

Public Document Pack



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31 March 2014

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **PLANNING COMMITTEE** will be held in the Council Chamber at these Offices on Thursday 10 April 2014 at 6.00 pm when the following business will be transacted.

Members of the public who require further information are asked to contact Kate Batty-Smith on (01304) 872303 or by e-mail at kate.batty-smith@dover.gov.uk.

Yours sincerely

A handwritten signature in black ink, appearing to read "Kate Batty-Smith", written over a white background.

Chief Executive

Planning Committee Membership:

Councillor F J W Scales (Chairman)
Councillor B W Butcher (Vice-Chairman)
Councillor J S Back
Councillor T A Bond
Councillor P M Brivio
Councillor J A Cronk
Councillor B Gardner
Councillor K E Morris
Councillor R S Walkden
Councillor P M Wallace

AGENDA

1 **APOLOGIES**

To receive any apologies for absence.

2 **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointments of Substitute Members.

3 **DECLARATIONS OF INTEREST**

To receive any declarations of interest from Members in respect of business to be transacted on the agenda.

Where a Member has a new or registered Disclosable Pecuniary Interest (DPI) in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Where a Member is declaring an Other Significant Interest (OSI) they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

Where a Member does not have either a Disclosable Pecuniary Interest (DPI) or Other Significant Interest (OSI) but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a Voluntary Announcement of Other Interests (VAOI). A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

Note to the Code:

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

4 **MINUTES** (Pages 5 - 8)

To confirm the attached Minutes of the meeting of the Committee held on 13 March 2014.

ITEMS WHICH MAY BE SUBJECT TO PUBLIC SPEAKING

(Pages 9 - 12)

- 5 **APPLICATION NO DOV/14/00027 AND DOV/14/00028 - 37 ADMIRALTY MEWS, WALMER** (Pages 13 - 19)

RETROSPECTIVE APPLICATION FOR THE ERECTION OF A REAR CONSERVATORY/VERANDAH EXTENSION AT 37 ADMIRALTY MEWS, WALMER

RETROSPECTIVE LISTED BUILDING APPLICATION FOR THE ERECTION OF A REAR CONSERVATORY/VERANDAH EXTENSION AT 37 ADMIRALTY MEWS, WALMER

To consider the attached report of the Head of Regeneration and Development.

- 6 **APPLICATION NO DOV/13/00945 - LAND BETWEEN DEAL AND SHOLDEN, CHURCH LANE, SHOLDEN** (Pages 20 - 40)

RESERVED MATTERS APPLICATION (LANDSCAPING, APPEARANCE, LAYOUT AND DESIGN) FOR RESIDENTIAL DEVELOPMENT OF 230 DWELLINGS AND PUBLIC OPEN SPACE (WITH ACCESS FROM HANCOCK'S FIELD, HUNTER'S WALK AND HYTON DRIVE), INCLUDING ROADS, CYCLE PATHS, FOOTPATHS, ANCILLARY WORKS INCORPORATING LANDSCAPING, A POND AND ALTERATIONS TO EXISTING PUBLIC RIGHTS OF WAY, LAND BETWEEN DEAL AND SHOLDEN, CHURCH LANE, SHOLDEN

To consider the attached report of the Head of Regeneration and Development.

- 7 **APPLICATION NO DOV/14/00023 - LYDDEN RACE CIRCUIT, WOOTTON** (Pages 41 - 57)

SECTION 73 APPLICATION TO VARY CONDITION 2 (PARTS 2D AND 2E) OF PLANNING PERMISSION DOV/12/00589

To consider the attached report of the Head of Regeneration and Development.

- 8 **APPLICATION NO DOV/14/00102 - 6 GREEN MEADOWS, EYTHORNE** (Pages 58 - 62)

CONSTRUCTION OF A HARDSTANDING

To consider the attached report of the Head of Regeneration and Development.

- 9 **APPLICATION NO DOV/14/00126 - PART OF GROUND FLOOR, RED RAMBLERS, DEAL ROAD, WORTH** (Pages 63 - 75)

RETROSPECTIVE APPLICATION FOR THE CONTINUED USE OF PART OF GROUND FLOOR FOR DAY-TIME CARE AND NIGHT-TIME BOARDING OF DOGS

To consider the attached report of the Head of Regeneration and Development.

ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING

10 **APPEALS AND INFORMAL HEARINGS** (Pages 76 - 80)

To receive information relating to Appeals and Informal Hearings, and appoint Members as appropriate.

11 **ACTION TAKEN IN ACCORDANCE WITH THE ORDINARY DECISIONS (COUNCIL BUSINESS) URGENCY PROCEDURE**

To raise any matters of concern in relation to decisions taken under the above procedure and reported on the Official Members' Weekly News.

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes are normally published within five working days of each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting. Basic translations of specific reports and the Minutes are available on request in 12 different languages.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Kate Batty-Smith, Democratic Support Officer, telephone: (01304) 872303 or email: kate.batty-smith@dover.gov.uk for details.

Large print copies of this agenda can be supplied on request.

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 13 March 2014 at 6.00 pm.

Present:

Chairman: Councillor F J W Scales

Councillors: P M Beresford (In place of R S Walkden)
T A Bond
P M Brivio
B W Butcher
J A Cronk
B Gardner
K E Morris
P M Wallace

Officers: Principal Planner
Principal Planner (Renewable Energy)
Planning Delivery Manager
Solicitor to the Council
Democratic Support Officer

The following persons were also present and spoke in connection with the applications indicated:

<u>Application No</u>	<u>For</u>	<u>Against</u>
DOV/13/00916	Mr Andrew Fenney	Ms Beverley Hall

556 APOLOGIES

It was noted that apologies for absence had been received from Councillors J S Back and R S Walkden.

557 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor P M Beresford had been appointed as a substitute for Councillor R S Walkden.

558 DECLARATIONS OF INTEREST

There were no declarations of interest from Members.

559 MINUTES

In respect of Minute No 496, the Chairman confirmed that 'comfort breaks' would be held in future when Members indicated that they needed one as it was important that Members were present for all the debate when determining applications.

The Minutes of the meeting held on 13 February 2014 were approved as a correct record and signed by the Chairman.

560 ITEMS DEFERRED

The Chairman advised that Application No DOV/13/01007 (Land at The Strand, Walmer) was dealt with elsewhere on the agenda.

561 APPLICATION NO DOV/13/01007 - ERECTION OF 20 BEACH HUTS - LAND AT THE STRAND, WALMER

The Committee viewed photographs and plans of the site. In respect of recommendation 3) of the report, Members were advised that it should be amended to read 'anchoring of huts to be carried out at installation and thereafter maintained'. With regards to recommendation II of the report, Members were advised that the words 'and matters' should be deleted.

The Principal Planner reminded Members that the application had been deferred at the meeting held on 13 February 2014 for further information regarding the Portaloo, parking and waiting list applicants. Kent County Council (KCC) acknowledged that there would be some increase in parking but this was unlikely to be significant, and it therefore had no objections to the proposal. The additional information on the waiting lists was as set out in the report. It was confirmed that the Portaloo had now been removed from the proposal.

Councillor T A Bond indicated his support for the proposal, particularly now that the Portaloo had been removed. Erecting the huts in the location proposed would have less visual impact than placing them elsewhere. Councillor K E Morris considered that the proposal was acceptable without a Portaloo as public toilet facilities were a relatively short, easy walk away. However, in his opinion, some of the huts were too close to the sea and the arrangement would benefit from the relocation of the front five huts to the east on the plan shown to the Committee. Several Members commented that parking spaces would always be under pressure near the seafront, and the additional beach huts were unlikely to make a significant difference.

Councillor B Gardner stated that he could not support the application as the nearest toilet facilities were too far away, and the proposed random arrangement of the huts was unsuitable. He also sought clarification regarding leasehold conditions and specifically whether leaseholders would be allowed to light fires and barbecues on the beach. The Solicitor to the Council advised that leaseholders would be expected to comply with the conditions of their leases. The Principal Planner clarified that the application site was restricted to the former boat compounds and did not cover the beach which was part of the public realm.

Members discussed whether the application should be deferred once again pending negotiation of the relocation of the five beach huts and clarification of by-laws relating to the beach. However, the majority agreed that this was not necessary and felt that the application could be approved, subject to Officers negotiating the relocation of the five most easterly huts so that they would be more closely related to the other proposed huts.

RESOLVED: (a) That, subject to Officers securing the relocation of the five beach huts that lie furthest to the east, Application No DOV/13/001007 be APPROVED, subject to the following conditions:

- (i) Standard time limit;

- (ii) Development to be carried out in accordance with approved plans;
 - (iii) Anchoring of huts to be carried out at installation and thereafter maintained.
- (b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

562 APPLICATION NO DOV/13/0916 - ERECTION OF A DETACHED TWO-STOREY BUILDING INCORPORATING A GARAGE AND SUMMERHOUSE AND CREATION OF A VEHICULAR ACCESS - 57 CASTLE AVENUE, DOVER

The Committee viewed photographs of the site. The Principal Planner introduced the report which outlined proposals for the erection of a two-storey building with a garage and summerhouse at the end of the garden of a residential property in Castle Avenue. Amended plans had been submitted on 6 February 2014. The applicant had agreed to install an electrically operated door on the garage, and KCC had confirmed that it now had no objections on access or highway grounds. In the light of this change, it was proposed to amend recommendation 3) of the report to request details of the garage door and how it would be operated. Members were also advised that the report recommendation should be amended to include a condition seeking materials samples as red brick would be more in keeping.

The Committee was advised that an application for the erection of a dwelling at 63 Castle Avenue had been refused and then dismissed at appeal, the Planning Inspector having raised concerns about the impact of the increased domestic activity that would be generated by a residential building, amongst other things. The application under consideration was fundamentally different in that a residential dwelling was not proposed.

Councillors B W Butcher and J A Cronk expressed concerns about the size of the proposed building which would be more akin to an annexe than a summerhouse given the facilities that the applicant was planning to install. However, they were minded to approve the application, provided suitably robust conditions were attached to prevent its use as a dwelling. Councillor Bond raised concerns about the development's impact on the street scene and the additional traffic that was likely to be generated. Councillor P Wallace commented that the proposed building would affect the privacy of neighbouring properties and lead to over-development of the area. In response to concerns voiced by Councillor Gardner about the inclusion of an internal staircase, it was clarified that this would not make the application acceptable or unacceptable in planning terms. The inclusion of a condition relating to the staircase was therefore unlikely to be considered a reasonable imposition.

The Principal Planner referred Members to paragraphs 3.7, 3.8 and 3.9 of the report which referred to the Inspector's consideration of the proposal for a dwelling at no 63. If Permitted Development Rights were withdrawn in relation to the use of the building and subsequently found to have been breached, it was unlikely that there would be a different outcome to the Planning Inspector's decision on no 63 if the applicant appealed against a refusal by the Planning Committee. It was confirmed that the summerhouse would provide ancillary accommodation to the dwelling-house. Several Members emphasised the importance of the site being monitored

by Officers on an ongoing basis in order to ensure that all conditions were complied with.

RESOLVED: (a) That Application No DOV/13/0916 be APPROVED, subject to the following conditions:

- (i) Building not to be used as an independent dwelling;
- (ii) Removal of all Permitted Development Rights;
- (iii) Submission of material samples;
- (iv) Standard time limit;
- (v) In accordance with approved plans;
- (vi) Details of garage roller door and its operation.

(b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

563 APPLICATION NO DOV/13/00163 - CERTIFICATE OF LAWFULNESS (PROPOSED) - 55 WESTCOURT LANE, SHEPHERDSWELL

The Chairman advised the Committee that this item had been withdrawn from the agenda.

564 APPEALS AND INFORMAL HEARINGS

The Committee noted that there was no information to receive regarding appeals or informal hearings.

565 ACTION TAKEN IN ACCORDANCE WITH THE ORDINARY DECISIONS (COUNCIL BUSINESS) URGENCY PROCEDURE

The Committee noted that no action had been taken since the last meeting.

The meeting ended at 7.15 pm.

APPLICATIONS WHICH MAY BE SUBJECT TO PUBLIC SPEAKING

The Reports

The file reference number, a description of the proposal and its location are identified under a) of each separate item. The relevant planning policies and guidance and the previous planning history of the site are summarised at c) and d) respectively.

The views of third parties are set out at e); the details of the application and an appraisal of the proposal are set out at f) and each item concludes with a recommendation at g).

Additional information received prior to the meeting will be reported verbally. In some circumstances this may lead to a change in the recommendation.

Details of the abbreviated standard conditions, reasons for refusal and informatives may be obtained from the Planning Technician (telephone 01304 872471).

It should be noted, in respect of points raised by third parties in support of, or objecting to, applications that they are incorporated in this report only if they concern material planning considerations.

Each item is accompanied by a plan (for identification purposes only) showing the location of the site and the Ordnance Survey Map reference.

Site Visits

All requests for site visits will be considered on their merits having regard to the likely usefulness to the Committee in reaching a decision.

The following criteria will be used to determine usefulness:

- the matter can only be safely determined after information has been acquired directly from inspecting this site.
- there is a need to further involve the public in the decision making process as a result of substantial local interest, based on material planning considerations, in the proposals.
- the comments of the applicant or an objector cannot be adequately expressed in writing because of age, infirmity or illiteracy;

The reasons for holding a Committee site visit must be included in the minutes.

Background Papers

List of background papers: unless otherwise stated, the appropriate file in respect of each application, save any document which discloses exempt information within the meaning of the Local Government (Access to Information) Act 1985.

The Officer to whom reference should be made concerning inspection of the background papers is Abi Robinson, Planning Technician, Planning, Council Offices, White Cliffs Business Park, Dover (Telephone: 01304 - 872471).

IMPORTANT

The Committee should have regard to the following preamble During its consideration of all applications on this agenda

1. Section 70(2) of the Town and Country Planning Act 1990 requires that, in dealing with an application for planning permission, the local planning authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that "If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
3. Planning applications which are in accordance with the relevant policies in the Development Plan should be allowed and applications which are not in accordance with those policies should not be allowed unless material considerations justify granting of planning permission. In deciding such applications, it should always be taken into account whether the proposed development would cause demonstrable harm to interests of acknowledged importance. In all cases where the Development Plan is relevant, it will be necessary to decide whether the proposal is in accordance with the Plan and then to take into account material considerations.
4. In effect, the following approach should be adopted in determining planning applications:-
 - (a) if the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan;
 - (b) where there are other material considerations, the Development Plan should be taken as the starting point and the other material considerations should be weighed in reaching a decision;
 - (c) where there are no relevant policies in the Development Plan, the planning application should be determined on its merits in the light of all material considerations; and
 - (d) exceptionally, a development proposal which departs from the Development Plan may be permitted because the contribution of that proposal to some material, local or national need or objective is so significant that it outweighs what the Development Plan says about it.
5. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, in considering planning applications for development affecting a listed building or its setting, special regard shall be had to the desirability of preserving the building, its setting or any special features which it possesses. Section 72 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas when considering any applications affecting land or buildings within them. Section 16 requires that, when considering applications for listed building consent, special regard shall be had to the desirability of preserving the listed building, its setting, or features of special architectural or historic interest which it has.
6. Section 38(6) of the 2004 Act does not apply to the determination of applications for advertisement consent, listed building consent or conservation area consent. Applications for advertisement consent can be controlled only in the interests of amenity and public safety. However, regard must be had to policies in the Development Plan (as material considerations) when making such determinations.

The Development Plan

7. The Development Plan in Dover District is comprised of:

The South East Plan 2009
Dover District Core Strategy 2010
Dover District Local Plan 2002 (saved policies only)
Kent Minerals Local Plan : Brickearth 1986
Kent Minerals Local Plan : Construction Aggregates 1993
Kent Minerals Local Plan : Chalk and Clay and Oil and Gas 1997
Kent Waste Local Plan 1997

Human Rights Act 1998

During the processing of all applications and other items and the subsequent preparation of reports and recommendations on this agenda, consideration has been given to the implications of the Human Rights Act 1998 in relation to both applicants and other parties and whether there would be any undue interference in the Convention rights of any person affected by the recommended decision.

The key articles are:-

Article 8 - Right to respect for private and family life, home and correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 1 of the First Protocol - Right of the individual to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

Account may also be taken of:-

Article 6 - Right to a fair trial and public trial within a reasonable time.

Article 10 - Right to free expression.

Article 14 - Prohibition of discrimination.

The Committee needs to bear in mind that its decision may interfere with the rights of particular parties, particularly under Article 8 and Article 1 of the First Protocol. The decision should be a balanced one and taken in the wider public interest, as reflected also in planning policies and other material considerations.

(PTS/PLAN/GEN) HUMANRI

PUBLIC SPEAKING AT PLANNING COMMITTEE

1. The scheme for public speaking at Planning Committee only concerns matters relating to the determination of individual applications for planning permission contained in the Planning Committee agenda and not to other matters such as Tree Preservation Orders or Enforcement.
2. The scheme for public speaking will apply at each meeting where an individual application for planning permission is considered by the Planning Committee.
3. Any person wishing to speak at the Planning Committee should submit a written request using this form and indicate clearly whether the speaker is in favour of, or opposed to, the planning application.
4. The form must be returned to Democratic Support no later than two working days prior to the meeting of the Planning Committee.
5. Speaking opportunities will be allocated on a first come, first served basis but with the applicant being given first chance of supporting the scheme. Applicants or agents will be notified of requests to speak. Third parties who have applied to speak will be notified of other requests only when these directly affect their application to speak. The names, addresses and telephone numbers of people who wish to speak may be given to other people who share their views and have expressed a wish to address the Committee. The identified speaker may defer to another at the discretion of the Chairman of the Committee.
6. One person will be allowed to speak in favour of, and one person allowed to speak against, each application. The maximum time limit will be three minutes per speaker. This does not affect a person's right to speak at a site visit if the Committee decides one should be held.
7. Public speakers will not be permitted to distribute photographs or written documents at the Committee meeting.
8. The procedure to be followed when members of the public address the Committee will be as follows:
 - (a) Chairman introduces item.
 - (b) Planning Officer updates as appropriate.
 - (c) Chairman invites the member of the public and Ward Councillor(s) to speak, with the applicant or supporter last.
 - (d) Planning officer clarifies as appropriate.
 - (e) Committee debates the application.
 - (f) The vote is taken.
9. In addition to the arrangements outlined in paragraph 6 above, District Councillors who are not members of the Committee may be permitted to address the Planning Committee for three minutes in relation to planning applications in their Ward. This is subject to giving formal notice of not less than two working days and advising whether they are for or against the proposals. In the interests of balance, a further three minutes' representation on the contrary point of view will be extended to the identified or an additional speaker. If other District Councillors wish to speak, having given similar notice and with the agreement of the Chairman, this opportunity will be further extended as appropriate.
10. Agenda items will be taken in the order listed.
11. The Chairman may, in exceptional circumstances, alter or amend this procedure as deemed necessary.

