
EXTRAORDINARY PLANNING COMMITTEE

MINUTES of the Extraordinary Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT on Thursday, 29 August 2019 from 7.00pm - 10.11pm.

PRESENT: Councillors Monique Bonney, Roger Clark, Simon Clark, Mike Dendor (Substitute for Councillor Cameron Beart), Tim Gibson (Chairman), James Hall, Nicholas Hampshire, James Hunt, Carole Jackson, Peter Marchington, Benjamin Martin (Vice-Chairman), Richard Palmer (Substitute for Councillor Elliott Jayes), David Simmons, Paul Stephen, Eddie Thomas, Tim Valentine and Ghlin Whelan (Substitute for Councillor Tony Winckless).

OFFICERS PRESENT: Andy Byrne, Philippa Davies, James Freeman, Cheryl Parks, Claudette Valmond, Steve Wilcock and Jim Wilson.

ALSO IN ATTENDANCE: Councillors Mike Baldock, Ken Ingleton, Sarah Stephen, Roger Truelove and Mike Whiting.

APOLOGIES: Councillors Cameron Beart, Elliott Jayes and Tony Winckless.

186 EMERGENCY EVACUATION PROCEDURE

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

187 DECLARATIONS OF INTEREST

The Planning Lawyer reminded Members that this application had been considered by the Planning Committee in January 2019 where it had been resolved to approve, subject to conditions and a suitably worded Section 106 Agreement. She advised that this decision was material to the decision to be made at this meeting. Members were referred to paragraphs 1.08, 5.02 and 5.06 in the Committee report. The Planning Lawyer advised that the Council would have to have good planning reasons to change its mind from the decision in January, and these reasons would be discussed and cross-examined at the appeal hearing. The Planning Lawyer also outlined potential costs to the Council. She concluded by reminding Members that they needed to be open-minded, listen to the debate, and consider if they were pre-determined or pre-disposed.

No interests were declared.

188 DEFERRED ITEM

Reports shown in previous Minutes as being deferred from that Meeting

Def Item 1 REFERENCE NO - 17/505711/HYBRID

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

The Senior Planner introduced the application and reported that a petition had been received from BRAD (Borden Residents Against Development) with 2,390 signatures opposing the planning application.

The Senior Planner gave a presentation on the application. He explained that the site covered an area of 47.5 Hectares to the south west of Sittingbourne. The land was predominantly open agricultural land. A large amount of the land, 33.7 Hectares, was allocated for development within the adopted Local Plan. The remainder of the land was designated as countryside and was within an important Local Countryside Gap. The closest part of the site would be 150 metres from the defined village boundary of Borden. The site was 300 metres from the Borden Conservation Area boundary. There were a number of historic buildings nearby including Cryalls Farmhouse, Riddles Cottage and Thatch Cottage. There were four listed buildings in Chestnut Street, and a small collection of protected trees, some with Tree Preservation Orders, fronting London Road, and near Wises Lane where there would be some highway works. The Senior Planner reported that the land sloped down from Borden to Sittingbourne, and the site included a network of public footpaths, and a designated rural lane.

The Senior Planner outlined the proposal as set out on page one of the report. This included the provision of 675 dwellings in total, a two-form entry primary school, sports pitches and improvements to the highway infrastructure. He explained that Phase 1a of the development would be south of Dental Close and west of Wises Lane, and would consist of 80 dwellings, and included the partial diversion of Wises Lane. Out of the total amount of dwellings, 12% would be affordable housing. The outline part of the application was submitted with all matters reserved except for access. The Senior Planner explained that parameter plans had been submitted which included an east to west link road which would divert local traffic from Key Street. These plans also showed the location of the houses, local centre, school, sports pitches and rugby club. He explained that the local green space would be retained as open space. The Senior Planner outlined the off-site highway works which included improvements to the Wises Lane/A2 junction, a double mini

roundabout, pedestrian improvements at Adelaide Drive and Borden Lane where they met London Road, a dedicated slip-road onto the A249, re-configuration of the Key Street roundabout, with part signalisation, improvements to mark out lanes in the roundabout, and a proposal to create a slip-road from Maidstone Road out to the M2, London-bound at the Stockbury roundabout in the scenario that the improvements to Junction 5 did not take place.

The Senior Planner highlighted the differences between the concept plan and the plan itself and explained that the concept plan formed part of policy MU3 of the Local Plan. The differences included the east-west link road extension beyond the allocated site; the take-up of land for the 80 units; take-up of land south of the site for landscaping; change in location of the primary school; inclusion of the rugby club; removal of potential industrial use, this was now flexible use; and the provision of a roundabout on Borden Lane, which encroached marginally into the local green space.

