

TENTERDEN TOWN COUNCIL



MINUTES OF THE VIRTUAL PLANNING COMMITTEE MEETING HELD ON MONDAY, 4 MAY 2020

Councillors Present: M. Carter, V. Cole, J. Crawford (Chair), Mrs. J. Curteis, K. Mulholland, R. Quinton and Mrs. K. Walder (Vice-Chair)

Officers Present: Mrs. C. Gilbert (Deputy Town Clerk) and Mrs. L. Owers (Administrative Assistant)

Others Present: Cllrs. P. Clokie (ABC North Ward Member), A. Sugden, Mrs. S. Ferguson and C. Knowles and 3 members of the public.

7156 **APOLOGIES FOR ABSENCE.**
Cllr. Dr. L. Lovelidge.

7157 **DECLARATIONS OF INTEREST.**
None.

7158 **MINUTES.**

The minutes and report of the meeting held on 6th April 2020 and Special meeting held on 14th April 2020 were confirmed as correct records and will be signed at the earliest opportunity.

Cllr. Cole queried the recording of his voting decision on planning application 20/00432/AS in the minutes of the Special meeting held on 14th April 2020. Cllr. Cole advised that he had changed his mind and objected to this application. The Deputy Town Clerk advised Cllr. Cole that when the legal vote was taken Cllr. Cole did vote in support of this application but changed his mind afterwards. Cllr. Crawford advised that Cllr. Cole's original legal vote has to stand.

7159 **MATTERS ARISING.**
None.

7160 **COUNCILLORS QUESTIONS.**

(a) Cllr. Carter expressed his concerns with regard to the regeneration of the High Street. Cllr. Carter commented that more emphasis should be put on the High Street to help it to survive and to resurrect it when we can during the Covid-19 pandemic. Cllr. Crawford agreed that we need some sort of recovery programme. The Deputy Town Clerk advised that a discussion had taken place with the Chair of the Tourism and Business Sub-committee and that some ideas were being put together for a town recovery plan. This will be discussed at the External Committee meeting

on 11th May 2020.

- (b) Cllr. Carter asked if the Town Council could obtain an update on the Cloverbank Stables, Cranbrook Road application. Cllr. Mrs. Walder reported that new documents had been submitted by the applicant but they had not been uploaded to the Ashford Borough Council planning portal. This application falls in the middle of the debate around supporting the draft Gypsy and Traveller Supplemental Planning Document and protecting the High Weald AONB. Cllr. Mrs. Walder is in weekly contact with the Planning Officer at Ashford Borough Council and if there are any developments to be debated she will inform this Committee.

7161 **REPRESENTATIONS FROM MEMBERS OF THE PUBLIC.**

Mr. Holmes, Mr. Masefield and Mr. Haslam all requested to speak on Application No. 17/00708/AS.

7162 **PLANNING APPLICATIONS.**

The Committee considered the following planning applications. It was **RESOLVED** that its recommendations would be submitted.

17/00708/AS

Land north of 14, Westwell Court.

Erection of a fifty six bed care home and 23 units for assisted living (Use class C2) comprising 16 cottages and seven flats (including Manager's accommodation) with associated landscaping, parking, stores and service areas, estate roads, access and landscaping buffers.

Mr. Masefield of West Cross Gardens addressed the Committee with his concerns that the site is precious not only for exercise in the open air, but for its wide views of the Wealden landscape, for its ancient protected trees and for the diversity of its wildlife – including 4 mammals on the B A P priority species list, 8 protected reptiles and amphibians and 11 birds on the British Trust for Ornithology's Red and Amber lists for those of critical concern. Ashford Local Plan Policy ENV1 states that 'development should avoid significant harm to locally identified biodiversity assets' – which this development most certainly would not! Still more compelling are the 'Biodiversity Metric' calculations which, as part of the new Environment Bill, will become law this year – by which all green field developments are required to show a net biodiversity GAIN of at least 10% when completed. In March this year, Kent Wildlife trust applied the metric calculation to this application, to estimate a whopping net biodiversity LOSS of 51%, disqualifying it in

planning terms and inviting the Wildlife Trust's strongest objection.

