

# Public Document Pack



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5 December 2016

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 15 December 2016 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](mailto:kate.batty-smith@dover.gov.uk).

Yours sincerely

A handwritten signature in black ink, appearing to be "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  
T J Bartlett  
T A Bond  
D G Cronk  
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**

To confirm the Minutes of the meeting of the Committee held on 24 November 2016 (to follow).

5 **ITEMS DEFERRED** (Page 5)

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

**ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING**  
(Pages 6-9)

6 **APPLICATION NO DOV/16/00594 - 180 LONDON ROAD, DEAL** (Pages 10-18)

**Erection of a pair of semi-detached dwellings and one detached dwelling and creation of associated vehicular accesses and parking (existing dwelling to be demolished)**

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

7 **APPLICATION NO DOV/16/01024 - DIAL HOUSE, 23 ST MARGARET'S ROAD, ST MARGARET'S BAY** (Pages 19-28)

**Erection of two detached dwellings and creation of access (existing dwelling to be demolished)**

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

8 **APPLICATION NO DOV/16/00442 - THE THREE TUNS, THE STREET, STAPLE**  
(Pages 29-40)

**Erection of eight dwellings, change of use and conversion of the existing public house into a single residential dwelling, creation of vehicular access, parking area and associated works**

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

9 **APPLICATION NO DOV/16/00136 - LAND ON SOUTH SIDE, SINGLEEDGE LANE, WHITFIELD** (Pages 41-57)

**Erection of 133 dwellings including 40 affordable homes, new vehicular access, internal access roads, car parking, landscaping, provision of open space (4.17ha) and a locally-equipped children's play area (LEAP) (amended details and description)**

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

10 **APPLICATION NO DOV/16/00103 - 46 WEST STREET, DEAL** (Pages 58-69)

**Erection of seventeen one and two-bedroom apartments and maisonettes at former MOT site, 46 West Street, Deal**

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

**ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING**

11 **APPEALS AND INFORMAL HEARINGS**

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

12 **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](http://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](mailto: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.

DOVER DISTRICT COUNCIL

REPORT OF THE HEAD OF REGENERATION AND DEVELOPMENT

PLANNING COMMITTEE – 15 DECEMBER 2016

**CONSIDERATION OF THE FOLLOWING ITEMS HAS BEEN DEFERRED AT PREVIOUS MEETINGS**

Members of the Planning Committee are asked to note that the following application(s) 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/16/00594**      **Erection of a pair of semi-detached dwellings and one detached dwelling and creation of associated vehicular accesses and parking (existing dwelling to be demolished) – 180 London Road, Deal (Agenda item 9 of 24 November 2016)**
  
2. **DOV/16/00442**      **Erection of nine dwellings, change of use and conversion of the existing public house into a single residential dwelling, creation of vehicular access, parking area and associated works - The Three Tuns, The Street, Staple (Agenda item 8 of 22 September 2016)**

*These applications are dealt with elsewhere on the agenda*

3. **DOV/16/00576**      **Outline application for the erection of two detached dwellings, alterations to the existing access and car parking – Land adjacent and fronting Roseacre, East Langdon Road, Martin (Agenda Item 13 of 21 July 2016)**

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, Support Team Supervisor, 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 Support Team Supervisor (Tel: 01304 872468).

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

Unless otherwise stated, the background papers will be 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 Alice Fey, Planning Support Team Supervisor, Planning Department, Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ (Tel: 01304 872468).

## **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 features of special architectural or historical interest 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:

Dover District Core Strategy 2010  
Dover District Land Allocations Local Plan 2015  
Dover District Local Plan 2002 (saved policies)  
Worth Neighbourhood Development Plan (2015)  
Kent Minerals and Waste Local Plan 2016

## 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

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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.



- a) **DOV/16/00594 - Erection of a pair of semi-detached dwellings and one detached dwelling and creation of associated vehicular accesses and parking (existing dwelling to be demolished) - Land rear of 180 London Road, Deal**

**Reason for Report**

Deferred (24/11/16 Committee Meeting) for Members' site visit.

- b) **Summary of Recommendation**

Planning Permission be granted

- c) **Planning Policies and Guidance**

**Dover District Core Strategy (CS)**

Policy CP1 advises on the hierarchy of settlements throughout the Dover District and states that Deal is a District Centre, secondary focus for development in the District, suitable for urban scale development.

Policy DM13 states that provision for parking should be a design-led approach based upon the characteristics of the area, the nature of the development and design objectives.

**National Planning Policy Framework (NPPF)**

- The NPPF has 12 core principles which amongst other things always seek to secure high quality design and a good standard of amenity for all existing and future occupants.
- Paragraph 7 of the Framework sets out that there are three dimensions to sustainable development: economic, social and environmental, and that these roles are mutually dependent and should be jointly sought to achieve sustainable development.
- Paragraph 14 of the Framework requires that where the development plan is silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole.

**The Kent Design Guide**

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

- d) **Relevant Planning History**

No relevant history.

- e) **Consultee and Third Party Responses**

KCC Highway Services – Raise no objections to the scheme

Principal Ecologist – Extended Phase 1 Ecological Habitat Survey Report does not reveal any ecological restraints to development at 180 London Road

Deal Town Council – Object for the following reasons; Over intensification of site, character is out of keeping with local area, very limited access and highway concerns

Third Party representations:

10 letters of objection have been received and the comments are summarised as follows;

#### **Relevant planning matters**

- Overlooking from upper level window into rear gardens/ properties on Church Path resulting in loss of privacy
- Views of the site are gained from adjoining properties (on Church Path) contrary to the statement made by the applicant,
- Proposed landscaping details refer to Leylandii being proposed, (amended plans have been received to remove Leylandii from the planting species)
- Introduction of additional vehicular accesses on the main road and at the point where build out/road width restriction raising highway safety concerns due to the business of London Road,
- Proposed appearance not in keeping,
- Over-development,
- Overshadowing/ loss of light,
- Proposed driveway to Plot 3, due to its width, appears to be an access road to a larger area of land
- Proposed waste storage and collection areas are not defined on submitted plans,
- Development should be restricted to 2 dwellings within the existing curtilage of the bungalow (No. 180),

#### **Other concerns raised**

- The ownership of land to the rear was not within the applicant's control. This has been investigated to the Officer's satisfaction.
- Clearing of the land to the rear which was heavily vegetated (akin to woodland) prior to submission of a planning application

One letter of support has been received from 170 London Road (the neighbouring property to the east) and the comments are summarised as follows;

- No objection in principle, but concern raised if the proposed driveway adjacent to the property could give rise to any further development of the allotments.

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

- 1.1 The application site consists of 180 London Road, a large detached bungalow and its rear garden together with a separate parcel of land, beyond the rear garden, to the north.
- 1.2 The existing bungalow, No. 180 London Road, has an attached garage to the west with a single point of access to London Road. The rear garden to No. 180 is laid to lawn but overgrown; beyond the garden the remainder of the development site is more unkempt and overgrown. The boundary treatment between the rear garden and separate parcel of land has been removed, so the site appears as one parcel of land.

The existing boundaries to the east and west comprise close boarded fencing with mature shrubs. A hedgerow provides the boundary to the road. To the east of the land to the rear lies allotments, a public right of way to the north and a residential garden to the west.

- 1.3 Although the land to the rear of the existing property was cleared prior to the submission of the application, the age of the bungalow, and given that Russian Vine has since proliferated (together with tall ruderals, such as Thistle) following the clearance, the application has been accompanied by an Extended Phase 1 Ecology Survey Report.
- 1.4 Full planning permission is being sought for the erection of a pair of semi-detached two storey dwellings fronting London Road (Plots 1 & 2) and one detached chalet-style dwelling to the rear (Plots 3). An individual access/parking area for each of the semi-detached units, and a separate access to the detached dwelling would be provided as part of the scheme.
- 1.5 Plots 1 and 2 would front London Road, would each be 7.2 metres wide and 14.2 metres deep with a ridge height of 9.3 metres. Three bedrooms would be provided at first floor level, and a fourth bedroom and ensuite on the second floor, with rooflights to the front and rear. The existing access to No.180 would be blocked up and a new shared access providing each dwelling with two off-street car parking spaces. Plot 3 would be at the rear of no. 180. It comprises a chalet bungalow design incorporating first floor accommodation. The dwelling would have a total of 3 bedrooms with the potential fourth bedroom at ground floor. The maximum footprint would be 10.3 metres x 11 metres, with a ridge height of 6.7 metres. Two car parking spaces would be provided and a dedicated turning area.
- 1.6 Plans will be on display.

## 2. **Main Issues**

The main issues in the consideration of this application are;

- The principle,
- Impact on the character of the area
- Impact on residential amenities; and
- Highway safety

## 3. **Assessment**

### Principle

- 3.1 The NPPF states that housing supply should be significantly boosted and housing should be located where it will enhance or maintain the vitality of communities, to promote sustainable development. The presumption of the NPPF is to build on previously-developed land, which excludes garden land.
- 3.2 However, given that the site is situated within the urban confines, the principle of residential development in this location accords with CS Policies CP1 and DM1. Consideration of the acceptability of the proposed development rests on the satisfaction of site specific elements, including whether the buildings are acceptable in terms of their visual impact on the surrounding area, highways implications and any impact on surrounding occupants.

### The character and appearance of the area

- 3.3 The A258, London Road is a busy traffic corridor providing a link between Sandwich, Deal and Dover. This is predominantly a residential road, with varied sizes and designs of dwellings. On the northern side of the road it is characterised by a mix of two storey semi detached dwellings and detached chalet bungalows fronting London Road and, on the southern side of the road, opposite the application site, the properties front Manor Avenue, and close boarded fencing proliferates. There are no parking restrictions on this part of London Road. Beyond the site and the public right of way, to the north, lie existing terraced residential properties which front Church Path.
- 3.4 Page 45 of the Kent Design Guide requires that to ensure a well integrated design, the established character of an area must be understood and respected and the layout and appearance of buildings should be based on an appraisal of the character of the site and the adjoining land and buildings.
- 3.5 The proposal involves the creation of a detached dwelling at the rear of no. 180. There appears to be no other examples of this form of development within the immediate vicinity of the site. It must therefore be considered whether the development proposed is acceptable in terms of its impact upon the character and appearance of the area. This section considers the dwelling to the rear and then assesses the pair of semi-detached dwellings fronting London Road.

#### *Plot 3 (chalet-style detached dwelling)*

- 3.6 The area is residential and while the density of housing would increase, this would not be especially apparent from the street. At present there are some glimpses from between dwellings in London Road to the gardens beyond but the views are mostly screened by vegetation and outbuildings. Only glimpses of the new dwelling, Plot no. 3, albeit over a significant distance, would be visible from London Road.
- 3.7 Due to the size of the application site, with only one dwelling proposed to the rear with sufficient separation distance to existing residential properties (see section on residential amenity), and the design and scale of the dwelling, the development would not be unacceptably intrusive. The proposed dwelling would not be harmful to the established residential character and overall would have little impact on the character of the area.

#### *Plots 1 and 2 (fronting London Road)*

- 3.8 The existing property is a single storey bungalow with attached garage, which fills the width of the site. The proposed development replaces the existing bungalow with a pair of two-storey semi-detached dwellings. The plans indicate two 3 metre wide accesses to the semi-detached dwellings (appearing as one wide access) together with a 3 metre wide access drive to Plot 3. Ample space around these access points would enable detailed soft and hard landscaping to be provided and secured via condition.
- 3.9 In terms of the impact on the appearance of the area the proposal will require the removal of the existing front boundary hedge to no. 180. It is acknowledged that this will change the character of the streetscene by opening up views of the proposed two-storey dwellings (Plots 1 and 2) and the proposed access to Plot 3, however there is no reason to conclude that this would be harmful. There are other dwellings along this stretch of London Road which also have low boundary walls and clear

open views of the dwellings beyond. It is concluded that the development should integrate into the existing built environment, and as such would not harm the visual quality of the area.

#### Impact on residential amenity

##### *Plots 1 and 2 (fronting London Road)*

- 3.10 There is only one upper level window proposed in the side elevation to Plot 2, to serve the stairway, and it is therefore not considered that any overlooking/interlooking could occur from Plot 2 to the east, No. 170.
- 3.11 No. 182, located to the west of the existing property, has a single storey attached garage fronting London Road, however the access point to Plot 1 will be some 5.5 metres from the common boundary, and located further east than the existing access point to no. 180. There is only one upper level window proposed in the side (west) elevation to Plot 1, to serve the stairway, and it is therefore not considered that any overlooking/interlooking could occur.
- 3.12 Details of overshadowing have been requested during the course of the application: Whilst there may be some loss of light to the rear gardens of no. 170 (to the east) and no. 182 (to the west) resulting from the erection of Plots 1 and 2, this is limited to the winter months, and would not have an unacceptable impact on residential amenity.

