been agreed with the Chairman and Opposition Spokespersons:

- 1 The proposal would result in a cramped form of development which would fail to contribute to the character and appearance of the area and as such would be contrary to Policy BNE1 of the Medway Local Plan 2003 and Paragraph 127 of the National Planning Policy Framework 2018.

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- 2 The proposal, as submitted, fails to provide an adequate level of secure private amenity space to serve the occupiers of the proposed development and as such would be contrary to Policy BNE2 of the Medway Local Plan 2003 and Paragraph 127 of the National Planning Policy Framework 2018.
- 3 The proposal fails to provide adequate parking to serve the occupiers of the proposed flats, thereby increasing competition for limited on street parking and indicating overdevelopment of the site. As such the proposal would be contrary to the provisions of Policies BNE1, BNE2 and T13 of the Medway Local Plan 2003 and Paragraphs 105 and 127 of the National Planning Policy Framework 2018.

### 321 Urgent matters by reason of special circumstances

There were none.

### 322 Declarations of Disclosable Pecuniary Interests and Other Significant Interests

#### Disclosable pecuniary interests

There were none.

#### Other significant interests (OSIs)

Councillor Gulvin referred to planning application MC/18/0175 – Land East of Formby Road (adjacent and rear of 1 – 12 Formby Terrace), Halling, Rochester and advised that although he had not discussed this planning application with the Member involved in the planning application, as the Member was a Cabinet colleague and he had socialised with the Member and his wife, he would leave the meeting for the consideration and determination of the planning application.

Councillor Potter referred to planning application MC/18/0175 – Land East of Formby Road (adjacent and rear of 1 – 12 Formby Terrace), Halling, Rochester and advised that as he had socialised with the Member who was involved in the planning application he would leave the meeting for the consideration and determination of the planning application.

Councillor Tejan referred to planning application MC/18/0175 – Land East of Formby Road (adjacent and rear of 1 – 12 Formby Terrace), Halling, Rochester and advised that as the Member involved in the planning application was a Ward colleague, he would leave the meeting for the consideration and determination of the planning application.

Councillor Wicks referred to planning application MC/18/0175 – Land East of Formby Road (adjacent and rear of 1 – 12 Formby Terrace), Halling, Rochester and advised that as a fellow Member was involved in the planning application

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he would leave the meeting for the consideration and determination of the planning application.

### Other interests

Councillor Etheridge referred to planning application MC/18/0175 – Land East of Formby Road (adjacent and rear of 1 – 12 Formby Terrace), Halling, Rochester and advised that although a Cabinet Member was involved with this planning application and, was a Member of the same political association as himself, he did not consider that he had a disclosable pecuniary interest or other significant interest and therefore would take part in the consideration and determination of this planning application.

Councillor Potter referred to the Enforcement Report regarding a site in Rainham and informed the Committee that as he wished to address the Committee as Ward Councillor on matters outlined in the report, he would not take any part in the determination of this item.

Councillor Tranter referred to planning application MC/18/0175 – Land East of Formby Road (adjacent and rear of 1 – 12 Formby Terrace), Halling, Rochester and sought clarification as to whether he was required to declare an interest in this application. He confirmed that he had no knowledge that a Member was involved with the planning application and he had not discussed the planning application with anyone. The Planning Solicitor advised that membership of the same political group would not constitute a requirement for the declaration of an interest and that this would only be necessary if the Member considered themselves to be socially involved with the individual beyond an acquaintance or a colleague. On this basis, Councillor Tranter confirmed that he had no interest to declare.

### **323 Planning application - MC/17/2324 - Chattenden Lane, Chattenden ME3 8LJ**

#### **Discussion:**

The Head of Planning advised the Committee that as the applicant for this particular planning application had lodged an appeal against non-determination, the Committee was now being requested to formally indicate how it would have determined this planning application had it been in a position to do so.

The Head of Planning drew attention to a correction to the proposed refusal ground no. 5 and an additional refusal ground no. 8 as set out on the supplementary agenda advice sheet.

