

Public Document Pack



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6 October 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 16 October 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** (Page 4)

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

4 **MINUTES** (Pages 5 - 21)

To confirm the attached Minutes of the meetings of the Committee held on 2 and 18 September 2014.

ITEMS WHICH MAY BE SUBJECT TO PUBLIC SPEAKING

(Pages 22 - 25)

5 **APPLICATION NO DOV/14/00245 - THE FOLLIES, DOWNS ROAD, EAST STUDDAL** (Pages 26 - 38)

ERECTION OF A DETACHED DWELLING AND THREE-BAY AGRICULTURAL BUILDING WITH OFFICE OVER TO INCLUDE LANDSCAPING AND ASSOCIATED WORKS (EXISTING MOBILE HOME TO BE REMOVED)

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

6 **APPLICATION NO DOV/14/0802 - RED RAMBLERS, DEAL ROAD, WORTH** (Pages 39 - 51)

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

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

7 **APPLICATION NO DOV/14/00579 - 7 PENFOLD GARDENS, SHEPHERDSWELL, DOVER** (Pages 52 - 58)

ERECTION OF A DETACHED DWELLING

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

8 **APPLICATION NO DOV/13/01092 - LAND ADJACENT TO SAGANA LODGE, GORE LANE, EASTRY** (Pages 59 - 66)

OUTLINE APPLICATION FOR ERECTION OF A DETACHED DWELLING AND GARAGE AND CONSTRUCTION OF A VEHICULAR ACCESS

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

ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING

9 **APPEALS AND INFORMAL HEARINGS**

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

10 **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

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

Declarations of Interest

Disclosable Pecuniary Interest (DPI)

Where a Member has a new or registered 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.

Other Significant Interest (OSI)

Where a Member is declaring an 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.

Voluntary Announcement of Other Interests (VAOI)

Where a Member does not have either a DPI or 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 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.

Minutes of the special meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Tuesday, 2 September 2014 at 6.00 pm.

Present:

Chairman: Councillor F J W Scales

Councillors: B W Butcher
J S Back
P M Beresford
T A Bond
P M Brivio
J A Cronk
B Gardner
K E Morris
P M Wallace

Officers: Principal Planner
Principal Planner and Urban Designer
Principal Heritage Planner and Urban Designer
Policy and Projects Manager
Development Planner (KCC Highways and Transportation)
Solicitor to the Council
Head of Inward Investment
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/13/0867	Mr Mike Newton Dr Jonathan Webster	-----
DOV/13/0783	Mr R Scarborough Mr Mark Moorhouse Mr Paul Barber	Mr Peter Jull

41 APOLOGIES

It was noted that an apology for absence had been received from Councillor R S Walkden.

42 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.

43 DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest.

44 APPLICATION NOS DOV/13/0867 - LAND ADJACENT TO 10 DOVER ROAD, SANDWICH AND DOV/13/0783 - DISCOVERY PARK ENTERPRISE ZONE, RAMSGATE ROAD, SANDWICH

In respect of administrative matters, the Chairman expressed his frustration that such a lengthy report had been circulated to Members only four days before the meeting. Whilst this was unacceptable, in his view the Committee had not been seriously disadvantaged. Options should be discussed with Officers to identify ways of preventing such a situation arising in the future.

Councillor B Gardner expressed the view, for the benefit of members of the public in attendance, that consideration of the applications should not be viewed as a contest between Waitrose and Sainsbury's. Planning permission did not relate to a specific retailer, and there was no guarantee that the retailers who were currently interested in the sites would progress them to store development. The Chairman agreed, stating that the Committee was considering the two application sites and their suitability as food outlets, not their preferred retailer.

In response to Councillor Cronk who sought reassurance that a vote would be taken on each application separately, the Chairman advised that it was possible that a joint vote on both applications might take place if a credible motion was proposed. It was impossible to predict what might arise during debate, but it was proposed to follow the procedures laid out in the agenda. Whilst separate, the applications were interlinked. This was a unique situation and, to some extent, the Committee would have to assess the situation as proceedings evolved. In response to Councillor Gardner, the Solicitor to the Council recommended that the Committee should vote separately on each application and, as such, should avoid motions the effect of which would be to approve or refuse both applications in one.

The Principal Planner (Development Management) introduced the Council's Policy and Projects Manager who summarised the policy background to both applications in respect of the Land Allocations Local Plan (LALP) which was still the subject of consultation.

The Policy and Projects Manager advised that, unlike Dover and Deal, the Council's Core Strategy, of which the LALP was a component, had not designated a 'town centre' for Sandwich. In December 2012 the Council's LALP (Policy LA17) had allocated the Guildhall car park for new retail goods provision. However, to reflect advice received that the car park site would not be available, the LALP had been amended in March 2013, replacing Policy LA17 with a criteria-based policy that was in accordance with paragraph 23 of the National Planning Policy Framework (NPPF). This required that retail developments outside a town centre should be subjected to a sequential test that sought to ensure that such developments were well connected to town centres. In developing the LALP, it had also been recognised that retail need figures were out of date and a Retail Update (RU) had been commissioned and published in 2012. The LALP had identified, for plan-making purposes, that there would be a need for 2,400m² (or 25,833ft²) of additional convenience retail provision in the Deal/Sandwich trade area by 2026. Furthermore, the LALP had been amended to define Sandwich town centre in order that the sequential test could be applied, as recommended by the RU.

Members were advised that the LALP had been submitted for independent Examination in October 2013. Subsequent to hearings held in January and February 2014, the Planning Inspector had identified that a number of Main Modifications (MM) were necessary in order to make the LALP sound and legally compliant. The MMs included the designation of Town Centre and Primary Shopping Areas for Sandwich. In response to a query raised by Councillor Cronk, the Policy and Projects Manager confirmed that it was Cabinet that had approved the LALP for consultation, the MMs not having yet been to Council for its

consideration. The Chairman reminded Members that the Planning Inspector had made it clear that the original LALP was not acceptable. For this reason, the amended LALP carried more weight as an emerging policy against which to determine the applications. In clarification, the Solicitor to the Council added that the original policy had not progressed through the Examination. The amended policy was well advanced in terms of its progress and, as a matter of law, the Committee was entitled to accord it due weight at this stage.

In respect of Application No DOV/13/0867 (10 Dover Road), the Principal Planner and Urban Designer (Development Management) updated Members, advising that a petition and five letters of support had been received which largely raised matters that had been addressed in the report. Referring to paragraph 49 of the report, it was confirmed that the 175 proposed parking spaces would be provided for use by the public and store staff. It was recommended that an amendment be made to the delivery hours condition on page 46 of the report, such that it should read that there would be no collections or deliveries outside the hours of 7.00am to 10.00pm Mondays-Fridays; 8.00am to 6.00pm on Saturdays and 9.00am to 4.00pm on Sundays and Bank Holidays.

Members viewed photographs and plans of the site which was a triangular shaped open field, located 580 metres outside the limits of Sandwich's Town Centre and Primary Shopping Area (as defined in the emerging LALP). Open fields adjoined the site to the south east. To the north was a large detached two-storey building which was in the advanced stages of conversion to residential flats. To the west, on the opposite side of Dover Road, was the St Bartholomew's Hospital Conservation Area which included a Grade I-listed chapel. The proposal was for the erection of a foodstore with a gross floor area of 2,520m² and net sales area of 1,515m². The development would also provide a doctor's surgery and pharmacy within a single storey building. New vehicular access, including a right-hand filter lane, would be provided. The development would be set back from Dover Road and it was clarified that, in correction to the report, planting would take place along the frontage in replacement of the ten trees (including three poplars) that would be removed. It was considered that the character of the road could be safeguarded by this replacement planting which would be required by condition. The proposed development satisfied the sequential test in accordance with guidance laid out in the NPPF. The design of the proposed development was considered appropriate. As set out in the report, Officers considered that there would be 'less than substantial harm' caused to nearby heritage assets, and that this harm would be outweighed by the wider public benefits of the scheme.

In respect of Application No DOV/13/0783 (Discovery Park Enterprise Zone), the Principal Planner (Development Management) advised that the site and proposals which were the subject of the application did not form part of proposals included in the Discovery Park Masterplan application which would be considered by the Committee separately. Referring to the NPPF, Members were reminded that, in determining the application, they had a duty to consider not only the economic benefits of the proposal but also its environmental and social implications, for example the potential impact on the viability and vitality of Sandwich town centre. All these factors should be given equal weight. The applicant had put forward a range of mitigation measures to alleviate the retail impact on Sandwich town centre. However, it was considered that these did not outweigh the significant harm that the development was likely to cause to the town centre as a result of displaced trade.

Members were shown plans and photographs of the site. The proposal was for the erection of a foodstore - along with a filling station and associated kiosk - with a

gross floor area of 4,830m² and retail floor space of 2,694m². There would be 344 parking spaces to serve the new store, as well as new bus stop and shelter provision.

In response to Councillor Gardner, the Principal Planner (Development Management) advised that the planning application had been submitted in advance of the Discovery Park Masterplan application. Whilst it was acknowledged that there had been a delay in bringing the Masterplan application forward to Committee, the planning application should be treated on its own merits.

The Local Planning Authority's (LPA) retail consultant outlined the potential cumulative effect of the applications. As well as the figures given earlier, Members were advised that 80% of the Dover Road proposal would be given over to food and convenience goods. A £16 million turnover for both convenience and comparison goods was predicted. The Discovery Park proposal would also see 80% given over to food and convenience goods, with a predicted turnover of £31 million for both convenience and comparison goods. By comparison, the existing Co-op store in Sandwich had a gross floor area of 1,642m².

It was clarified that applications were required to pass two tests. Firstly, the sequential test required in Paragraph 24 of the NPPF which prescribed that retail development proposals should only be located on out-of-town centre sites where town centre and edge-of-centre sites were not available. Where only the latter sites were available, preference should be given to accessible sites that were well connected to the town centre. Secondly, an impact assessment was required based on two strands: the impact of the proposal on the town centre in terms of its vitality and viability and public and private investment.

In respect of the Dover Road site, it had been established that there were no town centre or edge-of-centre sites available. The Dover Road site was 580 metres distant from the town centre in comparison to the only other potential site which was situated at Ash Road and which was 610 metres distant. 580 metres was considered a walkable distance and the site offered direct access to the town centre. Moreover, the site was visually connected to the town centre. By comparison, the Discovery Park site was 1,800 metres distant from the town centre, and there was a limited prospect of linked pedestrian trips being made to the town centre given the route and distance. Appeal cases had demonstrated that linkages and connectivity to town centres were considered most significant. It had been concluded that the Dover Road site had the greatest prospect of achieving meaningful connectivity to the town centre.

The retail consultant advised that, when reviewing the retail impact of both developments, it was evident that some unrealistic assumptions had been made about the ability of the sites to draw trade from further afield. Members viewed a slide on trading impact analysis. It was predicted that the Dover Road development would divert £250,000 from town centre food stores (or 21% of trade). The heaviest impact would fall on the Co-op which was likely to lose £1.65 million in trade. It was estimated that the Discovery Park store would divert £500,000 from town centre food stores and £3.47 million from the Co-op (or 44% of trade). If both were granted, the developments would compete with each other and, cumulatively, were likely to take approximately £5.2 million in turnover away from the town centre, an overall trading impact of 55%.

In conclusion, the Committee was advised that the Dover Road food store was unlikely to result in significant adverse impact on the town centre because of its

ability to generate linked trips into the town centre which would mitigate any adverse impact. The Discovery Park store, however, was likely to have a significant adverse impact as it would lead to a substantial reduction in town centre footfall which would in turn threaten the trading viability of Sandwich retailers. Unlike the Dover Road proposal, it was doubtful that the store would be able to offer any meaningful linked trips of benefit to Sandwich. In the event that both applications were approved, there would undoubtedly be significant adverse impact caused to Sandwich town centre.

Turning to traffic impact, the Principal Planner (Development Management) advised that a cumulative traffic impact assessment would need to be carried out if both applications were approved. Members were referred to page 184 of the report and the comparative assessment of both applications, an updated copy of which had been circulated.

Councillor B W Butcher expressed his support for the Dover Road application, notwithstanding that he had concerns regarding traffic. Referring to page 17 of the report, he drew attention to the fact that, whilst there were historic buildings in close proximity to the site, there was also a substantial amount of modern housing already surrounding these buildings. The attractive nature of the current vista would be safeguarded by the retention of the majority of the poplar trees, along with the hedge on the other side of the Delf Stream. A brick and flint wall would also help to screen views of the development site. In respect of the trees, it was imperative that the poplar trees should remain and any damaged trees should be replaced like-for-like and secured by condition.

The site was a 10-15 minute walk from the town centre and therefore well connected to it and the nearby railway station. He was of the opinion that shoppers would use the 3 hours free parking period to explore Sandwich once they had done their shopping. The proposed development was well placed to serve nearby housing estates. An ageing and increasing population were putting pressure on Sandwich's existing surgeries whose expansion had been stalled due to the lack of suitable alternative accommodation and parking. The proposed surgery and pharmacy were therefore vital for future healthcare provision in Sandwich.

Councillor Gardner stated that he was of the opinion that the inclusion of a surgery and pharmacy was a compelling reason for approving the development. However, he raised concerns about existing traffic problems on Dover Road and parking at the site. No separate provision had been made for staff parking, and it was possible that spaces would be stretched even further by rail travellers using the store car park because it was free. Moreover, no details had been submitted in explanation of how the car park would be policed. He referred to concerns raised by the Environment Agency about proposals to discharge surface waters into the Delf Stream, and urged that the developer be required to set money aside for flood alleviation work.

The Chairman clarified that the conditions outlined in the report were headline conditions only and the details of these conditions would be expanded by Officers.

Councillor Cronk expressed his support for the application, but proposed that permitted development rights should be withdrawn in relation to mezzanine levels as parking capacity could not support an expansion.

It was moved by Councillor Cronk and duly seconded that Application No DOV/13/0867 be APPROVED as per the report recommendations, subject to the

withdrawal of permitted development rights for mezzanine levels, with all detailed conditions being submitted to the Planning Committee for approval.

