

- a) **DOV/16/00214 – Erection of a detached two storey dwelling, associated access and parking – Land at Warden House Mews, Deal**

Reason for report: the number of third party contrary representations.

- b) **Summary of recommendation**

Planning Permission be Refused

- c) **Planning Policy and Guidance**

Development Plan

The development plan for the purposes of section 38(6) of the Planning and Compulsory Purchase Act (2004) comprises the Dover District Council Core Strategy 2010, the saved policies from the Dover District Local Plan 2002, and the Land Allocations Local Plan (2015). Decisions on planning applications must be made in accordance with the policies of the development plan unless material considerations indicate otherwise.

In addition to the policies of the development plan there are a number of other policies and standards which are material to the determination of planning applications including the National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG) together with other local guidance.

A summary of relevant planning policy is set out below:

Dover District Core Strategy (2010)

Policy CP1 – Settlement hierarchy.  
Policy DM1 – Settlement boundaries.  
Policy DM13 – Parking provision.

Saved Dover District Local Plan (2002) policies

None applicable.

Dover District Land Allocations Local Plan (2015)

None applicable.

National Planning Policy Framework (NPPF)(2012)

“17. Core planning principles... planning should...

- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives...
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings...”

“56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people...”

“58. ... Planning policies and decisions should aim to ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development...
- optimise the potential of the site to accommodate development...
- respond to local character and history, and reflect the identity of local surroundings and materials...”

“60. ... It is... proper to seek to promote or reinforce local distinctiveness.”

“61. Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

“64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”

“128. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary...”

“129. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.”

“131. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.”

“132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to

the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification..."

"134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal..."

### **Other considerations**

#### Setting of listed buildings

Planning (Listed Buildings and Conservation Areas) Act 1990

Section 66(1) "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

**List entry.** "LONDON ROAD 1. 1035 (South East Side) Nos 285 to 293 (odd) TR 35 SE 5/300 II GV 2. One range of early C19 cottages. Nos 285 and 287 have a higher roofline than the rest. Tiled roof with 2 dormers. 6 windows in all, some sashes and some casements. Simple doorcase. Nos 285 to 293 (odd) form a group."

#### Conservation area

Adjacent to Upper Deal Conservation Area, designated 6 November 1970.

#### d) **Relevant Planning History**

DOV/00/00438 – Erection of detached two storey dwelling and detached garage and alterations to existing vehicular access – **REFUSED**.

DOV/01/01009 – Erection of detached dwelling and alterations to vehicular access – **REFUSED**.

DOV/02/00871 – Erection of detached dwelling and garage – **REFUSED, APPEAL DISMISSED**.

DOV/04/00708 – (TPO) Take out horse chestnut tree and replant mature tree – **WITHDRAWN**.

DOV/05/00646 – (TPO) Removal of one horse chestnut tree – **WITHDRAWN**.

DOV/12/00573 – Erection of a detached dwelling and construction of a vehicular access – **REFUSED**.

DOV/13/01002 – (TPO) Fell one horse chestnut tree – **INVALID WITHDRAWN**.

DOV/14/01179 – Erection of a detached dwelling, detached double garage, creation of a vehicular access and associated parking – **WITHDRAWN**.

DOV/15/00787 – Erection of a detached single storey dwelling and associated parking – **GRANTED**.

e) **Consultee and Third Party Responses**

DDC Conservation Officer

In relation to the negotiations under DOV/15/00787, the Conservation Officer makes the following comment and **objects** to the current application:

“A proposed two storey building fronting the highway has also been refused by an inspector who stated that the site ‘provides a strong visual foil to the surrounding built environment’ and is a ‘visually important spatial area’. It was this principle that led us to a single storey building which sat as low as possible so as not to intrude upon the openness of the site, thus having the least impact on the setting of the CA.

The proposed new two storey is located more or less where the single storey [dwelling] was to go (not quite so close to the modern development), and whilst it relates in design to the modern development more than the previous refused scheme, the principle issue of the negative impact on the setting of the CA by the development of this open site remains. I am unable to support the proposal for this reason.”