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

Parish Councillor Graham Herbert, representing Bobbing Parish Council, spoke against the application.

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

Nicola Butlin, an objector, spoke against the application.

Tom Cole, the Agent, spoke in support of the application.

The Chairman invited Members to ask questions.

A Member asked if and when the secondary school in Quinton Road, Sittingbourne would be delivered? The Major Projects Officer explained that the school was allocated in the Local Plan and was subject to the determination of a further planning application, and as such there was no further information at this point. He added that it was Kent County Council (KCC) that would bring forward the school, and once the outline planning application was approved, the reserved matters would go through the statutory process. So at the moment there was some uncertainty regarding the timing of progress on delivery of the school. The Member also asked about when the air quality and traffic impact study to determine the effects of the development on Homewood Ward would be carried out. The Senior Planner referred the Member to pages 79 and 80 which provided traffic predictions on local roads in the area. The Member considered that a representative from KCC Highways and Transportation should have been at the meeting to answer any highway questions. He asked whether Members in the adjoining Ward affected by the application should also have been consulted? The Senior Planner explained that during the application process, Members had the opportunity to make representations to planning officers, and he had not received any.

A Member asked whether the 560 square metres of flexible floor space could accommodate all the uses outlined in the report? The Senior Planner explained

that the use of this floor space was for one or more from a variety of uses, and not necessarily all of them.

A Member asked for details of how vehicles would access the M2 London-bound from the application site? The Senior Planner advised that there would be a slip-road off the new roundabout junction. The Member asked for justification for the development of land not allocated for housing in the Local Plan? The Senior Planner explained that the additional land was primarily to accommodate the spine road, and it was considered, following advice from KCC Highways and Transportation, that the highway benefits outweighed the loss of countryside. He added that the Council did not have a five-year housing supply. The Member asked whether the Planning Committee could be minded to approve the housing within the allocated site only. The Senior Planner explained that a split decision on the application could not be made.

A Member asked for more details on the pedestrian improvements to Borden Lane and Adelaide Drive. The Senior Planner explained that there would be minor works to the junctions to aid crossing for pedestrians. He added that he understood there would be 3-way signalisation on Wises Lane. The Member asked whether HGVs would be using the spine road as there were some sections of Borden Lane that had a 6'6" width restriction, and he requested further details of the roundabout on Chestnut Street. In the absence of a KCC Highways and Transportation Officer, the Senior Planner was unable to respond. The Major Projects Officer referred the Member to condition (22) on page 106 of the report and explained that full details of what it would look like would need to be signed-off by Highways England (HE). The Member asked where school children would go to school in the interim period before the primary school on the site was built? The Senior Planner explained that this was a matter for KCC. The Member asked whether the additional school traffic movements resulting from the school not being built straight away had been factored into the traffic modelling? The Major Projects Officer drew the Member's attention to page 167 of the report which outlined the contributions, with over £3 million from the developer going into the primary school provision. He considered the issue of there being no school initially, to be a short-term issue and again stated that this was a matter for KCC. He was unsure as to whether this had been factored into the traffic modelling. The Member was unhappy with the responses to the highway questions which he considered unacceptable as the application was being promoted as having highway benefits. The Head of Planning Services stated that it was unfortunate that there was no one from KCC Highways and Transportation at the meeting, but added that they had provided their comments, in both highways and education matters, in the report. The Member asked for the status of the retail units and whether there had been any interest from a retailer? The Senior Planner reported that he was not aware of interest, but that the terms within the Section 106 Agreement meant that the use of the units were for retail. He added that if the units had been marketed and still no retailer found, the developer could come forward for development of that land in the future.

A Member referred to Policy ST5 and asked for clarification on completion of the Northern Relief Road (NRR) before the development commenced. The Senior Planner advised that the application did not impact upon the NRR and that improvements had not been sought by KCC. The Member asked how it could be ensured that all aspects of the infrastructure were in place when the dwellings were

occupied as this was not always the case. The Senior Planner explained that in terms of the local centre there had to be a market appetite, and the terms for this land would be secured as part of the Section 106 Agreement.

A Member requested clarification of where Chestnut Street met the A249 near Junction 5 of the M2. The Senior Planner explained that there would be a dedicated slip-road on Maidstone Road to the M2, London-bound.

