

PLANNING APPLICATIONS COMMITTEE MEETING MINUTES - 28 FEBRUARY 2024

Present: Councillor Lovelock (Chair);
Councillors Yeo (Vice-Chair), Cresswell, Davies, Emberson,
Hornsby-Smith, Leng, Moore, Robinson, Rowland and Williams

Apologies: Councillors Ennis, Gavin and Goss

RESOLVED ITEMS

97. MINUTES

The Minutes of the meeting held on 31 January 2024 were agreed as a correct record and signed by the Chair.

98. DECLARATIONS OF INTEREST

Councillor Moore declared a pecuniary interest in Item 105 as his partner had carried out the ecological survey on the site.

99. QUESTIONS

Councillor Josh Williams asked the following question of the Chair of the Planning Applications Committee:

Climate Emergency Declaration

Is a Climate Emergency Declaration a material consideration in Planning decisions?

REPLY by the Chair of the Planning Applications Committee (Councillor Lovelock):

There are effectively two considerations in determining planning applications:

1. Whether something is a material consideration;
2. If it is, what weight it is to be given in the overall planning balance?

Material considerations

In determining planning applications, priority is to be given to the development plan, in that applications must be determined in accordance with it, unless material considerations indicate otherwise.

Climate change (and mitigating for its effects) can be a material consideration. For example, a recent case in Medway*, in determining an application for a house extension, the council did not consider it material that the extension would 'overshadow' a neighbour's solar panels. The Court held that this was incorrect; the solar panels made a contribution to the reduction in reliance on non-renewable energy and the effect on them (even minimal) was therefore a material planning consideration which should have been taken into account.

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However, the fact that the Council has made a Climate Emergency Declaration is not a material consideration, in that the declaration itself does not have any effect in legal or policy terms, being essentially a statement of belief and intent and a call for government action.

It is likely that issues relating to climate change (and mitigation for it) will already be covered by relevant policies in the development plan, and so will already be material, as part of the plan. For example:

- Policy CC2, Sustainable Design and Construction, supports development “where the design of buildings and site layouts use energy, water, minerals, materials and other natural resources appropriately, efficiently and with care and take account of the effects of climate change”
- Policy CC3, Adaptation to Climate Change, requires development to “demonstrate how they have been designed to incorporate measures to adapt to climate change”

It is relevant to note that this Council carried out a [review of the Local Plan](#) in March 2023, which identified changes to a number of current policies to better reflect the climate emergency. The Council is currently consulting on a [Local Plan Partial Update](#) as a step to achieve this.

It is also relevant that The Levelling-up and Regeneration Act 2023 includes provisions which will strengthen the current primacy of the development plan. Planning applications will need to be determined in accordance with the development plan, unless material considerations strongly indicate otherwise. These provisions are not yet active but are expected to start later this year.

Weight

Once it has been determined that a factor *is* a material consideration, whether part of the development plan or otherwise, a planning judgment is then required. The decision-makers must determine the weight to be given to all material considerations, to reach an overall conclusion as to the planning balance.

Although it is not a material consideration in its own right, the Climate Emergency Declaration can affect the weight which decision makers decide to give relevant policies. For example, the Declaration would justify placing more weight on policies which relate to climate change to address the climate emergency.

Summary

- Climate change itself is a material consideration, but the Council’s Climate Emergency Declaration is not a material consideration in planning decisions.
- The Council already has policies which are intended to address climate change and mitigation for it. Those policies are currently under review with one aim being to better reflect the Declaration.
- However, the Declaration is relevant in determining the weight which is to be given to material considerations in making planning decisions, in that it can be a justification for giving more weight to climate change issues.

[*McLennan v Medway Council \[2019\] EWHC 1738 \(Admin\)](#)

100. POTENTIAL SITE VISITS FOR COMMITTEE ITEMS

The Committee considered a report setting out a schedule of applications to be considered at future meetings of the Committee to enable Councillors to decide which sites, if any, they wished to visit prior to determining the relevant applications. The report also listed previously agreed site visits which were yet to take place.

Resolved -

That the following application be the subject of an unaccompanied site visit:

240063 – The Hexagon Queens Walk

Demolition of some of the existing back of house areas and erection of an extension of the existing Hexagon Theatre to provide a new studio auditorium, flexible rehearsal space, community studio with workshop space and back of house space, along with improved public realm by providing a new podium connection between the new proposed extension and Queens Walk, along with other associated works.

