

**a) DOV/17/00246 - Erection of nine detached dwellings, landscaping, creation of new vehicular access and parking - The Old Rectory, Church Hill, Eythorne**

Reason for report: The number of contrary views (6)

**b) Summary of Recommendation**

Approve Planning Permission

**c) Planning Policies and Guidance**

Statute

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.

National Planning Policy Framework (NPPF)

Paragraph 6- recognises that the purpose of the planning system is to contribute to the achievement of sustainable development.

Paragraph 7- outlines the three dimensions of sustainable development, which has an economic role, social and environmental role.

Paragraph 14- states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking.

Paragraph 34 states that plans and decisions should ensure 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.

Paragraph 47- refers to the responsibility of each LPA to ensure that their local plan meets the full, objectively assessed needs for market and affordable housing in the housing market area. It goes on to state how the LPA should identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% to ensure competition in the market for land.

Paragraph 49- states that Housing applications should be considered in the context of the presumption in favour of sustainable development. In addition to the above, it states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

Paragraph 50- stipulates the need to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable inclusive communities.

Paragraph 56- emphasises that 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.

Paragraph 60 - states that planning policy and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is however, proper to seek to promote or reinforce local character or distinctiveness.

Paragraph 61 - states that whilst the visual appearance and architecture of individual buildings are very important factors, securing high quality design and inclusive design goes beyond aesthetic considerations.

Paragraph 63 - states that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Equally permission should be refused for development of poor design in accordance with paragraph 64.

Paragraph 66 - states that applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community.

#### Dover Core Strategy (2010)

CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy.

CP4 - Developments of 10 or more dwellings should identify the purpose of the development in terms of creating, reinforcing or restoring the local housing market in which they are located and development an appropriate mix of housing mix and design. Density will be determined through the design process, but should wherever possible exceed 40dph and will seldom be justified ta less than 30dph.

CP6 – Development which generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.

DM1 - Development will not be permitted on land outside the urban boundaries and rural settlement confines shown on the proposals map unless specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.

DM5 – Development for 15 or more dwellings will be expected to provide 30% affordable housing at the site, in home types that will address prioritised need.

DM11 – Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.

DM13 – Parking provision should be design-led, based upon an area's characteristics, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.

DM15 – Development which would result in the loss of, or adversely affect the character and appearance of the countryside will not normally be permitted.

DM16 – Development that would harm the character of the landscape will only be permitted if it is in accordance with allocations made in Development Plan

Documents and incorporates any necessary avoidance and mitigation measures or it can be sited to avoid or reduce harm and incorporate design measures to mitigate impacts to an acceptable level.

#### Land Allocations Local Plan (LALP)

DM27 - Residential development of five or more dwellings will be required to provide or contribute towards the provision of open space, unless existing provision within the relevant accessibility standard has sufficient capacity to accommodate this additional demand.

LA36 – highlights the repositioning of the settlement boundary to include this application site for residential development. The pre-amble of this policy states that the alteration to the boundary ‘may enable development but.....the acceptability of any planning application proposals will be judged against general Development Plan policies and all other material considerations.’

The policy table highlights the main issues for consideration being the trees, access and the setting of listed building.

#### Supplementary Planning documents and guidance

Affordable Housing Supplementary Planning Document - the purpose of this SPD is to alert developers to the scale and need for affordable housing, including outlining measures for how it will be secured.

The Kent Design Guide sets out design principles of development.

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

DOV/13/0033 granted on 1 August 2013 for 2 large (4 and 6 bedroom) detached houses and garages on part of the site (approximately that part occupied by proposed plots 1, 2 and 3).

DOV/08/0387) for 2 detached houses in the approximate positions of proposed plots 1/2 and 8/9 was refused due to their unacceptable design, their impact on the settings of listed buildings and their mutual overlooking.

#### **e) Consultee and Third Party Comments**

**Eythorne Parish Council** object to the proposed development and raise a number of material planning concerns, such as; highways issues, heritage, tree preservation and wildlife.

**Environmental Health** note that historical maps shows Unknown Filled Ground (pond, marsh, river) covering some of the land at this property. In view of this, they request that suitable conditions be included that requires an investigation and risk assessment to be carried out if contamination found, a gas impermeable membrane to be incorporated within the floor slab of the development and a construction management plan.