DOVER DISTRICT COUNCIL

PLANNING COMMITTEE – 10 APRIL 2014

REPORT OF THE HEAD OF REGENERATION AND DEVELOPMENT

a) **DOV/14/00027 – Retrospective application for the erection of a rear conservatory/verandah extension at 37 Admiralty Mews, Walmer**

DOV/14/00028 – Retrospective Listed Building application for the erection of a rear conservatory/verandah extension at 37 Admiralty Mews, Walmer

Reason for Report: The number of third party letters of support.

b) **Summary of Recommendation**

Planning permission and Listed Building Consent be refused.

c) **Planning Policy and Guidance**

Primary Legislation

- Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires local planning authorities will have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the same Act, also requires the Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.

Dover District Core Strategy 2010

- The Local Development Framework, Core Strategy (2010), sets out policies and objectives for shaping development in the District, This includes the objective to 'Ensure the intrinsic quality of the historic environment is protected and enhanced and that these assets are used positively to support regeneration, especially in Dover'.

National Planning Policy Framework (NPPF)

- The NPPF sets out a presumption in favour of sustainable development. There are three dimensions to sustainable development: economic, social and environmental. These should not be taken in isolation, because they are mutually dependent. So development that fails to give due weight to protecting the historic environment, is not sustainable development.
- The NPPF also stresses that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a listed building, 'great weight' should be given to the asset's conservation. As heritage

assets are irreplaceable, any harm or loss requires 'clear and convincing justification'.

- Section 134 of the NPPF states that “where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal”.

Walmer Design Statement

- Policy WDS1: Development should acknowledge, preserve or enhance the built and natural heritage of the parish of Walmer.
- Policy WDS2: Any future development in the parish should respect the origins, and reflect strongly the character, appearance and design details of the Character Area in which it is situated, and:
- Policy WDS3: The scale, materials and boundary treatments used in development should be appropriate to their surroundings and the design details of the Character Area.

The Kent Design Guide

- This states that ‘the restoration, modification or extension of any building requires a sympathetic approach and this is particularly the case with heritage areas including historic buildings and townscape. Even a seemingly minor alteration can be damaging to an individual building or group’.

d) Relevant Planning History

Enforcement Case: WAL/13/176 – Unauthorised extension to building within the curtilage of a listed building without benefit of Planning Permission or Listed building Consent. This case is still current pending the outcome of these retrospective applications.

e) Consultees and Third Party Responses

- Walmer Parish Council : Objects for the following summarized reasons:-

The Committee feel that the design of the extension is out of character with the street scene and uses materials and designs which are not prevalent within grade II listed buildings.

- Public Representations:

3 letters of objection have been received; the material comments are summarized as follows:

- Design, material and overall appearance of the conservatory are not in keeping with the design of the conservation area.
- The conservatory adversely affects the setting and appearance of the existing buildings
- Contrary to Walmer Design Statement guidance
- Breaks up the uniformity of the rear façade.

7 Letters of support have been received; the material comments are summarized as follows:-

- Discretely located in the corner and not very visible; minimal visual impact; shielded by trees and hedges
- Does not detract from the historic entrances and other parts of the Mews
- Domestic structures now, no longer military buildings which can withstand sympathetic alterations and extensions
- Already fences, hedging, sheds and other 'domestic' changes made to the rear gardens; "softening" and "personalising" of private garden spaces
- Sympathetic adaptation which retains the architectural originality of the building
- Unobtrusive design

f) **1. The Site and the proposal**

- 1.1 37 Admiralty Mews is an end of terrace dwelling converted from a former barracks building. Whilst not listed in its own right, it is in the curtilage of the Grade II listed buildings of Admiralty Mews and pre-dates 1948 and therefore is protected by listed building legislation. It is also within the Walmer Seafront Conservation Area. It is a two storey brick built building sharing the gable end with the 3m high wall running around the former barracks cemetery. The rear of these properties are in public view from the publicly accessible Memorial Gardens (although few members of the public enter the gardens). Prior to the erection of this conservatory, the rear of this set of 7 terraced houses was of uniform appearance. There are no other conservatories on these buildings or on the adjacent group of similar buildings.
- 1.2 The conservatory extension is a full-width, ground floor extension with a mono-pitched glazed roof. The roof is 3.0m at the highest point. The construction is of blue/grey powder coated aluminium with a large percentage of glazing. The garden facing façade is composed of 2 large glazed sliding doors. The end wall on the boundary between 36 and 37 Admiralty Mews has been insulated and dry-lined to a height of 2.5m. The section above this point is glazed. The opposite end of the conservatory integrates the existing brickwork of the 3.0m high site boundary wall with only a small section of glazing above. The depth of the conservatory projects 3.0m from the rear façade of the property.
- 1.3 The argument put forward by the applicant for approving the conservatory are:
- The 1 TPO tree in their garden and the 1 TPO tree just outside of their garden block a significant amount of light into their lounge, allowing only 1 hour of direct light per day and the veranda/conservatory gives them an interior space which gets more direct light per day;
 - They are an ageing couple who have downsized to prepare for the future; they are both developing mobility issues and plan to change the lounge to a bedroom and en suite to aid in the creation of a "home for life";
 - The conservatory gives them space at ground floor level to use as a sitting area.

These are private benefits which could be applied to any property in this terrace.

2. Main Issues

2.1 Impact of the development on the listed buildings and the conservation area and on the amenity of the neighbouring properties

3. Assessment

Impact on the listed building

3.1 The former East Barracks in Walmer were occupied by the Royal Marines, prior to them being converted to residential use in 1997. Whilst there has inevitably been some limited domestication of the properties, for example with the provision of front doors, gardens and parking areas, they retain much of their original form and character.

3.2 Permitted development rights were removed from these properties as part of the permission for their conversion to residential units. This was to prevent the over-domestication of the properties and to preserve the clean lines and open nature of the facades. There have already been moves to define and personalise the garden spaces by the use of planting and garden furniture, however these are generally not permanent structures.

3.3 It is considered that the conservatory represents a very domestic feature which is totally at odds with the formal, military character of the host building. It fails to respect the origins of the building as required by the Walmer Design Statement. The scale of the former barracks is so substantial that the domestic gardens and accompanying garden features do not significantly harm its character, particularly as they are seen as 'transient' features. However the permanent features of a conservatory would detract from the simple character of the historic building by virtue of its design, appearance, and location. Whilst the presence of trees and shrubs currently helps to reduce its visual impact, their retention is not guaranteed. The conservatory, at the highest point of the roof, partially obscures the brick window arches and does not respect the historic vocabulary of this building. It is therefore considered that the conservatory detracts from the special character of this historic building by virtue of its design and location.

Impact on the character and appearance of the Conservation Area

3.4 The character of this part of the conservation area is dominated by the military character of the former barracks, with its large and somewhat austere buildings set within a series of interconnected open spaces. Whilst the function of the buildings and spaces has changed, the area still retains most of its original character.

3.5 The conservatory is visible from public views from within the former cemetery, now used as informal public open space, and from the surrounding buildings to the West of the site. By being a small domestic attachment to the formal architecture of the former military building, it fails to respond to its particular context, and as such would detract from the special character and appearance of this part of the conservation area.

Impact on the amenity of neighbouring properties

3.6 In amenity terms, the development does not increase overlooking or cause loss of privacy nor does the massing of the conservatory feel overbearing. It does not create any loss of light to neighbouring properties and is modest enough to not impact on garden space. Its transparent nature prevents the development from being overbearing on any neighbouring properties.

Other matters

3.7 It is worth noting that a similar proposal on 1 Admiralty Mews (DOV/10/0973 and 0974) was refused and appeals against this decision were dismissed by the Planning Inspectorate (APP/X2220/E/11/2151061 and APP/X2220/A/11/2151063). This proposal was even more concealed within a walled garden with only part of the roof visible outside of the private garden.

3.8 Whilst each case must be determined on its own merits, due to the uniformity of the building and the similarity between the individual properties, this development could arguably create a precedent which would make future applications for similar extensions difficult to resist.

Conclusions

3.9 Bearing in mind the particular character of the former Marines barracks, it is considered that the overtly domestic nature of the conservatory detracts from the character and appearance of the host building and from the conservation area in which it is located. Under the requirements of the NPPF it is necessary to consider whether there would be any 'public benefits' to the scheme sufficient to outweigh the harm caused. The benefits to the applicant are noted, however these constitute 'private' benefits rather than wider public benefits, and as such do not outweigh the harm caused.

3.10 The NPPF recognises that designated heritage assets such as listed buildings and conservation areas are irreplaceable resources, and requires them to be conserved in a manner appropriate to their significance, in line with primary legislation. It is considered this proposal fails to achieve this requirement. It is also considered to conflict with the objectives of the Core Strategy, Walmer Design Statement and the Kent Design Guide relating to safeguarding the historic environment and achieving sympathetic development in such areas as outlined at part c) of this report.

g) Recommendation

I Listed Building Consent BE REFUSED on the following grounds: i) The proposal, if permitted, creates a domestic feature which would detract from the formal and classical character, appearance and setting of this historic building by virtue of its design and location. Consequently it would be contrary to the Objective 3.2.10 of the DDC Core Strategy, the Core Principles and Section 12 of the NPPF, Policies WDS1, WDS2 and WDS3 of the Walmer Design Statement and Paragraphs 1 and 2 of "Alterations and Extension to Historic Buildings" of the Kent Design Guide.

II Planning Permission BE REFUSED on the following grounds: i) The conservatory would create a domestic feature, which, by virtue of its design

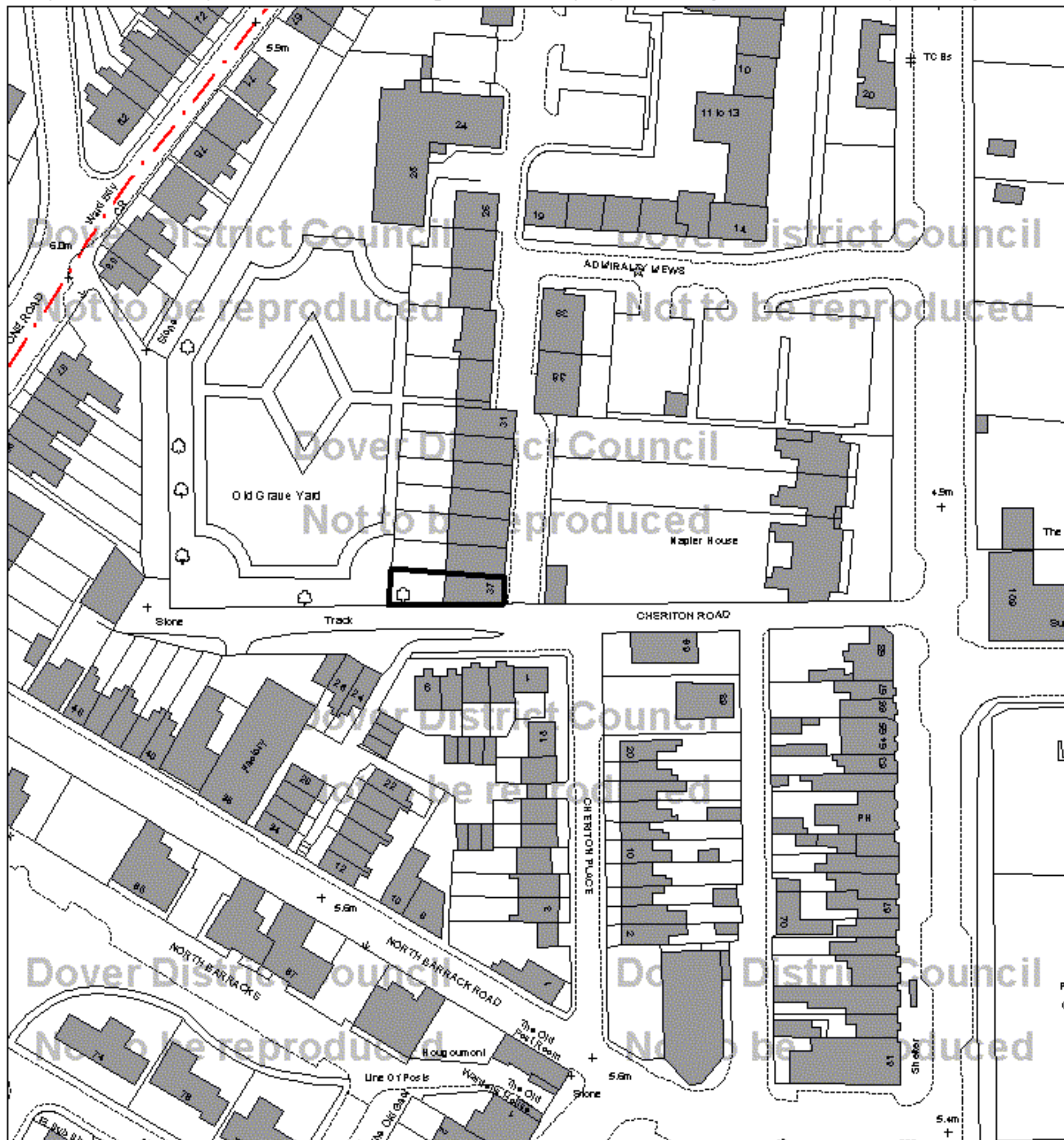
and location, would detract from the character and appearance of this part of the Walmer Seafront Conservation Area. This would be contrary to the Objective 3.2.10 of the DDC Core Strategy, the Core Principles and Section 12 of the NPPF, Policies WDS1, WDS2 and WDS3 of the Walmer Design Statement and Section 1.3 of the Kent Design Guide.

- III The conservatory should be removed and the property returned to its former state within 6 months of the date of this decision.

Case Officer

Andrew Wallace

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Application: DOV/14/00027 & DOV/14/00028

37 Admiralty Mews

Walmer

CT14 7AZ

TR37625186



DOVER DISTRICT COUNCIL

PLANNING COMMITTEE – 10 APRIL 2014

REPORT OF THE HEAD OF REGENERATION AND DEVELOPMENT

- a) **DOV/13/00945 – Reserved Matters application (landscaping, appearance, layout and design) for residential development of 230 dwellings and public open space (with access from Hancock’s Field, Hunter’s Walk and Hyton Drive), including roads, cycle paths, footpaths, ancillary works incorporating landscaping, a pond and alterations to existing Public Rights of Way, land between Deal and Sholden, Church Lane, Sholden**

Reason for Report: The number of contrary views to recommendation. Matters relating to the provision of affordable housing were also requested by the Vice Chairman of Committee and the Portfolio Holder for Environment, Waste and Planning to be reported to Committee at the Reserved Matters stage.

- b) **Summary of Recommendation**

Grant planning permission.

- c) **Planning Policy and Guidance**

Core Strategy (CS) Policies

- CP1 identifies the Settlement Hierarchy, with Deal (which includes the parish of Sholden) as a ‘District Centre’ – a secondary focus for development.
- CP3 indicates that land will be allocated in Deal to accommodate 1,600 units.
- CP4 requires the housing mix to accord with the Strategic Housing Market Assessment and seeks a design-led approach to density. Density should normally exceed 40 dwellings net per hectare and should seldom be less than 30 dwelling per hectare.
- CP5 relates to the Code for Sustainable Homes requirements.
- CP6 outlines the need for infrastructure to be in place to support new development.
- CP7 requires any pressures on green infrastructure to be offset.
- DM1 states that development will not be permitted on land outside the urban boundary unless specifically justified by other policies or it functionally requires such a location.
- DM5 states that 30% of homes provided on residential schemes over more than 15 dwellings shall be affordable housing units.
- DM11 states that development that generates travel will not be permitted outside the urban confines unless justified by policies. Development generating high

levels of travel will only be permitted within urban areas in locations that are/can be made to be well served by a range of transport means.

- DM13 requires parking provision to be a design-led process. Vehicle and parking guidance should be followed.
- DM15 states that development that results in the loss/ adversely affects the character or appearance of the countryside will only be permitted if it meets certain criteria, including that it is in accordance with the allocations made in the Local Plan Documents and does not result in the loss of ecological habitats.
- DM16 states that development that harms the character of the landscape will only be permitted if it is in accordance with Development Plan allocations and incorporates avoidance and mitigation measures and can be sited to avoid or reduce harm.

Dover District Local Plan Saved Policies

- CO8 states that development adversely affecting a hedgerow will only be permitted if no practical alternative exists, suitable replacement planting is provided and future maintenance is secured.

Land Allocations Pre-Submission Local Plan (LAPSLP)

- This document has been through Examination in Public, but is not yet adopted. The document refers specifically to this site and sets out that it was identified as a broad area for an urban extension in the Core Strategy.
- Policy LA11 states that any application must comply with a list of criteria:
 - The design of the site creates a soft edge between the development and the surrounding countryside and St. Nicholas's Church;
 - Views of St. Nicholas's Church and the wider landscape are incorporated into the design and retained;
 - Community facilities are provided to benefit existing and new residents in the area;
 - A mitigation strategy to address any impact on the Thanet Coast and Sandwich Bay Ramsar and SPA sites
 - Footways are preserved, enhanced (where necessary) and integrated into the new development;
 - Measures provided to mitigate against impacts on the wider road network, including sustainable transport measures.

Delivering Affordable Housing through the Planning System SPD (2007)

- This is intended to be used as a starting point for negotiating affordable housing provision.

The Dover District Strategic Flood Risk Assessment 2007 (SFRA)

- A site in broadly the same location is shown and the document advises that land raising and or flood compensation may be necessary and a suitable land level should be agreed with the Environment Agency.

- The NPPF sets out that the planning system should ensure that development is sustainable. It states that the three dimensions to sustainable development are economic, social and environmental. It provides twelve core planning principles that should underpin decision-taking.

National Planning Policy Guidance

- The National Planning Policy Guidance has recently been published, to be read in conjunction with the NPPF. This provides a range of guidance, including on design, which states that the Local Planning Authority should ensure that development can deliver a wide range of planning objectives and that it should enhance the quality buildings and spaces, by considering amongst other things, form and function, efficiency and effectiveness and its impact on well-being.

Other Guidance

- By Design
- Manual for Streets 1 and 2
- Kent Design Guide
- Building for Life 12

National Planning Policy Framework (NPPF)

d) **Relevant Planning History**

- DOV/10/01012 - Outline planning application (with all matters reserved expect access) for residential development of up to 230 dwellings and public open space, with access from Hancock's Field, Hunter's Walk and Hyton Drive, including roads, cycle paths, footpaths, ancillary works incorporating landscaping, a pond and alterations to existing public rights of way – granted

e) **Consultee and Third Party Responses**

County Highways: no objections.