In response to Councillor Cronk, the Chairman reminded the Committee that it was breaking new ground procedurally. Both applications were dealt with as one agenda item, and it was therefore appropriate to debate the second application before determining the first one. In the interests of fairness and parity, the applications should be considered in tandem and a full debate was required on both. For these reasons, he proposed that Councillor Cronk's motion should be held in abeyance until Members had finished their debate. The Solicitor to the Council concurred, advising that there was a comparison to be made between the two applications since the Committee was being advised that to grant both would cause significant harm to Sandwich town centre. Approving the first one before debating the second application could hinder the Committee's ability to consider the latter.

In respect of the Dover Road site, Councillor T A Bond raised concerns regarding traffic and the site's location on green land outside the town boundaries. Stagecoach had also raised concerns about the proposal. In his view, these factors had to be weighed against the benefits of having a new surgery.

In respect of the Discovery Park site, he stated his support for the application. The development would be built on brownfield land on a site which had been championed by the Government and local community. The site was easily accessible and the proposed store was likely to attract outlying customers. He noted that both Sandwich Town Council and the Sandwich and District Chamber of Commerce supported the proposed development.

At the request of the Chairman, the Solicitor to the Council clarified the role of the Secretary of State. As the applications related to out-of-town retail development, the Secretary of State would be notified whether the LPA was minded to grant one or both of the applications. He would then decide whether the decision should be called in for determination by him.

Councillor P M Wallace questioned how the retail impact figures had been arrived at and at what point development was judged to be unsustainable. In his view, three supermarkets in Sandwich were likely to attract three different types of customer and could therefore be sustainable. He stated his support for the Discovery Park development.

The retail consultant advised that the retail impact figures were based on modelling carried out on the results of a market research survey commissioned by the LPA. This had examined the shopping patterns of Dover district residents using the results of 800 telephone interviews. It was accepted that large food stores competed primarily with other large food stores, and consumers tended to shop at their nearest store. The figures were largely evidence-based, but some judgements had been made on the basis of experience of other locations where stores had been opened. The survey was considered to be statistically robust and reliable.

Referring to paragraph 22 on page 26 of the report, Councillor K E Morris stated that he was not convinced by the sequential test carried out on either site. He was minded to support the Discovery Park application as its construction on a brownfield site met the environmental impact objectives of the NPPF, unlike the Dover Road site which would be built on greenfield land. Members also had a duty to take into account the likely economic impact of the proposals and the Discovery Park's

nationally recognised success could not be ignored. The Committee had to consider the wider implications of the Discovery Park application, refusal of which would send out the wrong message to potential investors. Councillor Gardner agreed that the Discovery Park site had an advantage over the Dover Road site of being brownfield land with considerably better access. There were already a significant number of people working at the Discovery Park and, with plans for expansion, a food store at the site would almost certainly be sustainable. Nevertheless, whilst the Dover Road site gave cause for concern because of potential highway problems, this had to be offset against the benefits of having a new surgery and pharmacy.

Councillor P M Brivio voiced her support for the Discovery Park site which already had a captive market. In her opinion, the Dover Road site posed potential traffic and parking problems. Councillor Cronk stated that the Discovery Park site had many factors to recommend it, including its being a large site with plenty of parking and good access. It was important to support the Discovery Park by encouraging its expansion to create more jobs. Refusing the application would send out the wrong signals.

In respect of the Dover Road site, the KCC Development Planner confirmed that there would be a standard junction with right or left-hand turns permissible. Traffic would not be prohibited from turning right.

Councillor J S Back spoke in favour of the Discovery Park application, referring to the fact that it would have no effect on heritage assets and that no objections had been raised by KCC Highways or Sandwich Town Council. He raised concerns about the number of parking spaces at Dover Road. In response, the KCC Development Planner confirmed that the report recommendations included a condition relating to a parking management plan which would be reviewed once the store was built.

In response to Councillor Wallace who sought further clarity regarding the potential retail impact on the town centre, the retail consultant confirmed that modelling suggested that turnover withdrawal from the town centre would be significant and damaging to town centre traders. Some traders were likely to be at the margins of profitability and it was therefore distinctly possible that they would be forced to close. The Co-op was trading fractionally above what would be expected, and it was almost inevitable that its trade would suffer as a result of other food stores opening.

In respect of Application No DOV/13/0867, the Chairman called for the vote to be taken on Councillor Cronk's motion.

It was moved as an amendment by Councillor B Gardner and duly seconded that a condition should be added that the food store should not open for trading until the doctor's surgery had been substantially completed and was operational.

On being put to the vote, the amendment was CARRIED.

The Chairman now called for the substantive motion to be voted upon. On being put to the vote the proposal was CARRIED.

RESOLVED: (a) That, subject to confirmation from the Secretary of State that a Direction will not be issued in respect of this application (i.e. that the application will not be called in), Application No DOV/13/0867 be

APPROVED subject to the attachment of safeguarding conditions which are summarised as follows, to include:

- (i) Standard 3-year time limit for commencement;
- (ii) Schedule of amended plans;
- (iii) Restrict retail use and maximum floor areas (% comparison; % convenience) including café use;
- (iv) Restrict use of dispensing pharmacy and surgery together with a maximum ancillary retail floorspace;
- (v) Phasing strategy and plan;
- (vi) Restrict hours of use of surgery and pharmacy;
- (vii) Restrict hours of opening of retail store;
- (viii) Delivery hours for retail/pharmacy/surgery – no collections/deliveries outside the hours of 7.00am to 10.00pm Monday-Friday; 8.00am to 6.00pm on Saturdays; and 9.00am to 4.00pm on Sundays and Bank Holidays;
- (ix) Details of plant and machinery and noise control;
- (x) Tree and hedgerow retention and protection;
- (xi) Replacement tree planting;
- (xii) Hedge planting (native species) along north boundary;
- (xiii) Provision and retention of approved vehicle parking spaces;
- (xiv) Provision and retention of bicycle and motor cycle parking spaces;
- (xv) Details of secure covered bicycle parking;
- (xvi) Servicing Management Plan;
- (xvii) Parking Management Plan: (customer parking and service vehicles) including a review mechanism after commencement of trading at the store;
- (xviii) Provision and retention of vehicle loading/unloading and turning facilities;
- (xix) Provision of measures to prevent the discharge of surface water onto the highway;
- (xx) Gates to open away from the highway with a minimum set back of 16 metres from carriageway;

- (xxi) Removal of existing vehicle crossing in Dover Road and reinstatement of footway;
- (xxii) Pedestrian visibility splays;
- (xxiii) Provision of a bus shelter (details to be agreed) adjacent to the existing north-bound bus stop on the west side of Dover Road prior to commencement of use;
- (xxiv) Completion of highway works as shown indicatively on the approved plans and in accordance with details to be submitted and approved in writing by the LPA, prior to commencement of use;
- (xxv) Completion of accesses shown on approved plans prior to commencement of use of the development;
- (xxvi) Require details of SUDS or equivalent surface water drainage strategy;
- (xxvii) Programme of archaeological work;
- (xxviii) Sustainable construction BREEAM 'Very Good';
- (xxix) Samples of materials;
- (xxx) Sample panel of flint for front boundary wall;
- (xxxi) Details of external lighting, including position and timing of illumination;
- (xxxii) External lighting (with the exception of security lighting) to be restricted during hours when the store is closed;
- (xxxiii) Specification of crime prevention and safety measures;
- (xxxiv) Construction Management Plan (CMP)/Code of Construction Practice (CoCP);
- (xxxv) Hard and soft landscaping details and implementation timetable to be completed prior to commencement of use;
- (xxxvi) Completion of works to pedestrian access and bridge prior to commencement of use;
- (xxxvii) Scheme and timetable of improvements to PROW ES6 prior to commencement of use;
- (xxxviii) Details of an interpretation/information scheme to direct customers to facilities within the existing town centre, prior to commencement of use;
- (xxxix) Removal of permitted development rights in relation to mezzanine levels;

- (xl) Food store should not open for trading until the doctor's surgery and pharmacy building has been substantially completed and is operational;
- (b) That, subject to (a), all detailed planning conditions and details be submitted to the Planning Committee for its consideration.

Councillor Cronk queried whether, at outline stage, the applicant could be requested to provide a viability assessment demonstrating mitigation measures for trading in Sandwich town centre and locally. The Solicitor to the Council confirmed that such a condition should be added at the outline application stage. Discussions then followed regarding the absence of a cumulative traffic impact assessment.

It was agreed to adjourn the meeting at 8.44pm for a short break. The Committee reconvened at 8.50pm.

The Solicitor to the Council clarified that a cumulative traffic impact assessment could not be requested of the Dover Road applicant as this application had already been approved and could not be re-visited. The KCC Development Planner advised that it would be prudent to assess the combined traffic impact of the two applications. Such an assessment could be included as a condition attached to approval of the Discovery Park application.

In response to concerns raised by Councillor Gardner, it was clarified that only committed developments could be taken into account for cumulative impact assessments. Cumulative impact assessments would not have been requested for previous applications unless other developments (considered to have an impact) had already been approved. Both Councillors Bond and Cronk spoke against including a condition requiring a traffic impact assessment.

The Principal Planner (Development Management) advised Members that they would need to be satisfied that there were robust and sound reasons for going against the report recommendation to refuse the Discovery Park application. Members were also advised that the applications would need to be screened under environmental impact assessment regulations.

It was moved by Councillor J A Cronk and duly seconded and

- RESOLVED:
- (a) That, subject to confirmation from the Secretary of State that a Direction will not be issued in respect of this application (i.e. that the application will not be called in), and notwithstanding the Officer's recommendation, outline planning permission for Application No DOV/13/0783 be APPROVED on the grounds that: (i) the Committee disagrees with the conclusions of the sequential test; and (ii) considers that the proposed development will not have a significantly adverse retail impact on Sandwich Town Centre.
 - (b) That, subject to (a), any legal agreements, detailed planning conditions (including the withdrawal of permitted development rights in relation to mezzanine levels), details of the package of mitigation measures and informatives be submitted to the Planning Committee for its consideration.

The meeting ended at 9.05 pm.

Public Document Pack

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 18 September 2014 at 6.00 pm.

Present:

Chairman: Councillor F J W Scales

Councillors: B W Butcher
T A Bond
J A Cronk
N S Kenton
K E Morris
R J Thompson
R S Walkden
P M Wallace

Officers: Principal Planner (Development)
Principal Planner
Planning Delivery Manager
Principal Solicitor
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/14/00637	Mr Mark Reynolds	Mr David Bucknell
DOV/14/00153	Councillor S C Manion Mrs Glynis Farthing	Mr Chris Shaw Mr Derek Wanstall

45 APOLOGIES

It was noted that apologies for absence had been received from Councillors J S Back and P M Brivio.

46 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors N S Kenton and R J Thompson had been appointed as substitutes for Councillors J S Back and P M Brivio respectively.

47 DECLARATIONS OF INTEREST

There were no declarations of interest from Members.

48 MINUTES

The Minutes of the meeting held on 28 August 2014 were approved as a correct record and signed by the Chairman.

49 ITEMS DEFERRED

The Chairman advised that Application No DOV/14/00637 (Clooneavin, Victoria Road, Kingsdown) was dealt with elsewhere on the agenda.

The Committee was shown a plan and photographs of the site. The Principal Planner reminded Members that the proposal related to the erection of a detached dwelling, adjacent to an existing property, whose access would front Victoria Road. Seven letters had been received since the report was written, several of which raised matters already addressed in the report. Concerns had been raised that procedures to protect and consult communities had not been followed. In addition, comments had also been made on the absence of a highways report and tree survey, and the lack of consultation with the Kent Downs Area of Outstanding Natural Beauty (AONB) unit. Reference had also been made to the construction period and vehicle access, impact on the setting of the AONB, the setting of a precedent, Kingsdown's affordable housing needs and the hedgerows around the site not being adequate for screening purposes as they were deciduous.

The Committee was advised that the usual notification procedures for advertisement and consultation had been followed in respect of the application which had generated a number of comments during the consultation period that had since expired. A tree survey had not been submitted with the application. However, it was evident from a visit to the site that the proposed dwelling would be some distance from the trees and hedgerows along the side boundary. In any case, protection of the trees and hedgerows could be addressed by condition.

The Chairman stated that, at its meeting held on 28 August 2014, the Committee had deferred the application for a site visit which had taken place on 16 September. Councillor K E Morris advised Members that the site visit had been informative and extremely worthwhile given the complexity of the proposal. The outcome of the panel's deliberations had been that it considered that the proposal's impact on local amenity and the AONB would not be significant, and it was noted in particular that access would be through Victoria Road and not Bayview Road. Furthermore, the panel was satisfied that the Inspector's objectives in excluding the strip of land along Bayview Road from the settlement confines, to prevent a cumulative and detrimental impact on the AONB, could still be achieved if the application were approved. The panel therefore recommended to the Committee that the application should be approved, subject to conditions to require a soft landscaping scheme to be submitted which should show the trees and hedgerows to be retained.

Councillor J A Cronk advised that he had attended the site visit which had been very helpful. Before the site visit he had held concerns about where the proposed dwelling would be situated in relation to the AONB and how it would appear when viewed at a distance from the AONB. However, in his view the proposed development would not impact on the AONB. The withdrawal of permitted development rights and the retention of trees and hedgerows to maintain a soft edge to the village were crucial, and further protection would be afforded when the Land Allocations Local Plan (LALP) was adopted.

Councillor P M Wallace referred to previous appeal findings in 1996 and 2003 when the Inspector had upheld refusals, citing the need to protect the soft edge of the village from development. Councillor Wallace agreed with the Inspector, adding that the proposed dwelling would be incongruous and unnecessary.

The Chairman reminded Members that the Inspector had been referring to different sites and the site which was the subject of the application should be judged on its

own merits. This development would not be accessed via Bayview Road and the soft edge of the village, created by trees and hedgerows, could therefore be maintained. A proposal to develop any other site along Bayview Road would be viewed very differently.