**Heritage Team** have no comments regarding the detailed design of the proposed development, however raise concerns relating to the statement within the Heritage Strategy relating to the listed wall.

*"The wall is listed with The Old Bakery and the list description states: "wall attached to rear and extending westwards up Church Hill about 25 yards. Red brick. About 12 feet high on plinth with coping with boarded door at end nearest house." The Heritage Statement notes that works of 'maintenance and identical repair... and works of stabilisation' are proposed; however as this wall is listed it is important to determine what these works are in detail as Listed Building Consent may be required. As it is a criminal offence to carry out works to a listed structure without consent when it is required I strongly recommend that further information be sought on the exact nature of the works proposed so I can better advise on the need for LBC."*

Following discussions with the applicant it has been agreed that no works are to take place to the listed wall, and as such no listed building consent is required. An informative is to be placed upon any permission highlighting that any works to this listed structure will require the benefit of listed building consent.

**Southern Water** initial investigations suggest that SW can provide foul sewage disposal to service the proposed development. Southern Water requires a formal connection for a connection to a public sewer to be made by the applicant or developer. It is suggested that planning permission should be granted subject to the imposition of informatives.

**KCC Highways** previously objected to the amount and location of car parking shown within the site, lack of suitable turning facilities for refuse/delivery and insufficient visibility splays. KCC also confirmed that parking restrictions will be required on the opposite side of Church Hill to the access, to allow a refuse vehicle to turn in/out of the site and also so that a driver turning right out of the site can then give way to a northbound vehicle coming through the narrower section of Church Hill to the south.

The applicant subsequently amended the proposals and provided further information in light of these comments. The amendments included the following:

- Improvements to access visibility splays and confirmation that land within the control of the applicant is being used for the Highways works.
- Three replacement parking spaces proposed near the site entrance and KCC consider that the maximum number to be displaced is likely to be four, so given that three spaces are provided on site and on street parking is available further up Church Hill, it is not considered a significant impact in highway terms.

KCC Highways subsequently confirmed the amount and location of car parking shown within the site is sufficient to ensure the proposals are unlikely to lead to unacceptable on-street parking on the existing highway, and that suitable turning facilities for a refuse/delivery vehicle are also provided.

The proposals are therefore acceptable from a highway perspective subject to conditions. The parking restrictions can be implemented through a Traffic Regulation Order by the highway authority and highway alterations can be carried out by the applicant through a s.278 agreement with the highway authority.

**Southern Gas Network** request that they are able to gain access to their pipeline- as shown on the associated map submitted- throughout the duration of operations. The comments list a number of informatives to the application in relation to safe digging practice and other safety procedures.

**Dover District Council Tree Officer** was consulted and met with the applicant on site. Whilst the site has a number of trees subject to a Tree Preservation Order, it has been agreed that there would be no detrimental impact upon these trees subject to the imposition of suitable conditions that require the submission of details of foundations. These conditions are set out at the end of the report.

**Ecological Officer:** On receipt of the applicant's reptile report which was submitted to support the application, the ecological officer has commented the following:

*"The ecology report concludes that off-site translocation would be required given the density of proposed development. In that case a S.106 agreement will be needed to ensure that any third party land is prepared and maintained in such a manner as to sustain the translocated population, in accordance with the duty on local authorities under the NERC Act 2006."*

### **Neighbour Representations**

In total seven neighbour representations have been received from five interested parties, and all object to the application for the following reasons:

- Tree Preservation Orders on site and trees being removed in any event.
- Traffic and in particular at Church Hill.
- Loss of village feel.
- Amount of development too much.
- Construction traffic.
- White Horse Bed and Breakfast refused for additional parking space because of traffic.
- Inadequate access.

Eythorne Parish Council also objected to the proposal, broadly for the same reasons that are listed above making a total of 7 objections.

## **f) The Site and The Proposal**

### **The Site**

The application site is an irregular shaped parcel of land totalling approximately 0.73 hectares, located to the west of Church Hill and to the north of Shepherdswell Road, within the village confines of Eythorne.

Eythorne is identified within the Dover Core Strategy as a Village – the tertiary focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to essentially its home community.

The site is currently undeveloped scrub and grassland and was the garden area associated with the former The Old Rectory.

The application site was formerly occupied by The Old Rectory (a Grade II listed building), however following a fire in 2007, the building was de-listed in 2008 and no above-ground traces of the building are apparent. Garden features such as the walls and steps remain on site.

