
PLANNING COMMITTEE

MINUTES of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT on Wednesday, 30 January 2019 from 7.00pm - 10.11pm.

PRESENT: Councillors Cameron Beart, Bobbin, Monique Bonney (substitute for Councillor Mike Henderson), Andy Booth (Vice-Chairman, in-the-Chair), Tina Booth (substitute for Councillor Peter Marchington), Bowles (substitute for Councillor Bryan Mulhern), Richard Darby, Paul Fleming (substitute for Councillor Mike Baldock), James Hall, Nicholas Hampshire, Harrison, James Hunt, Ken Ingleton, Nigel Kay, Prescott and Ghlin Whelan.

OFFICERS PRESENT: Simon Algar, Alan Best, Andy Byrne, Philippa Davies, Colin Finch, James Freeman, Andrew Jeffers, Cheryl Parks, Steve Wilcock and Jim Wilson.

ALSO IN ATTENDANCE: Councillors Mike Baldock, Mike Henderson, Roger Truelove and Mike Whiting.

470 EMERGENCY EVACUATION PROCEDURE

The Chairman ensured that those present were aware of the emergency evacuation procedure.

471 INTRODUCTION AND WELCOME

The Vice-Chairman in-the-Chair invited members of the Committee, visiting Members and officers to introduce themselves.

472 DECLARATIONS OF INTEREST

Councillor James Hunt advised that, contrary to reports on social media, he was not friends with one of the Applicants.

473 SCHEDULE OF DECISIONS

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 17/505711/HYBRID
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APPLICATION PROPOSAL

Hybrid planning application with outline planning permission (all matters reserved except for access) sought for up to 595 dwellings including affordable housing; a two-form entry primary school with associated outdoor space and vehicle parking; local facilities comprising a Class A1 retail store of up to 480 sq m GIA and up to 560sqm GIA of "flexible use" floorspace that can be used for one or more of the following uses - A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), D1 (non-residential institutions); a rugby clubhouse / community building of up to 375 sq m

GIA, three standard RFU sports pitches and associated vehicle parking; a link road between Borden Lane and Chestnut Street / A249; allotments; and formal and informal open space incorporating SuDS, new planting / landscaping and ecological enhancement works.

Full planning permission is sought for the erection of 80 dwellings including affordable housing, open space, associated access / roads, vehicle parking, associated services, infrastructure, landscaping and associated SuDS.

For clarity - the total number of dwellings proposed across the site is up to 675.

ADDRESS Land At Wises Lane Borden Kent ME10 1GD

WARD Borden And Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Quinn Estates Ltd & Mulberry Estates (Sittingbourne) Ltd AGENT Montagu Evans
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The Senior Planner reported that three further representations had been received; two from local residents and one from Borden Wildlife Group. They had raised issues on the impact of the development on badgers, and the adequacy of the survey work that had been undertaken. The Senior Planner referred to the two tabled papers and explained that this had been addressed in the first tabled paper.

The meeting was adjourned from 7.15pm to 7.35pm to allow Members to read the tabled papers, if they had not already done so.

The Senior Planner introduced the application and explained that the site covered an area of 47.5 Hectares. The site was currently mainly open agricultural land. Much of this, 33.7 Hectares, was allocated under the adopted Local Plan for housing. The remainder of the site was designated as countryside and was within an important Local Countryside Gap. The Senior Planner explained that there were planning constraints to the development. These included: the Local Green Space (access to application site); Borden Nature Reserve; Local Countryside Gap; and proximity to listed buildings and Chestnut Street Conservation Area. The Senior Planner explained that the allocated land to the west of the site would accommodate additional housing, with a link road between Borden Lane and Chestnut Street, with a slip road included onto the A249. The Senior Planner indicated on the plans the location of the rugby club, the school, retained green space, allotments and other areas of green space. He explained that Phase 1 was set-out in detail, with the other phases being outline. Phase 1 consisted of the 80 dwellings, and would include the re-alignment of Wises Lane. He indicated the various highway and off-site highway works. The 80 units would be accessed via Wises Lane. The connecting road between Chestnut Street and Wises Lane would be completed before the occupancy of 200 units. The full length of the spine road would be completed prior to occupancy of 422 units. Offsite highway works included the signalisation of Wises Lane/London Road junction, a roundabout on Borden Lane, mini roundabouts on Homewood Avenue/Adelaide Drive junction; pedestrian improvement works; and re-configuring of the Key Street roundabout, with Chestnut Street providing access to the A249 via the new roundabout.

