

Dunkirk Parish Council - Extraordinary Meeting

Minutes of Extraordinary Meeting held at Dunkirk Village Hall on 6 November 2023 at 7.00pm

Present:

Parish Councillors: Cllr K. Kemp (Chair of Parish Council), Cllr N. Smith (Vice Chair), Cllr J. Tutt, Cllr P. Barkaway, Cllr J. Clifford and Cllr D. Brice . Rebecca Parr (Clerk).

One member of the public.

Declaration: Any Declarations of Interest by members present to be made at the commencement of the meeting: Non-pecuniary interest received from Cllr Smith due to close proximity of the site to her home address.

1. **Apologies for absence** – received from Cllr G. Hewett, Cllr R. Lehmann (KCC & SBC).

2. **Planning:**

a) **Consider applications:**

- i) **Planning Inspectorate Reference: APP/V2255/C/23/3327688 Swale Borough Council Reference: 23/500146/ENF. Appeal by: Ms Ingrid Eissfeldt Appeal against enforcement notice: Without planning permission the material change of use from residential garden to Land for the stationing of a mobile home for residential purposes. at Land East To Courtenay House London Road Dunkirk Kent ME13 9LF.**

The council discussed and resolved to respond to the Planning Inspectorate in relation to the appeal in order to highlight a number of material considerations for the Planning Inspectorate to review with regards to the case. The representation made to the Planning Inspectorate is provided in Appendix 1.

3. **Discussion and consider the Council's response to the SBC Planning process changes.**

The Council discussed what was considered shortfalls in the proposed new planning process by SBC where there is greater delegation to the case officer and not to committee. It was noted that the new process would also increase the pressure on Ward Councillors. It was also felt that it would not be democratic if the Planning Committee were to disagree to the Case Officer as they would have to write to the Head of Planning (not a planning specialist) to explain and justify their reasons. It was considered that the Planning Committee is there as elected members in order to provide a balanced decision. The Council unanimously resolved to write a strong worded letter to SBC. **Action:** Cllr Kemp and Cllr Tutt are to prepare the letter. A copy of the letter is provided as Appendix 2.

4. **Update and to consider Streetlight Maintenance contract renewal**

The Clerk advised that she has now received two responses from alternative companies who have declined to quote. One due to the small size of the lighting network and the other due to the customer management system (CMS) that was already in place by the existing supplier. The existing supplier had made it clear that the CMS belonged to them thus limiting options without incurring additional costs. The Council unanimously resolved to agree to renew with the existing supplier Prime One with a 2 year contract extension at current prices that was already built into the current contract.

Action: The Clerk is to contact the supplier to arrange.

5. **Consider to approve KCC HIP Invoice**

Further to the previous full council meeting, The Clerk had received a breakdown from KCC as to the costings. Although KCC were unable to provide a transparent, detailed breakdown, there was enough detail to understand where the spend was going. The Clerk reminded the councillors that £2500 was budgeted for and with the respective grant amounts this left an amount of £657.14 over the budget which would be met from reserves. The council noted that this project was

something that had been made clear by parishioners that they wanted to go ahead. The council voted and agreed to continue with the project and pay the invoice. **Action:** The Clerk is to arrange with KCC to produce the final invoice.

6. Update on Churchyard maintenance contract

This update was to advise that a meeting had been arranged for 11am on the 14th November for a number of councillors and members of the public to meet with the PCC and the new vicar at Dunkirk Churchyard to discuss the issue of its maintenance. Cllr Barkaway and Cllr Kemp along with the Clerk had also met with Hughes and Son gardening services who undertook the maintenance of Hernhill Churchyard for the PCC and Hernhill Parish Council in order to advise how their maintenance contract worked and the options in respect of Dunkirk Churchyard. The council would then discuss options following these meetings at the next full council.