##### *Plot 3 (chalet-style dwelling to rear and associated access road)*

#### Impact on no. 170

- 3.13 The siting of the new access road to serve Plot 3 (to the rear) raises concerns regarding the impact of its use by cars and the creation of noise and disturbance on the existing adjacent dwellings, and no. 170, to the east, in particular.
- 3.14 There is a separation distance of 3.5 metres from access road to the side elevation of no. 170. This access road is for the exclusive use of Plot 3, and as a result the vehicular activity and disturbance will be limited to the future occupants, their deliveries and visitors. The possibility for any future intensification of use can be restricted via condition.
- 3.15 The rear boundary of no. 170 is approximately 17 metres at an oblique angle from Plot 3, with the existing dwelling being approximately 34 metres to the south. It is not considered that there is the potential for overlooking from the proposed chalet-style bungalow.
- 3.16 Details of overshadowing have been provided, however there is no impact from Plot 3 on no. 170 to the south east.

#### Impact on no. 182

- 3.17 The siting of the proposed access road to Plot 3 is approximately 17 metres to the east of no. 182 and it is not considered to impact on their residential amenity.
- 3.18 The windows at first floor level on Plot 3 face the front garden and access road (South East) with three dormers facing the main (side) garden (South West). There is the potential for oblique views into the rear garden of no. 182, which at the nearest

point from the dormer window is approx. 6 metres from the rear boundary of no. 182 and approximately 28 metres from the rear wall of no. 182. The main outlook from the chalet-style dwelling is not to the south west but to the south east: Due to the nature of the boundary screening (close boarded fencing and vegetation) and given that there is some distance to the land to the immediate rear of no. 182 it is not considered that any overlooking which may occur would be harmful.

- 3.19 Details of overshadowing have been provided, however there is no impact from Plot 3 on no. 182 to the south west.

#### Impact on Church Path

- 3.20 It is acknowledged that Plot 3 would be within 4.3m of the common boundary with properties 143 and 141 Church Path separated by an existing public right of way. The distance from the rear elevations of these properties would be approximately 17 metres. The originally submitted scheme included an upper level window in the proposed NW elevation, to a bedroom served by another window. Amended plans have been sought to remove this upper window, which has removed any potential over looking onto the rear gardens of properties on Church Path. A condition should be imposed to remove permitted development rights to prevent alterations to the roof form.
- 3.21 Details of overshadowing have been requested during the course of the application: Whilst there may be some loss of light to the rear gardens this is limited to the winter months, and would not have an unacceptable impact on residential amenity of those properties on Church Path.
- 3.22 A condition should be imposed to remove permitted development rights, to prevent extension into the roof space and further extensions and out buildings, in order to safeguard residential amenities and the appearance of the area.

#### Highway Safety

- 3.23 The access onto Plot 3 (to the rear) is 3 metres wide and approximately 46 metres in length to the turning point. It is straight, so visibility of oncoming cars is possible. KCC Highways have been consulted and raise no objection. Clarification has been sought regarding the position and purpose of the bulge in the kerb (a kerb build out with associated signage) at the proposed point of access and KCC Highways have advised that this is not considered to serve any purpose.
- 3.24 In accordance with policy DM13 of the CS, each dwelling has two off-street car parking spaces. Additional visitor car parking is required at a level of 0.2 spaces per unit which in this instance equals 0.6 which is less than one additional space. London Road is unrestricted at this point, and visitors could park on street given the very limited impact associated with the proposed development. The provision of car parking complies with the current car parking standards.

#### Other matters

- 3.25 It is recommended that a condition be imposed requiring a soft and hard landscaping scheme to be submitted to ensure that details of the parking layout at the front (to Plots 1 and 2) are provided and the type and species of planting can be controlled.



- 3.26 Third parties have also indicated the potential presence of wildlife given the recent clearance of the overgrown parcel of land. An Extended Phase 1 Ecology Survey Report has been carried out and is considered satisfactory.
- 3.27 Members' resolved to defer the application on 24<sup>th</sup> November 2016 to enable a site visit to consider the impact of Plots 1 and 2 on the streetscene, the configuration of access points to the proposed development, and the parking arrangement to the front of Plots 1 and 2.
- 3.28 Further clarification has been sought, on the originally submitted plans, from KCC Highways who advise that the turning areas shown provide the ability to turn. The applicant intends to submit a plan, for clarification, to show how soft landscaping can be incorporated at the frontage whilst still maintaining space to turn.
- 3.29 The applicant has advised that amended plans are to be submitted showing the removal of the rooflights on the proposed front elevation of Plots 1 and 2.
- 3.30 It is anticipated that the amended plans will be available at the Members' site visit and the Committee meeting.

### **Conclusion**

- 3.31 It is concluded that no significant harm would arise in respect of the character and appearance of the area and the proposal would therefore comply with the principles of paragraph 17 of the Framework, that require, amongst other things, planning to take account of the different roles and character of different areas. Furthermore, it is concluded that in the absence of a five year supply of housing in the District and given the aim of the Framework to boost significantly the supply of housing, no harm would arise from the proposal that would significantly and demonstrably outweigh the benefits, in the context of paragraph 14 of the Framework.
- 3.32 In the context of paragraph 7 of the Framework, the proposal would provide a social role in terms of housing provision and an economic role, albeit modest, in terms of the provision of short-term construction jobs. In terms of an environmental role, there is no significant harm to the character or appearance of the area. It is therefore considered the proposal would constitute a sustainable form of development.

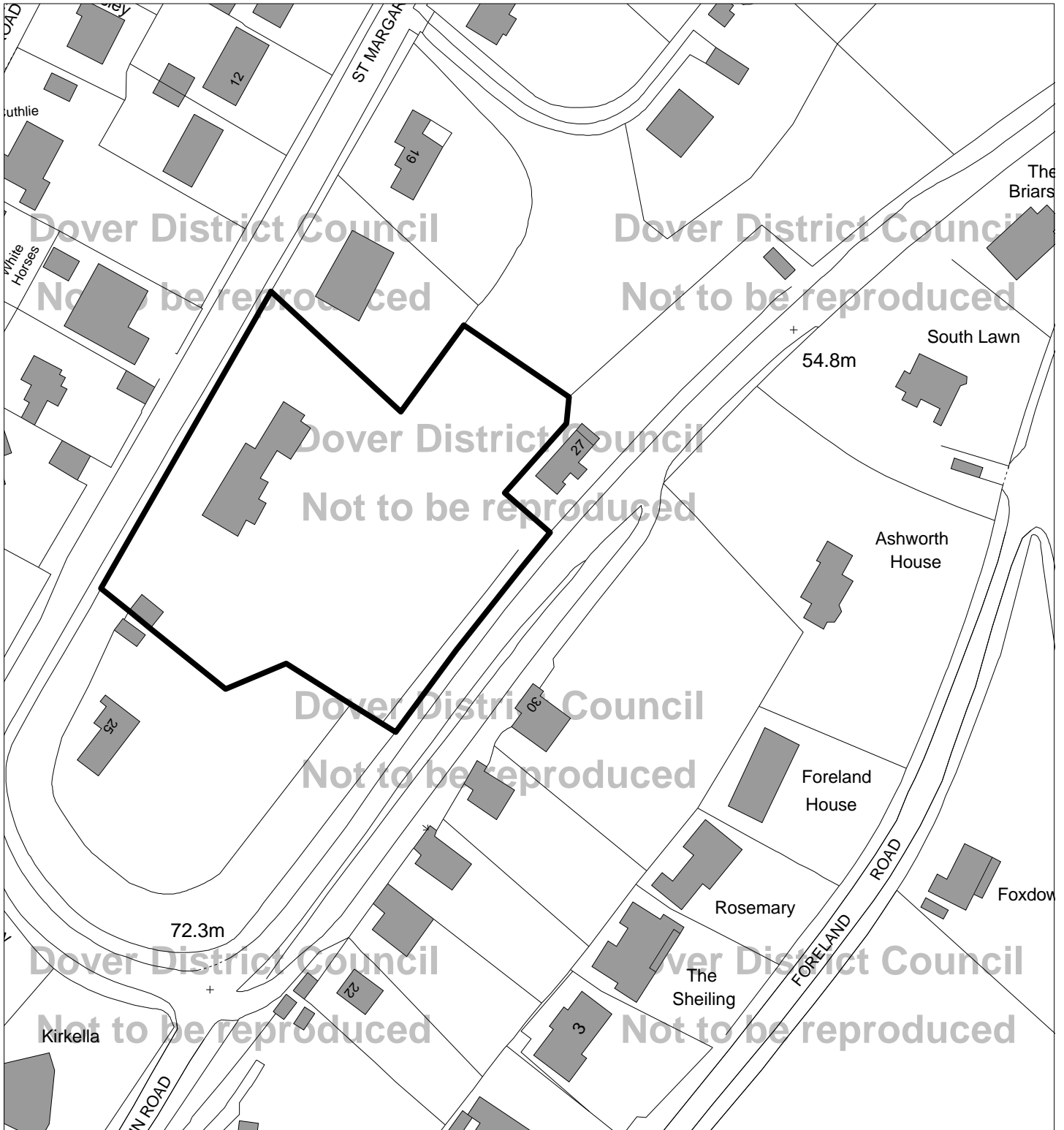
### **g) Recommendation**

- I PERMISSION BE granted subject to the following conditions, to include:- i) Standard time limit, ii) Approved plans, iii) material samples iv) details of hard and soft landscaping including boundary treatment to be submitted, v) Construction Management Plan, vi) bicycle storage provision vii) bin store to be provided and retained, viii) car parking and manoeuvring areas to be provided and retained ix) prevention of surface water discharge onto highway x) bound surface to be provided for first 5 metres xi) closure of existing access prior to use commencing xii) access road solely for Plot 3 xiii) remove permitted development rights to Plot 3 for all extensions, roof alterations, windows and remove permitted development rights for first floor side windows in Plots 1 and 2.
- II 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.

Case Officer

Elizabeth Welch

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**Application: DOV/16/01024**

**Dial House**

**23 St Margarets Road**

**St Margarets Bay**

**CT15 6EQ**

**TR36324414**



- a) **DOV/16/01024 – Erection of two detached dwellings and creation of access (existing dwelling to be demolished) - Dial House, 23 St Margaret’s Road, St Margaret’s Bay**

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

- b) **Summary of Recommendation**

Grant permission.

- c) **Planning Policy and Guidance**

Development Plan

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

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

A summary of relevant planning policy is set out below:

Dover District Core Strategy (2010)

CP1 – Settlement hierarchy.

DM1 – Settlement boundaries.

DM13 – Parking provision.

Saved Dover District Local Plan (2002) policies

None.

Dover District Land Allocations Local Plan (2015)

None.

National Planning Policy Framework (NPPF)(2012)

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

For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.”

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

- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- proactively drive and support sustainable economic development to deliver the homes... and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- take account of the different roles and character of different areas...
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations...”

“49. 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.”

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

“60. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.”

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

“63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.”

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

## **Other considerations**

### **Conservation area**

Section 72(1), The local planning authority has a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

**St Margaret’s Bay conservation area** – designated 1 November 1990.

## d) **Relevant Planning History**

**CH/6/66/0128** – Erection of a double garage and additional living accommodation – **APPROVED**.

**PE/15/00197** – Pre-application advice - proposed options; extension to existing dwelling, demolition of annexe and erection of one dwelling or demolition of existing dwelling and erection of three dwellings – **INFORMATION GIVEN**.

A number of applications have been submitted for works to trees in a conservation area.

**TC/15/00012** – Fell 2 leylandii – **RAISE NO OBJECTION**.

**TC/15/00102** – Leylandii adjacent to pine – reduce to low level/retain stump against soil erosion – **RAISE NO OBJECTION**.

**TC/16/00005** – 2 x yews – crown reduce by approximately 1.5 metres – **RAISE NO OBJECTION**.

**TC/16/00026** – Pine 01 – fell – **RAISE NO OBJECTION**.

**TC/16/00065** – T3 and T4 – fell 2 redwoods and replace – **RAISE NO OBJECTION**.

**TC/16/00075** – T2, T3, T4, T5 and T6 – yew trees – repollard/reduce to 3 metres – **RAISE NO OBJECTION**.

**TC/16/00076** – T2, T3, T4, T5 and T6 – yew trees – fell – **RAISE NO OBJECTION**.

e) **Consultee and Third Party Responses**

St Margaret's Parish Council

Has concerns. Seeks for the smaller of the buildings to be moved to the rear of the garden to lessen the impact on the street scene. Seeks for tree officer to be made aware of trees on site, with the possibility of a tree survey to be submitted.

DDC Heritage

**No objection.** "I am content with the information on the application that the significance of the building in respect to its contribution to the CA is sufficiently addressed and that the proposal would preserve the CA through the retention of space."

DDC Trees

No objection, subject to condition of details to be submitted. Seeks tree survey and constraints plan.