Over more than 3 years of largely superficial amendments, this application would clearly be socially and ecologically disastrous – even if the current pandemic hadn't demonstrated the folly of building a care home for a vulnerable client group, close to and on both sides of a constantly walked public footpath.

A full copy of Mr. Masefield's speech will be available on the Council's website.

Mr. Haslam of Rogersmead drew the Committee's attention to an apparent error in the District Health Authority's 2018 Transport Statement which has caused the Care Home staff car parking requirement to be significantly under provided. The provisioning of parking is governed by the "Kent and Medway Structure Plan: Supplementary Planning Guidance 4 (SPG4) 2006" There are 2 paragraphs in this document which apply to class C2. Whilst quoting from SPG4, the DHA have ignored the clear instruction to use the full-time equivalent staff number and have generated their own interpretation based on the shift number provided by Barchester. There is a huge disparity between their figure of 11 spaces and the 30 which SPG4 would require.

30 spaces may sound generous but, just as with hospitals, care staff will need an overlap on shift change to facilitate handover. The overlap period could mean that all these spaces will be occupied at times.

A full copy of Mr. Haslam's speech will be available on the Council's website.

Mr. Holmes of Westwell Court addressed the Committee with his concerns over the Class c2 designation. The Applicant has made a number of claims within the Planning Statement relating to the 23 properties, described on the application as Assisted Living Units. These are contradictory and misrepresent the facts. The advantages of Class 2 designation for a developer are twofold, one, to mitigate the substantial contribution to the local authority, and two, such schemes are not bound by the planning policy constraints of Class 3 housing. The conflicting statements within this application confirm the residential properties do not meet the criteria of Assisted Living Units and do not

justify Class 2 designation.

A full copy of Mr. Holmes' speech will be available on the Council's website.

Cllr. Mrs. Walder thanked the three residents for their contributions and reported that the work she is doing to handle this application has been very much supported by a very dedicated team of residents who have carried out a substantial amount of detailed work.

The new documents include a new arboricultural report which has been prompted by the realisation that the real fundamental flaw in this application is the destruction and deterioration of the veteran trees it contains. The Planning Committee's comments of 6th November 2019 and 5th February 2020 have not been addressed: there is nothing seeking to improve the standard of amenity for neighbours and residents, the light spill survey; there is no visual impact survey illustrating the completely revised layout that was submitted in September 2019; or to mitigate the profound ecological and biodiversity impact on the development; nor whether residential units are C2 or C3 use class and are therefore subject to a section 106 contribution; nothing on the impact on the East Kent and Sussex Railway and tourism; and no response whatsoever to the Town Clerk's request for an urgent meeting to discuss C2 and C3 use class designation or the way this application has been handled particularly in relation to the redactions of information that have taken place.

With reference to the protection of trees on site, paragraph 175c of the NPPF 2019 has provoked a reaction from the applicants hence the new arboricultural survey. This was written by the Mayhew Consultancy. At the same time residents had commissioned and received an independent expert tree survey written by Dr. Jon Heuch, a very well respected and experienced tree specialist, who has worked with Ashford Borough Council on a number of occasions. The application survey deals only with two trees and Dr. Heuch has identified three others and a standard field maple, which he classifies as veteran and therefore subject to the highest point of protection.

Over 50 trees are going to be cut down but Dr. Heuch only focused on the very few that he

knew he could defend as 'veteran'. These included three oaks and the standard field maples which have not been completely ignored in the applicants standard arboricultural report. Notes had been circulated to the Planning Committee of the Ashford Borough Council Interim Tree Officer's discussions which resulted from making a Freedom of Information request. The full text of the Interim Tree Officer's note made it clear that he had not visited the site and had only read the applicant's tree report which as Mr. Masefield pointed out, we had known from the beginning, contains huge errors of fact and of misclassified trees and have put in completely misleading measurements. The Interim Tree Officer's support for the new proposals were distinctly lukewarm. He has worked to a completely irrelevant legal standard and in conclusion he wondered why on such a big site, the buildings have to encroach on veteran trees. Dr. Heuch did visit the site and his advice is unequivocal. The development is currently designed and linked to the loss and destruction of veteran trees and as such Ashford Borough Planning Committee must turn this down.

