

Public Document Pack



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8 September 2015

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **PLANNING COMMITTEE** will be held in the Council Chamber at these Offices on Thursday 17 September 2015 at 6.00 pm when the following business will be transacted.

Members of the public who require further information are asked to contact Kate Batty-Smith on (01304) 872303 or by e-mail at kate.batty-smith@dover.gov.uk.

Yours sincerely

A handwritten signature in black ink, appearing to read "Kate Batty-Smith", written over a white background.

Chief Executive

Planning Committee Membership:

F J W Scales (Chairman)
B W Butcher (Vice-Chairman)
J S Back
S F Bannister
T J Bartlett
T A Bond
B Gardner
D P Murphy
A F Richardson
P M Wallace

AGENDA

1 **APOLOGIES**

To receive any apologies for absence.

2 **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointments of Substitute Members.

3 **DECLARATIONS OF INTEREST** (Page 4)

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

4 **MINUTES** (Pages 5-14)

To confirm the attached Minutes of the meeting of the Committee held on 23 July 2015.

5 **ITEMS DEFERRED** (Page 15)

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

ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING
(Pages 16 - 19)

6 **APPLICATION NO DOV/15/00336 - DENNE COURT FARM, SELSON LANE, WOODNESBOROUGH** (Pages 20-36)

Change of use, partial demolition, conversion and extension of agricultural building to three holiday lets, erection of one detached and a pair of semi-detached dwellings, conversion of shed to garage and associated parking and landscaping (existing sheds and stables to be demolished)

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

7 **APPLICATION NO DOV/13/01106 - OLD ENGINE SHED, SUTTON COURT FARM (LAND BETWEEN PINEHAM AND EAST LANGDON)** (Pages 37-51)

Installation of ground-mounted photovoltaic solar arrays to generate electricity for export to the National Grid together with transformer stations; formation of new access; internal access track; landscaping; fencing; access gate and associated ancillary infrastructure

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

8 **APPLICATION NO DOV/15/00602 - 6 NORTH ROAD, KINGSDOWN** (Pages 52-56)

Erection of rear dormer roof extension

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

ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING

9 **APPEALS AND INFORMAL HEARINGS**

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

10 **ACTION TAKEN IN ACCORDANCE WITH THE ORDINARY DECISIONS
(COUNCIL BUSINESS) URGENCY PROCEDURE**

To raise any matters of concern in relation to decisions taken under the above procedure and reported on the Official Members' Weekly News.

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes will be published on our website as soon as practicably possible after each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Kate Batty-Smith, Democratic Support Officer, telephone: (01304) 872303 or email: kate.batty-smith@dover.gov.uk for details.

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

Declarations of Interest

Disclosable Pecuniary Interest (DPI)

Where a Member has a new or registered DPI in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Other Significant Interest (OSI)

Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

Voluntary Announcement of Other Interests (VAOI)

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

Note to the Code:

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 23 July 2015 at 6.00 pm.

Present:

Chairman: Councillor F J W Scales

Councillors: B W Butcher
S F Bannister
T J Bartlett
T A Bond
K E Morris
D P Murphy
A F Richardson
P M Wallace

Officers: Principal Planner
Principal Planner
Principal Planner
Senior Planner
Planning Officer
Planning Delivery Manager
Solicitor to the Council (Minute Nos 31-38 only)
Trainee Solicitor
Democratic Support Officer

The following persons were also present and spoke in connection with the applications indicated:

<u>Application No</u>	<u>For</u>	<u>Against</u>
DOV/15/00147	Mrs Debbie Delbaere	Councillor P M Beresford
DOV/15/00101	Mr Shaun Whyman	Dr Angeline Kanagasooriam
DOV/15/00444	Mr Jonathan Rodger	Councillor L A Keen
DOV/15/00296	Mr Peter Drever	Councillor K E Morris
	Mr Peter Larsen	Dr Bruce Campbell

25 APOLOGIES

It was noted that apologies for absence had been received from Councillors J S Back and B Gardner.

26 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor K E Morris had been appointed as a substitute for Councillor J S Back.

27 DECLARATIONS OF INTEREST

There were no declarations of interest.

28 MINUTES

The minutes of the meeting held on 25 June 2015 were approved as a correct record and signed by the Chairman.

29 ITEMS DEFERRED

The Chairman requested that Officers provide an update for the Committee at its next meeting in respect of Application No DOV/14/01013 (The Beacon Church and Christian Centre, London Road, Dover) which had been deferred at the meeting held on 12 March 2015 and was not for consideration. Application Nos DOV/15/00147 and DOV/15/00101 were dealt with elsewhere on the agenda.

30 APPLICATION NO DOV/15/00147 - 22 LYNDHURST ROAD, RIVER

The Committee viewed plans and photographs of the site. The Principal Planner reminded Members that the application had been deferred by the Committee at its meeting on 25 June for a site visit to be held in order to assess the impact on neighbouring properties. The application was part retrospective since the screening, unlike the balcony, had not yet been erected. The house was a two-storey property with no direct access from the house into the garden. The Officer recommendation was for approval, with the inclusion of screening.

At the invitation of the Chairman, Councillor T A Bond reported on the site visit which had taken place on 21 July 2015. He advised the Committee that the panel had concluded that the application should be refused on the basis that the balcony, with the inclusion of the proposed screening, would create an overbearing structure that would adversely affect the visual amenity of neighbouring properties. The panel considered that, if the screening were not included, the structure would materially increase overlooking into neighbouring properties to an unacceptable degree. Members were informed that it had been a challenging decision, and the recommendation to refuse had been one made on balance.

Councillor S F Bannister agreed that it had been a finely balanced decision. Whilst he had sympathised with neighbours' concerns regarding overlooking, he had been in favour of approving the application. The balcony was a significant distance from the gardens of nos 6 and 8 Ash Close and, with screening, would not afford views into these houses, even by someone standing up. He did not consider that the privacy of other houses in Ash Close, which were even further away, would be affected as only oblique views of these were possible from the balcony. He recommended that the application should be approved, particularly in the light of the applicant's additional proposal to soften and screen the structure with plants.

Councillor A F Richardson stated that he had been in favour of refusal at the site visit as he had been of the opinion that the balcony exacerbated overlooking into neighbouring properties by virtue of the fact that it was a permanent structure designed for sitting out, unlike views from inside the house which would only be glimpsed. Moreover, the structure was much larger than was needed to provide access to the garden. At the time of the site visit, he had been of the view that the screening would make the balcony even more overbearing and out of place. However, on reflection and, given that the applicant was proposing a planting scheme, he was coming round to the view that the impact of the structure could be reduced. He was now of the opinion that the previous factors militating against approval were not sufficient grounds for refusal.

Councillor Bond referred to the fact that the garden dropped sharply away which meant that the structure was, by necessity, a large one. However, he sympathised with neighbours' concerns and particularly with the residents of no 6 Ash Close whose garden would be overlooked. Councillor Richardson added that

neighbouring houses were much nearer and the views into gardens much clearer than the photographs indicated. However, whilst he was not a fan of the structure, he did not believe that it was so overbearing that it merited refusal.

RESOLVED: (a) That Application No DOV/15/00147 be APPROVED subject to the following conditions:

- (i) The glazed screening panels, as shown in drawing DDD006 Rev 2 received 10/06/2015, be provided within one month of the date of any permission and be maintained as such thereafter. Reason: To ensure the amenity of neighbouring properties is maintained.
 - (ii) The raised decking area and the screening panels shall be completed in accordance with the approved drawings. Reason: To ensure the amenity of neighbouring properties is maintained.
 - (iii) The obscurity of the glazing shall be at Pilkington Screening Level 3, its equivalent or above. Reason: To ensure the amenity of neighbouring properties is maintained.
 - (iv) Submission of hard and soft landscaping scheme within one month of the date of any permission.
- (b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

31 APPLICATION NO DOV/15/00101 - LAND NORTH OF BEAUCHAMPS, BEAUCHAMPS LANE, NONINGTON

Members viewed maps indicating coverage and the location of listed buildings nearby. The Principal Planner advised that the application had been deferred by the Committee at its meeting held on 28 May in order to hold a site visit to assist Members in assessing the relationship between the proposed development and nearby heritage assets. At the meeting on 28 May, Members had also asked for additional information regarding coverage, alternative sites and heritage assets. This information had now been provided by way of maps and an additional report.

Initially, nine alternative sites had been considered by the applicant. In addition, the applicant had investigated the use of Snowdown Colliery following a suggestion made by the Committee on 28 May. This site had duly been assessed but ruled out since a mast situated here would cover 6 fewer 'notspots' and 24 fewer properties than the Beauchamps Lane site. Given that there were no available or preferable sites, the Officer recommendation was that the application should be approved.

At the invitation of the Chairman, Councillor D P Murphy reported on the outcome of the site visit held on 23 June. Representatives for and against the development had spoken, including the applicant. Members had walked the site and visited two listed buildings nearby, entering one of them. Having given special regard to the setting of the nearby heritage assets, the site visit panel had concluded that the harm

caused by the mast would be less than substantial and that the public benefit of the mast outweighed the harm.

The Chairman and Councillor Bannister recognised the beauty of the countryside surrounding the site. However, the mast would be relatively insignificant in wider views. Balancing the need for, and benefits of, the mast against the limited amount of harm that would be caused, it was considered that any harm would be outweighed.

- RESOLVED: (a) That Application No DOV/15/00101 be APPROVED subject to the following conditions:
- (i) Standard time;
 - (ii) Approved plans;
 - (iii) The mast must be removed once it is no longer required.
- (b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

32 APPLICATION NO DOV/15/00444 - AYLESHAM VILLAGE EXPANSION

The Committee viewed a plan showing the existing junction configuration. The Principal Planner advised that when planning permission had been granted in 2009, the Secretary of State for Transport had directed that a condition requiring junction improvements should be imposed. The need for such improvements had also been identified in the Aylesham Masterplan. The proposal had been to extend the 'hard nose' of the slip road and to widen its carriageway. These improvements were in recognition that the existing junction was sub-standard, and to address the increase in traffic that would be generated by development at Snowdown. However, the Snowdown development was no longer going ahead and, most significantly, the conditioned improvements were now considered to be sub-standard. Current standards would now require a 'lane gain merge' improvement which would necessitate the permanent reduction of the main A2 carriageway to one lane at this point. It was considered that such a change involving loss of capacity on the trunk road was not justified given accident rates and projected traffic flows.

Members were informed that the Parish Council and the ward Councillor vigorously objected to the variation of the condition. Notwithstanding these concerns, the Local Planning Authority (LPA) had a duty to apply conditions correctly. Given that Highways England's view was that the condition should be varied and the junction improvement no longer pursued, it was unlikely that the condition, as presently worded, would be considered enforceable or reasonable. It was for the Committee to consider local concerns and the environmental impact of the works. Members would also need to consider whether the deletion of the requirement from the condition would result in a safe form of access, and whether the six tests for the imposition of planning conditions had been satisfied. The Chairman reminded the Committee that planning conditions could not be used to correct an existing deficiency.

Councillor Bannister was of the view that the junction was not safe and traffic flow was increasing irrespective of the Snowdown development. That said, it was unreasonable to expect the developer to bear the full cost of extending the slip road. He suggested that the application be deferred to explore a jointly funded solution with Highways England. Councillor Richardson agreed that the junction was unsafe and that it was only by luck that more accidents had not occurred. He accepted that the condition could not be enforced due to Highways England's lack of support. It was also a non-starter to propose that the A2 carriageway be reduced to one lane. However, a substantial number of new houses were being built at Aylesham which would put more pressure on the junction. The developer should bear some responsibility, even if this only extended to improving visibility. Councillor Bond spoke against removing the requirement entirely, arguing that the junction was dangerous and that the developer should contribute to a solution since the new houses would undoubtedly generate additional traffic.

The Chairman suggested that a jointly funded solution with Highways England was out of the question given that it no longer supported junction improvements of the type proposed by the condition. He agreed that the junction had risks, but was of the opinion that visibility was acceptable if drivers took sensible precautions.

The Principal Planner clarified that the independent traffic study modelling had included the new dwellings at Aylesham, for a period up to 2020. He reiterated that a condition could not be imposed to remedy an existing problem that had not been created by the development. That said, it would be acceptable to add an informative regarding visibility and signage. The Chairman stated that it was reasonable to expect the developers to introduce measures to mitigate the additional traffic that would be generated by the new development.

The meeting was adjourned at 7.26pm to allow Officers to consult. The meeting reconvened at 7.38pm.

The Chairman recapped that the Committee considered that there would be an impact on the junction due to an increase in traffic caused by the new development. The Committee considered that the proposal should be deferred as the measures that were required were not within the developer's control. Deferral would allow discussions to take place between Highways England, the developer and Planning Officers to consider what measures could be taken.

RESOLVED: That Application No DOV/15/00444 be deferred in order to allow discussions to take place between Highways England, the developer and the Local Planning Authority to consider what measures can be taken at the A2/A260 junction to mitigate the increased use of the junction as a result of the Aylesham development.

33 APPLICATION NO DOV/15/00391 - THE HAVEN, 19 MONASTERY AVENUE, DOVER

The Chairman advised that Application No DOV/15/00391 had been withdrawn by the applicant and would not therefore be considered at the meeting.

34 APPLICATION NO DOV/15/00252 - 43/45 CHERRY TREE AVENUE, DOVER

Members viewed plans and photographs of the application site. The Planning Officer introduced the report which set out the details relating to a change of use application to a restaurant/hot food takeaway. Members were mindful that there was

a primary school in close proximity to the proposed takeaway, but were of the opinion that the risk of pupils using the takeaway was low given the fact that primary school pupils were not allowed out during the school day. It was confirmed that the school in question did not have a healthy eating policy.

