

Medway Council
Planning Committee
Thursday, 30 May 2024
6.30pm to 7.51pm

Record of the meeting

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

- Present:** Councillors: Stamp (Chairperson), Jones (Vice-Chairperson), Anang, Barrett, Bowen, Field, Filmer, Gilbourne, Gulvin, Hamandishe, Hamilton and Pearce
- Substitutes:** Councillors:
Browne (Substitute for Peake)
Hackwell (Substitute for Etheridge)
McDonald (Substitute for Myton)
- In Attendance:** Councillor Habib Tejan
Mark Breathwick, Assistant Director, Culture and Community
Laura Caiels, Principal Lawyer - Place Team
Julie Francis-Beard, Democratic Services Officer
Hannah Gunner, Principal Planner
Dave Harris, Chief Planning Officer
George Stow, Highways Consultant

25 Apologies for absence

Apologies for absence were received from Councillors Etheridge, Myton and Peake.

26 Urgent matters by reason of special circumstances

There were none.

27 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

There were none.

28 Planning application - MC/24/0154 Land at Chatham Docks Industrial Estate, South Side Three Road, Chatham, Medway ME4 4SH

Discussion:

The Assistant Head of Legal Services (Place) reminded Members that the only factors that could be considered in determining the application were planning matters. The ownership of the land, who the applicant was, the end user of the land and any issues related to existing leases of land were not material planning considerations. In the determination of this application, Members should consider the policy framework, as outlined in the officer's report, along with the officer's presentation.

The Principal Planner outlined the application, in detail, with some matters reserved (appearance, landscaping, layout and scale) for demolition and redevelopment of site to provide new waterside business and enterprise campus including access.

The Principal Planner brought Members' attention to the supplementary agenda advice sheet, which stated that the correct ward for the site, was St Mary's Island Ward, however, the access was within the Gillingham North Ward.

With the agreement of the Committee, Councillor Tejan addressed the Committee as Ward Councillor and raised the following concerns:

- If approved, the decision would affect the lives and livelihoods of local families and could result in a significant loss of Medway jobs. These families were the backbone of our national economy and the social economic vacuum caused could last decades or centuries.
- The loss of the last working dock in the South East of England. The closure of Chatham Docks could significantly increase Co2 emissions, which would impact the health and wellbeing of the residents.
- The retention of manufacturing was critical, and the economic development should not come at the cost of the future community welfare.
- There were nearly 200 objections to this planning application and a petition with over 2,000 signatures to Save Chatham Docks showed how important it was to save the docks.
- The timing of the determination of this planning application was of concern, it seemed rushed and not appropriate in the run up to a General Election, especially as the Secretary of State would consider this application, which was one of national importance.

The Committee discussed the planning application in detail noting the officer's presentation and the points raised by the Ward Councillor.

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The Chief Planning Officer clarified that the Levelling Up, Housing and Communities Department (DLUHC) issued an Article 31 Holding Direction which stated that Medway Council could not issue any decision notice to approve the application, prior to confirmation on whether the Secretary of State considered it appropriate to call in the application for their consideration. However, DLUHC officers had encouraged Medway Council to take this planning application to Committee, for Members to consider, to assist the Secretary of State in his/her assessment of the material planning matters.

Members asked for clarification as to why they could approve recommendation A and B if the Secretary of State would make the final decision. The Chief Planning Officer explained that Members could resolve to approve the application and the Secretary of State would then be notified. The decision notice could not be issued until the Secretary of State had either formally called in the application or confirmed that Medway could determine the application as it saw fit and in which case the conditions set out on the supplemental report and as amended/added in the supplementary agenda advice sheet would be imposed and a decision notice issued.

The Chief Planning Officer, in response to a Member's question, explained that all planning applications were potentially open to challenge and costs, whether via an appeal following a refusal or a judicial review, if approved.

The Chief Planning Officer confirmed that this planning application had not been rushed through to Committee, this was a major planning application and the statutory deadline for determination was within 13 weeks and this far exceeded that deadline.

The Chief Planning Officer summed up the planning application, in detail, and reminded Members that this planning application was not for the whole dock area but only for the smaller southern part. Members should determine this application on its planning merits and not on the premise of what may happen to the wider docks in the future. While important and something for sensitive discussion in the coming months, it was not a material consideration in this application but a matter for the emerging Local Plan.

He confirmed that Medway Council, although not required to do so, had re-screened the application and it was confirmed that an Environmental Impact Assessment was not required. In addition, while not necessary, officers had undertaken an Appropriate Assessment and confirmed that the proposal would not have any adverse effect on the integrity of the adjacent European protected site.

The application would not impact the lock gates or the berths on the northern side of the basin and would not stop the basin being used for a commercial port and, therefore, would not result in the docks closing. It would not impact on continued use of the larger northern site for B2 or B8 uses. He stated that a dispute between the landlord and the tenant was not a material planning issue.

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He confirmed that the planning application had not been called in by the Secretary of State and, therefore, a view had not been expressed on this application. A decision on this application would not predetermine the Local Plan.