To the north east the site is bound by Church Hill and the boundary of the site is defined by a red brick wall (listed and associated with The Old Bakery). The site also

falls within close proximity to a number of listed buildings, including The Church of St Peter and St Paul, The Old Bakery and Granary.

The site includes the land allocated under Land Allocations Local Plan policy LA36 as well as land that (whilst within the village confines) does not form part of this allocation.

### The Proposal

The proposed development seeks to provide a total of nine two storey, detached, 4 bedroom family dwellings in a cul de sac formation, fronting onto the proposed access route off Church Hill with a turning head at the end.

Access to the site is proposed via the existing access which is proposed to be altered in order to achieve adequate visibility splays and a total of 24 parking spaces are provided.

A number of highway improvement measures are also proposed at the request of KCC Highways including provision of a footpath, a pedestrian crossing and three parking spaces in lieu of the parking restrictions on Church Hill in order to achieve the access visibility.

### Main Issues

The main issues in the determination of this application are:

- The principle of the development
- The impact on the character and appearance of the area
- The impact upon trees
- The impact on neighbouring properties
- The impact on the highway network
- Heritage
- Other Matters

### Assessment

#### Principle of Development

1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

2 The NPPF states that any development that accords with an up-to-date development plan should be approved and that which conflicts should be refused unless material considerations indicate otherwise. At the heart of the NPPF is a presumption in favour of sustainable development and for decision making this means approving development that accords with the Development Plan.

3 Eythorne is identified as a tier five settlement (Village) within the Dover Core Strategy which allows for development that would reinforce its role as a provider of services to essentially its home community.

4 Policy LA36 of the Land Allocations Local Plan amended the Eythorne Settlement Boundary to include all of this site, as it was considered the site functions as the main built up part of the village.

5 The site has previously accommodated residential development. Indeed, much of it was formerly occupied by a large and imposing Grade II listed 3 storey building, The Old Rectory, which was located centrally about 25 metres from the Church Hill frontage, together with its extensive gardens. The site is situated in a relatively sustainable location in close proximity to a number of services, including a church hall, a primary school, churches, a public house, a playground and bus service. As part of the application and following discussion with KCC Highways, a number of highway improvements are proposed. These include the provision of a short section of footway to the south of the site access and a pedestrian crossing point to the existing footway on the north side of Church Hill. These works will provide pedestrian access between the site and the existing bus stops, school and other amenities in the village.

6 The proposed residential development would have economic and social benefits in accordance with the NPPF presumption in favour of sustainable development.

7 In summary, the site falls within the village confines of Eythorne and therefore the principle of new housing development is acceptable and in accordance with CS policy DM1, Land Allocations Local Plan Policy LA36 and sustainability objectives of the NPPF.

#### Impact on the Character of the Area

8 The NPPF states that planning decisions should aim to ensure that developments will function well and add to the overall quality of an area. Paragraph 17 states that the need to always secure high-quality design should underpin decision-taking. Paragraph 56 refers to good design being a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

9 The application site is situated on the corner of Church Hill and Shepherdswell Road, bound by residential development to the north fronting Church Hill and to the east along Shepherdswell Road.

10 As set out policy LA36 of the Land Allocation Local Plan the boundary has been amended to include this site within confines and it is considered that the site functions as the main built-up part of the village. The site is surrounded by a mixture of two storey and single storey dwellings of largely traditional character, comprising red brick, yellow brick and render elevations and pitched clay tiled roofs.

11 The proposed layout of development follows the building line of development along Church Hill, the rear building line of development along Wigmore Lane and likewise extends no further than development on the opposite side of Shepherdswell Road. This will ensure the proposal reflects the surrounding pattern of development and does not appear out of character. The layout of development allows for adequate space between existing and proposed properties that reflects the existing grain of development. In light of this, it is considered that the application site can adequately accommodate the proposed development without appearing cramped or overdeveloped.

12 Turning to the specific design of the dwellings the proposal is considered to respect the existing development within the vicinity.

13 The layout of development is largely dictated by the need to protect and preserve TPO trees on site around the perimeter of the site. Access to the site is via the existing access, with an internal road entering the site in a southwestern direction, with a turning head between plot 7 and 8 at the end next to plot 7. The proposed dwellings are positioned off this internal road and considered to be located sufficient distance from one another and surrounding properties.