In response to Councillor T A Bond, the Principal Planner clarified that a site further along Bayview Road had been refused planning permission. The Inspector's rationale for excluding the strip of land along Bayview Road from the settlement confines had been due to the cumulative impact that would arise from residential development and the opening up of boundaries, both of which would be harmful to the AONB. However, the application site was different because access would be via Victoria Road and the boundary would consequently be retained. Furthermore, approval of the application would not set a precedent since future applications would have to be considered against the LALP which, when adopted, would designate the land as being outside settlement confines. Such applications would be objected to in principle.

Councillor Bond expressed concerns that approval of the application would be inconsistent with previous refusals if the applications had been refused on grounds outlined in the emerging LALP. The Chairman reiterated that, although previous application sites had been within the settlement confines, the key material consideration would have been their potential impact on the AONB. Concerns were raised regarding access during the construction phase and it was clarified that these could be addressed by a condition requiring a construction management plan.

RESOLVED: (a) That Application No DOV/14/00637 be APPROVED, subject to the following conditions:

- (i) Time limit;
 - (ii) Approved plans;
 - (iii) Material samples;
 - (iv) Landscaping scheme, including retention of trees and boundary hedges;
 - (v) Code Level 3;
 - (vi) Removal of permitted development rights for extensions and buildings;
 - (vii) Provision of parking area;
 - (viii) Details of surface water drainage;
 - (ix) Submission of Construction Management Plan.
- (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.

51 APPLICATION NO. DOV/14/00153 - LAND AT GUSTON COURT FARM, EAST LANGDON ROAD, GUSTON, DOVER

The Committee viewed a plan and photographs of the site. The Principal Planner (Development Management) advised that, following concerns raised by Officers and local representations, the original application (comprising two sites known as Guston 1 and 2) had been amended and now only covered the area known as Guston 1. The site covered 19.9 hectares and the land, currently in agricultural use for cereal production, was a mixture of Grade 3a and Grade 3b as defined by the Agricultural Land Classification survey. It was proposed that the site would generate approximately 10 megawatts of electricity, sufficient to power 3,000 households. The site would be surrounded by 1.8 metre high fencing, along with hedging and trees. The panels would be set back from the site's frontage with the A258.

Principal matters for consideration included the proposal's impact on landscape and heritage assets, highway safety and the loss of agricultural land. The Government attached significant importance to the provision of renewable energy. However, in National Planning Policy Guidance issued recently, it had advised that the provision of renewable energy should not override environmental protection considerations.

The Committee was shown photomontages of the site in order to demonstrate the potential impact of the development from various views. It was recognised that the site was well screened, although it was open to views from the A258. Whilst the Officer considered that some harm would be caused to the landscape, the impact was considered acceptable when weighed against the need for renewable energy, the setting back of the arrays and planting mitigation measures.

In terms of the proposal's impact on heritage assets, the Officer considered that there would be some limited adverse impact on the Duke of York's School, Guston Mill and Swingate Radar Station. However, this was considered acceptable when balanced against the public benefits arising from the proposal. In respect of its impact on residential amenity, the Officer agreed with the findings of the applicant's detailed residential amenity survey that this would be acceptable. Kent County Council Highways and Transportation had confirmed that the issues it had raised initially had since been satisfactorily addressed.

The recent Marshborough appeal case was relevant since the appeal had been dismissed partly because of the loss of agricultural land. Also relevant was recent Government guidance which reiterated that applicants proposing the use of Best and Most Versatile agricultural land should provide evidence that alternative brownfield sites were not available. This particular site was in active use for crop production and the land had been classified as Best and Most Versatile. Referring to paragraph 3.17 of the report, the Committee was advised that the applicant had submitted a sequential spatial analysis with the application, but it was the Local Planning Authority's agricultural adviser's view that this was unacceptable. It was insufficiently detailed and failed to provide any evidence as to whether the use of Grade 3a land on the site could be reduced.

Since the report had been circulated, the applicant had made further representations, referring to appeal cases where it had been argued that the protection of Grade 3a land should be afforded less weight than land graded 1 and 2. Reference was also made to the Inspector for one of the appeals having given weight to the intention to carry out more intensive farming on the land in question post implementation. If this were a prerequisite for the granting of planning permission for the current application, the applicant indicated their willingness to pursue a similar approach. The applicant had also argued that the application site

was marginal to the farm operation and would provide it with an additional income. The site was well screened and the proposal had received support from the local community and the Kent Chamber of Commerce. Moreover, local contractors would be used.

As an update, it was reported that two further letters of objection had been received since the report was produced, including one attaching a petition containing nine signatures. The latter raised various issues: the industrial appearance of the construction; its high visibility in the landscape; the land's retention for food production; its proximity to homes and villages; no guarantee land will be returned to agricultural use; proposal should be built on brownfield land. A further forty-seven letters of support had been received via the applicant, stating that the proposal would help secure green energy and supporting the long-term benefits of renewable energy.

The Committee was advised that it needed to be satisfied that its determination of the application was consistent with the Marshborough case and other sites. It was outlined that, whilst the principle of renewable energy could be supported, proposals had to be dealt with within a policy framework that sought to protect the countryside and Best and Most Versatile agricultural land. Such development should normally only be permitted in areas where previously developed or poorer quality land was not available. Regrettably, it was considered that the proposal had not demonstrated compliance with this policy approach.

The Chairman emphasised that the Officer's recommendation to refuse the application was based on its use of Best and Most Versatile land. The latter was defined as land that could be used for farming and food production. The presence of solar panels would limit the use of the land to grazing for sheep or llamas.

Councillor B W Butcher expressed concerns about the use of arable land which he suggested would not be returned to food production. Whilst he recognised the need for renewable energy, there were more suitable, brownfield sites available which should have been considered. Councillor Morris discounted the fact that the application site was now smaller, as well as the argument that it represented only a small proportion of the farm. He also expressed disappointment that the applicant's sequential spatial analysis had failed to demonstrate that other sites with poorer quality land had been considered and were not suitable, or that none in this category were available. This was a serious failing and the principal reason why he could not support the application.

In response to Councillor R S Walkden, who questioned why the applicant had been engaged in negotiations notwithstanding that Officers objected to the application, the Principal Planner (Development Management) advised that, where an application was likely to fail for fundamental reasons, applicants would not normally be requested to make amendments to it, unless these would address principal matters. However, applicants had the right to submit amendments which addressed other points of concern in order to make their application as attractive as possible. In this particular case, it was also relevant that new Government planning guidance had emerged during the course of the application which had emphasised the need to give weight to environmental considerations when determining such applications. This had had a bearing on how the application had been assessed, as did the approach taken by the Planning Inspectorate to the Marshborough appeal which had taken into account the latest guidance when considering the merits of renewable solar energy versus the loss of Best and Most Versatile agricultural land.

Councillor N S Kenton welcomed the scheme which had benefited from the amendments made. However, the applicant had failed to provide evidence regarding the availability of other sites and, given the outcome of the Marshborough appeal, it was inevitable that the proposal should be refused.

RESOLVED: That Application No DOV/14/00153 be REFUSED on the grounds that the proposed solar farm would result in the loss of a significant area of Best and Most Versatile Agricultural Land and, in the opinion of the Local Planning Authority, it has not been demonstrated that development of the agricultural land is necessary or that no suitable previously developed sites or sites of lower agricultural land are available. The proposal would therefore be contrary to paragraph 013 (renewable and low carbon energy) of the National Planning Practice Guidance and paragraph 112 of the National Planning Policy Framework.

52 APPEALS AND INFORMAL HEARINGS

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

53 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 7.24 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.

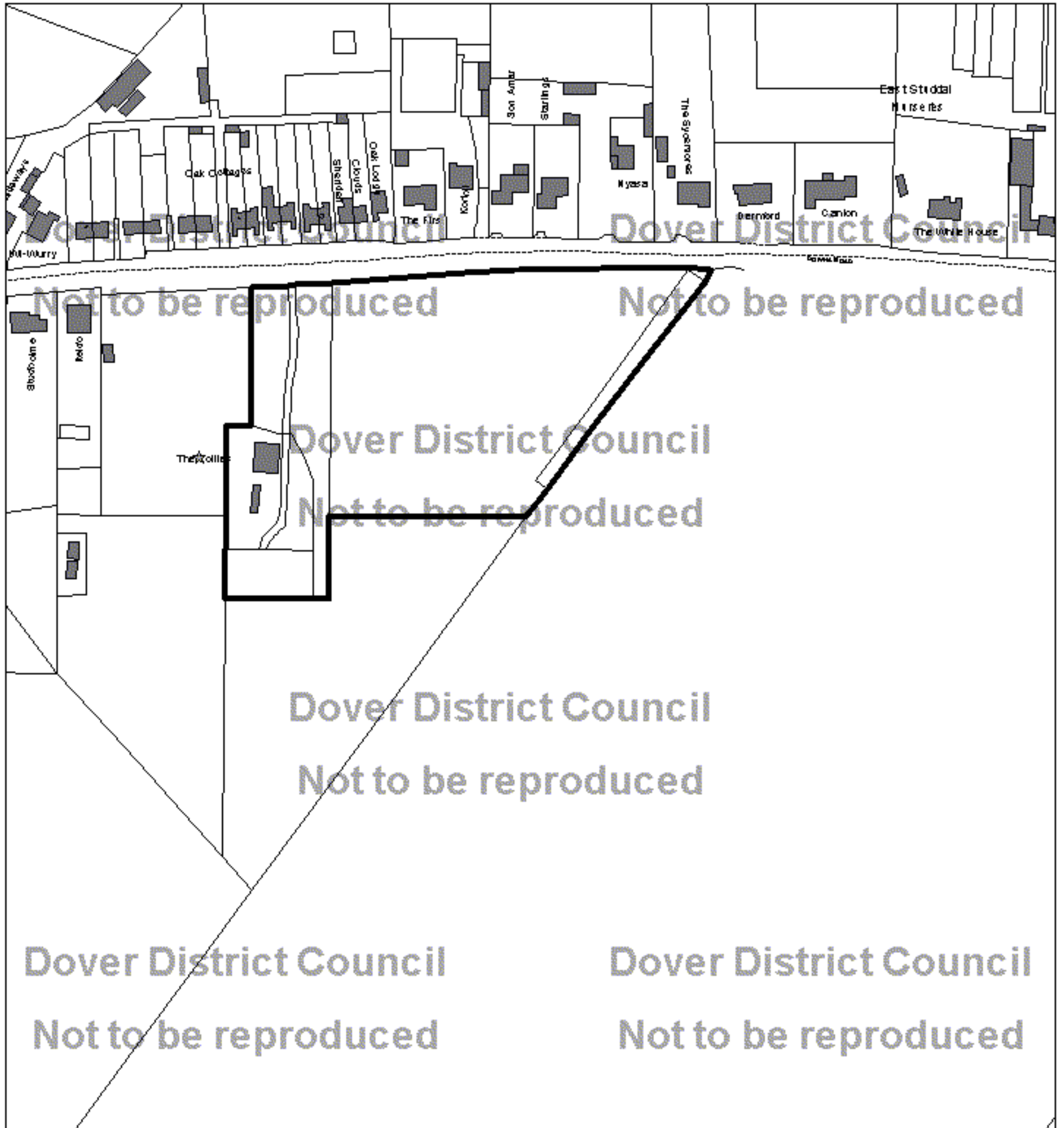
The Committee needs to bear in mind that its decision may interfere with the rights of particular parties, particularly under Article 8 and Article 1 of the First Protocol. The decision should be a balanced one and taken in the wider public interest, as reflected also in planning policies and other material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

This plan has been produced for Planning Committee purposes only. No further copies may be made.



Not to scale

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Note: This plan is provided for purposes of site identification only.

Application: DOV/14/00245

**The Follies
Downs Road
East Studdal
CT15 5DA**

TR32364963



- a) **DOV/14/00245 - Erection of a detached dwelling and three bay agricultural building with office over to include landscaping and associated works (existing mobile home to be removed)**

The Follies, Downs Road, East Studdal, CT15 5DA

Reason for report: The number of third party contrary views.

- b) **Summary of Recommendation**

Planning permission be refused.

- c) **Planning Policy and Guidance**

Dover District Core Strategy (CS)

- Policy DM1 states that development will not be permitted on land outside of the urban boundaries and rural settlement confines, unless justified by other development plan policies, or it functionally requires such a location or it is ancillary to existing development or uses.
- Policy DM11 considers the location of development and managing travel demand. Development that would generate travel outside of rural settlement confines will not be permitted unless justified by development plan policies.
- Policy DM15 seeks to protect the countryside and identifies development that would be acceptable. Development that would result in the loss of or adversely affect the character or appearance of the countryside will only be permitted if it is; i) in accordance with allocations made in Development Plan Documents; ii) justified by the needs of agriculture; iii) justified by a need to sustain the rural economy or a rural community; and, iv) it cannot be accommodated elsewhere, provided that measures are incorporated to reduce any harmful effects on countryside character.
- Policy DM16 addresses landscape character and encourages the process of landscape character assessment. Where the landscape is harmed, development will only be permitted if it is in accordance with allocations made within the Development Plan Documents and incorporates necessary mitigation or it can be sited so as to avoid or reduce the harm and/or incorporates design measures to mitigate the impacts.
 - Policy DM17 sets out restrictions and criteria for specific developments that fall within Groundwater Source Protection Zones 1 and 2.
 - Policy CP5 requires dwellings to meet the Code for Sustainable Homes in place at the time of construction and encourages the incorporation of energy and water efficiency measures in non-residential buildings under 1'000 sq m gross floorspace.

National Planning Policy Framework (NPPF)

- Para 55 identifies that new, isolated homes in the countryside should be avoided unless there are special circumstances, such as the essential need for a rural worker to live permanently at or near their place of work in the countryside or the exceptional quality or innovative nature of the design of the dwelling.

The NPPF identifies twelve core principles that should underpin decision-taking. These include:

- supporting a prosperous rural economy, and promoting the development and diversification of agricultural businesses;
- recognising the intrinsic character and beauty of the countryside;
- encouraging the effective use of land by re-using land that has been previously developed, provided it is not of high environmental value;
- proactively driving and supporting sustainable economic development to deliver homes and businesses and infrastructure that thriving local places need;
- securing high quality design and a good standard of amenity;
- focusing developments in locations which are or can be made sustainable; and
- managing patterns of growth to maximise the use of modes of transport other than the private car.