DDC Environmental Health

**No objection**, subject to contaminated land watching brief.

Public representations – **object x14, neutral x1**

Objections:

- Loss of St Margarets bay heritage – Dial House was part of the reason why the CA was designated.
- The smaller of the two dwellings proposed is too large for its plot.

- There is concern about overlooking towards Maiala House – south east of the site, and towards Brown Cottage, adjacent to the east of the site.
- Concern about TPOs and their condition.
- Objection to what is termed as ‘cardboard box’ designs.
- Request that trees shown on submitted plans will be protected.
- Suggestion that smaller of dwellings should be moved ‘down’ plot so that its roofline does not block views and is not prominent from across the valley.
- Questions why Dial House could not be restored – says that annex was restored at significant cost.
- Suggests that smaller of dwellings is in front of the building line.
- Design of dwellings is not in keeping.
- Concern regarding pond on site and creatures within.
- Suggested impact on SSSI in valley and nearby National Trust land.
- Concern regarding storage of heavy building materials on site.
- Objection to subdivision of plot – against character of CA.

Neutral:

- Seeks permanent privacy screen between site and 21 St Margarets Road.
- Requests hours of working not before 8am and excluding Sundays.

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

1.1. The site

The site is located on the south eastern side of St Margaret’s Road in St Margaret’s Bay. It is located within the St Margaret’s Bay settlement boundary and within the conservation area. The road is residential in character, running south west to north east.

1.2. St Margaret’s Road is located on the north western slope of a dry valley. The south eastern slope of the valley rises to the cliff edge, with the sea beyond. On the north western side of the road (opposite the site) the land rises, with dwellings typically sited at a higher level than dwellings on the south eastern side of the road. Land on the site falls in a south eastern direction.

1.3. The site comprises Dial House, sited towards the north western road frontage. Dial House dates from around the 1930s and is an example of Arts and Craft architecture. Dial House has a two storey annexe with garage, built in the 1960s.

1.4. The garden to Dial House, which forms the remainder of the site, is set mostly on a series of terraces. The south eastern part of the garden falls steeply towards the secondary site frontage to St Margaret’s Road (where the road steps down the valley side towards the bay). Set beneath the main level of the garden to the east and south east is Brown Cottage (27 St Margaret’s Road) as well as a number of other dwellings further towards the south east including number 30, Maiala. Adjacent to the north eastern site boundary is 21 St Margaret’s Road. South west of the site is 25 St Margaret’s Road.

1.5. Site dimensions are:

- Primary road frontage – 69 metres.

- Secondary road frontage – 50.5 metres.
- Width – 87 metres at widest point.
- Depth – 69 metres.

1.6. Proposal

The proposed development involves the demolition of Dial House and the erection of two dwellings. One, larger, dwelling would be a replacement to Dial House sited further south and south west into the site, and the other, smaller dwelling, would be sited adjacent to the north/north western site boundary.

1.7. Both dwellings would incorporate a contemporary design and feature solar photovoltaic roof panels and integral double garages. A new access would be created so each dwelling would have its own access.

1.8. The larger dwelling would be constructed at an angle away from the road (north south axis). It would incorporate a curved eastern elevation with full length first floor balcony and a terrace at ground floor. Mono pitched roofs would be erected above the western side and southern section of the dwelling. Materials proposed include brick, zinc cladding, render, slate tiles, lead and roofing membrane. Windows would be grey aluminium.

1.9. Larger dwelling dimensions:

- Width – 31.5 metres (at widest point).
- Depth – between 6.7 and 11.5 metres.
- Eaves height – 5.2 metres.
- Ridge height – 8.1 metres (front), 10 metres (end section, rear view, where land falls).
- Height above carriageway – 6 metres.
- Dwelling set back from primary road frontage – 10 metres.
- Plot width – 45 metres (primary road frontage).
- Plot depth – 69 metres.

1.10. The smaller dwelling is designed with a 'modernist' appearance, with a flat roof, emphasising vertical and horizontal elements. It would be split level and incorporate three storeys (two facing the road frontage) making use of the site topography. At the rear it would incorporate ground and first floor balconies. The first floor balcony would incorporate an imperforate privacy screen where it meets the north east elevation. Materials proposed include brick, render, cladding and roofing membrane. Windows would be grey aluminium.

1.11. Smaller dwelling dimensions:

- Width – 16.3 metres.
- Depth – 13.5 metres.
- Height – 6.7 metres (front elevation), 9.5 metres (rear elevation, where land falls).
- Height above carriageway – 6 metres.
- Dwelling set back from primary road frontage – 7 metres.
- Plot width – 24 metres (road frontage), 17.5 metres (rear).
- Plot depth – 32.5 metres.

1.12. Tree works in addition to those approved separately (see planning



history) are not indicated as part of this proposal.

## **2. Main issues**

- 2.1. The main issues to consider are:
- Principle of development.
  - Design, visual amenity and heritage impact
  - Residential amenity.
  - Trees.
  - Highways.
  - Other matters.

## **3. Assessment**

### **3.1. Principle of development**

The site is located within the St Margaret's Bay settlement boundary. The proposed development is therefore acceptable in principle, subject to its details. The proposal is therefore DM1 compliant.

### **3.2. Design, visual amenity and heritage impact**

The dwellings are noted as incorporating a contemporary appearance, which is not necessarily in keeping with other dwellings in the area. Many other dwellings, including the original Dial House, incorporate variations on a 'traditional' appearance i.e. a regular shaped, pitched roof dwelling with brick or render walls – this is reflective of the periods in which they were constructed. There is, however, no consistently prevailing architectural style.

- 3.3. The design of the proposed dwellings is considered to be of a high standard, in terms of how and where fenestration and openings are located, proportioned and arranged within the overall scale and form of the buildings, and in terms of the siting of the buildings within their respective plots. The materials proposed would create a clean finish and reinforce the contemporary appearance.

- 3.4. It is notable that the NPPF directs that architectural styles should not be imposed and that rather local distinctiveness should be reinforced. The heritage officer has commented, "I am content with the information on the application that the significance of the building in respect to its contribution to the CA is sufficiently addressed and that the proposal would preserve the CA through the retention of space." In effect the prevailing character of the conservation area is considered to be about how dwellings and space interrelate – something that the proposed design and layout is considered to maintain and reinforce.

- 3.5. The introduction of a contemporary form, scale and finish of buildings is considered to positively contribute to the eclectic architectural mix of dwellings in the area. This effectively feeds into the local distinctiveness of the area, which is architecturally diverse.

- 3.6. Seen from the street, the dwellings would not be any taller than the existing Dial House. The smaller of the two dwellings would be sited at a higher ground level, but this is compensated for by the scale of the dwelling. The replacement Dial House is taller than the smaller

dwelling, but is sited at a lower ground level. The topography of the landform here has acted as an informant to siting. The existing and proposed site plans illustrate that the proposed dwellings do largely respect the existing landform.

- 3.7. While it is acknowledged that in comparison to the plot provided for the replacement Dial House, the plot for the smaller dwelling is significantly smaller, it is not considered to be harmfully so in the context of the wider spatial character. Existing residential dwellings 21 and 19 St Margaret's Road (adjacent to the north east) have similar size plot to dwelling ratios as do the dwellings opposite on the north west side of St Margaret's Road (20, 18 and 16). Irrespective of where the boundaries lie, the spaces between the dwellings is proposed to be maintained and it is this primarily which affects how the character of the area is maintained or altered. In this regard the spatial context is considered to be referenced in the scheme and there is no harm caused.
- 3.8. The new vehicular access would be created in place of an existing pedestrian access. This will mean only 3.5 metres of front hedgerow will be removed. The remainder of the front boundary hedge will be retained. Accordingly, the existing hedgerow character of the street edge here will remain.
- 3.9. The national coastal path runs along the cliff top approximately 380 metres south east of the site. Any views gained from this location would be at a long distance and would be of two dwellings set in the context of other residential development. No harm is considered to arise from this aspect.
- 3.10. The NPPF directs that great weight should be given to outstanding or innovative designs, which this scheme is considered to incorporate. Overall the design proposals are considered to be of a high standard and acceptable within the local street scene and would not result in harm to the spatial character and context of the area, the street scene and the conservation area.
- 3.11. Residential amenity

Concerns have been raised in relation to the possibility of overlooking towards the neighbouring dwellings at 21 St Margaret's Road, 27 St Margaret's Road (Brown Cottage) and 30 St Margaret's Road (Maiala).
- 3.12. 21 St Margaret's Road is adjacent to the proposed smaller dwelling on its north eastern boundary. The residents have not objected but are concerned that privacy is maintained between the two sites. The smaller dwelling would not have any windows in the facing side elevation and a permanent privacy screen is proposed where the balcony meets the side elevation. A green roof is at the rear of the dwelling but this is not intended to be a terrace. A condition would be imposed to retain the privacy screen in perpetuity and ensure that the roof is not used as a terrace. The dwelling is considered to be sufficiently separated from the boundary with number 21 (6 metres) and the dwelling itself (13.5 metres) that no harmful overshadowing would occur.

3.13. Brown Cottage is located east and south east of the site. The residents have raised concerns about overlooking, however, the topography of the site in comparison to Brown Cottage is such that the land level at the existing pond is sited above the ridge of Brown Cottage before it falls steeply towards the cottage. It is considered that the siting of the two dwellings would mean that a combination of distance and topography would give rise only to views out to sea. Any views towards Brown Cottage would be over the top of it.

3.14. The residents at Maiala raised similar concerns. Maiala is located south east of and beneath the level of St Margaret's Road opposite the secondary site frontage. In a similar manner as with Brown Cottage, it is unlikely that there will be any views of Maiala due to a combination of distance and site topography. Any views towards Maiala from the proposed dwellings would be above the dwelling and into the valley.

3.15. Trees

During 2015 and 2016 the applicant submitted a number of applications for works to trees in a conservation area. These applications included lopping and felling works. The council's tree officer raised no objection to any of the applications, which would have included considerations about the effect on local amenity resulting from the works.

3.16. Existing and proposed site plans demonstrate how the proposed dwellings would be accommodated within the constraints of existing trees on site, however, details of any further proposed tree works can be conditioned as part of any approval and included in any landscaping scheme. It should of course be noted in any case, because the site is within a conservation area, any future works to trees would require a separate consent.

3.17. Highways and traffic impact

The proposed development for one extra dwelling in net terms, creating an access on to a unclassified road, means that it falls outside of the KCC Highways consultation protocol. However, sufficient space is provided on site for parking at both dwellings. The road is residential in nature and usage, and as such the creation of an additional access is unlikely to result in any harmful impact on highway safety

3.18. Other matters

Pre-application advice was issued which took a negative line in respect of the proposed demolition, seeking first a scheme which would renovate the existing Dial House. This was in part related to the proposed options considered at that time and how they would affect the conservation area. The heritage officer, as indicated, is content with the proposal as now being considered.

3.19. Conclusion

The proposed development is considered to be acceptable. The applicants have sought pre-application advice from the council and have fully appraised the site in evolving their design proposal. It is acknowledged that the designs proposed are not traditional in form and appearance as such, but they are of a high standard and it is considered that they would bring about a contemporary interpretation of how development can fit into the St Margaret's Bay conservation area – that is to say, how dwellings and space interrelate. The scale and form of development is considered acceptable.