- The layout of the site is acceptable in highway terms and provides suitable streets in accordance with Kent Design and Manual for Streets;
- Road widths, junctions and turning heads are acceptable for the size of vehicles likely to use them, including for buses on the spine road and both emergency vehicles and refuse collection vehicles on all roads;
- Acceptable speed restraint measures are incorporated in the street layout as are visibility splays, footways, cycleway connections and service margins;
- The proposed location of bus stops is acceptable, as is the bus route through the site;

- As such, the proposals are in accordance with conditions 11, 12, 33 and 34 of the outline consent;
- Car parking is provided in accordance with Policy DM13, including visitor parking provided in lay-bys within the proposed streets. Garages have not been counted as providing parking spaces and despite this; the amount of parking proposed is in excess of the minimum requirements;
- Replacement parking is provided for that lost as a result of the access arrangements from Hancock's Field and Hyton Drive and is the same as that agreed under the outline consent;
- Secure, covered cycle parking is provided for each dwelling in the form of garages, sheds or communal cycle stores. As such the proposals are in accordance with conditions 31 and 32 of the outline consent;
- The proposed phasing of the development provides suitable access for each phase of development, including the provision of the spine road at an early stage to enable the bus service to operate before occupation of the 40th dwelling. As such the proposals are in accordance with conditions 5 and 11 of the outline consent;
- A condition should be attached to the planning consent removing permitted development rights in relation to the fitting of doors to the open car ports, as this may lead to the car ports not being used for the parking of vehicles.

Environmental Health: No comments.

Southern Water: No comments raised.

Natural England: No objections. The proposal is unlikely to have significantly different impacts on the natural environment than the original proposal.

Kent Wildlife Trust: No comments received.

County Archaeology: An informative should be attached to any decision notice to remind the applicant of the need to address conditions 21 and 22 of the outline consent.

Kent Fire and Rescue: no objections. The plans meet the fire service requirements.

Environment Agency: Raised no objection to the principle of development and surface water management infrastructure. In response to the first consultation, the EA advised that it needed the agent to give further consideration to an exceedance event, the associated flow routes, any implications in the event of the capacity of the pond being reached and how the system will be managed and maintained upon occupation of the dwellings.

In response to the second consultation, in which the agent had provided additional information, plans and a Surface Water Drainage Report and Lifetime Management Statement, the EA has advised that it raises no objections.

River Stour Internal Drainage Board: No objection, provided that surface water runoff can be attenuated on-site (and subsequently discharged) for the 1 in 100 year rainfall event + climate change and the future maintenance of the drainage system is assured.

Drainage and local flood risk has been an issue at this location since the planning application was first made. The Board stated from the start that surface water drainage rates to South Wall Road Dyke must not increase. This watercourse previously flooded the road and property upstream regularly but hasn't been a problem since the IDB took on its routine maintenance. The applicant's drainage consultant analysed the site and came up with the proposed 2.4l/s attenuation rate, which is extremely low for a site of this size (approx. 14ha). This was originally thought to be as a result of high permeability but it has since been stated that soakage rates are very low. This was mainly due to the site currently draining towards other areas (which indicated that existing flooding issues could be improved by this development). The EA also raised concern about high groundwater levels and queried exceedance arrangements.

A larger than proposed discharge rate could possibly be justified by the applicant with appropriate information/calculations, and the low discharge rate is the main cause of current difficulties.

Due to this very low discharge rate, the risk of a rainfall event occurring soon after the 1 in 100 year storm (before the pond has been able to discharge) was highlighted. It is understood that the applicant has subsequently increased storage capacities and has provided an overflow arrangement. It has been stated that this overflow would only come into operation if there was a full 1 in 10 year storm very soon after a 1 in 100 year event. Whilst this appears to address this concern, provided storage calculations are correct, there would still be the risk of overtopping if the regular (and very small) outlet becomes obstructed. It is therefore essential that the system is regularly and properly inspected and maintained.

Public Rights of Way: No objections. The Public Rights of Way Officer is grateful to the developer for increasing the surfaced width of ER392A.

Rural Planning Limited: no further agricultural assessment required.

Coal Authority: No comments.

Sport England: No comments.

Deal Town Council: Objects on the following grounds (*comments in relation to initial consultation*)

- Lack of resident car parking provisions on site;
- Lack of trees and landscaping;
- Lack of proper flood protection provisions;
- Some of the roads on site are too narrow;
- The current approach roads are not adequate for the heavy goods vehicles needed to construct the development.

Sholden Parish Council: Objects on the following grounds (*comments in relation to initial consultation*):

- Road width on-site inhibits accessibility for emergency vehicles, delivery vehicles and the bus service

- Accesses and surrounding roads are already congested. Additional cars from the development will compromise the safety of road users and pedestrians
- Emergency service provision is compromised. Do the emergency services know about the poor access arrangements?
- The community centre land is in the wrong location and is not conducive for the inclusion of the wider community
- Access for construction traffic will disrupt local residents
- Design quality is poor, with too many dwellings of poor quality
- Attenuation pond capability. The pond on the Ward site is already full with the recent rain. Flood risk
- Concerns regarding the current and proposed management of the Southwall Road ditch and the knock-on effect flooding of the ditch would have on the Albert Road area, which floods regularly
- Requests clarification that the current access in the vicinity of Church Field Farm will be retained.

Public Representations: Five letters of representation were received in relation to the first advertisement period, four of which are objections. No additional letters have been received in relation to the second advertisement period.

- Traffic – congestion from cars, visitors and delivery vehicles at Orchard Avenue, Southwall Road, Middle Deal Road and onto Sholden;
- Lack of resident car parking provisions on site;
- Lack of trees and landscaping;
- Flooding. There has been water run-off and flooding at Sholden Fields and the proposed drainage and pond at this development would be inadequate. The land is higher than the surrounding area and water will run off to Church Lane and the rear of Sholden;
- The surface water drainage is flawed – concerns about the use of on line flow control devices such as hydrobrakes as they are difficult to maintain and liable to be blocked. The current outfall is an open drain adjacent to South Wall, which regularly overflows onto the highway by the waste recycling centre;
- Extra pressures on resources such as local schools, doctors and hospitals;
- Removal of grade 1 agricultural land;
- The East Kent Badger Group strongly advises a badger survey be carried out.

f) 1. **The Site and the Proposal**

1.1 This is an irregular shaped site, located on open land, which separates Middle Deal from Sholden. The site consists predominantly of agricultural land, scrub, trees and hedgerows that run along the field boundaries. The land falls gently from south to north. The site is surrounded by agricultural fields to the north and west, business uses to the north-east, in the Southwall Road area and residential areas to the east and south of the site. The eastern part of the site falls within Flood Zones 2 and 3 and there are European nature designations to the north-east. The site provides short views of Sholden and St.

Nicholas's Church. The main vehicular access is from Hyton Drive. There are a number of pedestrian access points into the site and a public footpath that cuts through the site, running diagonally from Hunter's Walk to The Street, Sholden. There is also a route that leads off Church Lane, through Court Lodge Farm and onto Southwall Road.

- 1.2 The site has outline consent granted for residential development, which has been informed by site constraints – most notably the flood zones to the east, the accesses into the site and the landscape. The outline consent includes a Section 106 Agreement, which requires the developer to pay financial contributions and to have a management company set up, amongst other requirements (*set out in para. 3.6*).
- 1.3 This proposal seeks planning permission for the reserved matters, following on from the outline consent granted under DOV/10/01012. The proposed layout submitted as part of this application generally reflects closely that shown indicatively at the outline stage, although the detailed design within the residential development has altered.
- 1.4 The proposal is for the erection of 230 dwellings, with the housing occupying only part of the site – on both sides of the allotments that front Church Lane and at the rear of Hancock's Field, Church Meadows and Hunter's Walk/ Fenton Court – this layout enables the dwellings to be located outside the Flood Zone areas 2 and 3. A bus route would run through the estate, entering from Hancock's Field and exiting at Hyton Drive.
- 1.5 The proposal incorporates an area of open space to the north-west of the residential development, which would incorporate a Local Equipped Area of Play (LEAP) and an area to be reserved for any future community building, in line with the requirements of the Section 106 Agreement. A further open space would be provided to the north of the site, which would include a balancing pond.
- 1.6 A footpath would lead off from Church Lane and would run along the periphery of the residential development, passing the balancing pond and leading out at Southwall Road. The existing footpath from Sholden would remain and would run through the development and onto Hunter's Walk. This footpath would be a SUDs route.
- 1.7 The residential development layout incorporates road-fronting dwellings, with a mixture of dwelling types, including detached, semi-detached and terrace properties and flatted development. Parking would be provided through a mixture of off-road parking, on-road parking and parking courts. Two local areas of play (LAPs) are provided within the residential development.
- 1.8 The proposal would provide 30% affordable housing.
- 1.9 *Plans will be on display.*

2. **Main Issues**

This application is the Reserved Matters application following on from the approved outline consent. The Reserved Matters are the landscaping, appearance, layout and scale of the proposed development. The accesses into the site were approved under the outline consent and are not for further consideration in this application. Matters of principle, including the use of the land for housing, the number of residential units within the site and the traffic/ highways implications arising from this number of dwellings, have already been established as acceptable and are not for further consideration under this Reserved Matters application.

2.1 As such, the principal issues for consideration are:

- Policy context and background to the site;
- Layout and design;
- Highways implications;
- Provision of play-space;
- Housing mix;
- Affordable housing;
- Surface water drainage and flood issues;
- Ecological issues;
- Conditions and Section 106 requirements.

3. **Assessment**

Policy context and background to the site

- 3.1 Outline planning permission has been granted at the site for a residential development of up to 230 dwellings and a public open space. All matters were reserved, apart from the accesses into the site.
- 3.2 During the course of the outline application, the proposal was amended in the location and number of dwellings – to locate them on land at the lowest risk of flooding. This moved the proposed development to the west of the site and necessitated accesses from only three roads (instead of the originally proposed four).
- 3.3 The outline application was advertised as a departure from the Development Plan, due to its location outside the built confines of the Deal Urban Area. The proposal did however accord with the spatial strategy for Deal, as outlined in the Core Strategy and this weighed in favour of the development.
- 3.4 Members may recall considering the outline application for this site first of all at Planning Committee on 15th September 2011 (agenda item 1). The application was deferred, in order for officers to prepare a further report on areas of concern relating to traffic, surface water treatment, a response from the Coal Authority, site contamination, how the site relates to the Site Allocations Document and the need for a study on the usefulness of a community building.

- 3.5 A further report then went to Planning Committee on 14th December 2011 (agenda item 1), at which Members resolved to grant planning permission, subject to the Section 106 Agreement being resolved and that the Committee was to be notified of the outcome of negotiations on the developer's financial contributions. The obligations and triggers for their provision were set out in an agenda item at Planning Committee on 18th April 2013.
- 3.6 In summary, the Section 106 Agreement included the following obligations:
- Adult Social Services financial contribution;
 - Affordable Housing Scheme to be submitted as part of Reserved Matters application, with a financial contribution option included;
 - Provision of balancing pond;
 - Bus Services financial contribution;
 - Community Building Site to be reserved;
 - Community Building contribution;
 - Community Space Scheme, to include playable spaces, a LEAP, a balancing pond and Public Open Space;
 - Library contribution;
 - Thanet Coastal Mitigation Strategy contribution;
 - Southwall Road ditch contribution;
 - Management Company to be set up.
- 3.7 A Supplemental Deed to the Section 106 Agreement was also signed at a later date, which allows the Council the discretion of accept a contribution towards off-site affordable housing in lieu of the obligation in the Principal Agreement to provide on-site affordable housing. Members were updated of the Section 106 Agreement requirements at Planning Committee 18th April 2013.
- 3.8 The outline consent set out certain additional requirements that the Reserved Matters application has to include, which were set out in the conditions attached to the outline consent (*conditions 5, 10, 11, 18, 31, 42 and 46*) and the Legal Agreement that accompanied it. This required the following information to be submitted as part of the Reserved Matters application:
- A Phasing Programme for development;
 - A Surface Water Drainage Strategy (in the form of a Sustainable Urban Drainage System (SUDS));
 - Details of the layout, including details relating to play spaces, highways details and the balancing pond;
 - An Affordable Housing Scheme;
 - A Community Space Scheme;
 - Details of the provision within the site for replacement parking arising from parking areas lost as a result of the access arrangements;
 - All dwellings to be located outside flood zones 2 and 3;
 - A schedule of accommodation, to accord with the provisions of the housing mix set out in the Development Plan.

- 3.9 Other details are required under the outline consent by condition prior to commencement of development, which were delegated to be dealt with by officers. These condition details covered matters such as the submission of soft and hard landscape works, a tree survey, the provision of a Site Environment Plan, details of ground levels and sections, a Waste Management Scheme and a number of other requirements.
- 3.10 Some of the concerns raised by third parties and consultees relate to matters of principle that have already been considered and found acceptable under the outline consent. The principle of a residential development on this site, for up to 230 dwellings, is not for consideration as part of this application, nor is the traffic impacts associated with the development. The use of three accesses into the site – via Hancock’s Field, Hyton Drive and Hunter’s Walk – has been approved, as has the incorporation of a balancing pond to deal with surface water drainage.

Layout and design

- 3.11 The layout of the scheme has to some extent been dictated by the position of the three accesses into the site and the need to site the dwellings on land away from the Flood Zone 2 and 3 areas and to include open space and a balancing pond within the site, which was granted as part of the outline scheme.
- 3.12 In respect of the detailed layout of the residential development, during the course of the application, discussions have taken place with the applicant to achieve a layout that creates well defined streets and spaces. The main challenges in providing an acceptable layout have been in providing the correct level of parking spaces that are well related to the dwellings they intend to serve, whilst seeking to prevent an engineered or urbanised appearance with the over-use of hard-surfacing. This has involved discussions with planning officers and County Highways, working to create better street enclosure, achieving a better relationship between the parking spaces and the dwellings and an improved use of space.
- 3.13 Amended plans have been received, which are considered to be a significant improvement compared to the originally submitted scheme. These plans have been subject to re-advertisement and re-consultation. Associated plans (including hard and soft landscaping and plans showing tracking and visibility splays etc.) have been re-issued, to reflect the alterations carried out to the layout of the dwellings.
- 3.14 The scheme incorporates narrower streets around the periphery of the site, to help provide a soft edge and to integrate the site with the surrounding countryside, in line with LAPSLP policy LA11. The density of residential development is lower around the edges of the site – with mainly larger, detached houses within larger curtilages – to again identify the shift towards the undeveloped countryside. The location and layout of the residential development, with open space surrounding and a public footpath running around the periphery and

across the site, should enable some views of St. Nicholas's Church in Sholden to be retained.

Provision of parking and internal roads

- 3.15 The overall road layout is very similar to that shown indicatively at outline stage, with the main bus route running off Hunter's Walk and around and out of Hancock's Field. The main route incorporates on-street parking and has a boulevard character, with tree planting along either side of the road.
- 3.16 The road widths, visibility splays and traffic calming methods have been formulated as a result of consultation and discussion with County Highways throughout the course of the planning application. Efforts have been made to reduce the road widths – especially around the periphery of the site, to ensure that the development does not appear over-developed and dominated by tarmac and to help integrate the development into the rural area beyond. Effort has been made to design the streets in a way to encourage low vehicle speeds. This has included consideration of whether the streets are pedestrian-friendly and whether they would encourage cars to drive more slowly.
- 3.17 In respect of parking, the amended plans incorporate the scattered use of parking courts. These would generally be small in size and well overlooked. Most of the off-street parking spaces are provided within the curtilages of the dwellings and in most cases, where parking is positioned to the front of the property, there is also an enclosed, landscaped front garden, to reduce vehicle domination. There are instances of a few driveways and hard-standings being provided next to each other, but these are shown to be separated by thin strips of soft landscaping to help break up the hard-surfacing. This reflects the pattern of development along Church Lane, where some of the dwellings are hard-surfaced for parking with no lawns – but with strips of soft landscaping to soften the engineered frontages. On-street parking has been provided in appropriate locations.
- 3.18 A range of parking solutions has been incorporated into the scheme, including on-street and off-street parking, with some parking courts. It is considered that the resident and visitor parking would be sufficient and well-integrated, so that it would not dominate the street and would be positioned close to people's homes and that the overall parking layout would comply with the requirement of CS policy DM13 to be design-led, taking into account the parking standards set out in the CS.

Detailed design of buildings

- 3.19 Residential development surrounding the site comprises a mixture of terrace properties, semi-detached and detached dwellings, mainly brick-finished, but with some incorporating tile-hanging and painted frontages. Most dwellings have simple gable sided, or hipped roof designs, but there are instances (particularly within the more recent developments) of more varied roof designs, some incorporating dormers.

- 3.20 The proposal incorporates a mix of dwelling designs and sizes and variety is provided through the use of materials. Dwellings would be brick-built, with some incorporating render or tile-hanging at first floor level to the frontages. There is some diversity across the site, with variation in height created by the inclusion of two storey, two and a half storey and three storey buildings. All dwellings are shown to have private rear gardens. The dwellings have been designed to prevent any overlooking concerns and are considered to have an acceptable relationship with existing dwellings and with each other, to provide an acceptable standard of residential amenity for occupants.

Public Rights of Way

- 3.21 The connections into and within the site will enable it to integrate it within surrounding development. The proposed dwellings along Church Lane have been designed to overlook the existing footpath in Church Lane and this would also provide an active street frontage.
- 3.22 A SUDS route and public footpath runs through the site, linking the existing public footpath and proposed open space to the development and coming out near the edge of the site at Hunter's Walk. Dwellings have been designed to provide an element of over-looking for this route and provide natural surveillance.
- 3.23 Public Rights of Way officers have raised no objections and have expressed that they are grateful to the developer for increasing the surfaced width of the route ER392A.
- 3.24 Cycle routes are integrated into the layout and pass in front of people's houses so that they are well-overlooked.

Landscaping

- 3.25 The importance of creating a soft edge, with careful definition of the site boundary, to minimise landscape impact at this site has been identified in the CS and LAPSLP.
- 3.26 A Landscape Management Plan has been submitted, which sets out a comprehensive management plan for the maintenance of public open spaces and facilities, which is acceptable and the Council's Principal Ecologist raises no concerns.
- 3.27 The proposal incorporates a robust buffer along the northern edge of the residential development, with additional planting around the other boundaries, which would help to create the soft edge and integrate the development as much as possible within its setting.
- 3.28 The Plan identifies the management responsibilities and long-term design objectives of the proposed open space and public areas.
- 3.29 The proposal is considered to comply with the objectives of LAPSLP Policy LA11, which seeks to retain views of the wider landscape and the landscaping details are considered to be appropriate.

Highways implications

Parking provision

- 3.30 A number of meetings have been held during the course of the application (and at pre-application stage) to achieve a scheme that would provide resident and visitor parking spaces that were well-related to the dwellings they would serve.
- 3.31 Car parking, including visitor parking provided in lay-bys within the proposed street, is design-led, based on the characteristics of the site, locality and provides parking spaces in excess of the minimum requirements.
- 3.32 Replacement parking is provided for that lost as a result of the access arrangements from Hancock's Field and Hyton Drive. Secure, covered cycle parking is provided for each dwelling in the form of garages, sheds or communal cycle stores.
- 3.33 The parking layout therefore complies with CS Policy DM13 and County Highways raises no objections.
- 3.34 A condition should be attached to the planning consent to prevent the fitting of doors to the open car ports, as this may lead to the car ports not being used for the parking of vehicles.