Other material considerations

- Kent Design Guide.
- Annex A to PPS7.

d) **Relevant Planning History**

- | | |
|--------------|---|
| DOV/13/00769 | - Erection of detached barn and retention of existing caravan (existing barn to be demolished) subject to: Variation of condition 3 of planning permission DOV/09/00393 to allow the retention of the existing barn for a temporary period and variations of condition 4 and 10 of DOV/09/00393 to allow the temporary residential occupation of the caravan and retention of the caravan on site for a temporary period – Granted. |
| DOV/13/00336 | - Erection of a detached dwelling and three bay agricultural building with office over to |

- include landscaping and associated works (existing caravan and 'L' shaped shed to be removed) – Withdrawn.
- DOV/10/00271 - Erection of an agricultural workers dwelling and detached garage – Withdrawn.
- DOV/09/00393 - Erection of detached barn and retention of existing caravan (existing barn to be demolished) – Granted.
- DOV/07/01088 - Erection of a detached barn with first floor over to incorporate a mess room – Appeal dismissed.
- DOV/06/00915 - Erection of an agricultural building and mobile home and construction of new vehicular access – Refused.
- DOV/01/00047 - Outline application for one detached dwelling and garage – Appeal dismissed.
- DOV/00/00902 - Outline application for a proposed chalet bungalow and detached garage – Refused.
- DOV/94/0923 - Erection of a detached house and garage - Refused.
- STD/88/00856 - Proposed extension, new garage and internal alterations – Granted.

e) **Consultee and Third Party Responses**

Senior Ecologist: Comments as application DOV/13/00336 – Wildlife impact is minimal.

Environmental Health: Recommend that a condition requiring a verification report demonstrating completion of the recommendations as set out in the Geotechnical Report dated 2010 be submitted for approval.

Agricultural consultant Rural Planning Ltd (RPL): Extensive comments have been provided during the course of this application, dated 16/05/2014, 09/06/14 and 07/07/2014. Comments have been incorporated into the report where necessary. In summary, whilst a functional need for accommodation has been accepted, by virtue of the temporary permission for a mobile home, the financial test has not been satisfied and the annual profits to date are not likely to sustain cost of proposed development.

County Highways: No objections. Conditions to secure car and cycle parking provision recommended.

Kent Fire and Rescue: Means of access is considered satisfactory. Overhanging trees should be cleared. A misting system is proposed for the premises.

County Archaeologist: It is possible that groundworks for the proposed development will affect remains of archaeological interest. A condition requiring a programme of archaeological work is recommended.

Environment Agency: No objection in principle. Conditions suggested in respect of contamination, and informative regarding foul and surface water drainage.

Sutton-by-Dover Parish Council: Consider that the planning committee should make the final decision on this application but taking into account the following: 1) That the Agricultural advisor of the Council determine if the level of activity at 'The Follies' was sufficient to justify a development of this scale and 2) if a new development in the open countryside were justified, that an Agricultural Occupancy Restriction be attached to any decision.

Public Representations: 38 letters of support have been received.

The comments in support of the application are summarised as follows:

- The development would improve the facilities and living space of a local business.
- Will allow an environmentally sound, well maintained farm and rural business to continue.
- The business is an asset to the rural community.
- Small business development is very important to the economy of the UK.
- Potential employment opportunities as the business grows.
- Will assist with the expansion of the business.
- Development will attract new businesses.
- Existing facilities are less than ideal.
- Produce from the business is of high quality and in great demand, locally and at markets in the county.
- There is a need for someone to live on site 24/7 to care for the pigs and ensure their welfare.
- Security for the animals would be greatly improved.
- The buildings would be in keeping with what is presently on site.
- A dwelling on site would make the business viable long term.
- The design, scale and position of the dwelling will not adversely impact neighbouring properties.
- Views of the site are limited from the road due to the levels on site.
- The development will look better than a caravan on the site.
- Sustainable development within the countryside.

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

1.1 The 1.6 hectare site is located on the south side of Downs Road in gently rising countryside. Along the 170 metre wide frontage of the site there is a sloping grass verge. On the northern side of Downs Road, opposite the site, there are residential properties, in a linear form, which fall within the confines of East Studdal. The application site is adjoined by open fields. To the west of the site, the land is used for keeping horses, and to the south and east is agricultural land.

- 1.2 Since the inception of the farm in 2008, the site operates as a free range pig farm and presently maintains a breeding stock of 24 breeding sows and 2 serving Boars resulting in a progeny of 280-300 piglets each year. In addition to selling live animals the farm produces a wide range of pork meat products which are sold to the butchery trade, restaurants and the public by direct sale and in farmers markets together with a hog roast hire service. The applicant, Mr Willett works full-time on the farm, and is supported by 3 x part time workers, (2 x herdsman and 1 x butcher).
- 1.3 The site is accessed from Downs Road. The part of the site to the east of the access, adjoining the verge and extending south along Downs Road comprises an area of 1.125 hectares and is referred to as the free range area and contains the arks. The land then rises to the south east and comprises a paved farm yard area where there are a number of Hudson barns providing accommodation for pigs, some containers and direct access to the "free range area".
- 1.4 The part of the site to the west of the access, includes the access to the site which leads to a 2 m high gate which encloses the area on which the mobile home is located. The existing mobile home is the subject of a temporary permission until 31 December 2015, approved under planning application DOV/13/00769. Adjacent to the mobile home is a detached barn that was the subject of planning application DOV/09/00393, which accommodates the office and a temporary butchery, cold room and refrigeration area. In the south western corner of the western part of the site there are a couple of L-shaped wooden sheds.
- 1.5 It is proposed to erect a single storey, 3 bedroomed dwelling towards the rear (south) of the site, to be occupied by the applicant, Mr Willett and his family, who is a pig farmer. In addition to the residential accommodation, a room is provided within the dwelling for the butchery, which is currently located in the barn. The dwelling would be subject to an agricultural occupancy condition.
- 1.6 A three bay, open fronted, agricultural building, shown to provide cart storage with an office on the first floor would be provided in the approximate position of the existing mobile home, aligned closer to the side (west) boundary. The mobile home and the L-shaped wooden sheds in the far south western corner of the site would be removed as a result of the development.
- 1.7 The planning history indicates that a dwelling previously occupied the site but was destroyed by fire sometime in 1988. It is understood that traces of the dwelling were all but removed. In 1988 an application was made under application STD/88/0856 for the extension of "The Follies". During the course of processing the 1988 application the bungalow was destroyed by fire and the application amended to provide for rebuilding of the bungalow and garage. Permission was granted on December 1988 and an amended design approved in May 1991. The amended permission was never implemented and lapsed on 9 December 1993. Subsequent applications were submitted for a new dwelling, but in accordance with the development plan were

refused, and in some cases dismissed at appeal. There is no longer a permanent dwelling on the site and there has not been for some 26 years. Whilst part of the site may have previously constituted brownfield land, there are no longer traces of any remains of the dwelling, such that it is no longer considered to be a brownfield site.

- 1.8 The site has a fairly lengthy planning history, including an unsuccessful application for a residential mobile home (DOV/06/00915) and an unsuccessful application for an oak-framed, L-shaped barn with first floor mess room (DOV/07/01088) which was later the subject of a dismissed appeal.
- 1.9 Planning permission was granted for a more modest barn under application DOV/09/00393. The barn has been constructed and is currently used as an office and butchery and refrigeration area.
- 1.10 *Plans will be on display.*

2. **Main Issues**

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

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

3. **Assessment**

Planning history since withdrawal of previous application DOV/13/00336

- 3.1 The previous application, DOV/13/00336 had progressed to the stage of being reported to Members of the Planning Committee, with a recommendation for refusal on the ground that the applicant had not demonstrated an essential need for the development, including the agricultural workers dwelling on the site. However, further to a review of the report to the Planning Committee on 8th August 2013 by the applicant's agent, the application was withdrawn at the request of the applicant.
- 3.2 The previous application DOV/13/00336 contained a Business Plan to attempt to justify that the business was financially sound. Financial information for 2012/13 was submitted which suggested a working salary of £16,000. Whilst the applicant's agent suggested that this is sufficient, the Council's Agricultural consultant, Rural Planning Limited identified that this is below the minimum wage expected for a farm manager of £20,400 per annum. Rural Planning Limited advised that although the venture appeared to be potentially approaching an adequate return for full-time viability, it would be premature to conclude that it has yet achieved an established level of financial soundness bearing in mind also the losses or minimal profits in earlier years.

- 3.3 The applicant provided additional information which stated that there was a much higher level of production in 2012/13 (209 pigs sold) with numbers planned to rise to 360 pigs per annum, from 24 sows. Rural Planning Limited advised that this level, if sustained on the holding, would warrant a functional need for the presence of an on-site resident worker to properly care for the pigs. Rural Planning Limited further advised that the point had been reached where some form of approved lower cost temporary accommodation (as a replacement for the present "de facto" caravan) could be considered in order to assist the continued development of the business. Officers recommended that a planning application for the temporary siting of a mobile home on the site be invited to give the applicant the possibility of an authorised temporary permission for a limited period under which the viability of the business could be further development/assessed.
- 3.4 An application for the temporary siting of a mobile home was granted under application DOV/13/00769 allowing the siting until 31st December 2015. The permission also requires the wooden sheds in the southern corner of the site to be removed before 31st December 2015.

Principle of development

- 3.5 The site lies outside of the rural settlement confines of East Studdal. Policy DM1 of the Core Strategy makes it clear that development outside of confines will not be permitted, unless justified by other development plan policies, or if it functionally requires such a location or it is ancillary to existing development. Policy DM15 of the Core Strategy also aims to restrict unjustified development in the countryside if it would result in the loss of or adversely affect the character and appearance of the countryside, (unless it is justified by the stated criteria). These policies reflect the Governments general advice in the NPPF.
- 3.6 Paragraph 55 of the NPPF refers to agricultural workers dwellings, and states that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as "*the essential need for a rural worker to live permanently at or near their place of work in the countryside*". Whether the case for the "essential need" can be made, must be an objective analysis. It is important that proposals for residential development outside of confines are made on a consistent basis, and in view of the need to protect the intrinsic character and beauty of the countryside should only result in permission where the "*special circumstances*" (NPPF) have been clearly demonstrated.
- 3.7 It has been held at appeals, since the cancellation of PPS7 that any proposal for a dwelling in the open countryside intended for an agricultural or forestry worker should continue to be assessed against the advice in Annex A to PPS7, which set out functional and financial criteria against which proposals should be tested, thus ensuring a consistent assessment. The principles outlined in this former guidance are well-established and understood. The methodology has been referred to by the Councils Agricultural Consultant, Rural Planning Ltd (RPL) and by the applicant's agent. The advice seeks to

ensure that such applications are scrutinised thoroughly with the aim of detecting attempts to abuse (e.g. through speculative proposals) the concession that the planning system makes for such dwellings. In particular, it is important to establish whether the stated intentions to engage in farming, forestry or any other rural-based enterprise, are genuine, are reasonably likely to materialise and are capable of being sustained for a reasonable period of time. It is also important to establish that the needs of the intended enterprise require one or more of the people engaged in it to live nearby.

3.8 There are five criteria which are considered to form a reasonable basis for assessing new permanent agricultural dwellings, as follows:

- (i) There is a clearly established *existing* functional need;
- (ii) The need relates to a *full-time* worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;
- (iii) The unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so;
- (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (v) other planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied.

Functional need

3.9 A *functional test* is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. PPS7, Annex A identifies that such a requirement might arise, for example, if workers are needed to be on hand day and night:(i) in case animals or agricultural processes require essential care at short notice; (ii) to deal quickly with emergencies that could otherwise cause serious loss of crops or products, for example, by frost damage or the failure of automatic systems.

3.10 The Design and Access statement sets out how the proposal would meet the functional test. The supporting information submitted as part of this application states that it is imperative that livestock is attended on the farm and protected at all times, and this cannot be achieved unless there is a continual presence of the farmer (Mr Willett), or one of his part time agricultural workers.

3.11 The Councils agricultural advisor Rural Planning Ltd (PRL) previously advised on application DOV/13/00336, that "*the point has been reached where some form of approved lower cost temporary*

accommodation (as a replacement for the present “de facto” caravan) could be considered here in order to assist the continued development of the business, but that as matters stand the current permanent dwelling and cart shed/office as proposed would not be supported under the Annex A PPS7 guidance, when applied as the tool for interpreting “essential need” in para 55 of the NPPF as an exception to the normal policy of avoiding new isolated homes in the countryside”.

- 3.12 Pursuant to this, the provision of temporary residential accommodation on the site was accepted under application DOV/13/00769, further to advice from the Councils agricultural consultant RPL who commented that *“Instead of a permanent dwelling, planning permission was granted under DOV/13/00769, allowing (inter alia) temporary mobile home accommodation here up to 31 December 2015, thus assisting the continued development of the business until such time as appropriate on site accommodation provision might be reviewed”.*
- 3.13 The provision of a temporary mobile home on the site allows for expedient access to the stock, should essential care be required. It is therefore accepted that as part of assessing the “essential need”, that there is a functional need for accommodation on or near the site. Whether that need is sustainable, such that requires permanent accommodation on site is to be further considered as part of the financial test.

Alternative accommodation

- 3.14 The Annex A tests include a consideration of whether there is alternative accommodation on the site or within the area, that could meet the functional need. With the exception of the temporary caravan accommodation on the site, there are no residential properties, permanent or temporary on the site, or within the wider agricultural unit that could provide accommodation for a full time worker. Outside of the application site, the applicant has indicated that there are no other dwellings for residential occupation or conversion on adjacent farmland. There is however no indication of the extent of the area within which alternative accommodation has been sought or the type of accommodation.
- 3.15 It is reasonable to expect that suitable and available existing accommodation within sight and sound of the enterprise be considered, as meeting part of the functional need. At the time of writing this report, an internet search identified 7 properties within East Studall for sale on the open market, 2 of which are located on Downs Road to the east of the site. It is therefore considered that criterion (iv) of para 3.8 has not been fully satisfied.