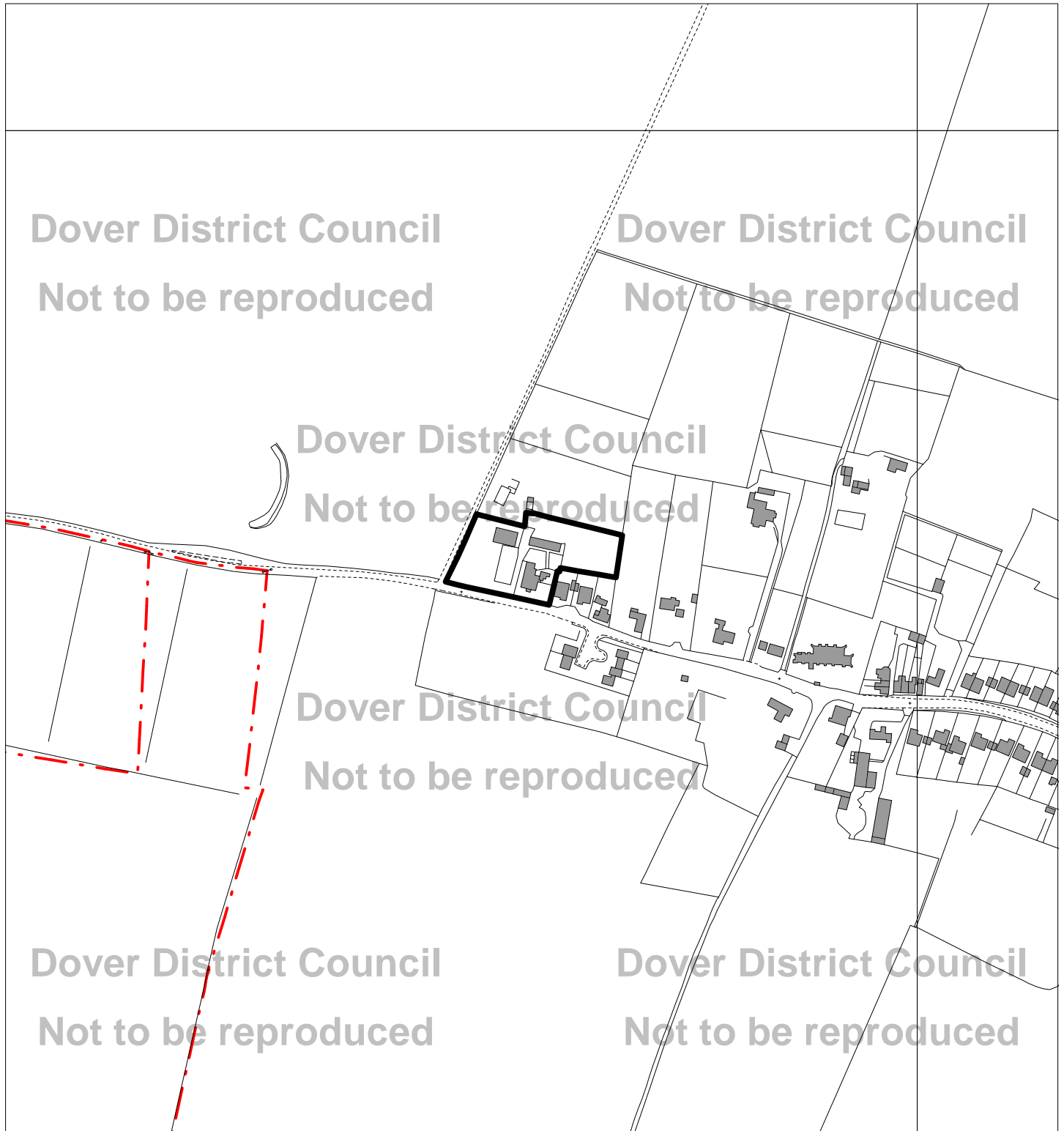
- 3.20. Concerns have been raised about residential amenity, but the combination of distances between dwellings (proposed and existing), site topography and design features (privacy screen), means that no overlooking will arise from the development. It is also considered that no harmful overshadowing is likely to occur.
- 3.21. Residents are concerned about the trees on site, but the tree officer has raised no objections, subject to details of any further works, in the form of a tree survey and constraints plan, being required through condition. The applicant has previously submitted a number of applications for tree works, which the council raised no objection to. In addition, the existing site plan shows where existing trees are located and the proposed site plan illustrates how the proposed dwellings would be accommodated within those constraints. Should it be necessary, compensatory planting can be sought as part of any landscaping condition.
- 3.22. The NPPF directs that great weight should be given to outstanding or innovative design. The design is considered to be of a high quality and displaying of innovation in how the proposal works with the site. Accordingly, the recommendation is to grant permission.

g) **Recommendation**

- I. Planning permission be GRANTED, subject to conditions to include: (1) Time (2) Plans (3) Materials (4) Tree and hedge survey (5) Tree and hedge protection measures (6) Retained trees/shrubs (7) Retained hedges/hedgerows (8) Hard and soft landscape plan (9) Site sections (10) Earthwork details (11) Provision of access (12) Provision of parking/garaging (13) Access gradient (14) Bound surface 5 metres (15) Bins and cycle storage (16) Surface water drainage (17) Rainwater goods iron/aluminium, matt finish (18) PD restrictions – in respect of extensions, roof extensions and side windows (19) Smaller dwelling – retention in perpetuity of imperforate privacy screen, and prohibiting use of any part of the roof structure as a terrace (20) Construction management plan (referring, not only, to: hours of working, contractors parking, storage of materials and plant etc.).
- 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 Planning Committee.

Case Officer

Darren Bridgett



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**Application: DOV/16/00442**

**Three Tuns**

**The Street**

**Staple**

**CT3 1LN**

**TR26735670**



- a) **DOV/16/00442 – Erection of eight dwellings, change of use and conversion of the existing public house into a single residential dwelling, creation of vehicular access, parking area and associated works – The Three Tuns, The Street, Staple**

**Reason for report:** Number of contrary views.

- b) **Summary of Recommendation**

Grant Planning Permission.

- c) **Statutory Requirements, Planning Policies and Guidance**

Statute

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

Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant listed building consent the local planning authority “shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.”

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the planning authority should pay special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses.

Section 72 of the Act 1990 requires that the planning authority should pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Dover District Core Strategy

Policy CP1 – Part of the application site falls within the Village of Staple where the tertiary focus for development in the rural area suitable for a scale of development that would reinforce its role as a provider of services to its home and adjacent communities.

Policy DM1 - Development will not be permitted outside the settlement boundaries.

Policy DM4 – Reuse or conversion of Rural Buildings will be permitted for structurally sound, permanent buildings within Local Centres for commercial, community or private residential uses.

Policy DM11- Location of development and managing travel demand.

Policy DM13- Parking provision.

Policy DM15- Protection of the countryside.

Policy DM24 – Retention of Rural Shops and Pubs. Permission will only be granted for the change of use of a rural shop or pub if its loss would not harm the economic and social viability of the community that it serves or, if such harm would occur, it has been adequately demonstrated that the use is no longer commercially viable and

genuine and adequate attempts to market the premises for retail purposes or as a pub have failed.

#### Dover District Council Local Plan ‘saved’ policies (DDLDP)

There are no saved local plan policies that are relevant to this application.

#### Land Allocations Local Plan (LALP)

Annex 1 to the Plan draws on the District Heritage Strategy in order to provide guidance on preparing heritage statements to support planning applications.

Policy LA45 makes provision for a change to the settlement confines of Staple to deliver one or two dwellings to the end of Orchard Lea to sustain Staple’s role in the settlement hierarchy.

#### National Planning Policy Framework (NPPF)

The NPPF states that at its heart is a presumption in favour of sustainable development, to be seen as a golden thread running through decision-taking. It sets out three dimensions to achieving sustainable development: economic, social and environmental. These should not be undertaken in isolation, because they are mutually dependent. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

Part 7 requires good design, which is a key aspect of sustainable development.

Proposals should seek to be of a high design quality and take the opportunity to improve the visual quality and character of the area. Paragraphs 17, 56-59 and 64 seek to promote good design and resist poor design.

Paragraph 28 of NPPF promotes the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.

Paragraph 49 requires housing applications to be considered in the context of the presumption in favour of sustainable development.

Paragraphs 69-70 of NPPF seek to promote healthy and viable communities.

Paragraphs 131-134 of NPPF seek to reinforce the statutory requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 by setting out guidance on assessing the impacts of development on designated heritage assets. This is amplified in the national Planning Practice Guidance. The Historic Environment in Local Plans; Good Practice Advice (GPA) (2015) This document provides information to assist in implementing policies in the NPPF and the NPPG.

#### **National Planning Policy Guidance (NPPG)**

Provides guidance on matters relating to the main issues associated with development.

#### **Other Documents**

The Kent Design Guide sets out design principles of development.

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

There is planning history relevant to this planning application. This is summarised below:

DOV/91/00934	Conversion of barn into 5 chalets. Granted 09/04/1992
DOV/07/0205	Erection of marquee- Withdrawn 12/04/2007
DOV/09/0449	Retrospective application for the erection of a marquee. Granted 3/07/2009.

**e) Consultee and Third Party Comments**

**Dover District Council Heritage Officer** was consulted and made the following comments on the application on the 14 September 2016:

*'The grade II listed Three Tuns Public House is a dominant building that fronts the street, which has a significant presence in the street scene, and is situated on the edge of the village surrounded by a generous garden. I am of the opinion that the current design proposal should be reworked and amendments submitted to resolve the following issues: - Recommend retaining the existing modern hedge row as it retains the generous space around the listed building which is recognised as a contributor to the significance of the setting of the listed building. - The orientation of plots 1 & 2 with a blank or side elevation viewed from the road does not relate to the surrounding context. They would better relate to the listed building if they were re orientated to face the road.*

*The architecture does not relate to this context, and plots 1, 2, 5, 6 & 7s bulk, massing and architectural detailing should be considerably reworked so that they appear subservient and relate to the architectural form of the listed building. In its current form the proposal would in my opinion compete with the listed building for dominance on the site. This proposal in my opinion would cause less than substantial harm on the setting of the listed building and I would recommend that this could be resolved by making the above design alterations to the scheme.'*

Following the submission of amendments, additional comments were received on the 30 November 2016 which state:

*'The revised scheme (dated 7th Oct) addresses previous concerns raised as follows:*

- The revised layout maintains the existing modern hedge row which retains the generous space around the listed building.*
- The orientation of plot 1 now relates to the surrounding context in that it now fronts the road. I would comment that the design could be much further improved by introducing traditionally designed chimneys and a hipped rather than gabled roof form. The detailed design and materials used would be crucial in achieving a building that contributes to this setting.*
- I would reiterate my previous comments that units 5,6 & 7 (which are now units – 4,5 & 6 ) bulk, massing and architectural detailing should be reworked as they do not appear subservient or relate to the architectural form of the listed building. In its current form they have the potential to compete with the listed building for dominance on the site.*

*This proposal in my opinion would impact on the setting of the listed building, however not substantial enough to be objectionable.'*

**Dover District Council Tree Officer** was consulted and raised no objections to the proposal.



**Dover District Council Housing Officer** was consulted and made the following comments on the 4 May 2016:

*'The development of 9 residential units would mean that the Council's Affordable Housing SPD addendum would apply as it is a development of between 5 - 14 homes. This requires either a provision of affordable housing on-site or a financial contribution to AH. The latter, does of course, tend to be the preferred option for developers. The addendum sets out the approach and how the contribution should be calculated.'*

*'It is probably also worth mentioning that Staple Parish Council has expressed an interest in the development of a rural exception site to provide affordable homes in the village. A parish housing needs survey has been carried out by Action with Rural Communities in Kent which has identified a need for 6 affordable homes. There has been some further discussion with the PC and a potential registered provider partner but we are waiting for the PCs response to proposals on how such a scheme could be progressed.'*

Further comments were then received on the 15 June 2106 which set out the following:

*'My previous advice on the requirement to provide a financial contribution towards affordable housing in respect of developments of 5 – 14 dwellings has been superseded by the order of the Court of Appeal dated 13 May 2016, which gives legal effect to government policy requiring that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm. I am aware that the Council is considering seeking an exemption in respect of designated rural areas but I don't believe that Staple falls within a DRA.'*

**Southern Gas Networks** were consulted and raised no objections.

**UK Power Networks** were consulted and raised no objections to this proposal.

**The Environment Agency** were consulted on this application and raised no objections to this proposal on the basis that it would be subject to low environmental risk.

**Southern Water** were consulted and raised no objection to the proposal subject to the imposition of suitable conditions relating to sewer connections which are set out at the end of the report.

**Kent County Council Archaeological Officer** was consulted and objected to the original proposal but have not commented on the amended proposal.

**KCC Contributions** were consulted but given the proposal is only for a net increase of nine dwellings, no contributions are sought.

**f) The Site and the Proposal**

1. The site is an irregular shaped parcel of land on the edge of the village of Staple to the north of The Street, the main route through the village. A significant proportion of the site including the car parking area and part of the gardens lies outside the village confines.
2. The site is currently occupied by the Three Tuns (a Grade II listed building), formerly used as a pub as well as a marquee, with single storey outbuildings to the rear, associated gravelled parking area and garden, and associated fences and walls. The site is accessed from The Street via an access to the west of the Three Tuns. The

north and west of the site are bound by dense vegetation with established conifers to the northern boundary and a deciduous hedge to the western boundary. There is a low wall to the front of the site where there is a bus stop. The eastern, and part of the front boundary is treated by a fence.

3. The Three Tuns was constructed in the 17th and 18th centuries and was listed in 1979 at Grade II. The building is two storey, constructed of red brick with a plain tiled roof, an attic with a hipped dormer, sash windows to the first floor, timber casements to the ground floor and a central projecting 20th century porch.
4. The applicant has outlined that The Three Tuns was once a thriving village pub. It was open for business as a wedding venue until March 2014 and until late 2015 traded as a B and B.
5. The outbuilding to the rear is single storey clad in dark timber and appears to have been in use for holiday accommodation.

### **Proposal**

6. The proposal comprises the change of use and conversion of the Three Tuns to a single dwelling and the erection of eight dwellings together with associated parking and access.

