

Retrospective application for amended siting of Business Resource Centre, St Edmunds School, Dover – DO/06/714

A report by Head of Planning Applications Group to Planning Applications Committee on 27 July 2006

Retrospective application for the corrected siting of the building (2-storey Business Resource Centre granted planning permission under application reference DO/05/729) plus relocation of basement plant room to ground floor level, St. Edmunds Catholic School, Old Charlton Road, Dover, Kent. DO/06/714

Recommendation: Subject to any further views received by the Committee Meeting recommend that permission be refused.

Local Member: Mr B Newman and Mr K Sansum

Classification: Unrestricted

Members' Site Visit

1. A group of Planning Application Committee Members visited the application site on the 27 June 2006 to acquaint themselves with the proposals and the issues they raise. They were accompanied by the local County Members, representatives of the applicants, Member(s) and officer(s) of Dover District Council, nearby local residents, officers of the Planning Applications Group and the Council Secretariat. The Committee Secretary's notes of the meeting are attached - Appendix 2.

Background and Proposal

2. Members considered an application (DO/05/729) for the erection of a business resource centre at St Edmund's School, at the Committee meeting on the 13 December 2005. It was resolved to grant planning permission subject to conditions and the decision was issued on the 16 December 2005. *A copy of the text of the Committee Report together with site location plan is attached as Appendix 1 to this report for reference.*
3. The construction of the building has already commenced but following complaints from local residents, initially via Dover District Council, it has been established that it is not being constructed in the location for which planning permission was granted. It has moved about 3 metres to the south and about 0.6metres to the west. Consequently the current application has been submitted retrospectively to regularise the siting of the building. It also seeks permission for the relocation of the plant room from basement to ground floor on north east side of the building. *Reduced copies of the site plans showing the permitted location of the building and its revised location are attached together with cross-sections/elevations.*
4. The applicants' Architect has provided the following comments about the revised location of the building in support of the application:

“Having reconciled the original planning and the current construction stage site plan the building is closer to number 107 Barton Road by 2.9m measured at first floor level. The revised position of the proposed building in relation to the first floor of No, 107 Barton Road is at a distance of 21.3m from the rear of the property to the front elevation of the proposed building. The original approved planning drawings showed a distance of 24.2m.

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The critical setting out point for the building is the bottom riser of the existing steps, which provide through access for the School to and from Barton Road. It is essential that the building does not obscure the steps and the access maintained. Also access is required for the fire exit serving the ground floor double classroom, which needs to be DDA compliant. With this in mind the building was set out on both drawings relative to the steps, the planning drawing being based upon original survey information and the construction stage site plan based upon a topographical survey plan prepared by J.C. White Surveys, subsequent to the original planning application. Unfortunately the original survey plan although being reasonably accurate in terms of the overall site area has both the steps and adjoining embankment mapped incorrectly, in reality the steps are longer than originally shown on the planning drawing and are located slightly further to the west. For the most part the difference in location of the building between the planning drawing and construction stage drawing is due to this error.

However the existing steps have had to be extended by two treads to ensure that the fire escape has level, DDA compliant access to the path extending from the steps, this has accounted for in part the 2.9m discrepancy. It was requested by the appointed Structural Engineer that the existing embankment, supporting the multi use games area (MUGA) above, must remain in tact and any excavation work kept to an absolute minimum within the footprint of the embankment. Therefore it was not possible to locate the building closer to the MUGA.

To mitigate the impact of the change of position to the No. 107 Barton Road, we are proposing the following;

- A landscaped buffer zone of semi-mature tree planting to the boundaries of 107 Barton Road's garden and to the western boundary of the site. This would obscure the building from view.
- We have proposed obscured glazing to the front elevation to prevent any overlooking in a southern aspect towards 107 Barton Road. The obscured glazing is set 1m from finished floor level and at a height of 1.1m.
- The proposed first floor western elevation cladding has been altered to cedar timber cladding. This change in facade treatment will soften the elevation treatment when viewed from the rear western gardens of the site.