RESOLVED: (a) That Application No DOV/15/00252 be APPROVED subject to the following conditions:

- (i) Timescale of commencement of development;
 - (ii) A list of the approved plans;
 - (iii) Details of the extraction system;
 - (iv) Details of a scheme for sound insulation;
 - (v) Refuse storage area to be provided and maintained;
 - (vi) Hours of opening shall not be outside of 10.00am to 10.00pm Monday to Friday and 10.00am to 10.00pm Saturdays, Sundays and Bank Holidays.
- (b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

35 APPLICATION NO DOV/15/00296 - SITE REAR OF THE SHRUBBERY, ST MARGARET'S ROAD, ST MARGARET'S BAY

The Committee viewed plans and photographs of the site. The Principal Planner advised that the application site was within the village confines of St Margaret's and comprised land which had been severed from The Shrubbery. Planning permission for a detached bungalow had been granted in 2012 and this was extant. Approval had been given the preceding year for the removal of trees on the site. The application was part retrospective as some works had already taken place on the site.

The current proposal differed from the proposal granted permission in 2012 in that the dwelling would be sited slightly nearer to The Shrubbery. The ground floor level would also be lower, giving the finished dwelling an overall height which was between 1.6 and 2.5 metres lower than the original scheme. First-floor accommodation (with balconies) had also been introduced. Amended plans had been submitted in respect of the first-floor balconies which had been reduced in depth and set into the roof. For this reason, the recommendation at g) of the report would need to be amended.

A further letter of objection had been received from the occupants of The Shrubbery, raising concerns about access to the retaining wall which they suggested had been built without planning permission. Unless the wall was moved further back from the boundary, the residents would hold the LPA responsible for any problems. The Council's Head of Building Control had advised that, whilst building regulations approval had not been required for the wall, the applicant had a general duty of care to ensure that the wall was soundly constructed. There was nothing to indicate that there were any deficiencies in the way that the wall had

been built. Furthermore, the applicant had confirmed that there was sufficient distance between the retaining wall and the boundary with The Shrubbery to allow both the wall and the house to be adequately maintained. The Principal Planner emphasised that, in any case, this was a civil matter which the Committee was not required to take into account when reaching its decision.

The key consideration for the Committee was the impact on the amenity of other properties. The separation distance of the proposed dwelling from The Shrubbery would be 21 metres and Officers therefore considered that there would be no overlooking to this property. In terms of the impact on Seven Seas Cottage, concerns had been raised over overlooking and inter-looking from the first-floor balconies into this property and its private amenity space. Whilst there was the potential for overlooking, the views obtained would be oblique and would not therefore adversely affect the property's amenity area. In any case, the impact would be less than the original proposal following the submission of revised plans showing the balconies reduced in size (being further away from Seven Seas Cottage and effectively 'within' the roof slope of the dwelling). The occupants of Seven Seas Cottage had written a further letter of objection, raising concerns that the removal of trees along the boundary would increase overlooking. However, permission to remove the trees, which were in poor condition, had already been given and would be difficult to revoke. With the landscaping scheme, oblique views and separation distance, Officers were satisfied that there would be no overlooking. There would also be views into the rear garden of 11 St Margaret's Road. Whilst this would normally be a planning concern, the privacy of the garden was already compromised by overlooking from the first-floor windows of Seven Seas Cottage. The occupants of 11 St Margaret's Road had also written a letter of support.

Councillor Bannister welcomed the report and recommended that the application be approved. The Chairman referred to the advantages of the proposed scheme over that which currently had permission.

- RESOLVED: (a) That Application No DOV/15/00296 be APPROVED subject to the following conditions:
- (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 (north-west 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.
- (b) That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

(Councillor K E Morris advised that he was registered to speak against the application as the ward Member. On the grounds of predetermination, he would speak, listen to the Officer's introduction and then take no further part in proceedings. Councillor Morris left the Chamber during the debate on this item.)

36 APPLICATION NO DOV/15/00299 - ADELAIDE FILLING STATION, SANDWICH ROAD, SHOLDEN

The Committee was shown a block plan and photographs of the application site. The Senior Planner advised that the application related to a change of use from a hand car wash to car sales at a location which was largely rural in character. The application was partly retrospective as a portable building was already in situ. The proposal included the concreting over of a fenced compound at the rear of the site which was currently overgrown. This would increase the ground area of the development by about 40%. One further comment had been received from the Campaign to Protect Rural England (CPRE) which signalled its support for the application on the basis that it would help to improve the area which had been an eyesore for years. The Senior Planner clarified that the CPRE was not a statutory consultee but rather a pressure group. No significant weight should therefore be attached to its representation.

The application was largely a re-submission of one refused previously in January 2015 on three grounds. These were that it did not functionally require such a location, would have an urbanising effect on the Hacklinge area and was unsustainable in that its location would generate the need to travel by car. That application had therefore been contrary to Core Strategy Policies CP1, DM1 and DM3. Officers considered that the applicant had failed to satisfactorily address the reasons for the previous refusal, and that the current application did not meet the aims and objectives of the National Planning Policy Framework. In summary, the previous reasons for refusal remained valid.

Councillor B W Butcher commented that the site had quite a history, having been a petrol station in the past. The current site was unsightly but there had been more buildings on the site in previous years. He was of the view that conditions could make the proposal more acceptable to the environment and local residents. He confirmed that there were bus-stops on both sides of the road outside the site.

Councillor Richardson stated that it would be easy to argue that, since there was already some development in this area, a little more would do no harm. However,

there was a principle at stake. The site was in an area which was largely rural in character, and a car sales business would not be conducive to maintaining this character. Moreover, it was clearly contrary to policy, illustrated by the fact that the site had a long history of planning permission refusals. He recommended that the application should be refused. Councillor Bannister agreed, arguing that it was clearly against policy to concrete over green space.

The Chairman reminded the Committee that policies designed to protect the countryside did not necessarily preclude the taking of any land at all. He also encouraged Members to consider whether such a business at this site would generate additional traffic.

Councillors Bond and P M Wallace supported the proposal. The site had previously been a petrol station and there was already a car sales business further along the road. The appearance of the site would undoubtedly be improved and the business was likely to generate fewer car visits than the car wash. Councillor Bond referred to the fact that the parish councils had objected to the previous application but now supported the current scheme. Councillor Wallace commented that there was already hard-standing on the site which it would be as well to utilise and encourage business.

The Senior Planner clarified that a planning application would be required in order for the business to revert to a petrol station. Members were reminded that development in the countryside was not permitted unless it functionally required a countryside location or was ancillary to an existing operation. It was incumbent upon Members to consider whether these two points had been met. The Principal Planner emphasised that the previous application had been the subject of a very robust refusal. Officers were of the view that the current application fell far short of the point where reversal of that refusal could be justified. In summary, there were serious objections to the application in policy terms.

Councillor Richardson emphasised the fact that a similar application had been refused only a few months previously. He urged the Committee not to go against the LPA's policies, the previous refusal and the Officer's recommendation. Councillor Bannister supported this position.

It was moved by Councillor A F Richardson and duly seconded that Application No DOV/15/00299 be REFUSED as per the report recommendation.

On being put to the vote, the motion was LOST.

It was moved by Councillor P M Wallace and duly seconded that Application No DOV/15/00299 be APPROVED on the grounds that: a) no substantial harm would be caused to the rural setting; b) the taking of additional countryside is appropriate in scale for the application; and c) public transport is accessible. Weighing those factors against the current use, the Committee considered that there would be no appreciable, additional harm. Conditions to be delegated and to include the number of vehicles to be kept on site, the hours of operation and transporters on site.

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

RESOLVED: (a) That Application No DOV/15/00299 be APPROVED on the following grounds:

- (i) No substantial harm would be caused to the rural setting;
- (ii) The taking of additional countryside is appropriate in scale for the application;
- (iii) Public transport in this location is accessible.

Weighing these factors against the current use, the Committee considers that there would be no appreciable, additional harm.

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

37 APPEALS AND INFORMAL HEARINGS

The Planning and Delivery Manager advised Members that three appeals had been determined – and dismissed - between April and June 2015. The LPA’s annual target had been reduced and now no more than 20% of appeals should be upheld.

The Committee was reminded that it had refused an application for 28 dwellings at the rear of Archers Court Road, Whitfield. An appeal had been lodged and dismissed by the Inspector. However, the applicant had made a challenge to the Inspector’s decision in the High Court under Section 288 of the Town and Country Planning Act 1990. Having considered the grounds of that challenge, the Secretary of State had consented to the Court making an order setting aside the Inspector’s decision and requiring that the appeal should be sent back to the Inspector for a new decision. This was likely to result in a further informal hearing. The Chairman advised new Members that Committee members attended informal hearings. As ward Member, Councillor J S Back would attend the informal hearing for Archers Court Road, along with the Chairman.

RESOLVED: That the report be noted.

38 ACTION TAKEN IN ACCORDANCE WITH THE ORDINARY DECISIONS (COUNCIL BUSINESS) URGENCY PROCEDURE

The Committee noted that no action had been taken since the last meeting.

The meeting ended at 9.06 pm.

DOVER DISTRICT COUNCIL

REPORT OF THE HEAD OF REGENERATION AND DEVELOPMENT

PLANNING COMMITTEE – 17 SEPTEMBER 2015

CONSIDERATION OF THE FOLLOWING ITEMS HAS BEEN DEFERRED AT PREVIOUS MEETINGS

Members of the Planning Committee are asked to note that the following applications have been deferred at previous meetings. Unless specified, these applications are not for determination at the meeting since the reasons for their deferral have not yet been resolved.

1. DOV/14/01013 **Outline Planning Application, with all matters reserved, for the erection of nine flats (existing church to be demolished) – The Beacon Church and Christian Centre, London Road, Dover (Agenda Item 6 of 12 March 2015)**

An update on this application will be provided to the Committee

Background Papers:

Unless otherwise stated, the appropriate application file, the reference of which is stated.

MIKE EBBS

Head of Regeneration and Development

The Officer to whom reference should be made concerning inspection of the background papers is Alice Fey, Planning Technician, Planning Section, Council Offices, White Cliffs Business Park, Dover (Tel: 01304 872468).

APPLICATIONS WHICH MAY BE SUBJECT TO PUBLIC SPEAKING

The Reports

The file reference number, a description of the proposal and its location are identified under a) of each separate item. The relevant planning policies and guidance and the previous planning history of the site are summarised at c) and d) respectively.

The views of third parties are set out at e); the details of the application and an appraisal of the proposal are set out at f) and each item concludes with a recommendation at g).

Additional information received prior to the meeting will be reported verbally. In some circumstances this may lead to a change in the recommendation.

Details of the abbreviated standard conditions, reasons for refusal and informatives may be obtained from the Planning Technician (telephone 01304 872471).

It should be noted, in respect of points raised by third parties in support of, or objecting to, applications that they are incorporated in this report only if they concern material planning considerations.

Each item is accompanied by a plan (for identification purposes only) showing the location of the site and the Ordnance Survey Map reference.

Site Visits

All requests for site visits will be considered on their merits having regard to the likely usefulness to the Committee in reaching a decision.

The following criteria will be used to determine usefulness:

- the matter can only be safely determined after information has been acquired directly from inspecting this site.
- there is a need to further involve the public in the decision making process as a result of substantial local interest, based on material planning considerations, in the proposals.
- the comments of the applicant or an objector cannot be adequately expressed in writing because of age, infirmity or illiteracy;

The reasons for holding a Committee site visit must be included in the minutes.

Background Papers

List of background papers: unless otherwise stated, the appropriate file in respect of each application, save any document which discloses exempt information within the meaning of the Local Government (Access to Information) Act 1985.

The Officer to whom reference should be made concerning inspection of the background papers is Abi Robinson, Planning Technician, Planning, Council Offices, White Cliffs Business Park, Dover (Telephone: 01304 - 872471).

IMPORTANT

The Committee should have regard to the following preamble During its consideration of all applications on this agenda

1. Section 70(2) of the Town and Country Planning Act 1990 requires that, in dealing with an application for planning permission, the local planning authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that "If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
3. Planning applications which are in accordance with the relevant policies in the Development Plan should be allowed and applications which are not in accordance with those policies should not be allowed unless material considerations justify granting of planning permission. In deciding such applications, it should always be taken into account whether the proposed development would cause demonstrable harm to interests of acknowledged importance. In all cases where the Development Plan is relevant, it will be necessary to decide whether the proposal is in accordance with the Plan and then to take into account material considerations.
4. In effect, the following approach should be adopted in determining planning applications:-
 - (a) if the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan;
 - (b) where there are other material considerations, the Development Plan should be taken as the starting point and the other material considerations should be weighed in reaching a decision;
 - (c) where there are no relevant policies in the Development Plan, the planning application should be determined on its merits in the light of all material considerations; and
 - (d) exceptionally, a development proposal which departs from the Development Plan may be permitted because the contribution of that proposal to some material, local or national need or objective is so significant that it outweighs what the Development Plan says about it.
5. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, in considering planning applications for development affecting a listed building or its setting, special regard shall be had to the desirability of preserving the building, its setting or any special features which it possesses. Section 72 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas when considering any applications affecting land or buildings within them. Section 16 requires that, when considering applications for listed building consent, special regard shall be had to the desirability of preserving the listed building, its setting, or features of special architectural or historic interest which it has.
6. Section 38(6) of the 2004 Act does not apply to the determination of applications for advertisement consent, listed building consent or conservation area consent. Applications for advertisement consent can be controlled only in the interests of amenity and public safety. However, regard must be had to policies in the Development Plan (as material considerations) when making such determinations.

The Development Plan

7. The Development Plan in Dover District is comprised of:

The South East Plan 2009
Dover District Core Strategy 2010
Dover District Local Plan 2002 (saved policies only)
Kent Minerals Local Plan : Brickearth 1986
Kent Minerals Local Plan : Construction Aggregates 1993
Kent Minerals Local Plan : Chalk and Clay and Oil and Gas 1997
Kent Waste Local Plan 1997

Human Rights Act 1998

During the processing of all applications and other items and the subsequent preparation of reports and recommendations on this agenda, consideration has been given to the implications of the Human Rights Act 1998 in relation to both applicants and other parties and whether there would be any undue interference in the Convention rights of any person affected by the recommended decision.

The key articles are:-

Article 8 - Right to respect for private and family life, home and correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 1 of the First Protocol - Right of the individual to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

Account may also be taken of:-

Article 6 - Right to a fair trial and public trial within a reasonable time.

Article 10 - Right to free expression.