DDC Tree Officer

On basis of revised comments made under DOV/15/00787, the tree officer considers that the same principles apply to this application, no objection.

DDC Environmental Protection Officer

Reviewed; no observations.

Deal Town Council

No objection.

Public Representations

Support x 9:

- Design complements existing dwellings in road.
- Parking issues which raised concern under DOV/15/00787 have been addressed.
- Prefer over single storey dwelling permitted under DOV/15/00787.
- Original development of Warden House Mews caused no issue in terms of effect on amenity, does not expect that this will either.

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

1.1. The Site

The site is located within the Deal settlement boundary. It is open in nature, with a number of trees and it is somewhat overgrown. It is a prominent corner plot located at the entrance of Warden House Mews on its north eastern side. Warden House Mews consists of ten dwellings, in a cul de sac. There is a brick wall along the south eastern boundary of the site with London Road. The site is fenced off along its

boundary with number 10 Warden House Mews.

- 1.2. The Upper Deal Conservation Area is on the south east side of London Road, its boundary runs along the centre of the highway.
- 1.3. There is a TPO protected tree on the site. There are two large wellingtonia trees growing along the north western boundary of the site, the larger one within the site boundary and the other just outside of the site, within the boundary of 10 Warden House Mews. The trees are a prominent feature. The root protection area of the larger tree extends across the majority of the site. There is also a holly tree on the north western boundary and a mixed group on the north eastern boundary.
- 1.4. A horse chestnut tree which previously grew on this site and was subject to a number of failed attempts to remove its TPO has since died and been removed.
- 1.5. The brick wall on the London Road boundary continues beyond the site and along the south western extent of Warden House Mews as far as the boundary with Manor Road. The dwellings on this side of London Road are set back approximately 13 metres from the back edge of the footpath. The rear gardens of the Warden House Mews dwellings contain a number of trees, which create a verdant character to the street scene and relieve the built form.
- 1.6. Opposite the site to the south east are a number of commercial and residential properties. Some of these properties most likely date from the late 1800s/early 1900s and display a typical urban road fronting layout from that era. These properties are located within the Upper Deal Conservation Area. Directly opposite the north eastern part of the site is a terrace of listed buildings, 285-296 London Road. These dwellings are grade II listed, dating from the early 19<sup>th</sup> century and are set back from the highway. They are screened along their road fronting boundary by a number of overgrown bushes and trees.
- 1.7. Dimensions of the site are:
  - Depth (viewed from London Road) – 15 metres at centre, up to 25 metres in south west section.
  - Width (viewed from London Road) – 36 metres.
  - Brick wall height (approximate) – 1.8 metres to 2 metres.
- 1.8. Proposed development

The proposed development is a detached two storey dwelling, located in the south west section of the site. The dwelling would be situated on an east/west axis, turned oblique to London Road. The front of the dwelling would face into Warden House Mews, the side and rear of the dwelling would face out on to London Road. The dwelling would contain four bedrooms. At the front and side of the dwelling (west and north) bound gravel space would be provided for parking and turning.
- 1.9. In appearance, the dwelling would be similar to those existing in Warden House Mews.

1.10. Dimensions of the proposed dwelling are:

- Set back from London Road (south eastern site frontage) – 1.8 metres from footpath, 3.8 metres from highway.
- Set back from Warden House Mews (south western site frontage) – 2.2 metres from footpath, 4.2 metres from highway.
- Depth (viewed from access – front, western elevation) – 9.5 metres.
- Width (viewed from access – front, western elevation) – 9.7 metres.
- Ridge height – 8.7 metres.
- Eaves height – 4.9 metres.
- Distance from wellingtonia trees (trunks) – 8 metres (tallest tree, within site), 12 metres (smaller tree, within garden of 10 Warden House Mews).

