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16 July 2015

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **PLANNING COMMITTEE** on Thursday 23 July 2015 at 6.00 pm, the following report that was unavailable when the agenda was printed.

- 11 **APPLICATION NO DOV/15/00296 - SITE REAR OF THE SHRUBBERY, ST MARGARET'S ROAD, ST MARGARET'S BAY** (Pages 2-13)

Erection of a detached dwelling and construction of a vehicular access

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

Yours sincerely

A handwritten signature in black ink, appearing to read "Nicky", written over a white background.

Chief Executive



Not to scale

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

Application: DOV/15/00296

Site R/O The Shrubbery

St Margarets Road

St. Margaret's Bay

CT15 6EQ

TR36434430



- a) **DOV/15/00296 – Erection of a detached dwelling and construction of vehicular access - Land rear of The Shrubbery, St Margaret’s Road, St Margaret’s Bay**

Reason for report: The number of third party representations.

- b) **Summary of Recommendation**

Planning permission be Granted

- c) **Planning Policy and Guidance**

Development Plan

The development plan for the purposes of s38 (6) of the Planning and Compulsory Purchase Act (2004) comprises the Dover District Council Core Strategy 2010, the Saved Policies from the Dover District Local Plan 2002, and the newly adopted Land Allocations Local Plan. Decisions on planning applications must be made in accordance with the policies of the development plan unless material considerations indicate otherwise.

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

A summary of relevant planning policy is set out below:

Core Strategy (CS) Policies

- Policy CP1 (Settlement Hierarchy) identifies a hierarchy of centers within Dover District. Dover is placed atop the settlement hierarchy (Secondary Regional Centre) and St Margaret’s is identified as a village where 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 it’s home community.
- In order to help operate the settlement hierarchy through the development management process Policy DM1 (Settlement Boundaries) proposes settlement boundaries for planning purposes and sets out how these will be used to help judge the acceptability of individual development proposals. Development outside settlement confines will not be permitted, unless specifically justified by other development plan policies.
- Policy DM13 (Parking Provision) Determining parking solutions should be a design-led process based on the characteristics of the site, the locality, the nature of the proposed development and its design objectives.
- Policy DM17 (Groundwater Source Protection) Prohibits certain uses and drainage systems in Zones 1 and 2 unless adequate safeguards against possible contamination are provided.

Dover District Local Plan (DDLPL) Saved policies – HS2

Land Allocations Local Plan (LALP) – None applicable

National Planning Policy Framework (NPPF) & National Planning Policy Guidance (NPPG)

At a national level, the NPPF sets out the Government's planning policies for England and how these are expected to be applied. In the introduction, the Government sets out that the NPPF must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning applications. With its adoption in March 2012, it replaced all previous national planning policy statements with immediate effect. Therefore, it should have significant weight in the consideration of any planning application.

The NPPF articulates an overriding presumption in favor of sustainable development which should be seen as a 'golden thread' running through both plan-making and decision taking. There are three dimensions to sustainable development: economic, social and environmental. For decision making this means approving development that accords with the Development Plan without delay; and where the development plan is absent or silent or relevant policies are out-of-date granting planning permission, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or where specific policies in the NPPF indicate development should be restricted (para 14).

National Planning Policy Framework (NPPF)

Chapter 7 – Requiring good design (Paragraphs 56 -68)

- Seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. A core principle is to always seek to secure high quality design and a good standard of amenity.
- Decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.
- Planning policies 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 distinctiveness.
- Chapter six of the NPPF seeks to significantly boost the supply of housing, requiring Local Planning Authorities to identify specific deliverable sites sufficient to provide five years' worth of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- Paragraph 14 of the NPPF requires that where the development plan is absent, silent or relevant policies are out-of-date development should be granted unless any adverse impacts of doing so would

significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or, specific policies in the NPPF indicate that development should be restricted.

- Paragraph 49 of the NPPF states that “housing applications should be considered in the context of sustainable development. 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 housing sites.
- The NPPF has 12 core principles which, amongst other things, seeks to: proactively drive and support sustainable economic development; secure high quality design and a good standard of amenity for all existing and future residents; recognise the intrinsic character and beauty of the countryside and support thriving rural communities within it; and actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

National Planning Practice Guidance (NPPG)

- On 6th March 2014 the Department for Communities and Local Government launched a planning practice guidance web-based resource. This contains a number of sections to enable users of the planning system to obtain information in a useable and accessible way. It is a material consideration when making decisions.

