

Planning Committee

Wednesday the 14th October 2020 at 6.00pm

Update Report for the Committee

The following notes and attached papers will be referred to at the meeting and will provide updated information to the Committee to reflect changes in circumstances and officer advice since the reports on the agenda were prepared

3. Requests for Deferral/Withdrawal
4. Schedule of Applications
- (a) **20/00154/AS** – Land West of Calleywell Lane, Aldington - Erection of 33 dwellings including the creation of access, green space, a communal green, and landscaped areas and associated infrastructure

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- 4 Additional objections received including from Lord Aldington re-iterating concerns that have already been made and the following new issues:
- Significant local objection
 - ample brownfield land to develop before more greenfield land is lost
 - would this set a precedent for more houses as an extension to this site.
 - This county has lost more Green belt land than any other County Council
 - Concern that the freedom of decision by the Planning Committee will be further curtailed in future by the Government
 - concern about impacts of a piecemeal approach to development
 - . no further development above say 2 houses should be approved before there is a plan to deal with infrastructure, access and parking in particular. The particular tight spots are the village school, the village shop and access to the A20.
 - Concern that Aldington should not follow Ashford into becoming a dormitory town with a comprehensive approach to the growth of the village required.

- (b) **19/01206/AS** – London Beach Golf Club, Ashford Road, St Michaels, Tenterden, Kent, TN30 6HX - Full planning permission for a detached 3-storey building containing 12 x 2 bedroom flats for active retirees with associated parking and landscaping (amended scheme)

- (c) **20/0591/AS** – Zone A, Waterbrook Park, Waterbrook Avenue, Sevington, Kent - Application for the approval of reserved matters including, layout, scale, appearance, access and landscaping in relation to the erection of a new storage and distribution centre including ancillary offices, including associated access, parking, landscaping and associated works

Further representations

Highways England (HE)

HE note that the recommendation for refusal does not cover HE's current outstanding objections despite a request to refrain from determining the application other than in respect of a refusal. HE therefore recommend that the following additional ground of refusal be brought to Members' attention;-

The application has failed to demonstrate that the proposals will not materially impact the reliability, operation or safety of the Strategic Road Network, contrary to the tests set out in DfT C2/13 paras 8 to 11 and MHCLG NPPF2019 paras 108 to 111.

SS&DM response: The Waterbrook Park development was identified as giving rise to c.11 Development Units (DU's) worth of traffic movements in the combined peak hour periods and the application proposal for Zone A at the site would give rise to c.2.3 DUs.

HE's response appears to relate to the proposal not being that which might be classed as a 'traditional B8 (storage and distribution)' use and HE concern that this might therefore lead to a greater number of trips which might impact on the strategic highway network / Orbital Park junction. HE suggest that the applicant has not, to date, demonstrated sufficient comparative evidence to show otherwise thus enabling HE to finally conclude its position on this point.

The comments from HE do not, however, indicate that the proposal could not be accommodated by the capacity of the full Bellamy-Gurner upgrade to the existing Orbital Park roundabout junction. In my opinion, this is the fundamental issue rather than HE being in a position to finally conclude its technical position in respect of trips.

I am mindful that the working patterns envisaged would tend to spread trips over a much wider period during the day than the peak hour periods. Although I note HE's suggested ground of refusal, I do not consider that this could be sustained on appeal and hence it is not recommended to Members as an additional ground of refusal.

Neighbours

One further letter received from local residents objecting commenting as follows;-

'The Distribution Centre would visually appear as a giant carpark with inadequate landscaping, too many lighting columns and the building itself is typical warehouse type, tall, bland and nondescript, and compared to the illustrated masterplan of Zone A, as shown in the original outline hybrid planning permission, it appears the polar opposite of the vision painted for this prominent part of the Waterbrook site.

The Distribution Centre would clearly be seen from the A2070 by thousands of motorists over time, many being visitors to Ashford where first impressions count. We feel this key position commands high quality designed buildings to showcase the site's frontage and entrance and ultimately setting the tone for the wider Waterbrook Development and surrounding local area.