1.11 The wellingtonia tree within the site would be retained. Existing trees, bushes and vegetation adjacent to the north east boundary would be tidied and retained. Three trees are proposed to be planted adjacent to the south east boundary with London Road. The remainder of the garden would be laid to lawn.

1.12 The brick wall on the London Road, Warden House Mews and north eastern boundaries would be retained.

1.13 *Plans will be on display.*

## 2. **Main Issues**

2.1. The main issues to consider are:

- The principle of residential development
- Street scene, visual amenity and heritage
- Trees
- Residential amenity
- Highways
- Other matters
- Conclusion

## 3. **Assessment**

### 3.1. Principle of development

The site is located within the Deal urban settlement boundary, meaning that the principle of development on site is considered acceptable, subject to its details.

3.2. Development, however, is expected to secure good standards of amenity and take account of different roles and character of different areas, in accordance with core planning principles in paragraph 17 of the NPPF.

- 3.3. The proposed development should, therefore, be acceptable in all other respects including the impact on the character of the area. It should have special regard to the desirability of preserving the setting of the listed buildings and pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area, which the proposed dwelling is located adjacent to.
- 3.4. Good design is quantified from paragraph 56 onwards of the NPPF by setting out that it is indivisible from good planning and should contribute positively to making places better for people and respond to local character and history of the area.

3.5. Street scene, visual amenity and heritage

The characteristics of this part of the London Road, show existing buildings, in parallel to the street. The newer development to the north in Warden House Mews is set back from the road (between 10 and 15 metres) and their relationship to the street is interrupted by their rear gardens. Those to the south side of London Road are closer to the road edge. The continuous 2.5m high boundary wall along the back edge of the pavement on the northern side of the road and rear gardens to the Warden House Mews development brings a strong sense of enclosure to the street edge, albeit with a sense of spaciousness. The openness of the application site contributes towards the spacious character of the street scene. Although an original horse chestnut tree previously located in the centre of the application site has been lost, the prominent features of trees and foliage provide an important green and open vista that contributes to the visual amenity and character of the area, including the setting of adjacent listed buildings and conservation area.

- 3.6. The proposed dwelling would be sited to within 1.8m from the back edge of the London Road footpath, at an angle and extending into the current visually open space, considerably forward of the established building line and the existing trees. It would rise some 6.2 metres above the height of the existing boundary wall on the London Road edge and on the southern elevation facing London Road, would in the main present a blank gable wall. Given the site is located on a prominent corner of Warden House Mews, the dwelling due to its scale, height and siting would become a dominant and intrusive feature in the street scene
- 3.7. The development would therefore not be in keeping with the characteristics of the surrounding area, as required by the NPPF paragraphs 56, 58, and 60.
- 3.8. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires local authorities to pay “special attention to the desirability of preserving or enhancing the character or appearance” of conservation areas. In addition, similarly with listed buildings, section 66 of that Act seeks that the local planning authority shall have “special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.”
- 3.9. Under the NPPF, conservation areas as well as listed buildings are

classed as designated heritage assets, and states that, 'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation'.

