

- a) **DOV/18/00242 – Erection of 10no. detached and 6no. terraced dwellings, detached garages, formation of a vehicle access and parking (existing buildings to be demolished), at Summerfield Nursery, Barnsole Road, Barnsole, Staple, CT3 1LD**

Reason for report: The number of contrary views.

- b) **Summary of Recommendation**

Planning permission be refused

- c) **Planning Policies and Guidance**

Core Strategy Policies

- CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy. Barnsole is not identified as a settlement and therefore falls within the ‘hamlet’ settlement type, which are described as “not suitable for further development unless it functionally requires a rural location”.
- CP3 – Of the 14,000 houses identified by the plan, 1,200 (around 6%) is identified for the rural area (i.e. areas other than Dover, Deal, Sandwich and Aylesham).
- 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 at 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 outside of the settlement confines, unless it is 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

- 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.

National Planning Policy Framework 2018 (NPPF)

- Paragraph 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.
- Paragraph 11 states that decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (including where an LPA cannot demonstrate a five year housing land supply), granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance (set out in footnote 6) provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole
- Paragraph 12 states that the NPPF does not change the statutory status of the development plan.
- Chapter five of the NPPF confirms that the Government's objective is to significantly boost the supply of homes and requires authorities to seek to deliver a sufficient supply of homes, based on a local housing need assessment. The size, type and tenure of housing for different groups in the community should be assessed and reflected in policies. Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site unless:
 - a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
 - b) the agreed approach contributes to the objective of creating mixed and balanced communities

Local Planning Authorities should identify a five year supply of specific, deliverable sites and identify more broadly supply beyond this.

In rural areas, opportunities for rural exception sites should be supported and consideration given to allowing some market housing to support this. Development should be located where it will enhance or maintain the vitality of

rural communities. Where there are groups of smaller settlements, development in one village may support services in a village nearby. Isolated homes in the countryside should be avoided other than in exceptional circumstances.

- Chapter eight promotes healthy and safe communities. This includes the promotion of social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. Developments should be safe and accessible, so that crime and disorder and the fear of crime and disorder do not undermine the quality of life or community cohesion. Policies and decisions should plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments; guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; and ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.
- Chapter nine promotes sustainable transport, requiring that the planning system should actively manage patterns of growth in support of this objective; although opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Chapter eleven requires that land is used effectively, having regard for: the need for different types of housing and the availability of land suitable for accommodating it; local market conditions and viability; the availability and capacity of infrastructure and services (including the ability to promote sustainable travel modes); the desirability of maintaining an area's prevailing character; and the importance of securing well-designed, attractive and healthy places. Where there is an anticipated shortfall of land to meet identified need, low densities should be avoided.
- Chapter twelve confirms that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Planning policies and decisions should ensure that developments:
 - a) 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;
 - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

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, taking into account any local design standards or style guides in plans or supplementary planning documents.

- Chapter fifteen requires that biodiversity is protected and enhanced by promoting the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identifying and pursuing opportunities for securing measurable net gains for biodiversity.

Paragraph 177 states that “the presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined”.

- Chapter sixteen requires that development conserves and enhances the historic environment. An assessment should be made as to whether the development would cause harm to the significance of a heritage asset and, if so, whether this harm would be substantial or less than substantial. Any harm must be weighed against the public benefits of the scheme. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

The Kent Design Guide (KDG)

- The Guide provides criteria and advice on providing well designed development.

d) **Relevant Planning History**

Whilst there have been several applications for the erection of glasshouses, polytunnels and sheds on the site, it is not considered that there is any planning history which is especially pertinent to the determination of the current application.

e) **Consultee and Third Party Responses**

DDC Head of Strategic Housing – Initial comment received 19th April 2018

The application is in respect of a proposed residential development of 16 dwellings which means it is above the threshold at which there is a planning policy expectation that the scheme should include the provision of affordable housing. It is noted that the planning application form acknowledges this and that the applicant is proposing that 6 homes should be provided for social rent. I can confirm that both the number of affordable homes and their size and type would be acceptable.

Subsequent comment received on 7th June 2018

- The 6 'affordable homes' being offered by the developer appear to comprise starter homes to be sold with a discount of 20% off the market price.
- The Housing & Planning Act provides the statutory framework for the delivery of starter homes. The Act defines starter homes as new homes costing up to £250,000 outside of London, to be available at a minimum 20% discount on market value to eligible first-time buyers. The legislation includes provisions to introduce a general duty on planning authorities in England to promote the supply of starter homes, and a specific duty to require a minimum number or proportion of starter homes on certain residential development sites. However, my understanding is that the starter homes legislative provisions are not yet in force and I don't believe starter homes are specifically referred to in the definition of affordable housing set out in the NPPF.
- Currently, the NPPF affordable housing definition includes intermediate housing which are defined as homes for sale and rent at a cost above social rent, but below market levels which can include shared equity housing (shared ownership and equity loans) and other low cost homes for sale and intermediate rent. However, it specifically states that homes that do not meet the definition of affordable housing, such as "low cost market" housing, may not be considered as affordable housing for planning purposes.
- I have no idea what the OMV of the starter homes would be but imagine they are likely to be the maximum set out in the Act - £250k. I'm sure that a 20% discount would make the homes more affordable for some first time buyers including some who would see them as an affordable alternative to shared ownership. However, they would not meet the needs of the majority of people on the Council's housing waiting list who are in need of social rented or affordable rented housing.
- Normally we would be seeking for the affordable housing element of a new housing scheme to comprise a mix of rented and low cost home ownership units (typically a 70/30 mix) however, the Council has agreed higher proportions of shared ownership housing within schemes where this has improved the development viability of the scheme and enabled it to come forward. Any affordable housing for rent that it is delivered through a S.106 agreement is normally used to meet the needs of people on the housing waiting list irrespective of where they currently live. Housing applicants aren't required to specify a location where they want to live and therefore it's not possible to use the waiting list as a data source for determining likely demand.
- To my knowledge there has been no development of affordable housing for rent or shared ownership in the village since the last homes to be developed by the local authority and I imagine that a significant number of the homes originally provided by the local authority have been bought by tenants under Right to Buy. However, the possibility of developing a small number of affordable rented homes in Staple through the Council's Rural Exceptions Site planning policy is currently being explored. The work on this is being undertaken by English Rural Housing Association who have an expertise in this type of development. The development has the in principle support of the parish council and is supported by the results of a recent local housing needs survey. ERHA have identified a site and are designing a scheme with a view to submitting it for planning approval in the near future.

Subsequent comment received 8th June 2018

Our normal starting off point on a S.106 affordable housing negotiation would be to ask for 70% of the affordable units to be social/affordable rent (4 units) and 30% shared ownership (2 units). We would be happy with this but would also be happy for all 6 units to be rented units if it helped make a smaller development such as this, simpler. There may of course be a difficulty in the developer attracting interest from a Registered Provider due to the relatively small number of units. The larger of the developing RPs in our district such as Orbit are unlikely to be interested. We would only know once the developer has approached them. If this was the case then the Council could consider whether it wished to acquire the units itself.