Whereas the smaller Chapel Down Winery aligned with the aspirations highlighted in the original 2018 outline planning permission, this fails in our opinion, to meet one aspiration.

We are mindful, whilst the creation of 400 much needed jobs might appear attractive to reduce the town's unemployment figures in the short term, we ask the Committee to consider at what cost in the long term? Taking into account the loss of other smaller enterprises on Zone A that could offer a variety of job types, greater employment numbers and a wider range in different sectors.

However, our main objection and to which we offer the Kent County Council PROW our full support, is the potential extinguishment of the existing PROWs, due to this proposal.

We would like it noted PROW AE349 crosses our garden at Hogben Farm. Cheesemans Green Lane and this year, throughout the Covid-19 lock down and since, the public use of this PROW route has dramatically increased to the point the footfall numbers have been greater than all the previous 19 years added together, and so the numbers grow.

Consequently, never has there been a more important time than this to retain, not extinguish the existing PROWs that run across this part of the development site.'

Correspondence from Shoosmiths acting for GSE Waterbrook Limited

Shoosmiths express concerns that the report is inaccurate and make various points relating to the suggested grounds of refusal and comment in respect of other matters. I set these out below.

Ground of refusal 1 – place-making

Shoosmiths suggest that the illustrative plans with the outline permission were 'just that' and that (as one would expect) there are no conditions attached to the outline permission which stipulate that this particular plot needs to come forward in line with the illustrative masterplan. It is therefore considered irrelevant that the reserved matters application does not conform with the illustrative plans and it is suggested that this would not constitute a valid reason for refusal.

SS&DM response: The first ground of refusal does not actually make any specific reference to conflict with illustrative plans. The illustrative plans were, however, the applicants' response to the need for a masterplan to be agreed for Waterbrook Park as per the requirement of Policy S16 of the ALP 2030.

The illustrative plans demonstrated how the quantum of development for which application was made could be spatially arranged. The Design & Access Statement submitted with application 18/00098/AS and to be read in conjunction with the illustrative plans identified a number of important place-making principles for employment Zone A such as:-

- (i) the importance of buildings with high quality elevations addressing Waterbrook Avenue for site promotion,
- (ii) the creation of an attractive 'gateway' to the employment zone,
- (iii) a dual frontage building remaining a possibility and being key in signalling the park and creating an identity with buildings being 'of the utmost importance' and needing to successfully address the key corners and nodal points both outside and within the site,
- (iv) the elevations to the A2070 being of 'particular importance' given that 'the site will provide a key first impression to those approaching the town from the east',

(v) parking to be designed so that, as far as possible, it does not provide a harsh or unattractive environment and one not dominating building frontages

(vi) parking areas ‘softened’ with planting (both within and around such areas) with ‘green’ walkways provided to both enhance permeability and help visually break up areas of parking, and

(vii) the northern part of Zone A alongside the A2070 being designed to form a green frontage to the development to provide a parkland landscape of trees and low grass mounds with potential for swales and site drainage features between them.

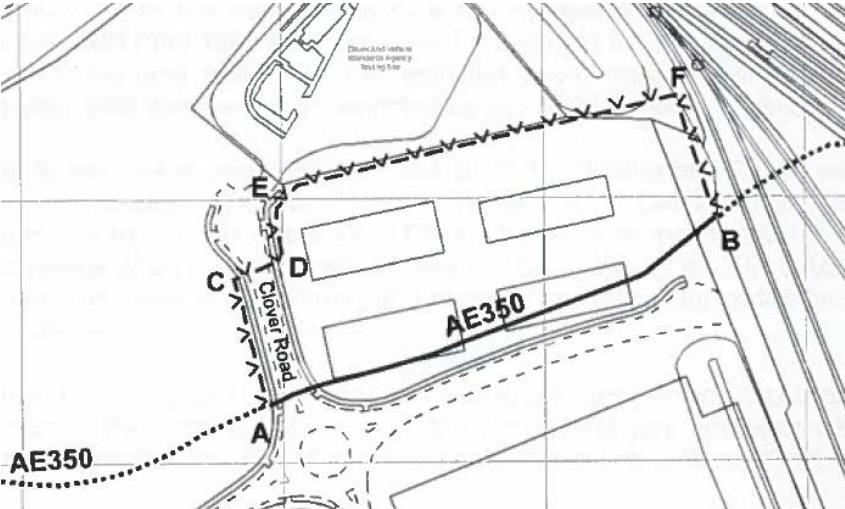
Planning permission 18/00098/AS requires such place-making principles to be moved forward into an agreed Development Brief for the commercial areas of the site. A Brief has been submitted to the Council by but it has not been approved. Whilst it generally seeks to build on the above mentioned principles, it contains a large building option for Zone A which broadly follows that for which approval is sought and given the place-making concerns set out in my report it would have been inappropriate to approve the submission.