Due to economic and practical reasons the plant room has been moved from the basement to the rear of the building at ground floor level. The floor level to the plant room has been stepped to avoid disturbance to the embankment. The plant room construction is of cavity masonry construction with a proprietary through coloured render finish with a flat roof and concealed gutter. The plant room contains all plant therefore no plant will be placed externally, in compliance with the original approval. It is simplistic in form and 'tucked away' behind the building in order that it does not visually impact both the building itself and adjoining properties.

Finally we wish to emphasize that the building will provide an important stepping stone to further education and employment for not only the senior students attending St. Edmund's Catholic School, but to the wider cluster group of Schools within the Dover area and also providing an adult education base for the wider community."

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Development Plan Policies

5. See paragraph (7) of attached Committee Report

Consultations

6. **Dover District Council's** views are awaited and will be reported verbally at the Committee meeting.

Dover Town Council has no objections.

Divisional Transportation Manager has commented that the parking layout has slightly changed from the original layout. However the number of parking spaces remains the same and the cycle racks are still indicated. Therefore has no further highway comments or objections to the revised drawing subject to previous highway related conditions still applying.

Jacobs (Landscape Consultant) has no objections to the corrected siting of the building and relocation of the plant room to ground floor level. Comments that the corrected siting of the building is minimal and will not cause any change or deterioration in landscape or visual impact when compared with the original application. Also that the relocation of the plant room to ground floor level will not cause any change in impact as assessed for the original location.

Comments on the landscape proposals, that the selection of plant species and sizes are generally well suited to the site and will perform an effective screening role and setting. Whilst not having any objections to the soft landscape plan, comments that it might be preferable to select a smaller tree species than the specified *Quercus ilex* when considering long term maintenance impacts of the scheme. Suggests that the choice of species does not necessarily need to be evergreen, or as formal as within the submitted design, in order to provide a screening function without creating an oppressive design.

Reiterates comments made on the original application suggesting careful consideration of the landscaping along the Barton Road frontage, such as well designed gates and railings and the treatment of surfacing. Notes that this has not been addressed within the landscape proposals submitted and feels it is still an important requirement of the development that should be addressed.

Jacobs(Noise Consultant) reiterates comments made on the previous application that providing the following recommendations are included as conditions on any planning permission granted, that the amenity at the closest noise sensitive receivers should be safeguarded;

- The close boarded fence as detailed;
- External door to café and internet area to be kept closed after 1630hours;
- No music is played in the café; and
- Mechanical plant noise is limited as detailed.

By way of clarification on the last point has commented that the detailed noise report submitted in respect of the previous application recommends that all plant associated with the application be designed to achieve a noise level which is at least 5dB(A) below the existing background noise level. This is considered to be applicable to the noise

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emanating from the plant room in its altered location and could be conditioned as it was on the original permission.

Local Member

7. The local County Members, Mr Newman and Mr Sansum were notified of the retrospective application on the 9 June 2006. Copies of the Landscape Proposals were sent to them on the 26 June 2006.

Publicity

8. The application was publicised by the posting of a site notice and the individual notification of 32 neighbouring properties.

Representations

9. Prior to validation and formal notification of the retrospective application a number of letters were received objecting to the building being built in the wrong place, that work was continuing without the benefit of planning permission and requesting that it should be stopped immediately. They consider that having looked at the original plans they been misled. Also comments were made that if retrospective permission were obtained, it would create a precedent for anyone who flouts planning control and that normally if a member of the public builds something in the wrong place they are required to take it down. In addition, it was stated that if it is granted and their concerns are not resolved they intend to lay the case before the Ombudsman. One resident comments that to put it in perspective, the 3 metres that the Architect has indicated that the building has moved equates to about two thirds of the width of their gardens. The residents consider that the building is both incongruous and detrimental to the amenities they enjoy.

