Medway Council Meeting of Planning Committee Wednesday, 18 December 2019 6.30pm to 9.05pm

Record of the meeting

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

Present: Councillors: Barrett, Bhutia, Bowler, Buckwell,

Mrs Diane Chambers (Chairman), Curry, Etheridge,

Sylvia Griffin, Hubbard, McDonald, Potter, Chrissy Stamp,

Thorne and Tranter (Vice-Chairman)

In Attendance: Dave Harris, Head of Planning

Councillor Barry Kemp

Madeline Mead, Derelict Buildings Officer

Alison Munck, Enforcement Officer

Robert Neave, Principal Transport Planner Vicky Nutley, Assistant Head of Legal Services

Carly Stoddart, Planning Manager

Ellen Wright, Democratic Services Officer

502 Apologies for absence

An apology for absence was received from Councillor Adeoye.

503 Chairman's announcements

The Chairman referred to the recent passing of former Councillor Peter Hicks and she paid tribute to his work as a Councillor and as Vice Chairman of the Committee for many years. Councillor Bowler as opposition spokesperson supported the comments of the Chairman. The Committee extended their condolences to Peter's wife and family and held a minutes silence in his memory.

504 Record of meeting

The record of the meeting held on 13 November 2019 was agreed and signed by the Chairman as correct.

In respect of the following, the Committee noted that under delegated authority, the Head of Planning had re-worded condition 15 as follows:

Minute 434 – Planning application MC/19/1170 – Land South of Lyra Close, Rainham, Gillingham

Condition 15 re-worded as follows:

15. The dwellings hereby approved shall not be occupied until the area shown on the submitted layout as vehicle parking, turning and access has been provided, surfaced and drained. Thereafter this area shall be kept available for such use (Including the car barn which shall be used for vehicle parking only) and no permanent development including works to fill in the sides or add doors to the car barn, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking and garaging (car barn), turning and access space.

505 Urgent matters by reason of special circumstances

There were none.

506 Declarations of Disclosable Pecuniary Interests and Other Significant Interests

Disclosable pecuniary interests

There were none.

Other significant interests (OSIs)

There were none.

Other interests

Councillor Thorne referred to item 8 - Planning application MC/19/2692 – 104A, B and C Poplar Road, Strood and item 14 – Enforcement Report regarding carrying out works in default and advised the Committee that although he was Ward Councillor for both sites, he had not been involved in the application or the other issue or been asked to make representations and therefore he would take part in the determination of these items.

Councillor Tranter referred to item 9 – Planning application MC/19/2708 – Medway Rugby Football Club, Priestfields, Rochester and informed the Committee that as he wished to speak on this application as Ward Councillor, he would not take part in the consideration and determination of the application.

507 Planning application MC/19/2626 - Unit 1-2 Medway Distribution Centre, Courteney Road, Rainham

Discussion:

The Planning Manager outlined the planning application in detail and informed the Committee that since despatch of the agenda one letter had been received from a business stating that the unit now had a full price offer for B8 use with terms agreed with the landlord and that the business was ready to take occupancy of the unit as soon as possible. Full details of the letter were set out on the supplementary agenda advice sheet.

The Planning Manager advised the Committee that whilst the proposed change of use from a builders merchant to an indoor electric go-karting leisure use would be unlikely to result in harm to the residential amenity or affect parking in the vicinity of the site, the site had been designated as employment land in the Local Plan and whilst the proposed leisure use would create some employment, this would not be the type of employment envisaged for this site.

The Planning Manager also advised the Committee that the premises had only been vacant for less than a year and no evidence had been supplied that the premises had been actively marketed and that there was no interest.

In addition, the Planning Manager advised that the Kent Property Market Report drawn to her attention by the Council's Economic Development Team supported the retention of the premises for employment use.

The Planning Manager also confirmed that a sequential test had indicated that there was no other suitable site for the location of an indoor electric go-karting facility in Medway due to the size of the building which would be required to house the facility.