Agricultural activity and financial soundness

- 3.16 Whilst it is accepted that there is a functional need for a dwelling, to allow a permanent dwelling, that need should also be sustainable. Inspectors have commented that the cancellation of PPS7 must mean that the Annex A tests now carry significantly less weight when they no longer form part of Government policy. However, at appeal it has been maintained that the financial security of an enterprise remains a

material consideration where proposals for rural worker's dwellings in the open countryside are proposed. Therefore, the enterprise, including the cost of the proposed dwelling should be financially viable, and it should have a reasonable prospect of remaining so, reflecting the financial test of Annex A to PPS7.

- 3.17 Certified accounts have been submitted for the periods 6th April 2008 – 5th April 2011 (years 1 to 3); 6th April 2011 – 5th April 2012 (year 4); and 6th April 2012 – 5th April 2014 (years 5 and 6). Whilst the accounts have been submitted for these periods, a breakdown of 2013/14 sales and costs, which has been requested has not been forthcoming. This would allow for a comparison of how the results compare to the 2013 Profit Projection.
- 3.18 Planning Ltd comment that the shortfall in pig production/sales has not properly been explained. There is a lack of a full breakdown of the nature of pig sales in the way that was set out in earlier profit projection – giving numbers and prices for whole/half pigs, live pigs, sausages, hog roasts, food sales at events etc. Without details of annual production and sales breakdown, it remains difficult to advise on the labour requirements for the enterprise and judge the ability for the business to be sustained on a sound financial basis and achieve the target production levels. A breakdown in sales would also be useful in showing how the income has been achieved, verifying that it is all from agricultural production from the holding,
- 3.19 Rural Planning Ltd comment that it has not been demonstrated that the level of profits to date, or likely to be achieved in the near future would be sufficient to fund the estimated costs of the particular dwelling proposed (some £160,000). Whilst the applicant has stated that the construction of the house and agricultural building with office above would be financed independent of the enterprise, this is not in question; it is the viability of the agricultural enterprise that is in question.
- 3.20 The suggestion that the costs would be acceptable in this case as they would be met from separate funding, outside the business, is a personal consideration, and not in line with the concept that dwellings should be affordable relative to the farming income. It is the requirements of the enterprise, rather than those of the owner or occupier, that are relevant in determining the size of dwelling that is appropriate to a particular holding.
- 3.21 In this case the agricultural building with office above, (not only the dwelling as the applicant contends), should be regarded as part of the overall proposed agricultural provision for which funding, and overall justification should be seen in the context of the farm business. It is inevitable that the dwelling and agricultural building with office above would be taken together in assessing the overall residential value of the property in years to come, and that taken together, the development does not appear in functional or financial terms, a sufficiently modest and affordable provision in relation to the needs/profitably of the business.

- 3.22 Echoing the advice in Annex A of PPS7, both Rural Planning Ltd and Inspectors in recent cases identify, there is a risk in permitting dwellings that are unusually large in relation to the agricultural needs of the unit or unusually expensive to construct in relation to the income that the enterprise can sustain in the long-term, that compliance with the usual occupancy conditions would ultimately be unsustainable, and the continuation of the property for its intended use non-viable.
- 3.23 Rural Planning Ltd consider that whilst profit has been demonstrated over a three year period, the profit is not of a level that would demonstrate affordability of the likely cost of the current proposal. A profit approaching £40k is considered likely to sustain the likely cost of the proposal. Based on the stated profit, (£26, 076), a simpler form of development, along with an overall size reduction, (including perhaps exclusion of the detached annex element) would be such that the enterprise could sustain the long term and ensure the viability of the intended agricultural occupancy.

Visual amenity and impact on the countryside

- 3.24 The dwelling would be sited on the rear, southern part of the site. Excavation would provide for the ridge height of the dwelling to be no higher than that of the existing barn. The site is screened by trees and hedges along the rear (south) and side (west) boundaries. The dwelling and agricultural building with office over would be well related to the existing barn on the site and would not result in sporadic development across the site.
- 3.25 The agricultural building with office over would be located to the north west of the dwelling, adjacent to the side (west) boundary. The height of the cart shed and office would not exceed that of the existing barn. Subject to essential need being evidenced, then the siting and design of the dwelling and agricultural building could be accepted in terms of the impact in the countryside in accordance with criterion (v) of para 3.7.

Highways impact

- 3.26 The Highways Engineer has confirmed that the existing access is acceptable for the proposed dwelling and suitable off street car parking is proposed. The provision of a minimum of 3 car parking spaces and covered cycle provision could be secured by condition.

Residential amenity

- 3.27 Due to the distance and siting of the dwelling and agricultural building with office over in relation to existing dwellings along Downs Road, there would be no loss of residential amenity to existing residents. The development would not result in overlooking, overshadowing, a loss of light or a loss of outlook.

Other matters

- 3.28 Surface water would be disposed of via soakaways and foul water to a septic tank and the Environment Agency recommend an informative in

respect of the proposed means of disposal. No objection has been raised to the proposed means of disposal.

Conclusion

- 00
- 3.29 The principle of development is not considered to be acceptable. The proposal would fail to meet to the “*essential need*” identified in the NPPF for a rural worker to live permanently at or near their place of work in the countryside, by virtue of failing to meet the financial tests set out in Annex A of the PPS7, which although cancelled, is an accepted tried and tested methodology in assessing applications for agricultural dwellings, which is borne out in recent appeal decisions. The financial information that has been submitted does not show firm evidence of sufficient viability having been actually achieved to sustain the design and size of the proposed development.
- 3.30 It is considered that a functional need exists for a dwelling on or near the site, but it is not considered that the size and design of the dwelling is reflective of the functional needs of the enterprise and the alternative accommodation within sight and sound of the site have been fully explored.
- 3.31 The proposed development is therefore considered to be unacceptable for the reasons set out in this report.
- 3.32 Consideration has been given to the matters raised by third parties, but none outweigh the conclusion to refuse planning permission.

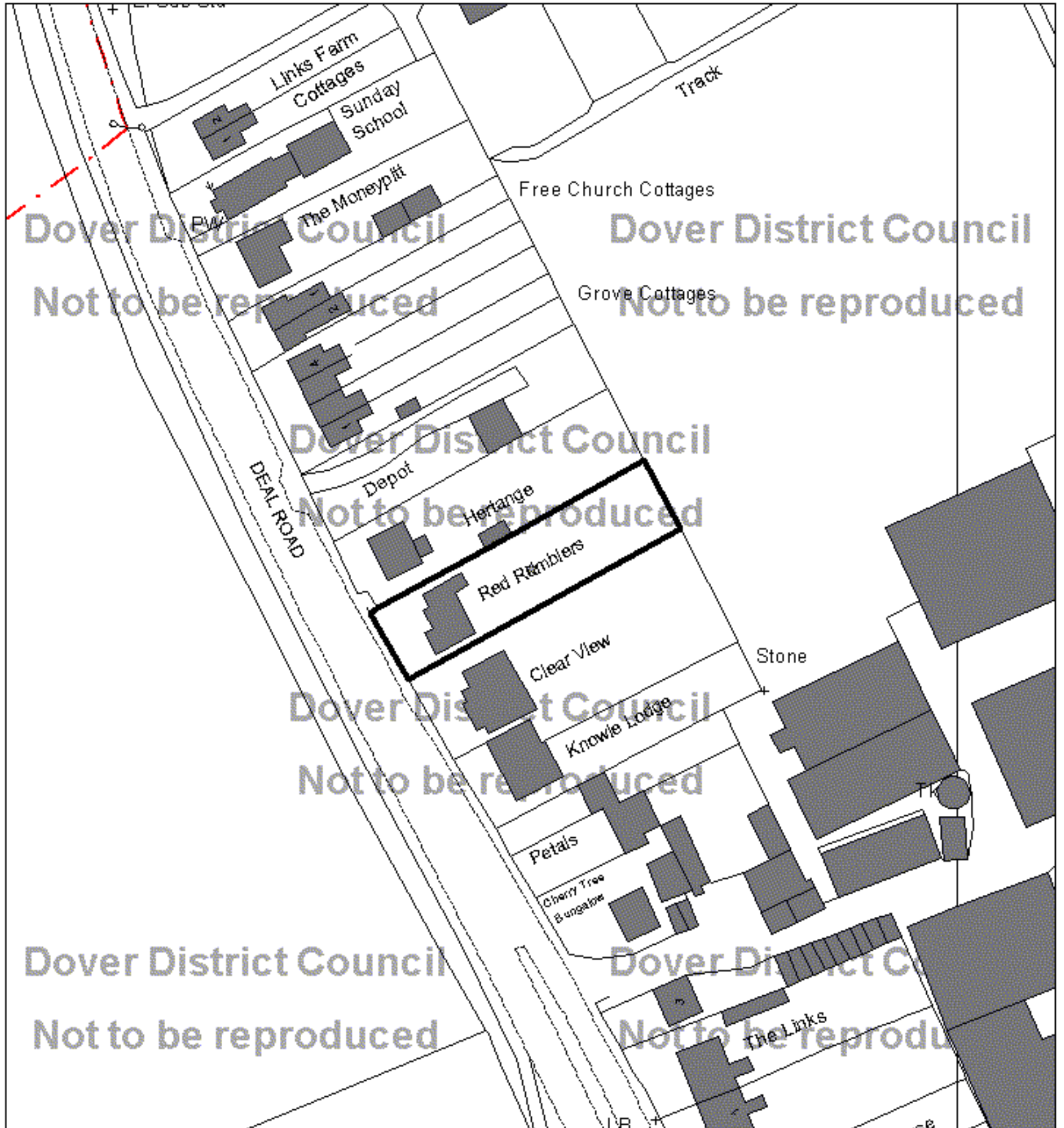
g) Recommendation

- I PERMISSION BE REFUSED for the following reason: - The applicant has not provided clear evidence to justify that the dwelling and agricultural building with office over, has been planned on a sound financial basis and that the enterprise would sustain the cost of the proposed dwelling and agricultural building with office over and remain financially viable with a reasonable prospect of remaining so. It has also not been demonstrated that there is no suitable and available existing accommodation within sight and sound of the enterprise. The proposal would therefore result in a new isolated dwelling and associated development within the countryside, for which an essential need has not been demonstrated. The proposal is thereby contrary to policies DM1 and DM15 of the Dover District Core Strategy and the provisions of the National Planning Policy Framework.
- II Powers be delegated to the Head of Regeneration and Delivery to settle any necessary issues in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Fiona Runacre

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Application: DOV/14/00802

Red Ramblers

Deal Road

Worth

TR32913634



- a) **DOV/14/0802 – Retrospective application for the continued use of part of ground floor for day-time care and night-time boarding of dogs**

Red Ramblers, Deal Road, Worth

- b) **Summary of Recommendation**

Permission be refused.

- c) **Planning Policy and Guidance**

Dover District Core Strategy (CS)

- 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.

National Planning Practice Guidance (NPPG)

- 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 was 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 confines and that there was no evidence that a business operating over a long term period in this location would be more suitable in terms of reducing the need to travel compared to one within settlement confines.

DOV/14/0126 – Retrospective application for the continued use of part of ground floor for daytime care and night time boarding of dogs. This application was refused by the Planning Committee on the 8th May 2014 for the following 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 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, in particular Paragraphs 28 and 34.*
- 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, in particular Paragraphs 28 and 34.*

Enforcement Notice – served on the applicants on the 20th May 2014 and would have taken effect on the 20th June 2014. The reasons for issuing the notice are summarised as follows:

- It appears that a change of use has occurred;
- It appears that the breach has occurred within the last ten years;
- The unauthorised use generates travel beyond the urban and village confines and constitutes an unsustainable form of travel. Contrary to CS policies DM1, DM3 and DM11.

An appeal against the Enforcement Notice has been made and is due to be held on 10th December 2014.

e) **Consultee and Third Party Responses**

Kent Highway Services: It is unlikely that no more than 2 or 3 dogs are dropped off at any one time. 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 the highway engineer's site visit, it was noticed that, customers used the lay-by 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 is also available further along the road. The lay-by also appears to be regularly used for parking by some residents and visitors. The highway engineer does not object to this planning application.

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.'

Environmental Health does not wish to object to this application.

Public Representation: 25 letters of support for the application have been received from both local residents and addresses further afield in the District. 16 letters of objection have been received from local residents.