Internal roads

- 3.35 Concerns have been raised in relation to the width of some of the internal roads and any implications on the emergency services. Kent Fire and Rescue Service has examined the amended plans and has advised that the scheme is acceptable, raising no objections.
- 3.36 County Highways has advised that the road widths, junctions and turning heads are all acceptable for the size of vehicles likely to use them, including for buses on the spine road and both emergency vehicles and refuse collection vehicles on all roads.
- 3.37 The speed restraint measures incorporated in the street layout are acceptable, as are visibility splays, footways, cycleway connections and service margins.
- 3.38 The proposed phasing of the development would provide suitable access for each phase of development, including the provision of the spine road at an early stage to enable the bus service to operate before occupation of the 40th dwelling.

Bus route

- 3.39 The Section 106 Agreement requires the developer to pay a sum towards the provision of a service connecting the land with Deal Town Centre, along a route to be agreed between the bus operator and DDC.

- 3.40 A bus service will run through the site and a condition of the outline consent requires that the spine road loop is in place to allow buses to operate before the occupation of the 40th dwelling.
- 3.41 Details of the proposed bus route (including tracking diagrams) have been provided and Stagecoach raises no objections, subject to detailed arrangements and yellow line markings being confirmed between developer and Stagecoach. County Highways has advised that the proposed location of bus stops is acceptable, as is the bus route through the site.
- 3.42 The overall layout of the site is acceptable in highway terms and would provide suitable streets in accordance with Kent Design and Manual for Streets.

Play space provision

- 3.43 The Local Plan Standards state that developments comprising 15 dwellings will provide a local area of play (LAP) and development comprising 50 family dwellings will provide a local equipped area for play (LEAP).
- 3.44 A condition of the outline consent required details of the areas of public open spaces, together with the location and size of a LEAP and the location and size of the playable spaces, to be submitted at the Reserved Matters stage. Plans and details have been submitted to comply with these requirements.
- 3.45 The Section 106 Agreement also requires a Community Space Scheme to be submitted with the Reserved Matters application, to include a plan showing the location and specifications of the LEAP, public open space and playable space, together with a scheme for the long-term management, which has also been done.
- 3.46 The proposal incorporates the provision of two LAPS within the residential development. The LAPS have been appropriately sited within the site and would be well overlooked by surrounding dwellings.
- 3.47 The LEAP would be provided to the north-west of the residential development. The LEAP would be adequately equipped with appropriate access and would be overlooked by nearby dwellings and from the pedestrian footpath.
- 3.48 The Community Space Scheme has been amended slightly, to provide acceptable trigger points for the provision of the play-spaces as part of the construction of the development. Advice was given in relation to the surfacing around the play equipment, which has been incorporated on amended plans.
- 3.49 The Community Space Scheme, required to be submitted as part of this application by the Section 106 Legal Agreement, is considered to be acceptable.

Housing mix

- 3.50 To ensure that a range of housing needs are met and to reflect the need, CS policy CP4 requires the housing mix to accord with the Strategic Housing Market Assessment. A condition of the outline consent requires the Reserved Matters application to be accompanied by a Schedule of Accommodation, which shall accord with the provision for the housing mix set out in the Development Plan.
- 3.51 During the course of pre-application discussions, the proposed mix was altered to reflect more closely the proportions set out in the Core Strategy. The mix of housing would be 46 (20%) four bed homes, 88 (38%) three-bed dwellings and 96 (42%) two bed homes, which reflects closely the mix set out in the CS. Market conditions have also dictated the proposal and the scheme is considered to provide a satisfactory mix of housing.

Affordable housing

- 3.52 The proposal incorporates 30% affordable housing and a plan has been submitted to illustrate where these dwellings would be sited within the development.
- 3.53 An Affordable Housing Scheme has been submitted as part of this application, in accordance with the requirements of the Section 106 Legal Agreement, which requires details of the affordable housing number, type, tenure mix and timing of provision, the maximum percentage of market housing units that can be occupied prior to the transfer of the affordable housing units to a registered provider and the identity of the registered provider.
- 3.54 The Affordable Housing Scheme sets out a 70:30 split between affordable rented and intermediate housing, to reflect the requirements set out in the Affordable Housing SPD. Forty-four Lifetime Homes are incorporated into the mix, as well as two wheelchair standard units. Heads of Terms have been agreed with Orbit Housing Group to be appointed to manage the affordable housing within the site.
- 3.55 The Council's Housing Initiatives Manager has advised that generally, he is very supportive of the affordable housing provision that is proposed. The Strategic Housing Market Assessment undertaken in 2009 ranked Deal as having the second greatest need for affordable housing out of the 21 local housing market areas in East Kent that were assessed. He is particularly pleased about the commitment to the provision of two wheelchair units, as the provision of such housing is a Housing Strategy priority. Similarly, the commitment to building 44 units to lifetime homes standard is also very welcome.
- 3.56 The originally suggested 1 bed units have been substituted for 2 bed units. The Housing Initiatives Manager recognises there is a benefit from this in so far as the number of persons accommodated by the scheme, although it does reduce the ability to enable households to downsize from larger social housing units. Given that 30% of the units would be for shared ownership and that it is likely that a significant number of 2 bed units will be designated for this tenure, the Housing Initiatives Manager accepts the revised unit mix.

- 3.57 The Housing Initiatives Manager is very comfortable with the developer's choice of RSL partner. Orbit manages other properties in the district and have shown a commitment to developing good quality affordable housing in the district.
- 3.58 The proposal is considered to comply with the policy requirements to provide affordable housing and the Affordable Housing Scheme is acceptable. The requirements of the Section 106 Agreement are met, as are the requirements of conditions of the outline consent to provide a schedule of accommodation and the provision of affordable housing to be based on evidenced justified need.

Drainage and flood risk

Drainage

- 3.59 A number of concerns have been received from local residents, Sholden Parish Council and Deal Town Council, in relation to how the site would be effectively drained. The need to effectively manage the surface water drainage was also acknowledged in the LAPLSP, which states that due to the low lying nature of this area, surface water management would be required.
- 3.60 The outline consent established that a balancing pond was an acceptable method of addressing the drainage of the site and a condition of the consent requires that the surface water run-off rates are restricted to a maximum of 2.4 litres per second. The outline consent also requires a Surface Water Strategy (in the form of a Sustainable Urban Drainage System) to be submitted as part of the Reserved Matters application.
- 3.61 A Strategy was submitted with the planning application and the Environment Agency, Southern Water and the River Stour Internal Drainage Board were consulted.
- 3.62 The Environment Agency and River Stour Internal Drainage Board advised that whilst the scheme was generally in line with what was agreed at the outline stage, further information was required on the following matters:
- Consideration of how the scheme would function in an exceedence event and the associated flow routes and implications in the event of the capacity of the bond being reached;
 - Further details of soakage testing;
 - How the system would be managed and maintained upon occupation of the dwellings.
- 3.63 Additional plans, details and a Surface Water Drainage Report and Lifetime Management Statement were submitted by the agent in relation to these requests. The Environment Agency, River Stour Internal Drainage Board and Southern Water have viewed this information and now raise no objections to the scheme.

- 3.64 The proposal is for all of the surface water to discharge to a main collection swale to the north-east of the site, to discharge into a balancing pond located in the north-eastern corner of the site. Because of the long discharge period and original questions as to the risk of the pond being overtopped as a result of subsequent rainfall events, the pond has been increased in capacity.
- 3.65 The application sets out that the pond would have a capacity of 6,940m³, when full. The required volume for a 1 in 100 year peak storm, plus 30%, is 4,225m³, using an outfall restriction of 2.4 litres per second. This means that the pond has capacity to cope with a 1 in 100 year storm, plus 30%, with a further 1 in 10 year storm of 2,147 m³ following immediately afterwards. So, the pond would be able to cater for several storm events clustered during a winter period.
- 3.66 An overflow arrangement has been included in the design, to ensure that if the main outlet is blocked, the pond will still drain to the ditch. This would be by the means of a secondary pipe within the hydro-brake chamber. A further overflow would be provided within the top of the banks, via a manhole with a grated cover, which would be linked to the ditch network via a pipe. This would enable the pond to overflow in a controlled manner.
- 3.67 The principle of discharge into the Southwall Road ditch/ sewer was established at outline stage and a Section 106 payment of £60,000 is required towards the costs of the long-term maintenance of the ditch in Southwall Road, to be paid prior to the occupation of the first dwelling. The Report indicates that as the restriction of 2.4 litres per second is so small, there would be no effect on downstream properties, even if the ditch/ sewer was partially blocked.
- 3.68 The outfall ditch, main pond and control would be the first elements to be constructed, with the upstream swale brought up to the edge of the site and around the spine road. Any temporary site drainage discharge to the pond would be de-silted using settlement tanks.
- 3.69 Maintenance responsibilities have been set out in the Drainage Report, setting out that there would be annual inspections of the swales, quarterly inspections on the storage pond and outfalls and inspections once every five years for the private foul drainage. The drainage, including the swales and pond, will be Persimmon's responsibility until it is handed over to the Development Management Company that will be set up, as required under the Section 106 Agreement. The main surface water sewers in the road will be offered for adoption to Southern Water.
- 3.70 Officers recognise the importance of ensuring that the drainage strategy is workable and effective. The system proposed, using a balancing pond, was established as an appropriate method of drainage at the outline stage. Officers have been advised by the Environment Agency, Southern Water and the Internal Drainage Board, who provide the expert advice on this matter, that the system is acceptable. The proposed surface water strategy is considered to be able to satisfactorily cater for the proposed development.

Flood risk

- 3.71 The site includes land within Flood Zone 2 and Flood Zone 3 and the residential development has been located outside of these areas, following consultation with the Environment Agency at the outline stage.

Biodiversity and ecology

Environmental Impact Assessment (EIA)

- 3.72 The outline application was submitted alongside an Environmental Impact Assessment (EIA), which was updated by an Addendum when amendments were made to the location and number of dwellings. This proposal reflects broadly the indicative layout proposed at outline stage. Circumstances have not changed so as to require an updated EIA to be submitted.

Loss of agricultural land

- 3.73 The point was also made in the EIA that the Grade 1 land equates to less than 0.2% of Grade 1 land in the Dover district. This was taken into account when the area was earmarked for expansion through the Core Strategy and was taken into account at the Examination in Public. Concerns have been reiterated at this Reserved Matters stage at this loss, but the principal of residential development on this site – and consequent loss of agricultural land - has already been accepted with the outline consent.

Other matters

- 3.74 The East Kent Badger Group has strongly advised that a badger survey needs to be carried out (*this was also their advice at the outline stage*). At outline stage, the initial biodiversity survey report (2010) did not identify any badger setts on site, nor any evidence that the site was being used by badgers. The site was well used by dog walkers and therefore considered to be relatively disturbed and less likely to support badger setts. The applicant's Ecologist has advised that in March 2014, she walked around the whole site, assessing the site for badgers. No evidence of badgers using the site was noted. No setts were recorded during the survey and the applicant's Ecologist has advised that no badger setts are present on site. The Council's Ecologist has confirmed that there is no need for a badger survey to be carried out.
- 3.75 An Ecology Strategy and Mitigation Strategy are required to be submitted prior to commencement of development. The agent has confirmed that the Strategy is underway.

Other

Location of the community building

- 3.76 The outline consent required the developer to pay a contribution for a community building and to reserve an area within the site for a

community building to be provided, which has been shown on plan. The location of the reserved portion of land is satisfactory – it is located close to the residential development, adjacent to a road and would be accessible.

Conclusion

- 1.77 The layout submitted under this application closely reflects that submitted indicatively at outline stage, mainly because matters such as the drainage strategy, the position of the balancing pond, the location of the flood zone areas and the location of the accesses identified at the outline stage dictated the main layout concept. The matters of principle were established at the outline stage and this application refers only to the reserved matters details.
- 3.78 The NPPF requires that all development is sustainable, which it states has economic, social and environmental strands. The residential development will provide an economic role in the provision of jobs during the construction process.
- 3.79 The proposal provides an appropriate mix of housing and incorporates 30% affordable housing, with the houses constructed to meet the Code for Sustainable Homes Level 3. The provision of a large area of open space, playable space and a locally equipped play area, with a well-integrated public footpath network and bus route, will help to support a strong, vibrant and healthy community and provide the necessary community facilities for residents, in line with LAPSLP Policy LA11 requirements. The proposal will therefore meet the social role of the NPPF, which requires a supply of housing to be provided to meet the needs of present and future generations.
- 3.80 The scheme incorporates soft landscaping, meadowland and public open spaces, which will contribute to enhancing the natural environment and improve biodiversity and creating a soft edge and wider views of St. Nicholas's Church and the wider landscape, as required by LAPSLP LA11. The scheme incorporates a drainage system using SUDs principles and will support environmental objectives, in accordance with the NPPF.
- 3.81 Having considered the proposal in the context of policy, the NPPF and all other material planning considerations, the Reserved Matters application, covering the landscaping, appearance, layout and scale of the proposed development, is considered to result in the delivery of a sustainable form of development.
- 3.82 There are no implications under the Equality Act that would alter this conclusion.

g) **Recommendation**

The outline consent provides a comprehensive list of conditions and as such, a limited number of conditions are suggested.

I RESERVED MATTERS BE APPROVED, subject to conditions to include:

- (1) A list of the approved plans;
- (2) Permitted rights to remove insertion of doors to car ports;
- (3) Details of any marketing area and associated advertising boards;
- (4) Street lighting details;
- (5) Refuse and recycling storage to be provided for each dwelling prior to first occupation.

II INFORMATIVES

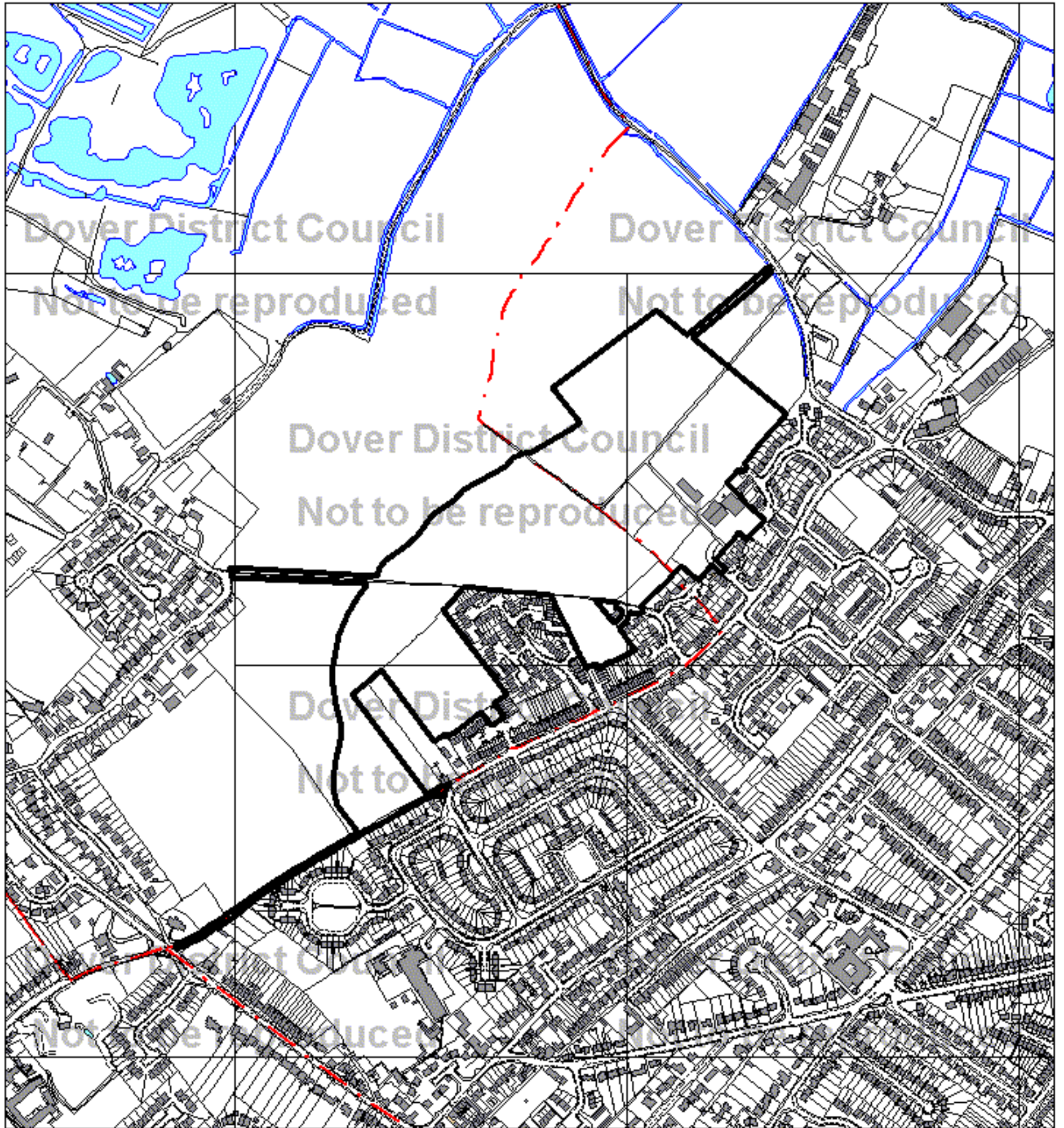
It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

- III Powers be delegated to the Head of Regeneration and Development to settle and add any necessary planning conditions and matters, in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Sarah Platts

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Application: DOV/13/00945

Land between Deal & Sholden

Church Lane

Sholden

TR36205257



DOVER DISTRICT COUNCIL

PLANNING COMMITTEE – 10 APRIL 2014

REPORT OF THE HEAD OF REGENERATION AND DEVELOPMENT

a) **DOV/14/00023 – Section 73 application to vary condition 2 (parts 2d and 2e) of planning permission DOV/12/00589, to enable racing on:**

- **Sunday 20/04/2014, 9am to 5pm (British Drift Championship);**
- **Sunday 10/08/2014, 9am to 5pm (British Drift Championship);**
- **Sunday 25/05/2014, 9am to 5pm (World Rallycross Championship);**
- **Two consecutive days at intervals of less than 10 clear days in May, due to the relocated World Rallycross Championships and in June, due to the relocated Kings of Europe Championships,**

At Lydden Race Circuit, Wootton

Reason for Report: The application has also been called-in by a Councillor.

b) **Summary of Recommendation**

Refuse planning permission.

c) **Planning Policy and Guidance**

Core Strategy (CS)

- DM1 states that development will not be permitted on land outside the rural settlement confines, unless specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM3 states that new commercial development/expansion of an existing business will be given if it is within the rural settlement confines, unless it can be demonstrated that no suitable site exists, in which event it should be located adjacent to the settlement, unless there is a functional requirement for it to be located elsewhere.
- DM15 states that development that would adversely affect the character or appearance of the countryside will only be permitted if it meets certain criteria, including if it cannot be accommodated elsewhere and provided that measures are incorporated to reduce harmful effects on countryside character.

