



Late Observations Sheet
DEVELOPMENT CONTROL COMMITTEE
17 September 2013 at 7.00 pm

Late Observations

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DEVELOPMENT CONTROL COMMITTEE

17 September 2013

LATE OBSERVATION SHEET

Item 4.2 SE/13/00702/FUL Chipstead Recreation Ground, Chevening Road, Chipstead TN13 2SA

Amendment

In editing the draft report an amendment to replace paragraph 30 was deleted by mistake. The following amendment should be made:

Delete paragraph 30 and replace with:

30 In weighing up the case for the proposal in the light of Green Belt policy I consider there is a need case for a structure to contain the two shelters, but not for a structure that is 4m longer than the two shelters combined. The extra size of the container, which does not appear to be fully justified by the size of the shelters to be accommodated, makes in larger than the existing containers on site with a greater impact of openness of the Green Belt. I also have concerns about the impact of the container on views from the public footpaths that run across the site.

Addition

The Design and Access statement states that the additional container would also enable them to move out some equipment to facilitate the storage of goal posts, footballs, etc.

Item 4.3 - SE/13/01384/FUL Post Office, Ide Hill, Sevenoaks TN1

- An email has been received by the applicant in response to the Committee report stating the following:

Paragraph 3.

The property comprises of residential space on the ground and first floor not just the first floor.

Paragraph 28.

It is stated that that the council would generally require evidence to show that the commercial property had been replaced by an alternative facility AND that the premises are no longer financially viable. However reading the councils core strategy policy L07 it says that permission may be given for change of use where the there are alternative replacement facilities available OR if it can shown that the commercial property is no longer financial viable. The "OR" in this statement is key as it shows we have gone above and beyond the requirements to have proven both though we are only required to prove one.

Paragraph 34.

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The property was dropped in price to £570K before it was reduced to £499K, do you think it helps to say this to show that there were several steps in the price reduction?

One further point is that it is not mentioned that the community shop is run by Volunteers and that as part of the application for the new community shop to be built it was stated that the new community shop was only financially viable as it was to be run by volunteers.

Extract from planning application for community shop below

"4.5 - the only thing that makes the community shop feasible is the fact that it is run on an entirely volunteer run and non-profit basis."

In addition to the above, the applicant has submitted a letter from a surveyor and agent that specialises in commercial property.

The applicant states that they requested the surveyor carry out a valuation on the property for sale and rental as a purely commercial point of view with a view to marketing the property. The applicant states the surveyor has come back and said that they would not be willing to market the property as a commercial property due to the condition and lack of demand for this type of property.

A copy of the surveyor's letter is attached as Appendix 1

Chief Planning Officers Comments

The applicants comments are noted and provide an extension to the information already submitted to the Local Planning Authority in support of the application.

- Email correspondence has been received from a member of the public questioning the information submitted in support of the application and the officer's appraisal of the proposal.

A copy of the correspondence is attached for member's information as Appendix 2

Chief Planning Officers Comments

The National Planning Policy Framework (NPPF) provides advice on decision taking. Paragraph 187 States:

"Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area".

Paragraph 14 expects Local Planning Authorities to approve development that accords with the Development Plan unless material considerations indicate otherwise.

The proposal has been considered against the criteria set out in policy S3A. Policy S3A is set out in full at paragraph 21 of the Officer report. The proposal is considered to comply with the policy as sufficient retail space would remain in the form of the new community shop which provides an alternative facility accessible to Ide Hill residents.

Alongside policy S3A, equal weight has been given to policy L07 of the Core Strategy. The relevant section of policy L07 is set out at paragraph 23 of the Officers report. In response to policy L07 it is the officers view that equivalent facilities are considered to have been provided in the form of the new community shop as stated above, these facilities are accessible to Ide Hill residents. Additionally, the applicant has provided information to demonstrate that the continued operation of the facility is no longer financially viable. It should be noted that the policy requires either demonstration that equivalent accessible replacement facilities are provided or demonstration that the facility is no longer financially viable. In this instance both have been considered to have been appropriately demonstrated.

The comments received appear to question the validity of the information submitted by the applicant. In accordance with the aforementioned Circulars and National Planning Policy Framework, the Local Planning Authority is required to accept the information received in good faith. Until now no contradictory information has been submitted. There are clearly differences of opinion about the closure of the shop and its marketing etc. However, the information provided by the applicant in support of the application is from a number of sources including: Independent Estate Agents. Accordingly, in light of all the above, more weight is given to the information submitted as part of the application and the alternative provision at the community shop.