14 In terms of design the mixture of weather board, brick and off white render elevations and plain tiled roofs are considered to reflect existing development. The architectural detailing on each property, including chimneys, gable and hipped roof configurations, porch detailing and long vertical windows adds variety, and results in a traditional and high quality appearance, reflecting the character of the area.

15 From a heritage perspective and in the context of the nearby listed buildings, Dover Heritage Team have confirmed that the design of proposed development is acceptable and no objection is raised from a heritage perspective.

16 The heritage team has raised concern with regards to the red brick wall which runs along the site frontage. This wall is a listed structure associated with The Old Bakery and is to remain as part of the proposed development. The submitted Design, Access and Heritage Statement notes that maintenance, repair and stabilisation works are proposed, and the Heritage Team has raised concerns that such works may require listed building consent. The applicant has confirmed that proposed works would relate only to the removal of minor sapling and shrub growth.

17 Overall it is considered the proposed development respects the character and existing development within the area.

#### Impact upon Trees

18 The application site is the subject of Tree Preservation Order through an Area designation.

19 As demonstrated on the submitted Tree Survey and Tree Protection plan the proposed development seeks to retain the majority of the site, and the built form has been positioned to avoid root protection areas of those trees.

20 The Council's Tree Officer has visited the site and has provided comments which raise no objection to this proposal, subject to the imposition of suitable safeguarding conditions which relate to the provision of details regarding the foundations of the plots closest to the root protection areas. These conditions are all set out in full at the end of the report.

21 Furthermore whilst we note local concern has been raised with regards to future pressure for removal of trees on site, the trees are protected by Tree Preservation Orders and thereby protected by different legislation and we are therefore content there is no harm.

22 Whilst there are a large number of mature trees within the application site, it is not considered that this proposal would bring about any significant harm to these trees, with all of high quality being retained. As such there would be no detrimental impact upon the character and appearance of the locality.

#### Impact on Residential Amenity

23 Paragraph 17 of the NPPF outlines that one of the core principles of sustainable development is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

24 The nearest buildings to the site include Our Lady Flats to the northwest of the site, properties along Shepherdswell Road to the southeast and properties along Church Hill and Wigmore Lane.

25 The proposed development would be situated a sufficient distance away from these residential properties, to ensure that there would not be any overlooking (mutual or otherwise), no creation of a sense of enclosure, or the loss of any sunlight/daylight.

26 Likewise, with the properties that lie beyond the application site; the layout has been designed to ensure that all back-to-back distances are acceptable, and that there would be no direct overlooking of properties in Shepherdswell Road or any properties in Church Hill.

27 Whilst the development would inevitably increase the level of activity, this is not considered to be of a level that would unduly impact upon existing residents. Additional car movements and day to day activities are as one would expect within an area such as this, and indeed has been identified as being acceptable in this location through the LALP 2015 (Policy LA36).

28 For these reasons it is not considered that the proposal would result in any detrimental impact upon the residential amenity of neighbouring occupiers, and the proposal would therefore comply with the requirements of the NPPF (paragraph 17).

### Highways

29 Policy DM13 of the Core strategy states that provision for parking should be a design led process based upon the characteristics of the site, the locality, the nature of the proposed development and its design objectives.

30 The site has an existing vehicular and pedestrian access to the north-east corner of the site. The proposed development seeks to use this existing access, but altered in order to achieve adequate visibility splays. In order to achieve the required visibility splays as part of the proposal parking restrictions (which will be implemented through a Traffic Regulation Order by the highway authority) will be provided on the north side of Church Hill in the vicinity of the access and on the approach to the narrowed section. This will enable two vehicles to pass each other whilst one is waiting to give way at the narrowing; to allow suitable turning and passing room at the location of the site access, and to provide suitable visibility at the pedestrian crossing point.

31 In accordance with the Kent Design Guide Review Interim Guidance Note 3 a total 24 parking spaces are provided.

32 In terms of traffic generation, the submitted Transport Statement suggests the proposed development would generate a total of 7 No two-way AM and 8 No PM peak hour movements with a total of 69 No additional daily trips and represents a negligible increase on the local highway network.

33 A number of highway improvements are proposed including the provision of a short section of footway to the south of the site access and the provision of a pedestrian crossing point to the existing footway on the north side of Church Hill. These improvements will provide pedestrian access from the application site to the facilities within the village and therefore promote sustainable modes of transport.