Dover District Local Plan (DDL P) saved policies

- AS13 states that proposal to expand the use of Lydden Circuit for motor sports or intensify its frequency will be refused. Only development ancillary to its existing use will be permitted.

National Planning Policy Framework (NPPF)

- The NPPF states that planning should proactively drive and support sustainable economic development and that it should seek to ensure a good standard of amenity for all existing occupants.

Noise Policy Statement for England (2010)

- This document sets out the long-term vision of Government noise policy to promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development.
- It provides several key phrases, including:
 - LOAEL- Lowest Observed Adverse Effect Level (the level above which adverse effects on health and quality of life can be detected)
 - SOAEL – Significant Observed Adverse Effect Level (the level above which significant adverse effects on health and quality of life occur. This is likely to be different for different noise sources, receptors and times).

National Planning Policy Guidance (NPPG): Noise (2014)

- This guidance examines when noise is relevant to planning, whether it can override other planning concerns, how to determine the noise impact, observed effect levels, how to recognise when noise could be a concern and what factors influence whether noise could be a concern.
- The guidance refers to the phrases outlined in the Noise Policy Statement. It states that Significant Observed Adverse Effects are those that are noticeable and disruptive and would cause a material change in behaviour and/or attitude, resulting in quality of life being diminished, due to a change in the acoustic character of the area.
- It examines what factors are relevant to identifying areas of tranquillity, stating that whilst there are no precise rules, for an area to be protected for its tranquillity, it is likely to be relatively undisturbed by human-caused noise sources. Such an area is likely to be already valued for its tranquillity, including the ability to perceive and enjoy the natural soundscape and is likely to be seen as special for other reasons, including its landscape.

d) **Relevant Planning History**

- DO/84/1109 - Retention of the circuit, together with associated toilets, buildings and car parks and the continued use of the land as a motor sport centre on a permanent basis –allowed at Appeal.

DOV/09/1115	-	Retrospective application for the erection of two grandstands and associated hard-standing – granted.
DOV/09/1116	-	Retrospective application for the siting of a two storey portable building – granted.
DOV/10/372	-	Retrospective application for the creation of an earth mound - granted.
DOV/10/650	-	Erection of a catering building – granted.
DOV/11/0463	-	Certificate of Lawfulness (existing) for continued use of land for grass track racing – granted.
DOV/11/1115		Erection of race control/ office tower, toilet/shower block, single storey workshop/store/scrutineering building, VIP centre/ canteen building and associated landscaping (existing race control building, toilet/shower block, scrutineering building, workshop and storage containers to be removed) – granted.
DOV/12/589		Section 73 application for the variation of Condition 2 (part E) of planning permission DO/84/1109, to vary the opening times on a Sunday – granted.
DOV/13/167		Section 73 application for the erection of race control/ office tower, toilet/shower block, single storey workshop/store/scrutineering building, VIP centre/canteen building and associated landscaping with the variation of condition 2 of DOV/11/1115 to allow external changes to the appearance of the race control tower – granted.
DOV/13/954		Scoping Opinion – advice given.

e) **Consultee and Third Party Responses**

Environmental Health: Objects.

A previous application (DOV/12/589) was submitted requesting that a condition be varied to allow racing between 9am and 6pm on Sunday. The Environmental Protection Team objected on grounds that the existing conditions were put in place to protect residents from noise and permitting racing all day on a Sunday would undermine that. A compromise was reached in permitting events to begin and end 2 hours earlier on Sundays.

The Secretary of State originally imposed the condition in 1984 (DO/84/1109) in order to protect residents from noise arising from events at the circuit.

The residential properties in the surrounding area have not come about as a result of changes in use in the land - they were in existence prior to the race circuit. No information has been submitted as to how the increased noise exposure to local residents, resulting from this proposal, would be mitigated and minimised.

Further comments (in response to the agent's additional comments): The events take place at weekends and Bank Holidays when people want peace and quiet. The consecutive May weekends and information on the circuit's website mean it is proposed that in a period of 21 days there will be 7 days of racing. This is likely to cause severe disturbance to those living in the area. Recent monitoring of noise from the circuit has shown the levels of noise experienced in nearby residential properties to be intrusive. Varying the condition for these events will magnify such disturbance especially in the Bank Holiday weekends.

Whilst it is recognised that traffic noise is a concern to people in the area, the objection from Environmental Health is concerned with noise created by vehicles and associated activities on the track.

Principal Ecologist: There are no landscape or ecology issues, but there are concerns about the impact the proposal would have on the tranquillity of the AONB.

County Highways: No objections, as the proposal does not seek to alter the permitted nature of events at the circuit.

Environment Agency: No comments.

Affinity Water: No objections. If permission is granted, advice is given that the developer should work with Affinity Water in association with the provision of a potable water supply.

Southern Water: No objections.

County Archaeology: No archaeological measures required.

Highways Agency: No objection. There would be no increase of traffic above that for which the site already has permission. Has discussed some traffic measures that might assist and the applicant has submitted a simple transport statement, confirming trialling measures during events, which may deliver improvements and could be considered within a longer term traffic management plan for future events.

Denton with Wootton Parish Council: No objections.

Shepherdswell Parish Council: Objects. Racing before 10.30am and 4pm on Sundays is unacceptable as the noise is detrimental to the amenity of the occupants of the village when they wish to enjoy the peace of a Sunday. Also, the noise could interfere with an individual's right to practice their religion. Racing on three consecutive weekends is also unacceptable. The resultant noise and traffic congestion is detrimental to the amenity of the village and to have insufficient break between events does not allow for adequate enjoyment of the village and its environs when the majority of people are having a break from work.

Public Representations: 40 letters of representation have been submitted- 38 of objection and 2 of support.

Noise

- The race track must comply with condition 3 of DOV/84/1109 relating to noise disturbance and environmental impact on the area;
- The proposal would exacerbate the noise and traffic congestion on Sunday mornings, which have already been allowed under DOV/12/00589, despite strong local objections;
- DO/84/1109 gave consideration to noise intrusion to local residents on Sundays and this is gradually being eroded;
- Noise is continual without relief on race events;
- The proposal seeks to extend the hours beyond those that are currently giving rise to excessive noise levels;
- The noise is so bad sometimes that residents are obliged to go out;
- The noise can be heard from Elham;

Amenity

- Unacceptable intensification of use of the circuit, detrimental to local amenity;
- No evidence or justification of the need for additional hours has been submitted by the applicant;
- The piecemeal approach of planning applications raises concern within the local community;
- Sunday 20th April is Easter Sunday and priority should be given against the intrusion;
- Objects against racing on the May Bank Holiday Sunday;
- Events in the area are regularly impacted by the race calendar at the circuit;
- It is increasingly rare to have a weekend without significant and anti-social impacts of the substantial noise levels;
- Some events cause unpleasant smells of burning rubber;
- There is no consideration of the community impact in this commercial venture;
- The events are already being advertised on the circuit's website;
- Concerns that the Wootton Parish Hall may be adversely affected in its bookings and the enjoyment of events held there;
- Visitors would arrive at the site well before the proposed starting time;
- Waste is frequently left along the verges;

Policy

- Contrary to Local Plan Policy AS13;
- Contrary to the NPPF;
- The owners purchased the site knowing what the conditions were;
- The prevailing south-west wind blows from the track to Shepherdsweil - even the loudspeakers can be heard, let alone the intrusive noise of the racing;

Traffic

- Traffic congestion at the A2/Coxhill junction is already considerable;
- Dunbrill Hill and Geddinge Lane are very narrow lanes with sharp bends and few passing places and are not suitable for race-going traffic;
- Concerns about restrictions on the roads and the implications for the use of combines during harvest;
- Road closures may impact on the promptness of emergency access;
- By closing roads, traffic congestion will build up on the A260;
- The Traffic Statement provides vague measures for traffic management – concerns about access to residents' properties during events;

Other

- This proposal is the resubmission of something previously considered unacceptable by the Council (the originally submitted scheme under DOV/12/589);
- Interference with enjoyment of residents in their gardens and disturbance of Church services;
- It is in a designated Area of Outstanding Natural Beauty;
- There are already too many meetings;
- It is incumbent upon the applicant to provide sufficient and robust evidence to demonstrate that no additional harm will be caused – this has not been done;
- It may create a precedent for a range of other activities – particularly in light of the applicant's intention to submit an application for a more intensive use of the circuit;
- The submission of a comprehensive application would be welcomed, unlike this proposal, as it would require appropriate levels of evidence to be provided;
- The benefits to the circuit from these additional events would not outweigh the considerable adverse impact on surrounding residents, environment and public highway;
- The submission of an application in January for events to be held in April and May is very late and should not result in a rushed decision;
- Events held over two days will have people staying overnight;
- Concerns about air quality from drifting;
- The agent has amended the proposal during the course of the application and this has resulted in confusion over what is being proposed;
- The expansion is not necessary;
- Cannot understand how an application is made so late, when the event for which it is required was programmed such a long time ago;
- Wishes assurance that the Council would put in place suitable measures and would take all reasonable steps to ensure that appropriate enforcement action is taken, if necessary.

Letters of support

- This has been a race circuit for a long time and it needs to be able to evolve to become as viable a business as possible;
- Has lived in Coldred for ten years and has not been disturbed by the activity, although aware of the increase in traffic.

f) 1. **The Site and the Proposal**

- 1.1 The application site relates to Lydden Hill Race Circuit. The circuit is a long established venue for motor sports. It is located south of the A2, accessed from a country lane, which leads from the A2 to Wootton. The site lies within an Area of Outstanding Natural Beauty (AONB). Most of the site is taken up by the tarmac circuit. Various buildings and other related paraphernalia (such as flag poles and spectator seating) surround the circuit, but are mainly clustered to the south-western edge of the site. Parts of the site are viewed from various points along the roads running around the site, though trees and hedgerows in the surrounding countryside provide a good screen.
- 1.2 Members may recall that an application (DOV/12/589) went before Planning Committee on 5th September 2013. This sought to vary a condition of the original consent, to allow the site to be used between 10.30am and 4pm on Sundays, instead of between 12.30 and 6pm – a shift, rather than extension, of the permitted hours.
- 1.3 At Planning Committee, several Members expressed concern in relation to the proposed changes on the ground that the quality of life for residents would be affected (Minutes, point 180). The planning application was granted.
- 1.4 The DOV/12/589 application reviewed and restated where necessary the conditions originally imposed in DO/84/1109 in the decision notice.
- 1.5 This application seeks to amend condition 2 of DOV/12/589. The condition currently reads:

The permitted uses shall not be carried out on the land on:

- (a) More than 52 days in any calendar year;*
- (b) Consecutive days in excess of 12 occasions in any calendar year;*
- (c) More than 2 consecutive days;*
- (d) Two consecutive days at intervals of less than 10 clear days;*
- (e) Except between the hours of 9am and 6pm on weekdays and 10.30am and 4pm on Sundays.*

For the purposes of this condition and condition 3, the term 'calendar year' means a period commencing on 1 April in one year and ending on 31 March in the succeeding year. A record book identifying the dates/ times of use shall be available on request at any reasonable time to the Local Planning Authority.

Reason: In the interests of residential and visual amenity.

- 1.6 The agent has set out that this application has been submitted prior to the main application for the additional uses and replacement buildings, which is delayed whilst mitigation measures are being discussed.
- 1.7 The proposal seeks planning permission to vary condition 2 of DOV/12/589 to enable racing on Sunday 20th April and Sunday 10th August 2014 for the British Drift Championships and on Sunday 25th

May for the Wold Rallycross Championships - to between 9am and 5pm.

1.8 The proposal also seeks to enable racing on two consecutive days at intervals of less than ten clear days in May, due to the relocation of the World Rallycross Championships and in June, due to the relocation of the Kings of Europe event. The agent states that these events have been held annually at the circuit.

1.9 A Traffic Statement has been submitted by the agent, setting out the following:

- No changes in visitor or traffic numbers is expected for the British Drift or Kings of Europe compared to previous years;
- The World Rallycross Championships may experience a small uplift in visitor numbers, due to an increase in competitors;
- Provides details on the profiles of arrivals and departures at the site for a large event held in August 2013. The largest peak was between 9am and 10am, where 265 cars entered the site;
- The majority of visitors access the site via the A2;
- The circuit is putting in place traffic management measures with a local Traffic Management company, Walker Traffic, for the major events listed in the application;
- This will include Temporary Traffic Regulation Orders to close local roads through Wootton, which will be controlled by Walker Traffic Personnel;
- The use of temporary signage will direct people via the main roads and away from the local roads and will be put in place by the circuit;
- The circuit provides a mini-bus service to and from the circuit on major events for a number of local residents and is happy to consider expanding this provision if necessary.

1.10 Temporary Traffic Restrictions in Denton and Wootton have been issued by Kent Highways Services during event weekends at the circuit. This will involve the closure of Denton Lane and Shelvin Lane, which will be closed at their junctions with A260 Canterbury Road. Geddinge Lane will be closed to the west of the entrance to AB Crush Panelcraft and Wootton Lane will be closed at the junction with Stockham Lane between 7am and 1pm each day. Shelvin Lane will be closed at the junction with the A2 between 3.30pm and 6pm each day. This will mean that there will be no access for through traffic from the A260 Canterbury Road to Lydden Race Circuit other than via the A2. Residents will have managed access with a permit.

1.11 The alternative route to the circuit is via the A260 the Street, Canterbury Road and the A2.

1.12 The restrictions will apply on:

- 29th and 30th March
- 19th and 20th April

- 5th May
- 24th and 25th May
- 28th and 29th June
- 9th and 10th August

1.13 In response to the Environmental Protection Officer's objection, the agent has also submitted further comments:

- The change to enable two consecutive days at intervals of less than ten clear days is not a blanket change for the whole year, it relates solely to two groups of three consecutive weekends in May and in late June/ early July;
- This would result in other weekends left free of having two consecutive days racing;
- The number of days racing in the calendar year would remain;
- The events also remain the same;
- Traffic mitigation measures are being introduced to the event days subject to this application, which would result in a reduced level of noise disturbance to local residents, by removing traffic on its way to the circuit from the village;
- It was originally hoped that these changes would form part of the major application that is in preparation, but due to the length of time taking to prepare the Environmental Statement, the submission of the major application is delayed. The major application will be accompanied by a full Noise Assessment, within the Environmental Statement:

1.14 An Economic Report was not submitted alongside the submission of the planning application. Whilst this committee report was being finalised, a report on the Economic Contribution of Major Events has now been submitted for consideration by the agent. It is disappointing that this has been submitted at a very late stage in the application. It will be available online for Members and the general public to view.

1.15 *A site plan will be on display.*

2. **Main Issues**

2.1 The principal issues are:

- Principal of development;
- Impact on surrounding residents;
- Impact on surrounding countryside and AONB;
- Economic benefits of the scheme;
- Highways implications.

3. **Assessment**

Principle of development

- 3.1 DDLP Policy AS13 states that proposals to expand the use of Lydden Circuit for motor sports or intensify its frequency will be refused. Only development ancillary to its existing use will be permitted. The preamble to the policy highlights the major constraints on the use of the circuit, stemming from disturbance to local residents (particularly those at Wootton, Shepherdswell and Coldred), its location in a very sensitive landscape and poor access. It states that any future proposals for development should in particular be assessed against policy for the AONB.
- 3.2 The previous application DOV/12/589, which granted consent for the alteration in hours of use, originally proposed to extend the hours of use of the site. The proposal was amended to shift, rather than extend the hours of use, so it was not considered to intensify the frequency of the use of the site.
- 3.3 The proposal is not for ancillary development, as it would result in the intensification of the site by virtue of the extension of the hours. The proposal is considered to fail to comply with the requirements of this policy. This report examines whether there are material considerations that would warrant departing from this policy requirement.

Impact on surrounding residents

- 3.4 Paragraph 109 of the National Planning Policy Framework states that the planning system should contribute to and enhance the natural and local environment by (*amongst other things*) preventing both new and existing development from contributing to unacceptable levels of noise pollution.
- 3.5 It continues in paragraph 123 to state that decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development, but that it should be recognised that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.
- 3.6 National Planning Policy Guidance has recently been published as well, which incorporates guidance on noise. It states that decisions should take into account whether or not a 'significant adverse' or an 'adverse' effect is likely to occur and whether or not a good standard of amenity can be achieved.
- 3.7 It draws particular attention to whether the 'significant observed adverse effect level' (SOAEL) boundary has been crossed, which would indicate that there would be significant adverse effects on health and quality of life.
- 3.8 The guidance states that a way of deciding whether the SOAEL boundary has been crossed can be ascertained through consideration of whether the noise causes a material change in behaviour, such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. The planning process should be used to avoid this effect occurring.

- 3.9 The agent has stated that what is being requested as part of the application is not new development; it is an extension of an existing use for a short period of time on three specific dates, stating therefore that the NPPF and guidance are not directly applicable to this scheme. However, Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that for the purposes of any determination made under the planning Acts, the determination must be made in accordance with the development plan, unless material considerations indicate otherwise. The advice set out in the NPPF and the corresponding guidance is therefore a material consideration and is directly relevant to this application.
- 3.10 The nature of the objections raised indicates that the noise levels from the proposal may result in a material change in behaviour for local residents. The intrusiveness of the noise from the current operation of the site has already been raised in a number of objection letters, with references made to events in the area being regularly affected by the circuit and the noise being so bad sometimes that residents are obliged to go out. The Environmental Health Department also receives regular complaints when events are held and has concerns about the existing noise levels generated from the circuit. An increase in the hours of use on the proposed dates would exacerbate this impact, as would the proposal to hold consecutive events that do not afford the ten-day break currently required.
- 3.11 The National Planning Policy Guidance advises that assessing the impact of noise levels for non-continuous sources of noise on those affected will depend on a number of factors, including the number of noise events, the frequency and occurrence of the noise and the time of day it occurs.
- 3.12 The proposal seeks planning permission for the hours of use on three Sundays in 2014 to be extended (as well as the associated consecutive weekends proposed to hold events). This is a set number of events, so any noise disturbance would be restricted. However, even a small increase would still go beyond the restrictions attached to the original consent, which were intended to prevent unacceptable harm to residents, as well as the recent consent to shift the hours early on Sundays (DOV/12/589).
- 3.13 The National Planning Policy Guidance states that in cases where existing noise sensitive locations already experience high noise levels, a development that is expected to cause even a small increase in the overall noise level may result in a significant adverse effect occurring. The use of the site does by its nature create noise and even the shift in hours permitted under DOV/12/589 was a real concern to some local residents, even though it did not increase the hours of use. Incremental changes such as this, which may appear fairly insignificant in the context of the overall business, can nevertheless have significant adverse impacts on surrounding occupants who are already experiencing a level of noise disruption from the site.
- 3.14 The agent has stated that in respect of mitigation, traffic management measures will be introduced. This may well address some of the

concerns raised from local residents about noise and disturbance generated by traffic. However, whilst traffic noise is a concern to people in the area, the Environmental Protection Officer's objection is concerned with noise created by vehicles and associated activities on the track.