Sections 66(1) (listed building) and 72(1) (conservation area) of the Planning (Listed Buildings and Conservation Areas) Act 1990

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

Section 72(1) states that, ‘In the exercise, with respect to any building or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.’

Other Material Considerations

- Kent Design Guide – sets out examples of good design across a broad spectrum of development types and identifies a number of guiding principles.

d) Relevant Planning History

DOV/03/1450 – Erection of dwelling (outline) – Refused

DOV/12/00947 – Erection of a detached dwelling and construction of a vehicular access - Granted

TC/DOV/13/00133 – Removal and replacement of 4 Wellingtonia – Raise no objection

DOV/14/01068 – Erection of a detached dwelling and construction of a vehicular access – Withdrawn

e) **Consultee and Third Party Responses**

St Margaret's Parish Council – Recommend refusal on the grounds of overdevelopment of the site, also seems that there is a partial change of use with the addition of a workshop on the original submission. Feel unable to support the application as they do not believe the current plans are sufficiently clear to make a comment

KCC Footpaths – Request condition to prevent machinery and or vehicles parking on and obstructing the public footpath for the duration of the building works. Further as the development is directly adjacent to the footpath, no material should be stored on the footpath and the surface should not be disturbed without prior consent of the Highway Authority either during or following any approved development

Trees and High Hedges Officer – Requires conditions for method statement for retained trees, which should include root protection areas for these trees. Happy with the species choices of replanting.

Kent Fire and Rescue Service – The angle of entry for the appliance would be insufficient for the appliance to turn and provide an operational response, also cars would be parked in the driveway and this would not be available for a fire appliance in the event of an emergency. Domestic sprinklers will therefore need to be supplied within this property as the fire service access is unacceptable in regard to Section B5 of the approved Document B

Public Representations: Eleven letters of objection have been received and their comments are summarised as follows:

- The development is too big for the site and would represent a cramped overdevelopment
- Development would be highly visible from the footpath
- Too close to neighbouring dwellings
- Small boundary clearances, 500mm is not enough for maintenance
- Overlooking to Seven Seas Cottage
- Possible commercial workshop above garage
- Misleading information
- Loss of mature trees
- Refusal of previous application as a result of loss of trees
- Design is flawed in that it represents a high fire risk with no escape routes from the rear
- Distance to the boundary will create a nuisance
- Against good design principles
- Flat roof will be used by seagulls and will result in harm to neighbouring occupants
- Loss of privacy
- Access is an issue
- No opportunity to comment on the application for the removal of the trees

- Misleading plans
- No double garages in St Margaret's Road
- Smaller property would be more appropriate
- Amount of excavation already dominates the area and was undertaken without permission
- Access to maintain the retaining wall is important for safety
- Above garage would be converted to living accommodation

One letter of support has been received and the comments are summarised as follows:

- Well-designed property contained within the planned footprint
- Lower than previously approved dwelling
- Monterey Cypress trees are now in a hideous condition

One letter neither supporting nor objecting has been received and the comments are summarised as follows:

- Roof is set lower than the original bungalow
- Already well screened

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

1.1 The site relates to a plot of land, which lies to the rear (southeast) of 'The Shrubbery' and has been severed from the garden area of this property. The Shrubbery itself has a road frontage onto St Margaret's Road with a sloping garden (northwest to southeast). The site is within the village confines of St Margaret's and is located within a Conservation Area. There is a public footpath to the northeast of the site. This footpath is used as a vehicular and pedestrian access to properties set along this footpath which includes 'Seven Seas' (a detached, predominantly two storey dwelling) which lies to the southeast of the application site. 'Illawarra', a detached split level property is located to the southwest.

1.2 The prevailing land form (which rises from the application site to St Margaret's Road to the north) means that the land levels are higher within The Shrubbery (to the northwest) and lower within Seven Seas (to the southeast).