He also drew attention to an additional representation from the RSPB and a revised flood risk section, full details of which were also set out on the supplementary agenda advice sheet.

The Head of Planning outlined the planning application in detail and advised that prior to the application being submitted and, during the pre-application

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process, a meeting had been held in which the principles of developing this site had been considered and the constraints and general concerns of the Council had been put forward which included, but were not restricted to, access, impact on landscape and character of the area and the impact of this potential application on the existing residential settlements of Chattenden and Hoo.

The applicant had argued that the proposal represented sustainable development which could be approved in advance of the new Local Plan on the basis that it would contribute to the delivery of housing in the absence of a 5 year land supply. This view was not accepted by the Council and the reasons for this were set out in full within the report.

The Committee was informed that the Local Plan process was considering the potential to accommodate growth in the wider Hoo area as part of the plan led approach to deliver sustainable growth in Medway over the plan period and the promotion of this proposed development in advance of the development framework on the draft Local Plan compromised the ability to determine the most appropriate and sustainable use of land and to secure strategic solutions to major issues such as transport, infrastructure provision and environmental management.

The Head of Planning advised the Committee that the applicants had offered to enter into a package of Section 106 contributions and to contribute to the provision of a new footbridge to be constructed near to the site to allow for a pedestrian link between Hoo and Chattenden.

The Committee discussed the planning application having regard to the concerns set out within the report and, in particular, the affect that the proposed development would have upon the safety of vehicle occupants, cyclists and pedestrians using the access on the A228 (Main Road roundabout).

Whilst there was a recognition that there was a need for the provision of housing, it was considered that this application was premature in advance of the Local Plan as it would require substantial planning and adequate infrastructure to support the development and should therefore not be considered in isolation of other potential sites.

Concern was also expressed that the level of funding proposed for education, would not be sufficient to provide a new primary school and local schools were already full to capacity.

### **Decision:**

If the Committee had been in a position to determine this planning application, it would have been refused on grounds 1 – 4 and 6 – 7 as set out in the report for the reasons stated in the report, condition 5 amended and new condition 8 as set out below:

5. When considered in isolation the proposed development fails to consider the potential cumulative impact in relation to ecology and effective

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environmental management strategies, in particular the indirect impacts from development and associated urbanisation on the SSSI such as cat predation, contrary to contrary to Policies BNE35 of the Medway Local Plan 2003 and Paragraphs 8, 175, 176 and 177 of the National Planning Policy Framework 2018.

- 8 The current outline proposal fails to sufficiently demonstrate that surface water flood risk would be adequately managed for the lifetime of the development. This is contrary to Paragraph 163 of the National Planning Policy Framework 2018.

### **324 Planning application - MC/18/0705 - Land At Brickfields, Darland Farm, Pear Tree Lane, Hempstead**

#### **Discussion:**

The Head of Planning outlined the planning application in detail and suggested that if the Committee was minded to approve the application, proposed condition 20 be renumbered 2. This would correct an error in the committee report.

He advised that since despatch of the agenda, one further letter of objection had been received and a summary of the reasons were set out on the supplementary agenda advice sheet.

In addition, he referred to the section of the report titled 'Planning Appraisal' and advised that the 'occupier amenity' section set out on page 69 required deletion and replacement with the revised information set out on the supplementary agenda advice sheet.

The Committee discussed the report and it was confirmed that vehicular access into and out of the scheme would be via Pear Tree Lane. The thin strip of land shown on the plans leading from the development to Capstone Road would be pedestrian access only.

Members expressed concern that the proposed scheme did not include a footpath leading directly from the development to Hempstead despite this being specifically requested when the application had previously been considered by the Committee. In response, the Head of Planning advised that it had not been possible to secure a footpath from the application site along the main road to Hempstead owing to land ownership issues.

Members expressed the view that the provision of a footpath from the site to Hempstead had been an important element of the scheme when the outline application had been approved by the Committee, particularly taking into account that this development would be located on a main road leading to schools and shops in Hempstead. The Committee therefore considered that the application should be deferred to enable officers to clarify land ownership and the provision of a footpath from the site to Hempstead.