You are correct in assuming that a scheme comprising mainly social rented or affordable rented homes would meet the needs of people with the greatest affordable housing need.

DDC Environmental Health – Due to the historical uses in the areas around the site it is recommended that a multistage condition be attached to any grant of permission regarding the identification and remediation of any contamination on site. It is also requested that a condition be attached regarding the submission and approval of a construction management plan.

Crime Prevention Officer – The applicant has not yet demonstrated that they have considered crime prevention or applied the seven attributes of Crime Prevention Through Environmental Design. If the applicant fails to contact us, this may have an effect on the development with regards to Secure By Design, as awarding it retrospectively can prove difficult and costly. This could also have knock on effects for the future services and duties of the Community Safety Unit and local policing.

KCC Highways and Transportation – *Initial response received 17th April 2018*

The following information is required in order to assess the highway impacts of the proposals:

1. Details of daily vehicle movements associated with the existing use as a nursery, including how these are spread between the two access points;
2. Details of the current permitted use(s) of the site.

Subsequent response received 12th June 2018

I refer to the above planning application and the additional information submitted by the applicant in relation to trip generation.

Whilst the trip generation figures for the proposed residential development are accepted, the trip generation figures suggested for the existing nursery are based on garden centre sites rather than mixed-plant nurseries with retail use. The Planning Authority advise that in their opinion the site could not be used wholly as a garden centre use without requiring planning permission as this would be a significant intensification of the use, materially different in character to the current and past use. As such the suggested trip generation figures for the existing use are likely to be in excess of those which might be generated. Having said that, there would clearly be a level of vehicle trips generated by the existing site and this could be more than the current level of the 'wound down' site if the business were revived and operating at capacity.

The proposed use is likely to generate around 10 two-way trips in the weekday peak hours and around 75 two-way trips across the whole day. These trips are likely to be spread across different parts of the highway network bearing in mind the site's central

location in relation to surrounding employment centres and schools. This means that in the peak hours there are likely to be around 3 two-way trips in Mill Lane and through Staple to the west, and around 7 two way trips in Barnsole Road to the north, with these being further split between Lower Road/Durlock Road (2 trips) and Fleming Road (5 trips). Depending on destination one or two of these latter trips may be on Chalkpit Lane. Whilst the trips associated with the existing use of the site would be subject to seasonal fluctuation and likely to be most intensive at the weekend, I consider it reasonable that there could be around 3 trips generated in the peak hours by staff and/or customers. Overall therefore, the proposals are likely to generate an additional 7 two-way peak hour trips on the highway network, split across routes as indicated above. Whilst Mill Lane and the section of Barnsole Road fronting the site are only wide enough for single file traffic, the low number of existing and proposed vehicle movements means that drivers are unlikely to meet each other very often and, if they do, an existing passing place is available in Barnsole Road together with a proposed passing place in Mill Lane. In terms of Barnsole Road north of the site Lower Road/Durlock Road, Fleming Road and Chalkpit Lane, the anticipated small number of additional trips are unlikely to have a severe impact.

Taking the above into account the proposals are unlikely to have a severe impact that would warrant a recommendation for refusal on highway grounds.

Whilst the proposals may remove existing HGV movements associated with the nursery, access will still be required onto the site for weekly refuse collection. The applicant should therefore check the size of refuse vehicle and particular site access point that will be used by the local authority and submit swept paths to demonstrate that this vehicle can manoeuvre in/out of the site access in an appropriate manner.

I note the internal roads are to remain private and will therefore not be adopted by the highway authority. The amount of car parking proposed is acceptable and unlikely to lead to unacceptable parking on the public highway.

There are unlikely to be any vehicle movements generated by the development in Mill Road to the south of the site. The proposed passing area is therefore not considered to be necessary as mitigation and can be removed.

I shall therefore be pleased to receive the vehicle swept path diagrams referenced above.

Subsequent response received 7th August 2018

I note the swept path diagram submitted for the refuse vehicle but it does not appear to be a full swept path diagram which would show all turning manoeuvres and include the wheel tracking as well as the vehicle body. The size of vehicle also appears smaller than we would normally accept. I also note that it is only shown to use the Barnsole Road access. As previously advised clarification is required from the local authority on the size of vehicle likely to be used and the access point/route through the site it would take. If the vehicle needs to enter/exit via the Mill Lane access then this needs to be checked with swept paths as well.

KCC Economic Development – Request that a contribution of £768.25 be made towards additional book stock for mobile library service attending Staple. KCC also recommend the provision of a High Speed Fibre Optic Broadband connection to the development.

KCC SUDS – *Initial comment received 13th April 2018*

Unfortunately no surface water drainage strategy has been provided for the proposed development. It is therefore recommended that the application is not determined until a complete surface water drainage strategy has been provided for review.

Subsequent comment received 21st June 2018

In principle we have no objections to the proposed drainage strategy, however we would like to see clarification that any soakaway will have an appropriate half drain time of less than 24 hours. In addition, soakaways should be a minimum of 5m away from any building.

Given the sensitivity of the site location with respect to Groundwater Source Protection Zone 3, we recommend that consultation with the Environment Agency is undertaken to confirm that infiltration is feasible.

Should permission be granted, conditions are requested regarding the submission and approval of a surface water drainage scheme; restricting surface water infiltration to those areas which are permitted; restricting occupancy of any of the dwellings until an operation and maintenance scheme is submitted and approved; and restricting occupancy of any of the dwellings until a verification report is submitted to demonstrate that the approved infrastructure is in place and operational.

Environment Agency – The EA have no comments to make as the planning application falls outside of their remit as a statutory planning consultee.

Natural England – Since the development will result in a net increase in residential accommodation, impacts on the SPA and Ramsar sites may result from increased recreational disturbance. The authority has measures in place to manage these potential impacts through the agreed strategic solution, subject to financial contributions being secured. On this basis Natural England is satisfied that the proposal will mitigate against the potential effects of the development on the sites and that the proposal should not result in a likely significant effect.

Natural England has not assessed this application for impacts on protected species.

Regard should be had for Natural England's SSSI Impact Risk Zones.

Southern Water – A formal application for a connection to the public foul sewer will be required. It is requested that an informative be attached to any grant of permission in this respect. Regard should also be had for surface water disposal.

It is requested that a condition be attached to any grant of permission requiring details of the foul and surface water disposal be submitted and approved by the local planning authority.

East Kent PROW – No comments

Stagecoach South East – Stagecoach does not operate buses in the vicinity of this development, so it would have no material impact on their operations.

NHS – The development would increase local population. The area is covered by one surgery – The Wingham Surgery, which is a branch of Aylesham Medical Practice. Investment is required to bring the surgery up to modern standards in order to future proof primary care service delivery to the area. The development would produce total occupancy of 48.1 people. A contribution of £360 per patient has been requested,

totalling £17,316. No specific project is identified. A number of risks are identified should the contribution not be provided.

Kent Fire and Rescue – The means of access is considered satisfactory.