- 3.15 No information has been submitted to show how the increased noise exposure to local residents would be mitigated and minimised. Local residents have raised concerns that the proposal would have an adverse impact on their living conditions. The proposal is considered to make the existing situation worse and the residents' concerns are considered to be justified.
- 3.16 The proposal would involve events taking place for extended time periods at weekends and Bank Holidays when people could reasonably expect a degree of peace and quiet. The Environmental Health Officer has advised that the use of the site in the manner proposed is likely to cause severe disturbance to those living in the area. Recent monitoring of noise from the circuit has shown the levels of noise experienced in nearby residential properties to be intrusive. Varying the condition for these events would magnify such disturbance, which may be particularly harmful in the Bank Holiday weekends, which, as national holidays, are likely to have value for local residents as established times of rest/holiday.
- 3.17 Members may recollect that the previous application DOV/12/589 originally proposed an extension of hours of use for four Sundays each year, but this was changed during the course of the application to a shift in hours, to respond to the objection raised by the Environmental Protection Officer. As part of the previous application, the agent had been advised of the concerns surrounding the increased intensity of the site through an extension of hours, the implications in respect of DDLP Policy AS13 and the concern that the development would not be sustainable development as defined in the NPPF.
- 3.18 The noise pollution resulting from the proposal would not support the health and social wellbeing of the community and so would undermine the objectives of the NPPF regarding development providing a beneficial social dimension.

Impact on surrounding countryside and AONB

- 3.19 The NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. It states that great weight should be given to conserving landscape and scenic beauty in AONBs.
- 3.20 The proposal does not incorporate any new buildings, but it does increase the intensity of the use of the site, which would, due to the associated noise, traffic movements and general activities within and around the site, have an impact on the character of the AONB. There is concern that the proposal would restrict further the periods of tranquillity of the AONB when the race circuit is not use and would

therefore fail to preserve or enhance the character of the AONB and surrounding countryside.

- 3.21 The proposal would not contribute to protecting and enhancing the natural environment and so would undermine the objective of the NPPF to provide an environmental role.

Economic benefits of the scheme

- 3.22 National Planning Policy Guidance states that noise is a consideration to taken into account of in proposed developments, but that it is not to be considered in isolation, separately from the economic, social and other environmental dimensions of the proposal.
- 3.23 No information was submitted in support of the application in relation to the economic benefits of the scheme, other than a statement setting out that the major events would attract large numbers of visitors to the district and put Dover on the map as an important part of the history of motorsport. No evidence was made to support this claim in the form of a robust economic case.
- 3.24 A report has just been received at the time of writing this report, entitled 'The Economic Contribution of Major Events at Lydden Hill Race Circuit'.
- 3.25 The late submission of this document is disappointing, particularly as officers had advised the agent in the previous application DOV/12/589 that evidence for an economic case should be an integral part of a proposal for the extension of hours of use of the circuit.
- 3.26 The document will be online for Members to view prior to Planning Committee. The document does not change the nature of the proposal, so it does not trigger the need for the scheme to be re-advertised.
- 3.27 The first of the proposed events sought by this application (20/04/2014) follows closely after the April Planning Committee. As such, any additional letters of representation submitted from third parties in relation to the report will be relayed to Planning Committee.
- 3.28 The report provides the following information, in summary.
- The events will draw around 12,000 visitors to Dover District (based on numbers from previous events);
 - The events on their own are a major draw that bring visitors to Dover District;
 - The estimated total expenditure associated with these events is over £700,000;
 - The three events would support 426 person days of employment (event marshals, medical personnel, time-keepers etc.);
 - Not all the benefits to Dover District can be captured in numbers. LHRC is an important economic asset to the District;
 - The circuit is the District's third largest 'paid for' visitor attraction.

- 3.29 The report concludes by stating that *“Lydden Hill Race Circuit is an important economic asset for Dover District and more broadly East Kent. Dover District Council needs to support Lydden Hill Race Circuit in developing its programme and working with the circuit to capitalise on the opportunities that arise from the fact that circuit attracts a very different type of person to Dover District than existing visitors. The circuit could be an important partner of DDC in promoting the District. DDC therefore need to nurture and ensure the success of the Race Circuit”*.
- 3.30 This applicant’s report identifies economic benefits arising from the proposal and there need to be weighed against the other issues, as outlined in this report.
- 3.31 The weight given to any economic benefits has to be very carefully balanced against the harm that would be caused to local residents and the implications of approving a scheme to which Environmental Health has raised objection and to which officers have concluded does not fulfil the aims of sustainable development in respect of its social and environmental role.
- 3.32 Moreover, whilst there appears to be a case for asserting that these events are economically beneficial to the business/ district, there remain a number of uncertainties. No evidence has been submitted from the Motor Sports Association (MSA) or the Federation Internationale de l’Automobile (FIA) to indicate that they would pull out if the hours were not extended. No case has been made to demonstrate what the impact would be on the business if these organisations did pull out. In addition, it is not known whether the number of visitors at these events would be significantly greater than at the other events that do not require a change in the hours of use. As such, the degree and strength of the economic case remains inconclusive. None of these points have been addressed by the submission. Officers consider that these omissions significantly reduce the weight that can be given to weighing the economic benefits in favour of the scheme.
- 3.33 Taking this into account, it is not considered that what appear to be tangible economic benefits would outweigh the dis-benefits of the proposal. The economic case is not compelling and would not substantiate a recommendation of approval being made.

Highways implications

- 3.34 A number of concerns have been raised in relation to traffic restrictions. However, County Highways raises no objections to the proposal. The traffic restrictions can go ahead as they do not require planning permission and their effectiveness at controlling the traffic flows will be able to be ascertained once put in place.

Conclusion

- 3.35 The NPPF and associated guidance set out that noise implications are to be considered under a planning application, but are not to be considered in isolation of the general principles of sustainability.

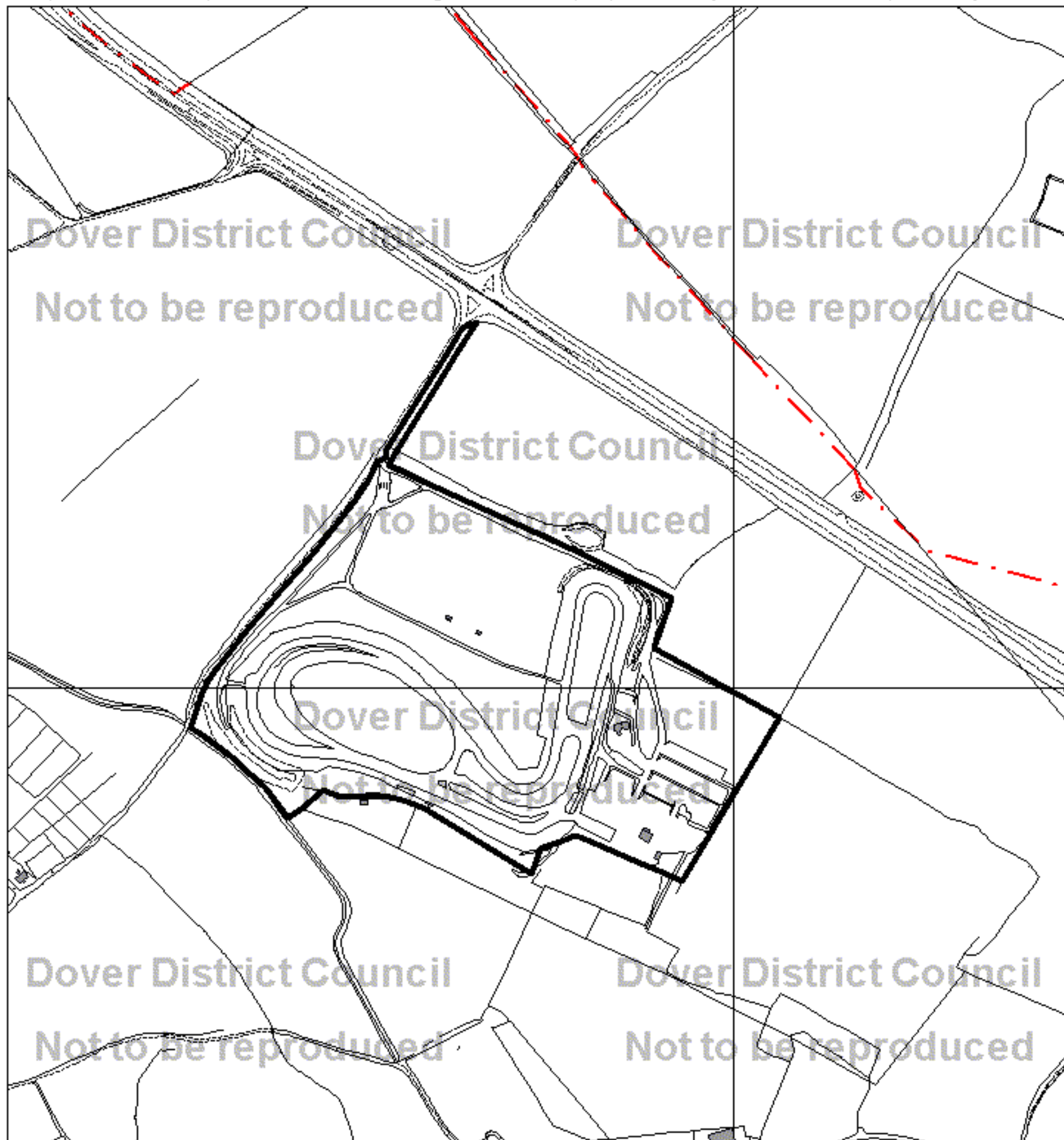
- 3.36 Officers consider that the economic case for the proposal does not weigh the balance in favour of the proposal, given the objections raised by the Shepherdsweil Parish Council, the local residents and the Environmental Health Officer in relation to the harmful impact the proposal would have on surrounding occupants and the AONB.
- 3.37 The NPPF strongly indicates that when considering the merits of a scheme in relation to its economic, social and environmental role, all three dimensions are fundamental to achieving sustainable development. In this case, the scheme falls very short of providing a social or environmental role, as no measures have been incorporated to show that increased noise exposure to local residents and within the AONB would be mitigated and minimised. The proposal is considered to fail to comply with the objectives of the NPPF and supporting guidance.
- 3.38 It is recognised that there is also an economic case to be considered and that the actual increase in the hours the circuit proposes to operate under would be modest in the context of the overall operation of the circuit, restricted only to the set events proposed in 2014. However, there would be clear harm arising due to the noise and disturbance to local residents and the impact on the character of the AONB.
- 3.39 The proposal would result in an intensification of use, which would be contrary to the objectives of DDLP Policy AS13 and in this case, officers do not consider that material considerations would justify a departure from this policy.
- 3.40 There are no implications under the Equality Act that would alter this conclusion.

g) **Recommendation**

- I PERMISSION BE REFUSED, for the following reason: The proposal, due to the nature of the existing use of the site for the racing of motor vehicles and the noise that would be generated from the intensification of the existing use, together with proximity of residential dwellings to the circuit, would increase the noise levels and exacerbate the impact from the circuit to a level that would result in unacceptable harm to the residential amenity of surrounding residents and the tranquillity of the AONB, resulting in harm to its character. The proposal is thereby be contrary to Dover District Local Plan Policy AS13, the National Planning Policy Framework (particularly paragraphs 6, 8, 17, 69, 109 and 123) and Planning Practice Guidance: Noise.

Case Officer

Sarah Platts



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Application: DOV/14/00023

Lydden Hill Race Circuit

Wootton

TR23694702



DOVER DISTRICT COUNCIL

PLANNING COMMITTEE – 10 APRIL 2014

REPORT OF THE HEAD OF REGENERATION AND DEVELOPMENT

a) **DOV/14/00102 – Construction of a hardstanding**

b) **Summary of Recommendation**

Planning permission is granted.

c) **Planning Policies and Guidance**

Core Strategy (CS) Policies

- DM1 - Development will be permitted within the settlement boundaries
- DM13 – parking provision should be design-led, based upon an area's characteristics, the nature of the development and design objectives.

National Planning Policy Framework (NPPF)

- Core principles promote sustainable development; seek to secure high quality design and good standard of amenity for all existing and future occupants.

The Kent Design Guide (KDG)

- The Guide provides criteria and advice on providing well designed development, and seeks to ensure that design incorporates the local context.

d) **Relevant Planning History**

DOV/05/0727 – planning permission was granted for a residential estate on which the application property is situated. Condition 14 of the planning permission prevented further development without the written approval of the local planning authority. Ordinarily, additional hard surfacing within the curtilage of a domestic property is development that is unlikely to require planning permission, but in this case permission is required because Condition 14 removed the rights to construct (develop) the hard surface without seeking permission.

e) **Consultee and Third Party Responses**

Eythorne Parish Council: No objections are raised.

Public Representations: Six letters of objection have been received against the application proposal. In summary, the objections concern the impact upon views, precedent, the overall impact upon the visual amenities of the area and the design of the estate, blocking of the driveway/access, harm to pedestrian and highway safety, damage to front gardens, the inaccuracies of the plan submitted, overshadowing/overbearing, increase in drainage problems, and

the proposal is contrary to Guidance on residential parking. Some letters also refer to a restrictive covenant on the land preventing the development from proceeding – this is not a planning matter as it is a private issue.

- f)
1. **The Site and the Proposal**
 - 1.1 The site is located within the village confines of Eythorne, where the principle of new development is acceptable subject to design criteria.
 - 1.2 The property was built following the grant of planning permission of application 05/00727. The property forms part of a residential estate comprising 9 semi detached and detached houses, with access from Green Lane. The first section of the road (Green Meadows) is long and straight (and appears as adopted highway). At the end of this straight road are two pairs of semi detached houses and one half of another pair of semi detached houses. The road bears left onto a private driveway that serves 4 further houses. The application property is the first of these houses on the right hand side.
 - 1.3 The private driveway is hard surfaced with red coloured brick setts laid in a 'herringbone' pattern and a more traditional blockwork pattern.
 - 1.4 The front and side gardens are landscaped and laid to lawn.
 - 1.5 The application property is constructed with yellow stock bricks with red banding bricks, under a profiled pitched roof. To the front and side of the property the garden area is mainly laid to lawn, with a couple of small cherry trees.
 - 1.6 The proposal seeks to remove some of the grass to the front/side garden and replace this with a further hard surfaced area to accommodate the applicant's motorhome. The materials to be used would be a self-binding gravel, coloured golden/amber. The area to be surfaced would be roughly rectangular and cover an area of some 35-40 sq m.
 - 1.7 The applicant has agreed to plant a low level hedge or row of shrubs along the outer (eastern) edge of the new surface.
 2. **Main Issues**
 - 2.1 The main issues in the consideration of this application are the impacts of the development on the character and appearance of the area, the living conditions of the occupiers of nearby residential properties, and highway safety.
 3. **Assessment**
 - Character and Appearance**
 - 3.1 To provide clarity for the context of this application, a motorhome parked on a domestic property by the occupiers of that property does not require planning permission because it is considered a chattel/use of land connected to the occupiers of the dwelling and for their private enjoyment.

- 3.2 The motorhome is already parked on the existing private parking area of the application property. This Council is not being asked to determine the planning merits of parking a motorhome on private property and is not being asked to determine whether the applicant is a safe driver and knows how to manoeuvre the vehicle in and out the drive. The key issue is whether the construction of the hard surface causes harm to the character and appearance of the area.
- 3.3 The application property is located on a small residential estate of 9 other properties. The location of these houses is such that the visibility of the proposed hard surfacing will not affect the wider context, and character and appearance of the area – and would only be visible to those that venture along Green Meadows.
- 3.4 The estate was planned as a tight knit housing layout, with open garden areas, but limited communal landscaping. The additional hard surfaced area does not cover an excessive area which means that some soft landscaping would remain around the property. This soft landscaping will be enhanced by the proposed planting along the outer edge of the new surface.
- 3.5 In context, the additional hardsurfacing would not materially unbalance the current hardsurfacing to soft landscaping ratio that is visible from the communal areas and exists on the estate.
- 3.6 The change in hard surfaced material from brick paving to bonded gravel will be noticeable, and it will differentiate between a private parking area (created within the curtilage of the house) and the communal private driveway serving the other houses. This change is not necessarily harmful although it perhaps would have been better to retain the same material for continuity. The applicant has stated that the cost of repeating the brick/block paving was cost prohibitive.
- 3.7 It is considered that this relatively small area to be hard surfaced, which would not be prominent within the wider area, would not harm the visual amenities of the estate, and the character and appearance of the area.

Living Conditions

- 3.8 The construction of the hard surface is not going to impact in any material way the living conditions of the occupiers of nearby properties because the motorhome, its use and its location within a domestic curtilage are not matters for determination. The fact that the hardsurface will facilitate parking in this location is not material because the space could be used for other purposes as well, if the applicant so chose, including, indeed, the parking of the vehicle on the grass.

