

Medway Council
Virtual Meeting of Planning Committee
Wednesday, 13 January 2021
6.30pm to 9.20pm

Record of the meeting

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

Present: Councillors: Barrett, Bowler, Buckwell, Mrs Diane Chambers (Chairman), Curry, Sylvia Griffin, Hubbard, Potter, Chrissy Stamp, Thorne and Tranter (Vice-Chairman)

In Attendance: Councillor Rodney Chambers, OBE,
Councillor Alan Jarrett,
Councillor David Wildey
Martin Aust, Viability Consultant
Ross Crayford, Conservation Officer
Charlie Guille, Highways Consultant
Dave Harris, Head of Planning
Joanna Horne, Planning Solicitor
Robert Neave, Principal Transport Planner
Wendy Simpson, Senior Planner
Carly Stoddart, Planning Manager
Ellen Wright, Democratic Services Officer

599 Apologies for absence

During this period, due to the Coronavirus pandemic, it was informally agreed between the two political groups to run Medway Council meetings with a reduced number of participants. This was to reduce risk, comply with Government guidance and enable more efficient meetings. Therefore, the apologies given reflects that informal agreement of reduced participants.

Apologies for absence were received from Councillors Adeoye, Bhutia, Etheridge and McDonald.

600 Record of meeting

The record of the meeting held on 9 December 2020 was agreed and signed by the Chairman as correct.

Referring to the supplementary agenda advice sheet, the Chairman drew attention to refusal grounds and conditions approved by the Head of Planning

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under delegated powers in consultation with the Chairman, Vice Chairman and Planning Spokes outside of the meeting as follows:

Minute 531 – Planning application – MC/20/2009 - Land r/o 19-27 Byron Road, Gillingham

Refused on the following ground:

The proposal by virtue of its height, roof design (particularly to the rear), number of units, limited amenity space and limited off street car parking provision, represents an unacceptable overdevelopment of the site that would be harmful to the character and appearance of the area (and thereby would not make a clear enhancement to the local environment), the outlook of occupiers of neighbouring properties fronting Rock Avenue, and provide an unacceptably limited amenity for the prospective occupiers. The proposal is therefore contrary to the provisions of policies BNE1, BNE2 and H4 of the Medway Local Plan 2003 and paragraphs 124 and 127 of the NPPF 2019.

Minute 533 – Planning application – MC/20/2338 - 1 Cazeneuve Street, Rochester

Refused on the following ground:

The proposed hot food takeaway by reason of its location within this residential area, and lack of appropriate location for an extract flue, would result in a use that would have a significant detrimental impact on neighbouring and nearby residential occupiers in particular to those with balconies that face onto the site, by reason of odour, noise and general disturbance from the use, contrary to Policies BNE2 and R18 of the Medway Local Plan 2003.

Minute 534 – Planning application – MC20/2557 - 45 Laburnum Road, Strood

Approved subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing numbers: 20124 (01) 001 REV C, 20124 (01) 002 REV C, 20124 (02) 001, and Proposed block plan, received 14 October 2020.

Reason: For the avoidance of doubt and in the interests of proper planning.

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- 3 The new parking area shall not be brought into use until it has been formed from permeable surfacing materials or has provided with drainage arrangements within the site which shall thereafter be retained.

Reason: To manage surface water in accordance with Paragraph 103 of the NPPF.

Minute 535 - Planning application MC/20/2625 - 43 Laburnum Road, Strood

Approved subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing numbers: 20140- 01-002 REV B, 20140- 01-003 REV B and 20140- 02-001, received 21 October 2020.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The new parking area shall not be brought into use until it has been formed from permeable surfacing materials or has provided with drainage arrangements within the site which shall thereafter be retained.

Reason: To manage surface water in accordance with Paragraph 103 of the NPPF.

601 Urgent matters by reason of special circumstances

There were none.

602 Declarations of Disclosable Pecuniary Interests and Other Significant Interests

Disclosable pecuniary interests

There were none.

Other significant interests (OSIs)

There were none

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Other interests

The Chairman, Councillor Mrs Diane Chambers referred to planning application MC/19/0336 – Gibraltar Farm, Ham Lane, Hempstead, Gillingham and advised that as she had previously declared her views upon potential development of this site she would not take part in the discussion or determination of this planning application. In the absence of the Chairman, the Vice Chairman chaired the meeting for this planning application.