Recommendation

That permission be granted, as per the main papers.

Item 4.4 - SE/13/01064/FUL 1 & 2 Cross Cottage, Valley Road, Fawkham DA3 8LX

Amendments

Paragraph 101 of the committee report refers to the murder that happened on the site. Additional information has come to light, which provides an alternative version of events. Whilst the facts are not clear, both accounts do relate to a murder.

The representations refer to the fact that the proposal would harm a number of listed buildings. The listed buildings being referred to are the property immediately to the north east, Cross House and the property to the south west, Scudders.

In this case, given the distances that the development would be located (plot 1 located approximately 40 metres from Cross House and plot 2 located approximately 200 metres from Scudders), it is considered that this would be sufficient in both cases for the proposed development not to adversely affect the character or setting of the adjacent listed buildings.

That the Officer's recommendation remains unchanged.

Item 4.5 - SE/09/00472/FUL - Grove Farm, The Grove, West Kingsdown TN15 6JJ

Email received from the applicant stating the following:

"Could you please make the committee aware of paragraph 24 of the committee report regarding the Kingsingfield green association (now disbanded) confirmed from Kingsingfield

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residents and our parents that live in the road and the Kingsingfield road resident that complained no longer live in the road”.

Having regard to the applicants comments Officers have no information to directly refute the applicants claim.

Recommendation

That permission be granted, as per the main papers.

Item 4.6 – SE/11/01572/FUL – The Grove Café, The Grove, Swanley BR8 8AJ

This item has been removed from the committee agenda, as there is a further dispute about the ownership of the site, which the applicant is investigating.

Item 4.7 – SE/13/01408/LBCALT – Village House, Church Road, Halstead, Sevenoaks TN14 7HF

Amendment

It is noted within paragraph 38 of the report; there is a typographical error whereby the measurement cited as 1.2m should read 1.6m.

Recommendation

That permission be granted, as per the main papers.

CongreveHorner

Commercial

Our Ref: SP/JL/34254

Mr N. Eagle
Heathfield
Camberwell Lane
Ide Hill, TN14 6JL

23rd August 2013

Dear Mr Eagle,

RE: FORMER POST OFFICE, IDE HILL, TN14 6JN

Thank you for your instruction to carry out a sale and rental valuation of the above property with a view to marketing it as commercial premises.

The property is semi-detached with a mixed use of commercial and residential accommodation situated in an extremely attractive location immediately on the green of Ide Hill in Sevenoaks, Kent. The ground floor contains the commercial retail space of approximately 500sqft with the remainder of the ground floor and the entire first floor being residential accommodation. The first floor is made up of three bedrooms and bathroom and the residential accommodation behind the shop unit is made up of hall and stairs, a reception room and kitchen. Outside the property has extensive gardens somewhere between 0.2 and 0.25 of an acre and there is parking for 2 cars to the side of the building.

The property is in a very poor state of repair and would not be habitable as residential premises or usable as commercial premises without extensive work carried out to a suitable standard where it would be possible to occupy. The estimated cost of these works is beyond the scope of this valuation.

The commercial aspect of the property is extremely difficult to put a figure on. Across the country rural shops and other commercial properties are struggling to survive. As shopping habits change and the push to online shopping and out of

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town stores continue the demand for these type of premises is extremely low. In this particular case the situation is compounded by the opening of the community, volunteer run, shop within approximately 250m of the premises. We also understand from the planning history that there had been another commercial premises in the village that was granted change of use as it was no longer financially viable to continue as it was.

I therefore have to say that the chances of finding a suitable tenant or owner occupier to operate the building as a commercial undertaking are very poor. I regret therefore to have to advise you that we would not be able to market the property on your behalf as we do not believe there would likely be a demand for it.

Should you have any questions please do not hesitate to contact me.

Yours sincerely,

STEVE PURCELL

Email 1

The feeling in the village is very strong as if this commercial use is lost, it is only a matter of time before the hairdressers next door goes and then there will be no other commercial uses (other than the pub) in the heart of the village. I am sure you would agree it is important to retain business uses within villages as it enhances the sustainability of a community.