### **Main Issues**

7. The main issues to be considered in the determination of this application are:
  - The principle of the development including the change of use from a public house to a dwelling;
  - The impact upon the character and appearance of the surrounding area;
  - The impact of the proposals on the designated heritage asset;
  - The impact upon highway safety.
  - The impact upon residential amenity;

### **Principle of development**

8. The starting point for considering this issue is the relevant policies in the Development Plan. The settlement boundary passes through the site so that the Three Tuns, its gardens and the single storey rear outbuilding are defined as being within the village of Staple. The remainder of the site, including the gravel car park and open area to the north and east of the site fall outside the settlement confines. Policy DM1 of the Core Strategy states that development will not be permitted on land outside the rural settlement confines as shown on the proposals map unless justified by other development plan policies or it functionally requires such a location.
9. The Core Strategy, through Policy CP1, identifies Staple as a village in the Settlement Hierarchy in recognition of its size, where the function is as the tertiary focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to its home community. The issue raised by the application is whether the loss of the public house would jeopardise the role of Staple as a village.
10. Furthermore, the Land Allocations Local Plan (2015) already makes provision for a change to the settlement confines in Staple to deliver one or two dwellings at land to the west of Orchard Lea (Policy LA45), to sustain Staple's role in the settlement hierarchy, while acknowledging that the opportunity for further development in Staple is limited by its rural character and the setting of listed buildings.

11. However, given the Council cannot currently demonstrate a 5 year housing land supply, Development Plan policies concerning the supply of housing are considered to be out of date at this time, as per paragraph 49 of the NPPF, and therefore the weight that should be afforded to them is diminished. This would apply to Core Strategy Policies CP1 and DM1.
12. Where policies are found to be out of date applications should be dealt with in accordance with paragraph 14 of the NPPF the (presumption in favour of sustainable development). So it will be necessary to demonstrate whether the proposal constitutes sustainable development or not in line with paragraph 7 of the NPPF.
13. Whilst the current absence of a 5 year housing land supply adds weight in favour of the proposal, a number of recent appeal decisions have concluded that small scale developments in the District would have a very limited benefit in assisting the Council meet its 5 year housing land supply. Given this, when determining the application it is necessary to balance the absence of a 5 year housing land supply against other policy considerations, for example impact on the setting of the listed building, impact on the openness of the countryside, the design and layout of the site and concerns over whether the proposal constitutes sustainable development.

#### **Loss of a public house**

14. Policy CP1 identifies Staple as a 'Village' and this seeks to ensure that the focus for any development is to ensure that it will *'reinforce its role as a provider of services to essentially its home community.'* Within the supporting text to this policy, it is stated within paragraph 3.12 that this policy will be used to inform development plan making decisions and decisions on planning applications. Therefore a consideration as to whether the loss of this facility would have a detrimental impact upon the existing residents of the village needs to be considered.
15. In addition, and aligned to this this, Policy DM24 of the Core Strategy (2010) states that *"planning permission will only be granted for the change of use of a rural shop or pub if its loss would not harm the economic and social viability of the community it serves or, if such harm would occur, it has been adequately demonstrated that the use is no longer commercially viable and genuine and adequate attempts to market the premises for retail purposes or as a pub have failed."*
16. In addition to this policy, the supporting text sets out in paragraph 1.78 that: *The Council will also wish to see that adequate and genuine attempts have been made to market the premises for pub or shop use, as appropriate, but have failed to produce a viable offer. Marketing should be through an appropriate agent and for a period of time that fully tests demand having regard to the buoyancy of prevailing market conditions.*
17. The applicant has submitted information to address Policy DM24 which includes a planning statement and evidence of the marketing exercise which has taken place. The applicant's statement states that Staple is a relatively small village community with a small flow of traffic through the village, with very few other facilities and no significant daytime working population in the immediate area. It states that the Three Tuns was once a thriving village pub, however over the last few years custom has dwindled due to the move towards 'home drinking', which caused the owner to diversify by running it as a wedding venue until March 2014. Following which it operated as a bed and breakfast until late 2015, when it ceased operation.

18. The Council requested an independent assessment of the marketing information submitted. This assessment required to consider whether a property has been appropriately marketed – i.e. for an appropriate price, timescale, and also by what means.
19. The property was marketed by Christie and Co. from April 2014 to August 2015, i.e. a period of 17 months, and during this period 16 viewings were undertaken and three offers were made. Of the three offers, one went on to purchase an alternative premises, whilst the other two remained well below the asking price and were not accepted.
20. The assessment of the marketing also indicates that the proposed sales price of the building, given the facilities on site (including bedrooms, 60 covers, garden –including marquee and parking) was within the range that one would anticipate. This is assessed against the sale of three other pubs within the vicinity – the Rose Inn (Wickhambreaux) in 2010, the Prince of Wales (Maypole) in 2012 and the Dog Inn (Wingham) in 2016. The report concluded that the marketing undertaken does meet the criteria of the policy and the marketing has been undertaken at an asking price which could be considered acceptable.
21. From the information submitted therefore, it is apparent that the continued use as a public house was not viable and that genuine and adequate attempts have been made to market the property in line with Policy DM24 of the Core Strategy. It is therefore considered that the principle of converting the pub to a dwelling is acceptable, subject to all other material considerations being assessed prior to determination.

**Impact upon the character and appearance of the surrounding area**

22. It is important to assess the impact of the proposal upon the character and appearance of the surrounding area. Paragraph 56 of the NPPF outlines that planning policies and decisions should respond to local character and history and reflect the identity of local surroundings and materials. Policy DM15 requires the protection of the countryside to be considered and 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 allocations made in Development Plan Documents, or*
- ii. justified by the needs of agriculture; or*
- iii. justified by a need to sustain the rural economy or a rural community;*
- iv. it cannot be accommodated elsewhere; and*
- v. it does not result in the loss of ecological habitats. Provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character.”*

23. The site is an edge of village location and the Three Tuns is an imposing building which is set within substantial grounds. The open space is considered to reflect the edge of village location and the site served as a focal point at the end of the village accordingly.
24. Views of the site can be obtained from both the east and the west from within ‘The Street’ and ‘Grove Road’ and from the open countryside to the west of the site. There would be limited views from the north of the site due to the tree screen along the boundary.

25. In terms of the impact upon the existing building, with the exception of the demolition of the rear single storey extension, no external alterations are proposed to the former public house. The proposal also includes the erection of eight dwellings within the grounds of the property, which would substantially erode the openness to the front and to the side of the property.
26. These properties would be set out within a relatively linear form, with one house located alongside the front of the public house, and eight running to the rear of. Access runs between the existing property and the proposed road frontage dwelling and the new dwellings.
27. Concern was previously raised with regards to the design of the development, and the impact that this would have upon the character and appearance of the locality. Amended plans were subsequently submitted to the local authority for consideration which have sought to address these concerns. These amendments include re-orientating the property at the front of the site as well as retaining the hedge around the former public house in order to retain the sense of space around this property.
28. The re-orientation of the building to the front brings about a significant improvement to the development, creating a more active frontage, and also responding to the traditional form of development within the locality. This re-orientation will also serve to ensure that the proposed access road will appear more subservient in terms of the overall development.
29. The changes to the buildings, including the reduction in ridge heights, and the alterations in materials will also create an appearance that would be more subservient. Because this is an edge of village location, and because the existing pub holds a relatively prominent position at present, it is important that this development does appear as subservient to it. Likewise, because views of the site from the west would be relatively far reaching, the buildings would need to be of a scale and form that would not appear as being too domestic.
30. Plots 2 and 3 are the largest properties proposed along the access road, but because these are set at a slightly lower level than the other properties. It will be important however to ensure that a satisfactory boundary treatment is provided along the rear boundary (western boundary) of the application site. It is therefore recommended that any landscaping here, include the provision of an indigenous hedge, as well as a suitable boundary enclosure – which should not be close boarded fence. With this in place, it is considered that the proposal would have an adverse impact upon medium to long distance views into and out of the village.
31. It is therefore considered that the development would not have an adverse impact upon the character and appearance of the locality, subject to the imposition of suitable safeguarding conditions.

### **Heritage**

32. The Three Tuns was listed in 1979 at Grade II. It was constructed in the 17th and 18th centuries of red brick with a plain tiled roof, is two storeys with an attic with a hipped dormer with sash windows to the first floor and timber casements to the ground floor and a central projecting 20th century porch.
33. Paragraph 132 of the NPPF outlines *“when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should*

*be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting".*

34. The amendments that have been provided have now been assessed by the Council's Heritage Officer who is of the view that whilst there may be some further enhancements that could be made to the proposal, the development would not give rise to significant harm to the heritage asset, and as such he does not object to the proposal. When assessing any 'harm' it is important to be mindful of the public benefits of the proposal. In this instance, this would bring about new housing within a relatively sustainable location that would assist with the Council's five year housing land supply. In addition, it would also ensure the long term security of the existing listed building.
35. It is considered that the additional space afforded to the listed building, will ensure that its setting would be preserved, and that with the space to the front of the site maintained, it would retain its important presence within the street scene.
36. The scale of the proposed buildings has been reduced from that previously submitted and the use of darker stained weatherboarding will further reduce the impact of the new dwellings upon the setting of the listed former public house. These buildings would now have an appearance of being outbuildings to the public house, which is considered a more appropriate design response.
37. The proposed property fronting onto 'The Street' would be of a smaller scale than the public house, and again would be constructed using black weatherboarding and clay tiles. The plans suggest that aluminium windows be used in all properties, but it is suggested that this more traditional form of property would be better suited to having timber windows and any condition should be worded accordingly. Should suitable conditions be imposed, it is considered that this proposal would not significantly harm the setting of the listed building.
38. It is therefore considered that this proposal now accords with the requirements of the NPPF and Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 and is therefore considered acceptable from a heritage perspective.

### **Highways**

39. Paragraph 35 of the NPPF states that developments should be located and designed where practical to give priority to pedestrian and cycle movements and have access to high quality public transport facilities.
40. There is a bus stop to the front of the site which serves a route from Canterbury, to Walmer and Sandwich and runs at an hourly service. However, there is currently no pedestrian link between the site and the village. Kent Highway Services have advised that a footpath should be provided within the site to the south eastern corner of the site, as well as an additional footpath that would run to the west of Bates Close on the opposite side of the road.
41. In this regard, the applicant would be able to provide a footpath along the road frontage of their site, and they have confirmed that this is to be provided as part of the proposal. It has not been agreed to extend the existing footpath as requested, however as this falls outside of the applicant's control, and because it would not be necessary to make this development acceptable I do not consider it appropriate to seek its provision in this instance.

42. Kent Highway Services have requested that a number of conditions be imposed with regards to visibility and surfacing should this application be approved, and these are suggested at the end of this report.
43. On this basis, it is considered that the proposal is now acceptable in highway terms.

#### **Impact upon residential amenity**

44. There are residential dwellings immediately to the east of the site. To the north and west appears to be agricultural land and to the south of The Street is an area of dense vegetation. The Council's Environmental Health Officer has raised no concerns regarding the scheme. The nearest residential dwelling, Cascade, is approximately 12 metres from The Three Tuns and the access is approximately 50 metres from these neighbours. Units 8 and 9 would be approximately 19 metres from the existing neighbouring bungalows Cascade and Apollo and a close boarded fence is proposed for the boundary with the existing dwellings. It is considered that the proposed development would not generate a greater number of movements to and from the site, or increased noise. Furthermore the separation distances between the neighbouring properties and the proposed dwellings and the access point are considered to mitigate noise impacts upon neighbouring property occupiers.
45. The units 7 and 8 are located to the rear of the existing bungalows at Apollo and Cascade. They are single storey with 2 bedrooms and a bathroom provided within the roof and gabled feature to the rear. These dwellings have been designed with south facing windows only at ground floor and windows in the roof and gable feature within the north elevation only.

#### **Other matters**

46. Policy DM27 of the Land Allocations Local Plan requires developments to contribute towards provision of open space. The Council's Principal Infrastructure and Delivery Officer has advised that the development generates a need for 0.094 hectares of open space. She has advised that as the site is located approximately 1 km from the play area in Staple and is not currently accessible by footpath it would be most appropriate to provide this on site. However following the Order of the Court of Appeal dated 13 May 2016, it is not considered appropriate to seek these contributions.
47. Kent County Council have outlined that no contributions will be sought as the development is for less than ten units, in accordance with advice contained in the Starter Homes Ministerial Statement of 2 March 2015.