Parish Councillor Clive Sims, representing Borden Parish Council, spoke against the application.

Roger Down, a supporter, spoke in support of the application.

Mrs Nicola Butlin, an objector, spoke against the application.

Mark Quinn, the Applicant, spoke in support of the application.

The Vice-Chairman in-the-Chair explained that Members would go through the Committee report, from page 44 to page 103, and he invited questions relevant to these pages.

The questions and answers were on the following issues:

Page 44

In terms of the financial appraisal and the additional highway link, what sort of assessment was carried out, was it independently reviewed, and was there evidence of this? The Senior Planner advised that a viability appraisal had been submitted and external consultants had provided advice. Four different scenarios were tested, including a test on a greater amount of affordable housing, a housing mix with more small units, and a scheme without the additional 80 units. The advice had been that the development was only viable with the extra units and the delivery of 12% affordable housing. He added that there had been tests on the basis of the additional housing needed to fund the highway works. The viability of the development was outlined in paragraph 8.38 of the report.

Page 46

Why had the masterplan not been submitted prior to the submission of the application, and the infrastructure in place before anything else? The Senior Planner explained that infrastructure came at a cost, so a certain amount of housing needed to be provided before the highway works could be delivered. He explained that the Section 106 Agreement, plus conditions required the infrastructure to be in place at set trigger points.

Large sites should have a masterplan, why was it not appropriate that this development had one? The Senior Planner explained that it was not a policy requirement to have a masterplan in place prior to submission of the application, and this was not a barrier to the application going forward. There had been lengthy discussions with the developer on his masterplan brief during the course of the application.

Page 50

A Member asked about break-even profitability and viability figures, and how Members could be assured about the figures and the different scenarios. The Senior Planner explained that this had been reviewed by an independent viability consultant, was in the public domain and was included within the report and supporting documentation.

Page 51

A Member asked about the mix of housing units on the site, and suggested 2/3 bedroom housing was needed. The Senior Planner explained that the mix of

housing was indicative at this stage and not set. However, it was likely to sway towards larger properties because of viability. He added that the 3-bedroom mix was similar to the Borough-wide requirement mix, but that a greater proportion of 4-bedroom units were likely. This meant that there would be a greater number of larger units than was ideal, but it was not unacceptable. The Member suggested that viability, rather than housing need was being considered? The Senior Planner explained that a range in size of units would still be delivered.

A Member asked why the needs of the Borough were not being considered above profitability? The Senior Planner re-iterated that there was a mix of dwelling sizes Borough-wide, often set by the scenario of the application site. He added that ideally there would be a greater mix than that proposed, but it was not viable in this case.

Page 52

A Member asked why the amount of affordable housing was not 40%, agreed at the out-set, and how the figure was achieved? The Senior Planner explained that affordable housing would be secured through a Section 106 Agreement, to achieve a minimum figure that was viable. The Member raised concern that if a limit on affordable housing was not provided, a greater number could come forward with potential impacts, e.g. that any potential service charge could be a burden and put people off living in the properties which could have an impact on the scheme. The Head of Planning Services explained that the Section 106 Agreement could put a cap on affordable housing.

A Member asked that when the Section 106 Agreement was negotiated, did the seven wheelchair accessible dwellings negate the 11 shortfall of affordable housing? The Senior Planner stated that these were already included. A review mechanism would be provided with the Section 106 Agreement to look into the viability of the scheme further into the development, with an aim to achieve more affordable housing if viability improved at a later date.