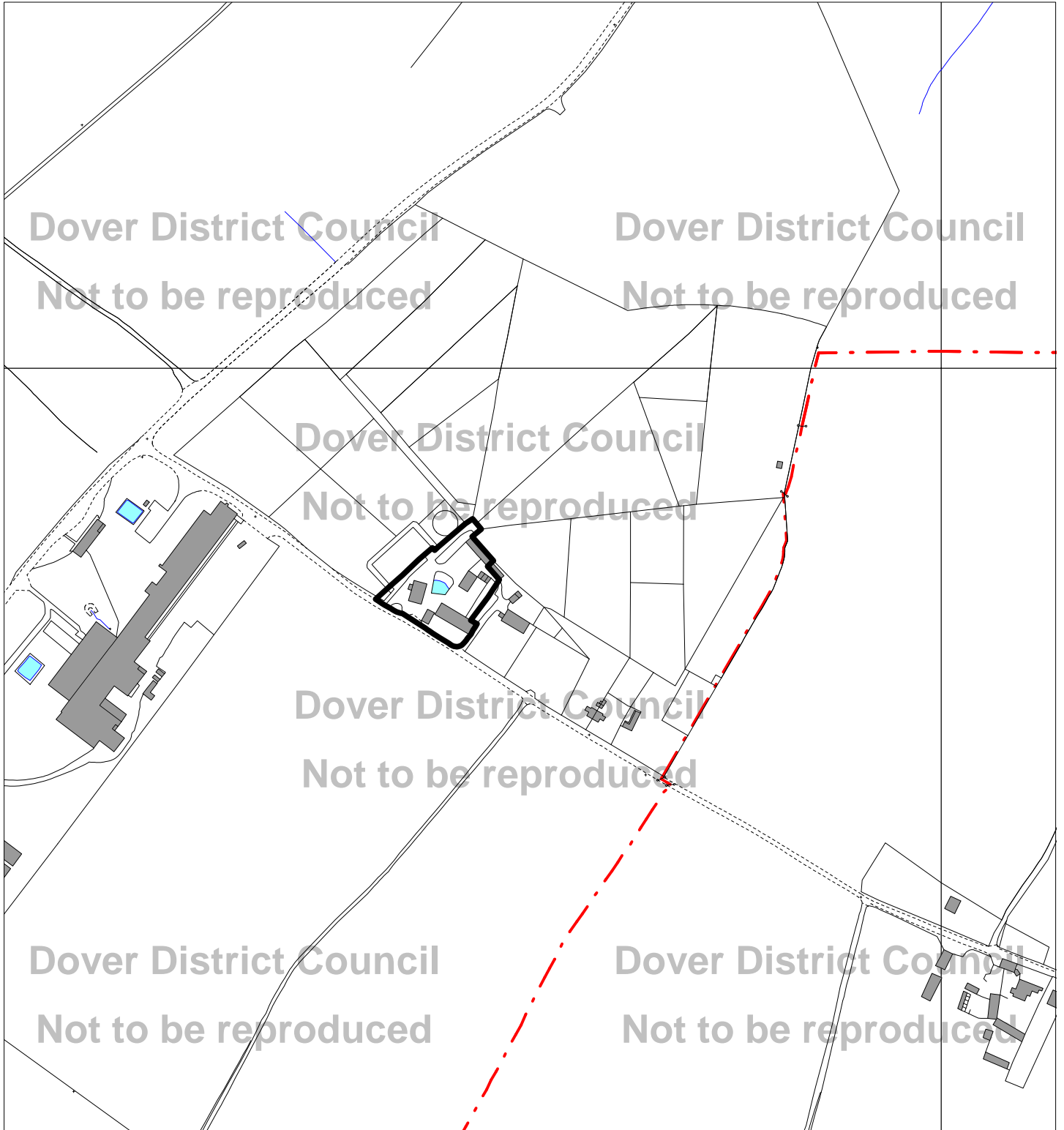
Article 14 - Prohibition of discrimination.

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

(PTS/PLAN/GEN) HUMANRI

PUBLIC SPEAKING AT PLANNING COMMITTEE

1. The scheme for public speaking at Planning Committee only concerns matters relating to the determination of individual applications for planning permission contained in the Planning Committee agenda and not to other matters such as Tree Preservation Orders or Enforcement.
2. The scheme for public speaking will apply at each meeting where an individual application for planning permission is considered by the Planning Committee.
3. Any person wishing to speak at the Planning Committee should submit a written request using this form and indicate clearly whether the speaker is in favour of, or opposed to, the planning application.
4. The form must be returned to Democratic Support no later than two working days prior to the meeting of the Planning Committee.
5. Speaking opportunities will be allocated on a first come, first served basis but with the applicant being given first chance of supporting the scheme. Applicants or agents will be notified of requests to speak. Third parties who have applied to speak will be notified of other requests only when these directly affect their application to speak. The names, addresses and telephone numbers of people who wish to speak may be given to other people who share their views and have expressed a wish to address the Committee. The identified speaker may defer to another at the discretion of the Chairman of the Committee.
6. One person will be allowed to speak in favour of, and one person allowed to speak against, each application. The maximum time limit will be three minutes per speaker. This does not affect a person's right to speak at a site visit if the Committee decides one should be held.
7. Public speakers will not be permitted to distribute photographs or written documents at the Committee meeting.
8. The procedure to be followed when members of the public address the Committee will be as follows:
 - (a) Chairman introduces item.
 - (b) Planning Officer updates as appropriate.
 - (c) Chairman invites the member of the public and Ward Councillor(s) to speak, with the applicant or supporter last.
 - (d) Planning officer clarifies as appropriate.
 - (e) Committee debates the application.
 - (f) The vote is taken.
9. In addition to the arrangements outlined in paragraph 6 above, District Councillors who are not members of the Committee may be permitted to address the Planning Committee for three minutes in relation to planning applications in their Ward. This is subject to giving formal notice of not less than two working days and advising whether they are for or against the proposals. In the interests of balance, a further three minutes' representation on the contrary point of view will be extended to the identified or an additional speaker. If other District Councillors wish to speak, having given similar notice and with the agreement of the Chairman, this opportunity will be further extended as appropriate.
10. Agenda items will be taken in the order listed.
11. The Chairman may, in exceptional circumstances, alter or amend this procedure as deemed necessary.



Not to scale

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

Application: DOV/15/00336

Denne Court Farm

Hammill

Woodnesborough

CT13 0EG

TR29365584



- a) **DOV/15/00336 – Change of use, partial demolition, conversion and extension of agricultural building to three holiday lets, erection of one detached and a pair of semi-detached dwellings, conversion of shed to garage and associated parking and landscaping (existing sheds and stables to be demolished) – Denne Court Farm, Selson Lane, Woodnesborough**

Reason for report: Number of contrary views.

- b) **Summary of Recommendation**

Planning permission be refused

- c) **Planning Policies and Guidance**

Core Strategy Policies

- 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.
- DM3 – Permission for commercial development in the rural area, will be granted, provided it is at a rural service centre or local centre and is consistent with the scale and setting of the settlement, or it is at a village provided it would not generate significant travel demand and is consistent with the scale and setting of the settlement. In all cases the development should be within the settlement confines, unless no suitable site exists, in which event it should be located adjacent to the settlement unless there is a functional requirement for it to be located elsewhere.
- DM4 – Beyond the settlement confines, the re-use or conversion of structurally sound, permanent buildings will be granted: for commercial uses; for community uses; or for private residential use in buildings that are adjacent to the confines. In all cases the building to be converted must be of a suitable character and scale for the use proposed, contribute to the local character and be acceptable in all other respects.
- 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 – Generally seeks to resist development which would harm the character of the landscape, unless it is in accordance with a Development Plan designation and incorporates mitigation measures, or can be sited to avoid or reduce the harm and/or incorporates design measures to mitigate the impacts to an acceptable level.

- DM17 – Within Groundwater Source Protection Zones 1 and 2, certain development which has the potential to cause contamination will not be permitted unless adequate safeguards against possible contamination are provided.

National Planning Policy Framework (NPPF)

- 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.
- Chapter three of the NPPF seeks to support a prosperous rural economy
- Chapter four of the NPPF seeks to promote sustainable transport. In particular, paragraph 29 states that “the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas”.
- 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. Of particular note, is paragraph 55 which directs housing in rural areas to be located where they will enhance or maintain the vitality of rural communities. New isolated homes in the countryside should be avoided, unless they would: provide essential rural worker housing; provide the optimum viable use of a heritage asset or would secure the future of a heritage asset; re-use redundant or disused buildings and lead to an enhancement of the immediate setting; or be of an exceptional quality or innovative design. Such a design should be: truly outstanding or innovative, helping to raise standards of design more generally in rural areas; reflect the highest standards in architecture; significantly enhance its immediate setting; and be sensitive to the defining characteristics of the local area.
- Chapter seven requires good design, which is a key aspect of sustainable development.

The Kent Design Guide (KDG)

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

d) **Relevant Planning History**

DOV/00/00741 – Change of use from farm buildings to livery stables, construction of sand school and use of paddock for grazing and exercise – Granted

DOV/15/00337 – Application for Listed Building Consent for internal and external alterations and partial demolition of agricultural building to facilitate conversion and extension to provide 3 holiday lets - Granted

e) **Consultee and Third Party Responses**

Principal Ecologist: The submitted ecology report is satisfactory. The recommended ecological enhancements should be incorporated into the development and be secured by condition.

KCC Highways and Transportation: No objection. Whilst Selson Lane is narrow, the proposals are unlikely to generate a significant increase in overall traffic compared to the existing and potential uses of the site. There is likely to be a reduction in larger vehicles compared to these uses. Visibility splays should be provided to the proposed access to the site and to the access of Denne Court Farm. Five conditions are recommended, should permission be granted.

Conservation Officer: The following observations have been made:

- With the exception of the ‘Danish Piggery’, which is of low historic interest (but worth preserving), the existing buildings are of no historic merit.
- The perpetuation of the historic layout, surviving pond and ‘Danish Piggery’ is positive.
- The application site is quite well hidden, and visually severed, from the Listed farmhouse. The two sites are visually separated and experienced separately.
- Whilst the new arrangements preserve some existing historic character, they cannot, by their intrinsic nature as modern residential redevelopment, enhance any further the historic character of the former farmyard site.

Woodnesborough Parish Council: Positively support the application, which is seen as a good use of a brown field site that will bring in business to the local area.

Environmental Health: Based on the agricultural history of the site and the number of buildings being present, some of which appear to have roofing which may contain ACM, previous mention of a tank on site and the recommendations contained in the desk study, I would recommend that the Dover standard contaminated land condition be considered, with the removal of the paragraph that requests a desk study. This is necessary to eliminate any doubt of chronic exposure in relation to the permanent residence properties.

Environment Agency: Following the submission of additional information, no objection is raised, subject to five conditions being attached to any grant of planning permission. These conditions relate to investigating and mitigating on-site contamination, the identification of previously unknown contamination and detailing strict requirements for drainage of the site.

Health and Safety Executive: Do not recommend against the granting of planning permission on safety grounds.

Southern Water: No objection. The applicant will need to ensure that arrangements are made for the long term maintenance of the SUDS facilities. The applicant is also advised to consult directly with the Environment Agency regarding the use of septic tank drainage which disposes of effluent to sub soil irrigation.

Southern Gas Networks: Southern Gas Networks have no pipelines in the area.

Public Representations: Fifteen letters of support have been received, raising the following points:

- The development would be in keeping with the rural character of the area
- The development includes good re-use of existing buildings and brown field land
- The holiday lets will bring tourism and economic benefits to the area
- Additional residents will support local services
- The proposal includes a satisfactory access
- The development would reduce the number of vehicle movements generated in comparison to the existing equestrian use
- The natural landscaping, including the pond, is positive
- The additional housing is needed
- The development would reuse a historical site
- The site benefits from permitted development rights
- The development should be assessed in the context of the development at Hammill brickworks

In addition, three letters have been received raising the following comments:

- The site plan is erroneous
- The site is in equestrian use, not agricultural
- Access to site is difficult
- The properties further down Selson Lane are not screened by tall brick walls, as the brick walls belong to the buildings themselves.
- The high brick wall is a highway safety concern
- The trees on the boundary of the site are not owned by the applicant
- No evidence has been submitted that the development will enhance the setting of Denne Court
- Impact on the living conditions of Denne Court
- Both barns which were originally on the site were thatched
- Bats, badgers, birds and butterflies have been seen in the area
- Additional traffic
- The development could be supported if strong measures are taken to ensure that Selson Lane does not become busy or dangerous

- f) 1. **The Site and the Proposal**
- 1.1 The site lies outside of the settlement confines within the countryside. The area around the site is relatively flat and predominantly used to grow arable crops. The area is crossed by a number of small country lanes which are typically bounded by hedges.

- 1.2 To the south east of the site is Denne Court Farm, which is a Grade II Listed Building. The list description describes Denne Court Farm as:

House. C17 altered early C19. Red brick in English bond with plain tiled roof. Two storeys on plinth and hipped roof with stacks to end left and, moulded, to right. Three paired glazing bar sashes on each floor with single glazing bar sash to centre right on first floor and glazed door below it on ground floor. Outshot to rear. A manorial site. (See Hasted x 1130).

- 1.3 The site is around 100m to the west of the Hammill Brickworks site, which was granted permission for a mixed use scheme in June 2014, under application number DOV/12/00460. Development on this site is underway.
- 1.4 The site itself is currently occupied by two large barns towards the south west of the site, together with several smaller barns and stables towards the north and east of the site. At the time of the application, the site and its buildings were in use as livery stables. To the north of the site, land is available for the grazing of horses, whilst a sand school is also provided. The existing buildings on the site, with the exception of a brick built building to the north eastern boundary, known as the 'Danish Piggery', date from the mid to late C20th and are of a utilitarian design. To the centre of the site is a courtyard, which includes a pond.
- 1.5 This application seeks permission to erect two large buildings towards to south west of the site, to provide three dwellings and extend and convert the Danish Piggery to provide three holiday let units. This development would follow the demolition of all the buildings on the site, with the exception of the Danish Piggery and the walls around the pond.
- 1.6 The dwellings would each provide four bedrooms, whilst the three holiday lets would each provide two bedrooms. The central courtyard would be retained and would allow for the provision of car parking.

