

KENT COUNTY COUNCIL

PLANNING APPLICATIONS COMMITTEE

MINUTES of a meeting of the Planning Applications Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Wednesday, 12 January 2022.

PRESENT: Mr R A Marsh (Chairman), Mr A Booth (Vice-Chairman), Mrs R Binks, Mr P Cole, Mr D Crow-Brown, Mr M Dendor, Mr P M Harman, Ms J Meade, Mr H Rayner, Mr O Richardson, Mr D Ross (Substitute for Mr C Beart) and Mr C Simkins

IN ATTENDANCE: Mrs S Thompson (Head of Planning Applications), Mr P Hopkins (Principal Planning Officer), Mr J Wooldridge (Principal Planning Officer - Mineral Developments), Mrs H Edwards (Senior Planning Officer), Mr D Joyner (Transport & Development Manager), Ms N Stevens (Invicta Law) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

1. Membership

(Item)

The Committee noted the appointment of Mr H Rayner.

2. Minutes - 10 November 2021

(Item A3)

RESOLVED that the Minutes of the meeting held on 10 November 2021 are correctly recorded and that they be signed by the Chairman.

3. General Matters

(Item B1)

The Head of Planning Applications Group informed the Committee that following the referral of the Sevenoaks Grammar Annexe/Trinity School planning application (SE/21/891) on green belt grounds, the Secretary of State for Levelling Up, Housing and Communities had decided not to call in the application for his determination. As a consequence, the planning permission had been issued as agreed by the Committee in November 2021.

4. Application TM/21/42 (KCC/TM/0289/2020)- Section 73 application to vary conditions 9 & 10 of Annex A2 of Permission TM/10/2029 (as amended by Permission TM/17/131) to amend the number and timing of HGV movements associated with ongoing operations at Hermitage Quarry, Hermitage Lane, Aylesford: Gallagher Aggregates Ltd

(Item C1)

(1) The Head of Planning Applications Group advised that since the report was drafted, Tonbridge and Malling Borough Council (TMBC) had decided to amend the

timetable in its Local Development Scheme, which would delay the review of its Local Plan by a few months. This would enable it to put the necessary staffing resources in place and to have regard to emerging planning reforms which could lead to reduced housing provision in the new Local Plan. It had also enabled extra time for its current call for sites exercise (8 weeks rather than 4). However, whilst this could have implications for the relevance of the development strategy (e.g. strategic housing sites), she advised that it had no bearing on the recommendation nor the case put forward which had arrived at it. The Head of Planning Applications Group advised that the officer report made it clear that no weight was given to the draft TMBC Local Plan and that all of the housing referred to in paragraph 15 of the report in Tonbridge and Malling as being in the draft Local Plan was either subject to planning permission (including that which provided the new road link to the A20 roundabout), to resolution to permit subject to a Section 106 Agreement or had been refused. The Head of Planning Applications Group advised that it followed that if housing numbers were reduced in the new TMBC Local Plan, there might be less pressure in terms of vehicle movements on Hermitage Lane than had been assumed in the application since it assumed a worst case in terms of vehicle movements with all of the sites in the withdrawn draft TMBC Local Plan coming forward.

(2) The Head of Planning Applications Group asked the Committee to amend the wording of the first sentence of paragraph 81 of the report to read: "KCC Highways and Transportation has advised that a £50,000 contribution towards a new (but currently not fully funded) footway / cycleway on Hermitage Lane is necessary in order for the proposed 100 HGV movements in each of the one hour periods between 06:30 and 09:30 hours to be acceptable."

(3) Mr H Rayner informed the Committee that the Local Member, Mr A Kennedy had written to him to say that he had no objection to the proposal.

(4) On being put to the vote, the recommendations of the Head of Planning Applications Group were unanimously agreed.