Staple Parish Council – Object until further information or evidence of wider scope of consideration is received (i.e. KCC should consider wider transport infrastructure and vehicle movement).

Public Representations – Thirteen letters of objection have been received, raising the following points:

- The site is outside of the settlement confines whilst the nearest settlement, Staple, is identified as only being 'low density development consisting of one or two dwellings'
- Increase in traffic on single track lanes
- Vehicle movements on roads pose an increased danger to dog walkers, people with push chairs, ramblers, tourists and people on horseback
- Walking routes from the site are via narrow lanes with no footpaths
- The bus service through the village was recently terminated/substantially reduced
- The road network could not support construction vehicles
- Vehicles cause damage to properties in the area
- Affordable housing should not be located in a village with no amenities and transport issues
- The development would be out-of-character
- Impact on the settings on listed buildings
- Too many dwellings are being proposed
- The area does not have the infrastructure to support this development
- The nearest medical facilities, schools and shops are approximately 2km away
- There is a bird sanctuary for highly endangered Turtle Doves across the road from the site
- There is a thriving hedgehog population in the beech hedges neighbouring the site
- Impact on the residential amenities of neighbours
- Increased air pollution
- There is insufficient water pressure in the area
- Other applications for development in the area have been refused

Twelve letters of support have been received, raising the following points:

- It is a well-designed scheme and would be a visual enhancement
- Additional housing will allow young people to remain in the area
- The scheme will provide an improved access
- Reduction in traffic generation compared to the existing use
- The site is 'brownfield' or previously developed land
- The development includes the provision of affordable housing
- The development will help to support facilities and services, including the public house
- The scheme will benefit wildlife

One neutral representation has also been made, making the following observations:

- Small rural developments are supported and it is pleasing to see that ecology will be protected, but concern I raised that too many housing are being proposed.
- The number of dwellings should be significantly reduced
- The scheme would be out of character in this quiet rural location
- Increased traffic
- The transport data is misleading

f)

1. **The Site and the Proposal**

- 1.1 The site lies outside of any settlement confines, as defined on the Proposals Map and is therefore considered to be within the countryside. The site also sits within the Eastry Arable and Woodland Clumps Landscape Character Area. Staple, defined as a Village, is located around 600m to the west of the application site. Ash is around 2.8km away, Eastry around 4km away and Sandwich around 6km away.
- 1.2 The site is relative flat, but falls gradually from south to north. The site, which is roughly rectangular and is currently used as a plant nursery with an element of retail, is bounded by hedges to its northern, western and south western boundaries. The site is located within Ground Water Protection Zone 3.
- 1.3 The application seeks permission for the erection of sixteen dwellings, which would comprise two terraces (each of three dwellings) of affordable dwellings and ten detached market dwellings. All of the dwellings would be two storeys in height, with the exception of one market dwelling which would be two storeys, but with rooms in its roof. The buildings would be between 9m and 9.8m in height. The materials would be a mixture of red brick, white weatherboarding and red clay hanging tiles, under Kent peg tiled roofs.
- 1.4 The dwellings would be located towards the perimeters of the site around the internal access road and a central green with a pond. The internal roads would access the road network at Mill Lane and Barnsole Road, with the internal access road providing a continuous link between the two. Thirty-six open car parking spaces together with ten double garages are proposed. Replacement hedges and planting are proposed.

2. **Main Issues**

- 2.1 The main issues are:
 - The principle of the development
 - The impacts on the character and appearance of the area
 - The impacts on the highway network
 - The impacts on neighbouring properties
 - The impacts on ecology
 - Development Contributions and Infrastructure

Assessment

Principle

- 2.2 The application site is located outside of the defined confines of Staple and is therefore considered to be within the countryside for the purposes of planning.

Policy DM1 of the Core Strategy states that development will not be permitted on land outside of the confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or is ancillary to existing development or uses. The development is not justified by other development plan policies, whilst the development does not functionally require a rural location. The development would not be ancillary to any existing development or use. Therefore the application is contrary to Policy DM1 of the Core Strategy. The principle of the development would also be contrary to Policy DM11, as set out later in this report.

- 2.3 Notwithstanding the fact that the site is outside of the settlement confines, it is worthwhile to have regard for the status of Staple and its identified role in providing housing. Staple is defined as Village by policy CP1 of the Core Strategy. The role of Villages, which are the lowest identified settlement type (hamlets not being identified) in the hierarchy, is to provide 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 Land Allocations Local Plan (LALP) also identifies Staple as a Village, specifically confirming that Barnsole (where the current application site is located) is a hamlet (i.e. not a defined settlement and therefore not suitable for further development). The LALP advises that, at the time it was written, Staple had a Church, a recreation ground, a public house, a village hall and an hourly bus service.
- 2.4 The LALP identifies a need for additional housing in Staple and made a change to the settlement confines in order to provide a site capable of accommodating one or two dwellings. No further development was deemed to be necessary and the LALP was found to be sound by the Inspector at examination. However, since the LALP was published in 2015, permissions have been granted in Staple for seventeen dwellings (plus six dwellings under the prior approval procedure), whilst the pub in Staple has closed (although the pub in Barnsole remains open) and the hourly Stagecoach bus service has been terminated, making the area significantly less sustainable than it had been previously. The change to the settlement confines of Staple, described as creating an opportunity for one or two dwellings in the LALP, eventually gained planning permission for four dwellings, whilst planning permission was granted at the Three Tuns Public House for a total of nine dwellings. In addition, a site at the northern end of Barnsole Road was granted planning permission at appeal for four dwellings. Furthermore, six dwellings have been granted prior approval in the vicinity of Staple.
- 2.5 Whilst the principle of the development is contrary to the development plan (Policies DM1 and DM11), it is important to note that, at present, the Council is unable to demonstrate a deliverable five year housing land supply. In addition, by undertaking the process of updating its housing need evidence base (Strategic Housing Market Assessment (SHMA) 2017), the Council has acknowledged that its policies relating to the supply of housing within the Core Strategy (CP2 and CP3) are out of date. A recent appeal decision at Walmer, Deal concluded that the Council has approximately 4.5 years supply of housing (albeit this pre-dates the publication of the revised National Planning Policy Framework (NPPF)). Given this position, Policy DM1 is now considered to have some reduced weight in the decision making purposes as it has a limiting effect on the supply of land for housing and in this regard, and against the backdrop of not being able to demonstrate a five year supply of deliverable housing land, that the weight to apply to this policy is more limited. Policy

DM11 is also affected; however, it is considered that this policy closely correlates with the NPPF and continues to carry significant weight.