The resident at 107 Barton Road in addition raised a number of other concerns, including:

- Cracks appearing in the render of his house as a result of the construction work.
 - The legitimacy of the original permission on the basis that his initial objection to the development along with at least 5 other local residents have neither been acknowledged or recorded.
 - The plans not being available for inspection at Dover District Council offices.
 - The large area of glazing on the new building giving zero privacy to their property.
 - Devaluation of the property about which written evidence can be provided.
 - Work starting on site at 7.00 am and generally stepping up despite the applicants being asked to stop.
 - KCC being unable or unwilling to enforce their own planning legislation.
 - The deviation from the permitted plans is 6 metres and not 3.
 - Draws attention to a photograph to confirm the overlooking of their property.
 - Expects KCC to acknowledge its accountability in the failures relating to this project including those involved in the planning and approval stage.
10. I have received 8 letters of representations from local residents and one from the adjoining Primary School responding to notification of the retrospective application. A summary of the main issues raised/points made is set out below:
 - The development is unlawful.
 - House and rear garden are overlooked, resulting in loss of privacy and security.

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- Devaluation of properties.
 - Considers that the property is closer by about 6 metres.
 - States that their property has and will continue to suffer from vibration and cracking from the development.
 - They will be subjected to the comings and goings of approximately 30 cars and their occupants; exhaust fumes and noise will be intolerable.
 - The second floor will have direct lines of sight across their garden and into various rooms in their house, i.e., rear bedroom, toilet.
 - The situation and impact on their property is entirely unacceptable and if approved it would feel as though that they were being forced to leave their home.
 - Demands that the works are stopped immediately.
 - Considers the position and scale of the building to be most unsuitable in close proximity to residential properties and results in over development of the site with a detrimental effect in terms of privacy, noise and light pollution in winter months.
 - Inconvenience of noise and dust from construction.
 - Loss of an attractive visual outlook.
 - The large building should not be built in such close proximity to residential properties.
 - Although cedar cladding is now proposed will still be overlooked from the windows which will be very intrusive.
 - Concerned about security and noise, as the building will be used until 9.00pm.
 - Does not consider that the proposed planting is feasible.
 - Considers that the blocking of the outlook and reduction in value of neighbouring properties is unfair.
 - Loss of view, overlooking resulting in loss of privacy, rubbish will be a problem and encourage vermin, an increase in traffic will be dangerous to the Primary School children as will strangers in the area as a result of the development, and property will be devalued.
 - Have had noise and dust whilst the building is in progress, and which is likely to be used all day and well into the evenings. The privacy of their garden is gone.
 - The building is incongruous, too big for the site and too near to properties in Stanhope and Barton Roads. The result of this is that the building is visually overwhelming.
 - The granting of permission to this retrospective application would create a precedent to flout planning laws. This Resource centre contravenes planning laws in that it has not been sited as laid down in the grant of permission.
 - The Chair of Governors of the Primary School comments that it would seem that the building is much bigger than initially informed and far closer than they had envisaged. Also that despite being sited in the wrong place, work is still going on, and questions whether this should be so with a retrospective application.
11. A total of 3 local residents have also submitted complaints to the ombudsman relating to the breach of planning control and the fact that building work had not stopped. The ombudsman forwarded these to the County Council to be dealt with through the Council's formal complaint system.

Discussion and Conclusion**Introduction**

12. This application seeks to regularise the construction of the new Business Resource Centre in a different position to that for which planning permission has previously been granted together with the relocation of the plant room. The application also proposes a

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variation to the elevational treatment and more significant landscape proposals. The principle of the development on this site comprising the new building, related external areas and car parking for use as a Business Resource Centre, has been established by the previous planning permission. The issues that this raised were considered by Members at the December Committee meeting as set out in the attached Committee report (Appendix 1).

Determining issues

13. The main issue to consider in determining the current application is whether or not the change to the position of the building and plant room result in a material difference in terms of the impact of the building on the local environment and the amenities of nearby local residents. If it does, it needs to be considered whether or not such a difference would render the location of the building unacceptable. The changes to the elevational treatment and the landscape proposals also need to be considered. There is a minor change shown to the car parking layout as noted by the Divisional Transportation Manager, but in my view this does not raise any new issues and therefore it would not be necessary to reconsider this aspect of the development.