34 KCC have reviewed the proposal and raise no objection to the development. In light of the above the proposed development is considered acceptable.

#### Heritage

35 Concern has been raised with regards to the impact upon the listed wall to the front of the application site. The NPPF (paragraph 128) requires that applicants should 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' significance. The applicant has submitted a full heritage assessment which identifies the historic use of the land at its importance in relating to the setting of the building.

36 Paragraphs 132-135 of the NPPF relate to the significance of heritage assets and how planning applications should be determined to ensure that great weight is given to the asset's conservation. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

37 The applicant has confirmed that there are no required alterations to this wall and as such there would be no detrimental impact upon it. In terms of its setting, the Heritage Officer has confirmed that there would be no adverse impact as a result of this proposal.

38 There are two listed buildings that front on to Church Hill – namely the Grade II listed buildings known as 'The Bakery and Wall' and 'The Granary' which lies approximately 10metres to the south east of the Bakery. The Church of St Peter and St Paul lies to the north of the site is a Grade II\* listed structure, with the churchyard containing a monument (to the Sayer Family) which is Grade II listed as well as three other groups of headstones that are Grade II listed.

39 Because the site is contained, with substantial tree cover around the boundaries, there is clear separation between this application site and the neighbouring listed structures. That said, the layout has been designed in such a way as to ensure that the dwellings, and associated outbuildings would be distanced away from the listed buildings. All listed buildings (headstones/monuments aside) are visible from the public domain whereas these dwellings would not set away from the public highway, and would be set behind substantial tree cover. They would not therefore be read in the same context as the heritage assets.

40 The proposed dwellings are considered to be well designed, with a good level of detailing, and are also of a scale that would respond positively to the character of the locality. The dwellings would be larger than both the Granary and the Bakery, however, when viewed from the highway it is considered that only glimpses of the roofs of these new dwellings could be seen.

41 The application site (and thus the proposed dwellings within) would not be visible from the front of the church, or from within the church grounds, because of the existing buildings, landscaping and the topography (with the land falling as one moves from the church to the site). As such, it is not considered that the proposal would not have upon the setting of this building or its grounds.

42 In light of the above, it is considered that the development would cause no harm to the setting of the listed buildings aforementioned. The impact of the development is therefore considered to be neutral in addressing the requirements of paragraph 134 and 135 of the NPPF.

43 It is therefore considered that the proposal complies with the requirements of the NPPF insofar as an assessment has been made of the significance of the heritage assets, and the proposal would not have an adverse impact upon the setting or these assets, and in any event the public benefits of the scheme in delivering much needed housing within the district would outweigh any perceived dis-benefit. The proposal is therefore considered to comply with the requirements of paragraphs 132 – 135 of the NPPF.

#### Other Matters

44 The applicant has submitted a reptile report with the application which identified a total of 19 animals during the survey – all of which were slow worms. No common lizards were found within the application site.

45 This number is relatively low given the size of the site, however, this is likely to be due to the type of habitat on site. The report identifies that translocation will be required, therefore in line with comments made by the ecological officer, a condition will be needed to ensure that any third-party land is prepared and maintained in such a manner as to sustain the translocated population, in accordance with the duty on local authorities under the NERC Act 2006.

46 Details of suitable drainage (foul and surface) can be sought by condition.

#### **Conclusion**

47 In light of the above, it is considered that the proposal is acceptable, and would comply with the requirements of Policy LA36 of the LALP (2015). Whilst the proposed dwellings would not mimic those within the immediate vicinity, they are considered to be of a scale and form that would be acceptable – subject to details conditions.

48 The proposal would not result in any significant harm to residential amenity, highways, or ecology. The impact upon heritage assets has also been carefully considered and no objection is raised.

49 It is therefore recommended that the application be approved, subject to the imposition of the safeguarding conditions set out below.

#### **Recommendation**

I Planning permission be GRANTED, subject to conditions to include: 1) time, 2) approved drawings, 3) samples, 4) design details, 5) cycle and bin storage, 6) parking/turning, 7) construction management plan, 8) archaeology, 9) remove pd for openings, 10) foul and sewage disposal details, 11) landscaping, 12) tree and hedgerow protection measures/details, 13) surface water disposal, 14) foundation design, 15) decking/patio details, 16) slow worm translocation details, 17) ground levels and sections

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 planning committee

#### Case Officer

Chris Hawkins