Character and Appearance

- 2.6 The site lies within the countryside, where Policy DM15 applies. This policy states that development which would result in the loss of, or adversely affect the character or appearance of the countryside will only be permitted in exceptional circumstances. In addition, Policy DM16 generally resists development which would harm the character of the landscape. It is considered that both of these policies accord with the NPPF and, as such, carry full weight.
- 2.7 In order to inform the consideration of a developments impact on landscape character, regard should be had for the Dover District Landscape Character Assessment, which divides the district into 12 landscape character areas. The site lies to the northern edge of the 'Eastry Arable and Woodland Clumps' landscape character area, just below the boundary of the 'Staple Farmlands' landscape character area. The key characteristics of the 'Eastry Arable and Woodland Clumps' area is described as: gentle ridge and valley topography of the Downs; small settlements enclosed; orchards and vineyards; poplar shelter belts; arable land; rectangular fields follow northeast-southwest direction; native hedgerows and isolated trees; strong seasonal variation; mixed building types; light settlement; minor roads; and a footpath network. In terms of the character of built form, the area is described as having "isolated houses and farmsteads and small clusters of houses frequent the area, linked by a network of narrow lanes", whilst "the series of small settlements with open arable land in-between form a pattern and rhythm across the landscape". The key characteristics of the 'Staple Farmlands' area are largely the same of those of the 'Eastry Arable and Woodland Clumps' area, albeit the land is flatter. The built form in this character area is described as, "building types, materials and ages are varied with a rich mixture of traditional and modern Kentish oasthouses, used for drying hops, Flemish gable ends, relating to the historic integration of the Dutch, and flint material, relating to the underlying geology of the wider area. There are a number of isolated houses and farmsteads spread throughout the character area, which support these characteristics. The settlement of Staple, however, includes a mix of modern brick houses within a higher density".
- 2.8 Locally to the site, it is considered that within the area to the east of Staple, buildings tend to be grouped in clusters (in accordance with the Landscape Character Assessment appraisal). These clusters are all present on the pre-C20th maps, with the exception of one group to the north of Lower Road, albeit most have grown since that time. The application site forms a triangle of land between three of these clusters, Barnsole, Summerfield and the former location of a windmill. The application site had, with the exception of a small farmstead to its north eastern corner, been vacant of buildings until the C20th.
- 2.9 The buildings within the clusters are typically very low density, sporadically located and of diverse scale and design, with each building (or short terrace) differing from the next. The majority of the buildings face towards the roads, however, the separation from the road varies considerably, with some buildings directly addressing the roads and others set back by a significant distance. It is considered that the unplanned, sporadic and diverse character of the clusters produces a strong defining character to the area.

- 2.10 The existing site does depart from the character of the clusters, accommodating glass houses, poly tunnels and potting sheds spread across much of the site. However, whilst these buildings have significant floor areas, their height is limited. Moreover, the site is predominantly bounded by tall hedges, albeit these hedges include Leylandii, such that the buildings on site are not prominent from outside the site, other than in views from the entrances to the site.
- 2.11 The proposed development seeks to construct sixteen two-storey dwellings (albeit plot 10 would also have rooms in its roof). Whilst a relatively low density scheme compared with average development densities across the district, it would be of higher density than that which is found within the Barnsole/Summerfield area. The layout of the scheme, whilst utilising an organic road plan, retains a planned, orderly pattern of development which fails to have regard for the unplanned “scattered” character which is prevalent.
- 2.12 The proposed buildings would be of significant scale, with six terraced dwellings of around 100sqm each and ten detached dwellings of between 114 and 236sqm and reaching heights of between 9 and 9.6m. Whilst buildings of similar, or even larger, size can be found in the vicinity, they are typically set in larger plots, retaining a sense of spaciousness.
- 2.13 The dwellings have been sensitively designed, are well proportioned and would utilise a high quality materials palette typically used for rural developments (albeit the white painted weatherboarding proposed to some dwellings is used scantily in the area and rarely as it has been proposed in the current application).
- 2.14 The area around the site is relatively flat, but falls gradually from south to north. The application has been supported by a Landscape and Visual Impact Assessment (LVIA) which considers the landscape character of the site and the surrounding area, viewpoints from where the site is or may be visible and the impacts of the development. The broad locations of the viewpoints chosen for the assessment are considered to be reasonable, although closer views of the site from Mill Road must also be considered. In order to assess the impacts of the development on the character of the landscape, a standard methodology will be used which considers the sensitivity to change, the magnitude of change and the significance of impacts, having regard for potential mitigation.
- 2.15 It is considered that, of longer distance views identified in the report (7 to 13), the development would have a neutral impact, due to the distance at which the views would be taken (i.e. a low sensitivity to change) and the screening effect of existing buildings and vegetation. Whilst some benefits and disbenefits are identified (primarily the benefits being the removal of Leylandii hedges and the disbenefits being the views gained of the roofs of the proposed dwellings), it is considered that these impacts are broadly balanced. Issue is taken, as will be set out in more detail later on in this section, with the degree to which the presence of dwellings would cause an adverse effect and the degree to which vegetation would mitigate these impacts.
- 2.16 Viewpoints closer to the site are significantly more affected by the proposed development. In the view from the main entrance to the site on Barnsole Road, the car park, several single storey glasshouses and a potting shed are currently visible. Summerfield Nursery House and, to a lesser degree, Holly Cottage are noticeable. The proposed development would introduce an

access with a raised table and one dwelling to its right hand side adjacent to the road. Furthermore, views into the site would be possible, including areas of car parking, garages and around five dwellings (with glimpse views of other dwellings also possible). The character of this part of Barnsole Road is largely influenced by the narrow width of the road and the lack of prominent buildings. The greenhouses, to a degree, depart from this, but retain the agrarian character of the lane. Whilst the assessment of the applicant is that the greenhouses are 'detractors', it is not considered that they have more than a minor negative impact on views. The application, however, would introduce a very suburban, engineered character to this narrow lane, significantly departing from the scattered, rural character which prevails. It is considered that, in this view, the development would cause a moderate adverse effect.

- 2.17 The LVIA identifies a viewpoint from the junction of Barnsole Road and Mill Road, although it is considered that this viewpoint should be 'extended' to also consider that impacts from Mill Lane. From here very little built development is currently visible (Summerfield Nursery House and Mill Cottage/Mill House). The existing buildings, greenhouses etc. on the application site are just visible over the boundary hedge, against the backdrop of the Leylandii hedge. The submitted LVIA considers that the benefit of removing the Leylandii hedge which forms a backdrop outweighs the harm caused by the erection of dwellings, considering that the proposed dwellings may be "glimpsed" with only "fragmented partial views of rooflines and chimneys". This conclusion cannot be reconciled with what is apparent on site. The rooflines of the existing glasshouses can be 'glimpsed' at present; however, the proposed dwellings would be approximately twice the height of these glasshouses. As such, the proposed dwellings would, it is considered, form dominant and significantly detracting features in this view, which would significantly outweigh the benefit of losing the Leylandii hedge. It is considered that, in this view, the development would cause a moderate adverse effect.
- 2.18 From the junction of Mill Road and Mill Lane the main feature is the Leylandii hedge, with an open field (with stored vehicles) and, beyond, the properties on Barnsole Road to the left hand side of the view and Mill House and Mill Cottage to the right hand side. From this viewpoint, the benefit of removing the hedge would be most appreciated, as a length in excess of 100m, highly visible from this viewpoint, would be removed. This hedge would be replaced by a native hedgerow, above which the development would be visible. In particular plots 8, 9 and 10 (which include dwellings and garage buildings) would be located in relatively close proximity (between 8 and 20m) to this boundary. Other dwellings may also be visible in the background of views. Being a newly planted hedge, in the short and medium term, it would provide limited screening of the development. In the long term, this hedge would increase in height, depending on the species, density, maintenance etc.; however, it is highly unlikely that the hedging would reach as high the eaves of the building. Having regard for the perspective available from this viewpoint, it is considered that the buildings would remain prominent features, detracting from the rural character. Balancing the benefit against the disbenefit, it is concluded that a minor adverse effect would be caused.
- 2.19 From Mill Lane, adjacent to the second access, the existing view comprises Summer Lodge and its garden to the left hand side, which is bounded by hedges over which the roof of Holly Cottage is visible. To the right hand side and directly abutting the road, is the row of Leylandii, which is a detractor. The development would significantly alter this view. The open 'airspace' over the polytunnels (permitting views of trees beyond) would be replaced by the side