However, in balancing the arguments for and against the planning application, officers had recommended that the application be refused on the ground set out in the report.

With the agreement of the Committee, Councillor Kemp addressed the Committee as Ward Councillor and informed the Committee that if the application for an electric go-karting facility were to be approved, this would be the first such facility in Kent. He advised that the applicants had already established a successful trampoline centre nearby and were now willing to invest money in developing these units 1-2 for another leisure use.

He informed the Committee that once operational, the facility would offer 21 FTE jobs whereas a builders merchant would likely only offer 6-7 jobs. In addition, local tradespeople would be employed during the development works required to provide the leisure facility.

Councillor Kemp referred to a number of other companies and businesses granted planning permission to operate on sites in Courtney Road which indicated a degree of flexibility.

The Committee discussed the application having regard to the comments from the Planning Manager and those put forward by the Ward Councillor.

A number of Members expressed the view that the provision of an electronic go-kart facility would not only generate employment and bring into use vacant units but would also result in major investment to increase the leisure offer in Medway particularly for young people. It was also noted that this would be a unique facility as no other facility was available in Kent.

However, other Members drew attention to on-going work on finalising the Local Plan and that this particular site had been identified for specific employment use. Whilst it was accepted that the provision of a leisure use at this location would provide employment, this was not the type of employment envisaged for the site in the Local Plan. It was considered that this application was premature and planning permission should not be granted for leisure use at this site until the Local Plan had been finalised.

The Head of Planning informed the Committee that the Medway Local Plan 2003 was an ageing plan and other uses in Courtney Road had been carefully considered at the time that they had been approved but that the economic climate had changed over the years. He confirmed that the Council's Economic Development Team had confirmed that there was interest in this type of premises for B2 type jobs and whilst the provision of an electronic go-kart facility would provide a level of employment, there was a desire to push up the skill set of jobs in the area.

Following discussion, the Committee decided that it did not wish to refuse this planning application but recognised that prior to determining the application for approval, it would be necessary for the Committee to have sight of the conditions to be attached to any planning permission. For this reason, the Committee decided to defer the application to enable a report to be submitted to the next meeting for the application to be approved with the appropriate conditions for consideration.

Decision:

This application be deferred to enable officers to re-submit the application to the meeting of the Committee on 15 January 2020 with a list of conditions so that should the Committee want to approve the application, it has sight of appropriate conditions.

508 Planning application MC/18/2406 - Whiffens Avenue Car Park, Whiffens Avenue, Chatham

Discussion:

The Head of Planning outlined the planning application in detail and reminded the Committee that this planning application had been approved by the Committee on 29 May 2019 subject to a Section 106 agreement and conditions. However, the applicant now proposed to revise the scheme and the Committee's approval was being sought to the revision prior to the issue of the planning permission.

He advised the reasons for the proposed revisions as set out within the report. In addition, he drew attention the supplementary agenda advice sheet which set out proposed amendments to the wording and reasons for conditions 3 and 17 and a new condition 35.

He also drew attention to an amended representation from KCC archaeology, one additional representation from KCC Biodiversity and amendments to the planning appraisal section of the report, details of which we set out in full on the supplementary agenda advice sheet.

The Head of Planning requested that if the Committee was minded to approve the revised planning application, the Committee grant him delegated authority to finalise the precise wording of the conditions.

A Member referred to developments in Strood and issues concerning dust and noise which had affected local residents and he requested that as this application site was in close proximity to residential properties, the works be closely monitored.

In response, the Head of Planning confirmed that as this site was being developed by the Council, it was important that the Council set a good example and whilst he was satisfied that the proposed conditions were suitable, it was the enforcement of the conditions that would be important. He confirmed that lessons had been learnt from the developments in Strood.

In response to other questions, the Head of Planning confirmed that the level of electric charging points to be provided at the proposed development met the Council's current policy but he agreed that this policy would need to be reviewed as more electric cars became available.

He also confirmed that the heads of terms of the Section 106 agreement for this development had already been agreed in May 2019 but suggested that the provision of a funicular railway could be investigated outside of the planning application process.