2 **Main Issues**

- 2.1 The main issues are:

- The principle of the development
- The impact on the character and appearance of the area
- The impact on heritage assets
- The impact on neighbouring properties
- The impact on the highway network

Assessment

Principle

- 2.2 The site lies outside of the settlement boundaries, where Policy DM1 applies. This policy 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. Dwelling houses and holiday lets (insofar as they relate to new build elements) do not functionally require a rural location, whilst the development would not be ancillary to the existing uses or development at the site. The reuse of the 'Danish Piggery', is considered to functionally require a

rural location, as it reuses an existing building. The erection of the dwellings is not supported by other policies in the development plan and is therefore contrary to Policy DM1. Whilst the reuse of the 'Danish Piggery' accords with Policy DM1, the holiday lets must also be considered under policies DM3, which is relevant to the new build element of the holiday lets, and DM4, which is relevant to the converted element of the holiday lets.

- 2.3 The conversion of the 'Danish Piggery' to holiday lets includes the re-use of the existing building and, as such, it is necessary to consider Policy DM4 of the Core Strategy. No other buildings include the re-use or conversion of existing buildings. Under Policy DM4, permission will be given for the re-use or conversion of existing, structurally sound, permanent buildings within the settlement confines. Beyond the confines, permission will be given for commercial uses, or community or private residential uses provided the buildings to be converted are adjacent to the confines. The reuse of the existing building to provide holiday lets comprises a commercial use, which is permitted by this policy, subject to the provisos that the building to be converted is of a suitable character and scale for the use proposed, contributes to the local character and is acceptable in all other respects. The conversion of the existing building is, in principle, acceptable.
- 2.4 Whilst the holiday lets would fall under Use Class C3, their occupation would be 'commercial'. Policy DM3 generally supports new commercial buildings in the rural area, provided it is sustainably located. However, the holiday lets would be a significant distance (1.2km) outside of the settlement confines of the nearest settlement, Eastry, which is defined as a Local Centre under the Settlement Hierarchy. The new build element to the 'Danish Piggery' would not therefore be supported by DM3.
- 2.5 Paragraph 49 of the NPPF states that "housing applications should be considered in the context of the presumption in favour 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 deliverable housing sites". At present, the council is unable to demonstrate a five year supply of housing land. As such, and in accordance with paragraph 14 of the NPPF, planning permission must be granted, unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies" of the NPPF, or where specific policies of the NPPF "indicate development should be restricted".
- 2.6 Paragraph 29 of the NPPF states that "the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel". This paragraph goes on to acknowledge that "opportunities to maximise sustainable transport solutions will vary from urban to rural areas".
- 2.7 The site lies a significant distance (1.2km) outside of the confines of Eastry. The link to Eastry is via Selson Lane, which is a relatively narrow, unlit country road with no footpaths. Whilst some stretches of the lane include grass verges, which would allow some refuge for pedestrians, substantial sections of the lane are bounded by vegetation, walls or fences, meaning that pedestrians would need to walk on the roadway. This includes a section of the road where, due to sharp bends in the road, the forward visibility of drivers is reduced. Given the distance, convenience and safety of this walk, it is highly unlikely

that occupiers of the development would walk to Eastry to use its services. No buses pass the site. The nearest bus stop is found on Hammill Road, around 250m to the north east. However, this is an infrequent service providing one bus per week (No.542) which travels along Hammill Road and on to Sandwich. Given this very limited level of service, the development would not facilitate the use of public transport and would allow little choice about how occupants of the development could travel. For these reasons, the development would be highly dependent on private modes of transport, with no real alternative, and would be isolated from the facilities and services of neighbouring rural settlements.

2.8 Paragraph 55 of the NPPF states that housing should be located where it will enhance or maintain the vitality of rural communities whilst new isolated homes in the countryside should be avoided, except where special circumstances exist. As addressed previously, the site is considered to be isolated. The circumstances where isolated housing may be acceptable include:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside;
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative design of the dwelling.

2.9 The holiday-let units do intend to reuse the existing stabling. The principle of this aspect of the development may be an exception, subject to this aspect enhancing their immediate setting.

2.10 No case has been made in respect of the first three criteria and it is clear that the application has not been made on the basis of meeting these criteria; however, the applicant does contend that the fourth criterion would be met. It is therefore necessary to make an assessment in this respect. In order to meet this criterion, four mutually required criteria should be met, requiring that the development:

- be truly outstanding or innovative, helping to raise the standards of design more generally in rural areas;
- reflect the highest standards in architecture;
- significantly enhance its immediate setting; and
- be sensitive to the defining characteristics of the local area.

2.11 The applicant has suggested that the building could be built to the highest standards under the Code for Sustainable Homes (up to level 5). However, no details have been submitted to demonstrate how the development would be constructed to high environmental standards, or what environmental technologies would be incorporated. Furthermore, following the Deregulation Bill 2015 receiving Royal Assent, the Code for Sustainable Homes has now been withdrawn and cannot, therefore, be relied upon. The development is not considered to be of an exceptional quality or innovative (which will be considered in more detail within the Character and Appearance section of this report). As such, the development does not meet the high test of

demonstrating that the development would be of exceptionally high quality or innovative design.

- 2.12 For these reasons, with the exception of the holiday lets, the development does not meet the four exceptional circumstances where isolated rural development may be accepted. However, the wording of paragraph 55 does allow for other exceptional circumstances to be presented, as the list of exceptional circumstances is not exhaustive. However, it is not considered that there are any other significant benefits which would represent an exceptional circumstance for the purposes of paragraph 55 (as detailed in paragraphs 2.14, 2.15, 2.33, 2.47 and 2.49-2.53) and, consequently, the development would be contrary to paragraphs 29 and 55 of the NPPF.
- 2.13 It is considered that only the conversion of the existing stable building to holiday lets meets an exception outlined in paragraph 55 of the NPPF comprising the re-use of an existing building, whilst this element would also comply with Policy DM4 of the Core Strategy. It is therefore considered that this part of the development is, in principle, acceptable.
- 2.14 The erection of three dwellings, following the demolition of the existing buildings would, in principle, be contrary to Policy DM1 and the NPPF, in particular paragraphs 29 and 55. The principle of this element of the proposals is not supported by any other policies. Some weight must be attributed in favour of the development, by virtue of the District's lack of a demonstrable five-year housing land supply, having regard for chapter six of the NPPF and, in particular, paragraph 49. Weight must also be attributed to the fact that this development would utilise previously developed land. Whilst the development would, to a degree, contribute towards the District's need for housing land, it is considered that the site would be in such an unsustainable location that these modest benefits would be more than outweighed. The principle of this element of the development is, therefore, unacceptable.
- 2.15 The applicant has referenced the granted planning application for the Hammill Brickworks site. This site was granted full permission for the change of use and conversion of two engine sheds to six live/work units and outline planning permission for the erection of nineteen dwellings, 2352m² of B1(c) accommodation, the construction of a vehicular access, associated car parking and landscaping, following the demolition of existing buildings and structures, under application number DOV/12/00460. Subsequently, reserved matters applications, under application numbers DOV/14/00642 and DOV/15/00153, were granted in relation to the residential element (phase 4) and the commercial element. Applications have also been submitted for amendments to the approved scheme, pursuant to alterations to the dwellings and the removal of the condition regarding Code for Sustainable Homes. An application has also been submitted to vary the live/work units to dwellings, which has not been determined at this time. Whilst this site provides some context for the current application, it presented a different proposition and was approved by Members on the grounds that "the economic and environmental benefits outweigh the departure from the Development Plan". The facts of the current application differ from those of the Hammill Brickworks site. In particular, the Hammill Brickworks application proposed a significant amount of business space (2352sqm of Use Class B1 floor space), the remediation of contamination and the provision of a substantial number of high quality houses, including a contribution for off-site affordable housing. The employment uses proposed at the Hammill Brickworks site would provide an

estimated 86 full time equivalent jobs. In comparison, the current application would provide only very limited economic benefits, through the provision of holiday let accommodation and during the construction phase. The number of jobs which would be created by the development has been estimated as 1 full time job, whilst it has also been confirmed that the existing stable use also provides 1 full time job. As such, the development would not produce any additional employment. Whilst the site has some potential for contamination, it is not considered that the benefits of remediation would be as beneficial as the remediation of the Hammill Brickworks site. Furthermore, the development would contribute three dwellings to the Districts supply of housing, in comparison to the thirty five dwellings at the Hammill Brickworks site. As such, it is not considered that the current scheme would provide comparable benefits to those delivered by the Hammill Brickworks application, and which were attributed significant weight by Members and therefore, whilst the two sites are relatively close, the current application must be considered on its own merits.

Character and Appearance

- 2.16 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.
- 2.17 Whilst the topography of the area is relatively flat, the site is well secluded within the broader landscape, due to the hedges and trees around the perimeter of the site and the prevalence of hedges to the sides of roads. The site would, however, be highly visible along a stretch of Selson Lane from its junction with Hammill Road to the south western boundary of the site, with views ranging in distance from between 195m and 8m respectively. Having regard for the general seclusion of the site and the lack of views of the site in the wider landscape, it is not considered that the development would harm any important views, or the character of the surrounding landscape. Whilst the site is not particularly prominent, attention must be paid to the visual impact, and the quality of the design of the development, in closer views.
- 2.18 The development would retain a loose courtyard plan, similar to the existing layout and the historic layout visible on 1872 to 1894 Ordnance Survey Plan. It is considered that this layout is appropriate for the location of the site, being a common layout found within this part of Kent. The layout would retain the courtyard to the centre of the site, together with the pond, to provide a degree of separation between the building and a sense of spaciousness to the development.
- 2.19 The largest building, which would contain units 1 and 2, would measure almost 28m long by 13m wide and would have an eaves height of 2.8m rising to a ridge of 10m. Unit 3, whilst smaller, would also be substantial, measuring around 14.5m long by 9.5m wide and having an eaves height of 2.4m rising to an 8m high ridge. The extension of the existing 'Danish Piggery', would measure around 28m long by 6.6m wide and would have an eaves height of 2.2m rising to a 4m high ridge. Whilst these buildings are substantial, particularly Units 1 and 2, it is considered that this scale is consistent with the scale of farmsteads within the locality and would not appear incongruous or

overly prominent. Furthermore, having regard to the layout, it is not considered that the amount of development would appear unduly cramped.

- 2.20 The detailed design of the scheme has been informed by an Assessment of Significance and a Design Report. In turn, these reports have considered both local and national guidance together with historic photos of the site to inform the design of the buildings. The two new 'barns' are of similar proportions and design as the two barns which stood on the site until the mid to late C20th. Both of these buildings incorporate largely timber weatherboarded buildings over a brick plinth. The roof of the buildings would have low eaves, incorporating exposed rafter feet, rising to a high ridge, producing prominent roofs, archetypal of rural buildings within Kent. The buildings, following amendments, provide minimal window openings, providing a reasonable balance between providing adequate light and ventilation to occupants, whilst reducing the domesticity to the buildings appearance. The windows themselves would be well proportioned and constructed of timber.
- 2.21 The larger of the two new barns also includes a mock cart entrance/threshing bay. Whilst this element would provide a large window serving Unit 2, and would thus provide the impression of the residential use, it is considered that this feature adds interest to the building and effectively breaks up the prominent south western elevation. For these reasons, it is considered that the buildings are reasonable reproductions, externally, of traditional Kent barns.
- 2.22 The extension to the existing 'Danish Piggery' would be designed to complement the design of the existing building and, like the new buildings, would retain a rural character.
- 2.23 The development of the site would, necessarily, result in buildings which would be appreciably domestic in appearance and, as such, the development would undoubtedly urbanise the character of the site, contrary to the objectives of the countryside protection policies. However, it is considered that this urbanisation has been limited through the design of the buildings.
- 2.24 The proposed materials to be used in the construction of the development, subject to the submission of acceptable samples, respond positively the materials found within rural building, including a mixture of brick, black weatherboarding, Kent Peg tiles and natural slates.
- 2.25 Concern has been raised that the two proposed barns which previously existed on the site were thatched and, therefore, the two new buildings, which have been located and designed to mimic these historic buildings, should also be thatched. Whilst thatching these buildings would add to their character, the application must be considered on its merits, as submitted. In this instance, the use of Kent Peg tiles has been found to be acceptable and, as such, it would be unreasonable to require that the scheme be amended to include thatched roofs.
- 2.26 The site presents limited opportunities for new landscaping due to the desire to retain a strong sense of openness to the courtyard in keeping with the farmyard character. A new 1.8m high wall is proposed adjacent to the south western boundary of the site, to provide privacy to the gardens of Units 1 and 2. This wall would also provide the added benefit of concealing some of the domestic paraphernalia within the gardens and ground floor of those properties. Whilst this wall would reduce the openness of the frontage of the

site, it is considered that this loss does not cause significant harm. Behind this wall three trees are proposed, which would, to a small degree soften the appearance of the building and, over time, allow the development to sit more comfortably within its setting. A hedge around the other perimeters of the site would have a similar effect in other views. Within the courtyard, several new trees and hedges are proposed; however, this vegetation has been kept to a minimum to ensure that the courtyard retains an open, communal character. It is considered that this level of planting provides an appropriate balance between softening the appearance of the development whilst retaining openness.

2.27 As mentioned within the principle section of this report, paragraph 55 of the NPPF provides four special circumstances where residential development in the rural area may be permitted. The fourth of these special circumstances applies to development which would display “exceptional quality or innovative nature of the design of the dwelling”. In order to fulfil this criterion the design should meet four separate criteria, namely:

- be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
- reflect the highest standards in architecture;
- significantly enhance its immediate setting; and
- be sensitive to the defining characteristics of the local area.

Any development seeking to meet this standard would need to be supported by a robust and rigorous demonstration of how the development would achieve each of the four points required under the fourth criterion.