(5) RESOLVED that permission be granted for the proposed development subject to the prior satisfactory completion of a legal agreement to secure the Heads of Terms set out in Appendix 1 of the report and to Conditions and Informatives as set out below:-

(a) Conditions 9, 10 and 11 of Annex A2 of planning permission TM/10/2029 (as amended by planning permission TM/17/131) being worded as follows:

(9) *Within any single calendar month the average number of HGVs entering or leaving the site on weekdays (excluding Bank / Public Holidays) shall not exceed a combined total of 800 movements. No more than a combined total of 900 HGV movements in the form of entering or leaving the site shall take place on any single weekday. No more than a combined total of 500 HGV movements in the form of entering or leaving the site shall take place on any Saturday. No HGV movements shall take place on Saturdays after 13:00 hours nor at any time on Sundays or Bank / Public Holidays.*

- (10) *During the morning peak period of 06:30 to 09:30 hours (Monday to Friday), the maximum number of HGVs entering and leaving the site shall not exceed a combined total of 250 movements of which:-*
- (a) *No more than 75 movements shall take place between 08:00 and 09:00 hours; and*
 - (b) *No more than 100 movements shall take place between 06:30 and 07:30 hours, between 07:30 and 08:30 hours and between 08:30 and 09:30 hours.*

In addition to these restrictions:-

- (c) *Only HGVs pre-loaded at the site the previous working day shall leave the site between 06:30 and 07:00 hours and no other operations shall take place until 07:00 hours Monday to Saturday;*
 - (d) *No more than a combined total of 75 HGV movements shall take place between 16:00 and 18:00 hours (Monday to Friday); and*
 - (e) *No more than more than 100 movements shall take place between 06:30 and 07:30 hours, between 07:30 and 08:30 hours and between 08:30 and 09:30 hours on Saturdays.*
- (11) *Unless otherwise approved beforehand in writing by the Mineral Planning Authority, HGV movement monitoring shall be undertaken in accordance with the report titled "HGV Monitoring Scheme for Hermitage Quarry" (Ref: GAL-HQ-0617-R04 Rev A) dated October 2021 and the results provided to the Mineral Planning Authority each month in the format shown in Figure 8 titled "Hermitage Quarry Monthly HGV Movements Report."*
- (b) all other conditions in Annexes A1, A2, A3 and A4 of Permission TM/10/2029 (as amended by Permission TM/17/131) being replicated or updated as necessary to reflect the amendments or details approved pursuant to the permission(s) since Permission TM/10/2029 was granted by the Secretary of State on 11 July 2013; and
 - (c) Informatives relating to the following: The applicant being advised of the need to maintain the existing arrangements to slow drivers using the private access road into Hermitage Quarry from Hermitage Lane and warn them that pedestrians may be crossing the access road on Footpath MR488.

5. Proposal 21/504168/COUNTY (KCC/SW/0150/2021) - Erection of a two storey new stand alone teaching block and sports hall, with a single storey kitchen extension and remodelling works to areas of the existing school buildings to facilitate school expansion from 4FE to 5FE at Borden Grammar School, Avenue of Remembrance, Sittingbourne: KCC Strategic and Corporate Services
(Item D1)

- (1) The Head of Planning Applications Group read comments sent to her by the Local Member, Mr J Wright in opposition to the proposal.
- (2) Major Karl Ryalls, JP addressed the Committee in opposition to the proposal. Mr Nathan Anthony from Lee Evans LLP joined the meeting virtually and spoke in reply.
- (3) During discussion of this item, the Committee asked the Chairman to write on its behalf to the Director of Children, Young People and Education to recommend that she explore the potential for the installation of photovoltaic panels on site and to seek reassurance that the BREAM and sustainability features incorporated into the scheme would be delivered.
- (4) On being put to the vote, the recommendations of the Head of Planning Applications and the additional action set out in (3) above were agreed by 10 votes to 2.
- (5) RESOLVED that:-
 - (a) permission be granted to the proposal subject to conditions, including conditions covering the standard 3 year time limit; the development being carried out in accordance with the permitted details; the submission and approval of details of all construction materials to be used externally prior to the commencement of development; the removal of the section of paving which juts into the 3m sports pitch run-off area and its replacement with grass prior to the occupation of the new building; the installation of tree protection fencing prior to the commencement of development; the submission for approval by the County Planning Authority within 6 months of the granting of this permission of details of the "Remembrance Imagery" which is to be positioned on or adjacent to the new school building and installed prior to the occupation of the new building; no development commencing until a programme of archaeological work is submitted and agreed in writing by the County Planning Authority; the development being carried out in accordance with the Construction Management Plan Revision 05, dated 20/12/2021. works only being carried out on site between the hours of 0800 and 1800 on Mondays to Fridays, 0900 to 1300 on Saturdays with no operations on Sundays or public holidays; the permanent retention of all existing vehicle parking on site; details of covered cycle stands being submitted for approval prior to their installation on site, and being permanently retained thereafter; the submission of a revised School Travel Plan prior to occupation of the new building; the submission of a detailed sustainable surface water drainage scheme prior to the commencement of development; the