A Member considered the figures for the affordable housing contradicted the Local Plan, and why was that allowed to happen? The Senior Planner explained that the Local Plan Policy allowed the scenario of considering viability of the development. He added that the additional 80 units would fund the highway works. He acknowledged that this came at a cost, with the larger units providing more profit.

Page 55

A Member queried how operable the footpaths on the site would be, particularly ZR117 as it was positioned where the allotments would be? The Senior Planner explained that the developer was in on-going discussions with the Kent County Council (KCC) Public Rights of Way Officer regarding this.

In response to a question on whether there would be 3-way signalling at the Wises Lane/A2 junction, the Principal Transport and Development Planner (KCC) confirmed that there would be.

Page 57

A Member asked about the viability in relation to affordable housing and the impact of a High Court decision, on this application. The Head of Planning Services advised the National Planning Policy Framework and National Planning Practice Guidance had been updated and the Section 106 Agreement would address the affordable housing in relation to viability.

A Member asked whether the viability of the development had been scrutinised and the Senior Planner confirmed that it had been reviewed by a consultant.

Page 58

A Member asked how many hedges, including ancient hedges, would be removed and how many would be replaced? The Senior Planner explained that he had no exact detail of percentage removal, but there would be some hedge removal. This was accepted by the Council's Tree Consultant and the KCC Ecology department. The Major Projects Officer referred Members to the second tabled paper, and to condition (64) which dealt with hedges on the site and ensured that there was a good degree of control, and an opportunity to get suitable replacements and achieve a net gain in bio-diversity.

Page 62

A Member questioned the development that would take place on the Countryside Gap. In response, the Senior Planner indicated on the plans what part of the development encroached into the Countryside Gap. He explained that there would be some strategic landscaping and green spaces, some housing, and some highway infrastructure within part of the Countryside Gap, and that the erosion of this gap was part of the 'planning balance'.

A Member sought clarification on why housing and highways works were being developed within the Countryside Gap. The Senior Planner explained that a Countryside Gap was normally there to stop settlements from merging, and in this case, it needed to be balanced with the planning merits.

Page 80

A Member was not happy that the University of Kent's opinion on air quality and modelling had been dismissed, and referring to the tabled paper, requested the verbal update on this. The Environmental Protection Team Leader explained that the methodology/equipment/time frame of their monitoring had not been comparable with SBC monitoring, which adhered to Department for Environment, Food and Rural Affairs methodology and therefore could not be considered.

Page 84

A Member asked for evidence that skylarks' habitats could be moved, and that it would work? The Member also requested an update on the management of Borden Nature Reserve. The Senior Planner explained that a skylark mitigation strategy had been provided by the developer and this had been reviewed by KCC

Ecology who were happy with the mitigation measures that would be put in place. With reference to Borden Nature Reserve, the Senior Planner explained that although it was managed by Borden Parish Council, they had no authority over it. KCC owned the reserve and had some projects they would like to implement on the site. There were on-going negotiations to secure a sum of money in terms of Community Infrastructure Levy (CIL)/Section 106 payments.

Page 86

A Member asked what the land set-aside for the medical centre, and no longer required by the NHS/Clinical Commissioning Group, would now be used for? The Senior Planner explained that there had originally been a plan to have an on-site medical facility, but this had now changed to a 'flexible use' building, that could be either retail, restaurant use, financial or non-residential use.

A Member considered that by not having a medical centre on the site, there would be an increase in traffic movements from residents travelling elsewhere for medical treatment. He also wanted clarification on whether a restaurant use would have more impact, in terms of traffic movements, than the planned original use of a medical centre? The Principal Transport and Development Planner (KCC) explained that the trip rates would be less than those projected for the medical use.

A Member asked whether KCC had stated whether they would utilise the school on the site? The Senior Planner explained that KCC had confirmed that a school was required on the site, and it was a requirement of the Section 106 Agreement that the land be delivered to KCC. The current draft Section 106 Agreement provided delivery of the school land at 150 units, but the Senior Planner added that this was only a draft trigger at present. The Planning Lawyer explained that the Section 106 Agreement had been drafted, and there were safeguards in place, whereby the monies were paid to SBC, who then paid KCC when evidence was provided illustrating that the school would be delivered.