Breach of Planning Control

14. Objections received to the location of the building are summarised in paragraph (9) and (10) above and were also expressed at the site meeting as summarised in the Committee Secretary's notes (Appendix 2). In addition there has been considerable disquiet that not only has the development been proceeding in an unauthorised manner but also that it was not stopped straight away. Having established a breach of planning control following the complaints received the matter was reported to the Regulation Committee on the 23 May 2006. Members of that Committee noted the circumstances of the case and on the basis of a retrospective application being submitted resolved to take no further action at that time. Prior to this, the applicants had been advised by my staff that the construction of the building should be halted pending the determination of the retrospective application and that by not doing so they would be proceeding at their own risk. As Members were made aware at the site meeting, the applicants had now instructed the Contractors to stop work.

The altered position of the building

15. The reason(s) given by the applicants' Architect for the altered siting of the building is set out in paragraph (4) above and was explained at the site meeting. The dimensions of the difference between the actual location and that granted permission are also set out. Given that the accuracy of these dimensions was challenged verification *check* measurements were taken to determine the distances between the new building and neighbouring properties. These dimensions are shown annotated on the *attached drawing* for Members' reference. This confirms the relative position of the building, that it can be scaled reasonably accurately from the site plan submitted with the retrospective application, and that compared with the original permitted location of the building, it has moved about 0.6 metres to the west and about 3 metres to the south. The latter also means that building now faces no.10 Stanhope Road, as well as nos. 12 – 20, to the west.

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Assessment

16. Development Plan policies require development to be well designed, of high quality and to respect its setting. Development that would be incompatible with the conservation or enhancement or detrimental to the amenity of a settlement will not normally be permitted. As such development proposals should not adversely affect the ability of neighbours to enjoy reasonable levels of privacy, peace and quiet.
17. In considering the general impact on the local environment in terms of its townscape setting, it could be argued that the changed siting of the building makes very little difference when viewed in its wider context. Moreover with the introduction of some appropriate planting there could in the longer term be a measure of enhancement to the townscape quality overall. However this is a tight site and the changed position of the building could make a significant difference to the relationship with neighbouring properties immediately adjoining. It is therefore appropriate to consider the relationship with properties to the west in Stanhope Road and to the south in Barton Road in terms of visual impact, landscaping, overshadowing, overlooking/loss of privacy, and noise impact.

Visual Impact

18. The new building is of modern design, two storey with a mono pitch metal, standing seam roof which slopes down from south to north finished in a light grey colour. See attached elevations. At first floor it is proposed to clad the walls with silver colour coated metal panels and cedar boarding and at ground floor silver colour coated metal panels and a textured colour coated render. It will be noted that there is generally a large expanse of glazing on most elevations and on the south elevation this includes a solar shading structure. The design and materials proposed are different with a more 'high tech' feel compared to the other nearby school buildings and the adjoining residential properties. Part of the designer's intention was that this should be a welcoming building with a presence. Whilst this approach has previously been accepted bearing in mind its proposed use as a Business Resource Centre it has to be acknowledged that the design has the potential to dominate its setting. Although it is a relatively compact building it has a fair bulk and therefore the presence of the building is likely to be accentuated within the constraints of the small site. To some extent this could be mitigated by appropriate landscaping to filter views of the building and to integrate the building into its surroundings.
19. Clearly views of the site and across the site have and would be changed including those from residential properties in close proximity to the site. Members will be aware that the actual loss/protection of private views per se is not a material planning consideration. However the effect of the physical presence of the building on the amenity of local residents does need to be considered, in particular whether or not it would be overbearing, and therefore unacceptable in planning terms.
20. The outlook of properties from the west beyond the boundary hedge is generally of the school site with the application site and/or the multi use games area in the foreground and the buildings of the School and Charlton Primary School beyond. Consequently the new building is and would be the predominant feature in the foreground. However bearing in mind that the base level is lower than the properties that face it, the shallow mono-pitched roof and that the first floor is a reasonable distance away (at between about 27 and 30 metres from the façade of these properties and about 15 metres from the end of the gardens), in my opinion, the building would not appear to tower above

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them. In addition, I consider that the proposal to clad the first floor of this elevation with cedar boarding would help to soften its appearance being more recessive compared to the silver colour metal coated panels previously intended. These factors taken together with the possibility of some appropriate landscaping as has been proposed, lead me to conclude that even though the building has moved in the order of 0.6 metres to the west, the building from this location would not be overbearing.