gable elevation of plot 12. The existing access to the centre of the view would be engineered to create an access with a raised table and footpaths. To the right hand side, the Leylandii hedge would be removed and replaced with a native hedgerow. However, two dwellings and a garage would be located in close proximity (less than 5m) to this boundary. Consequently, the dwellings would create highly dominant features from the road. Balancing the benefit against the disbenefits, it is concluded that a moderate adverse effect would be caused.

- 2.20 Regard has been had to the degree of proposed mitigation, i.e. the planting of native hedgerows and the enhancement of privet hedges. However, the proposed dwellings would rise to between 9 and 9.6m in height. Whilst these hedges would reduce the visual impacts of the development, it is highly unlikely that, even once the hedges have become established, they would effectively screen dwellings (not least due to the hedges being in the rear gardens of dwellings where it would undesirable to have tall hedges).
- 2.21 Overall, it is considered that the development would introduce an overtly planned layout development, at density which would fail to relate to the density of development in the area, creating a pattern of development starkly at odds with that of the surrounding area, described by the Inspector for the appeal site to the north as “scattered” and described in the Landscape Character Assessment as: “isolated houses and farmsteads and small clusters of houses frequent the area, linked by a network of narrow lanes”. Whilst the removal of evergreen hedges is positive, the retained and new hedges would fail to mitigate the visual impacts of the development. It is therefore considered that the development would cause substantial harm to the character and appearance of the area and to the character of the countryside and landscape, contrary to Core Strategy Policies DM15 and DM16.

Heritage

- 2.22 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that “in considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority or Secretary of State should pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”. Regard must also be had for the NPPF, in particular, whether the development would cause any harm to the significance of heritage assets.
- 2.23 There are two groups of listed buildings which are located relatively close to the application site, one to the north and one to the south (the groups signifying the ‘clusters’ of buildings which characterise the area’).
- 2.24 The group to the south is located around 110m away and comprises four listings (three dwellings and a well). The closest of the proposed dwellings would be around 140m from the closest listed building within this group, Summerfield House. Given the separation distance, it is not considered that the development would impact upon the settings of these buildings.
- 2.25 To the north is a second group of four listed buildings. This time, three of these buildings are dwellings and one, the closest to the site, is a pub. Again, the development would be set a reasonable distance away from these listed buildings, with the closest of the proposed dwellings to the pub being 65m away. Given this distance, together with the intervening vegetation, it is not

considered that the development would impact upon the setting of these listed buildings. As such, having regard for the statutory duty of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the provisions of the NPPF, the development would cause no harm to designated heritage assets.

- 2.26 It is also necessary to consider the developments impacts on non-designated heritage assets, in particular Archaeology. The KCC archaeologist has not provided a comment regarding the application; however, it does not follow that the lack of a comment means that archaeology is not a constraint. In the absence of a comment, historic maps and the Kent Historic Environment Records have been checked to establish whether the site has potential to contain non-designated heritage assets of archaeological value. The records show that there is a post-medieval dispersed plan farmstead at the application site, chalk workings and a lime kiln to the east and various farmsteads, outbuildings and a brewery around the Black Pig Public House. To the west was a corn mill. It is acknowledged that the site contains various buildings and hardstandings; however, these do not cover the site and it is likely that they will have limited foundations. Given the sites location, to the southern extent of the hamlet of Barnsole (Summerfield being a separate hamlet beyond open fields to the south), it is considered that there is a potential for the site to contain non-designated heritage assets of archaeological value and, as such, should permission be granted, it is considered that it would be reasonable and proportionate to include a condition which requires an archaeological watching brief to take place during construction.

Impact on Residential Amenity

- 2.27 Typically, properties outside the application site are located a significant distance away. Three properties, to the east of the site, are closer and require more detailed consideration. These properties are Summer Lodge, Holly Cottage and the dwelling which is associated with the application site (and is under the ownership of the applicant).
- 2.28 Summer Lodge would be located around 30m from the nearest of the proposed dwellings (plot 12). As such, no significant loss of light or sense of enclosure would be caused. Whilst the side elevation of plot 12 would be close to the boundary with Summer Lodge, this side elevation would not contain any windows. Rear facing windows in plot 12 would provide only long distance, angled views towards Summer Lodge. No other proposed dwellings would cause any significant loss of light, sense of enclosure or overlooking and, therefore, the living conditions of Summer Lodge would not be unacceptably harmed.
- 2.29 Plot 12 is located directly to the rear of Holly House, set approximately 30m away from its rear elevation and around 18m away from the rear boundary of this neighbour. Given these distances, no unacceptable loss of light, sense of enclosure or overlooking would be caused.
- 2.30 Summerfield Nursery House is under the ownership of the applicant; however, regard must still be had for whether the development would unacceptably impact upon the residential amenity of this dwelling. The rear elevation of plot 1 would be around 8m from the boundary with Summerfield Nursery House and around 13m from the western corner of Summerfield Nursery House itself. It is considered that this distance is sufficient to avoid unacceptable loss of light or sense of enclosure. Whilst the existing and proposed dwellings are in relatively close proximity to each other, having regard for the orientation of the

buildings and the areas of Summerfield Nursery House which would be overlooked, on balance, it is not considered that the level of overlooking would be sufficient to warrant refusal.

- 2.31 The proposed dwellings would all be of a reasonable size and would be provided with private rear gardens. The layout plan shows that, typically, the dwellings would be well-separated from each such that unacceptable overlooking, loss of light or a sense of enclosure would not be caused. The rear elevation of plot 7, would be relatively close to the side elevation (and rear garden) of plot 6, the respective rear and side elevations of which would be around 12m from each other. Whilst this relationship is not ideal, it is considered that, due to the orientation of the buildings and subject to securing vegetative boundary screening as shown on the plans, the impact on the living conditions of plot 6 would not be so harmful that refusal would be warranted. Refuse storage could easily be catered for, subject to condition.