Having just read through further submissions on SDC's planning portal made by the applicant, it seems that the planning officer is taking their comments at face value and has not sought to substantiate or challenge any of the claims. Specifically I refer to an email dated 9th July (attached) sent from the applicant in answer to the planning officers further enquiries, in which a number of assertions and statements were made, none of which have been substantiated and, rather worryingly, have been submitted by the officer in the officer's report to committee. Statements include:

- **"Prior to the property coming to the market in November 2011 with James Millard a lease of the property was also offered by another local agent who found no interested parties, due to the length of time that has passed no further information is available on this"**. I can categorically say that no attempt was made to obtain further information, and in fact I would go further to say that this was deliberate. Both the owners and James Millard were fully aware of who the other local agent was (it was my firm) and they could have easily passed on contact details and I would have been happy to provide them with the facts (already mentioned in my email yesterday)
- The first paragraph of the applicant's email goes to great length to state why the property is not suitable for **"commercial uses ...or other businesses etc"**. Have these statements been verified? What authority has the applicant to make such statements? Surely the planning department should verify these? As an active commercial property agent (with almost 20 years' experience in the area) I have to say the applicant has made some very general statements most of which are incorrect. Just by way of a simple example, it is claimed that the floor space under consideration in terms of the planning application **"..of this size would accommodate around 6-8 people"** if used as an office for professional services etc. This paragraph then goes on to claim that such an occupancy rate would generate 6-8 cars. The planning application is for the loss of 47 sq. m (just over 500 sq. ft.) of commercial floor space. It is widely accepted that most business users would operate on the basis of between 120 sq. ft. and 150 sq. ft. per occupant. Therefore 500 sq. ft. of commercial floor space is likely to accommodate 3 - 4 people. The applicant has therefore overstated the case by 100%.
- There are statements such as **"there is no demand for office space in the area"** and **"there is an oversupply of office space in the surrounding villages and towns"** are totally misleading, and whilst this may have been the case a couple of years ago, the market for offices has changed significantly over the past 9 months with increased demand, demonstrable take-up of space and limited supply. The applicant also states that as there is **"very little public transport in the area therefore all workers, clients or customers would need to travel by car to get there"** This may be the case, but it does not prevent commercial buildings being let. Look at the commercial units on Winkhurst Farm, the St Clere Estate and Squerryes Estate. In fact I have just let a small office at the end of Scords Lane, Toys Hill - in the middle of nowhere!
- The email also reiterates the attempts by the estate agents to sell the property for commercial use. The property was placed on the market at an inflated and unrealistic price - £200,000 (almost 50%) above its market value. No commercial user would have ever been interested at this price. In fact market a property at an inflated price will simply deter prospective interested

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parties. As my previous email said, James Millards do not operate a commercial property agency - their business is not structured to attract commercial enquiries - just look at their website and try searching for shops or offices. Attempts to market the property at an inflated price by a residential estate agent with no commercial presence were futile.

I am unable to come along to the meeting tonight, but hopefully Stuart Blakemore will represent the PC. Irrespective of the PC's representation, I trust you will be able to stress to the committee that

- a) these were not genuine attempts to market the property for commercial use;
- b) this is NOT about the loss of a facility serving the community, it is about the principle of losing commercial space in the centre of a village (sustainability etc) - (i.e. the new community shop is a red herring);
- c) that the report to committee has taken unsubstantiated and unchallenged claims from the applicant and presented them in such a way that, arguably, it presents an unbalanced view.

Email 2

Just continuing from my earlier email sent from my home address.

Whilst, on the face of it, the issue is whether or not planning permission for a change of use should be granted, the officers report now brings into play a more than I had thought. It is of significant concern that the report has been written in such an unbalanced way. Quite simply, it is biased and will only lead to the Members voting one way. This could invalidate any decision.

Quoting from each paragraph:

"Para 20 The remaining issues to consider in the determination of this application are: Whether the principle of development and the loss of a community facility is acceptable;"

This is NOT the issue. The issue IS, whether the loss of commercial use is acceptable in a village. i.e. loss or RETAIL which is against retained policy S3A.

Below para 20, the heading above para 21 states: "**Principle of Development / Loss of Community Facility**" - this is clearly directing members that the primary issue is the LOSS of a COMMUNITY FACILITY. It is not the loss of a community facility - it is the loss of retail space and a commercial use in a village. Surely the officer cannot guide members in this way? the members will clearly think that as the so called "community facility" has been replaced by the new shop, and consequently there is no need for this redundant "community facility".