21. There are two properties 105 and 107 Barton Road immediately adjoining the south west boundary of the application site where there is an ivy covered boundary wall with a hedgerow on the school side. This has been allowed to grow higher adjoining 105 with some small trees and is lower adjoining the north east corner of 107. Above the boundary the outlook at garden level would have generally been of the sky with some of the school buildings just visible. The new building faces onto almost half of the plot width of 107 but is offset to the east side so that it is not directly facing the main part of the house or number 105 at all. Nevertheless the new building is now (and would be) a very dominant feature in the outlook from 107, even though the view to the side of the new building would in effect remain unchanged and, bearing in mind the boundary, changes as a result of the development at ground level would generally be hidden. The lower part of the building would also be obscured by the boundary walling.
22. The fact that the building has moved 3 metres towards the boundary means that it is only just over 6 metres away from the boundary. The effect of this in some perspectives from 107 is that the first floor of the building is/would be perceived as sitting on the boundary. This is further accentuated by the overhang of the roof which projects upward as well as forward, and would additionally be so by the outward projection of the framework around the window. Compared to the permitted location the original view of the sky has been further obstructed. The result of these changes in relation to 107 is that in my judgement the building could potentially be overbearing. That could possibly be mitigated by some appropriate planting (as has been proposed) although it would be some years before it was fully effective. On the other hand, at close proximity the planting in itself could be oppressive and exacerbate the situation. The effect of the changed position of the building is difficult to quantify and finely balanced but on the basis of the above consideration, in my view, it is marginal as to whether the proposal is acceptable because of its close proximity and visual impact on 107. The applicants are now proposing to reduce the overhang of the roof by 1 metre (from 1.4 metres) and although it would help, I do not consider that it would make a significant difference to the overall impact of the building.
23. The repositioning of the plant room to ground level, previously intended to be at basement level, does involve a small extension to the rear of the building to the north east end. It is partly set into the adjoining bank and is below the multi-use games area above. Whilst it would be seen from some views towards the building without any landscaping being carried out, in my opinion, it would be relatively unobtrusive and not add significantly to the visual impact of the building as previously permitted.

Landscaping

24. A detailed landscaping scheme has now been submitted. I have amongst others consulted those local residents whose property boundaries adjoin the application site. The scheme in essence seeks to provide screening of the site with a semi-circle of evergreen oak, to be planted as semi mature specimens adjoining 107 Barton Road. The applicants' Landscape Architect is suggesting that these be allowed to grow to a height no higher than the building (about 8 metres high) to be clipped and maintained

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as a continuous evergreen hedge once established. Our Landscape Consultant's comments in paragraph (6) above, and the suggestion of an alternative approach that softens the development without totally enclosing it, will be noted. This has been discussed further with her and if the proposed planting is maintained as suggested she would not object to it. The applicants' Landscape Architect likewise is not unhappy to go with a less formal approach. Clearly some appropriate landscaping would be beneficial in a number of respects, as referred to elsewhere in this assessment, and if permission is granted, it might be helpful if the applicants held discussions with the residents immediately adjoining before finally deciding which approach to adopt. It would also be necessary to secure the required maintenance of the planting by condition and to be assured by the School that this would be undertaken

Overshadowing

25. The impact of the new building in respect of overshadowing of adjoining properties, in particular in relation to the changed position of the building, also needs to be considered. No specific daylight or sunlight studies have been undertaken and have not been considered necessary in this particular case. A sun path diagram submitted by the applicant is however *attached for reference*. It should be borne in mind that this is only a two storey building with a shallow mono-pitched roof and not significantly higher than adjoining buildings excepting the adjoining primary school building which is single storey.
26. The new building is on the east/south east side of properties in Stanhope Road and given that it is about 15 metres from the boundary, in my view, it is a reasonable distance away in this respect, and the 0.6 metres that it has been moved westward would not make a significant difference to the extent that there would be overshadowing. In terms of the Charlton Primary School building the new building is immediately to the west with only a few metres between and in my view would be overshadowed for part of the afternoon, more particularly during the winter months. Arguably this has already been accepted and the changed position of the building marginally further away would not make the situation any worse. With regard to 105 and 107 Barton Road, these are on the south west side of the building and as such they would only be affected in the early part of the day by any loss of direct sunlight. I do not consider therefore that these properties would be overshadowed to the extent that a planning objection could be sustained, or that the fact that the building has moved about 3 metres to the south would make a material difference in this particular respect.