Decision:

Approved subject to:

- a) The applicant entering into an agreement under Section 106 of the Town and Country Planning Act to secure:
 - Provision of 20 no. 2-bedroomed affordable rented accommodation off-site at White Road Community Centre.
 - Provision of 9 no. on-site shared-ownership units (2 no. x 1-bed, 7 no. x 2-bed)
 - Contribution of £157,740.70 towards education and the provision of nursery, primary and secondary school places.
 - Contribution of £31,947.00 towards local heritage in the form of survey work, repairs and improved visitor access to the underground sump.
 - Contribution of £257,687.06 towards the restoration, improvement and enhancement of the Town Hall Gardens open space.
 - Contribution of £28,631.90 towards footpath improvements (phase 2) at Great Lines Heritage Park.
 - Contribution of £70,960.75 for the NHS to support the purchase of equipment and infrastructure for a new Healthy Living Centre in the Chatham Central locality.
 - Contribution of £30,380 towards public realm enabling work to improve the end of Military Road/Brook, creating a path at the end to the taxi rank, to facilitate the closure of the pedestrian underpass and thereby improve connectivity of the development with the town centre.
 - Contribution of £19,418.90 towards waste and recycling activities related to the development.
 - Contribution of £3,516.00 towards signage and information for Public Rights of Way network accessed from the development site.
 - Contribution of £6,000 towards the improvement of bus infrastructure at the Chatham Bus Exchange to help encourage residents to utilise the bus service.
 - Contribution of £27,555.15 towards bird disturbance mitigation measures.

- b) Conditions 1 and 2 and 4 16 and 18 34 as set out in the report for the reasons stated in the report, conditions 3 and 17 revised and new condition 35 as follows, with the Head of Planning being granted delegated authority to finalise the precise wording of the conditions:
 - 3. Notwithstanding the 'Written Scheme of Investigation for Archaeological Excavation' (Wessex Archaeology, Ref: 202061.1, dated November 2019), no excavation or development of the embankment in the northeastern part of the site shall take place until a specific Method Statement/Written Scheme of Investigation and timetable for the excavation and/or development of the embankment has been submitted to and agreed in writing with the Local Planning Authority. The excavation and/or development of the embankment shall be carried out only in accordance with the agreed programme. Development within the site, excluding the embankment in the northeastern part of the site, shall only take place in accordance with the 'Written Scheme of Investigation for Archaeological Excavation' (Wessex Archaeology, Ref: 202061.1, dated November 2019).

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with Policy BNE 21 of the Medway Local Plan 2003.

- 17. No excavation or development (including vegetation removal) of the embankment in the proposed car park area to the northwestern side of the building hereby approved shall take place until a Reptile Method Statement report has been submitted to and been approved in writing by the Local Planning Authority. That report shall include:
 - a. a further habitat survey of the area of it's suitability for reptiles, and
 - b. a method statement detailing mitigation and/or avoidance measures, including timings, so any vegetation clearance in this area does not impact reptiles

The excavation and development in the car park area to the northwestern side of the building hereby approved shall be carried out only in accordance with approved Reptile Method Statement report.

Reason: To prevent harm to any recolonised reptile population in accordance with Policies BNE37 and BNE39 of the Medway Local Plan 2003.

35. No excavation or development of the embankment in the northeastern part of the site shall commence until a plan has been submitted to and agreed in writing with the Local Planning Authority showing a fenced area for the archaeological

investigation works of the embankment to take place. The plan shall detail the location and type of the proposed fencing. The agreed fencing shall be erected prior to the excavation or development of the embankment commencing and no works, vehicle movements or storage shall take place within the fenced area other than those connected with the archaeological investigation of the embankment. The fencing shall remain in place as agreed until the archaeological investigation of the embankment has been completed.

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with Policy BNE21 of the Medway Local Plan 2003.

509 Planning application MC/19/1336 - Shipwrights Arms 44-45 Hills Terrace Chatham

Discussion:

The Planning Manager outlined the planning application and referred to the history for this application site.