#### **Conclusion**

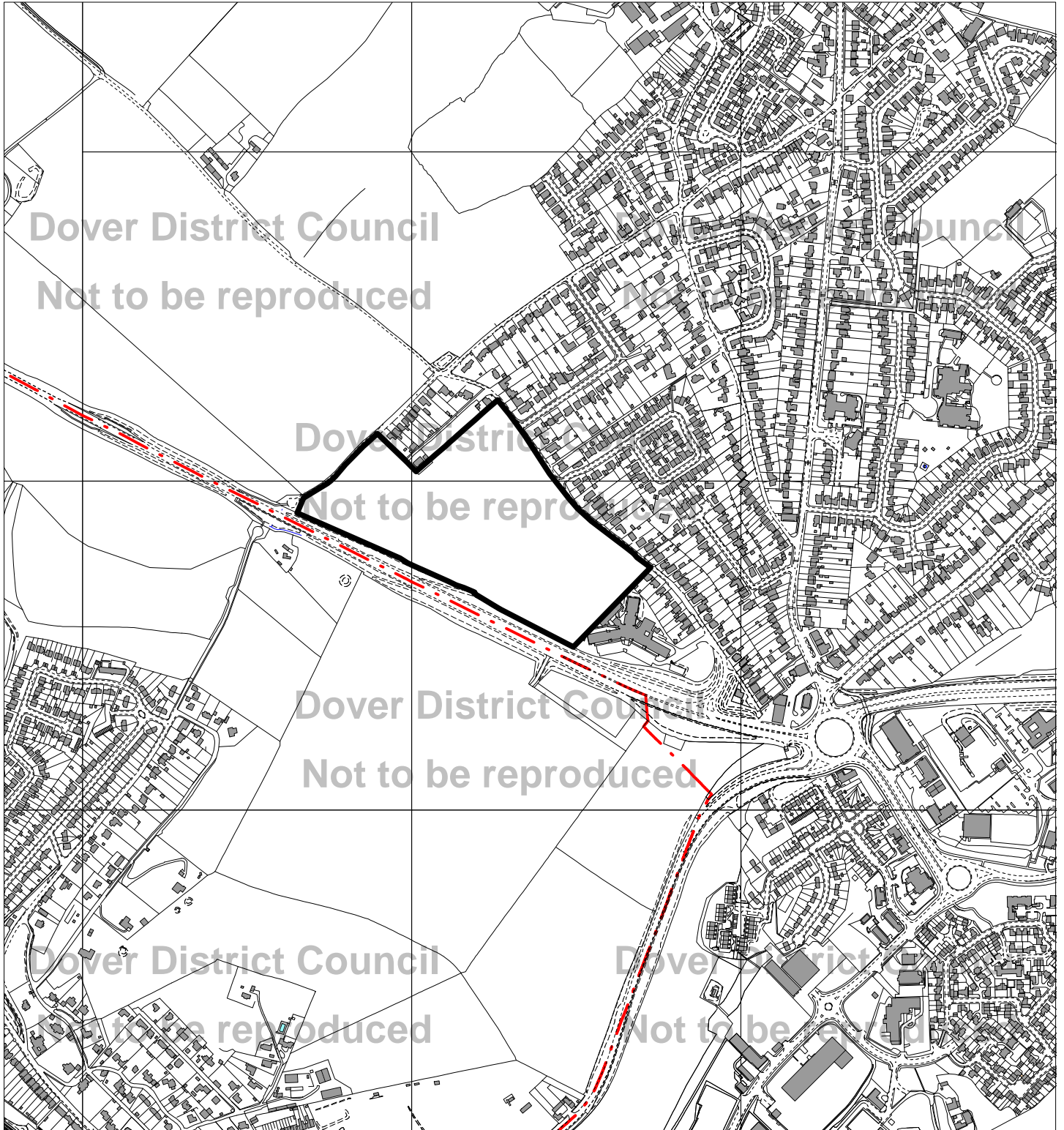
48. There is a need for housing in the district and the principal of the conversion of the public house to a residential unit is considered to be acceptable. The site contains a listed building and as such the proposal would ensure that the long term viability and preservation of this building is secured. This, together with the Council's current lack of a five year housing land supply are significant material considerations in the determination of this planning application.
49. The applicant has sought to address the previous concerns with regards to the layout of the development and also the lack of a footpath to the front of the site.
50. The plans are now considered to be acceptable, and to have due regard to both the character and appearance of the locality, as well as the setting of the listed building.

51. It is therefore recommended that the application should be approved subject to the imposition of the conditions as set out below.

**g) Recommendation**

- i. Planning permission be granted, subject to conditions set out to include, in summary; i) commencement within 3 years; ii) carried out in accordance with the approved drawings; iii) materials to be submitted; iv) details of fenestration (joinery details); v) details of roof overhangs and recessed windows (1;10); vi) details of cycle and refuse storage; vii) sample panel of brickwork; viii) any conditions requested by KCC; ix) any conditions requested by KCC Archaeology.
- ii. Powers be delegated to the Head of Regeneration and Development to settle any necessary planning permission conditions in line with issues set out in the recommendation and as resolved by Planning Committee.





**Not to scale**

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

**Application: DOV/16/00136**

**Land on The South Side**

**Singledge Lane**

**Whitfield**

**CT16 3ER**

**TR29594493**



- a) **16/00136 - Erection of 133 dwellings including 40 affordable homes, new vehicular access, internal access roads, car parking, landscaping, provision of open space (4.17ha) and a locally-equipped children's play area (LEAP) (amended details and description) - Land on the South Side, Singledge Lane, Whitfield**

**Reason for report:** Number of letters of correspondence received.

b) **Summary of Recommendation**

Planning permission be refused.

c) **Statutory Requirements, Planning Policies and Guidance**

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

Dover District Core Strategy (CS) Policies

Policy DM5 seeks to secure the provision of 30% affordable housing on sites of fifteen or more dwellings, or in exceptional circumstances, a financial payment towards provision off-site.

Policy DM11 states that planning policies for development that would increase travel demand should be supported by a systematic assessment to quantify the amount and type of travel likely to be generated and include measures that satisfy demand to maximise walking, cycling and the use of public transport.

DM12 states that access arrangements of development proposals will be assessed with regard to the Highway Network set out in the Local Transport Plan for Kent.

Policy DM13 sets out parking standards for dwellings and identifies that it should be a design led process.

Policy CP1 Identifies Dover as a Secondary Regional Centre, and that Whitfield is to be one of the major areas suitable for the largest scale residential developments.

Policy CP2 relates to the provision of jobs and homes in the District and sets out that by 2026 10,100 new homes will be expected to be delivered out of an allocation of 14,000 required within the District.

Policy CP3 relates to housing allocation, setting out that 70% (9,700) of the housing provision identified within CP2 will be made in Dover, commenting that the Whitfield Urban Expansion will provide some 5,750 homes.

Policy CP4 relates to housing mix, density and design on sites of 10 or more dwellings.

Policy CP6 requires infrastructure to be in place or provision for it to be provided to meet the demands generated by the development.

Policy CP7 relates to green infrastructure and seeks to protect its integrity. Development that would harm the network will only be permitted if measures to avoid harm arising or mitigate its effect are incorporated. Proposals which may introduce additional pressure on the existing green infrastructure network will only be permitted where they incorporate quantitative and qualitative measures as appropriate to address pressures.

Policy CP11 relates to the managed expansion of Whitfield. The site to the west, north and east of Whitfield is allocated for an expansion of Whitfield comprising at least 5,750 homes supported by transport, primary education, primary health and social care, utility services and green infrastructure together with retail, financial and professional offices, eating and drinking establishments (Use Classes A1 to A5). This policy also requires that any development proposed should accord with the masterplan, which has been agreed by the local planning authority as a Supplementary Planning Document (SPD).

#### Dover District Council Local Plan 'saved' policies (DDLDP)

Policy TR4 relates to the safeguarding of land between Lydden Hill and the Duke of York roundabout.

Policy TR9 relates to the provision of cycle routes and safeguarding of those outside the existing highway limits.

Policy OS2 requires that developments of more than 15 dwellings shall provide on-site equipped children's play areas.

Policy OS3 requires for long term arrangements to meet open space requirements for housing must be made for planning permission to be granted.

#### Land Allocations Local Plan (LALP)

There is no policy within the LALP directly related to this proposal.

#### Whitfield Urban Expansion SPD

The Whitfield Urban Expansion (WUE) SPD was adopted by the Council on 6 April 2006 (Minute 534) after an intensive period of exhibitions, drafting and consultation. It sets out a broad framework for how the proposed expansion of Whitfield should be undertaken. It provides a masterplan in accordance with policy CP11 of the Core Strategy, which required, amongst other things for the SPD to be in place before any planning permission could be granted.

The SPD sets out that development should be carried out in a comprehensive and cohesive manner and to this end, has identified a set out criteria which applications for development are expected to comply with.

The SPD effectively sub-divides the entire Whitfield expansion area into three districts – north, east and west, and these are further sub-divided into six neighbourhoods. The Council's preference is that planning applications be submitted for nothing less than a neighbourhood, in order that comprehensive planning can take place, and that due regard can be had to the cumulative impacts of the proposals. This approach seeks to resist ad hoc and piecemeal development of small sites which could not financially contribute towards required and identified infrastructure provision. The SPD also sets out the Council's preferred anti-clockwise

development phasing order, starting from the south-east corner. It also sets out that small parcels of land (defined as 'village extensions') within the proposed expansion area have the potential to be brought forward independently of the larger districts or neighbourhoods, subject to evidence showing that related infrastructure be resolved. Table 6.2 sets out the required phasing of development and proposed yields/capacities as well as the required infrastructure.

The application site comprises an area of land designated in the SPD as suitable for an edge of village extension – as set out within paragraph 5.143.

Page 55 of the SPD relates specifically to the development on land to the south of Singledge Lane, and sets out matter such as access, and building heights. It does however state that the site can be delivered independent of the 'Temple Whitfield' phase (which is the final phase of the urban extension) as a village extension. It states, amongst other things, that the village extension must be able to:

- Be contained within the existing landscape;
- Must lead directly to and be readily served by the existing highway network; and
- The land must be recognised as a natural progression of the existing built form.

#### National Planning Policy Framework (NPPF)

The NPPF states that at its heart is a presumption in favour of sustainable development, to be seen as a golden thread running through decision taking. It sets out three dimensions to achieving sustainable development: economic, social and environmental. These should be undertaken in isolation, because they are mutually dependent. To achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

Part 7 requires good design, which is a key aspect of sustainable development.

Part 8, is in favour of promoting healthy communities, through ensuring the provision and be of shared space, community facilities and other local services to enhance the sustainability of communities and residential environments.

#### National Planning Policy Guidance (NPPG)

Provides guidance on matters relating to the main issues associated with development.

#### Other Documents

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

The Kent Design Guide sets out design principles of development.

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

There is significant planning history with regards to the Whitfield expansion although only the screening opinion set out below relates to this application site directly.

DOV/16/00424 Land to the South Side Singledge Lane, Whitsfield. Screening opinion for residential development. **EIA is required.**

DOV16/01137 Land to the South Side Singledge Lane, Whitsfield. Screening opinion for residential development. **EIA not required.**

It should be noted that this screening opinion was provided on the basis that suitable SANG mitigation can be provided within the application site, and that the matters of including land safeguarding for the A2 could be included as part of this mitigation. The weighting of Policy TR4 is a planning matter which falls outside of the remit of assessing this screening opinion. Should this land not be available for mitigation then an EIA would be required.

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

Neighbouring properties were notified of the application and a site notice was placed on site. 83 objections were received with regards to this application. Neighbours objected for the following reasons:

- Abbey's new road system appears horrendous;
- Highways capacity should assess Whitfield's roundabout capacity;
- Local roads will not be able to cope with influx in traffic volume;
- Loss of wildlife;
- Inadequate paving during winter months on Singledge Lane;
- Flooding and drainage may well be exacerbated by this development;
- Within the Whitfield Adopted masterplan, there is a phasing programme in which this site is to be the very last to be developed;
- No construction plan;
- The present hedgerow is shown on site plan as being very close to the proposed new build and there is also the road; not leaving the promised sufficient buffer zone;
- Singledge Lane is mostly bungalows and nothing like the proposed properties;
- Getting onto the A2 from the lane is regularly blocked in and out, even now without extra traffic;
- Noise from hotel and the lack of suitable boundary divider between the hotel and development is of concern;
- The location of 6 unit 'affordable' housing block, it's location borders the boundary and will affect visual amenity of hotel;
- Emergency vehicle access;
- How will large / construction vehicles enter the site;
- Lack of amenities;
- Previous applications have been made and not approved, nothing has changed;
- The lane is very narrow and in places 2 vehicles cannot pass;
- Overhead electric cables are susceptible to large vehicles;
- Services are oldest in the village and cannot cope with the current number of dwellings;
- If development was to occur, it would not be a rural lane;
- Education and healthcare services are not in place;
- Access onto the A2 at peak times is very difficult now;
- Greenfield site and countryside;
- Proposed play area is against the busy A2 with noise and pollution;

- Only part use of the site which will result in high density layout;
- Yet to see any increase in jobs which was promised with the developments;
- Adding footpaths will narrow the road further;
- Only one secondary school in walking distance from site;
- Pressure on public transport but cannot see operator getting a bus along this lane;
- Increased noise levels;
- Open space just for residents of the site, how about existing residents who use the field already;
- There is insufficient ecological mitigation proposed as part of this development;
- The applicant is reliant upon the area identified for potential widening of the A2.
- Development is more to do with profiteering; and
- Large proportion of that land is within the safeguarded line for the future widening of the A2.