He clarified that the links of Basin 3 to the Universities and wider business areas, as well as being within the Thames Estuary Production Corridor, would bring a huge opportunity education and employment development. It was vital not only to provide the education but to encourage and facilitate the retention of the skills learnt here in Medway.

The Chairperson also reminded Members to judge this planning application on its own merits. Members should not refuse this planning application if there were no legitimate grounds for refusal in planning terms.

Decision:

Approved Recommendation A - Notification to the Secretary of State of resolution to approve and:

Approved Recommendation B – Approval with Conditions 1 to 18, 20 to 27 as set out in the report and amend condition 19 and add conditions 28 to 33 as set out below:

Amend condition 19 to read:

- 19 Prior to the occupation of any phase or sub-phase of the development hereby permitted, details of historical interpretation boards to be incorporated within the development shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include location, design, dimensions and materials of the interpretation boards and shall reflect the findings of the historical audit **and the archaeological investigations**. The approved items shall be installed prior to the first occupation of the phase or sub-phase of the development. The approved interpretation boards shall thereafter be retained.

Reason: To ensure a satisfactory visual appearance in accordance with policy BNE1 of the Medway Local Plan 2003.

Add the following additional conditions:

Archaeology

- 28 Prior to the submission of any reserved matters application a report detailing the results of an Archaeological Field Evaluation shall be submitted to and approved in writing by the local planning authority. The archaeological field evaluation works shall have been carried out in accordance with a written specification and timetable which had

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previously been submitted to and approved in writing by the local planning authority.

Reason: To ensure appropriate assessment of the archaeological implications of the development proposals and to secure the appropriate safeguarding of any important remains.

- 29 Plans and particulars of the reserved matters submission shall include full details of any Safeguarding Measures for the preservation in situ of archaeological remains. These Safeguarding Measures shall be informed by the results of the Archaeological Field Evaluation required under condition 28 and will be agreed in writing by the local planning authority. Safeguarding Measures may include, but are not limited to, (a) preservation through engineering or foundation design (b) the identification of areas of the site where built development will be excluded, (c) measures for the or conservation and display of significant structural remains associated with Chatham Lines defences.

Reason: To ensure appropriate assessment of the archaeological implications of the development proposals and to secure the appropriate safeguarding of any important remains.

- 30 Prior to the commencement of development, including any site clearance or remediation works, a written specification and timetable for archaeological and geoarchaeological mitigation (investigation and recording) works shall be submitted to and approved in writing by the local planning authority. The archaeological and geoarchaeological works shall be implemented in accordance with the approved specification and timetable.

Reason: To ensure that features of archaeological interest that will not be preserved in situ are properly examined and recorded.

- 31 Within 9 months of the completion of the on-site archaeological and geoarchaeological works referred to in Condition 30 a Post-Excavation Assessment Report shall be submitted to and approved in writing by the local planning authority. The Post-Excavation Assessment Report shall be in accordance with Medway Council's requirements and include:

- (i) a description and assessment of the results of all archaeological and geoarchaeological investigations that have been carried out.
- (ii) an Updated Project Design outlining measures to analyse and publish the findings of the archaeological geoarchaeological investigations, together with an implementation strategy and timetable for the same.
- (iii) a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.

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The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

Reason: To ensure the results of the archaeological investigations are made publicly accessible so as to advance understanding of the significance of any heritage assets to be lost (wholly or in part) in accordance with the objectives of the National Planning Policy Framework.

Biodiversity Net Gain:

- 32 In bringing forward the Reserved Matters application relating to landscaping, the submission must demonstrate how the proposals result in an excess of 10% Biodiversity Net Gain, as set out within the Ecology Solutions Biodiversity Net Gain Report (11764.BNG.Report.vf1) dated January 2024 which forms part of the approved documents.

Reason: To ensure that the proposed habitats on site offer the biodiversity benefits in accordance with Biodiversity Net Gain objectives.

Piling:

- 33 No piling or any other foundation designs using penetrative methods shall take place other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 180 of the National Planning Policy Framework.

29 Report on S106 Agreements October 2023 to March 2024

Discussion:

The Chief Planning Officer gave a summary of the amount of S106 funding received from October 2023 to March 2024 and referred to Appendix 1 to 3 in the report.

Decision:

The Committee noted the report.

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30 Exclusion of the press and public

Decision:

The Committee agreed to exclude the press and public from the meeting during consideration of agenda item 7 (Planning Enforcement Report) because consideration of these matters in public would disclose information falling within paragraph 6 of Schedule 12A to the Local Government Act 1972 as specified in agenda item 6 (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.

31 Planning Enforcement Report

Discussion:

The Chief Planning Officer gave a summary of the planning enforcement proceedings referred to in Appendix A of the report.

The Chief Planning Officer confirmed that he was happy to take any questions and respond directly outside of the meeting.

Decision:

The Committee noted the report.

Chairperson

Date:

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