The Meeting was closed at 8.15pm

Date of next meetings: Full Council: 20 November 2023
Extraordinary Meeting (if required) 4 December 2023

Rebecca Parr,
Clerk to Dunkirk Parish Council

Signed	Signed
Chair		Vice-Chair	
Date	Date

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Town and Country Planning Act 1990

APP/V2255/C/23/3327688

Appeal by Ms Ingrid Eissfeldt

Site Address: Land East of Courtenay House, London Road, Dunkirk, FAVERSHAM, Kent, ME13 9LF

The appeal(s) are on ground(s) (a), (b), (c), (f) as set out at Section 174(2) of the 1990 Act.

Dunkirk Parish Council submit this in support of the enforcement action being upheld.

Material Considerations

There are a number of material considerations that the Dunkirk Parish Council [DPC] found to weigh heavily against the application which we believe should be considered by the planning inspectorate.

The application is outside the Dunkirk built-up area boundary, it is in the countryside and in an area where new residential development is unacceptable as a matter of principle (Swale Borough Council [SBC] and the Boughton and Dunkirk Neighbourhood Plan[B&DNP]).

It is, therefore, contrary to SBC Bearing Fruits 2031 and B&DNP policies. It is also contrary to the Swale Settlement Strategy, which seeks to restrict development in the countryside other than in exceptional circumstances and to protect the countryside for its own sake.

Residential development in this location does not constitute sustainable development and is considered contrary to the following policies;

ST1, ST3, ST7, CP3, DM14, DM24

DM26 of the Bearing Fruits 2031:

The Swale Borough Local Plan 2017,

The National Planning Policy Framework 2021 (as amended),

National Planning Policy Guidance

Policy ST3. Specifically:

ST3.4. Other villages with built-up area boundaries. [Dunkirk] as shown on the Proposals Map, will provide development on minor infill and redevelopment sites within the built-up area boundaries where compatible with the settlement's character, amenity, landscape setting, heritage or biodiversity value and;

ST3.5. At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities.

The site does not support a net biodiversity gain as required by the Boughton and Dunkirk (made) Neighbourhood Plan [B&DNP] E8. Many trees on the site have been cut down in recent years, shown on the aerial photographs, reducing the current on-site biodiversity dramatically, not 'enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities' as SBC ST3 suggests.

The land is in designation 'Land of High Landscape Value (Kent Level) DM24' and presents an unacceptable intrusion in the landscape.

The site is adjacent to Courtenay House, which DPC has requested to be a non-designated heritage asset. Thought to have been built 1870 – 1890. The new shepherds hut caravan already on site is not in keeping and distracts from the elegance of the imposing Courtenay House.

The site is adjacent to a scheduled monument, the WWII radar station Dunkirk, and will distract from its setting.

It is contrary to B&DNP (made) policies:

E1, E2, E3 protection of the countryside and the non-designated heritage asset surroundings of Courtenay House.

E4, E5 within high value landscape area and proximity to pond with great crested newts.

E8 requirement to show a net biodiversity net gain.

E9, E10 the proposal does not show high-quality design with suitable layout and access (the only access to the site is pedestrian – see title deed). This access is onto SBC Rural Lane DM26.

Furthermore, the grounds of the appeal are;

Appeal states “A Caravan has been onsite and occupied since about 2013/2014 by the previous landowner Mrs Julie Datlen”.

Our response is; Aerial photograph via Google Earth in 2013 clearly shows no sign of any caravan. Any use would have been ancillary to Flat ‘A’ and not continuous.

Aerial photograph via Google Earth in 2017 shows only a tourer caravan owned by Mrs Datlen but that was stored on the land owned at that time by Mrs Datlen, local knowledge reported to DPC is that it was not occupied on site as is being claimed, it was used for touring holidays in different parts of the country and was not always on site, therefore could not have been permanently on site and occupied.

Aerial photograph via Google Earth in 2018 shows a container had been put on the ground where the touring caravan had been parked, the tourer caravan was then parked in front of the container, local knowledge, reported to DPC, is that the container was put on to the site to store garden furniture BarBQ and various gardening tools that were being used to maintain the land.

Aerial photograph via Google Earth in 2019 shows that there is no longer a touring caravan on the site, the Container can still be seen.

Aerial photograph via Google Earth in 2020 shows additional container has been put on the site but no caravan.