Impact on the Local Highway Network

- 2.32 The applicant submitted that the vehicle movements generated from the existing use of the site could be compared to a retail garden centre and, consequently, assessed the number of vehicle movements which could be generated by the existing use to be around 540 two-way movements per day. The existing use generates very few vehicle movements, particularly as the business is in decline. Whilst, should this decline reverse, vehicle movements may increase, the applicant's comparison is not accepted, as the characteristics of the site are materially different from a retail garden centre. KCC consider that, at present, the site is likely to generate around 3 peak hour movements, albeit there would likely be seasonal fluctuations and additional weekend movements.
- 2.33 It is considered that the proposal would, having regard for trip generation from similarly sized and located developments, generate around 75 two-way trips throughout the day, with around 10 two-way trips being within the weekday peak hours. These would be split into around 7 movements along Barnsole Road to the north (further split down into 5 movements along Fleming Road and 2 movements along Lower Road/Durlock Road) and 3 movements along Mill Lane and into Staple. Consequently, there would be an increase in peak hour vehicle movements. The roads in the immediate vicinity of the site are narrow, single lane rural roads with few opportunities for vehicles to pass each other and are therefore poorly equipped to accommodate additional vehicle movements. However, the development does propose one new passing place on Mill Lane which could be used by the roughly 30% of vehicles travelling to and from the site along this road (together with existing traffic), providing some mitigation. It is also considered that the closure of the existing business would remove HGV's from the local network, providing a modest benefit (although refuse, delivery vehicles would still need to gain access from time to time). Whilst, overall, the development would place additional pressure on the restricted local road network, it is concluded that this would not amount to an unacceptable impact on highway safety or a severe cumulative impact.
- 2.34 The applicant has submitted a tracking plan which demonstrates that a 10.5m long vehicle could access and leave the site in either direction along Barnsole Road. Whilst the tracking plan does not demonstrate how vehicles would then navigate around the site, given the width of the internal roads and the sizes of the turning areas on site, it is unlikely that manoeuvring within the site would be problematic. Given the geometry of Mill Lane it is questionable whether this

access complies with current access standards for larger vehicles (albeit it is understood that this access is currently used for delivery vehicles). However, it is not considered that this uncertainty is a significant issue, due to the acceptability of the Barnsole Road access. For these reasons the proposed accesses to the site and the layout of the internal access road are considered to be acceptable in highway terms.

- 2.35 Policy DM13 of the Core Strategy requires that the provision of car parking should be a design led process, based upon the characteristics of the site, having regard for Table 1.1. The location of the site falls within the 'Suburban Edge/Village/Rural' category, where two-bedroom dwellings are usually required to be provided with 1.5 spaces each and three, four and five bedroom dwellings are usually required to be provided with 2 spaces each. In addition 0.2 visitor spaces should be provided for each dwelling. Plots 1-6 (two two-bedroom dwellings and four three-bedroom dwellings are proposed) would each be provided with two spaces, albeit these are tandem spaces. Whilst the use of tandem spaces is not ideal, being less convenient than independently accessible spaces, it is noted that the spaces are reasonably sized. The private dwellings, which would be a mixture of three, four and five bedroom dwellings, would each be provided with two independently accessible spaces together with a double garage. Whilst garages do not normally count towards car parking provision (often being used for storage and other domestic uses), these dwellings would still be provided with the requisite number of parking spaces. In addition to the allocated car parking, four visitor spaces are also proposed. The sixteen dwellings would create an overall need for 3.2 visitor spaces. Overall, the number of spaces provided would meet the need generated by the development. Whilst the tandem spaces is unfortunate, given the size of these spaces, the availability of visitor spaces and the very limited likelihood of vehicles parking on the highway, it is considered that the car parking provision is acceptable. Cycle parking could be secured by condition.

Flood Risk and Drainage

- 2.36 The site lies within Flood Risk Zone 1, where the risk of flooding from rivers or from the sea is lowest. Consequently, the sequential and exception tests need not be applied. However, it is still appropriate to consider whether the development would be liable to, or increase the risks of, localised flooding.
- 2.37 The National Planning Policy Statement, at paragraph 163, states that local planning authorities should ensure that flooding is not increased elsewhere, going on to say that development should incorporate sustainable drainage systems, unless there is clear evidence that this would be inappropriate. Sustainable drainage systems are designed to control surface water run off close to where it falls and mimic natural drainage as closely as possible.
- 2.38 The Lead Local Flood Authority (LLFA's, in this case KCC) is a statutory consultee, providing professional advice on the provision of surface water drainage. KCC have issued a Drainage and Planning Policy Statement, which sets out how applications will be assessed. In particular, SUDS Policy 1 within this plan sets out the hierarchy for dealing with surface water. The full hierarchy is as follows:
- to ground;
 - to a surface water body;
 - a surface water sewer, highway drain, or another drainage system; or

- to a combined sewer where there are absolutely no other options, and only where agreed in advance with the relevant sewage undertaker.
- 2.39 KCC, in association with eight other Lead Local Flood Authorities across south east England have also prepared a document called 'Water, People, Places' which provides advice on the incorporation of SUDS into development.
- 2.40 Initially KCC were concerned that a surface water drainage strategy had not been submitted with the application. However, following reconsultation, KCC confirmed that no objection was raised to the proposed drainage strategy, provided that soakaways were designed and located appropriately. It was also suggested that the EA be consulted; however, on doing so, the EA declined to comment due to the limited scale of the application. The site is located within Groundwater Protection Zone 3. Whilst Policy DM17 of the Core Strategy restricts infiltration in Groundwater Protection Zones 1 and 2, it does not restrict infiltration in Zone 3, albeit it will still be necessary to ensure that the detailed design of the infiltration system ensures that contamination is not caused. KCC recommend that, should permission be granted, conditions be attached regarding: the submission and approval of a surface water drainage scheme; restricting surface water infiltration to those areas which are permitted; restricting occupancy of any of the dwellings until an operation and maintenance scheme is submitted and approved; and restricting occupancy of any of the dwellings until a verification report is submitted to demonstrate that the approved infrastructure is in place and operational. In order to ensure that the development does not cause localised flooding or contamination of groundwater, such conditions would be reasonable.
- 2.41 Turning to foul drainage, Southern Water have raised no concerns regarding the capacity of the local foul drainage infrastructure. Notwithstanding this, it is considered that it would be necessary to attach to any grant of permission a condition requiring full details of on and, if necessary, off-site foul drainage works, including a timetable for the implementation of the works (demonstrating that the development will not be occupied until it is adequately serviced and a verification report is provided which demonstrates that the approved infrastructure has been constructed), and a maintenance programme.