2.28 Whilst the design of the building is considered to be broadly acceptable, causing no significant harm, it is not considered that the development would significantly enhance the character of the area. The building designs mimic traditional barn design, but does not provide the significant enhancement of the character of the area or the standards of design required to meet this exceptional circumstance. As discussed previously, whilst the applicant contends that the development would be constructed sustainably, no evidence has been submitted to support this claim, whilst the Code for Sustainable Homes, referred to by the applicant, has been withdrawn. It is therefore concluded that the development would not be truly outstanding or innovative and would not help to raise the standards of design more generally in rural areas, nor would it reflect the highest standards in architecture. Whilst the development would provide a modest enhancement to the aesthetic of the site, the development would not ‘significantly’ enhance the immediate setting of the site. For these reasons, it is concluded that the fourth exceptional circumstance has not been fulfilled.

2.29 To conclude, whilst the development would cause no significant harm to the character of the countryside or the landscape, the development is not considered to be of exceptional quality or innovative and does not, therefore, meet the high bar required to meet the fourth exceptional circumstance where isolated residential development may be permitted in the countryside, having regard to paragraph 55 of the NPPF.

Heritage

- 2.30 As outlined in the 'Site' section of this report, the development is adjacent to a listed building, Denne Court Farm which is Grade II Listed. In accordance with of the Planning (Listed Buildings and Conservation Areas) Act 1990, special regard must be had for the desirability of preserving the listed buildings and their settings or any features of special architectural or historic interest they possess. Notwithstanding this statutory duty, the NPPF requires that regard must be had for whether development would cause harm to any heritage asset, whether that harm would be substantial or less than substantial and whether, if harm is identified, there is sufficient weight in favour of the development (public benefits) to outweigh that harm.
- 2.31 The application site and Denne Court Farm originally formed a conjoined farmstead, which included the farmhouse and several brick and timber barns and outbuildings arranged in a loose courtyard plan. Within the central courtyard is a small pond. The larger barns on the site were replaced in the mid C20th with barns of a more utilitarian appearance; however, the brick build 'Danish Piggery' and pond survive. The 'Danish Piggery' is curtilage listed.
- 2.32 The 'Danish Piggery', whilst of little architectural merit, does have some historic interest and, together with the pond, provides an insight as to the historic setting of the farmhouse. However, the application site and the curtilage of Denne Court Farm are now functionally and visually separated from each other.
- 2.33 The proposal would retain the 'Danish Piggery' and the pond, but would replace the C20th barns with barns of a more traditional design. Whilst, aesthetically, the proposed barns would be more pleasing than the existing barns, it is not considered that they would provide any meaningful enhancement to the setting of Denne Court Farmhouse. The buildings are designed to be dwellings and will subsequently, and necessarily, have domestic qualities which would detract from the integrity of the development. Whilst the domesticity of the buildings has been reduced, through the provision of boundary walls around gardens and the reduction in the number of roof lights provided within the most prominent roof slopes, the development would remain intrinsically, and noticeably, residential. Furthermore, as the site is visually separated from Denne Court Farm, the development would have little impact on the setting of the Listed Building. As such, whilst the development would not cause any harm to the significance of Denne Court Farm, it would not provide any enhancement either.
- 2.34 The development would include the reuse of the 'Danish Piggery', providing a viable long term use of that building. The works to this building would cause no harm to its significance, as established by the recent grant of listed building consent.
- 2.35 Whilst there are other listed buildings in the vicinity of the site, they are a significant distance from the site and, as such, these buildings, or their settings, would not be harmed by the development.
- 2.36 There have been numerous finds within the vicinity of the site, particularly within the fields to the north of the site. The site is also adjacent to Denne Court Farm, which dates from the C17th and is known to be a Manorial Site. Given this context, it is considered that there is a reasonable likelihood that non-designated heritage assets of archaeological interest may be present at

the site. As such, should permission be granted, it is recommended that a condition be attached requiring a programme of archaeological works.

Impact on Residential Amenity

- 2.37 The only property within the vicinity of the proposed development is Denne Court Farm. At present, the closest building to Denne Court Farm is the existing barn on site, which is labelled 'Barn 2' on the existing site plan. This barn, which is to be replaced by Units 1 and 2, lies approximately 19m from the western corner of Denne Court Farm and has an eaves height of 4.3m rising to a ridge of 6.5m. The building which would replace the existing 'Barn 2' would equally be sited around 19m from the closest point of Denne court Farm, but would have a lower eaves of 2.8m rising to a higher ridge of 10m. Having regard to the separation distance and relationship between the Units 1 and 2 and Denne Court Farm, it is not considered that any harm would be caused to the living conditions of the later, whilst the impact would be comparable to the existing situation. Additionally, it is not considered that any windows or roof lights would give rise to an unacceptable degree of overlooking. The other proposed buildings are significantly further away from Denne Court Farm and would not cause an unacceptable loss of light, sense of enclosure or overlooking. Notwithstanding these conclusions, substantial vegetation is present between the site and Denne Court Farm, which provides some screening, although such vegetation cannot be relied upon in perpetuity and can therefore be given little weight.
- 2.38 Given the location of the site and the substantial separation distances to other properties, it is not considered that the living conditions of any other properties would be harmed by the development.
- 2.39 Each dwelling would be well sized, with windows providing natural light and ventilation to rooms and private gardens. It is considered that the living conditions of occupants of the dwellings would be acceptable

Impact on the Local Highway Network

- 2.40 The existing site is currently used as livery stables, which provides fields for grazing and exercise and a sand school. It is considered that the proposed development would be unlikely to significantly increase the number of vehicle movements to and from the site.
- 2.41 The proposal would reuse the existing vehicular access point onto Selson Lane. This access would be of sufficient width to allow two vehicles to pass each other, ensuring that vehicles do not need to wait on the highway, maintaining the free flow of traffic. Whilst boundary walls are proposed along the frontage, which is currently open, the location of the walls has been amended during the application to propose visibility splays of 33m by 2m by 33m, providing adequate visibility for vehicles exiting the site.
- 2.42 The development includes car parking for nine cars, although the central courtyard is of sufficient size for additional parking. Within this rural location Table 1.1 of the Core Strategy advises that the development should provide approximately 12 car parking spaces; however, it must be noted that this table is for guidance only, whilst Policy DM13 states that parking provision should be a design led process. Whilst the proposal falls below the provision suggested by Table 1.1, it is considered that minimal parking in this rural

location is the correct response, in order to limit the impact on the character of the development. Furthermore, the site includes areas where additional informal car parking could take place without being overly prominent.

- 2.43 Kent County Council Guidance SPG4, which is referenced within Policy DM13, recommends that dwellings provide one cycle parking space per bedroom. The development would provide 18 bedrooms in total and, as such, cycle parking for 18 cycles is required. The applicant has confirmed that he would be happy to accept a condition requiring the provision of 18 secure, covered cycle parking spaces, following the submission and approval of details.

Ecology

- 2.44 An ecological report has been submitted with the application, which assesses the likelihood of protected species or their habitats being impacted by the development and suggests possible ecological enhancements.
- 2.45 It is considered that the methodology and findings of the ecological report are acceptable. This report concludes that there are no signs of, or potential for amphibians, reptiles, Hazel Dormice or Badgers and negligible potential for bats. Whilst the site does have a high potential to provide habitat for breeding birds, the development can avoid any potential harm through the undertaking of works outside of the breeding bird season or the inspection of buildings and vegetation by a qualified ecologist at the time of the development. The development would not, therefore, cause any harm to habitats or species, subject to safeguarding conditions.
- 2.46 Should permission be granted, in accordance with paragraph 118 of the NPPF, ecological enhancements should be sought. In this instance, provision for bat roosting and sparrow 'terraces', as suggested within the ecological report, are considered to be appropriate and can be secured by condition, should permission be granted.

Contamination

- 2.47 The site is not listed as having a high potential for contamination, however, the submitted contaminated land assessment identifies that the site may include contaminants. A contaminated land report has been submitted by the applicant that assesses the likelihood of contamination being present on site and what impact it would have on future occupiers and the environment. The report identifies that the site has previously been used for agricultural purposes, whilst the construction of some of the existing buildings may include asbestos containing materials. Reference is also made to a tank being located on the site. Having regard for the findings of the report, whilst the likelihood of significant levels of contamination is relatively low, it would be proportionate to require that a scheme to deal with contamination of land and groundwater be submitted, following further site investigations, to eliminate any doubt of chronic exposure in relation to the permanent residential properties.
- 2.48 The site lies within Groundwater Source Protection Zone (GWPZ) 1, where potential sources of contamination to groundwater would have the most significant impact. Within this zone, certain types of development will not normally be permitted, including septic tanks, activities which involve the disposal of liquid waste to land and sustainable urban drainage systems,

unless adequate safeguards against possible contamination are provided. The Environment Agency raised concerns with the development, as originally submitted, due to the use of non-mains foul drainage, whilst insufficient information had been submitted to demonstrate that the risk of pollution to controlled waters would be acceptable. Subsequently, the applicant has submitted a Foul Drainage Assessment and a contaminated land report. The report recommends that the septic tank, originally proposed, be replaced by a package sewage treatment plant which subsequently pumps the effluent to a drainage field in GWPZ2. Following the amendment of the application to propose a package sewage treatment plant, the Environment Agency have withdrawn their objection, subject to conditions requiring: the submission of the details of further investigation and remediation of the site; additional identification and remediation should previously unidentified contamination be identified; the submission of details of any infiltration of surface water for approval; and the development being carried out in accordance with the submitted non-mains drainage details.

- 2.49 The environmental benefits of the development at the Hammill Brickworks site were an important factor in the approval of that application and it is appropriate to consider whether the current scheme would provide similar benefits. The south western portion of the Hammill Brickworks site was identified as having significant concentrations of contamination present, whilst fuel storage areas were also of concern. As such, it was established that the site posed a risk to human health and controlled waters. The site was included on a list of priority cases where contamination is an issue, being priority 218 on a list of 398 sites. Some leeching of contamination had been identified. Whilst the current application site also has some potential for contaminants, the risk is relatively low, as confirmed by the submitted contaminated land report. The development would not, therefore, produce benefits, in terms of remediation of contamination, comparable to the benefits provided by the development at Hammill Brickworks.

Other Matters

- 2.50 The Government have recently published a document titled 'Towards a one nation economy: A 10-point plan for boosting productivity in rural areas'. Whilst this document, which was produced by DEFRA, does not have any weight in decision making, it does indicate the Government's intention in relation to development in the rural area. Point 8 of the 10 point plan seeks to "increase the availability of housing in rural areas, allowing rural towns and villages to thrive, whilst protecting the Green Belt and countryside". As part of these plans, the Government intends to: allow any village the freedom to expand in an incremental way, subject to local agreement; make it easier for villages to establish neighbourhood plans and allocate land for new homes; and review the current threshold for agricultural buildings to convert to residential buildings. It is not considered that any of the proposed changes would provide any significant support for the current proposal and do not add to the case to case to grant permission.

Sustainability Overview

- 2.51 Sustainability is defined in the NPPF, at paragraph six as paragraphs 18 to 219 of the NPPF, taken as a whole. However, the assessment of sustainability can be separated into three dimensions: economic, social and environmental.

- 2.52 The provision of three holiday lets would provide a modest economic role to that part of the development; however, this must be balanced against the loss of the existing stables which also provide an economic role. Whilst the dwellings would not provide a substantive economic benefit in the long term, both elements of the proposal would provide a short term economic benefit during the construction phase.
- 2.53 With regards to the social role, the development would provide three additional dwellings which would contribute towards the Districts need for housing supply. However, this housing would be located where it would have poor accessibility to local facilities and services, contrary to the need to support the health, social and cultural well-being of communities.
- 2.54 Turning to the third role, the development would not support a pattern of development which supports sustainable modes of transport. This location would prioritise unsustainable modes of transport, increasing pollution, and reduce the likelihood of occupants utilising the facilities and services of nearby villages on a day to day basis.
- 2.55 Overall, whilst this is an arguable case which does provide some benefits, the adverse impacts of the development would significantly and demonstrably outweigh these benefits, having regard for the NPPF, read as a whole. In particular, it is considered that the development is contrary to NPPF paragraphs 29, which seeks to facilitate sustainable modes of transport, and 55, which seeks to direct housing in rural areas to locations at settlements and restricts isolated residential development in the countryside. The proposal is not, therefore, considered to constitute sustainable development. Furthermore, as the development is contrary to paragraphs 29 and 55 of the NPPF, which are particularly relevant to this case, the development is contrary to “specific policies” in the NPPF, which “indicate development should be restricted”.