1.3 The application site measures approximately 19m by 37m. The site has been largely cleared to enable the excavation works to take place and the construction of the retaining wall; some trees do remain on site. It was unclear at the time of drafting this report whether these preparatory works relate solely to the extant DOV/12/947 permission or whether further excavation has been carried out to facilitate the current proposal.

1.4 The site has been separated from the garden of The Shrubbery to the northwest by a close-boarded fence. This fence sits 300mm off of the retaining wall which has been created following the excavation of the site.

1.5 Planning permission is sought for the erection of a detached dwelling and creation of vehicular access. The proposed dwelling would have three bedrooms (one at ground floor and two at first floor) with parking being provided within the site and an attached garage. The property would measure 11.5m by 11.5m, with an eaves height of 2.5m and an overall height to the ridge of 5.6m. It is proposed to construct the dwelling to be finished in painted render with a 'green' (sedum) flat roof and aluminium fenestration. The attached garage would measure 5.5m by 6.5m, with a ridge height of 5.6m.

1.6 *Plans will be on display*

2. **Main Issues**

2.1 The main issues for consideration are: Principle of the development; impact of the development on the neighbouring properties; highways and design; and impact of the development on the street scene and conservation area.

2.2 Assessment

Principle of the development

2.3 At present the land the subject of this application has no development on it. The last use of the site was as residential garden in connection with The Shrubbery. The site therefore is not considered to be previously developed land.

2.4 However, the site is located within the village confines and within an existing residential area where, in accordance with Policy DM1 of the Core Strategy and HS2 of the DDLP, development will generally be considered acceptable subject to site specific considerations. Important to note in this case is that the site already has the benefit of planning permission for a detached single storey dwelling (DOV/12/00947). The existence of this extant permission is a 'fall-back' position to which considerable weight can be given as a material consideration.

3. Impact on neighbours

3.1 There would be a separation distance of 21m between the proposed building and the neighbouring property to the northwest (The Shrubbery) and 13m between the proposed building and the neighbouring property to the southeast (Seven Seas Cottage). The dwelling has been designed internally so that there are no windows to the rear elevation. There would be two balconies accessed via the upstairs bedrooms and large windows at ground floor serving the living room and dining room to the front elevation. To the northeast side elevation a door with a full height glazing panel would be inserted and to the southwest three windows would be inserted, one which would serve the living room with the remaining two serving the bedroom.

3.2 Compared to the extant proposals (approved under DOV/12/00947) the plans show the dwelling set down within the plot with a finished floor level some 1m lower than the previous scheme. Together with

changes to the design, the overall height of the dwelling would be between 1.6m and 2.5m lower than the currently approved scheme. The proposed location of the dwelling is comparative to the extant permission, although it sits about 1m further back towards the northwest boundary (with The Shrubbery) with a larger footprint at this point.

- 3.3 As viewed from The Shrubbery, a combination of the existing land levels and the lowering of the proposed dwelling into the site, means that only some 1m or so of the proposed dwelling would protrude above the common boundary fence. Views from the Shrubbery would be at a distance and onto a green sedum roof. Due to the separation distance and drop in levels, it's not considered that any unacceptable loss of outlook would occur to the occupants of The Shrubbery. The proposed dwelling would be set off of the retaining wall with The Shrubbery by 500mm. Whilst concerns have been raised that this is a minimal distance and likely to result in nuisance, your officers are not of the view that the impact would be unacceptable. Neither is it considered that any harmful overshadowing, loss of sun/daylight or over/interlooking impacts would be caused to the living conditions at The Shrubbery.
- 3.4 Concerns have been raised in relation to the design of the dwelling with a flat roof and the potential for seagulls to nest on this area therefore resulting in potential harm to the occupants of The Shrubbery. Whilst this concern is acknowledged, the property is within a seaside location, where seagulls would be commonly found. It is not considered that this issue would give rise to any sustainable planning objection.
- 3.5 The neighbouring property to the southeast, Seven Seas Cottage is a two storey dwelling which has a frontage onto the public footpath, which would also serve the application property. The property is set off the boundary of the application site by a garage and sits at a slightly lower level. It has a number of windows to the side and rear. Due to the limited height of the proposed property and its positioning to the back of the site and to the northwest, it's not considered that there would be any loss of sun/daylight or overbearing/enclosing impacts on the living conditions at Seven Seas Cottage.
- 3.6 Concerns have been raised in relation to the potential for overlooking and interlooking from the first floor balconies towards Seven Seas Cottage and into their private amenity areas. At present there are a number of trees in-situ along the southeast boundary of the application site which help to screen views of the first floor side windows of the neighbouring property. These trees have been granted permission to be removed by the Tree Officer (under TC/DOV/13/133 above) as they are in a poor condition. The removal of these trees would result in greater inter-visibility between the proposed dwelling and Seven Seas Cottage. However, the views which could be obtained from the first floor balconies (being to the northwest of Seven Seas Cottage) would be oblique and not direct. Furthermore, your officers are satisfied that even with the loss of the trees, prevailing screening should ensure that the nearest private amenity area to the side of Seven Seas Cottage would not be subject to overlooking to an unacceptable degree.