I am satisfied that the analysis in the report fairly and reasonably deals with matters of the acceptability of the proposal in design and place-making terms against the background of the agreed masterplan approach for this site and the principles previously promoted by the applicant in the 2018 application to the Council.

Ground of refusal 2 – issues relating to Public Rights of Way (PROW)

The applicant identifies that references to matters relating to PROW are inaccurate relating to the current position and suggests that objections to the proposed diversion have been overcome.

SS&DM response: The proposed diversion of path AE350 has now been divided in two. Principally to the east of Clover Road, a diversion is currently the subject of consultation pursuant to section 119 of the Highways Act 1980. This would route path AE350 around the perimeter of the recently constructed group of industrial units that are shown in my report with the proposition subject of current consultation being as shown below with the dotted line including ‘v’;-



The section of the proposed diversion between points A and C in the above image does fall within the current application site: the remainder does not. The application for approval of reserved matters identifies details in respect of PROW surfacing, boundary treatments and the nature of proposed soft planting.

Moving westwards, between Clover Road and Waterbrook Avenue, a diversion is proposed that would route path AE350 along the eastern edge of Waterbrook Avenue and then along the northern side of Arrowhead Way to point A in the image above. This is referenced in my report and is the path shown coloured light brown on the proposed site layout.

This proposed realignment of this section of path AE350 is one that is understood to be acceptable - *as a matter of principle* - to KCC. I stress 'in principle' because that acceptability relates to the route as it was previously put forward when dealing with an earlier application for a winery on only part of Zone A (located closest to Waterbrook Avenue). The KCC PROW Manager confirms that:-

'The previous public objections to the diversion have now been withdrawn. This means the diversion order made in relation to the 'winery' application can be confirmed by Ashford Borough Council. This does not guarantee the diversion will be successful: the PROW does not legally move until it has been built and certified (subject to (KCC) satisfaction).'

In the context of the current layout proposal for the entirety of Zone A, which contains a number of vehicular access points that would need to cross the route, the updated position of KCC on the acceptability of the alignment is that it is still the subject of objection. KCC PROW comment:-

'In summary, the current diversion proposal could be successful, but it doesn't change the Council's position that it is still a very poor offer and a significant compromise to that which has been 'enjoyed' by the public to date. In considering our position the Council is considering and comparing the amenity value in its widest sense of the existing route (a wide un-enclosed route across open field) with that of the proposal (enclosed, reduced width, several motor vehicle crossing points, very high vehicle movements, noise etc from the development and noise etc from the road it runs parallel too with significant HGV movement and its wider strategic importance etc).

KCC confirm that at this point in time no Order has been made in relation to the distribution centre proposal for the site. On a point of law we do not believe there is any issue with this and it is a pragmatic solution to support all parties in progressing the matter. We would advise that that is a technical issue and your members consideration should remain as regards the application they are deciding upon and the impact that that application will have on the PROW.'