Overall Conclusions

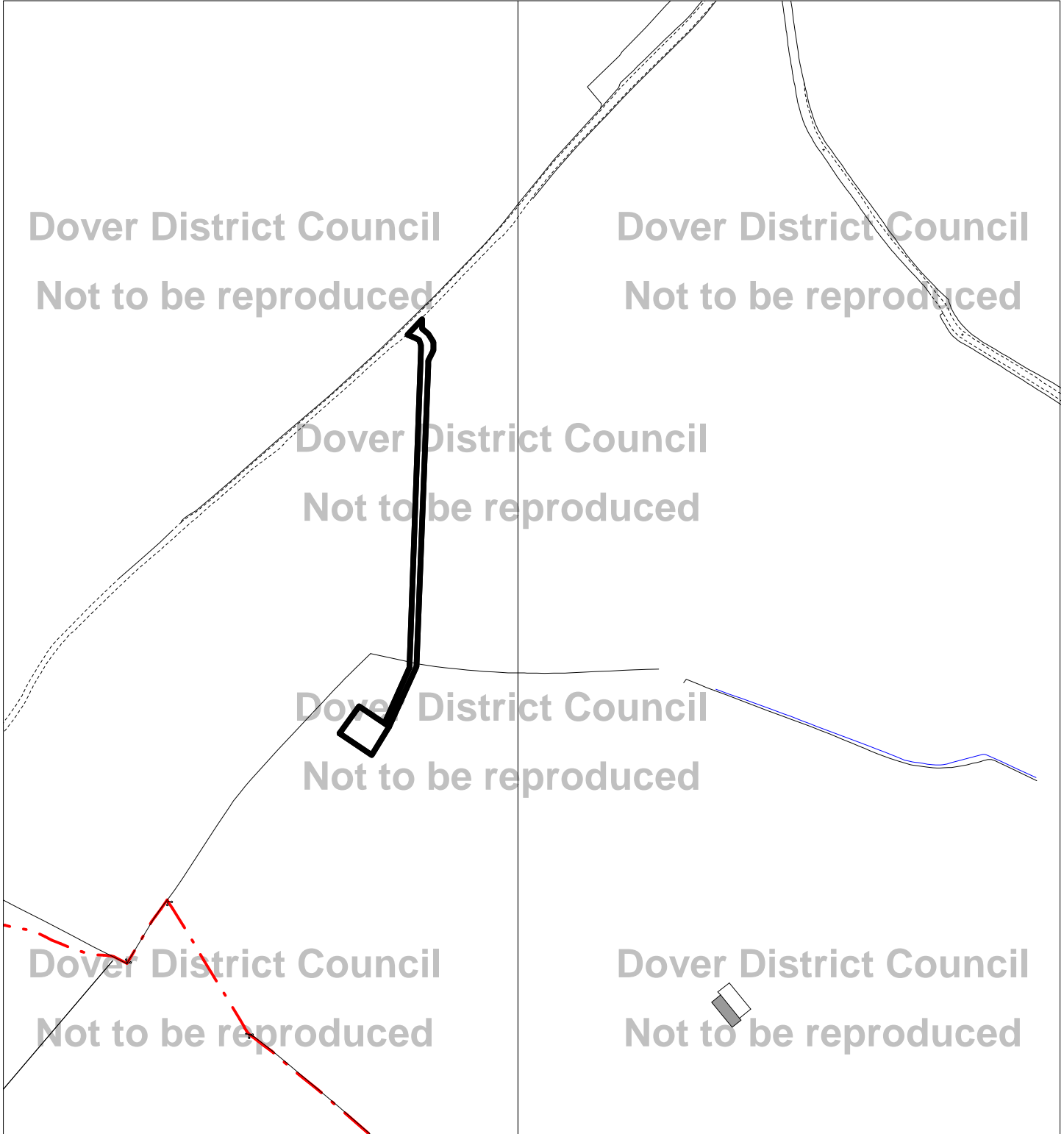
- 2.56 The principle of erecting three dwellings (identified on drawing number 21862A/103 as plots 1, 2 and 3), would be contrary to Core Strategy Policy DM1 and paragraphs 29 and 55 of the NPPF and does not constitute ‘sustainable development’. The principle of the holiday lets (identified on drawing number 21862A/103 as plots 4, 5 and 6) is acceptable, having regard for Policy DM3 and DM4 of the Core Strategy and the NPPF.
- 2.57 Whilst the development would provide some benefits, it is not considered that these benefits are sufficient to outweigh the substantial harm identified. It is therefore recommended that this application is refused permission.

g) Recommendation

- I PERMISSION BE REFUSED for the following reason:
- (i) The site lies outside of the settlement boundaries, in an isolated rural location, and, as such, the erection of three dwellings represents an unsustainable and inappropriate form of development within the countryside, contrary to Core Strategy Policies DM1 and DM11 and the objectives of paragraphs 29 and 55 of the National Planning Policy Framework.

Case Officer: Luke Blaskett

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Not to scale

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Application: DOV/13/01106

Old Engine Shed Field

Sutton Court Farm

Land between Pineham & East Langdon

TR31924649



- a) **DOV/13/01106 - Installation of ground-mounted photovoltaic solar arrays to generate electricity for export to the National Grid together with transformer stations; formation of new access; internal access track; landscaping; fencing; access gate and associated ancillary infrastructure – Old Engine Shed, Sutton Court Farm (Land between Pineham and East Langdon)**

Reason for report: Level of public interest.

- b) **Summary of Recommendation**

Planning Permission be Refused.

Procedural Matter

The application was originally submitted in December 2013 for an 11MW proposal on a site totalling 22.7 hectares. The land involved a mixture of Grade 2 and 3a quality agricultural land. Following concerns raised by officers in respect of loss of such land, and in the light of appeal decisions at the time, the applicants requested that the proposal was held in abeyance whilst further consideration was given towards a revised scheme. In February 2015 a revised proposal was submitted involving a reduced site area of approximately 10 hectares. However the information was not complete and additional information was not submitted until May 2015. At that stage, full publicity was given to the revised proposal.

Given that the application relates to a revised proposal rather than a fresh application, consultee comments in relation to both schemes are included in this report. However, members should be aware that comments will only be relevant in so far as they relate to the revised submission.

- c) **Planning Policy and Guidance**

Dover District Core Strategy (CS)

- Policy DM1 states that development will not be permitted outside the confines unless specifically justified by other plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- Policy DM15 states that development which would result in the loss of or adversely affect the character or appearance of the countryside will only be permitted if it is; i) in accordance with development plan documents; ii) justified by the needs of agriculture; iii) justified by the need to sustain a rural economy or community; iv) it cannot be accommodated elsewhere; and v) it does not result in the loss of ecological habitats. Measures should be incorporated to reduce as far as practicable any harmful effects on countryside character.
- Policy DM16 states that development which would harm the character of the landscape will only be permitted if, inter alia, it incorporates any necessary avoidance or mitigation measures and can be sited to avoid or reduce harm and /or incorporate design measures to mitigate the impacts to an acceptable level.

Dover Core Strategy Evidence Base

- Sustainable Construction and Renewable Energy. Evidence base for sustainable construction policies and testing of renewable energy capacity and feasibility of the Dover District Council Core Strategy 2006 – 2026.

National Planning Policy Framework

- Paragraph 17 sets out core planning principles including reference to encouraging the use of renewable resources.
- Paragraph 98. LPAs should not require applicants for renewable energy to demonstrate the overall need for renewable and carbon energy. Applications should be approved if impacts are (or can be made) acceptable.
- Paragraph 109. Planning system should contribute to and enhance the natural and local environment by, inter alia, protecting and enhancing valued landscapes.
- Paragraph 111. Encourages the effective use of land by reusing brownfield land provided it is not of high environmental quality
- Paragraph 112 indicates that significant development of agricultural land should be shown to be necessary and, where this is demonstrated, areas of poorer quality land should be used in preference to that of a higher quality.
- Paragraph 128-136. LPAs should assess significance of any heritage asset which may be affected by a proposal. Where proposal would lead to less than substantial harm, harm should be weighed against public benefits of proposal. The more important the asset the greater the weight should be.

National Planning Practice Guidance

Introduced on 6 March 2014. Provides guidance on a number of planning issues, including solar farms, under the heading of renewable and low carbon energy.

- Paragraph 001. Planning has important role to play in delivery of new renewable and low carbon energy infrastructure.
- Paragraph 003. The UK has legal commitments to cut greenhouse gases and meet increased energy demand from renewable sources.
- Paragraph 007. Need for renewable does not automatically override environmental protections. Local topography important factor in assessing impact of wind turbines. Impact can be as great in predominantly flat landscapes as hilly areas. Great care should be taken to conserve heritage assets in manner appropriate to their significance. Proposals in AONBs or areas close to them where there could be an adverse impact will need careful consideration.
- Paragraph 013. Focussing large scale solar farms on previously developed land and non agricultural land, provided it is not of high environmental value. Where a proposal involves greenfield land, whether the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land.

Other Government Policy Statements

- Renewable Energy Directive 2009 requires UK to provide 15% of energy consumption by renewable sources by 2020. By 2011 6.8% of electricity produced from renewable sources. UK Renewable Energy Strategy 2009 suggests UK has potential for renewables to provide over 30% of energy needs by 2020. Latest figures suggest 15% figure will be achieved but further targets will be required beyond 2020.
- Speech by Minister for Energy and Climate Change 25 April 2013 – emphasises that brownfield land should be preferred and where solar farms are not on brownfield land preference is for low grade agricultural land.
- Speech by Planning Minister 29 January 2014 – emphasises NPPF considerations and that where land is designated at a relatively high grade it should not be preferred for the siting of such developments.
- Speech by Minister for Energy and Climate Change 22 April 2014 – main message from UK Solar PV Strategy is that Government keen to focus on domestic and commercial roof space and on previously developed land.
- UK Solar PV Strategy Part 2 – April 2014. Confirms central role that solar PV can play in UK energy mix. Forward by Minister explains that UK has potential to install up to 20GW of solar early in the next decade. Report points out that solar PV enjoys the highest public approval rating of any energy technology, typically above 80%.
- Guide issued by Department of Energy & Climate Change May 2104, stresses the continuing importance of role the planning system has to play in delivering renewable energy and provides case studies of wind farms and solar farms.
- 28 October 2014 Department of Energy and Climate Change re-issued its Policy for increasing the use of low carbon technologies to ensure the country has a secure supply of energy to reduce greenhouse gas emissions.
- Written Statement made by Secretary of State for Communities and Local Government 25 March 2015. Emphasises need for supporting solar energy but recognised public concerns that insufficient weight had been given to benefit of high quality agricultural land. Reiterates previous advice that any proposal for a solar farm on best and most versatile land would need to be justified by the most compelling evidence

d) **Relevant Planning History**

Application no DOV/07/01148 submitted September 2007 for 5 wind turbines. Following a refusal of permission by the Council, a subsequent appeal was dismissed in March 2009, the Inspector finding that whilst he felt there was both a need and landscape capacity for renewable energy in this part of Kent, the scheme was unacceptable in policy, safety and environmental terms and did not represent a sensitive approach to renewable energy resources in this particular area of the countryside.

e) **Technical Responses – Original Scheme**

Environmental Health Officer – No observations

KCC Highways – No objection in principle but would need further details of HGV movements and tracking diagram to demonstrate HGVs could pass cars in the lane leading to the site.

Agricultural Advisor – Land lost to agriculture for a significant period and must be regarded as significant for purposes of NPPF. No information on why poorer quality land could not be used. Notes Ministers are focusing on low grade agricultural land for siting of solar farms. In response to further information by appellant, considers that main purpose of protecting resource is to permit productive, efficient and flexible agricultural use for food and or non-food crops.

Natural England – No comments regarding impact upon AONB but suggests views of Kent Downs Unit are sought. Likely to impact upon significant amount of Best and Most Versatile land but would be reversible and not long term.

Environment Agency – No objections and notes Flood Risk Assessment points out that any localised channelling of surface water will be treated on site during routine inspections.

Kent Police – Notes references to security but little information on how it would be designed out.

Kent Wildlife Trust – No comments.

KCC Footpaths – No objections but notes adjacent footpaths may be affected and would support screening to mitigate visual impact

Southern Water – The Council's Building Control officers should be consulted on adequacy of soakaways.

KCC Archaeology – Notes the heritage assessment points to potential of prehistoric and Roman-British remains. Recommends condition for programme of archaeological work

English Heritage – Notes no direct impacts upon designated assets but recommends assessment of archaeological potential and potential impact upon landscape character.

Ecology Officer – No ecological constraints on the proposed development but recommends ecological management plan. Accepts that there will be some degradation of local landscape character but impact will be limited. Given wider benefits of scheme, considers insufficient grounds to refuse on landscape grounds

Third Party Responses - Original Scheme

Objections – 75 individual representations and objections from Langdon Parish Council, the Langdon Action Group and the CPRE for reasons which may be summarised as follows:

- Loss of Best quality agricultural land
- Alternative brownfield sites available. Better locations elsewhere
- Negative visual impact on countryside
- Would ruin picturesque village of East Langdon
- Could not be screened successfully
- One of few unspoilt areas

- Adverse impact upon tourism
- Industrialisation of landscape
- Loss of heritage value of area
- Would detract from enjoyment of walkers
- Would make local roads dangerous
- Would swamp Pineham and East Langdon
- Loss of amenity to local residents
- Contrary to Solar Trade Association principles for siting
- Contrary to National Planning Guidance
- Benefits landowner only – not the local community

Support - 6 individual letters for reasons which may be summarised as follows:

- Nearest neighbour. No real harm and not displeasing to eye
- We should not shrink responsibilities for renewable energy
- Not very visible
- Need to reduce carbon dioxide emissions
- Need to achieve more sustainable supply of electricity
- Can be viewed as an environmental project

Guston and Whitfield Parish Councils have no objections but raise concerns relating to the road access and impact on the community of Pineham and residents of Archers Court road.

Technical Responses – Revised Scheme

Historic England – No further comments

KCC Highways – Additional information previously requested still to be submitted. Construction Management Plan will need amending to relate to reduced site.

Environment Agency – No objections.

Southern Water – No additional comments.

Natural England – Notes that amendments relate largely to size and unlikely to have significantly different impact than original proposal.

Environmental Health – No additional comments and notes a valid ICNIRP certificate has been submitted.

Agricultural Advisor – Notes that although size of site is reduced, remaining land is Grade 3a quality which still falls within 'Best and Most Versatile'. Considers policy position was strengthened with NPG against using BMV land for solar farms. Still no clear indication to find site on poorer quality land and several permissions granted recently on such land. Although 2 appeal decisions quoted granting permission on BMV land, particular considerations applied and cites reference to 4 further cases where permission was refused on such land.

Third Party Responses – Revised Scheme

Objections - 13 further individual objections received, as well as from Langdon Parish Council, East Langdon Action Group and CPRE for reasons which may be summarised as follows:

- Previous objections should be taken into account
- Loss of high quality agricultural land- needed for food production
- Reference to 'poorer quality agricultural land misleading
- Adverse effect on AONB
- Detrimental to landscape. Cannot be screened effectively
- Industrialises landscape
- Although smaller is no less acceptable
- Alternative brownfield sites available
- Previously described as quintessential countryside
- Will lead to expansion of same site
- White cliffs country side internationally appreciated
- Adverse impact on tourism
- Visible from public footpaths, including national walking trail
- Close to sensitive heritage sites
- Connection point is main locational factor
- No existing access – previous permission has expired
- Supportive of view of Council's agricultural advisor
- LVIA does not include views from Waldershare lane
- Government view is that if community say no, permission should be refused
- Adverse Impact on Conservation Area
- No evidence poorer quality land considered
- Planting of hedge would remove views of countryside
- No economic benefit to area
- No significant consultations carried out

Support – Revised Scheme

Templewell and Whitfield Parish Councils raise no objections.

Guston Parish Council supports the proposal.