- 3.7 Notwithstanding, the concerns identified above have been raised with the applicant. As a consequence, a comprehensive tree planting scheme has been provided. This shows the planting of a number of new semi-mature specimens along this boundary with most of the trees being 4m high. The applicant has also agreed to set back the balcony railing to within 1.1m of the balcony access, thereby reducing the useable balcony floor area and increasing the potential interlocking distance between the properties to some 17m (minimum). This change would result in the useable balcony area being set within the roof slope resulting in typical views from here being focused forward and with oblique views towards Seven Seas Cottage very limited or at best screened by the roof line within which the balconies are set. It is considered that these measures would provide substantive further assurance that the amenities of Seven Seas Cottage would be safeguarded from unacceptable overlooking, interlocking and loss of privacy. It is recommended that any resolution to approve this application be subject to the receipt of amended plans showing the re-siting of the balcony balustrade to 1.1m from the opening to the first floor bedroom.
- 3.8 The balconies to the front are shown to have a 1.8m high screen along the southwest side to prevent any unacceptable levels of overlooking towards 'Illawarra' (No. 11 St Margaret's Road) to the southwest, although with the changes to the depth of the useable balcony area (described above), the limiting of the useable balcony area to within the roof area should also reduce unacceptable overlooking at this point.
- 3.9 The balconies will overlook an area of garden within the curtilage of 'Illawarra' which lies directly to the front (southeast) of the application property; the distance from the balcony to the common boundary being only 8m. While this would normally be a planning concern, it is relevant to note that the first floor flank windows to Seven Seas Cottage (to the northeast of the affected area) would also clearly overlook this garden area. In essence, therefore the use of this limited part of the garden to 'Illawarra' for 'private' use is already severely compromised. It is also noteworthy that a letter has been received from the occupants of 'Illawarra' supporting the application. In the particular circumstances of this case therefore it is not considered that overlooking would occur such that the living conditions of the residents of 'Illawarra' would be unduly prejudiced.
- 4 Design and impact of the development on the street scene and conservation area
- 4.1 The proposed dwelling has been designed as a chalet bungalow with an attached garage and an area of flat roof. Whilst the property being proposed here is not of the same style and design as the surrounding dwellings there would appear to be no clear pattern of development with many of the properties in St Margaret's Road having individual design features, which differ from one another. The footprint has been reduced following the withdrawn application DOV/13/01068 in an attempt to try and limit the potential impact on neighbours and the surrounding area. Although it is recognised that the dwelling would sit

within a relatively small plot when compared to its neighbours, it is not considered that the dwelling would be overly large nor would it appear as an overdevelopment of the site. It is important to note that the footprint of the dwelling is comparable to the extant permission and while it provides first floor accommodation (unlike the extant scheme), the height of the property will be up to 2.5m lower than the ridge of the DOV/12/947 approval.