In addition there was one supporting comment with regard to this application. The reason for supporting this application was:

- Field been used for motorbikes, gypsies and dog walkers and we need affordable housing.

#### Consultation Responses

**Kent Wildlife Trust** have made the following comments:

*'We are concerned with the initial Ecological Appraisal whilst highlighting the potential on the site for reptiles, birds and bats, it does not appear to have a recommended a species survey for reptiles, or an activity survey for bats or a breeding bird survey. Considering the amount of hedgerow and habitat margins present on this arable land, this is disappointing.'*

*'Appears to be no discussion of the potential impact on the nearby Local Wildlife Site, Temple Ewell and Lydden Downland. Kent Wildlife Trust would like to submit a holding objection'*

**Natural England** were consulted and raised no objection should suitable mitigation be able to be provided. Their response was heavily caveated however insofar as their 'no objection' was on the basis that a proportionate level of SAC mitigation could be provided within the application, as had been secured upon the sites elsewhere as part of the overall development.

**Dover District Council Strategic Housing** were consulted and made the following comments:

*'The proposed mix of house types provides a satisfactory mix of smaller homes and family sized homes and will make a valuable contribution to meeting the housing needs of households in the district who are unable to afford market housing.'*

Following the receipt of amended plans the number of houses reduced from 135 to 133 but the same provision of affordable housing was proposed and so no objections were raised to these amendments.

**Highways England** were consulted and raised no objection to the detail of the application; although did not specifically comment with regards to the loss of land that allows for the potential to expand the A2.

**Southern Water:** Southern Water cannot accommodate the needs of this application with the development providing additional local infrastructure. The proposed development would increase flows into the waste water system, and as a result increase the risk of flooding in and around the area.

**KCC Flood and Water Management** were consulted and made the following comments:

*'We are unfortunately unable to remove our outstanding objection to this application. The revised drainage strategy does not provide any new or substantive information, and our previously raised concerns have not been addressed. There is no clarification on how the runoff from the private, non-highway areas will be adequately dealt with, and the rate of infiltration used for the design of the highway attenuation pond is higher than has been determined through on-site testing.'*

*Where soakaways are proposed for the private areas, each plot should ideally discharge to a soakaway designed to accommodate the water from their plot unless larger, strategically located soakaways are located in publicly accessible areas and subject to formal maintenance arrangements).*

*With the density of the development proposed and the absence of detailed drainage layout, we are unable to confirm that the properties proposed won't be subject to an inaccessible level of flood risk; we are also unable to confirm that the flood risk to the surrounding area won't be exacerbated.'*

**KCC Highways and Transportation** were consulted and their initial response stated:

*'The trip generation rates for the proposed development appear robust. The proposals provide improved pedestrian facilities and formalise/improve what currently appear to be informal single-way working arrangements along the lane. Delivery vehicles will still be able to stop in the lane whilst delivering. Pedestrian connections are made to the existing footways leading to Singledge Close and Sandwich Road, allowing wider access to the facilities in Whitfield. The proposals include streets to be adopted by the Highway Authority and a secondary emergency access to Singledge Lane which also provides a connection to the existing bridleway to the east of the site – Holding objection'*

Further information has been submitted to the Highways Authority, and they have responded to this information, with concerns still arising with regards to the amendments submitted. These are discussed in full within the main body of the report.

Amended plans were received and reviewed, and the following comments were received on the 15 November 2016:

- Sought confirmation on the details of the travel plan submission;
- Raised concerns with regards to the detail of the parking provision within Singledge Lane and the proposed traffic regulation order (TRO) that is being proposed.

Further submissions were made by the applicant and further comments were made by the Highways Authority on the 28 November which re-iterated concerns with regards for the need to extend the parking restrictions to number 31 Singledge Lane.

**Dover District Council Environmental Health** were consulted and made the following comments:

*'In relation to the noise report, the conclusions of the report are accepted but I would recommend suitable conditions are included with any permission that ensures mitigation is addressed.'*

**Coldred Parish Council** were consulted and made the following comments:

*'Object to application due to inadequate road planning to limit traffic along Singledge Lane.'*

**Whitfield Parish Council** were consulted and made the following comments:

*'The development of the site is too early and should only come forward with tandem with phases 4 and 5 of the Whitfield Urban Expansion to ensure necessary transport, utility and social infrastructure. The only way to achieve a wider road and footpath is a compulsory purchase order of people's gardens which of course is unacceptable. Application does not include adequate infrastructure improvements to utilities. There is a history of flooding and inadequate sewerage disposal capacity in the area, the water, gas and electricity supply need to be upgraded for extra dwellings. The healthcare and social services are also not increased to meet the extra demand. Residents will be without these vital services, which are already at capacity.'*

**River Parish Council** were consulted and raised concerns with regards to the proposal and the impact upon the local roads and junctions, and in particular those linking to the Alkham Valley and the A20.

**The Dover Society** were notified and made the following comments:

- *The application is contrary to the WUE SPD adopted masterplan. Whilst there has been a small reduction in the number of units being proposed – presumably to ease the impact of early development – this point has not been adequately addressed. We remain of the view that this development should not be progressed at this time and certainly not before the full provision of the associated infrastructure required to support it.*
- *The revised application does not make any provision for the required infrastructure and service improvements. It appears that none of our earlier concerns regarding transport, flooding risks, health care provision and residential amenity have been addressed. In particular the lack of adequate road infrastructure remains of concern.*

The Dover Society therefore object to the application and wish to see it refused.

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

##### **The Application Site and Surroundings**



1. The site lies towards the northwest of Whitfield and is allocated under the Core Strategy as an area for the Whitfield Expansion. Currently the site is 9.16 hectares and is currently used as arable land with the main field access located in the eastern corner.
2. The majority of the north eastern boundary is formed by mature trees and hedges that run along the edge of Singledge Lane. Singledge lane is a narrow, unmarked lane. This hedge line has a number of gaps for farm access and a pedestrian access that forms part of a public right of way leading across the site to the A2.
3. The boundary to the south east is partially formed by timber fence to an adjoining dwelling and the remainder defined by a 2m high chain link fence with the Ramada Dover Hotel beyond. The boundary to the south west is defined by further mature hedging that obscures the A2 dual carriageway beyond.
4. To the North and to the southeast of the site lies residential properties which are all single storey bungalows. The residential properties on Singledge Lane front the proposed site.
5. The proposed site is approximately 0.5km away from the nearest shops and restaurants. It is approximately 1km from Whitfield and Aspen Primary School. All of these would be accessed via the A2.

### **The Application Proposal**

6. The proposed application is for the development of the site for residential development to provide 133 new homes, including 40 affordable homes (30%), together with the provision of 3.7 hectares of open space, including a Locally Equipped Area for Play (LEAP).
7. The total amount of open space provided on the site including the LEAP is 4.51 hectares. This includes an area of 4.17 hectares which is available to be used for SANG.
8. The proposal would include a new access to be provided to the north east of the application site. This access would see the priority of the highway change so that give way markings would have to be provided upon Singledge Lane on the western side of the junction.
9. A large infiltration basin would be provided to the east of the application site, adjacent to the access. It is proposed that this would not permanently contain water, only during periods of significant rainfall.
10. In terms of house types, the proposal seeks to provide a mix of 2, 3 and 4 bedroom units across the site. This would consist of:
  - 65 detached dwellings (all private);
  - 34 semi-detached properties (of which 28 would be private. 6 affordable);
  - 28 terraced properties (all affordable);
  - 6 flats (all affordable).
11. The affordable dwellings within the development would be pepper-potted through the development with some located upon the main through route and then clustered within the north-west corner of the site.

12. All dwellings within the development would be two storey (or two and a half storey) with the exception of the flatted element which would be a three storey building.
13. The majority of the detached dwellings would be located around the edge of the application site, facing out towards the open space or onto the edge that would be retained along Singledge Lane.

### **Main Issues**

14. The main issues with regards to this planning application are:

- The principle of development;
- The A2 safeguarding zone;
- The impact on the amenities of the neighbouring occupiers;
- The impact upon the highway network;
- Ecology.

### Assessment

#### **Principle of Development**

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
16. The NPPF states that any proposed development that accords with an up-to-date Local plan should be approved and that which conflicts should be refused unless material considerations indicate otherwise. At the heart of the NPPF is a presumption in favour of sustainable development and for decision taking his means approving development that accords with the development Plan.
17. The application site is dissected by the designation which allows for future expansion of the A2 along the southern side of the site. This area, covered by Policy TR4 of the Local Plan which states:

*Land is safeguarded on the Proposals Map for the construction of:*

- i. The A2 dualling, Lydden Hill to the Duke of York roundabout, Dover; and*
- ii. The A256 Scheme, Sandwich*

18. This designation runs through approximately the lower quarter of the application site, and runs parallel with the highway. Within this area, all land is safeguarded and as such cannot be included within any development parcel, or as mitigation for development as it cannot be secured in perpetuity.
19. Irrespective of the above, the whole application site is included within Policy CP11, which refers to the managed expansion of Whitfield where at least 5,750 dwellings are proposed to be built. It is also referred to in the Whitfield Masterplan SPD. The SPD refers to a phasing programme for the expansion, starting to the east of Whitfield and developing anti-clockwise around the village, with the proposed site being proposed last for development. At present only a small level of development has been forthcoming and as such bringing this site forward in advance would not accord with the proposed phasing of this strategic

development in the broad sense, although given that this is identified as a village extension it is agreed that it can come forward in isolation subject to a number of criteria being met.

20. Whilst this phasing is a material consideration, it is also important to note that the Council are currently unable to demonstrate a five year supply of housing land. With this shortfall in mind, paragraph 47 of the National Planning Policy Framework (NPPF) should be considered. This sets out the Government's general objective of boosting the supply of housing through plan making and the maintenance of a five year supply of housing land. Paragraph 49 in the NPPF requires housing applications to be considered in the context of the presumption in favour of sustainable development (which itself is set out within paragraph 14 of the NPPF). It also states that relevant policies for the supply of housing should not be considered up-to-date if there is not a five-year supply of housing land.
21. With this in mind, the Council have clearly identified that this is a sustainable site to bring forward for housing provision, but nevertheless, all other material considerations, include strategic objectives need consideration in the determination of this application. The matter of the strategic objectives of the authority are considered in more detail below, although it should be noted that the development of at least *part* of this site could be considered acceptable in principle.

#### **Overall Strategy for Whitfield**

22. In order to consider this planning application, it is important to consider the overall plan for the redevelopment of Whitfield. The adopted WUE SPD is a thorough and well considered document, that sets out a number of criteria that development proposals should adhere to when submitted.
23. It is clear that given the scale of the development proposed, a significant level of infrastructure would be required to ensure that the settlement is sustainable, and therefore NPPF compliant. The development within the WUE is proposed to be constructed from 'Light Hill', in an anti-clockwise direction around the edge of the existing settlement with the last phase being 'Temple Whitfield' within the west of the village. This would ensure that transport, education and retail (amongst other) infrastructure is delivered by each phase at an appropriate time, to mitigate the impact of the development.
24. The SPD does however allow for this site to be brought forward in isolation from the 'Temple Whitfield' element as it would be considered a 'village extension' which can be brought forward outside of the phasing plan (point 3, page 62 of SPD). The question therefore arises as to whether the proposal would undermine the proposed strategy for the locality if brought forward in advance of other phases of development.
25. This would be a relatively small number of units within the overall proposal, however it is clear that there are significant existing infrastructure problems within the locality – in particular with regards to drainage. As can be seen from the consultation responses, both Southern Water and KCC (as drainage authority) have objected to this proposal – irrespective of the additional information submitted. There are also continued concerns raised by KCC Highways as a result of the proposed access and use of Singledge Lane.

26. This is a clear indication of the concerns of bringing development forward on a piecemeal basis when it is clear that there are overarching and significant infrastructure constraints that already exist.
27. The SPD is clear in paragraph 5.168 that this site can only come forward in isolation if 'it can be demonstrated that its development is acceptable in highways terms, that suitable vehicular access arrangements can be achieved for development and construction traffic and that the character of Singledge Lane is respected.'
28. Again, given the continued concerns that are raised by the Highways Authority, it is considered that this requirement has not been met, and as such the delivery of this site would be unacceptable at this stage.
29. Whilst contributions are sought, and have been agreed by the applicant, given the pooling restrictions as set out by Regulation 123 of the Community Infrastructure Levy (2010) I would be concerned that this would not provide for the delivery of key infrastructure if a number of other applications come forward in this piecemeal manner (this is of course a matter that has changed since the adoption of the SPD but is nonetheless a material consideration).
30. Concern has been raised that the development would not accord with the requirements of the SPD insofar as it would not accord with the required phasing plan. The SPD does allow for this site to come forward in isolation, so in principle no objection is raised to this proposal coming forward at this point in time. Nevertheless, there are clearly unresolved infrastructure concerns which indicate that this application is premature by virtue of the lack of appropriate infrastructure.