Ecology

- 2.42 It is necessary to consider whether the development would cause harm to protected or notable species or their habit, or harm other ecological designations. In making these assessments, particular regard has been had for the Standing Advice published by Natural England.
- 2.43 The site largely comprises hardstanding, glasshouses, polytunnels and other buildings and structures. The open areas of land appear to be used for the growing of plants. The boundaries of the site include rows of trees and hedges, many of which are evergreen Leylandii type.
- 2.44 The applicant has submitted a Preliminary Ecological Appraisal for the site. This document confirms that there are no existing ponds within the site, and limited habitat, suitable for amphibians. Whilst there are six records of amphibians within 1km of the site, there are no records within 100m. It is therefore considered unlikely that great crested newts will be present on the site. The site provides limited habitat for reptiles, whilst the habitat which is present (low brambles and grass) is cut back and prepared for perennials

each year and sprayed regularly. The site is also isolated from other potential habitat, whilst no reptiles have been observed at the site. Consequently, it is unlikely that reptiles are present on the site. The site has the potential to support breeding birds, although there are no signs of barn owls on the site. The site is unsuitable for hazel dormice, badgers and bats. Other mammals, such as hedgehogs, rabbits, moles, field voles and foxes are likely to use the site. Whilst these species are not a constraint to development, they are afforded protection from unnecessary suffering and so should be protected during construction. The report concludes that trees to be retained should be protected during construction, whilst precautions are recommended to prevent unnecessary suffering to mammals. Ecological enhancements have also been recommended. It is considered that the submitted report provides a reasonable assessment of the likely habitats and species on the site and its recommendations are accepted, with the exception of the extent to which birds have been considered.

- 2.45 Concerns were raised with the applicant that the development of the site may have particular implications on Turtle Doves, which are a UK Priority Species under Section 41 of the Natural Environment and Rural Communities Act 2006. This Act places a duty on Local Planning Authorities to have regard for to the purpose of conserving biodiversity, under Section 40.
- 2.46 The application site is closely adjacent to an RSPB supported site and records of Turtle Doves. Whilst there are no known, verified records of Turtle Dove on the application site itself, the habitats on the site (boundary hedging) are consistent with the habitat utilised by Turtle Doves. Adopting a precautionary approach, and attaching significant weight due to the overall level of decline in the species, it is necessary for the application to demonstrate that the development would protect or minimise impacts on, and work to halt the overall decline in, Turtle Doves, having regard for the Councils duty under the Section 41 of the Natural Environment and Rural Communities Act 2006 and the NPPF more generally.
- 2.47 In response, the applicants have submitted an Addendum to their Preliminary Ecological Appraisal, to specifically address the likely impacts on Turtle Doves. The report advises that much of the site is unsuitable for Turtle Doves, whilst the activity on the site would disrupt potential nesting pairs. However, the hedgerows provide some potential for Turtle Doves. The report confirms that the applicants own a parcel of land opposite the Staple Turtle Dove Reserve which, due to the seasonal nature of wallflower production has supported Turtle Doves. The applicant has consulted with the Staple Turtle Dove Reserve and the recommendations made have been incorporating into the scheme (extensive planting of suitable hedge and tree species, the setting aside of land outside of the application site but under the control of the applicant and the formation of a pond). Consequently, the report concludes that the development would not be expected to have a negative impact on Turtle Doves and may well be of benefit. It is considered that the addendum report provides a reasonable account of the likely impacts on Turtle Doves and, as such, subject to conditions being attached to any grant of permission to secure mitigation and enhancements (in respect of all of the species identified in this section), the development would provide a modest overall enhancement to ecology.

The Conservation of Habitats and Species Regulations 2017, Regulation 63: Appropriate Assessment

- 2.48 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay. Regard has been had for the applicants shadow Appropriate Assessment.
- 2.49 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.50 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.51 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 3.52 For proposed housing developments in excess of 14 dwellings (such as this application) the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy requires the applicant to contribute to the Strategy in accordance to a published schedule. This mitigation comprises several elements, including the monitoring of residential visitor number and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education). The applicant has agreed to fund this mitigation.
- 2.53 Having had regard to the proposed mitigation measures and having had regard for the applicants shadow Appropriate Assessment, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

Contamination

- 2.54 The areas adjacent to the site have historically been used for activities which may have caused contamination (a brewery, a chalk pit and lime kiln and filled ground). Given this, and having regard for the sensitivity of the end use, Environmental Health have advised that conditions be attached to any grant of permission requiring investigation and remediation of any contamination on site. It is considered that such a condition would be reasonable.

Contributions

- 2.55 Core Strategy Policy DM5 requires that for schemes of more than 15 dwellings an on-site provision of affordable housing, amounting to 30% of the dwellings proposed, will be required. The applicant has submitted that six dwellings will

be provided as affordable dwellings, equating to 40% of the overall number of dwellings proposed.

- 2.56 The normal starting point is that 70% of the affordable dwellings will be social/affordable rent and 30% will be shared ownership. However, the councils Head of Strategic Housing has advised that, where relatively few dwellings are proposed (such as this), 100% social/affordable rent would be acceptable, as this tenure meets the needs of people with the greatest affordable housing need. It is also acknowledged that, since the application was submitted, the definition of affordable housing has been expanded within new NPPF and now includes: affordable housing for rent; starter homes; discounted market sales housing; and other affordable routes to home ownership (shared ownership, relevant equity loads, other low cost homes for sale and rent to buy). However, should permission be granted, it is considered that this could be clarified through a condition requiring the submission of a scheme for the provision of affordable housing.
- 2.57 Policy CP6 requires that development which generates demand for addition infrastructure will only be permitted if the necessary infrastructure is either in place or where it can be provided. KCC have advised that the development would place additional pressure on local library provision. KCC have also advised that there is currently insufficient capacity to meet this need. In order to meet this additional demand, KCC have requested that the development provides the following contributions for the specified project:
- Request that a contribution of £768.25 be made towards additional book stock for mobile library service attending Staple.

KCC also recommend the provision of a High Speed Fibre Optic Broadband connection to the development. KCC have provided details regarding how the contribution has been calculated and it is considered that these are necessary and reasonably related to the development and should therefore be sought. Consequently, it is considered that the request meets the relevant tests for developer contributions. There is no policy requirement to provide High Speed Fibre Optic Broadband and, as such, it would be unjustifiable to require that this infrastructure be provided by the development.

- 2.58 Policy DM27 requires that developments contribute towards the provision of open space to meet the needs which will be generated by the development. No requests have been made for open space contributions and it is noted that the Staple Recreation Ground, which provides play equipment, is located a short distance from the site. Consequently, it is not considered that a contribution for open space provision would be justified.
- 2.59 Subject to securing the provision of affordable housing and library contributions, it is considered that the development would comply with policies DM5 and CP6 of the Core Strategy.

Planning Balance

- 2.60 As set out within the principle section of this report, the council is currently unable to demonstrate a deliverable five year housing land supply. However, whilst the lack of a five year housing land supply increases the importance of, and weight attributed to, securing housing it must be noted that the presumption in favour of sustainable development (the 'tilted balance') does not apply as the application has been subjected to an Appropriate

Assessment, which engages paragraph 177 of the NPPF. The applicant has sought to demonstrate that paragraph 177 is at odds with paragraph 11, having the effect that paragraph 11 (the 'tilted balance') should be reengaged after an Appropriate Assessment has taken place, provided no likely significant adverse effect would be caused. The council do not accept this interpretation, which does not stand up to scrutiny. Indeed, the Secretary of State, in a recent 'called-in' appeal, acknowledged the implications of paragraph 177 for disengaging the 'tilted balance'. The disapplication of the 'tilted balance' represents a changed circumstance since an appeal relating to a site to the north of Barnsole Road (discussed in more detail at paragraph 2.62 of this report) was determined.