Aerial photograph via Google Earth in 2021 shows containers still present on the land but no caravan.

Aerial photograph via Bing Maps in 2023 shows one container present on site one having been removed and the Shepherds Hut as an addition.

The aerial photographic evidence shows that no caravan was on site and occupied continuously for the previous 10 years, nor indeed the previous 4 years.

The medical condition alleged by the appellant, we suggest, would affect her in any type of home and no evidence has been submitted to prove this location is any different to her previous address (which was nearly 300metres from a trunk road). If a medical condition is being claimed as part of the appeal, then surely a medical report to back up this claim should also be presented as part of the case to officers, and noted in the documents submitted (although of course specific personal information would kept private).

DPC reasons.

There has been a breach of planning and the occupation of a mobile home on the land is not proved to have been continuous for the previous four years, local knowledge and the aerial photographs can be seen to repudiate this assertion.

DPC, therefore, respectfully request that the appeal is dismissed. This will then allow the enforcement notice to be executed.

Additional comments.

There are various claims and counter claims by the residents of Courtenay House which are probably a civil matter and not material considerations but there is allegedly a restrictive covenant which states; the title deeds for the transfer of the land when originally split from Courtenay House contain a restrictive covenant "Not to erect any building on the land hereby transferred without first submitting the plans and elevations thereof to and obtaining prior written consent of the owner for the time being of the remainder of the land comprised in the title above mentioned", that land being what is now called Courtenay House. We do not believe that this permission was sought nor given. Whilst this may be a civil matter between the owners of Courtenay House and Ms Eissfeldt, we do think it should be taken into consideration by the planning authorities.

Land East of Courtenay House Nov 2023



Bing Maps 2023



Google map 30.3.2021



Google map 09.3.2021



07.05.2020



16.05.2019



09.04.2017



07.04.2014



09.07.2013

Swale Borough Council are trying to introduce changes to the way you can have your views heard at the Planning Committee. For many years, Swale have been an example to other Kent Boroughs where, if there is a representation from a Town or Parish, 3 or more parishioners it would be referred to the democratically elected Ward Members on the Planning Committee. (Usually when T & P are of a different view to the Case Officer). **Now, without consultation or warning, they're trying to change the democratic process.**

I apologise for the length of this document. It is complex, difficult to understand but you need to engage.

The agenda for the planning and transportation working group on the 19th September was discussed and officers were asked to look at it again as ward councillors had a numerous issues with the suggested changes to delegated powers. The documents – (**latest** is appendix 3 on page 2 onward, with the historic parts after) shows SBC officer changes that will be presented to Planning and Transportation Policy Working Group meeting on Thursday, 23rd November 2023 7.00pm, link below.

<https://services.swale.gov.uk/meetings/ieListDocuments.aspx?CId=354&MId=3946>

A number of changes are still being carried forward unchanged. The main areas of concern are:

2.8.15.1 Should also include referencing the Boughton and Dunkirk Neighbourhood Plan which is 'made' and the only up to date plan in the Borough.

2.8.15.2 This means **all** householder applications will be under delegated powers. They say this is because the planning committee hasn't overturned a report in 6 months. After this they never can, and your parishioners will be disadvantaged.

2.8.15.2 a) Accepted change.

2.8.15.2 b) This becomes discretionary and if head of planning thinks their action not to give extra time is reasonable – then tough – that'll be it. This will mean all T&P councils will need to hold extraordinary meetings, within the three-week period, to be sure you comply with the Town and Country Planning Act.

2.8.15.2 c) This has been deleted, probably as SBC state at 2.8.15.2 all/most will be delegated anyway !

2.8.15.2 d) Subjective Head of Planning assessment of what is 'in the public interest'. Most of you have experienced what SBC feel is 'not in the public interest' when it comes to enforcement.