Councillor Curry referring to planning application MC/19/0336 – Gibraltar Farm, Ham Lane, Hempstead, Gillingham commented that this planning application made reference to byways and Public Rights of Way and he informed the Committee that he was the Chairman of the Local Access Forum. However, he did not consider that this precluded him from taking part in the discussion and determination of the planning application.

Councillor Potter referred to planning application MC/19/0336 – Gibraltar Farm, Ham Lane, Hempstead, Gillingham and informed the Committee that as a Cabinet Portfolio Holder he had previously voted not to grant a right of access across Council land to the application site but he was satisfied that this did not preclude him from taking part in the consideration and determination of this new planning application.

Ellen Wright, Democratic Services Officer referred to planning application MC/20/1531 - 4, 16, 20 and 22 High Street Rainham and informed the Committee that she had a relative that lived in close proximity to the application site but she had not discussed the application with anyone and was not involved in the processing of planning applications.

603 Planning application - MC/20/1531 - 4, 16, 20 and 22 High Street, Rainham, Gillingham

Discussion:

The Head of Planning reminded the Committee that this planning application had previously been submitted for consideration on 9 December 2020 as an application to modify a previously approved scheme at this site. However, the application had been deferred to enable the Committee to receive further information from the Council's independent Viability Consultant on the developer's request for a reduction in the level of Section 106 contribution previously agreed by the Committee on 13 November 2019 under planning permission MC/19/0797 due to the impact of Covid-19 and the current housing market.

The Council's Viability Consultant explained that having undertaken an assessment of the scheme, he was of the opinion that the proposals put forward by the developer were not unreasonable, particularly taking into account the type of units to be provided at this site i.e. retirement living.

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He explained that with retirement living accommodation, the developer would be required to meet additional costs not ordinarily associated with a normal development as property that is exclusively available for a restricted market could take longer to sell during which time the developer was required to continue to meet empty property costs e.g. council tax. In addition, there were sales and marketing costs to be taken into account.

In addition, as the site had previously contained 4 individual residential properties, the developer had been required to pay an additional premium over and above market value to secure the land and would not receive a financial return on the development until such time that the development was complete and the new retirement living apartments could be sold.

The Committee discussed the application and, in particular, the request from the applicant for a reduction in the Section 106 contributions. Concern was expressed that there was now no element of financial contribution available for greenspaces/open space, particularly as the occupiers of the new retirement living accommodation would likely make use of green, open space in Medway and the level of contribution of affordable housing which had been reduced to a level which would be insufficient to provide any significant level of affordable housing off site.

In response, the Head of Planning advised the Committee that the proposed allocation of the reduced Section 106 contributions set out in the report were officer suggestions and, if the Committee was minded to approve the application, the Committee could adjust the level of allocations as it wished, as long as they complied with the Developer Contributions Guide, other than the £12,769.89 allocated for mitigation measures in the Special Protection Areas as this was a set figure based on an assessed criteria and needed to comply with the Habitat regulations and was not negotiable.

Referring to the allocation for affordable housing, the Head of Planning advised that this allocation did not have to be utilised to fund affordable housing delivery in totality but could be used to top up bids for affordable housing and thus deliver more homes.

It was suggested that if the application was approved, the recommended Section 106 contribution currently allocated for public realm be modified to be allocated for public realm and/or Cozenton Park so as to be flexible having regard to any future projects.

The Viability Consultant suggested that the Committee might also wish to consider the introduction of an overage clause which would require a financial review of the scheme following the sale of the 50th unit so that in the event that the scheme proved to be more profitable than current projections indicated, the level of Section 106 contributions could be re-adjusted at that time. The Head of Planning confirmed that such action had previously been used on other developments.

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Decision:

Approved subject to:

- a) The applicant entering into a Section 106 agreement to secure:
 - 1) A contribution of £112,451.11 towards the provision of off-site affordable housing.
 - 2) A contribution of £16,490.88 to support the reconfiguration of the Rainham Healthy Living Centre.
 - 3) A contribution of £6,488.13 towards open space at Cozenton Park and/or public realm improvements in Rainham.
 - 4) A contribution of £12,769.89 towards mitigation measures in the Special Protection Areas.
- b) The inclusion of an overage clause requiring a financial review of the scheme following the sale of the 50th unit so that in the event that the scheme proves to be more profitable than current projections indicate, the level of Section 106 contributions could be re-adjusted at that time.
- c) Conditions 1 – 29 as set out in the report for the reasons stated in the report.