In the light of the updated position from KCC, Ground of refusal 2 in the report is therefore proposed to be revised to more explicitly identify the objection as follows:-

The proposal would result in development over the existing PROWs and an acceptable alternative route in relation to these proposals has not been provided

as part of the scheme. This could result in the potential loss of the existing Public Rights of Way. The scheme shows a significant increase in traffic movements over the proposed diverted PROW from a number of new accesses that would make the route less attractive to public users which has been enjoyed to date contrary to Policies TRA6, ENV5, ENV12 TRA5 and SP1 of the adopted Ashford Local 2030 and paragraph 98 of the NPPF.

I accept that my report did not deal with the nuance in relation to matters mainly to the east of Clover Road but otherwise, I am satisfied that my report is as accurate as it can be in the circumstances.

Shoosmiths make reference to representations made to the Council on this application in terms of impacts on PROW matters. The representations set out in my report have not been superseded or withdrawn by those concerned despite the suggestion by Shoosmiths that matters have been overcome: indeed, I note that it is identified that some matters are still actively under discussion with some parties.

Ground of refusal 3 – variety of employment generating floorspace

Shoosmiths suggest that the proposed building would add variety and provide a range of employment opportunities on the site as well as responding to the needs of the specific business which the application has been designed around. The several hundred jobs that would come with the building are considered to support the growing population, and as the intended occupant is not currently represented in Ashford, the proposal would represent inward investment. Accordingly, Shoosmiths consider the proposal would comply fully with Policy SP1(h).

In respect of Policy SP3, Shoosmiths draw attention to the fact that permission 18/00098/AS approves B8 storage and distribution uses for the employment areas of the site and that there is no restriction in that permission that the entirety of Zone A could not come forward for such use OR that only a certain quantum of B8 use could be developed within the overall quantum of employment floorspace permitted at the site.

It is suggested that the proposal would create a variety of job types and that there is no guarantee that an alternative approach to Zone A - comprising a series of smaller buildings - would result in a greater number of employees compared with that which is proposed.

SS&DM response: I accept the points made in relation to B8 storage and distribution uses at this site as part of the permission and the absence of a condition restricting the quantum of such use within the overall maximum level of floorspace that is controlled: my report does not attempt to suggest otherwise.

Shoosmiths are obviously correct in so far that there can be no guarantee when considering an unknown. However, I remain of the view that it is reasonable to conclude that a greater number of individual plots and a variety of uses falling within the B1/B2/B8 use class restrictions for the site would, on balance, be likely to lead to an overall greater variety of employment generating development at this part of the Waterbrook site and that would be likely to help achieve the objectives of policy SP3. A range of smaller buildings is, of course, closely aligned with matters of site layout and place-making which, as I have set out above, are matters of concern when relating what is proposed to the

approved masterplan for the site and the place-making principles for this Zone that were promoted by the applicant in 2018.

Other matters – Special Development Order (SDO)

Shoosmiths indicate that any proposals to extend the SDO do not affect this part of the site and that it is improper for the Council to comment without substantiating the facts. It is confirmed that the part of the Waterbrook site subject to this submission and covered by the current SDO is leased to the Department of Transport, and that lease expires on 29 October 2020. It can only be renewed with the landlord's consent and it is identified that such consent will not be forthcoming. It is also confirmed that the Department of Transport has confirmed that it will not be renewing its lease on the Waterbrook site.

My report included the reference to SDO matters simply to acknowledge the situation in respect of this site for Members' benefit but the clarification from Shoosmiths in respect of this particular part of the Waterbrook site is helpful.

- (d) **20/00604/AS** – Phases 3, 4 and 5, Land south west of Recreation Ground Road and north and east of Smallhythe Road - Amendments to phase 3 of the Church View development (TENT1A) to provide 36 residential dwellings along with associated landscaping, infrastructure and works

- (e) **19/00505/AS** – Greenacres Farm Fishery, Sissinghurst Road, Biddenden, Ashford, Kent, TN27 8EH - Erection of temporary bailiffs cabin and siting of 4 holiday lets

Additional representations

Three further representations have been received. One representation has been received with further clarification about the existing gates in place at the site. There are also two further letters of support for the application. No new material planning considerations have been raised.

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