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### Decision:

Consideration of this application be deferred pending further clarification on the requirement for the provision of a footpath from the development to Hempstead.

### **325 Planning application - MC/18/0175 - Land East of Formby Road (Adjacent and rear of 1-12 Formby Terrace), Halling, Rochester, Kent**

### Discussion:

The Head of Planning reminded the Committee that this application had been considered by the Committee on 4 July 2018 following which it had been deferred for further information relating to:

- Street scene
- Noise mitigation
- Confirmation that the Environment Agency's comments regarding flood had been satisfactorily addressed.

A response to each of the reasons for the deferral was set out on the supplementary agenda advice sheet.

The Head of Planning suggested that if the Committee was minded to approve the application, a new condition 17 was proposed as follows:

17. No development above ground floor slab level on either residential block proposed shall take place until details of measures to mitigate industrial traffic and other road traffic noise have been submitted to and approved in writing by the Local Planning Authority. Such measures shall include acoustically treated ventilation to meet the required internal noise limits without the need to open windows for ventilation and cooking. The assessment to demonstrate compliance must take into consideration the impact of operations and uses taking place and permitted within the adjacent CEMEX site. The approved mitigation measures must be installed prior to first occupation and shall thereafter be retained.

He also drew attention to a copy of an objection from CEMEX which had been appended to the supplementary agenda advice sheet when the application had been considered on 4 July 2018 and was now appended to the supplementary agenda advice sheet again.

The Committee discussed the application and the following issues were raised:

- Concern that the accommodation on the ground floor of the residential properties related to kitchen, utility wc and store and therefore did not constitute living (habitable) accommodation in planning terms.

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- Poor air quality for future occupiers of the residential properties having regard to the vehicular movements resulting from the location of the existing industrial use to the East.
- The potential disturbance to occupiers of the residential properties from lorries using the industrial site and the close proximity of the site to the railway line, in particular the two properties immediately facing the road leading to and from the industrial site.

Arising from discussions, the Committee agreed that the application be deferred to enable officers to undertake further discussions with the applicant regarding the possible removal of the two properties facing the access road to/from the industrial site from the scheme.

### **Decision:**

Consideration of this application be deferred to enable officers to undertake further discussions with the applicant regarding the possible removal of the two properties facing the access road to/from the industrial site from the scheme.

### **326 Planning application - MC/18/0207 - Tara, 419 Walderslade Road, Walderslade, Chatham ME5 9LL**

### **Discussion:**

The Planning Manager outlined the planning application in detail and reminded the Committee that this application had previously been approved on 9 May 2018 subject to the completion of a Section 106 agreement.

She advised that since May, it had been discovered during Section 106 negotiations that an area of land to the rear of the site was not within the applicants' ownership and had mistakenly been included within the outline application of the site. As a result of the decrease in site area, the previously approved scheme had been reduced to adequately fit onto the site.

### **Decision:**

Approved subject to:

- a) The completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 to secure £14,974.40 towards improvement to Reach Walderslade.
- b) Conditions 1 – 6 as set out in the report for the reasons stated in the report.

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### **327 Planning application - MC/18/1782 - 311 Station Road, Rainham, Gillingham, Medway**

#### **Discussion:**

The Planning Manager outlined the planning application in detail and suggested that if the Committee was minded to approve the application a new condition 15 be approved as set out on the supplementary agenda advice sheet.

In addition she advised that under the section of the report headed 'Development Plan' the date 2012 required amendment to 2018 as it related to the National Planning Policy Framework.

The Committee discussed the planning application.

#### **Decision:**

Approved subject to:

- a) The completion of a unilateral undertaking to secure a contribution of £239.61 per dwelling towards appropriate mitigation measures related to bird disturbance within Special Protection Areas.
- b) Conditions 1 – 14 as set out in the report for the reasons stated in the report and a new condition 15 as set out below:

15. Prior to the occupation of dwellings 5, 6, 7 and 8 as identified on approved drawing number 003 rev C details of privacy screens for the sides of the balconies of these dwellings shall be submitted to and approved in writing by the Local Planning Authority. The privacy screens shall thereafter be implemented in accordance with the approved details prior to the occupation of dwellings 5, 6, 7 and 8 and shall thereafter be retained.