2.8.15.12 Officers decide enforcement & **notify** chair, vice chair & ward cllrs of planning. No consultation.

2.8.15.18 SBC to respond without any consultation with the elected members.

3.1.38.5 Can't work out what opportunity anyone has to talk to an application/deferred meeting.

Regarding declaration of 'lobbying', hopefully all ward councillors talk to T&P councils about applications. Will this be considered as lobbying? And, without knowing the law, will a councillor be barred from voting.?

I strongly recommend that you talk to your Ward Councillors to ensure they are aware of this, before your views on planning applications are discarded and delegated to officers, with a loss of democracy to town and parish councils AND parishioners.

I organised a session to explain in detail what Councillors will be expected to do by Swale Borough Council, to enable your representations to be heard at Committee, and discuss the explicit reasons you need to give, on 14th November '23 at Iwade Village Hall. This was well attended, and delegates thought it gave them a great deal of information. PowerPoint to be circulated.

Kind regards

Cllr Jeff Tutt. Chairman, Swale Area Committee.

Appendix 3: Changes proposed following PTPWG on 19th September 2023

Recommendations brought to PTPWG on 19th September are shown as at appendix 2 (additions indicated in red type; proposed deletions struck through). Additional changes for specific consideration in November are highlighted grey.

2.8.15 DELEGATIONS TO THE HEAD OF PLANNING SERVICES

2.8.15.1. To determine applications, negotiate and enter into Section 106 Agreements, to agree minor variations to planning obligations, to respond to prior notifications, and to make observations on behalf of the Borough Council in accordance with the provisions of the appropriate Development Plan or other adopted Borough Council Planning Policy Guidance.

2.8.15.2. The delegated powers in paragraph 1 above shall always apply in the case of prior notifications, and shall apply in the case of householder applications excepting section (d) below, but otherwise shall not be exercised in the following circumstances:

(a) Any planning applications submitted by a member or officer of the Council, for Council development (whether involving Council owned land or not) or on Council-owned land;

(b) Applications where the decision of the Head of Planning would conflict with reasons set out in any written representation received within the specified representation period from during the statutory consultation period (as specified within the Town and Country Planning (Development Management Procedure) (England) Order (2015) or any superseding legislation, or within an extension of time period agreed by officers, such consent not to be unreasonably withheld or delayed, from:

(v) Any Member of the Borough Council;

(vi) A statutory consultee;

(iii) A Parish or Town Council where it is clearly stated that the Parish or Town Council want the application to be reported to the Planning Committee;

Provided that any such representations from (ii) or (iii) above are, in the professional opinion of the Head of Planning, based upon relevant planning considerations.

Where the Head of Planning determines that a representation from (iii) above is not based on relevant considerations, they will write to the town or parish council to notify them that the application will not be reported to the planning committee.

Where the Head of Planning determines that a representation from (iii) above is based on relevant considerations and the parish council has clearly stated that they want the application to be reported to the Planning Committee, the Head of Planning will write to the town or parish council to encourage them to send a speaker to the relevant Planning Committee meeting.

~~(c) Applications where the decision of the Head of Planning would conflict with letters of representations, or petitions, from at least three separate addresses received within the specified representation period from persons or bodies (other than those set out in (a) above) provided that any such representations are, in the opinion of the Head of Planning, based upon relevant planning considerations and relevant Ward Member requests that the application should be reported to the Planning Committee; and~~

(d) Applications which the Head of Planning considers to be in the public interest, principally (but not exclusively) those which would meet the standard triggers for Environmental Impact Assessment submission are sufficiently major or raise difficult questions of policy interpretation or any unusual or difficult issues which warrant Member determination.

~~2.8.15.9. To respond to hedgerow notifications in consultation with the appropriate ward member(s).~~

2.8.15.12. To authorise, sign and serve all enforcement and other notices under the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) (England) regulations

2007 on behalf of the Council following ~~consultation with~~ **notifying** the Planning Committee Chair ~~or~~ **and** Vice-Chair and local ward Member(s).