Support - the comments are summarised as follows:

- The business has been operating for years;
- It offers a very unique service, different to other boarding kennels;
- The facilities offered are akin to that of a child minder, the dogs and owners require this type of service;
- Car parking has never been an issue;
- The rates are affordable;
- The owner is very passionate about dogs and clearly loves them;
- Support should be given to such a unique business;
- For the benefit of the local economy this business should be supported;
- Happy Hounds Holiday is the only licensed 'home from home' day care boarding facility in the District;
- The site is in a convenient location between Sandwich and Deal and on many peoples commute to work, thus it does not increase traffic on the road;
- The Layby reduces on street car parking;
- The business is managed so as not to cause disturbance to the neighbours;
- Such facilities mean that we can work full time and know that our dogs are well cared for;

- The application should be granted for social reasons, in light of Mr Russell's personal situation;
- The home environment provided is perfect at providing care for rescue dogs;
- I was surprised that the counter-intuitive objection that the business was not within the bounds of the village was upheld at the last meeting;
- The daily footfall would give rise to approximately 5 stops, spread throughout the morning commute hours;
- An alternative location within village confines would result in more traffic movements and relocating to an industrial unit would be contrary to the home away from home ethos of the business;
- Two new supermarkets have been approved, this small business will make no difference to the traffic on the road;
- It is very reasonably priced, at only 60% of the cost of other boarding kennels;
- A personal planning permission should be granted;
- The business and the applicants are an asset to the local community;
- Reducing the number of dogs to 6 and together with the management plan should be sufficient to grant planning permission;

Objection - the comments are summarised as follows:

- It is totally unsuitable to have this in a residential area on a busy main road;
- The use is contrary to policies, DM1, DM3 and DM11;
- The health of Mr Russell is irrelevant to the application;
- The feelings of the local residents should not be ignored;
- A number of people who have used this service in the past would not take their dogs back;
- She shouts at and smacks the dogs;
- My dog was not taken to the vet when it was clearly needed and subsequently died;
- An appeal has already been dismissed;
- An enforcement notice has been served;
- The Planning Committee did not suggest that any alternatives would be acceptable;
- It is proposed in the application that permission should be given subject to specifically three conditions which it is claimed will render the use acceptable;
- The NPPG makes it clear that a personal condition should only be given in exceptional circumstances;
- Conditions must be enforceable, it would be impossible to monitor the number of dogs on site at any one time and to ensure that the management plan is being followed;
- The business has been operating for 7 years and has had a detrimental impact on the neighbours and the road;
- Mrs Russell has had 15 dogs in her care previously, has a license for 10 dogs and is now proposing to have 6 dogs. It is difficult to see how this can be monitored;
- The owners park daily in the access road which makes it difficult and hazardous to join the main road;
- There are many vacant commercial premises in the district which would be suitable, such as Worth centre with a field that could be used for exercising the dogs;
- They don't need to move house just the business;

- It would set a precedent for other commercial businesses in residential properties;
- The management plan will only be implemented if permission is granted;
- The Animal Boarding Establishment Act does not permit more than 4 dogs without planning permission;
- The opening hours have not been given in question 20 on the application form;
- The applicant's agent acts as a planning consultant for the Local Planning Authority;
- The business has outgrown the house;
- We feel obliged to whistle in our garden so as not to disturb the dogs;
- This is not a sustainable business based at home, the applicant is out driving, returning home, reloading the dogs, driving, returning home etc and all customers have to drive to the site;
- The large chemical toilet will allow expansion of the business;
- Convenience should not be an excuse for not considering alternative sites for this business;
- This application is no different to the previously refused applications, it seems unethical to have so many applications go through at once;
- We have lived next door for 5 years and the applicant has not spoken to us about reducing the number of dogs;
- It is difficult for one person to control more than 4 dogs;
- There is a problem with noise and smell;
- Street lighting is poor and makes it difficult to see the dogs in the dark on this busy road;
- Limiting the number of dogs would not be acceptable, it is still a business on the wrong location;
- Comments made by Members of the planning committee appear to have been misinterpreted, it was suggested that a business with four dogs may not require planning permission;
- Leylandii trees have been planted and the applicant's car windows tinted, therefore to monitor the number of dogs would be difficult;
- There has been an incident when the police were involved;
- The planning and appeal process has been dragged out for years;

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 This application follows the refused application DOV/14/0126, it seeks to address the concerns raised by the Planning Committee at the meeting held on the 8th May 2014. This planning application is also submitted ahead of a planning appeal scheduled for the 10th December. This revised application proposes a reduced number of dogs from 10 to 6 and has suggested that planning permission should be granted with the following 3 conditions imposed, to include; a personal permission for Mrs Russell; a restriction on the number of dogs; and the submission of a management plan within 3 months of permission being granted.
- 1.5 The dogs (and the applicant's dog) are mostly accommodated in a rear conservatory and a side extension, however they also have access to most of the ground floor of the property and the garden. 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.
- 1.6 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.

1.7 *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 (including functional requirements)
 - Sustainable travel and highway safety;
 - Impact on the countryside;
 - Residential amenity; and
 - Personal Permission

3. Assessment

The principle of the development and functional requirements

- 3.1 The application site is located beyond the rural settlement confines 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 Policy DM3 supports new commercial development but states that it should be within the settlement confines unless it can be demonstrated that no suitable site exists, in which event it should be located adjacent to the settlement or there is a functional requirement for it to be located elsewhere.
- 3.3 The applicant has argued that the nature of this business is unique as it provides a "home from home" facility that offers a unique service for customers who wish for their

dogs to be looked after in a home environment. They state that the need for this form of care and boarding is not provided in any other location within the District and as such the applicant cannot move to existing premises. To be provided in an industrial unit would not be a home environment. They consider that there are no alternative suitable sites available. Many of the supporters also advise that there are no other similar licensed facilities within the District.

- 3.4 The applicant argues that there is a functional requirement for the business to be located outside of the settlement confines, 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.
- 3.5 Even if the unique nature of the business is accepted, there is no functional requirement for the dwelling to be located beyond the settlement confines. If a residential property is required to carry out the business then it could be provided within settlement confines. The applicant's 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 settlement confines that would be available and suitable to provide the use.
- 3.6 The applicant claims 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. 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. The applicant also would like it know that her husband has lived in the house for 40 years and is his family home.
- 3.7 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.

Sustainable travel and highway safety

- 3.8 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. The applicant states that many clients are identified as using the route to travel to work and many letters of support from customers advise that the dogs are dropped off on their commute to work. It is argued that within settlement confines within more densely populated areas would give rise to the use being more obvious in the locality and potentially more conflicting.
- 3.9 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 confines and is not justified by other development plan policies.

- 3.10 The customers are more likely to transport dogs by private car rather than use public transport and while some clients do 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.
- 3.11 Regarding the argument about the applicant's husband having to travel further for work 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.
- 3.12 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. It is acknowledged that there has been conflict between the customers and local residents.
- 3.13 The 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. Further, during a visit to the site, it was noted, that the customers used the lay-by 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 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 layby in the last 5 years to the end of September 2013.
- 3.14 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.

Personal Planning Permission

- 3.15 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. This would mean that the permission would not run with the land but rather with the applicant.
- 3.16 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 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.
- 3.17 It is not considered that the material considerations referred to justify a personal permission 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.

- 3.18 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 the reduction in the number of dogs does not outweigh the conclusions of the Planning Inspector in September 2013 and of the Planning Committee in June 2012 and May 2014.

Residential Amenity

- 3.19 The applicant has a licence for 10 dogs in day care and 4 dogs in boarding (the applicant has 1 pet dog). It is reasonable to assume that there would on occasions be noise and barking from the dogs. 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. 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.
- 3.20 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. Previous investigations found no complaints had been received but that action could be taken if problems arise in the future.
- 3.21 As suggested by the applicant a condition could be imposed to control the working hours and the number of dogs at the site. The applicant has also stated that a management plan would be submitted within 3 months of permission being granted which would set out how the dogs are cared for and managed and how the use fully operates. Whilst a management plan would be useful and it would help to ensure future protection of residential amenity it would not outweigh the objections in principle to the development.
- 3.22 The previous decisions were not based on residential amenity grounds. It is considered that a reduction in the number of dogs from 10 to 6 would not result in a significant 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.

Impact on the Countryside

- 3.23 The property has retained its domestic character and appearance. 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 Considerations

- 3.24 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 the proposed changes put forward with this latest application does not allow a different conclusion to be made.

- 3.25 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.
- 3.26 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.
- 3.27 The applicant has stated that there is a legal precedent that up to 5 dogs being looked after may not require planning permissions and that 6 dogs tip the balance into permission being required. However the applicant has not provided any details of the legal case referred to and is not seeking a lawful development certificate.
- 3.28 Members should be reminded that if they are minded to grant planning permission a precedent would not be set for other businesses in the countryside, as each planning application should be considered on its own merits.
- 3.29 Members should also be aware that the decision of this planning application will form a material planning consideration for the appeal hearing in December.

Conclusion

- 3.30 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.
- 3.31 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.

3.32 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.

3.33 It is considered that the suggested conditions to reduce the number of dogs from 10 to 6; a personal planning permission; and a management plan would not overcome the previous reasons for refusal which are against the general principle of this development.

3.34 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

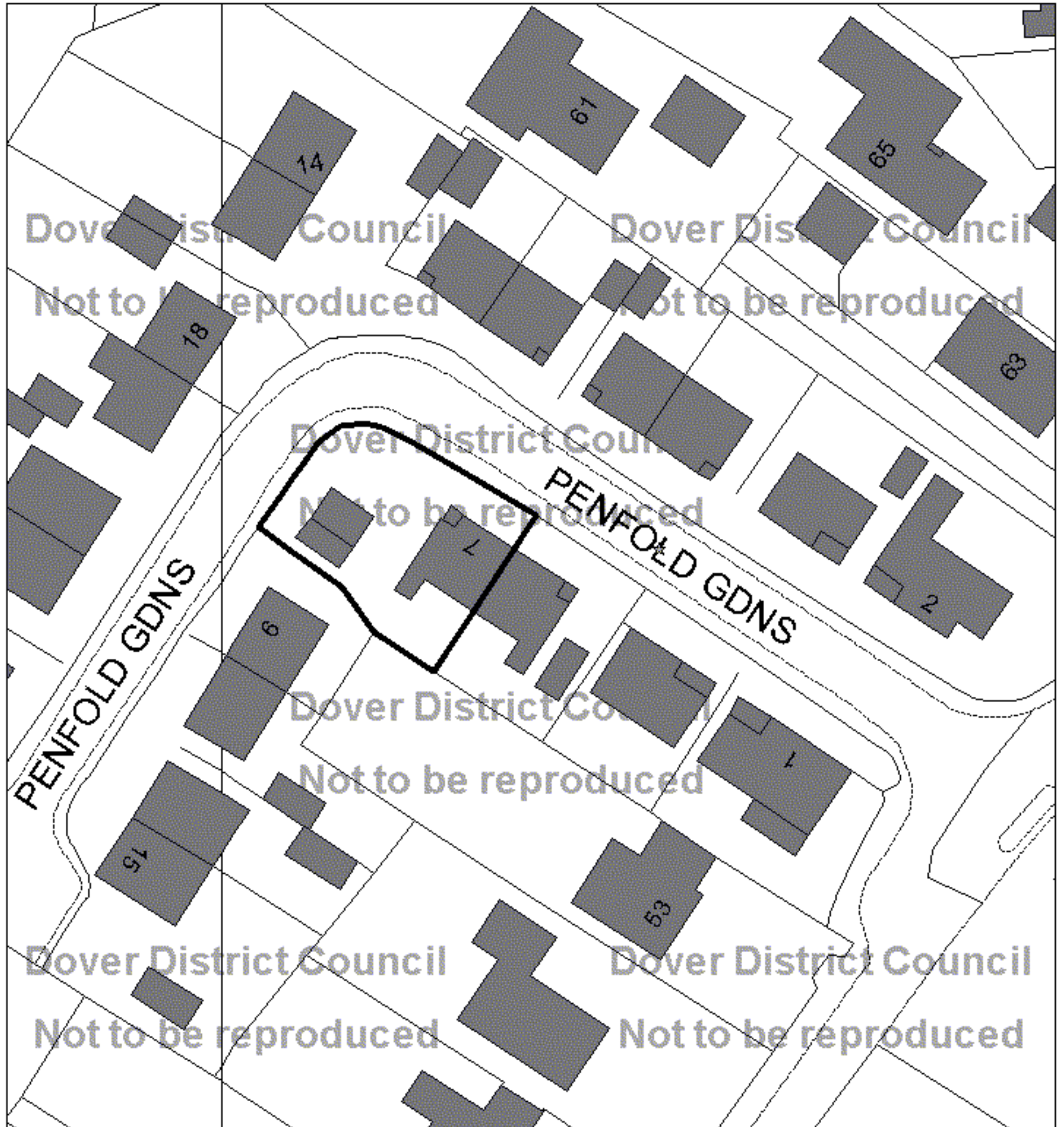
I PERMISSION BE REFUSED on the grounds:-

- 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.

Case Officer

Rachel Humber

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Application: DOV/14/00579

**7 Penfold Gardens
Shepherdswell
CT15 7PQ**

TR26014847



(a) **DOV/14/00579 – Erection of a detached dwelling**

7 Penfold Gardens, Shepherdswell, Dover, CT15 7PQ

Reason for report: The number of third party contrary views

(b) **Summary of Recommendation**

Refuse planning permission

(c) **Planning Policy and Guidance**

Core Strategy (CS)

- Policy CP1 sets out the location and scale of development must comply with the Settlement Hierarchy. Shepherdswell is identified as a Local Centre suitable for development that would reinforce its role as a provider of services to its home and adjacent communities.
- Policy CP5 seeks new residential development to meet Code for Sustainable Homes
- Policy DM1 sets out development will not be permitted on land outside the urban boundaries and rural settlement confines unless specifically justified
- Policy DM13 sets out parking requirements for development and states that parking provision should be design-led

National Planning Policy Framework (NPPF)

- The NPPF states that the housing supply should be significantly boosted and housing should be located where it will enhance or maintain the vitality of communities, to promote sustainable development
- The NPPF sets out 12 core planning principles, which includes securing high quality design, expanded in section 7, and a good standard of amenity for all existing and future occupants and conserving heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

(d) **Relevant Planning History**

No relevant planning history.

(e) **Consultee and Third Party Responses**

Kent Archaeological: No archaeological measures required

Kent Highways - No objection in principle to a dwelling on the site, in summary saying the following amendments are required. (1) the proposed dwelling parking spaces should be a minimum of 5 metres long to prevent vehicles overhanging the footway (2) Replacement parking for no. 7 Penfold Gardens should be provided (and be independently accessible). KCC Highways suggested it appears this could be achieved adjacent to the existing dwelling.

Shepherdswell Parish Council – resolved to be neutral on this application, subject to satisfactory parking provision for the development and neighbouring properties

Letters of public representation:

10 letters of support have been submitted, raising the following planning material considerations:

- Development is in keeping with the design of the other houses in the street
- The design and location is replacing an existing garage footprint and will have no detrimental effect on neighbouring properties
- Never had to walk on road and see no problems with project
- It will not infringe or impede any surrounding properties
- Larger corner plot and a new house would be an asset to the street
- Parking arrangements clearly shown
- Creating new home for society taking account of current housing crisis
- Enhance piece of space not upsetting any wildlife or natural habitats

4 letters of objection have been submitted, raising the following planning material considerations:

- Garage has been converted to uses other than that of garage, with no planning permission
- Adjoining property overshadowed and will result in reduced light
- Not clear where replacement parking will be provided
- Parking on pavement is dangerous for pedestrians
- The development will affect the symmetry of the overall development of Penfold Gardens, any development should be in keeping with existing properties
- overlooking into the garden of no. 9 and as it will replace two garages there is an issue of loss of off road parking and kerb side parking parking

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

1.1 This application relates to corner plot on Penfold Gardens. It currently forms part of 7 Penfolds, with side garden and double flat roof garage.