101. PLANNING APPEALS

The Committee received a report on notifications received from the Planning Inspectorate on planning appeals registered with them or decisions made and providing summary reports on appeal decisions of interest to the Committee.

Appendix 1 to the report set out details of one new appeal lodged since the last Committee. Appendix 2 to the report set out details of six appeals decided since the last Committee. Appendix 3 to the report set out reports on the following appeal decisions:

221399 – 2 ADELAIDE ROAD

Application for the Demolition of buildings and construction of new dwellinghouses in their place. To construct a one bedroom detached dwelling 64sqm GIA over two storeys. Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 20, Class ZA.

Written representations.

Appeal dismissed.

221038/FUL– 37 HILCOT ROAD

Demolition of existing building and erection of three new residential dwellings (C3 Use Class).

Written representations.

Appeal dismissed.

230011/FUL – HONEY END LANE STREET WORKS, HONEY END LANE
5G telecoms installation: H3G 15m street pole and additional equipment cabinets.

Written representations.

Appeal dismissed.

Resolved –

- (1) That the new appeal, as set out in Appendix 1, be noted;
- (2) That the outcome of the recently determined appeals, as set out in Appendix 2, be noted;
- (3) That the reports on the appeal decisions in Appendix 3 be noted.

102. APPLICATIONS FOR PRIOR APPROVAL

The Committee received a report on the types of development that could be submitted for Prior Approval and providing a summary of applications received and decisions taken in accordance with the prior approval process as set out in the Town and Country Planning (General Permitted Development) Order (GPDO 2015) as amended. Table 1 set out five prior approval applications received, and Table 2 set out three applications for prior approval decided, between 18 January and 14 February 2024.

Resolved – That the report be noted.

103. 231708/CLP - 38 STUART CLOSE, EMMER GREEN

Certificate of Lawful Proposed Development for Hip to gable at the rear of the property with a loft conversion including a rear dormer and ground floor rear extension

The Committee received a report on the above application.

Resolved –

That a Certificate of Lawfulness for the proposed development 231708/CLP be granted subject to the conditions and informatives set out in the report.

104. 231306/VAR - LAND ADJACENT HILLS MEADOW CAR PARK, GEORGE STREET, CAVERSHAM

Proposed development of un-used land adjacent to Hills Meadow Car Park to provide a hand carwash and valeting operation with associated public toilet facilities, refreshment

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servery, and waiting area, as originally granted on 30 March 2015, without complying with Condition 2 (temporary 3 year permission) or 3 (Approved plans) of planning permission 141841 and subsequently allowed variation of condition 180869 (temporary 5 year permission and approved plans). This application seeks a further 5 year temporary extension period of time to the original permission 141841 until 30 March 2028, with large awning. [Amended description].

The Committee considered a report on the above application. An update report was tabled at the meeting which set out additional landscaping proposals and plan submitted by the applicant.

Comments and objections were received and considered.

Resolved –

That planning permission for application 231306/VAR be granted, subject to the conditions and informatives as set out in the original report.

105. 230613/REG3 - AMETHYST LANE

In accordance with Section 100B (4) (b) of the Local Government Act 1972, the Chair agreed that this Item be considered as a matter of urgency, to avoid delay to the completion of the S106 legal agreement to allow works to commence on site in 2024 in order to provide affordable housing to meet the critical need that exists in the Borough.

Demolition and redevelopment of the Site at Amethyst Lane to deliver a new respite care facility alongside 17 new houses, soft and hard landscaping, parking and ancillary works.

Further to Minute 72 of the meeting held on 6 December 2023, the Committee considered a report on the above application. The report recommended an amendment to the terms of the proposed s106 agreement for the application, due to an incorrect reference to the proposed tenure of the affordable housing in the report submitted to the meeting on 6 December 2023.

Resolved –

- (1) That the proposed terms of the s106 legal agreement relating to application 230613/REG3 be amended to secure all dwellings as affordable housing, Social Rent tenure, in perpetuity;
- (2) That all other terms of the s106 legal agreement be as agreed at the meeting held on 6 December 2023.

(Councillor Moore declared a pecuniary interest in this item as his partner had carried out the ecological survey on the site. He left the meeting and took no part in the debate or decision).

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(The meeting started at 6.30 pm and closed at 6.56 pm)