Overlooking/loss of privacy

27. There is clearly the potential for overlooking neighbouring properties both to the west and south from the first floor of the Resource Centre, as indeed was considered in determining the original application. Members will note the objections about overlooking and loss of privacy from local residents, which will obviously become more critical the closer the building is.
28. In respect of those properties to the west, direct window to window distances are at between about 27 and 30 metres from the first floor windows of the Resource Centre to the ground and first floors of their windows. At about 0.6 metres closer, it could be argued that there is not a significant change and that the distances are still well within the widely recognised minimum separation distance of 21 metres for house to house windows of habitable rooms. There is though still some possibility of the gardens being

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overlooked although to some extent this could be addressed by appropriate landscaping, as proposed, which once established would filter views to and from the building. I do not consider that overlooking from the ground floor of the building would be an issue given the lower ground levels and the existing boundary hedge.

29. The issue of overlooking from the external areas on the western side of the building was also considered when the original application was determined. Paragraph 22 of the previous report (Appendix1) refers, where it was generally concluded that there was no overriding loss of amenity from overlooking, subject to hours of use conditions and conditions covering details of these areas to be approved together with landscaping. If permission is granted, they could similarly be conditioned and, bearing in mind that the building has moved about 0.6 metres to the west, it would be appropriate to condition that the external areas for the play area and café should be no closer than under the original planning permission.
30. The proposed glazing to the southern elevation at first floor which provides light to three separate spaces recedes inwards from the front most face of the building to a 'v' shape in the centre, so that the nearest half is facing away from the properties and the other towards them. In front of the glazing it is proposed to install horizontal louvers to provide solar shading. Most of the glazing is to the east side of the eastern boundary of 107. Under the circumstances, there is no direct or perpendicular line of sight from the glazing to the windows of 105 and 107; in other words the windows are not parallel with each other. However there would be an oblique view of the windows, although more acute from the nearest half of the glazing. There would also be potential for overlooking the gardens rear gardens of 105 and 107.
31. The distances measured on site give an overall distance from the first floor façade of the new building to the rear ground floor façade of 107 (the nearest property) of 20.7 metres, the first floor 21.75 metres and the conservatory 27.05 metres. These are not window to window distances but do serve to demonstrate that the widely recognised minimum separation distance of 21 metres for house to house windows of habitable rooms would be met, as no windows are closer than this distance and the distance to the ground floor window measures from the drawing at greater than 21 metres. Arguably there is not much tolerance in the distances involved for some of the windows and the rear garden(s) can be readily overlooked being a relatively few metres away. However the applicants are now proposing some obscure glazing to the windows in the southern elevation set 1 metre from finished floor level to a height of 1.1 metre. This would certainly reduce the opportunities for the average person to look out either when standing or sitting. A person would either have to almost lie on the floor or stand on a chair to be able to look out. On the other hand there could still be a perception of being overlooked. The addition of some planting as proposed could assist in altering this perception but, in my opinion, should not be entirely relied on to address this issue. The applicants have now indicated that the glazing could be completely obscured on this elevation if this was considered necessary. Given that the minimum distances can be achieved and the proposals for obscure glazing, I do not consider that a planning objection on grounds of overlooking and loss of privacy from the southern elevation could be sustained.
32. The issue of overlooking Charlton Primary School was also previously considered as set out in paragraph 22 of the report (Appendix1). Although the new building would overlook the primary school, given the educational rather than residential use, it was not considered to be unacceptable. The building is now about 0.6 metres further away otherwise there is no change in this respect.