1.2 The grassed area is open, with no fencing, and the double garage is set back from the road, in line with no. 9 Penfolds, with hardstanding in front for parking.

1.3 The site is located in the settlement confines of Shepherdswell. Penfold Gardens is a cul de sac with 28 properties. They are all uniform in character, starting with 4 detached properties and then as slope down the units become semi-detached chalet bungalows with dormer windows symmetrical in design. The frontages of the units are open with grassed areas, with hard standing in between the houses for parking.

1.3 The proposal seeks a chalet bungalow with accommodation in the roof space, including dormer windows to the front elevation. Ground floor includes kitchen come lounge, with wc and also 2 double bedrooms. The first floor includes a family bathroom, and a master bedroom with ensuite. Provision is made for 2 parking spaces for the application. Revised drawings were also submitted showing replacement parking for 7 Penfolds.

2. **Main Issues**

2.1 The main issues for consideration are:

- Principle of development
- The impact upon the character and appearance of the area
- The impact upon neighbouring residential amenity
- Parking and highway safety; and

3. **Assessment**

Principle of development

3.1 The site falls within the village confines of Shepherdswell and therefore the principle of new housing development is acceptable and is considered to be in a sustainable location, compliant with CS policy DM1 and sustainability objectives of the NPPF.

Impact upon the character and appearance of the area

3.2 The site is located on the corner plot as the road turns the corner from no. 7 to no. 9. There are two distinct building lines following from no. 7 and no. 9. As originally submitted the proposed dwelling follows the building line of no. 9 with the rear elevation of the proposed dwelling sited in front of the side elevation of no. 7. Whilst the proposed dwelling side elevation does not extend beyond the building line of no. 7, it appears incongruous in terms of the side elevation in a street scene dominated by front elevations of the existing dwellings.

3.3 In addition, the surrounding dwellings all have a rear garden, albeit small in some cases, along with open frontage along the street scene. However, with the proposed dwelling there is a side garden proposed located on the corner, to be enclosed by a fence. Given the streetscene is characterised by open frontage, the proposal to fence in the garden area on the prominent corner would be very visible and not in keeping with that of the neighbouring properties.

3.4 The incongruous relationship with the streetscene is further highlighted by the proposed roof, which is partly hipped in order to fit with that of no. 7. Again this is not a characteristic found in the existing dwellings and it not considered a suitable design solution for this prominent corner.

3.5 At a site meeting to discuss the concerns with the applicant and their agents it was discussed the possibility of re-orientating the building, in line with no. 7, as potential to improve the layout. However whilst this resulted in an improved building line with no. 7, the side elevation sat beyond the building line with no. 9, to an extent not considered acceptable or in keeping with the character of the area.

3.6 Overall, the footprint is considered too great and when addressing one frontage it has a knock on effect on the other frontage. The uniform design along the streetscene then adds to the difficulty for a design in keeping with the character and the prominent corner plot increases concerns about the impact. Given the constraints of the site a smaller building may reduce the impact. However if this were pursued, I am concerned whether an acceptable design could be achieved successfully which would reflect the scale and character of the existing buildings in the street, along with providing the required parking (both new and replacement) and sufficient residential amenity. It is likely a smaller dwelling

would be alien in scale and proportion and therefore as a result also appear out of keeping with the character of the area. Overall the conclusion is, it is unlikely an acceptable development for a new dwelling could not be achieved on the site.

3.7 One of the core principles of the NPPF (para 17) sets out that planning decisions should seek high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Along with this, section 7 para 56, 57 and 58 in particular, requires good design and sets out planning decisions should aim to ensure development that functions well, taking account of local character and take opportunities to improve the character and quality of an area and the way it functions. It is not considered the design meets these aspects. Whilst NPPF para 60 is clear LPA's should not impose architectural styles, it states it is proper to seek new development to promote or reinforce local distinctiveness. It is not considered this is achieved by the proposed dwelling. As such, it is considered the proposal constitutes an overdevelopment of the site and inappropriate development that is harmful to the character and appearance of the area.

The impact upon neighbouring residential amenity

3.8 It is considered the proposal may have some impact on that of no. 7, particularly in relation to its side (western) elevation overlooking the site which has a first floor window and ground floor entrance to the property. Whilst the proposed dwelling is designed to prevent overlooking, the location of the rear elevation is sited 2.7 m from the side elevation of no. 7, and only 0.7m from the boundary. This could result in detrimental impact on no. 7 in terms of an overbearing effect.

3.9 Given the separation distance between the proposed unit and no. 9 of approx. 5m, along with no windows proposed on the side (southern) elevation, it is not considered the development would result in a detrimental impact on the residential amenities of no. 9.

3.10 In addition, there is also concern regarding the residential amenity of future residents with the dwelling enclosed to the south and east elevations, with only small garden proposed on the corner. This is considered cramped with very little private amenity space. Whilst, the proposal does propose to enclose the garden area with a fence, this is only 1.2m high so would offer very little, if any, privacy and, as identified above having this space enclosed by a fence would not be in keeping with the area.

3.11 As such whilst it is considered the proposal will not result in a detrimental impact on the residential amenities of no. 9, given the proximity of the proposed development to no. 7 and inadequate amenity space for future residents, it is not considered the proposal meets para 17 of the NPPF which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Parking and Highways

3.12 KCC Highways confirmed no objection in principle to a new dwelling on the site however sought the following amendments (1) the proposed parking spaces to the new dwelling should be a minimum of 5 metres in length to prevent vehicles overhanging the footway; (2) Replacement parking for no. 7 Penfold Gardens should be provided. KCC suggested this could be achieved adjacent to the existing dwelling at no. 7.

3.13 Amended drawings were submitted by the applicant achieving point (1) with a minimum of 5 metre length parking spaces for the proposed dwelling. In relation to point (2) two off road parking spaces were proposed to the front of no. 7 and shown as parallel tandem parking. An example of parking was provided by the applicant on the amended plan of the neighbouring property at no. 5 which includes parking in front of the existing dwelling. However no. 5 includes a driveway to a garage which provides access to the space in front of the dwelling, rather than separate parallel parking.

3.14 KCC Highways were not satisfied with the details provided for two main reasons. Firstly, no access was shown for the tandem parallel spaces. Secondly, there was concern that as the replacement parking spaces were not side-by-side and independently accessible as such, and therefore they were likely to result in parking on the road.

3.15 KCC Highways suggested an option may be to provide one space parallel to the road and one space at 90 degrees to the road beside no. 7, similar to that existing at no. 5. This would result in a dropped kerb. No further amendments were received to this effect however it is considered to accommodate the replacement parking for no. 7 in this way, it would be likely to result in the reduction of the plot size of the proposed new dwelling. This is likely to exacerbate the impact of the proposed dwelling on the streetscene, reducing the landscaping that could be achieved and reducing the proposed amenity space.

3.16 As such, the proposed dwelling does not provide adequate replacement parking for no. 7 that is acceptable by Highways and also that would not result in increasing the detrimental impact of the proposed dwelling on the streetscene.

Conclusion

3.17 The NPPF sets out that decision-makers should seek to approve applications for sustainable development where possible. The proposal for a dwelling is considered acceptable in principle, meeting the policy requirement for new dwellings to be located within the settlement confines. However it is not considered the proposed dwelling would be acceptable in respect of its impact on the character and appearance of the area and would be harmful to residential amenity of the neighbouring property at no. 7 and future residents of the proposed dwelling itself. The design does not provide adequate replacement parking for no. 7 Penfolds that is satisfactory to KCC Highways and also in keeping with the streetscene. As a result, the proposal does not represent sustainable development.

3.18 Consideration has been given to all material matters raised by third parties in support and against the planning application. The letters submitted in support of the application do not outweigh the conclusion to refuse planning permission.

3.19 There are no implications under the Equality Act that would alter this conclusion.

(g) Recommendation

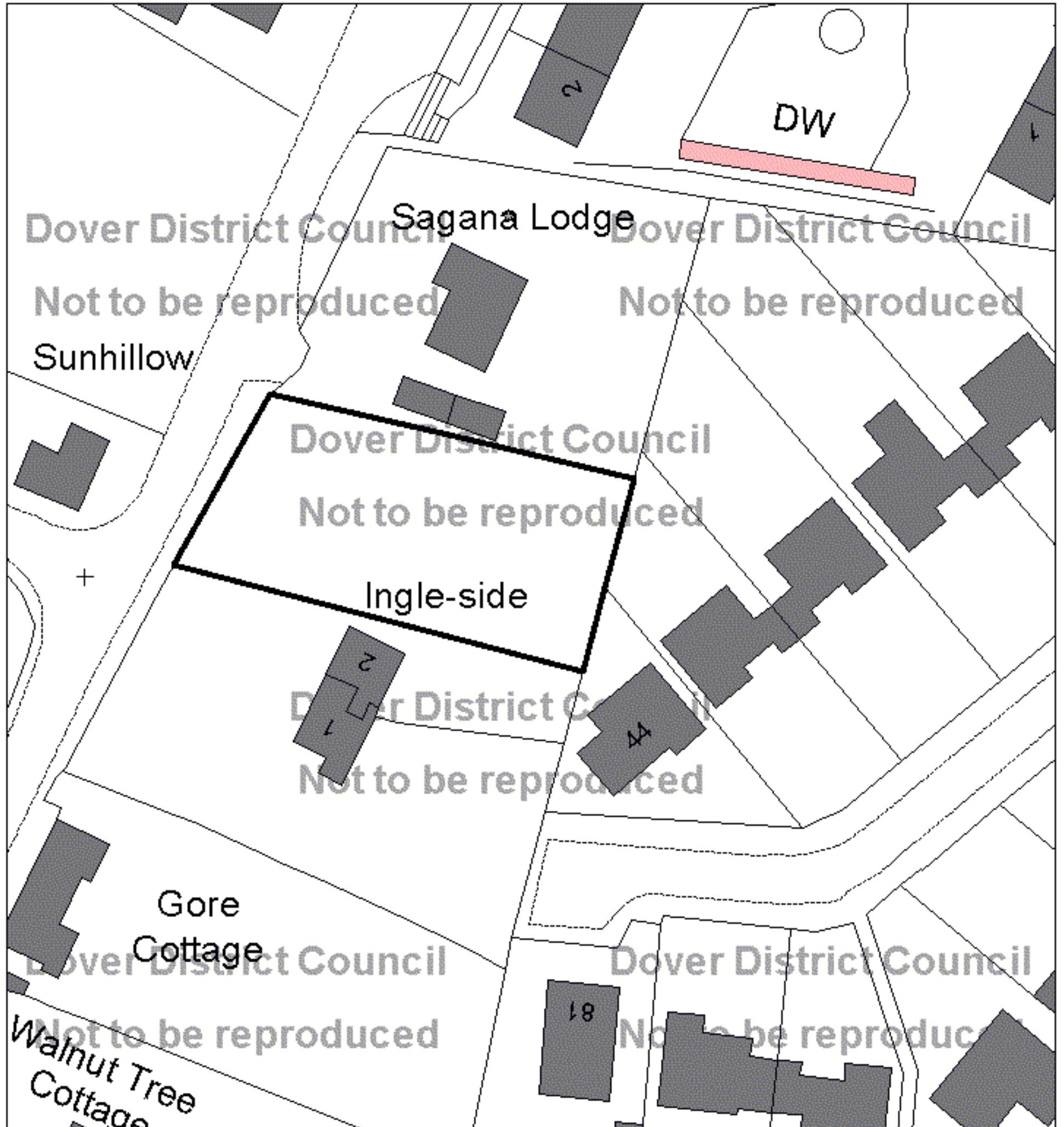
I Permission be refused for the following reasons

- (1) The proposed development would, by reason of its design, appearance, scale, location constitute an overdevelopment of the site and inappropriate development that is harmful to the character and appearance of the area and harmful to residential amenity of existing neighbouring properties and future residents, contrary to policies

CP1 of Dover District Core Strategy 2010 and National Planning Policy Guidance paras 17, 56, 57 and 60.

- (2) The proposed development would not provide adequate replacement parking for no. 7 Penfold Gardens, contrary to policy DM13 of Dover District Core Strategy 2010 and National Planning Policy Guidance paras 56, 57 and 60.

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Application: DOV/13/01092

Land adjacent to Sagana Lodge

Gore Lane

Eastry

TR30705518



- (a) **DOV/13/01092 – Outline application for erection of a detached dwelling and garage and construction of a vehicular access**

Land adjacent to Sagana Lodge, Gore Lane, Eastry

Reason for report: The number of third party contrary views and also called in by Councillor Manion

- (b) **Summary of Recommendation**

Grant outline planning permission

- (c) **Planning Policy and Guidance**

Core Strategy (CS)

- Policy CP1 sets out the location and scale of development must comply with the Settlement Hierarchy. Eastry is identified as a Local Centre suitable for development that would reinforce its role as a provider of services to its home and adjacent communities.
- Policy CP5 seeks new residential development to meet Code for Sustainable Homes Level 4
- Policy DM1 sets out development will not be permitted on land outside the urban boundaries and rural settlement confines unless specifically justified
- Policy DM13 sets out parking requirements for development and states that parking provision should be design-led

National Planning Policy Framework (NPPF)

- The NPPF states that the housing supply should be significantly boosted and housing should be located where it will enhance or maintain the vitality of communities, to promote sustainable development
- The NPPF sets out 12 core planning principles, which includes securing high quality design and a good standard of amenity for all existing and future occupants and conserving heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

- (d) **Relevant Planning History**

87/00075 - erection of 1 dwelling. Refused

88/00558 - erection of 2 dwellings. Refused

88/01327 - proposed house. Refused

- (e) **Consultee and Third Party Responses**

Kent Archaeological: Requested a condition for watching brief

Kent Highways - No objection subject to highway conditions

Ecology Officer – Requested bat emergence survey. Once received, commented - reviewed the bat survey and concur with the findings of the report. A hedge is proposed to separate the two sites at the front and this would also accord with the recommendations in the report.