She suggested that if the Committee was minded to approve the application, proposed condition 8 be replaced as set out on the supplementary agenda advice sheet.

The Committee discussed the application and a Member requested that the wording of proposed condition 8 be adjusted to ask that officers liaise with Ward Councillors on the management of parking for future residents. In response, the Head of Planning advised that it was not possible to add this to a planning condition but he stated that when details are received from the applicant, this would be discussed by the case officer with Ward Councillors.

Decision:

Approved with conditions 1-7 and 9 as set out in the report for the reasons stated in the report and condition 8 revised as follows:

No flat herein approved shall be occupied until a Parking Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Parking Management Plan shall contain details of how the parking for future residents will be managed including deterring on-street parking. The Parking Management Plan shall be implemented in accordance with the approved details prior to the first occupation of the development and shall thereafter be retained.

Reason: to ensure satisfactory off-street parking in accordance with Policy T13 of the Medway Local Plan 2003.

510 Planning application MC/19/2692 - 104A, B And C Poplar Road, Strood, Rochester

Discussion:

The Planning Manager outlined the planning application and drew attention to the supplementary agenda advice sheet amending the description of the planning application along with an amendment to the proposal section of the report.

The Committee discussed the application noting that a previous application for development on this site for the construction of a terrace of six 2-bedroomed dwellings (MC/17/1342) had been refused planning permission on the grounds of overdevelopment, inadequate provision for parking for future residents and the design of the alley which would result in the creation of a dark and hidden area that had potential for loitering and anti-social behaviour.

That planning application had subsequently been the subject of an appeal which had been dismissed but only on the ground that the proposal failed to provide an acceptable and safe walking environment for pedestrians.

The Committee noted that the revised planning application offered no off road parking but the development would only generate a need for one additional space above the requirements of the previous application that was considered at appeal. The Planning Manager advised that officers did not consider this to be sufficient to warrant refusal based on the fact that the Planning Inspector had not supported lack of parking when dismissing the appeal for planning application MC/17/1342. However, the Committee also noted from questioning that the Planning Inspector would have visited the application site during the day when the majority of residents were at work.

The Committee further noted that the car park survey had previously been undertaken by the applicant in support of the application and therefore requested that a parking survey be undertaken by officers prior to determination of the current planning application in order that the Committee could make an informed decision.

Decision:

Consideration of this application be deferred to enable officers to undertake a car park survey to assist the Committee providing evidence required to make an informed decision.

511 Planning application MC/19/2708 - Medway Rugby Football Club, Priestfields, Rochester

Discussion:

The Planning Manager outlined the planning application and informed the Committee that this application sought to make permanent changes to the

opening times of the club's social function room which had previously been granted extended opening hours for a temporary 12 month period.

Details of the original opening hours granted under planning permission MC/17/4187 and those granted for a 12 month temporary period and which were now the subject of the current application were outlined on page 70 of the agenda.

The Planning Manager advised that despite the number of objections received to the planning application, no complaints had been received throughout the 12 month period by the Council's Environmental Protection Team, Planning Enforcement officers or the Licensing Team and therefore the application was being recommended for approval.

She referred to the supplementary agenda advice sheet which set out a summary of a representation received from the applicant in response to a representation letter received on 16 December 2019. In addition, an additional paragraph was added to the amenity section of the planning appraisal section of the report.

With the agreement of the Committee, Councillor Tranter addressed the Committee as Ward Councillor and stated that residents often became confused as to the difference between the environmental protection, planning enforcement and licensing functions of the Council and therefore this had most likely led to the lack of complaints being received through the year by the various Council teams. However, whilst there had been no formal complaints it was clear from the objections to the planning application that when consulted about the current planning application to make the extended hours permanent, residents had felt strong enough to submit objection letters. He therefore considered that the operation of the club's function room during the last 12 months had caused a disturbance to local residents and for this reason, the request to permanently extend the opening hours should not be approved.