Cllr. Carter commented that although he objects to this application, if it is approved by ABC, then there would need to be a major financial contribution through Section 106 to compensate the amenities, including Ivy Court Surgery. Cllr. Carter would also like to see the allocated public footpath split to create an access to the proposed country park.

Cllr. Mrs. Walder made reference to the Head of Terms that had been proposed at the start of the application process and these are inadequate. Cllr. Mrs. Walder suggested that we ask ABC to keep the Town Council consulted in ongoing discussions regarding Section 106 contributions.

OBJECT to this planning application for the following reasons.

1. None of the recently submitted documents filed by the Applicant address the substantive and well-evidenced planning objections submitted by this Planning Committee on 6 November 2019 and 5 February 2020. We attach copies of

these objections for ease of reference and re-assert them in their entirety;

2. The development site contains a number of 'veteran' trees with high levels of legal protection under Paragraph 175c of the NPPF 2019. Planning applications resulting in 'loss or deterioration' to 'veteran' trees must be turned down by planning authorities except in exceptional circumstances. The failure of the Application to meet the standards of the NPPF 2019 formed a significant part of Tenterden Town Council's reasons for refusal on 5 February 2020.

We note the submission of a Supplementary Arboricultural Report dated March 2020, prepared by the Mayhew Consultancy on the Applicant's behalf. It purports to set out proposals offering a very low level of protection to two 'veteran' trees on the site (T17 and T18 a 'veteran' oak and hornbeam). It ignores the following trees assessed as 'veteran' by Dr Jon Heuch BSc. (FOR) Phd MIC For MARborA in his independent tree survey, dated 16 March 2020 on the online portal .

The 'veteran' trees omitted by the Mayhew Consultancy and viewed as at risk by Dr Heuch are as follows;

G7 FIELD MAPLES

T11 OAK

T21 OAK

T23 OAK

T33 FIELD MAPLE

T9 OAK - pointed out to the Mayhew Consultancy by ABC's interim tree officer, Paul Hegley, as being at real risk of deterioration or loss from the Applicant's proposed development.

Mr Hegley has concluded that the proposed development 'has the potential to compromise the long-term retention of some of the more important A & B grade trees'. Dr Heuch states that contrary to section 15 of the 2019 NPPF, the Application will, 'result in the loss or deterioration of irreplaceable habitats, 'including, 'veteran trees'.

Under the terms of Paragraph 175c of the NPPF 2019, where 'loss or deterioration' to 'veteran' trees could result from a development, it must be refused by local planning authorities unless, 'there are wholly exceptional reasons AND a suitable compensation strategy exists'.

The Applicant has failed to address the loss and deterioration the development poses to a significant number of 'veteran' trees on the site. It cannot meet the "wholly exceptional reason" test and has not attempted to do so. The footnote to Paragraph 175c makes clear this must be of the order of 'nationally significant infrastructure projects'. And the Applicants have not offered any, 'suitable compensation strategy'.

3. We note the submission of an objection to the current Application by Dr Richard Bloor of Kent Wildlife Trust, dated 23 March 2020 and the use of the new DEFRA Biodiversity Metric 2.0 calculation by Dr Bloor to the site. This DEFRA metric underpins the draft Environment Bill coming into force later this year. The calculations show that the Application would lead to a 51% net loss of biodiversity to the site, notwithstanding the apparent attempts at mitigation that the Applicants detail in their submitted Landscape Masterplan. We therefore object to the Application on the basis of its contravention of Ashford Local Plan 2030 Policy ENV1 which states that 'development should avoid significant harm to locally identified biodiversity sites including.....locally important habitats and protected species'. We point to the submissions of 21 February 2020 entitled 'Westwell Statement' and 'Westwell Species', for further evidence of the habitats and protected species at the Application Site.

4. No determination has been made by the Planning Officer on the designation of the Assisted Living Units contained in the Application, between C2 or C3 use classes.