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

1.1 The revised application site comprises 10 hectares of part of a larger open field located to the south east of Archers Court Road and to the east of the A256. It is situated on land rising from south east up to north west with a small valley running in a north east direction to the south east of the site. There is a mature tree and hedgerow forming the northern, north western and part of the south western boundaries. Access is currently from a field access from Waldershare lane to the north east. Beyond the south east boundary is a dilapidated building known as the 'engine shed' which was used at one time to power a cable car system transporting coal on an overhead pylon to Dover harbour. The nearest buildings are Little Pineham Farm 150 metres to the west of the site and Poison Wood 150 metres to the east. The village of East Langdon lies approximately 1.3 km to the east. The surrounding countryside is predominantly in arable use. A public

footpath connecting Pineham with East Langdon runs along the valley floor before climbing up to Waldershare Lane

- 1.2 The revised site removes approximately 12.7 hectares of land to the south east which was within the area of the originally submitted application. That land (approximately 36 hectares) would remain in arable use.
- 1.3 The proposal is to construct parallel rows of solar arrays which will be south facing and extend a maximum of 2.65 metres above ground level. It will provide up to 5MW of power for a period of 25 years after which time it would be demolished. A 1.8 metre deer fence would be proposed around the site but would not be lit. There would be 1 substation, 2no transformer stations and 3no Inverter Stations located along the north western boundary adjacent to the tree screen. Connection to the grid would be via pylons which cross the applicant's land. Existing planting would be reinforced with the introduction of new hedgerow planting along the south west and south east boundaries. In addition new hedgerows would be planted to the east of the site and along Waldershare Lane (beyond the site but within the applicant's control) to further mitigate impact. Grazing of sheep would be introduced between panels to continue agricultural use. In addition bio diversity measures would be introduced in the form of the planting of wildflower meadows, bat boxes, barn boxes and insect habitats.
- 1.4 Access is intended to be via a new access from Archers Court Road and then an access track running broadly south towards the northern part of the site. Permission for such works were granted in the form of 2 applications in October 2011 and July 2012 (application nos DOV/11/00742 & DOV/12/00381 refer) but were not implemented and subsequently lapsed. The applicant was therefore requested to formally include access details within the application description but has not responded at the time of report compilation.
- 1.5 The revised application was supported by a range of supporting documents including a planning statement, design & access statement, a landscape and visual impact assessment (LVIA) and a site selection assessment in connection with the original proposal. Officers have fully considered all the contents of the supporting studies where appropriate. For practical reasons, this report does not summarise all the topic areas covered, but concentrates on key issues relevant to the merits or otherwise of the application. For the avoidance of doubt where issues are not specifically referred to below, officers have accepted conclusions within studies. Copies of the studies are available for inspection by members if required.

2. **Main Issues**

- 2.1 The main issues in the consideration of this application are:
 - The principle of the solar farm use
 - Loss of agricultural land
 - The landscape and visual Impact
 - Impact upon heritage assets

- Ecological interests
- Transport Issues
- Other Matters

3. **Assessment**

Principle of the solar farm use

- 3.1 It is clear that the Government attaches great importance to the provision of renewable energy and as referred to earlier, the NPPF makes it clear that local planning authorities should not question the need for such provision. Good progress is being made towards meeting UK targets but the Government continues to stress the importance of solar provision in various Ministerial Statements. It is emphasised that local planning authorities have a key enabling role in this respect. Additionally the evidence base for the Core Strategy pointed to the relatively high levels of irradiation in the south east and the potential that Dover has to play in delivering such a form of renewable energy.
- 3.2 Balancing the above however, the Government recognises the potential concerns about inappropriate siting and in the Executive Summary to the UK solar PV Strategy issued in April 2014, referred to the public response to large scale solar farms which have sometimes been sited insensitively and has begun to erode the otherwise record levels of public acceptability which the solar sector as a whole enjoys. As referred to above, this concern was reiterated in March of this year. There have also been Ministerial announcements to focus the future growth of solar on domestic and commercial roof space and on previously developed land. Guidance on environmental considerations has also been re-emphasised with the publication of the NPG, with the following factors being particularly important:
- the need for renewable energy does not automatically override environmental protections;
 - great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of planning proposals on views important to their setting;
 - proposals in National Parks and AONBs and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration
 - Where a proposal involves greenfield land, whether the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land.
 - Protecting local amenity is an important consideration which should be given proper weight in planning decisions.
- 3.3 Having regard to the above, whilst the principle of solar energy is to be supported, it is clear from national policy guidance and more recent Ministerial statements, that selected sites need careful consideration and the principle should not override important considerations such as landscape, heritage, loss of agricultural land as well as other detailed considerations, all of which are considered below.

Loss of Agricultural Land

- 3.4 The nationally recognised Agricultural Land Classification system divides agricultural land into 5 categories to determine its suitability and longer term protection for agricultural use with Grades 1 – Grade 3a being regarded as ‘Best and Most Versatile’(BMV). The original scheme was made up of Grades 2a and 3a land whilst the revised scheme is wholly Grade 3a. Whilst the applicant argues that it is of lesser quality, as a matter of fact it remains BMV land.
- 3.5 The importance of BMV land according to Natural England Technical Information Note TIN049 is *‘the land which is most flexible, productive and efficient in response to inputs and which can best deliver future crops for food and non-food uses such as biomass, fibres and pharmaceuticals’*. It follows from the above that such land is best suited for the range of crops that can be grown, together with consistency and levels of yield.
- 3.6 The development of BMV land for solar purposes raises two main issues: Firstly, whether there is an actual loss, and secondly if it does amount to a loss, whether that is necessary in the light of the strong Government policy presumption against such a loss. The issues have produced a number of contrasting appeal decisions over the last few years.
- 3.7 With regard to the former, the applicant argues that any loss of agricultural land would only be temporary and support for that approach is gained from a recent appeal decision at Burthy Farm near Newquay dated September 2014 (ref 2212340) where the Inspector took the view that there would be no loss of permanent land given that it was only for 25 years. However, there are several appeal decisions which take a contrary view including Littles Farm in Kent dated June 2014 (ref 2212592), Church Farm Hacheston dated May 2014 (ref 2193911) which was a Secretary of State decision, Valley Farm, in Suffolk dated June 2014(ref 2204846) and our own Marshborough Farm dated July 2014 (ref 2203582). Those decisions all take the view that 25 years amounts to a generation and for the whole of that time, land would not be available for the most productive of agricultural uses and would not make the best agricultural use of the land. Officers agree with that view and consider its alternative use would amount to a ‘significant’ development of agricultural land which paragraph 112 of the NPPF presumes against.
- 3.8 The applicant also argues that agricultural use would continue, albeit in a different form, and gains support from an appeal decision at Lanyon Farm, Newquay dated August 2014 (ref2213745) where the Inspector gave some weight to a ‘vision document’ involving fruit vegetables and hens occupying space between arrays. Such an argument has validity where poorer quality agricultural land is involved, but whilst it would be difficult to guarantee that such uses would continue in any event through enforceability of any planning conditions, it does not overcome the fact that the alternative uses would not make best use of BMV land for agricultural purposes. This view was emphasised in the appeal decisions referred to above.

Additionally, in the case of the current appeal, the only agricultural alternative being put forward is for sheep grazing which similarly does not make best use of BMV land.

- 3.9 In the light of the above, and having regard to Government's strong and repeated advice to retain BMV land and to direct solar farms to brownfield land or poorer quality land first, officers consider that such a loss is unacceptable unless it can be shown that there is no reasonable alternative.
- 3.10 In that respect, the applicant submitted a detailed site selection assessment based on a preliminary desk based assessment, a review of brownfield and non-agricultural sites and a review of alternative greenfield sites. Criteria influencing site selection were identified such as the need for south facing sites, minimal environmental constraints, landscape and visual considerations and an available grid connection. In respect of the latter the applicant argues that due to viability constraints the search area was limited to 600 metre – 1.5km radius from the overhead power line. On the basis of the above, and taking into account all the criteria, the proposed site is considered favourable.
- 3.11 However, officers consider the assessment is flawed in a number of respects. For example, of the 9 alternative sites considered several are dismissed because of their relatively high landscape impact or impact on public rights of way; issues which could also be raised in connection with the application site as set out below. Furthermore, little weight is given to available brownfield sites such as the former Tilmanstone colliery which has already received a planning permission for a solar farm on part of the site and a screening opinion for a solar farm on an extension to that site. In respect of Snowdown colliery, officers have recently been in active discussions regarding a solar farm proposal and an application has recently been submitted. Additionally, permission has already been granted on several sites with lower quality agricultural land such as the revised scheme at Marshborough recently (DOV/15/00115), Guston (DOV/14/01133) and land at Richborough (DOV/13/794). There are also large urban sites such as land around the Richborough area and within the built up area of Dover, particularly on roofs of buildings, which all offer further scope for the use of solar. A good example of this is two recent permissions involving the use of large numbers of solar panels on the industrial premises of Stevens & Carlotti just south of Richborough.
- 3.12 From a policy point of view, there is nothing in national policy that suggests protection of BMV land carries less weight simply because an area has a high proportion of such land as is the case in Dover District. In that regard it is a national asset. Even if there was, given the above considerations, there are clearly other sites throughout the district on poorer quality land which could be considered in preference to the application site. Whilst those may not be within the applicant's control or in close proximity to an overhead line within reasonable reach of his land, such factors are not considered to be sufficient reasons to give preference instead to the loss of BMV land. In that respect there is no minimum or target number of schemes to be

delivered in a district or county set out in policy or otherwise, notwithstanding the general high level of renewable energy targets.

- 3.13 In the light of the above, officers conclude that the proposal would result in a significant loss of BMV land and that a case has not been made to demonstrate that there are no suitable alternatives on poorer quality or brownfield land.

Landscape and Visual Impact

- 3.14 A landscape and visual impact assessment (LVIA) has been submitted in support of the proposal and has since been amended to include consideration of views from Waldershare Lane. Officers are in agreement with the various views selected but do not share all of the conclusions reached.
- 3.15 In general terms, the site is reasonably well contained within the wider landscape because of the surrounding undulating topography. From the north for example, from Archers Court Road it would be totally screened from view and the same would be true on the roads from Pineham to Guston and from Guston to East Langdon. Similarly, from East Langdon itself the solar farm would not be visible. From within the settlements of Great and Little Pineham Farms, there would be filtered views only because of intervening tree and hedgerows. To the west of the site is the North Downs Way running in a north south direction. However, either side of the route is a strong tree and hedgerow with the land rising slightly to the site itself. Views would be limited to occasional glimpses only.
- 3.16 From Waldershare Lane to the north east of the site, the solar farm would be mostly screened because of the topography. However for a distance of about 200 metres the site would be clearly visible travelling north west just after the access to Enifer Down. From that direction there would be clear views on the south facing hillside where the solar farm would be at odds in a context of a surrounding open arable landscape on either side as well as in the foreground. In order to reduce impact, mitigation screening is proposed along the south eastern boundary and also the boundary with Waldershare Lane.
- 3.17 In addition to the above, public footpath EE45 crosses an open landscape to the east of Great Pineham Farm before it climbs up towards Enifer Down. From that direction the site would also be clearly visible, as well as across an open field to the south east of the access to Enifer Down and before Waldershare Lane.
- 3.18 The applicant considers that the solar farm from the above directions would appear as limited horizontal slivers of development which would be significantly less in height than surrounding vegetation. Furthermore in time it would be mitigated by proposed vegetation. Whilst the latter may be true in the longer term, it would take a significant time to mature and in the interim the site would be clearly visible. In addition, officers consider that the impact is somewhat underplayed by the applicant and that the solar farm would not satisfactorily integrate into the wider landscape to the south east of the site where there is currently no field boundary. In reaching that

finding, officers acknowledge that the impact would be confined to the above vantage points. However, notwithstanding that, there would be some adverse visual harm arising and therefore some conflict with Policy DM15 of the Core Strategy as a result.

Impact upon Heritage Assets

- 3.19 No known heritage assets lie within the development site itself. From an archaeological perspective there are ring ditches to be found in the wider area and a Roman Road to the west which is now the route of the North Downs Way. Although there is potential for archaeological remains, it is unlikely and had permission been recommended, officers consider that such matters could have been dealt with by condition. With regard to other heritage assets, Langdon Abbey is a Grade II* listed building a short distance to the north and there is a scheduled ancient monument also lying to the north. Additionally there are listed buildings within East Langdon and a Conservation Area within the heart of the village itself.
- 3.20 Because of the topography and vegetation, the supporting assessment concludes that there would be little or no adverse impact because of almost complete lack of intervisibility. The site itself does not contribute to the setting of the assets as a result. Officers concur with the assessment and are satisfied that the settings of the surrounding ancient monuments, listed buildings and Conservation Area will all be preserved in accordance with the statutory tests.

Ecological Issues

- 3.21 An ecological scoping survey was submitted with the initial application to assess the significance of the site for protected species. No impact was identified on the nearby Eastling Wood local wildlife site or Poison Wood ancient woodland. No evidence was found in the form of amphibians or reptiles. It is acknowledged that the site margins provides habitats for supporting birds and bats, but 6 metre buffer strips to the edges are considered sufficient to provide for mitigation. A series of badger setts were identified and further survey work recommended. In overall terms the survey work recommended the development of a nature conservation site enhancement and management plan in order to positively protect and enhance the various habitat issues identified.
- 3.22 Officers accept the above conclusions and consider that ecological matters could have been dealt with through the imposition of suitable conditions had the proposal been acceptable in principle.

Highway Issues

- 3.23 Although no clear access exists on to Archers Court Road at present, two permissions were granted for a farm access and track in 2011 and 2012 as referred to above. The track would be constructed using concrete railway sleepers laid out in a herringbone arrangement. The intention was that these would be for use by heavy agricultural machinery in connection with harvesting of nearby fields. The original submission intended to make use of the access arrangements granted

by the permissions and also indicated that adequate visibility could be provided in both directions, together with tracking diagrams indicating that HGV vehicles could pass cars safely in the passing places along the road. A Construction Management Plan (CMP) was also submitted indicating details of likely numbers of HGV vehicles together with routing arrangements. Given that historical situation, KCC Highways raised no objections in principle subject to clarification on HGV movements.