A Member asked for details of the roundabout and slip-road onto the A249 at Chestnut Street, and suggested it needed to be 400 metres long to let HGVs get their speed up. The Major Projects Officer stated that HE would have looked at this in detail.

A Member asked whether there was a loss of pavement along the roadside near the Borden Lane and Homewood Drive mini-roundabouts? The Senior Planner explained that there would be highways requirements to maintain the footpath at a certain width. The Member asked further questions on HGVs using the spine road, the roundabouts, traffic lights and the impact on the rural area. The Head of Planning Services explained that KCC Highways and Transportation would have looked into these matters. The Member asked for details of the Section 106 Agreement and highway costings. The Head of Planning Services referred the Member to pages 176 – 178 of the report where this was broken down into costing and phasing. The Planning Lawyer confirmed that all Section 106 Agreement contributions were index-linked.

A Member referred to the legal advice given at the start of the meeting and suggested that a material change since the January 2019 meeting was that there had been an election, with a different make-up of the Council and different policies. The Planning Lawyer explained that this was not a planning argument, and Members needed to look at planning changes. She added that Members needed to work with the Local Plan that was in place. The Member referred to page 33 of the report which noted the Key Street AQMA (Air Quality Management Area), and the Environmental Protection Team Leader confirmed that it was correct that there was not an AQMA for Key Street. The Senior Planner explained that the comments were made by KCC Highways and Transportation, and were not part of the planning appraisal section. The Environmental Protection Team Leader added that this was an interpretation from KCC. The Member referred to page 40-41 of the report, and asked whether there was an update on air quality. There was some discussion on information brought to the June 2019 meeting from Professor Stephen Peckham, and the context of that information to the application. The Environmental Protection Team Leader explained that he had received the information, and the results had not been that different from the consultant's data. The Member asked whether the east-west route across the site, with more people travelling on that route, had been factored into the traffic modelling? The Environmental Protection Team Leader explained that it was not necessarily the number of vehicles using the road, but trying to get a smooth flow of traffic to stop the stop/start scenario, and this would mitigate against any increased pollution from increased numbers of vehicles.

A Member asked whether the 6'6" width restriction was going to be removed to allow HGVs to use the spine road, and whether the traffic modelling included the

HGVs. The Environmental Protection Team Leader acknowledged the concern with HGVs using the spine road but added that HGVs were not the major source of air pollution, cars were. He did not expect HGVs to contribute to any future increase in pollution levels. The Member asked the status of the affordable housing and was advised that it was 90% affordable rented and 10% shared ownership. The Senior Planner explained that the site did not meet the Local Plan targets for affordable housing. There would be 81 affordable housing units, and to meet policy levels this would need to be 92, so there was a shortfall of 11. The Head of Planning Services added that there was a review mechanism in the Section 106 Agreement whereby if the viability of the scheme improved, the quota of affordable housing could be reviewed.

A Member considered that HGVs could not get to the spine road, along the rural lanes in any case. He stated that Councillors were being asked to make a difficult decision, when many of the highways questions could not be answered, and he considered this to be unacceptable.

A Member asked what highway improvements were being made to the Keycol roundabout through this application and also through HIF funding? The Head of Planning Services explained that HIF funding was being used for the improvements of the roundabout itself, and this funding was not determined yet. The Member asked what parking restrictions would be in place to stop HGVs parking in the bus layby? The Major Projects Officer explained that an additional condition could be imposed to request that the applicant sought a Traffic Regulation Order.

The Chairman moved the officer recommendation to approve the application and this was seconded by the Vice-Chairman.

A visiting Ward Member spoke against the application. A visiting adjoining Ward Member spoke against the application.

A Ward Member who was also a member of the Planning Committee spoke against the application. He raised the following points: the design was out-of-keeping and unsuitable; uncertain of delivery of the M2 Junction 5 upgrade; 600+ houses would increase strain on highway infrastructure and Junction 5; grave concerns with the spine road; if the A249 was closed, vehicles would use the spine road instead; schemes needed to be in-line with policy; huge traffic implications if pupils from this development had to travel to other schools out of the area because of lack of schools on the development; detrimental impact on nature including to badgers and skylarks; this was a breach of policies in regard to affordable housing; highway implications; and 3-way signalisation did not work.