604 Planning application - MC/19/0336 - Gibraltar Farm, Ham Lane, Hempstead, Gillingham

Discussion:

The Head of Planning outlined the planning application in detail and reminded the Committee of the planning history for this site. He explained that there was an extant outline planning permission covering much of the current site under reference MC/18/0556 for the development of up to 450 market and affordable dwellings with associated access, estate roads and residential open space granted by the Council on 26 September 2018. This 2018 planning permission had been a renewal of an outline planning permission granted under reference MC/14/2395 which had originally been refused planning permission by the Council but subsequently granted permission through the appeal process by the Secretary of State on 6 April 2017 following a call-in and a public inquiry.

He explained that the access arrangement for the planning permission granted in 2018 relied on primary access to and from the site from North Dane Way in the Lordswood area but to date, access to the site had not been secured as part of the access would need to cross land that was not within the applicant's ownership. The section of land in question was owned by the Council and, the Council had declined to sell the land to the applicant to achieve access to the site. Therefore, the 2018 planning permission was not able to be implemented

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at this time. As such the 2018 planning permission did not constitute a fall back position as there was no realistic possibility of it being implemented.

In considering the current planning application, the Head of Planning informed the Committee that the Council was under a legal duty of consistency which meant that the Council had to have regard to previous relevant decisions and whilst the Council was free to reach a decision that differed from those decisions before doing so, it was required to have regard to the importance of the duty of consistency and to give reasons for any departure from them. Therefore, in this case, in light of that duty, the previous grants of permission at Gibraltar Farm under MC/14/2395 and MC/18/0556 and in particular, the rationale for those grants of permission were a material consideration in the assessment of the current planning application.

The Committee was advised that the current application was for a similar proposal to that allowed under the extant planning permission but with an alternate access arrangement, now seeking sole motorised vehicular access to and from the site from Ham Lane/Lidsing Road in the Hempstead area.

The application also proposed access by a footway and cycleway link to and from the Lordswood area along the route of the existing Public Right of Way RC29 which was a Bridleway Open to All Traffic. Whilst this link would not be for adoption as public highway, Section 278 works were proposed to link the privately maintained footway/cycleway to the adopted highway footway/cycleway network but no vehicular connection to the site was proposed from Lordswood in the current submission.

The revised access proposals had resulted in an enlargement of the application site boundary over that of MC/18/0556 and the current application site boundary now also included Hall Wood.

Other key differences between the current application and the previous permission MC/18/0556 were outlined as set out on page 53 of the report.

The Head of Planning informed the Committee that in considering this planning application, there were a number of material considerations to be taken into account, details of which had been set out in detail within the report, including the fact that this application would deliver 450 new homes and the Council had yet to demonstrate a supply of specific deliverable sites sufficient to provide a minimum five years worth of housing against its housing requirement as required by paragraph 73 of the National Planning Policy Framework.

However, in considering this application the Head of Planning drew attention to the fact that the proposed access by footway and cycleway link to and from the Lordswood area was essential to make the development sustainable and therefore in compliance with the principle of sustainable development in the National Planning Policy Framework and would cross an area of local landscape importance through ancient woodland. With the aid of photographs of the woodland area, the Head of Planning advised that to enable this access to be acceptable for use by anyone all year round, the access would need to be

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surfaced and lit so as to be safe, secure and usable. Discussions had taken place with the applicant but the lighting proposals submitted were to a standard P6 as being suited to a byway and were therefore not considered suitable as the Council would require the access to be lit to a standard of P4 for residential. This level of lighting would require provision of services and lighting poles and the lighting levels would create serious harm to the ecology and habitat of the ancient woodland, including the bat population of the wooded area.

The Head of Planning advised that part of the application site was located in Maidstone Borough Council's area and he informed the Committee of that Council's consideration of the application.

He also referred to the various other highways works that would be required in the surrounding area which were set out in detail in the report.

Attention was drawn to the supplementary agenda advice sheet circulated prior to the meeting which set out the following additional information:

- An update in respect to the granting by Maidstone Borough Council of planning permission 19/500765/OUT – referred to through the committee report.
- A summary of two additional objections received since despatch of the agenda.
- A summary of one further letter of objection sent direct to the Chairman which had been circulated in full to all Members of the Planning Committee.
- Correspondence from the applicant's agent along with items appended to the supplementary agenda advice sheet along with officers' response to the issues raised.
- Further correspondence from the applicant's agent and the officers' response.
- Updates to the planning appraisal and conclusions and planning balance sections of the report.