- 3.24 As referred to earlier, both permissions have since lapsed and although the previous access point and track remain within the application site boundary, the access itself has not been formally included within the description of the application despite the applicant being requested to do so. Clarification has also been received to confirm that the previously proposed details will continue to apply and that the CMP would be amended to respond to the smaller revised site. At the time of report compilation clarification on the access has not been received and members will be updated further at the meeting. Assuming clarification is received, and in view of KCC Highways advice, officers raise no objections to the proposed access arrangements, details of which could have been controlled through suitable conditions had the proposal been supportable in principle.

Other Matters

- 3.25 A flood risk assessment demonstrated a low risk of flooding with surface water run off being improved through soil improvement and biodiversity proposals.
- 3.26 A waste audit proposal submitted with the application provided adequate details to demonstrate how reduction, re-use and recycling of waste generated by the proposal could be dealt with.
- 3.27 With regard to glint and glare, the applicant points out that most light is absorbed to the PC cell, with reflective light calculated as being as little as 2%. It is therefore likely to be less than from other surfaces and is not considered to be a significant issue.

Balancing of Issues and Conclusion

- 3.28 The proposal would provide 5MW of electricity from a renewable resource which would be a modest but nonetheless valuable contribution to meeting national targets for renewable energy and make a contribution towards the challenges of climate change. No objections are raised in respect of heritage or ecological matters and subject to clarification on means of access, no objections are raised from a highways point of view.
- 3.29 However, against the proposal is the harm identified in terms of a significant loss of BMV agricultural land and officers are not satisfied that there is no alternative to a countryside location using such land. On the contrary there are several examples where other sites on lesser quality land have come forward as alternatives, have been granted permission or have been identified as possibilities.

- 3.30 In addition to the above, there would be an adverse visual impact albeit that this would be limited to views from short sections of Waldershare Lane and from the public footpath. In isolation, if that was the only harm arising, officers consider that a case could be made for the wider benefits of renewable energy to override such limited harm. However, in conjunction with the loss of BMV land it is another factor which weighs against the proposal.
- 3.31 Taking all the above into account, officers remain concerned that the loss of BMV agricultural land remains significant and would be directly in conflict with policy objectives in the NPPF and the National Planning Practice Guidance and recent appeal decisions elsewhere, including within Dover District at the original Marshborough Farm case (prior to it being revised on non BMV land). In that particular case members will recall that they refused permission on the basis of loss of BMV land which was subsequently supported at appeal. Officers are also mindful of the need for consistency in decision making in the light of those recent appeal decisions on this issue, and members will recall that planning permission was refused in September 2014 for a solar farm at Guston where loss of BMV land was the sole issue (App no DOV/14/00153 refers). In this instance there is also the additional limited harm caused through landscape impact. Accordingly, for these reasons, refusal of planning permission is recommended.

g) **Recommendation**

I PERMISSION BE REFUSED for the following reasons:

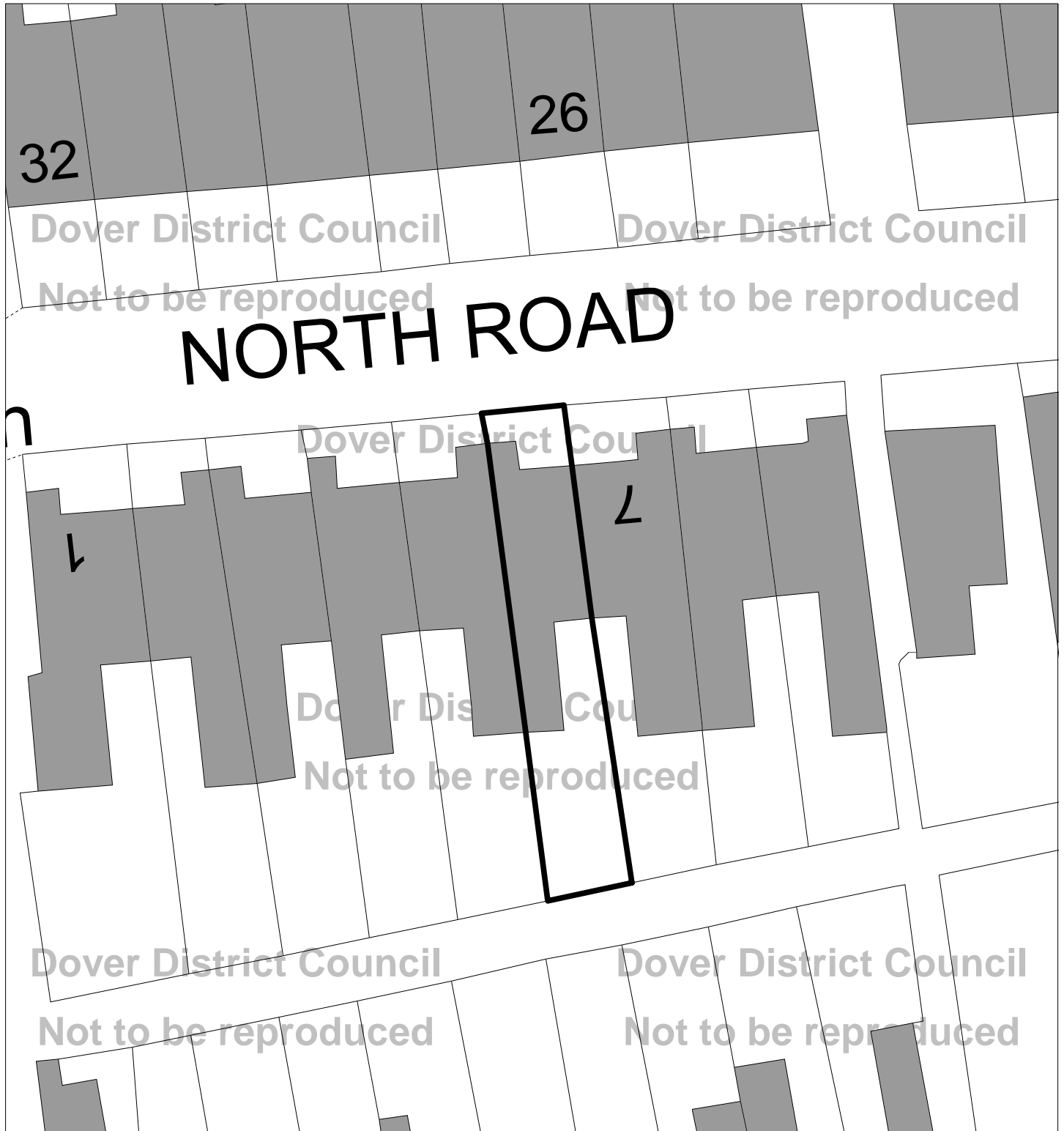
1. The proposed solar farm would result in the loss of a significant area of Best and Most Versatile Agricultural Land and in the opinion of the local planning authority it has not been demonstrated that development of the agricultural land is necessary or that no suitable previously developed sites or sites of lower agricultural land are available. The proposal would therefore be contrary to paragraph 013 (renewable and low carbon energy) of the National Planning Practice Guidance and paragraph 112 of the National Planning Policy Framework.

2. The proposed solar farm, by reason of its scale, prominence and urbanising impact, which could not be negated from localised views, would appear as an incongruous and alien feature in the open countryside which would cause harm to its character and appearance contrary to Policy DM15 of the Dover District Core Strategy, the National Planning Policy Framework which recognises the intrinsic character and beauty of the countryside, and the National Practice Guidance which seeks to avoid the negative impact of solar farms in undulating landscapes.

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

Kim Bennett



Not to scale

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Application: DOV/15/00602

6 North Road

Kingsdown

Deal

CT14 8AG

3795:4851



a) **DOV/15/00602 – Erection of rear dormer roof extension – 6 North Road, Kingsdown**

b) **Summary of Recommendation**

Planning permission be granted.

c) **Planning Policy and Guidance**

Dover District Core Strategy 2010

Policy DM1 seeks to encourage development to be carried out within the urban confines to make best use of urban land.

National Planning Policy Framework (NPPF)

Core Principle Paragraph 17 seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Paragraph 56 onwards refers to the value of achieving design quality, visually attractive developments as a result of good architecture.

Paragraph 126 relates to Heritage Assets and Conservation Areas. It promotes the desirability of new development in making a positive contribution to local character and distinctiveness.

Planning (Listed Buildings and Conservation Area) Act 1990

Section 72(1) states, in respect to development in the Conservation Area, that special attention shall be paid to the desirability of preserving or enhancing the character of that area.

Kingsdown Conservation Area Appraisal

A draft document has been prepared by Kingsdown Conservation Group in liaison with Dover District Council, and has been consulted on. The results of the public consultation and the amendments to the Kingsdown Conservation Area Appraisal are due to be considered by Cabinet on 5th October 2015. If the amendments to the Appraisal are agreed, the Appraisal would be recognized as a material consideration in making planning decisions that affect the Conservation Area. Until such times as the document is agreed it carries limited weight as a material consideration.

The Appraisal identifies the special characteristics of the Conservation Area. Relating to North Road it highlights the uniformity of the North and South Road terraces.

The Appraisal also recommends that an Article 4 direction be made for the Conservation Area, applying to certain specified development on any elevation fronting a highway, waterway or open space.

d) **Relevant Planning History**

DOV/12/178 – Erection of rear dormer roof extension. Approved

DOV/15/349 – Erection of rear dormer roof extension (including installation of rooflight). Refused

DOV/15/601 – Certificate of Lawful (Proposed) Development for installation of front rooflight and replacement windows and doors. Approved

e) **Consultee and Third Party Responses**

Kingsdown Parish Council

Kingsdown Parish Council objects on the grounds that the dormer would harm the overall character and appearance of the unspoilt row of houses, and the wider area.

Public Representations

17 letters have been received, objecting on the following material grounds:

- The dormer is too large and unsuitable for the Conservation Area.
- The roof of the terrace is currently unspoilt. It has a strong uniformity that remains substantially unaltered.
- The dormer would materially change the uniformity of the row of cottages.
- Loss of light to properties either side of number 6.
- Overlooking of South Road properties.

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

1.1 The property is a mid-terrace, two storey cottage, within the Village Confines and a Conservation Area. The properties have a simple, traditional design with sash windows, some of which have been replaced with uPVC.

1.2 To the rear of the property is a narrow overgrown alleyway that would not be considered a 'highway' in planning terms. The alleyway behind the Rising Sun public house is publicly accessible and does provide a view of the rear elevation of the application property. Also, through-views of the property are possible from the relatively open space that is present where Wellington Parade meets South Road. The terrace is also visible from Cliffe Road as it rises towards Kingsdown.

1.3 The roofline of the terrace within which the application property sits appears attractive, unspoilt and understated in appearance and character. Situated east of the terrace is a large dormer roof extension on one of the cottages, which might have been there some years, and may have been Permitted Development. Other than this, the south facing roof slopes of the properties on the south side of North Road remain, on the whole, unaltered.

1.4 The application seeks permission for the erection of a rear dormer roof extension, with flat roof, serving a loft bedroom. As originally submitted, the dormer measured 2.1m wide x 3.3m deep x 2.2m high, with a centrally positioned three pane window. A series of amended plans have subsequently been received reducing the size of the dormer, firstly to 1.8m wide x 2.5m deep x 1.6m high, then to 1.5m wide x 2.5m deep x

1.6m high, and finally to 1.2m wide x 2.3m deep x 1.5m high, with a centrally positioned 2 pane window.

1.5 It is this final submission of plans, received 3 September 2015 that is now to be assessed and form the subject of this report.

1.6 The dormer has a white-painted timber casement window, a lead flat roof, and natural slate cheeks.

2. **Main Issues**

2.1 The main issues in the assessment of the application are considered to be:

- The visual impact of the rear dormer roof extension on the character and appearance of the dwelling, the public realm, and the special character of the Conservation Area in which the property is situated, and;
- Potential overlooking and loss of light to neighbouring properties.

3. **Assessment**

Visual Amenity

3.1 At 1.2m wide, the dormer sits relatively unobtrusively within the 4.4m wide roofslope of the host dwelling, which itself is part of a terrace some 40m long. It is noted that the dormer would form the only protrusion from the rear roofslope of this terrace. Nonetheless, it is considered that the modest scale of the dormer would not create an obtrusive feature, and that a single dormer of these dimensions would not necessarily harm the appearance of the terrace. The traditional, natural materials to be used are suitable for their Conservation Area setting, and the simple design creates a form of development consistent with the simple form and character of the host building. It is considered that a dormer of this scale and design would not harm the character and appearance of the host building, and would preserve the character of the Conservation Area.

3.2 The dormer is the same dimensions as the dormer approved under planning application reference DOV/12/00178; this permission having expired April 2015.

Residential Amenity

3.3 The dormer window will face directly over its own rear garden. Oblique views of neighbouring gardens would be possible, as with the existing rear facing windows and doors. However, this is not considered to be unacceptable overlooking. The dormer window is set back into the roof slope, making it further away from the South Road properties than the existing 1st floor windows along the whole rear elevation of North Road. A distance of over 10m separates the dormer window from the rear boundary of the application property, and a distance of over 20m separates the dormer window from the opposite facing rear windows of the South Road properties. These distances are considered

sufficient to prevent unacceptable degrees of overlooking from the dormer window.

- 3.4 The adjoining properties on either side of number 6 would not suffer any loss of light as a result of this small addition to the roof. It is up higher than any neighbouring windows so would not affect light into any rooms.

Conclusion

- 3.5 It is noted that there is a strong force of public appreciation for the very special character of the North and South Road area, characterised by rows of simple fishermen's cottages. The concerns of the Parish Council and public representations have been taken into account. Amended plans have now been received which substantially reduce the size of the dormer, and replicate the development previously approved under DOV/12/178. It is considered that the amended plans received 3 September 2015 address the issue of visual harm, resulting in an acceptable form of development, that accords with the policies and material considerations set out in this report.

g) Recommendation

- I PERMISSION BE GRANTED with the following conditions: i) Timescale of commencement of development, ii) A list of the approved plans (which includes material details).
- II Powers to 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
Maxine Hall