This failure has significant consequences for the preparation and negotiation of terms of any s106 Agreement. Correspondence between the Applicant and the Planning Officer took place on this designation in September 2019. This Planning Committee rejects the existing draft Heads of Terms for a s106 contribution as woefully inadequate. We wish to be consulted fully on any negotiations for an acceptable and commensurate s106 contribution, given the adverse and direct impact the development will have on the Town's social infrastructure.

5. Experts' Reports detailing the proposed mitigation strategy required to obtain a licence from Natural England for one of the protected species on site have now been handed to relevant experts for review and we reserve the right to make further comments on these.

The Planning Committee notes the failure to respond to its written request to ABC Planning officers for an urgent meeting to discuss the redactions and omissions that have taken place on the online portal that allegedly relate to the protected species. We believe this failure makes a mockery of ABC's Statement of Community Involvement 2013 and its stated intention, 'to continue our extensive consultation with the large rural community through the Parish [and Town] councils'. We once again request that a meeting take place to discuss the implications of the redaction policy on this Application and others coming before Tenterden's Planning Committee.

20/00499/AS

Hopes Grove Nurseries, Smallhythe Road.

Provision of Additional Car Parking Incidental to the Exiting Plant Nursery Business Use of the Land.

SUPPORT on condition that Ashford Borough Council check the Regulations to see if installation of charging points for electric cars is applicable to this application.

20/00505/AS

Tenterden Sports and Leisure Centre,

Recreation Ground Road.

Removal of existing roof materials to be replaced with profiled metal sheet; removal of plastic guttering replacing with metal guttering; removal of existing fascia/soffit materials and replacement with metal fascia/soffit; removal of roof panels above swimming pool and replacement with profiled metal sheet.

Cllr. Crawford commented that he was pleased to see that the applicant had taken on board up-to-date thermal insulation and adoption of solar panels.

SUPPORT.**20/00511/AS****Homewood School and Sixth Form Centre, Ashford Road.**

Installation of an Acoustic Barrier in relation to the 3G Pitch approved under planning application 17/01770/AS.

Cllr. Carter suggested that this should be left to Ashford Borough Council and Homewood School to decide. Cllr. Crawford agreed that this complies with acoustic standards and there appears to be a dispute between two parties.

Cllr. Quinton opposed this on the grounds that Homewood School put in an application for a football pitch with a specific barrier which has now changed.

SUPPORT.

Cllr. Quinton voted against the decision.

7163 NOTIFICATION OF DISCHARGE OF CONDITIONS.

List No. 022 was **NOTED**.

7164 DECISIONS OF THE ASHFORD BOROUGH COUNCIL PLANNING COMMITTEE.

List No. 590 was **NOTED**.

7165 SUB-COMMITTEE & WORKING GROUPS.

- (a) Selective Neighbourhood Plan Working Group. No recent meetings have been held.

7166 MINOR MATTERS.

- (a) Appeal Decision on 19/00632/AS - 16 Rogersmead. The decision by the

Planning Inspectorate to support the appeal in relation to 16 Rogersmead against the decision of Ashford Borough Council was **NOTED**.

7167 **CORRESPONDENCE.**

None.

7168 **ANY OTHER BUSINESS PREVIOUSLY NOTIFIED TO THE CHAIRMAN.**

- (a) Beacon Oak Road/Ashford Road Junction. Cllr. Crawford reported that the works should have started on 4th May 2020 to install a roundabout on the Beacon Oak Road and Ashford Road junction, however, this has been delayed due to Covid-19. The new start date will be circulated once known.

The Deputy Town Clerk reported that concerns had been expressed over the monolith stone on the corner of the Beacon Oak Road junction and was pleased to report that the Town Council have taken the monolith and the bench away and put them in a safe place until the works are complete. The Deputy Town Clerk thanked Cllr. Mrs. Ferguson for helping to chase this issue with Kent County Council, however, it was easier to remove the stone ourselves.

The meeting opened at 7.04 pm and closed at 8.35 pm

The foregoing Minutes and Report were confirmed and signed at a meeting of the Planning Committee held on Monday, 11 May 2020.

Chairman _____ (Monday, 11 May 2020)