- 4.2 The flat roof area of the dwelling would be finished in a sedum mat green to enable this area to be used for planting; this is also the case with the small ledge which sits above the side elevation of the garage. These areas once planted would provide additional screening and softening of the dwelling and are considered to be an acceptable design solution.
- 4.3 There has been some loss of mature trees on site with an extant permission to remove four more trees along the southeast boundary. Whilst the loss of mature trees will affect the character and appearance of the conservation area, a landscaping scheme has been submitted, which shows the replanting of semi-mature 4m high trees along this boundary. Once these trees have matured fully, the planting proposed will enhance the character and appearance of the site, which in turn would positively contribute to the conservation area.
- 4.4 Section 72(1) of the Act states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area when considering an application to any building or land in a conservation area.
- 4.5 Views of the dwelling would be possible from along the Public Footpath to the northeast. However, the height of the building and its positioning within the plot would ensure that the dwelling would not appear as a visually intrusive structure and as such would not detract from the character and appearance of the conservation area.
- 4.6 It is therefore considered that the proposal would preserve the existing character and appearance of the conservation area and is therefore compliant with Section 72(1) of the Act.
- 4.7 The dwelling would be accessed from public footpath ER42. Due to the constrained nature of the access, Kent Fire and Rescue have commented that it would not be sufficient for their appliances to access the site. As a result they have requested that domestic sprinklers be installed within the property. The agent has confirmed agreement to this and as such a condition can be placed on any approval to ensure such a system is implemented prior to first occupation.

5 Highways

- 5.1 The proposed dwelling would be provided with two off-road parking spaces together with a garage. Policy DM13 requires the provision of two spaces per unit. It is therefore considered that the proposal complies with parking requirements and is acceptable in parking terms.

6 Other matters

- 6.1 Concerns have been raised in relation to the siting of the dwelling and its proximity to the boundary with The Shrubbery and the ability of maintenance to be carried out to the retaining wall and the rear of the dwelling. Should the applicant require access to land within the ownership of The Shrubbery to carry out any maintenance, the decision as to whether to allow this is for the occupiers of the property. This is a civil matter which is not for the Planning Authority to control.
- 6.2 Furthermore, the potential breaking of covenants placed on the land is also a civil matter and not a material consideration in the determination of this application.
- 6.3 Many concerns have been raised over the potential for the roofspace above the garage to be used as a workshop for a commercial purpose. The creation of a workshop/W.C above the garage formed part of withdrawn application DOV/13/01068 and has since been removed from the proposed plans. If the site were to be used for any commercial activity this would require planning permission in its own right and as such can be subject to proper controls, should that eventuality ever emerge.
- 6.4 A concern has been raised by a third party in relation to being unable to comment on TC/DOV/13/00133, however, it is not the Council's procedure to consult on applications for works to/removal of trees in a conservation area.

Conclusion

- 6.5 The site is within the confines and is acceptable in principle. An extant planning permission exists on the site for a single storey dwelling. The design of the proposed building has been formulated to ensure that the visual impact of the development will be no greater, indeed less than the extant permission in line with the objective to preserve the Conservation Area. The proposal, coupled with the changes proposed to the positioning of the balcony balustrade and landscaping would safeguard the amenities of neighbouring occupiers. Adequate parking is proposed to serve the dwelling. In conclusion, the proposal, as amended since submission, would achieve a sustainable form of development in line with the objectives of the Development Plan and the NPPF.
- 6.6 In respect of the Public Sector Equality Duty under the Equality Act, the recommendation is not considered to disproportionately affect any particular group.

g) Recommendation

- I SUBJECT TO the receipt of suitably revised plans showing a reduction in the useable balcony areas involving the relocation of the front balcony balustrades to a point no greater than 1.1m from the external doors from the first floor bedrooms, PERMISSION BE GIVEN subject to conditions to include: i) Timescale for commencement of

development, ii) A list of the approved plans, iii) Landscaping scheme shall be provided prior to first occupation and thereafter maintained, iv) Details of protection to existing trees on site during construction, v) No windows in the rear (northwest facing) roofslope, vi) Screening to be provided to side of balconies prior to first occupation and thereafter maintained, vii) Domestic sprinkler system to be installed prior to first occupation and thereafter maintained, viii) Samples of materials, ix) No storage of material on footpath, x) Footpath should not be used for the parking of vehicles or machinery during construction xi) No balcony to be constructed on the roof area of the dwelling (xii) Restriction on use of the first floor balconies to the areas shown within the demise of the balcony screens/balustrades.

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

Case Officer
Kerri Bland