Page 90

A Member asked for information on the clawback facility if the monies were not required? The Planning Lawyer explained that often the draft of a Section 106 Agreement had a clawback period of 10 years, whereby if the infrastructure had not been delivered, the money could be repaid and this would be part of the negotiations. The Member asked how often the Section 106 Agreement reviews would take place. The Head of Planning Services explained that they were guided by CIL regulations. Schools for example, were fixed, and the developer had to pay the money, so there was no review. Only if the money was not required could it be given back. The Senior Planner added that the purpose of a review was loaded on the Council's side, i.e. affordable housing numbers would go up, not down.

A Member asked where the children of the first 150 dwellings would be schooled, prior to the school on site being completed? The Senior Planner explained that this was a matter for KCC to consider, and would be likely to influence their requirements to bring forward the new school.

Page 91

A Member asked how it could be guaranteed that monies for a particular scheme would be used for that. i.e. libraries? The Senior Planner explained that the Council collected the money for KCC and they needed to demonstrate to the Council what they were spending the money on before SBC would release it. The Major Projects Officer referred Members to page 40 of the report and stated that clarity of intentions would be built into the Section 106 Agreement and SBC would need to see evidence.

A Member asked whether the contribution figures set out were likely to be the final figures, and not be reduced? The Head of Planning Services explained that this was index related capital infrastructure which would be audited and reported back to Members.

A Member requested that the final Section 106 Agreement be decided upon by the Planning Committee, rather than be delegated to officers. In response, the Vice-Chairman in-the-Chair explained that this was normally carried out by the Chairman and Ward Members, with any variation being submitted back to the Planning Committee.

Page 93

A Member sought assurance on no reduction in the Building Research Establishment Environmental Assessment Method (BREEAM) 'Very Good' standard as outlined in condition (11). The Senior Planner explained that the condition was specific, and the applicant would have to apply to vary this if they sought a lower standard.

Page 94

A Member referred to condition (14) of the report and whether 'secure by design' was incorporated into the development. The Senior Planner explained that this was a standard condition, and that its likely effect would be the same thing

Page 95

A Member queried the different phasing parameters, and suggested it was all about viability? The Senior Planner stated that it was to a degree, but that income from the development was also needed to secure the infrastructure. KCC Highways and Transportation were happy with the triggers. It was hoped to get the infrastructure in as early as possible, and to improve the infrastructure in the area.

A Member considered the developer could deliver the infrastructure from their profit from other developments, and that the community would get nothing until the development was completed.

Page 98

A Member asked if the wording in paragraph 38 could be changed from 'indigenous' species, to 'native' species. The Senior Planner noted the request.

The Vice-Chairman in-the-Chair moved the officer recommendation to approve the application and this was seconded by Councillor Cameron Beart.

A visiting Ward Member spoke against the application.

A visiting adjoining Ward Member spoke against the application.

A visiting Member spoke against the application.

A Ward Member spoke against the application. He raised the following points: the application fell far short of approving; there were a lot of 'loose ends'; part of the application site was outside the area allocated in the Local Plan for housing; the independent report on behalf of Borden Parish Council showed flaws in the Committee report; the roundabout on Borden Lane was not approved by the Design South East Review; concerned where pupils would be schooled prior to the school being built, with impact on highways; series of narrow lanes; lack of GP/medical provision, this needed to be considered further; the spine road was shifting problems off the main road; air quality issues; impact on Chestnut Street; Oad Street would become a 'rat-run'; the development would be detriment to Borden residents; junction 5 scheme on M2 needed to be in place for this to succeed; there would be an increase in car movements; the highway infrastructure could not cope at the moment; 3-way signalling at Wises Lane was not a good option; should be 40% affordable housing, not 12%; this gave developers the 'green card' to build anywhere; Borden needed to be safeguarded as a rural village; the Local Plan should be respected; and needed to refuse this application.