2.8.15.18. To respond to consultations from neighbouring planning authorities including Kent County Council ~~following consultation with the Planning Committee Chair or Vice Chair, and the relevant Ward Member(s).~~

Committee Procedure Rules:

3.1.38.5. The Chair will welcome any members of the public **who are present in the public gallery, and remind them that the following proceedings are a meeting in public, not a public meeting, and that they are able to observe but not contribute to the debate. The Chair will specifically welcome any members of the public** who are registered to speak on any item. ~~They will inform the meeting that in the event that an item is deferred to a site meeting of the Planning Working Group, members of the public may speak both at this meeting and at the site meeting, but there will be no further opportunity to speak on the matter when it comes back to the Planning Committee for final determination.~~

Members to be asked at the start of each Committee to declare whether they have been lobbied by any party seeking to influence their view.

All Planning Committee votes are to be recorded votes.

Members who vote contrary to the officer's recommendation are to provide, in writing to the Head of Planning within seven days from date of Committee, their reasons for taking a contrary view.

Appendix 2: Changes proposed to Planning and Transportation Policy Working Group on 19th September 2023.

Proposed additions are indicated in **red type**; proposed deletions are struck through.

The rationale for these changes can be found on pages 11 – 18 of the original Working Group **report**.

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(b) Applications where the decision of the Head of Planning would conflict with **reasons set out in** any written representation received within the specified representation period from **during the statutory consultation period (as specified within the Town and Country Planning (Development Management Procedure) (England) Order (2015) or any superseding legislation** from:

(iii) Any Member of the Borough Council;

(iv) A statutory consultee;

(iii) A Parish or Town Council **where it is clearly stated that the Parish or Town Council want the application to be reported to the Planning Committee**;

Provided that any such representations from (ii) or (iii) above are, in the opinion of the Head of Planning, based upon relevant planning considerations.

Where the Head of Planning determines that a representation from (iii) above is not based on relevant considerations, they will write to the town or parish council to notify them that the application will not be reported to the planning committee.

(c) Applications where the decision of the Head of Planning would conflict with letters of representations, or petitions, from at least three separate addresses received within the specified representation period from persons or bodies (other than those set out in (a) above) provided that any such representations are, in the opinion of the Head of Planning, based upon relevant planning considerations and relevant Ward Member requests that the application should be reported to the Planning Committee; and

(d) Applications which the Head of Planning considers **to be in the public interest** are sufficiently major or raise difficult questions of policy interpretation or any unusual or difficult issues which warrant Member determination.

2.8.15.9. To respond to hedgerow notifications in consultation with the appropriate ward member(s).

2.8.15.12. To authorise, sign and serve all enforcement and other notices under the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) (England) regulations 2007 on behalf of the Council following **notifying** consultation with the Planning Committee Chair or **and** Vice-Chair and local ward Member(s).

2.8.15.18. To respond to consultations from neighbouring planning authorities including Kent County Council following consultation with the Planning Committee Chair or Vice Chair, and the relevant Ward Member(s).

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Members to be asked at the start of each Committee whether they have been lobbied by any party seeking to influence their view.

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8 Background Papers

[Planning and Transportation Policy Working Group agenda pack – 19th September 2023](#) (pp9 – 19).

[Planning and Transportation Policy Working Group minutes – 19th September 2023](#)

Appendix 1: The Existing Scheme of Delegation and Committee Procedure Rules: sections proposed for change – as written in the current Constitution.

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2.8.15.2. The delegated powers in paragraph 1 above shall not be exercised in the following circumstances:

(a) Any planning applications submitted by a member of the Council or Members of staff and for Council development (whether involving Council owned land or not);

(b) Applications where the decision of the Head of Planning would conflict with any written representation received within the specified representation period from:

(i) Any Member of the Borough Council;

(ii) A statutory consultee;

(iii) A Parish or Town Council;

Provided that any such representations from (ii) or (iii) above are, in the opinion of the Head of Planning, based upon relevant planning considerations.

(c) Applications where the decision of the Head of Planning would conflict with letters of representations, or petitions, from at least three separate addresses received within the specified representation period from persons or bodies (other than those set out in (a) above) provided that any such representations are, in the opinion of the Head of Planning, based upon relevant planning considerations and relevant Ward Member requests that the application should be reported to the Planning Committee; and

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