Highway Safety

- 3.9 For the above reasons, the parking and manoeuvring of the motorhome is not a matter for determination under this application because the motorhome is already there, and the change in location of

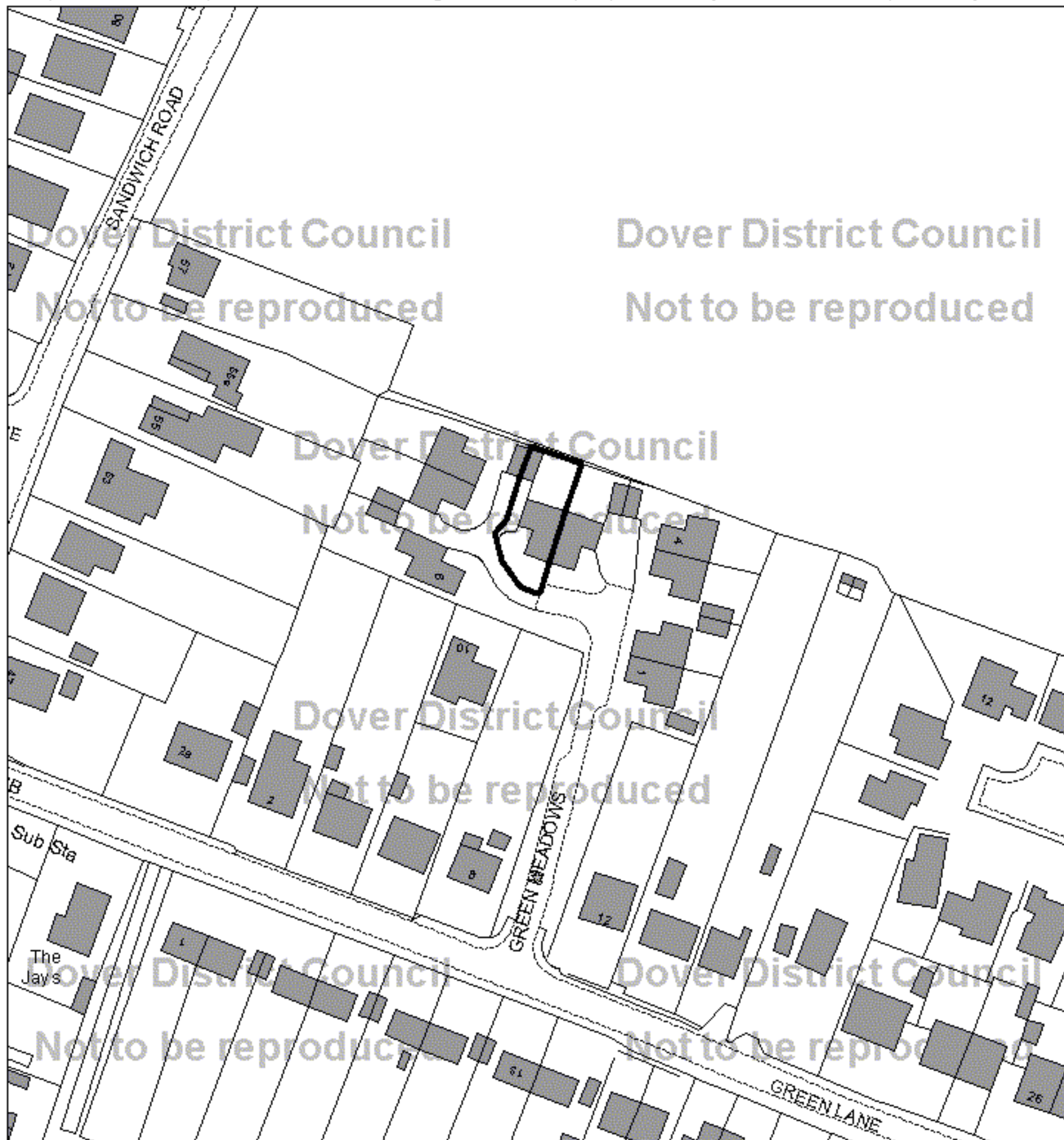
the parking area from one space to the adjoining space does not appear to materially affect how the space would be accessed.

g)

Recommendation

- I SUBJECT TO the submission of details of the bonded-gravel surface for the drive and landscaping/planting, planning permission be given subject to: (i) DP08; (ii) DP04;
- II Powers be delegated to the Regeneration and Delivery Manager to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer: Vic Hester



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Application: DOV/14/00102

6 Green Meadows

Eythorne

TR28564949



DOVER DISTRICT COUNCIL

PLANNING COMMITTEE – 10 APRIL 2014

REPORT OF THE HEAD OF REGENERATION AND DEVELOPMENT

- a) **DOV/14/00126 – Retrospective application for the continued use of part of ground floor for day time care and night time boarding of dogs**

Part of Ground Floor, Red Ramblers, Deal Road, Worth, CT14 0BG

Reason for report: The level of public interest in the application.

- b) **Summary of Recommendation**

Planning permission be refused.

- c) **Planning Policy and Guidance**

Dover District Core Strategy (DS)

- Policy DM1 states that development will not be permitted on land outside the urban boundaries and settlement confines unless specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- Policy DM3 supports the principle of new commercial development in rural areas and advises that development should be within confines unless it can be demonstrated that no suitable sites exist in which event it should be located adjacent to the settlement unless there is a functional requirement for it to be located elsewhere.
- Policy DM11 states that development that would generate travel will not be permitted outside of the urban boundaries and rural settlement confines unless justified by other development plan policies.
- Policy DM13 requires that the provision of car parking be a design-led approach based upon the characteristics of the site, the locality, the nature of the proposed development and its design objective.
- Policy DM15 aims to protect the countryside through resisting development which would adversely affect its character or appearance or would result in the loss of countryside. Development will only be permitted if it is amongst other things; justified by a need to sustain the rural economy; justified by the needs of agriculture and cannot be accommodated elsewhere.

Dover District Local Plan Saved Policies (DDLPP)

- None applicable

National Planning Policy Framework (NPPF)

- Paragraph 14 of the NPPF states that at its heart is a presumption in favour of sustainable development and that for decision-taking this means approving proposals that accord with the development plan without delay.
- Paragraph 12 confirms that development that conflicts with an up-to-date local plan should be refused unless material considerations indicate otherwise.
- The NPPF has 12 core principles which amongst other things include the need to proactively drive and support sustainable economic development to deliver business needs. They also seek to secure high quality design and a good standard of amenity for all existing and future occupants.
- Section 3 (Supporting a prosperous rural economy) states that planning policies should support the sustainable growth and expansion of all types of business and enterprise in rural areas.
- Section 4 (Promoting sustainable transport) states that decisions should ensure that developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. This does however need to take account of other NPPF policies, particularly in rural areas.
- Section 10 (Meeting the challenge of climate change, flooding and coastal change) states that applications for minor development and changes of use should meet the requirements for site-specific flood risk assessments.
- Paragraph 203 states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Planning Practice Guidance (PPG)

- On 6th March 2014 the Department for Communities and Local Government launched a planning practice guidance web-based resource. This contains a number of sections to enable users of the planning system to obtain information in a useable and accessible way. It should also be referred to as a material consideration when making decisions as it replaces the previous planning guidance documents which are now cancelled.

d) Relevant Planning History

DOV/12/0248 – Retrospective application for change of use for day care and boarding of dogs. This application was refused in July 2012 after being reported to the Planning Committee in June 2012. The application was refused for two reasons:

1. *The proposed use, if permitted, would generate travel beyond any urban or village confines and by way of its siting in a rural location, would constitute an unsustainable form of development by increasing travel*

demand, particularly of the private car. In the absence of any policy justification for the development, the proposal would be contrary to the policy objectives relating to sustainable development and, in particular, would be contrary to Policies DM1, DM3 and DM11 of the Dover District Core Strategy, policies CC1 and CC6 of the South East Plan and the provisions of the National Planning Policy Framework.

2. *The proposed development would introduce a new business outside any settlement confines and would constitute a new development within the countryside which is unacceptable in principle and for which there is no justification or overriding benefit that would outweigh the harm that would arise from the development. The development would be contrary to Policy DM1 of the Dover District Core Strategy, Policy CC6 of the South East Plan and the provisions of the National Planning Policy Framework.*

An appeal against the decision of the Council to refuse planning permission was then dismissed in September 2013. The Inspector concluded that whilst it was clear that the appellant wished to continue to run the business from home, that the proposal did not accord with relevant development plan policies and that there were no other material considerations that would outweigh this conflict. He determined that the substance of the relevant Core Strategy policies was consistent with the NPPF objectives of promoting sustainable development and that they were afforded considerable weight.

The main harm that the Inspector identified during the consideration of the appeal was twofold. Firstly, he concluded that the proposal would fail to promote sustainable development by locating a business in a rural location outside of existing settlement boundaries without evidence of a functional requirement. Secondly, that the proposal would generate the need to travel by private car outside of settlement boundaries and confines and that there was no evidence that a business operating over a long term period in this location would be more sustainable in terms of reducing the need to travel compared to one within settlement boundaries.

e) **Consultee and Third Party Responses**

DDC Senior Environmental Protection Officer: Refer to their comments in respect of application DOV/12/00248. These were:

I have checked Environmental Health records and note that only one complaint has been received concerning noise from dog barking in June 2008. No nuisance was established at this time. I note from the application that dog faeces waste will be treated chemically at a designated area. In view of the above I do not wish to object to this application.

The premises have been issued with a licence under the Animal Boarding Establishments Act 1963 which limits the number of dogs allowed to remain on the premises overnight to 4 with a maximum of 10 day boarders.

Having checked Environmental Health records since the Environmental Protection Officer confirms that no complaints have been made to them since that time. Environmental Health do not wish to object to this application.

KCC Highways and Transportation: Comment that it is likely that no more than 2 or 3 dogs are dropped off at any one time bearing in mind the

extended opening hours of the site. There is therefore likely to be a demand for up to 3 parking spaces at any one time and this demand is short term.

During a visit to the site customers used the lay-by/service road immediately outside the site for parking and there was sufficient space available for them to do this clear of the A258 Deal Road. Additional space was also available further along the road. The lay-by/service road appears to be regularly used for parking by some residents and visitors. There have been no recorded personal injury crashes related to the use of this lay-by/service road in the last 5 years to the end of September 2013.

Therefore would not recommend refusal on highway grounds.

Worth Parish Council: Object to the application on the same grounds as the former application. There is nothing in the new application to address the planning policy issues and the Parish Council supports the neighbours in their objections.

Public Representation: 86 letters of support for the application have been received from both local residents and addresses further afield in the District. 14 letters of objection have been received from local residents and from Ward Councillor Russell. These raise the following:

Objection:

- The area is residential and not suitable for the use which is very intensive due to the number of dogs.
- The road is very busy and the layby outside is often very congested. Increased traffic cannot be suitably accommodated.
- The latest application does not overcome the previous reasons for refusal.
- The dogs barking and vehicles at the site cause unacceptable noise.
- Neighbouring driveways are blocked when picking up/dropping off.
- The disposal of faeces and urine is a nuisance and unhygienic.
- The business is not unique and there is no justification for its location.
- There are kennels on the site, including a shed for facilitating the dogs.
- The site is unsustainable as people have to drive to it.
- The number of dogs is incompatible in this residential area.
- There are a number of local businesses that provide dog services.
- There are a number of vacant units locally that could accommodate the use.
- There are no special circumstances justifying a personal permission.
- A Management Plan should already be in place on the site.
- If planning permission is granted then the business could grow out of control.
- There have been a number of problems involving the dogs when being walked at Sandwich Bay.
- There is no evidence that the dogs prefer this environment than a kennel.
- There have been a number of incidents involving the dogs on the premises where residents have felt unsafe.
- There have been incidents involving people visiting the business with neighbours.
- The number of dogs on site has previously led to neglect.

Support:

- There are no similar facilities in the area offering a “home from home”.
- Dogs prefer the environment than being in a kennel.
- The business provides a high level of service.
- Whilst outside the confines this is not a rational reason for refusal. Individual circumstances should be taken into account.
- There are a number of businesses on the A258 in the locality and the location is ideal on a main road.
- The road is suitable for the number of vehicle movements associated with the use.
- There is room in the layby for picking up/dropping off.
- Refusal would have a devastating effect on the applicant’s family.
- The dogs on site are well behaved, quiet and happy. Poor behaviour is not tolerated.
- The loss of the service would be detrimental to the village.
- As Delf Farm Shop was granted permission, so should this application.
- The loss of Pfizer has affected the local economy; there should be support for small businesses.
- The applicant is active in the local community. She should not have to move.
- The site is always clean and hygienic.
- The applicant’s husband suffers from ill health and has to work locally.
- The applicant has full control of the dogs.
- The Council should not have advised planning permission was originally not required.
- Noise from the dogs is no greater than that associated with a normal residential use.
- There have been a number of incidents involving neighbours of the business, not those visiting it.

f) **The Site and the Proposal**

- 1.1 The application site is Red Ramblers, a detached, two-storey dwelling, situated on the east side of Deal Road. Adjacent to the dwelling to the north and south are other residential properties and to the rear (north-east) is a working farm. On the opposite side of Deal Road there are agricultural fields. The site is located beyond the rural and urban confines and is therefore considered to be a countryside location for Development Management purposes. The site is also located within an area at risk of flooding falling partly within flood zone 2 and 3.
- 1.2 Deal Road (A258) is a busy road and provides a transport link between Sandwich, Sholden and Deal. Separating the application site from the A258 is a lay-by which allows the occupiers of the residential dwelling to pull off the main road and to access their private driveways, the lay-by also provides on-street car parking for visitors.
- 1.3 Retrospective planning permission is sought for the continued use of part of the ground floor of Red Ramblers for day time care and night time boarding of dogs. The application states that the unauthorised use has been taking place on the site since June 2007. The use is currently licensed under Environmental Health regulations for no more than 10 dogs in the applicant’s care during the day and no more than 4 dogs overnight.

- 1.4 The application confirms that in May 2011 a rear conservatory extension was erected. This extension, along with the rear section of an existing attached garage building to the side of the property are mostly used to accommodate the dogs, however they also have access to most of the ground floor of the property and the garden, along with the applicant's dogs.
- 1.5 The applicant states that the dogs are looked after during the day from the core hours of 0700 hours to 1900 hours. The day care of the dogs is for mostly working owners, which is considered a unique feature of the business. The day care is specified as being the main use, with the boarding use secondary, being used mostly by dog owners who go on holiday. It is stated that the maximum number of dogs staying overnight is only reached during holiday periods.
- 1.6 It is specified that there are no kennels on the site and the dogs are not kept outside. A 1m high metal rail and mesh fence has been erected beyond a concrete area immediately behind the conservatory where the dogs can go out. The remaining garden area is planted and laid to lawn. Reference is also made to the fact that the applicant exercises the dogs every day away from the appeal site, mostly along the sea front at Sandwich Bay.
- 1.7 *Plans will be on display.*

2. **Main issues**

2.1 The main issues in the consideration of this application are:

- The principle of the development
- Impact on residential amenity
- Impact on highway safety; and
- Impact on the countryside

3. **Assessment**

The principle of the development

- 3.1 The application site is located beyond the rural settlement confines of both Sandwich and Worth and is therefore designated as being within the countryside. The settlement confines of Worth are located within 100m to the south of the site. Policy DM1 makes it clear that development will not be permitted in such locations unless specifically justified by other development plan policies, or it is ancillary to existing development or uses.
- 3.2 A business can be operated from a residential property if it is considered to be incidental to the main use as a residential dwelling. The point at which a use departs from being termed incidental is difficult to determine and has to be based on case law. In this case the intensity of the use has changed the character of the dwellings so that it can no longer be regarded as incidental. A change of use has occurred for which planning permission is now required.
- 3.3 Policy DM3 supports new commercial development but states that it should be within the rural settlement confines unless it can be demonstrated that no suitable site exists, in which event it should be located adjacent to the

settlement unless there is a functional requirement for it to be located elsewhere.

- 3.4 The applicant has argued that the nature of this business is unique as it provides a “home from home” facility that offers on a consistent basis the same service and facilities for dogs for customers who wish them to be looked after in a home environment. They state that the need for this form of care and boarding is not provided for in any other location within the District and as such the applicant cannot move to an existing facility (i.e. non-residential/commercial premises) or join with another facility in a town, village or countryside. They consider that alternative suitable sites are not available.
- 3.5 The business taking place at Red Ramblers is one of eight licensed boarding premises in the District although it is unclear exactly how they operate and whether they follow a similar business model to Red Ramblers by providing a “home from home” facility. It cannot therefore be disproven that the nature of the use taking place at Red Ramblers is unique.
- 3.6 Notwithstanding this, in terms of demonstrating whether any alternative suitable sites exist, it is not considered that even if the unique nature of the business is accepted, that this satisfies this requirement as if a residential property is required to carry out the business then it would be an option to provide it in a location within town or village settlement confines as opposed to this location outside of the settlement confines.
- 3.7 Turning to the functional requirement for the business to be located outside of the rural settlement confines, the applicant argues this is because of the particular approach to caring for dogs which requires a home environment, with the applicant living at home with the dogs and being the ‘leader of the pack’. It is argued that dogs function better in packs and follow the leader of the pack who in this case is the applicant. The dogs are therefore quiet and submissive and this type of behaviour could not operate outside a home in kennels for example.
- 3.8 Again, this argument is not considered to be sufficient to demonstrate a functional requirement as there is no evidence to suggest that there are no residential properties within town or village settlement confines that would be available and suitable to provide the use.
- 3.9 Another argument made by the applicant is that should she and her husband have to move house to create a home environment for the dogs, then this would have to be within walking distance of the farm where the applicant’s husband is employed. It is claimed that it would be unsustainable to move house for sustainable location reasons, only for the applicant’s husband to have to journey back to the same location to go to work.
- 3.10 The applicant’s husband works locally but since suffering a stroke he first lost partial vision but then when he regained his vision, lost a lot of his confidence in his ability to drive on his own. A doctor’s letter submitted confirms that it is important that he does not allow his levels of stress to increase as this is an important factor in managing his condition which a commute to work could mean.
- 3.11 Whilst sympathetic to the personal circumstances of the applicant’s husband, it is not considered that this demonstrates a functional need for the business

to be located outside of the settlement confines at this site that would outweigh the Core Strategy policies relating to the location of new commercial development. The proposal is contrary to Policies DM1 and DM3 of the Core Strategy.

- 3.12 It is argued by the applicant that the site does provide the opportunity for travel choices but that in reality the car journey is necessary to transport the dogs and their personal items. However they consider that the site and uses in this section of the A258 is in a sustainable location which best fits the type of use. The applicant states that many clients are identified as using the route in any case to travel to work, and it is argued that alternative uses within settlement confines within more densely populated areas would give rise to the use being more obvious in the locality and potentially more conflicting.
- 3.13 Policy DM11 of the Core Strategy states that development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. In this case the business use generates travel by private car, is outside settlement boundaries confines, and as found above, is not justified by other development plan policies.
- 3.14 Whilst clients would be more likely to transport dogs by private car rather than public transport as a result of convenience, and while some clients pass the site, travelling between settlements, it is not considered that a business operating in this location would be more sustainable in terms of reducing the need to travel compared to one within settlement boundaries. Regarding the argument about the applicant's husband having to travel further if located in settlement confines, again there is no evidence to suggest that travel to and from any alternative site to his place of work would be unsustainable, particularly as a wider variety of transport modes could be available from locations within confines. The proposal is considered contrary to Policy DM11.
- 3.15 When considering this application, significant weight should be placed on the recent appeal decision from September 2013 which dismissed the appeal on the grounds that it failed to comply with Policies DM1, DM3 and DM11. The Inspector noted that the group of properties that the site forms part of were distinct and separate from nearby settlements and in a location that has a rural character and appearance due to surrounding open land, some of which is in agricultural use, and the adjacent farm. It is considered that this conclusion is the correct one and that there is no evidence or information put forward with this latest application that allows a different conclusion to be made.
- 3.16 The Inspector considered the nature of the business being different to a boarding kennel and the argument that the type of care needed to be within a residential environment. In addition he considered the argument that it was more suitable in this location than a densely populated urban area because of the potential for noise and disturbance from dogs. He concluded that whilst this concern might have ruled out a similar business at certain locations within settlement confines and boundaries, it does not preclude all such options. He also concluded that as the business use generates travel by private car outside of settlement confines that it would fail to comply with DM11 as it would not be justified by other policies.