- 3.10. It is recognised the conservation area is located adjacent to the site, which also includes grade II listed buildings at 285-293 London Road. In dealing with the proposals under DOV/15/00787, prior to negotiation, the conservation officer commented that the site makes a positive contribution to the visual amenity of the area, including the setting of the listed buildings and conservation area. It is not considered that the development as now proposed has accounted for this existing character, leading the conservation officer to comment that "the principle issue of the negative impact on the setting of the conservation area by the development of this open site remains."
- 3.11. In terms of the setting of the listed buildings, the conservation officer has commented that the listed cottages would have originally occupied an area on the edge of the Upper Deal settlement centred around St Leonards Church and the immediate environs would have been of rural character. This is evidenced in historic Ordnance Survey maps from 1871-1890.
- 3.12. It is recognised that the built form has increased, however the application site has always remained open with no buildings. Similarly along the north west side of London Road development has been set back considerably from the highway (as evident from Warden House Mews).
- 3.13. As such any development that reduces the openness of the site would result in detrimental harm to the setting of the adjacent designated heritage assets.
- 3.14. Where proposals would lead to any 'harm' then a judgement needs to be made, under paragraphs 133 and 134 of the NPPF, as to whether this would be classed as "substantial" or "less than substantial" harm. Where harm would amount to 'less than substantial harm' then this harm should be weighed against the wider public benefits of the scheme.
- 3.15. It is considered that this harm would amount to "less than substantial harm" as defined by the NPPG as there would be no loss of any important historic or architectural features. Nonetheless it is considered that there would be harm.
- 3.16. In view of the above, the harm needs to be weighed against any wider public benefits the scheme may bring to the community. In these terms, this would include the provision of one new residential unit, to assist in meeting the housing needs of the area. However, it is not considered this would be sufficient to outweigh the harm that would be caused to the appearance and character of the designated heritage assets, nor would it meet the requirements of section 72(1) or section 66(1) of the Act.
- 3.17. Other material considerations relating to the consideration of the impact on the character and appearance of the area, and not least the



adjacent conservation area, relate to the planning history to the site. It should be noted that the site originally formed part of the application site for Warden House Mews but was retained as open. It is understood it was originally intended to form part of the garden to number 10.

3.18. There has been considerable planning history associated with the site alone, separate to its original inclusion as part of the Warden House Mews development, including an appeal in 2002 for a very similar development in terms of the scale, mass and proposed appearance.

3.19. The Inspector's decision in 2002 sets out the following relevant points:

*“Approaching the site from deal, along London Road, a series of protected, mature woodland trees on the site and adjacent to its boundary, close the view. Despite a 2m high brick wall front the boundary with London Road, the height and stature of these trees form part of a strong, attractive landscape feature in the area. Their presence is reinforced by mature woodland trees along the remainder of the north-west frontage to this part of London Road, located in the rear gardens of other properties in Warden House Mews. With few similar trees along this part of London Road, they make a material contribution to the character of the area, the open site providing the setting for the tightly knit development opposite.”*

3.20. *“The proposed dwelling would be prominently located, come 2m from the pavement and in front of the adjacent nursing home and houses in Warden House Mews... it would also be in front of the protected trees. Although the tops of the wellingtonia trees would be seen above the roofline, the height and bulk of the development would significantly mask them, particularly when viewed from the south and east. In my opinion, the spatial quality of the site, and its visual amenity, would be materially diminished by a building of the scale proposed. As a consequence, views on the approach to Upper Deal Conservation Area, opposite the site, would be impaired.”*

3.21. *“I consider the proposed dwelling has been sensitively designed... However I do not consider the quality of the building's design would be sufficient to overcome the harm to the street scene and surrounding area caused by the reduced prominence of the protected trees on the site and the loss of a visually important spatial area.”*

3.22. *“I conclude that the development would materially detract from the character and appearance of the area...”*

3.23. At the time of this appeal there was a horse chestnut in the centre of the site, which has since died and been removed. It is clear from the Inspector's decision that the grouping of trees were considered to make a material contribution. It is considered that the group of trees in its current form, albeit without the since removed horse chestnut, still provides a material contribution to the character of the site, to the street scene and the surrounding area and in fact, reinforces the importance of protecting the openness of the site.

3.24. The Inspector particularly comments on how the dwelling would have been prominently located. The current proposal relocates the dwelling

to the south west section of the site, but it would still be prominently located. When travelling from the south west the height and bulk of the development would still significantly mask the tops of the trees, materially diminishing the spatial quality and visual amenity.