The Committee discussed the additional information circulated noting the agent's request for consideration of the planning application to be deferred to allow for consultation on the items provided on 24 December 2020 concerning lighting and trees but were satisfied that the officer's presentation had been thorough and had covered all elements of the application and the additional information submitted and therefore decided to determine the application at this meeting.

With the agreement of the Committee, Councillors Rodney Chambers OBE as the Ward Councillor for Hempstead and Wigmore and Councillors Wildey and Jarrett as Ward Councillors for Lordswood and Capstone addressed the Committee and outlined the following summarised concerns:

- This site was not identified for development in the 2003 Medway Local Plan, the Strategic Land Assessment 2019 or the emerging Local Plan.

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- This application would cause more harm than that already approved in 2018 due to the proposed footway and cycleway link which would involve access through ancient woodland from the site to Lordswood.
- The proposed vehicular access to the site through Hempstead is unacceptable as this is already a busy vehicular route and traffic calming measures would cause chaos and inconvenience.
- The site is a green lung for the densely populated urban areas of Gillingham and Chatham.
- This development would place pressure on local schools and GP surgeries
- The proposed footway and cycleway access to Lordswood from the site would involve access across Council owned land.

The Committee discussed the report having regard to the detailed presentation by the Head of Planning and the views expressed by the Ward Councillors and it was noted that land ownership was not a material planning consideration.

The Committee also had regard to the level of representation to this planning application including those submitted by Boxley Parish Council and Ward Councillors from Boxley Ward in Maidstone.

In response to a question, the Head of Planning informed the Committee that the proposed footway and cycleway link on Lidsing Road/Hempstead Road would be located on the Council owned side of the road and was considered by officers to be 'desirable' but not 'essential'. However, the Committee was requested to determine whether they would consider this link to be 'essential' or 'desirable'. If determined as essential, the Committee would need to approve a Grampian condition to require that it be provided.

Decision:

- a) Refused on the grounds set out in the report.
- b) The footway/cycleway link to Hempstead be classified as 'desirable'.

605 Planning application - MC/20/2486 - Land adjacent to Cooling Castle Farmhouse and opposite Saint James's Church, Main Road, Cooling ME3 8DQ

Discussion:

The Planning Manager outlined the planning application in detail and in response to questions, confirmed that on pages 123 and 127 of the report, the address of the site required correction to be Main Road and not Cooling Road, she confirmed that the application site was in the village envelope and that Cooling Parish Council had been consulted upon the application but had not submitted objections.

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The Committee discussed the application and the importance of the site having regard to its proximity to the Grade 1 Listed St James' Church and the existing view from the Church from photographs displayed at the meeting.

Decision:

Approved with conditions 1 – 15 as set out in the report for the reasons stated in the report.

606 Planning application - MC/20/1886 - 7-11 Central Parade, Rochester ME1 2LQ

Discussion:

The Planning Manager outlined the planning application in detail and drew attention to additional information received from the applicant's agent since despatch of the agenda set out on the supplementary agenda advice sheet circulated prior to the meeting. This explained that a temporary fence had been installed around the area where the cold-rooms were to be installed but to date the cold-rooms had not been installed. Should the application be approved, the fence would be retained to protect and screen the cold-rooms.

The Head of Planning informed the Committee that Councillor Murray had wanted to address the Committee as Ward Councillor but had been unable to attend and therefore she had submitted a statement which, with the agreement of the Committee, the Head of Planning read out summarised as follows:

- The ventilation and cooling equipment at the rear of the store is noisy, invasive and unsightly.
- The site is untidy and is having a negative impact on the physical local environment.
- No attempt has been made by the store management to consult with neighbours or to take their comments and complaints seriously.

The Planning Manager informed the Committee that in support of the application, the applicant had produced three noise assessments two of which had been rejected by the Local Planning Authority as having been undertaken from the front of the building whilst the units were located to the rear. The works had been undertaken and the third noise assessment had been carried out at the rear of the property and confirmed the noise to be at an acceptable level. In addition, she confirmed that proposed condition 4 would enable the control of noise from the units in the future.

The Committee discussed the application having regard to the residential accommodation located in close proximity to the site.

Decision:

Approved with conditions 1- 4 as set out in the report for the reasons stated in the report.

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607 Chatham Ragged School

Discussion:

The Committee received a report advising of the Grade II Listed Building designation for the Chatham Ragged School following a successful application by the Planning and Conservation officers.

Decision:

The Committee expressed its appreciation for the work undertaken by officers in achieving the Listed Building designation for this heritage site.

Chairman

Date:

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