- 3.17 The Inspector also concluded that whilst the NPPF promotes sustainable economic growth, proposals must be in accordance with the development plan unless material considerations indicate otherwise. The same approach must be applied here. Whilst there are limited economic and social benefits resulting from the continued use of the business to the applicant and a small section of the community, it is considered that the proposal would fail to comply with the environmental sustainability thread as a result of its location which would increase the need to travel outside of settlement confines in a rural location. It is considered that there are no material considerations that outweigh this harm to justify the proposal.
- 3.18 The application argues that as a result of how the applicant operates the use, the home environment, the need for the applicant to remain in the area and the need for the applicant's husband to remain close to his workplace bring into consideration that a planning permission personal to the applicant would help to justify the use outside the settlement confines, meaning that the permission would not run with the land but rather with the applicant.
- 3.19 National Planning Guidance states that there may be exceptional occasions where granting planning permission for development, that would not normally be permitted, could be justified on planning grounds because of who would benefit from the permission. This includes examples such as agricultural or forestry workers where an exceptional need has been demonstrated. It goes on to state that a condition used to grant planning permission solely on the grounds of an individual's personal circumstances will scarcely ever be justified in the case of permission for the erection of a permanent building, as it could, for example, result from enforcement action which would otherwise cause individual hardship.
- 3.20 It is not considered that the material considerations referred to justify a personal permission in this instance and that if it is deemed suitable for the applicant to carry out the business from the site, then it would be suitable for anybody else to come in and carry it out. In addition it has not been satisfactorily demonstrated that there are no suitable sites elsewhere in the District or a functional need for it to be in this location to justify a personal permission.
- 3.21 On the basis of the above, whilst there is sympathy for the applicant's personal situation, it is considered that the principle of the use in this location is still unacceptable and that there are no new material considerations that should outweigh the conclusions of the Planning Inspector in September 2013 and of the Planning Committee in June 2012.

Residential Amenity

- 3.22 The applicant has a licence for 10 dogs in day care and 4 dogs in boarding. Whilst it is stated that the dogs are generally well behaved, it is reasonable to assume that there would on occasions be noise and barking from them. They do also have use of outside areas which would make noise audible from outside the house. Notwithstanding this, Environmental Health raise no objection, confirming that there has only ever been one complaint relating to dog barking but that no nuisance was established at the time
- 3.23 In addition to this it is also reasonable to assume that there would be a degree of noise and disturbance from customers dropping off and picking

dogs up however the site is located adjacent to a busy road where there is already likely to be large levels of vehicle movements taking place at most of the day and as such any noise from vehicles dropping off and picking up would be likely to blend into this and not be unacceptable.

- 3.24 Concern has been raised over odours from the site however the applicant has confirmed that there is a robust cleaning schedule in place which involves the sweeping and washing of the hard surfaces and that all faeces are disposed of in a chemical toilet. This is considered to be an acceptable arrangement and Environmental Health have previously advised that this would be suitable provided the cleaning routine is robust. Previous investigations found no complaints had been received but that action could be taken if problems arise in the future.
- 3.25 The amount of traffic visiting the property is likely to be in the region of 20 cars per day. A condition can be imposed to control the working hours, not permitting dogs to be dropped off before 7am and to be collected by 6pm, a condition can also be imposed controlling the number of dogs which can reflect the requirements of the licence.
- 3.26 The previous application and subsequent appeal were not based on residential amenity grounds and it is not considered that there is any material change in circumstances that would now warrant a different decision. On balance, the safeguarding conditions proposed would ensure that harm to residential amenities would not arise from noise, disturbance or odours.

Highway Safety

- 3.27 Local residents have expressed concerns regarding highway safety. They state that customers park in an inconsiderate manner and block access to driveways, it is also claimed that the car parking spaces on the applicant's driveway are not used because the access is narrow.
- 3.28 KCC Highways Engineer had advised that it is likely that no more than 2 or 3 dogs are dropped off at any one time bearing in mind the extended opening hours of the site. There is therefore likely to be a demand for up to 3 parking spaces at any one time and this demand is short term.
- 3.29 Further, during a visit to the site customers used the lay-by/service road immediately outside the site for parking and there was sufficient space available for them to do this clear of the A258 Deal Road. Additional space was also available further along the road. The lay-by/service road appears to be regularly used for parking by some residents and visitors. There have been no recorded personal injury crashes related to the use of this lay-by/service road in the last 5 years to the end of September 2013.
- 3.30 As a result of this advice it would not be reasonable to conclude that this application poses a highway safety risk. Again, the previously refused scheme and appeal were not based on highway grounds and it would be unreasonable to introduce them now.

Impact on the Countryside

- 3.31 The property has retained its domestic character and appearance and is still viewed as one of a group of residential properties forming part of this ribbon

development outside Worth. It is therefore considered that the development would not adversely affect the character and appearance of the countryside and is in accordance with Policy DM15 of the Core Strategy.

Other issues

- 3.32 The applicant, supported by a number of the representations submitted, suggests that they sought the advice of the planning department prior to commencing the business 2007. Whilst this is not disputed, there is no written record of this enquiry so the exact nature of the advice given cannot be confirmed.

Conclusion

- 3.33 The NPPF reflects the government's commitment to building a strong and competitive economy, it is also concerned to facilitate sustainable development by reducing the need to travel and giving people a real choice about how they travel. As such, the Council's adopted policies are consistent with national policy, a conclusion that the Inspector made when considering the appeal against the previous refusal of planning permission in 2013.
- 3.34 The NPPF makes it clear that all decisions should be made in conformity with the local plan and equal weight should be given to economic, social and environmental factors. This assessment identifies that the development would be contrary to Core Strategy Policies DM1, DM3 and DM11. These policies aim to protect unjustified development within the countryside and to promote sustainable businesses in locations which are not dependent on private cars.
- 3.35 The applicant has made the case that there are no other suitable sites from within the District from which the use could be carried out and that there is a functional need for the business to be in this location. They have also outlined personal circumstances to warrant planning permission being granted which might justify a personal permission. It is not considered that these material considerations outweigh the harm identified by the conflict with the Development Plan policies specified and that they are not justification for planning permission to be granted in this instance.
- 3.36 In respect of the Public Sector Equality Duty under the Equality Act, the recommendation is not considered to disproportionately affect any particular group.

g) Recommendation

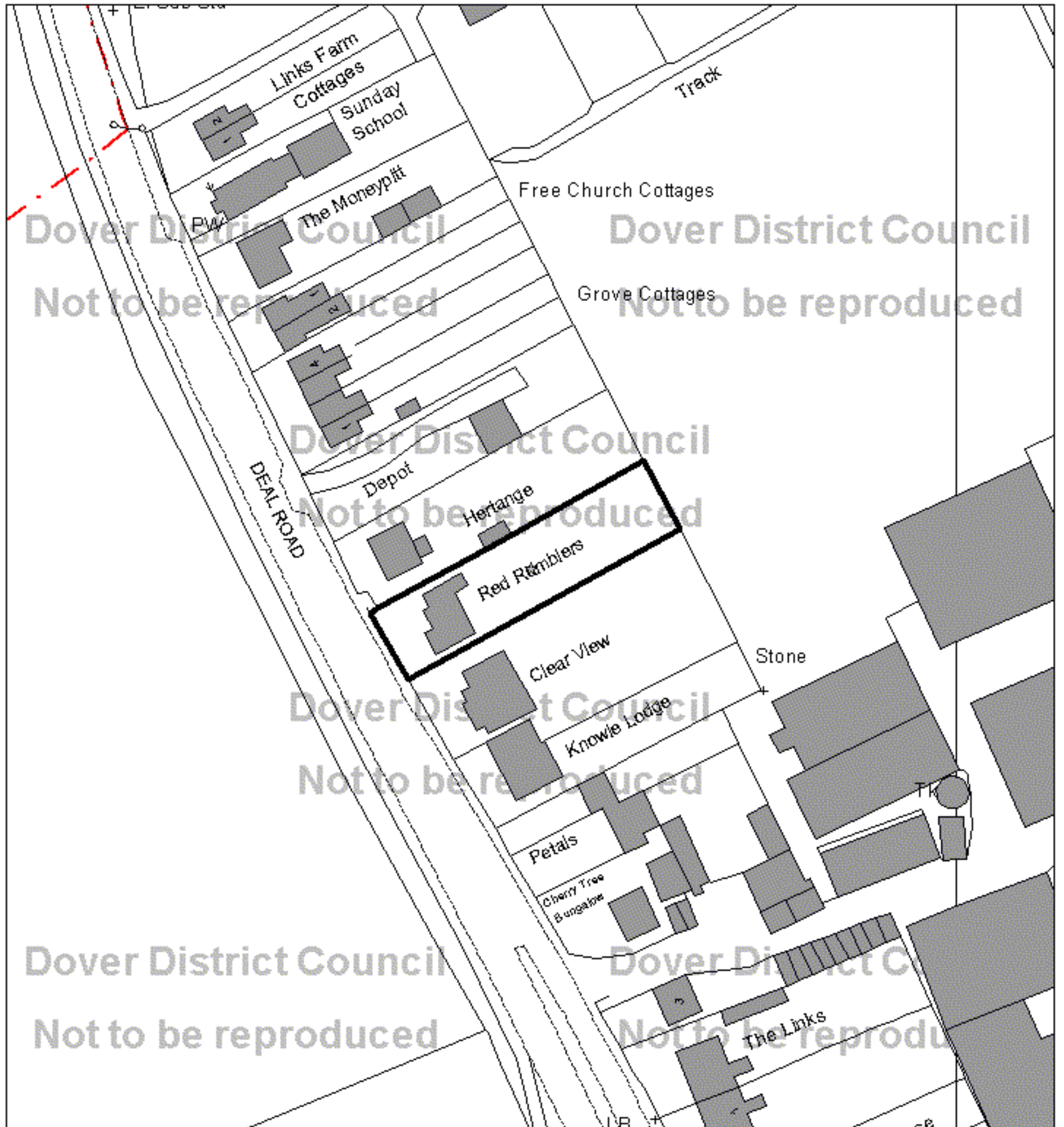
I PERMISSION BE REFUSED on the grounds:-

- 1) The proposed use, if permitted, would generate travel beyond any urban or village confines and by way of its siting in a rural location, would constitute an unsustainable form of development by increasing travel demand, particularly by private modes of transport. In the absence of any overriding policy justification for the development, the proposal would be contrary to the policy objectives relating to sustainable development and would be contrary to Policies DM1, DM3 and DM11 of the Dover District Core Strategy 2006 and the National Planning Policy Framework.

- 2) The proposed development would introduce a new business outside any settlement confines and would constitute a new development within the countryside, which is unacceptable in principle and for which there is no justification or overriding benefit that would outweigh the harm that would arise from the development. The proposal would be contrary to Policy DM1 of the Dover District Core Strategy 2006 and the National Planning Policy Framework.

Case Officer
Ben Young

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Not to scale

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Application: DOV/14/00126

Part of Ground Floor

Red Ramblers

Deal Road

Worth

TR32915634



Report to Planning Committee

Review of Planning Appeals 2013_14

- Page 1 Summary**
- Page 2 Outline of decisions made in Q4**
- Page 3 Summary of 2013-14 Appeals against committee decisions**
- Page 4 Summary of 2013-14 Appeals against delegated decisions**

Delegated Decisions

	Number	Upheld	Dismissed	% Upheld
Q1_13	6	2	4	33
Q2_13	7	1	6	14
Q3_13	7	0	7	0
Q4_13	4	0	4	0

Committee Decisions

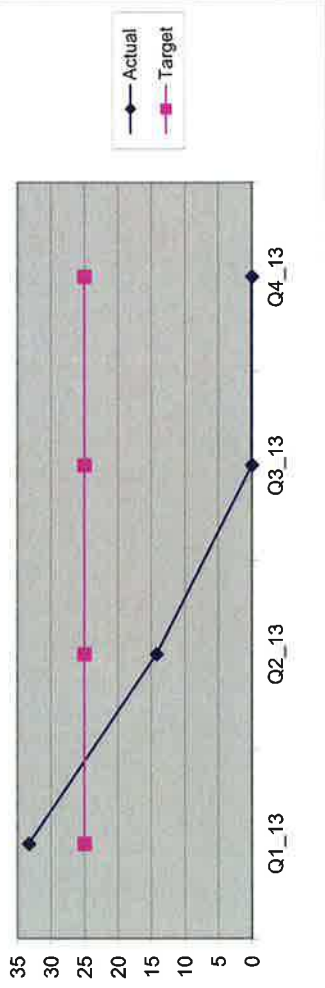
	Number	Upheld	Dismissed	% Upheld
Q1_13	2	2	0	100
Q2_13	5	2	3	40
Q3_13	0	0	0	0
Q4_13	2	1	1	50

	Delegated	Committee (with rec)	Committee (contrary to rec)
2012	0	0	0
2013	0	0	2

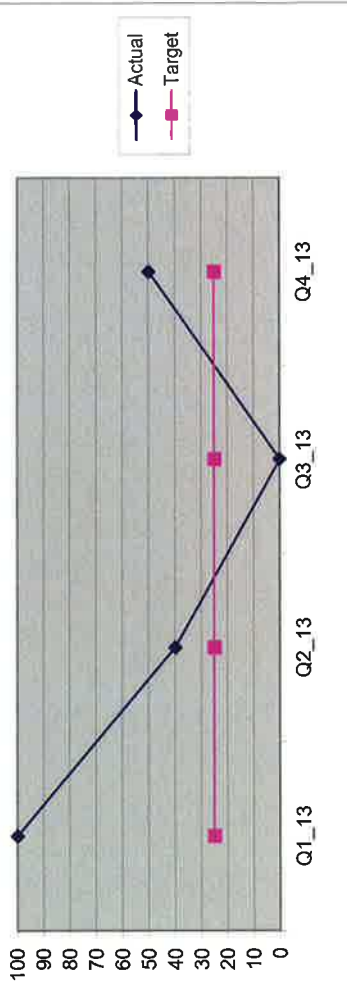
Overall performance

Number of appeals	33
Appeals upheld	8
% upheld	24.24

% Delegated Decisions Upheld



% Committee Decisions Upheld



	Main Issues	Inspector's decision
12_433	The effect of the proposals on (i) the character of the area; (ii) living conditions of occupiers of nearby dwellings; and (iii) highway safety in the vicinity of the site.	Harm outweighed the economic benefits
13_208	The effect of the proposed development on the character and appearance of the area and highway safety, and the adequacy of the proposed sewerage disposal facilities	Did not support reasons for refusal
13_235	The effect of the proposed dwelling on the character and appearance of the area, the living conditions of occupiers of adjoining residential properties with particular regard to the effect on outlook and highway safety in the vicinity of the site	Due to the adverse effect of the development on the character of the area, the harm to the living conditions of occupiers of adjoining residential properties, and the potential harm to highway safety, I conclude that the proposals are contrary to paragraphs 17 and 58 of the Framework.
13_317	Whether the proposed development comprises a sustainable form of development in accordance with advice in the National Planning Policy, • The effect of the proposed development on the character of the area; and • The effect of the proposed development on highway safety in the vicinity of the site	The development would not comprise sustainable development in accordance with the Framework. It would also be harmful to the character of the area and be likely to be harmful to highway safety. The development would conflict with the development plan and the Framework and so the appeal is dismissed.
13_466	The effect of the proposal on the character and appearance of the area.	The proposal is contrary to the National Planning Policy Framework and specifically one of its Core Principles which is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
13_484	The effect of the proposed extension on the character and appearance of the host property and the street scene; whether the proposed extension would preserve or enhance the character or appearance of the Alkham Conservation Area; whether the proposed extension would conserve and enhance the natural beauty of the Kent Downs Area of Outstanding Natural Beauty (AONB).	The proposed development would have an unacceptably harmful impact on the character and appearance of the host property and the street scene. It would neither preserve nor enhance the character and appearance of the Alkham Conservation Area in which it is located. Furthermore it would fail to conserve and enhance the natural beauty of the Kent Downs AONB.

Appeals against Committee decisions

Case	Address	Proposal	Appeal Decision	Date	With Officer Rec	Costs
12_500	St Margarets bay	Holiday Lodges	Allowed	10/04/2013	No	Yes
12_150	Old Fairground	Dwelling	Allowed	24/05/2013	Yes	
12_311	Mill Rd	Dwelling	Allowed	08/08/2013	No	Yes
12_818	Castle Ave	Dwelling	Dismissed	21/08/2013	No	
11_774	High Gaut	Alterations	Dismissed	22/08/2013	No	
11_823	High Gaut	Extension	Dismissed	22/08/2013	No	
11_553	Park Farm	Mobile Homes	Allowed	23/09/2013	No	
13_208	Cross Road	Dwelling	Allowed	17/01/2014	Yes	No
12_433	Stourmouth House	Change of Use	Dismissed	17/03/2014	No	No

Appeals against delegated decisions

Year	Case	Address	Proposal	Appeal Decision	Date	Costs
12	112	Bay Hill House	Dwelling	Allowed	04/04/2013	
12	269	44 Salisbury Rd	Flats	Dismissed	07/05/2013	
12	706	Monastary Avenue	Dwelling	Dismissed	08/05/2013	
11	856	Oak Barn	Alterations	Dismissed	17/05/2013	
12	772	The Old Fairground	Dwelling	Dismissed	24/05/2013	
12	730	Cardrona	Dwelling	Allowed	29/07/2013	
13	149	Blamoral Rd	Extension	Dismissed	02/08/2013	
12	865	Salisbury Rd	Dwelling	Allowed	21/08/2013	
12	473	Red Lion	Dwelling	Dismissed	29/08/2013	
12	474	Red Lion	Wall	Dismissed	29/08/2013	
13	339	Middle Deal	Dormer	Dismissed	10/09/2013	
12	309	Sunnyside	Extension	Dismissed	30/09/2013	
12	999	Sibert's Close	Dwelling	Dismissed	30/09/2013	
13	294	Kismet	Extension	Dismissed	11/10/2013	
13	4	The Strand	Dwelling	Dismissed	22/10/2013	
12	940	Breakers, Goodwin Rd	Extensions	Dismissed	21/11/2013	
13	337	Honeysuckle Cottage	Coach House	Dismissed	10/12/2013	
13	209	Dover Road	Conversion of Garage	Dismissed	30/10/2013	
12	954	Eythorne Court Barn	Velux Windows	Dismissed	30/10/2013	
12	943	Cedarwood	Changes to flat roof	Dismissed	05/11/2013	
13	484	Apple Tree Cottage	Rear Extension	Dismissed	29/01/2014	
13	466	Redstones	Decking to shed roof	Dismissed	22/01/2014	
13	317	Astley Avenue	Residential Development	Dismissed	17/01/2014	
13	235	59 Westcourt Lane	Dwelling	Dismissed	08/01/2014	