- 3.25. The dwelling proposed in this application would have a very similar appearance to those within Warden House Mews. Under the 2002 application considered at appeal and as outlined above, the Inspector found the design would fit comfortably within the mix of building styles in the area, but that the design alone was not sufficient to overcome the harm to the street scene and surrounding area and the loss of the visually important spatial area. This view has not changed.
- 3.26. As such, it is considered in the case of this proposal, there has been no material change in respect of the appeal and the issue discussed therein, or in respect of any of the subsequent planning applications and pre-application advice, which would justify the proposed development.
- 3.27. To conclude on the above, the open spacious character and appearance of the site, with its tree coverage, is considered to make a positive contribution to the visual amenity of the area, including the adjacent listed building and conservation area. It is considered the development would not be in keeping with the character and appearance of the area and would result in an intrusive and incongruous form of development and the loss of that open and spacious character, which has an overriding visual interest. The development would also result in harm to the adjacent heritage assets that is not outweighed by any public benefits. The application is therefore considered contrary to the NPPF paragraphs 17, 56, 58, 60, 133 and 134.

3.28. Trees

The scheme being considered is located towards the access at the entrance of Warden House Mews. The dwelling while located at a distance from the wellingtonia trees such that any future conflict for space and light would be unlikely to arise, is nevertheless still within the root protection area.

- 3.29. The tree officer has previously accepted the principle of development under DOV/15/00787, subject to the foundations using a pile and beam method and underground radar being used to ensure the protection of the tree roots. The use of such foundations would need to be carefully monitored.

3.30. Residential amenity

**Overlooking.** No first floor windows are proposed in the north facing elevation, meaning that overlooking is not an issue.

- 3.31. **Overshadowing.** The proposed dwelling would be sited immediately south of number 10 at a separation distance of 11 metres. The ridge height of the proposed dwelling is 8.7 metres meaning that there is potential for a shadow to be cast towards number 10 in winter months from midday onwards. However, any shadow cast would be more

towards the front garden area of number 10. In this respect, the potential for overshadowing is not considered to be unduly harmful.

3.32. Highways

Access to the site would be taken from inside Warden House Mews. The application includes an area of hard standing to accommodate a parking and turning area. Under DOV/15/00787, a differently configured, but similar in principle access proposal was considered acceptable. The access proposal in this instance is also considered acceptable.

3.33. Conclusion

The site is considered to make a positive contribution to the visual amenity of the area. It is considered that the proposed development would result in harm to the character and appearance of the area and the setting of the adjacent listed buildings and conservation area. This harm to the setting of the heritage assets is not overcome by public benefits.

3.34. The development would result in the loss of an important space that contributes to the visual and spatial character of the locality. It is considered there has been no material change since the appeal decision in 2002 in which the Inspector dismissed the development proposal. Whilst one horse chestnut has been removed since that time, the positive contribution the site makes to the surrounding area is considered to remain. As such the proposal is considered contrary to NPPF paragraphs 17, 56, 58, 60, 133 and 134.

3.35. Planning application DOV/15/00787 involved extensive negotiation with the applicant to bring about a proposal that overcame the concerns raised by the Inspector in 2002 and in subsequent applications. It was considered in that application that a single storey dwelling, located similarly to the proposal now considered and which would retain the prevailing open and spacious character, was acceptable, with particular consideration given to the setting of designated heritage assets. The resubmission of a two storey dwelling ultimately raises the same concerns which were previously identified and upheld by the Inspector as reasons for refusal.

3.36. The proposed dwelling is noted by the conservation officer as relating in design to the other dwellings in Warden House Mews, but this is not the only consideration. It is not considered that this is sufficient to overcome concerns about spatial and visual character and that character in the setting of designated heritage assets.

3.37. Based on the details outlined above, it is recommended planning permission be refused.

g) Recommendation

- I. Permission be REFUSED for the following reason: (1) The proposed dwelling, if permitted, by virtue of its scale and siting, would result in an intrusive and incongruous form of development causing harm to the prevailing spatial and visual character of the street scene and

locality, and cause an unacceptable level of harm to the setting of the adjacent conservation area and listed buildings, where no overriding public benefit has been identified, contrary to the aims and objectives of the National Planning Policy Framework paragraphs 17, 56, 58, 60, 61, 64, 128, 131, 132, 133 and 138.

Case Officer  
Darren Bridgett