The Committee discussed the application noting the comments by the Ward Councillor. Members discussed the option of granting a further 6 months extended hours opening but based upon the concerns expressed by residents, this was not supported.

Decision:

- a) Refused on the following ground:
 - The extended hours, which have been trialled for a 12 month period are considered to be harmful to the amenity of local residents by virtue of the noise emanating from the premises and the disturbance from individuals leaving the premises in the early hours.
- b) The Head of Planning be granted delegated authority to formalise the wording of the refusal ground with the Chairman, Vice Chairman and Opposition Spokesperson outside of the meeting.

512 Planning application MC/19/2187 - 80 Beechwood Avenue, Darland, Chatham

Discussion:

The Head of Planning outlined the planning application and informed the Committee that Section A of the recommendation requiring payment of £245.56 for bird mitigation could be removed as this had now been paid.

He suggested that if the Committee was minded to approve the application, proposed condition 11 be amended as set out on the supplementary agenda advice sheet.

The Committee discussed the application and in particular noted proposed condition 3 which required a Construction Environmental Management Plan.

Decision:

Approved subject to conditions 1 - 10 and 12 - 17 as set out in the report for the reasons stated in the report and condition 11 revised as follows:

11. The windows on the north side elevation of house 1 shall be fitted with obscure glass and apart from any top-hung light, that has a cill height of not less than 1.7 metres above the internal finished floor level of the room it serves, shall be non-opening. This work shall be completed prior to the first occupation of house 1 and shall be retained thereafter.

Reason: To ensure that the development does not prejudice conditions of amenity by reason of unneighbourly overlooking of adjoining property, in accordance with Policy BNE2 of the Medway Local Plan 2003.

513 Planning application MC/19/2757 - Plot 1B, London Medway Commercial Park, James Swallow Way, Hoo St Werburgh

Discussion:

The Head of Planning outlined the planning application and, drawing attention to the supplementary agenda advice sheet suggested that if the Committee was minded to approve the application, proposed conditions 6 – 9 (inclusive) and condition 18 be deleted and new conditions 6 and 7 detailed on the supplementary agenda advice sheet be approved and all subsequent conditions be re-numbered.

In addition, he advised that since despatch of the agenda KCC Ecology had advised that the scheme was acceptable in ecology terms.

Decision:

Approved with conditions 1-5 as set out in the report for the reasons stated in the report, new conditions 6 and 7 as set out below, the deletion of conditions 8 - 9 (inclusive) as set out in the report, conditions 10-17 as set out in the report but renumbered 8-15, the deletion of condition 18 as set out in the report and conditions 19-20 as set out in the report but renumbered 16 and 17:

6. Prior to first occupation of the development, details of the chemical analysis confirming suitability for re-use will need to be submitted to and approved in writing by the Local Planning Authority for any material which is imported onto the site for use in soft landscaping areas. The development shall be undertaken in accordance with the approved details.

Reason: To avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

7. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

514 Exclusion of press and public

Decision:

The Committee agreed to exclude the press and public from the meeting during consideration of the following agenda items because consideration of these matters in public would disclose information falling within paragraph 6 of Part 1 of Schedule 12A to the Local Government Act 1972 as specified in agenda item 12 (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:

- Item 13 Enforcement report regarding a site in Rochester
- Item 14 Enforcement report regarding carrying out works in default
- Item 15 Enforcement report regarding carrying out works in default
- Item 16 Enforcement Proceedings
- Item 17 Derelict Buildings November 2018 October 2019

515 Enforcement report regarding a site in Rochester

Discussion:

The Committee received a detailed report setting out the circumstances concerning continued breach of planning control at a site in Rochester.

The Committee discussed the report noting the specific circumstances of the individual case, the planning and enforcement history of the site, and the options available to the Committee.

The Committee noted the comments of the Assistant Head of Legal concerning the possibility of recovering any costs from a charge placed on the land and suggested that if necessary action be taken to use tracing agents to locate the owner of the site.