- 2.61 The site is located on a narrow lane, which lacks footpaths and is very poorly lit at night. The nearest bus stops providing high quality (once an hour or better) services are located around 2.8km away by road in Ash. The applicant has advised that Staple Parish Council's website shows bus services which serve Staple. However, the website only confirms that commercial bus services have ceased and that the community are investigating options for providing some services directly. The nearest train station, Sandwich, is located 6.5km away by road. A short distance to the north of the site is a pub, which also provides basic foods, such as bread, milk, cheese, biscuits, baked beans, tea etc. together with household essentials such as washing up liquid, tooth paste and tooth brushes. Whilst this is a valuable resource, it would not overcome the need to make regular journeys for groceries. There is a post box opposite the pub. Staple Village Hall and the recreation ground are located around 450m to the north west and Staple Church is around 1km to the north west. The nearest settlements providing reasonable levels of facilities and services (shops, medical facilities, library, primary school etc.) are Ash, around 3km away to the north, and Eastry, around 4km away to the south east. The nearest town providing a fuller range of facilities and services (train station, secondary school, supermarket etc.) is Sandwich, around 6km to the east (although the facilities and services in Sandwich are typically around 6.5km away). Given the distances, the convenience and safety of walking and cycling routes and the lack of convenient public transport, it is considered that there is no realistic alternative but to travel by car, whilst such travel would be over not inconsiderable distances. It is therefore considered that the site is not sustainably located, contrary to paragraph 78 of the NPPF, which requires that "housing should be located where it will enhance or maintain the vitality of rural communities" and would fail to prioritise pedestrian and cycle movements or facilitate access to high quality public transport, contrary to paragraph 110 of the NPPF. For the same reasons, the development would be contrary to Policy DM11 of the Core Strategy.
- 2.62 The site is around 350m to the south of a site which was granted planning permission at appeal for four dwellings (DOV/16/00470 and APP/X2220/W/16/3157696). This appeal decision is a material consideration in the determination of the current application. In allowing the appeal, the Inspector commented, at paragraph 4, that the pattern of development was 'scattered'. At paragraph 5, the Inspector placed reliance on the bus service, which has since ceased. At paragraph 9, it is confirmed that the presumption in favour of sustainable development (or the 'tilted balance') was applied whilst, in the same paragraph, considers that the appeal site was 'semi-rural'. Finally, at paragraph 11, the Inspector confirms that "the unique characteristics of the site mean that a precedent for other development sites would not be set". Whilst the appeal site is relatively close to the application site, the scale and character of the two schemes varies significantly, whilst

there have been material changes in circumstance since the appeal was determined (disapplication of the 'tilted balance'; the cessation of the bus service in the village; and the additional housing which has since been granted). Consequently, the relevance of the appeal scheme to the determination of the current application is limited.

- 2.63 The NPPF, at paragraph 8, sets out the three objectives to achieve sustainable development: economic; social and environmental.
- 2.64 In terms of the economic objective, the development would remove an existing employment generating use. However, the application has been supported by a marketing appraisal which, it is considered, demonstrates that the existing business is not viable. The development would produce a short-term economic benefit during the construction phase.
- 2.65 Turning to the social objective, the development would provide additional dwellings which would provide a meaningful contribution to the councils housing land supply. In particular, significant weight in favour of the development is attributed to the provision of affordable dwellings (albeit there is little evidence that this housing is required to meet a local (Staple) need). The development would provide customers to/users of the facilities and services in Staple and Barnsole (i.e. the Church, the pub, the village hall and the recreation ground). However, it is likely that occupants of the development would travel significant distances by car to meet the vast majority of the day to day needs.
- 2.66 Finally, in terms of the environmental objective, the development would reduce the number of HGV's and commercial vehicles on the local road network, although it is considered that there would be an increase in vehicle movements overall when balanced against the potential use of the site (the likelihood of movements generated from the existing site increasing towards its potential is significantly reduced, by virtue of the applicants evidence that the site is not viable). There would likely be an increase in vehicle movements compared to the existing operation. There would be little alternative but to use cars to reach the majority of day-to-day facilities and services and these journeys would be over a significant distance. It has also been concluded that the development would harm the character and appearance of the area, materially altering the rural character of this part of the countryside, described by the Inspector as being an area of "scattered built development". This harm is attributed substantial weight. The development would, with conditions, mitigate its impacts on ecology and provide a modest enhancement.
- 2.67 Overall, the development would provide 16 dwellings, of which 6 would be affordable. This benefit is attributed significant weight. The modest ecological benefits and short term economic benefits are attributed limited weight. However, it is considered that the site is located such that it would require long journeys by car to reach the majority of the day-to-day facilities and services. Whilst this is tempered by the additional support occupants of the development would provide to the limited facilities and services available in the locality, overall it is considered that the location of the site would cause moderate harm. The development would produce a density and layout of development which is wholly at odds with the scattered built development which informs the character of Barnsole Road. This harm is attributed substantial weight. Balancing these benefits and disbenefits, it is concluded that there would be a significant overall disbenefit and, consequently, it is not

considered that the proposal represents sustainable development, as defined by the NPPF.

Conclusions

- 2.68 The principle of the development would be contrary to policy DM1 and DM11, being well outside of the defined settlement confines and failing to meet any of the identified exemptions. The application is therefore contrary to the development plan.
- 2.69 It is considered that the site is located where occupants of the development would be reliant upon unsustainable forms of transport and would need to travel significant distances in order to access day-to-day facilities and services. Moreover, the development would introduce an overtly 'planned' development layout within an area which has an irregular, low density rural layout to dwellings, described by an Inspector as "scattered built development". This would cause substantial harm to the character of the area. Whilst the development would provide some benefits, principally the provision of housing which would include 40% affordable housing, it is not considered that these benefits are sufficient to outweigh the harm caused and do not provide a material circumstance for setting aside the conflict with the development plan. Regard has been had for all other material considerations. For these reasons, it is recommended that planning permission be refused.

g)

Recommendation

- I PERMISSION BE REFUSED for the following reasons:-
- (1) The site is located outside of any urban boundaries or rural settlement confines, in a rural location which would be dependent upon the private car to access day-to-day facilities and services. As such, and in the absence of any special circumstances which indicate otherwise, the proposed development represents an unjustified, unsustainable and inappropriate form of development within the countryside, contrary to Dover District Core Strategy Policies CP1, DM1 and DM11 and paragraphs 78, 102, 103, 110 and 170 of the National Planning Policy Framework.
- (2) The proposed development, by virtue of its layout and density, together with the scale and uniformity of design of the dwellings, would create a development starkly at odds with the informal, scattered character of development, causing substantial harm to the rural character and appearance of the area, contrary to Dover District Core Strategy Policies DM15 and DM16 and paragraphs 124, 127 and 130 of the National Planning Policy Framework.
- II Powers to be delegated to the Head of Regeneration and Development to settle the reasons for refusal, in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Luke Blaskett