"Para 21: Paragraph 28 of the NPPF states that plans should promote the retention of community facilities in villages such as local shops" This again is placing an emphasis on "community facility" clearly hoping that members simply latch on to the idea that actually, now that there's a village shop up and running elsewhere, the old shop is no longer required. The planning officer should have quoted Para 28 of the NPPF in full which states: "Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development" . It then goes on and says that local plans should "promote the retention and development of local services and community facilities in villages, such as local shops..." NOTE how the officer left out the phrase "local services" and the principal paragraph regarding sustainability!

Para 25 then takes statement from the new shop application in which it was said that the old village shop "closed with it no longer representing a commercially viable business use" This statement was used to justify the another application and simply cannot be used to justify this application. It has been taken out of context in a number of ways. Furthermore, if the statement was true, it related to the village shop and post office and NOT the planning use class of the retail space. Do antique shops in Brasted use the "commercial violability" as a way to

justify change of use? Did Woolworths use "commercial viability" of their business to obtain changes of use on their large units throughout the UK. No - of course not - because the issue in question is the USE CLASS of the premises, not the specific business.

"Para 30 The shop has been vacant for over two years now. Information received from the applicants suggests that it closed as the shop was/is no longer financially viable" This is not the case. The principal reason for the closure of the shop was due to the terrible illness suffered by Ken. It was impossible for the business to continue.

Para 31 - this is irrelevant in the context of the USE of the premises.

"Para 32: The applicant states that prior to coming to the market on a freehold basis the property was offered for lease as an on-going concern for a number of months. However, the applicant states that no interested parties could be found and no offers were made as the property was not financially viable as a shop." The applicant has got this completely wrong. I should know, as I was the one marketing the shop at that time! It had nothing to do with financial viability. The reason no one could be identified was the fact that there were only a few years left on the lease and the landlords openly stated they would oppose the grant of a new lease to any new tenant! This was because ultimately, the owners wanted to obtain vacant possession of the property in order that they could sell the freehold.

Para 33: Remedial works of £150,000 prior to the cost of refit! ? I presume this figure was obtained from the schedule of dilapidations which the freeholder had prepared to scare the previous tenants. If this was the case, then this figure should be disregarded as it is a figure prepared by a landlord as part of their overall strategy to obtain vacant possession and actually, having read the document, was inaccurate and under normal dilapidations protocol, would be challenged (which wasn't necessary due to final outcome). (for example, the schedule stated that the property had to be re-roofed in accordance with the lease - Ken and Ann did re-roof the property 25+ years ago, and there's nothing wrong with it other than a few slipped tiles!). The estimate of costs provided in relation to the community shop application again is irrelevant and out of context. Does the £100,000 - £150,000 relate solely to the RETAIL space under consideration? No of course not - the members are therefore being provided with information relating to the WHOLE of the property and not just the part which forms the subject of the planning application. Is that correct procedure?

Para 34 - details the marketing carried out by local estate agents. James Millards are a RESIDENTIAL SALES specialist. That's all they do - and they do it brilliantly. They are NOT commercial property agents. They do not subscribe to commercial property websites, nor do they advertise the property in commercial property publications. They do not attract enquires and applicants from businesses wanting commercial premises in the local area. You cannot search on their website for retail properties.

Para 35: " Information accompanying the application shows that under James Millard there was private interest in the shop as a commercial property when it went on the market in 2011, but for reasons unknown, this interest never progressed." Quite simply this was because the property went on the market at an inflated price - just under £200,000 above the market value (as evidenced by the eventual sale price during a period when the market was stable, and as could be evidenced by independent valuations of the property at that time).

Para 36: "In addition to the above, the applicant in an email dated 19 July 2013, has provided additional detailed information which demonstrates why they consider the premises is not suitable for retention for alternative business use. This information is provided in response to comments raised regarding the possibility of alternative commercial occupancy. Reasons include insufficient parking, poor accessibility by public transport and poor broadband connectivity." There are NO onerous PARKING RESTRICTIONS in Ide Hill. They cannot argue that the property has insufficient parking for a commercial use.

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Ridiculous! Public transport is a lame reason - that's not going to stop the community shop, nor does it hinder the hairdresser, nor does it in fact prevent many rural business throughout Kent. As to broadband, Ide Hill is lucky enough to have very good broadband having an exchange within the village!

In summary Robert, I feel this application should be withdrawn from the agenda as the officers report presents an unbalanced view. The planning officers have failed to present the true picture - i.e. material facts have been omitted and essentially, the officers appear to be acting in the capacity as advocate which is not their role. I am sure you will appreciate that the officers **MUST** give Members a balanced view, as such an imbalanced point of view could invalidate any decision (there's plenty of case law relating to this).