Decision:

The Committee:

- a) agreed that in the light of the factors set out in the report, direct action be taken to alleviate the breach of planning at the site outlined in the report.
- b) noted that it is unlikely that action will be taken until after April 2020 due to current financial constraints.
- c) agreed that this action has been approved having due regard to the occupiers' right to the peaceful enjoyment of their property, but that those rights are not absolute and the wider impact of the unauthorised residential occupation of the site in breach of planning control has been taken into account.
- d) noted that there is a significant financial risk to the Council as it is unlikely that any of the costs associated with direct action will be recovered.

516 Enforcement report regarding carrying out works in default

Discussion:

The Committee received a report requesting that the Committee agree to works being carried out in default at a property in Strood to resolve non-compliance with a Section 215 Notice in accordance with Section 219 of the Town and Country Planning Act 1990.

The Committee was being asked to consider this matter because of the continuing deterioration of the property and its detrimental impact on the amenity of the neighbourhood. Details of how the costs would be recovered were set out in the report.

The Committee discussed the report noting the specific circumstances of the individual case, the enforcement history of the site, and the options available to the Committee.

Decision:

The Committee:

- a) noted that in the light of the factors set out in the report, it is 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 Section 215 notice.
- b) agreed that authority be given for works in default to be carried out to secure compliance with the Section 215 Notice issued on 30 July 2015.
- c) agreed that the approved course of action has had due regard to the occupiers' right to the peaceful enjoyment of their property, but that those rights are not absolute and the wider impact of the unauthorised residential occupation of the site in breach of planning control has been taken into account.

517 Enforcement report regarding carrying out works in default

Discussion:

The Committee received a report requesting that the Committee agree to works being carried out in default at a property in Rochester to resolve non-compliance with a Section 215 Notice in accordance with Section 219 of the Town and Country Planning Act 1990.

The Committee was being asked to consider this matter because of the continuing deterioration of the Listed Building and its detrimental impact on the amenity of the neighbourhood. Details of how the costs would be recovered were set out in the report.

The Committee discussed the report noting the specific circumstances of the individual case, the enforcement history of the site, and the options available to the Committee.

Decision:

The Committee:

- a) noted that in the light of the factors set out in the report, it is 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 Section 215 notice.
- b) agreed that authority be given for works in default to be carried out to secure compliance with the Section 215 Notice issued on 8 May 2017.
- c) agreed that the approved course of action has had due regard to the occupiers' right to the peaceful enjoyment of their property, but that those rights are not absolute and the wider impact of the unauthorised residential occupation of the site in breach of planning control has been taken into account.

518 Enforcement proceedings

Discussion:

The Committee received a report setting out enforcement proceedings for the period 1 July – 31 December 2019.

The Head of Planning informed the Committee that an enforcement report was usually submitted to the Committee every 6 months and that it was normal practice for Members of the Committee to notify either him or the Chairman if they wished to ask any questions upon the cases outlined in the report so that he knew whether or not to ask the Senior Enforcement Officer to attend the meeting.

He stressed that the cases outlined in the report were only a proportion of the cases being handled by the Enforcement Officers but advised the Committee that two new officers had recently been appointed to support the Senior Enforcement Officer in enforcement work.

The Committee considered the report and the Senior Enforcement Officer provided an update on those cases referred to by Members.

Decision:

The Committee noted the report and expressed their appreciation to the Senior Enforcement Officer for the work undertaken on enforcement proceedings.

519 Derelict Buildings: November 2018 - October 2019

Discussion:

The Derelict and Empty Homes Officer reported upon work undertaken on key buildings and associated land for the period 1 November 2018 – 31 October 2019.

A correction was made to the number of a property referred to in paragraph 2.3 of the report.

In response to a request from a Member, the Derelict and Empty Homes Officer agreed to provide a response direct concerning a property referred to where works were being undertaken but had not been completed.

Decision:

The Committee noted the report and expressed appreciation to the Derelict and Empty Homes Officer for work undertaken in the past year on derelict buildings.

Chairman

Date:

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