The Committee debated the proposal to approve the application, and raised the following points:

- The majority of the site was allocated for housing within the Local Plan;
- needed to think about national policies as well;
- there were benefits re the highway works, new junction and spine road;
- there was no need to defer this application;
- thanks to the officers for the detailed report, and detailed updates;
- Phase 1a looked like a brilliant design, and was contemporary;
- acknowledged residents' concerns, but this should be approved;
- Countryside Gap was important;
- the development within the Countryside Gap seemed to work;
- the Section 106 Agreement should come back to the Planning Committee;
- the Police had requested further details re crime prevention measures, this should have been dealt with already;
- concerns from Sports England should be noted;
- Southern Water had stated there was not enough capacity to accommodate waste water flows;
- the exact position of public sewer and waste needed to have been sorted out by now;
- there should be 40% affordable housing at this site;

- needed to recognise the dangers of poor air quality on all residents;
- virtually all of the site was within land allocated for development in the Local Plan;
- the Local Plan should be defended;
- if we did not support development on sites allocated for housing in the Local Plan, this would open up green spaces for development, and these needed to be defended;
- 13.8 Hectares fell outside the Local Plan – that was not a small add-on;
- this application did not meet SBC's affordable housing targets;
- this was outside the scope of the Local Plan allocation;
- on a large site like this, would expect to see a masterplan;
- lots of documents had been delivered late;
- the Countryside Gap was disappearing, with an impact on ecology;
- concerned with the highway works: the spine road and roundabouts;
- Borden Lane was already a 'nightmare';
- lack of medical provision on the site;
- it was not unusual to have last minute representations;
- applauded dialogue between officers and developers;
- welcomed the addition of play panels;
- dog and litter bins should be increased;
- should uphold the distance from Cryalls Farmhouse and future potential dwellings;
- apprenticeship scheme for construction work was critical; and
- there should be no decrease in BREEAM standards.

Councillor Nigel Kay moved the following amendment: That the Section 106 Agreement comes back to the Planning Committee for the final decision. This was seconded by Councillor Nicholas Hampshire and included in the vote below.

Councillor Nigel Kay moved the following amendment: that there should be a condition so that areas on the south of the site, outside the Local Plan, and part of the Countryside Gap be landscaped. The Senior Planner advised that the closest build from the southern boundary on the parameter plans was the school and some housing, and so it was essentially an open space, with sports pitches, plus a club house, and would be strategically landscaped in any case. Councillor Kay withdrew this amendment.

In accordance with Council Procedure Rule 19(2) a recorded vote was taken on the motion to approve the application, plus amendment, and voting was as follows:

For: Councillors Cameron Beart, George Bobbin, Andy Booth, Tina Booth, Bowles, James Hunt, Ken Ingleton, Nigel Kay, Prescott. Total equals 9.

Against: Councillors Monique Bonney, Richard Darby, Paul Fleming, James Hall, Nicholas Hampshire, Harrison, Ghlin Whelan. Total equals 7.

Absent: Councillor Mike Dendor.

Resolved: *That application 17/505711/HYBRID be delegated to officers to approve subject to:*

- *conditions (1) to (58) in the report;*
- *additional conditions as outlined in the tabled papers - conditions (59) to (70);*
- *amendments to conditions (53) and (54);*
- *the resolution of outstanding matters relating to existing public rights of way;*
- *no objections being received from Historic England;*
- *the wording in paragraph 38 changed from 'indigenous' species, to 'native' species;*
- *confirmation from KCC of projects or management/maintenance proposals for the Borden Nature Reserve that would be affected by the increase in use to justify a financial contribution to such works – and agreement with the developer to contribute to this;*
- *the expiry of the consultation/publicity period relating to the ecology addendum and badger survey, and subject to no objections being raised by KCC Ecology or Natural England; and*
- *the completion of a S106 Agreement for the terms as set out in the report, and the Agreement to come back to the Planning Committee for the final decision.*

474 SUSPENSION OF STANDING ORDERS

At 10pm Members agreed to the suspension of Standing Orders in order that the Committee could complete its business.

Chairman

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All Minutes are draft until agreed at the next meeting of the Committee/Panel