Members were invited to debate the application and raised points which included:

- There was a lack of affordable housing on this development, the developer should meet the full quota;
- 80 dwellings were outside the area for housing allocation;
- burden on healthcare facilities, with a lack of capacity in nearby medical practices;
- healthcare facilities were needed on site;

- lack of education facilities, resulting in school children being driven to nearby schools resulting in gridlocked roads;
- lanes and local roads were not suitable for HGVs;
- increased traffic through local villages;
- harm to the environment – to skylarks and the rural lanes;
- air quality issues;
- wanted to hear the highway responses; and
- questioned the results of the traffic modelling.

In accordance with Council Procedure Rule 19(2) a recorded vote was taken on the motion that, had an appeal against non-determination not been submitted to the Planning Inspectorate, application 17/505711/HYBRID would have been approved and voting was as follows:

For: Councillors James Hunt and David Simmons. Total equals 2.

Against: Councillors Mike Dendor, Monique Bonney, Simon Clark, Tim Gibson, James Hall, Nicholas Hampshire, Carole Jackson, Richard Palmer, Peter Marchington, Benjamin Martin, Paul Stephen, Eddie Thomas, Tim Valentine and Ghlin Whelan. Total equals 14.

Abstain: Councillor Roger Clark. Total equals 1.

The motion was lost.

There was some discussion on the reasons for refusing the application. Members suggested the following reasons which were a basis for the resolution:

- The transport analysis was flawed;
- detrimental impact on the local environment;
- the development eroded the Countryside Gap;
- loss of high grade agricultural land;
- the affordable housing figure was below that specified in the Local Plan;
- the Section 106 Agreement was insufficient for local provision;
- air quality concerns and these might worsen;
- the spine road had the potential to be used as a by-pass;
- no support from Design South East;
- viability concerns without the delivery of Junction 5 of the M2;
- concerns with delivery of Junction 5 improvements;
- concerns with Key Street improvements;
- uncertainty with the roundabout on Chestnut Street;
- unacceptable to not have responses from statutory agencies (KCC);
- the time delays had not solely been the fault of the Council;
- harm to the landscape from the development of land not allocated for housing;
- loss of the Countryside Gap;
- lack of affordable housing, contrary to the Local Plan;
- failure to provide housing needs of Swale and housing needs for the local population;

- use of spine road through rural area was contrary to Policy MU3, it detracted from the character of the area and would dominate the new estate;
- failure of the Section 106 Agreement to mitigate offsite impacts of the development;
- lack of secondary school provision;
- impact on wildlife, rural lanes and hedgerows;
- air quality modelling used by the developers was inadequate;
- harm to the setting of the listed buildings;
- significant detrimental impact on neighbouring wards due to the impact of increased traffic movements, traffic congestion and decrease in air quality;
- the development was contrary to the Council's recent declaration of a climate and ecological emergency; and
- there were no measures to prevent HGV parking.

The Head of Planning Services explained that as Historic England had no adverse comments on the application, it would be difficult to defend the listed building reasons for refusal.

Members considered that as HGVs would be using the spine road, then this should have been factored in by Historic England. The Head of Planning Services sought delegated authority to check with Historic England to determine if they had considered this. After further comments, he also sought delegated authority to check with KCC Ecology on any outstanding studies they had on the application.

Councillor Nicholas Hampshire moved the following motion: That had an appeal against non-determination not been submitted to the Planning Inspectorate application 17/505711/HYBRID would have been refused for the reasons stated above. This was seconded by Councillor Simon Clark. The Head of Planning Services sought delegated authority to amend the wording into legal planning terms and to consult with the Chairman and the two Ward Members.

In accordance with Council Procedure Rule 19(2) a recorded vote was taken on the motion that had an appeal against non-determination not been submitted to the Planning Inspectorate, application 17/505711/HYBRID would have been refused and voting was as follows:

For: Councillors Mike Dendor, Monique Bonney, Simon Clark, Tim Gibson, James Hall, Nicholas Hampshire, Carole Jackson, Richard Palmer, Peter Marchington, Benjamin Martin, Paul Stephen, Eddie Thomas, Tim Valentine and Ghlin Whelan. Total equals 14.

Against: Councillors James Hunt and David Simmons. Total equals 2.

Abstain: Councillor Roger Clark. Total equals 1.

The motion to refuse the application was won.

Resolved: That had an appeal against non-determination not been submitted to the Planning Inspectorate application 17/505711/HYBRID would have been refused for the reasons stated above, with delegated authority given to the

Head of Planning Services to seek any further comments from Historic England and KCC Ecology. The Head of Planning Services also to be given delegated authority to amend the wording into legal planning terms and to consult with the Chairman and the two Ward Members.

189 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