submission of a verification report covering the sustainable surface water drainage scheme for approval by the County Planning Authority in consultation with the Lead Local Flood Authority prior to occupation of the development; no infiltration of surface water drainage into the ground taking place other than with the written approval of the County Planning Authority and only being used in those areas where there would be no unacceptable risk to controlled waters or ground stability; no further development taking place if during development contamination not previously identified is found to be present, until a remediation strategy has been agreed with the County Planning Authority; the submission of details of a lighting scheme including hours of use, level of illumination and ongoing control over any new lighting on site; the submission of a Construction Environmental Management Plan prior to commencement of development in order to outline the precautionary mitigation approach on ecological matters; the submission for written agreement by the County Planning Authority of an Ecological Enhancement Plan within 3 months of work commencing on site; and the submission for written agreement by the County Planning Authority of a Habitat Establishment and Management Plan within 3 months of work commencing on site;

- (b) the applicants be advised by Informative that:-
- (i) registration with Kent County Council of the School Travel Plan should be through the “Jambusters” website;
 - (ii) only clean uncontaminated water should drain to the surface water system. Roof drainage should drain directly to the surface water system (entering after the pollution prevention measures). Appropriate pollution control methods (such as trapped gullies and interceptors) should be used for drainage from access roads and car parking areas to prevent hydrocarbons from entering the surface water system. There should be no discharge into land impacted by contamination or land previously identified as being contaminated. There should be no discharge to made ground. There must be no direct discharge to groundwater;
 - (iii) planning permission does not convey any approval to carry out work on or affecting a public highway and that engagement with KCC Highways and Transportation would be required at an early stage; and
 - (iv) they are strongly encouraged to install photovoltaic panels in the area designated, and other renewable features into the scheme to enhance the energy efficiency of the building; and
- (c) the Chairman be requested to write to the Director of Children, Young People and Education to recommend that she explore the potential for the installation of photovoltaic panels on site and to seek reassurance that the BREAM and sustainability features incorporated into the scheme would be delivered.

6. Matters dealt with under delegated powers

(Item E1)

RESOLVED to note matters dealt with under delegated powers since the last meeting relating to:-

- (a) County matter applications;
- (b) County Council developments;
- (c) Screening opinions under the Town and Country Planning (Environmental Impact Assessments) Regulations 2017; and
- (d) Scoping opinions under the Town and Country Planning (Environmental Impact Assessments) Regulations 2017 (None).

7. KCC Responses to consultations

(Item F1)

RESOLVED to note Kent County Council's responses to the following consultations:-

- (a) Swale Borough Local Plan – October 2021 – Issues and Options – Regulation 3; and
- (b) Folkestone and Hythe District Council Local Plan Main Modifications.

8. Urgent Decision taken under delegated powers

(Item)

(1) The Head of Planning Applications Group reported her Urgent decision to not pursue enforcement action for the temporary development of a place of rest on the former County Workshop site at Aylesford. This decision had been taken under section 10.15 of the Constitution which empowered KCC Officers to take action on urgent matters where there was no time to consult with the Committee or for the Committee to exercise its function.

(2) The Head of Planning Applications Group went on to say that, under the circumstances described, the Constitution required Officers to consult with the Chair of the Committee as well as Local Members if time permitted.