Reason: To ensure protection of privacy for existing and future occupiers in accordance with Policy BNE2 of the Medway Local Plan 2003.

### **328 Planning application - MC/18/1855 - 151 Bells Lane, Hoo St Werburgh, Rochester, Medway**

#### **Discussion:**

The Planning Manager outlined the planning application in detail.

The Committee discussed the application and expressed concern that the construction of three properties on this site was an overdevelopment and by the nature of the design of the dwellings was contrived with the middle property having very little natural daylight. Concern was also expressed as to the ability to park six vehicles on the frontage of the three dwellings, particularly taking into account that this development would be located on a very busy road.



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Following discussions, it was suggested that the application be deferred to enable officers to undertake discussions with the applicant outlining the Committee's concerns and suggesting that the number of dwellings be reduced from three to two.

### **Decision:**

Consideration of the application be deferred to enable officers to undertake discussions with the applicant outlining the Committee's concerns and suggesting that the number of dwellings on this site be reduced from three to two.

### **329 Planning application - MC/18/1793 - 123 Wilson Avenue, Rochester, Medway ME1 2SL**

#### **Discussion:**

The Planning Manager outlined the planning application in detail.

#### **Decision:**

Approved with conditions 1 – 3 as set out in the report for the reasons stated in the report.

### **330 Performance Report for the period 1 April - 30 June 2018**

#### **Discussion:**

The Committee received a report setting out performance and an update on the Local Plan for the period 1 April – 30 June 2018.

The Head of Planning informed the Committee that two planners had recently resigned to take up posts outside of Medway and another had been seconded to another post within Medway, it was therefore hoped that subject to the recruitment process, performance could be maintained.

He also advised upon proposals to streamline the Tree Preservation Order process and the outcome of the recent ISO accreditation inspection.

#### **Decision:**

The Committee noted the report and expressed their appreciation to staff for the work undertaken.

**331 Exclusion of the press and public**

**Decision:**

The Committee agreed to exclude the press and public from the meeting during consideration of agenda item 14 (Enforcement Report regarding site in Rainham) because consideration of this matter in public would disclose information falling within paragraphs 1, 2 and 6 of Part 1 of Schedule 12A to the Local Government Act 1972 as specified in agenda item 13 (Exclusion of Press and Public) and, in all the circumstances of the case, the Committee considered that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

**332 Enforcement Report regarding site in Rainham**

**Discussion:**

The Assistant Head of Legal Services informed the Committee of the history of the site and the reasons this report had been placed before the Committee for consideration. She provided an update on the current situation following a recent court hearing.

With the agreement of the Committee, Councillor Potter addressed the Committee as Ward Councillor and outlined residents' concerns. In addition, he expressed concern that if the Council did not take enforcement action, this would create a precedent which could have a detrimental effect upon other sites.

The Committee discussed the report and the Assistant Head of Legal Services answered Members' questions. In doing so, she requested that the Committee determine whether direct action was a proportionate response and should apply to all three individual cases. The Committee unanimously agreed that it was.

**Decision:**

The Committee:

- a) in the light of the factors set out in the report, considered that in the absence of further action by the Council, it is unlikely that there will be compliance with the requirements of the outstanding enforcement notice.
- b) agreed that in line with the information set out in the report, the owner's and occupiers' rights to peaceful enjoyment of their property have been considered. However, it has also been noted that those rights are not absolute and the wider impact of the unauthorised residential occupation and operational development of the site in breach of planning control has been taken into account.
- c) noted that whilst there are other planning enforcement options, none will have the direct effect of ending the continuing unauthorised development quickly.

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- d) noted that whilst there is a financial risk that not all of the cost will be recoverable, weighed against the cost of alternatives (e.g. legal costs in further prosecutions and committal action), this risk is worth bearing.
- e) agreed that authority be given for direct action to secure compliance with the enforcement notice of 3 May 2017.

**Chairman**

**Date:**

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