Head of Assets and Building Control – Tree Matters - No objection. In summary saying: Generally concur with the findings of the report. The immature trees that form a hedge along Gore Lane are closely planted and whilst this is appropriate for a low level hedge the trees are too close together to develop into good specimens. The presence of young elm already exhibiting signs of Dutch Elm disease indicates the likelihood that the quality of the trees/vegetation along the bank will be degraded over time. Agree that the tree stock on the site, generally is immature and of poor quality because it is in the main, natural regeneration and results from a complete absence of management of the site. As such, in arboricultural terms there is little merit. There may be a case for retaining two identified trees (T4 and t7) but this requires further closer investigation, after clearance of the site. If trees T4 and T7 were to be lost then I do think that it would be suitable to replace with suitable indigenous deciduous trees. Given the proximity of the proposed building I would suggest that trees with low water demand are most appropriate , for example birch hazel or hornbeam. I would consider these appropriate mitigation. The siting of the trees probably needs to have regard to screening the view from the end of Peak Drive (which lies to the west).

Eastry Parish Council – no objections subject to highways approval of the proposed new entrance

Letters of public representation: seven letters of objection have been submitted, raising the following material considerations:

- Successive planning applications for this plot have been refused since 1980's
- Entrance in to Gore Land would be far worse in 2014, with the increased traffic that Centenary Gardens and Heronden View have generated over the last few years.
- Residents, including properties in Orchard Road, find the road, without pavements, extremely dangerous.
- The loss of trees on the plot would be detrimental to the wildlife in this predominantly rural area
- Several properties in Peak Drive would look their privacy and have countryside views impeded.
- Difference in ground levels with neighbouring property two storey would be unacceptable. A bungalow with 1.9m fence would be acceptable.
- Area of natural beauty and forms a natural habitat
- Restricted access and bad visibility
- Impact on highway with increased traffic
- Construction will disrupt traffic flow
- Loss of outlook and overlooking
- Visual impact on the neighbourhood

Councillor Manion requested the application not be granted without being considered by the full planning committee. Residents are concerned over the loss of this woodland as well as effects on the adjoining road Gore Lane as the road is very narrow.

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

1.1 The application site is located to the north an existing cottage. It would have a frontage onto Gore Lane, a rear garden backing onto Peak Drive. It is heavily overgrown with vegetation, shrubbery and trees. It retains a mature hedge and tree cover to its boundaries.

1.2 The site falls within the village confines of Eastry. 2 Ingleside Cottage is located south immediately adjoining the site. It is one of a pair of semi-detached two storey houses. It is set back from the highway on raised land, with an existing access from Gore Lane. The first section of the access and drive is quite steep, and then the land levels out to the rear.

1.3 The adjoining cottages are attractive 19th Century building, with red brick construction, slate roof tiles, timber box sash windows with soldier courses above. The roof design is a twinned pitch with the gully half way back.

1.4 Planning permission has recently been granted for a two storey cottage adjacent to 1 Ingleside Cottage, and construction has commenced (ref: DOV/13/00424).

1.5 Sagana Lodge is located north of the site, adjoining the side garden of the application site. This consists of a bungalow and is located on lower level than of the application site. Limited views of this existing bungalow are available given the level of screening from trees.

1.6 Outline planning permission is sought for the erection of a single detached 4 bedroom cottage style chalet bungalow with detached double garage and new vehicular access from Gore Lane, with all other matters reserved.

1.7 Revised drawings were submitted to incorporate the required visibility splays, this involved re-positioning of the access and the agent confirmed notice was sent to the relevant land owners. The drawing provides an indicative location of the proposed dwelling and garage however all matters are reserved and no indicative details on appearance or other matters have been submitted.

2. **Main Issues**

2.1 The main issues for consideration are:

- Principle of development
- The impact upon the character and appearance of the area
- The impact upon neighbouring residential amenity
- Parking and highway safety; and
- The impact upon trees and ecology

3. **Assessment**

Principle of development

3.1 The site falls within the village confines of Eastry and therefore the principle of new housing development is acceptable and is considered to be in a sustainable location, compliant with CS policy DM1 and sustainability objectives of the NPPF.

Impact upon the character and appearance of the area

3.2 The proposal is for a single detached cottage style chalet bungalow. The location shown on the attached plan indicates that the unit would broadly follow the building line of the neighbouring units.

3.3 It indicates there would be a separation distance of approx. 10m between the side elevation of the new dwelling and the side elevation of Sagana Lodge, however as there is a drop in level from the application site to Sagana Lodge, additional information in relation to levels would be required to be submitted alongside the reserved matters detail to ensure the resultant building is set at a comparable height to others in the street.

3.4 Whilst the Ingleside dwellings are two storey and are approx 7m in height to ridge. Given the relationship with the neighbouring properties it is considered that a condition ensuring the height of the dwelling does not exceed 6m above existing ground level would be appropriate to ensure no invasive adverse impact and would create a sympathetic step change in terms of height from 2 storey at Ingleside down to the bungalow at Sagana Lodge. Additional details on the design would be considered as part of the reserved matters stage.

3.5 The site is enclosed to the north, south and east with the exception of the boundary onto Gore Lane. A natural hedge is an important, common, feature along Gore Lane. Whilst Gore Lane has the appearance of a rural lane, residential development is visibly along the lane. The site, when approached from the north, is largely screened by the vegetation and trees located in the adjoining site, Sagana Lodge. The only other point from the road from which the trees are readily visible is the far end of Peak Drive, adjacent No 81, however this view does not extend across all views from Peak Drive to Gore Lane. Therefore, it is considered whilst the development may result in loss of trees, replacement planting along with the surrounding existing vegetation will ensure minimal visual impact. Matters in relation to trees are discussed further below.

3.6 The existing site is on elevated ground and previously formed part of the garden to 2 Ingleside. It does contribute to the leafy character of the street. Some of this leafiness would be initially lost however replacement embankment, hedging and tree planting would be achieved and secured by condition. In time, this will regenerate and return the leafiness and the existing character. The open spacious character of the street would still be maintained due to the set back of the dwelling from the site edge. The proposal should seek to retain the existing bank and it is noted new hedge planting is proposed. This can be achieved by condition.

3.7 Therefore, it is considered subject to acceptable detail to be submitted on appearance, levels and landscaping as part of the reserved matters application, the proposed dwelling would be in keeping with the character and appearance of the area.

The impact upon neighbouring residential amenity

3.8 This is an outline application, no other details in terms of design, layout, appearance or siting have been provided. However, the indicative location of the proposed dwelling shows sufficient distance between the neighbouring properties. This gap would be expected to be retained as a minimum. As discussed above to ensure the proposal would not lead to overlooking and loss of privacy for the occupiers of the adjacent properties, details in terms of differencing levels will be required, along with restriction in height of the proposed dwelling. If any windows are proposed to the north or south facing elevation, then they can be conditioned to be obscure glaze and fixed shut if necessary. The indicative location for the garage is located along the rear boundary in close proximity to the rear gardens of 44 and 42 Peak Drive. To ensure no unacceptable harm on the residential amenity of these units, a condition will be attached restricting the height of the garage and to ensure a low pitch roof. Replacement planting and screening will also mitigate loss of trees and existing screening on site, including when seen from Peak Drive properties.

3.9 With regard to any disturbance during construction, a planning condition can be imposed to cover this matter so that any neighbour amenity effects are kept to a minimum.

3.10 On balance it is considered that a dwelling could be achieved within the site, subject to detailed design at the Reserved Matters stage, that would not result in undue harm to the residential amenity of neighbouring occupants.

Parking and Highways

3.11 A number of objections were received in relation to highways, impact on traffic on the road and potential restricted access. Kent Highways confirmed that as the site is within the 30mph zone, visibility splays of 43m x 2m x 43m are required unless measured speeds indicate lower requirement. Subsequent revisions were undertaken by the agent and revised plan indicates the required splays. The red line was amended to include the visibility splays and owners notified where the splays cross their land. Highways confirmed *'further to confirmation that the visibility splays shown on the amended plan can be secured by condition I confirm I now have no objections in respect of highway matters. Whilst the garage is not counted as providing car parking spaces there is sufficient car parking available on the driveway and the garage can be considered to provide the necessary cycle parking'*. A condition can be imposed to ensure the required visibility splays are achieved prior to occupation of the dwelling. If the applicants are unable to provide the visibility splays, as required by condition, then the development would not be able to proceed. The development is considered compliant with Policy DM13.

The impact upon trees and ecology

3.12 Given the existing trees onsite, a tree survey was submitted by the applicants for the site. The tree survey found that the majority of the site is covered in poor tree stock and there are only seven notable trees identified on site with a mixture of Leyland's Cypress, Elm, Cherry and Sycamore. There is also a large amount of standing dead trees with significant deadwood on the ground and a large density of growth of nettles, brambles and thorn. The report found the site has been unmanaged resulting in great deal of natural regenerated trees and ground cover. Of the seven notable trees, 4 are either of poor quality and/or diseased. The remaining 3, one is an Elm tree and is likely to succumb to Dutch Elm

Disease, two are Sycamore trees and due to being heavily clad in ivy a further detailed examination would be required.

3.13 The Head of Assets and Building Control (HABC), responsible for assessing proposals relating to tree matters, reviewed the information submitted and generally concurred with the findings of the report. He commented that *'the immature trees that form a hedge along Gore Lane are closely planted and whilst this is appropriate for a low level hedge the trees are too close together to develop in to good specimens. The presence of young elm already exhibiting signs of Dutch Elm disease indicates the likelihood that the quality of the trees/vegetation along the bank will be degraded over time.'*

3.14 The Council's HABC concludes that the tree stock on the site, generally is immature and of poor quality because it is, in the main, natural regeneration and results from a complete absence of management of the site. As such, in arboricultural, terms there is little merit for the retention of the trees.

3.15 He goes on to say: when considering the significant trees in more detail: The cypresses, whilst in reasonable condition, is not of particular age or quality. It is out of place next to the deciduous and native trees of the rest of the plot and would make it difficult for any hedge screening to thrive. It also detracts from the acer that is located to the front of Ingleside. The elms, (T2 and T5) are likely to become dangerous over time, due to dutch elm disease and it is sensible to remove them now. The Sycamores (T3, T4 and T7), are again not native species. The Sycamore (T3) has little merit and is of poor form but that there is some merit to trees the remaining Sycamore trees (T4 and T7) by virtue of their size. With regard to tree (T6), which again is not of good quality, the pocket of decay at the very least indicates a weakness and increased propensity for disease and for that reason consider felling a suitable recommendation. To summarize there may be a case, in arboricultural terms for retaining trees (T4) and (T7), subject to further closer investigation, after clearance of the site. If trees (T4) and (T7) were to be lost then it would be suitable to replace with suitable indigenous deciduous trees. Given the proximity of the proposed building would suggest that trees with low water demand are most appropriate, for example birch hazel or hornbeam. The HABC considers this to be appropriate mitigation.

3.16 The conclusion therefore is that whilst the removal of the trees would result in an initial loss, conditions can be imposed required detailed soft and hard landscaping, including replacement trees to ensure that suitable replacement trees and screening are reinstated.

3.17 A number of objections referred to the existing habitats and ecology on the site. An ecology survey was carried out in June 2014. This found that no suitable habitat for protected amphibians on site; No setts, footprints, latrines, runs or hair were found in relation to badgers; no suitable roosting/nesting buildings or trees on site for barn owls and also no suitable foraging habitat. No suitable habitat was identified for other terrestrial mammals or reptiles. Birds could nest in the trees or hedges however it concludes that any tree removal should be undertaken outside the period 1st March to 31st August, or if this cannot be achieved a close inspection of trees and shrubs to be removed should be undertaken prior to clearance.

3.18 A further Bat Emergence Survey was requested and submitted by the applicants. The survey was undertaken on the 6th and 12th August 2014. No bats were identified as roosting

or using the wooden thicket during this survey. The larger trees were inspected and again showed little or no habitat value for bats. It was identified that bats might be using the area as a commuting route to foraging grounds and as such, the planting of a hedgerow or similar might be considered as part of the new development, to ensure this link is not lost. Bat and bird boxes could be installed as part of the new development. Conditions can be imposed securing submission of these details as part of the reserved matters.

3.19 As such, following the submission of tree and ecology surveys, and no objections in respect of the findings it is considered the proposed mitigation will ensure that habitats can be enhanced and the provision of higher quality replacement trees and planting will have a benefit to wildlife, ecology and the street scene.

Other Matters

3.20 The dwelling would be expected to achieve Code Level 4, it its equivalent, in accordance with Core Strategy Policy CP5, unless the applicant can submit evidence to the contrary.

3.21 Details of Drainage and Foul Water disposal have not been submitted, however methods can be required by condition.

Conclusion

3.22 The outline proposal for a dwelling is considered acceptable in principle, meeting the policy requirement for new dwellings to be located within the settlement confines. It is considered that – subject to suitable details being submitted at Reserved Matters Stage – a dwelling could be accommodated within the site that would be acceptable in respect of its impact on the character and appearance of the area and would not harm residential amenity for neighbours. KCC Highway's are satisfied with the visibility splays and parking arrangements and have no objection to the proposals in terms of Highway Safety. Trees and ecology matters have been taken into account, and whilst there will be loss of trees, adequate replacement planting and landscaping, along with ecology habitats will ensure adequate mitigation.

(g) Recommendation

I Planning Permission be granted subject to the conditions to include: (1) standard outline conditions; (2) Approved plans; (3) highway conditions; (4) Landscaping conditions; (5) Ecology conditions (6) Code Level 4; (7) Ground levels; (8) height restrictions; (9) Material Samples; (10) Archaeology watching brief; (11) Construction Management Plan; (12) Drainage and Foul Water Disposal.

II 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.