(3) A Non-Executive Officer Record of Decision had been completed by the relevant Officer setting out the decision taken and the reasons for it. This included a summary of the key points raised by those Members consulted.

(4) The Head of Planning Applications Group then set out her decision as follows:-

For a temporary place of rest in response to the COVID-19 pandemic at the former County Workshops Site, Aylesford to agree that the County Council as Planning Authority exercises its discretion not to pursue enforcement action and concludes that it is not expedient to take enforcement action for the

temporary development of a place of rest on the former County Workshop site Aylesford, subject to the following conditions:

(1) On or before 31st December 2022

- (i) Any use of the land for the purpose of a temporary place of rest shall cease and any associated buildings, plant, machinery, structures and erections on site erected for this purpose shall be removed; and**
- (ii) the land shall be restored to its condition before the development took place.**

(2) The operator to ensure compliance with relevant legislation relating to the facility.

(3) The Head of Planning Applications Group then set out the reasons for her decision. It related to a request by the Director of Infrastructure for the temporary development of a marquee structure, a 'Nutwell' temporary unit and security fencing on the site of the former County Workshops Site in Aylesford to provide a temporary place of rest to respond to the covid-19 pandemic. Under the circumstances, a decision was sought as to whether the County Council as planning authority would exercise its discretion not to pursue enforcement action and conclude that it is not expedient to take enforcement action for the temporary development.

(4) In concluding that it was not expedient to take enforcement action, the Head of Planning Applications Group had regard to the following factors:-

- (a) The discretionary function of planning enforcement. Such action should only be taken when it was expedient to do so, having regard to all material considerations. Local planning authorities should act proportionately in responding to suspected breaches of planning control;
- (b) The Written Ministerial Statement of Robert Jenrick, dated 13 March 2020, which emphasised the discretionary nature of enforcement action, particularly in light of the issues raised by the coronavirus pandemic;
- (c) An additional temporary place of rest was` required within the County as a contingency to respond to the Covid-19 pandemic, particularly in light of pressures associated with the Omicron variant;
- (d) The County Council had an obligation under the Civil Contingency Act 2004 to take the lead in responding to humanitarian impacts that result from an emergency;
- (e) The previous Statutory Instrument (SI) 2020.412 which temporarily introduced permitted development rights to address development matters arising as a result of covid-19. This provided, subject to certain criteria being met, additional permitted development rights to local authorities. Where the specified criteria were satisfied, development

was deemed to be permitted and a planning application was not required. This legislation lapsed in December 2020, requiring an urgent decision in advance of Government re-enacting such legislation.

- (f) The proposed development satisfied the criteria set out in the earlier permitted development legislation.
- (g) Planning merits considerations which balanced the need for the development against economic, environmental, and social considerations.

(5) The Head of Planning Applications Group said that, In this instance, she was satisfied that the temporary and pressing need for the development outweighed other planning considerations. She noted that:-

- (a) The operator would be responsible for ensuring compliance with the relevant legislation relating to the facility. No post-mortem examinations or tissue/organ sampling would be taking place on site and there would be no public access. Operational procedures would be put in place to ensure that, during operation and decommissioning, environmental impact was minimised; and
- (b) Given the dynamic nature of the emergency response to the pandemic, legislative support for such activities was fast changing. Should the government not re-enact the Statutory Instrument relating to permitted development rights in a reasonable period of time, the Director of Infrastructure had confirmed that a retrospective planning application for the development of the temporary facility would be made.

(6) The Head of Planning Applications reported that the Local Members, Cabinet Members and the Chairmen of the Planning Applications Committee and the Regulation Committee had been consulted and that she had received no objection. A number had supported the proposal.

(7) The Head of Planning Applications Group had also considered whether use of Urgency Powers was justified. She had concluded that it was as there was a pressing need to provide for an additional temporary place of rest within the County as a contingency to respond to the Covid-19 pandemic, particularly in light of current pressures associated with the Omicron variant. In this instance, there had been insufficient time for a retrospective planning application to be considered by the Council's Planning Applications Committee. The decision was taken late December 2021.

(8) RESOLVED that the report be noted.