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Noise

33. The issue of noise impact arising from the development was considered when the original application was determined as set out in paragraphs (23) and (24) of the report (Appendix 1). Although the building has moved including the plant room, the proposed use of the building and external areas remains unchanged. As already mentioned in paragraph (27) above, the proximity of the external area could be conditioned so that they are no closer.
34. I have re-consulted our Noise Consultant who considers that the amenity at the closest noise sensitive receivers should be safeguarded, providing that conditions are imposed on any planning permission to include a close boarded timber fence to mitigate for noise arising from the external areas, external door to café and internet area to be kept closed after 1630 hours, no music to be played in the café and the mechanical plant noise is designed to achieve a noise level which is at least 5dB(A) below the existing background noise levels. Hours of use conditions could similarly be imposed as on the original planning permission, and as referred to in the previous report in paragraphs 25, 26 & 33 (Appendix 1).

Construction

35. No hours of working conditions were imposed on the original planning permission, although I understand that the contractor was working to hours within the limits generally recommended by the District Council's Environmental Health Officer. However the nearest resident has commented that work has started or deliveries have been made to site at about 7.00.am and considers that this is detrimental to their amenity. Although I understand that this is not outside those hours, I consider that if planning permission is granted, work should be restricted to an 8.00.am start time bearing in mind the close proximity of residential properties. This would be consistent with hours that have been imposed in similar situations.

Loss of property value

36. Although the loss of property value is often cited and of real concern in objections to development proposals, as in this case, Members will be aware that it is not a material planning consideration, but one which may be addressed through compensation provisions.

Alleged damage to property as a result of construction works

37. The residents of 107 Barton Road have referred to cracks appearing in the render to their property. This is not a planning issue but I do understand that the applicants Architects have already had a Structural Engineer look at and report on this matter. If the residents were not satisfied with the findings they would need to seek their own professional advice in the first instance, before pursuing matters further with the applicants or their agents.

Conclusion

38. It is regrettable that this application has arisen in the way it has and that a substantial part of the construction has been carried out. However the application in effect needs to be determined as if the development had not commenced and on the basis of whether or not the changed position of the building and its resultant impact are

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acceptable in the light of the Development Policies referred to in paragraph (16) above. The issues arising largely relating to the impact of the building on the local amenity of residents are discussed in detail above. In terms of the issues addressed, the application does not either conclusively pass or fail on all counts. It is not therefore a clear-cut decision and it is fair to say that the original location for the development is preferable to that now applied for. Nevertheless in respect of properties to the west in Stanhope Road and Charlton Primary School to the east, I do not consider that there would be a significant change to their amenity overall and therefore I would not raise a planning objection in this respect.

39. In my opinion, the determination of the application turns on whether or not the impact on the properties on the south side of the building, and in particular, 107 Barton Road is considered to be acceptable or unacceptable. In conclusion, I do not consider that there would be any significant overshadowing, although the height at which any tree/hedge planting is maintained at would need careful consideration. Bearing in mind the distances and the introduction of obscure glazing as proposed, and as discussed above, I also do not consider that there would be an overriding loss of privacy. If it was considered necessary, complete obscure glazing could be applied down to finished floor level and above the existing proposed height of 2.1 metres to ceiling level. On this basis, it would be difficult to sustain an objection on the overlooking/privacy issue. With regard to potential noise nuisance, there is likely to be little change in the effect of noise arising from activities and use of the site compared to the permitted location, and no objection has been raised by our noise consultant on this basis. However in terms of the proximity and visual impact of the development, it has to be acknowledged that it could result in it being overbearing and oppressive in the context of the amenity of the residents of 107 and therefore contrary to the Development Plan Policies, which seek to protect local amenity. On this issue alone it is sufficient, in my view, to raise a planning objection on the basis that such an impact renders the development unacceptable. Accordingly on balance, subject to the receipt of outstanding views if received prior to the meeting, I recommend that the application be refused.

Recommendation

40. SUBJECT TO any further views received by the Committee Meeting, I RECOMMEND that the application BE REFUSED on the grounds that the proposed building by virtue of its visual impact and proximity to the boundary of 107 Barton Road would result in the loss of amenity to its residents in that the development would be oppressive and overbearing to them, contrary to Kent Structure Plan Policy ENV15, Kent & Medway Structure Plan Policy QL1 and Dover District Local Plan Policy DD1, which seek to protect the amenity of residents.

Bill Murphy

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Background documents - See section heading
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