### **Highways Impact**

31. Notwithstanding the Council's fundamental concern at the loss of the safeguarding zone to the north of the A2, significant concern has been raised with regards to the impact upon the local highway network as a result of this proposal.
32. The proposal would see the creation of a new access into the north-eastern section of the application site, which would effectively make this access the priority route for traffic heading into and out of the site, with a new give way arrangement for traffic heading eastwards along Singledge Lane. It is also proposed that a pinch point be provided to the east of the access, which would be single width and require traffic heading westwards to give way to traffic heading in the opposite direction.
33. It is also proposed that the footpaths be enhanced/provided along Singledge Lane to improve pedestrian links into the village centre.
34. These works would require the provision of new traffic regulation orders along Singledge Lane which would have an impact upon the availability of on-street parking for existing residents, and would also be subject to separate consultation which cannot guarantee that the development can be delivered in the form suggested.
35. The SPD is clear that this site can come forward in advance of others within the masterplan subject to the access being acceptable. Given that the Highways

Authority have continued concerns with regards to the provision of the TROs within the highway, and the uncertainty that surrounds whether these would be granted, it is considered that the matter of access has not been adequately considered and as such the proposal would be contrary to the SPD as well as Policy DM12 of the Core Strategy. It is therefore recommended that this be a ground for refusal in the determination of this application.

### **Ecology**

36. As part of the QWUE masterplanning SPD, a habitat regulations assessment was undertaken on behalf of the local authority (April 2011). It is a requirement of EC Habitats Directive (1992) and the Conservation of Habitats and Species Regulations (2010) that land use plans are subject to 'appropriate assessment' if it is likely that they will lead to significant adverse effects on a Natura 2000 site (Special Areas of Conservation (SACs) and Special Protection Areas (SPAs)).
37. Because of the location of the WUE, with RAMSAR sites and SSSIs within close proximity, a Habitat Regulation Assessment was therefore prepared. This document therefore undertook an appraisal of the likely effects of the proposal, which was effectively a screening of the site, then an appropriate assessment which defines the environmental conditions and criteria that are fundamentally important for the persistence and favourable conservation status of the interest features for which the site was designated. The third task is to then identify the necessary mitigation required as a result of the development.
38. The Lydden and Temple Ewell Downs SAC lies adjacent to the WUE and also to this application site (on the southern side of the A2). This site is acknowledged to contain some of the richest chalk grassland in Kent, with significant assemblages of plants and invertebrates.
39. The proposed WUE has the potential to see the population of the settlement more than double, and as such there would undoubtedly be additional pressure upon this protected landscape for recreational purposes. It is for this reason that the SPD sets the objective of seeking to '*avoid and mitigate direct and indirect effects of development on Natura 2000 sites.*'
40. For this reason, the SPD requires for suitable mitigation to be provided within any development that would accord with the calculator as set out within the Representations on the Habitats Regulations Assessment.
41. In this instance, the level of mitigation required would equate to 0.0316ha per dwelling, which given the provision of 133 dwellings, would require 4.20ha to be provided for mitigation in perpetuity. The application as it stands shows a provision of 4.17ha which is a shortfall of 0.03 ha. This is a minimal shortfall, and the applicant has sought to only include useable (qualitative) space within their calculation – areas such as the hedge and LEAP have not been included. With this in mind, it is considered that this very minor shortfall would ordinarily be acceptable.
42. However, a further consideration is that much of this mitigation land lies within the area designated by Policy TR4 for the potential widening of the A2. Whilst the applicant have submitted plans showing a notional scheme, this has neither the agreement of KCC Highways or Highways England and can as such be given no weight in the determination of this planning application. Both KCC and Highways England have been consulted on the proposed plans, and both have stated that

they are unable to support the proposals in their current guise, at this point in time. Whilst it is accepted that the safeguarded land is relatively wide, it has been through examination in public and therefore carried significant weight. It is considered to be wholly inappropriate to include any land within the safeguarded area for mitigation and as such there would be an even greater shortfall in SAC mitigation than the 0.03ha set out above. Natural England have stated that they would only raise no objections to this proposal if suitable mitigation can be provided. In this instance it would not be possible, and as such they are unable to support the application in this form.

43. The applicant was advised of this at a very early stage, and was invited to amend the plans accordingly to ensure that this land did not form part of the SAC mitigation, or include any other built form of strategic infrastructure but acceptable amendments were not forthcoming.
44. There is a significant level of detail which clearly sets out the requirement that would be required for this particular site in terms of SAC mitigation. As this proposal relies on land safeguarded for other development there is a clear shortfall. The application would therefore fail to comply with the WUE SPD, and local policy as well as NPPF paragraph 109 which seeks to enhance the natural and local environments of developments. It is therefore considered that recommendation of this application should include a ground for refusal on this basis.

#### **Flooding/Drainage**

45. As Members will be aware, there have been significant drainage issues with previous developments within the Whitfield area, with insufficient capacity within the existing pumping stations leading to significant problems locally.
46. Whilst each application should be determined on its own merits, these existing problems only seek to highlight that the delivery of sites in advance of the necessary infrastructure can bring about significant problems for both existing and future residents.
47. Southern Water have stated that they are unable to accommodate the needs of this development without the development providing additional local infrastructure. They state that the proposed development would increase flows into the waste water sewerage system and as a result increase the risk of flooding in and around the existing area. They do recommend that if permission is granted a condition be imposed upon the development that would ensure that the necessary improvements be made.
48. In addition, their response states that the development should be considered by the relevant body that will maintain any SUDs features – i.e. KCC. This is in order that good management of the system be provided which will ensure that there is no flooding from the surface water system that may then inundate the waste water system – a problem that has been encountered elsewhere within Whitfield.
49. Kent County Council have provided two responses to this application, and have maintained their holding objection on the basis that the information submitted does not provide adequate information or assurances that the surface water system would not result in additional risk of flooding, which might therefore have repercussions upon the sewerage network.

50. As stated, this application should be determined on its own merits, and not on the basis of what has happened within the vicinity, but that said there remains a holding objection by the statutory consultee, and for this reason I recommend that a ground for refusal be given on this basis.

### **Affordable Housing/Heads of Terms**

51. The proposed affordable housing provision of 30% for this site would accord with the requirements of the SPD and the existing local policies. The range of affordable units proposed have been fully considered by the Council's Housing Officer and he has raised no objections to this proposal. No objection is therefore raised on this matter.
52. The applicant has also agreed that all requests for financial contributions would be met, and as such the proposal would accord with policy CP6 of the Core Strategy.
53. Clearly the matter of phasing, and the piecemeal approach to development has been considered within this report – and whilst this does represent a concern, I do not consider that the proposal would not provide for suitable financial contributions as requested and as such no objection is raised to this proposal on this basis.

### **Residential Amenity**

54. In many respects the application site is very much a stand-alone site. The site is bound only to the north by residential properties, and these are all positioned beyond a hedge which is sought to be retained, and a public highway.
55. The proposed dwellings would all be a sufficient distance from the existing dwellings to ensure that there would be no overlooking, overshadowing nor the creation of a sense of enclosure to the existing residents.
56. Concern has been raised with regards to the additional vehicular traffic that would be generated and the potential for additional noise and disturbance. Whilst the proposal would clearly generate both, given that this is shown as an allocation within the SPD, and given the relatively small number of units proposed, I do not consider this to be sufficient to warrant a ground for refusal.

### **Layout and Design**

57. The SPD sets out broad parameters for any development within this site, which includes the use of predominantly two storey properties, as well as the retention of the hedge that runs along Singledge Lane. The applicant has sought to incorporate these elements into the proposal, with all houses two or two and half storey, with only a small flatted element that would be of three storey in height.
58. The properties are a mix of terraced, semi-detached and detached dwellings, with the majority being detached, and of a variety of house types. The majority of the terraced properties are located upon the main access road through the site, with the detached properties providing a lower density responding to the openness beyond.
59. In terms of the layout, the proposal is relatively simple, with a single point of access at the north-eastern corner of the site, and then runs through the site with

a central spine road and loop within the western section. There are two perimeter roads that are of a 'softer' nature and appear more as private drives (although the turning heads that serve them would be to an adoptable standard). Because the access point is located within the north-eastern part of the application site, and because the site is very linear in nature, there is little in terms of layout that could be varied. This does limit permeability into and out of the site, but this is required to be balanced against the requirement to retain the hedge along the lane frontage.

60. The applicant has taken a fairly pragmatic approach to the layout, and has sought to include a variety of road surfaces and landscaping to seek to ensure that the development does not appear as monotonous. Distances from the highway are varied (to a degree) and this would also assist with provided active and varied road frontages.
61. Notwithstanding the matter of whether there is suitable SAC mitigation, it is considered that the layout is broadly acceptable, making good use of the land but also ensuring that there would be suitable back to back distances between properties within the development.
62. There is an element of variation in the building lines throughout the development, although the corner units proposed have a lack of space around key buildings – for example at the crossroads within the centre of the site. Should the application have sought to be approved, it is recommended that these would be amended accordingly – although not in itself a ground for refusal.
63. The proposal does adequately address the retention of the hedge, and the properties front the open space appropriately. All roads have active frontages.
64. In terms of the individual buildings within the site, it is considered again that the proposal is broadly acceptable. The applicant proposes a relatively limited palette of materials but given the existing built form within the locality, this is not considered unacceptable.
65. The flat block within the eastern parcel of the site has been amended to include more articulation, but this remains one of the weaker elements of the scheme. This block also appears a little isolated from the remainder of the development, being located adjacent to the hotel site. That said, this would not in itself be considered a ground for refusal, but as before a matter that would require negotiations should the application be recommended for approval.
66. That said, the house types proposed are of a scale and form that one would expect on a development of this nature, and are not considered unacceptable. It is not therefore considered that the development is unacceptable in terms of design or layout.

### **Archaeology and Cultural Heritage**

67. There are no scheduled ancient monuments, registered parks and gardens, listed buildings or conservation areas lying within or in close proximity to the application site.
68. It is therefore considered that there are no grounds to object to this proposal on this basis.



## **Conclusion**

69. This is a planning application for housing on an allocated site (within the SPD). The site is identified within the SPD as being able to come forward in advance of others, or 'out of sync' with the general phasing of development within Whitfield subject to all other material considerations being met.
70. The Council are currently unable to demonstrate a five year supply of housing land, and as such any policies of restraint for housing are considered to be out of date. That said, in this instance the principle of delivering some housing on this site is accepted, however the level proposed, together with the deficiency in suitable ecological mitigation being provided would be of a weight that would override the necessity to deliver housing within this location at this point in time.
71. Notwithstanding the above, there are unresolved matters with regards to access and drainage and flooding, and for this reason it is considered that the application fails to meet the test of the NPPF and local plan policy, and it is therefore recommended that Members refuse the application for the reasons set out below.

## **g) Recommendation**

Refuse Planning Permission for the following reasons:

- I) Due to the proximity of the site to the Lydden and Temple Ewell Downs SAC the suitable SANG mitigation is required to be provided on site to address the impact upon this designation. The mitigation proposed within this development includes land that is safeguarded for future road widening by virtue of Policy TR4 of the Dover Local Plan as such cannot be guaranteed to be secured in perpetuity. If this development were permitted, it could preclude future road widening which would be contrary to the Whitfield Urban Extension SPD and policy TR4 of the Dover Local Plan.
- II) The proposed development would require the delivery of a Traffic Regulation Order (TRO) that would be subject to separate consultation and is not therefore certain to be considered acceptable. Without the provision of this TRO there would be no suitable mitigation provided upon Singlege Lane which would be to the detriment of the free flow of traffic, and highway safety and therefore prove contrary to the Whitfield Urban Extension SPD and Policy DM12 of the Dover Core Strategy.
- III) The applicant has failed to provide sufficient information with regards to surface water drainage and as such a full assessment of the impact of the development cannot be made. Without this assessment, it cannot be ascertained as to whether the proposal would adequately address surface water drainage, which may also result in harm to the foul water drainage provision. This would therefore prove contrary to the Whitfield Urban Extension SPD and policy CP6 of the Dover Core Strategy.

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**Application: DOV/16/01103**

**Land at the former MOT site**

**46 West Street**

**Deal**

**CT14 6AH**

**TR37505271**



a) **DOV/16/01103 - Erection of seventeen one and two-bedroom apartments and maisonettes at the former MOT site, 46 West Street, Deal**

b) **Summary of Recommendation**

Refusal

c) **Statutory Requirements, Planning Policies and Guidance**

Statute

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

Dover District Core Strategy

Policy DM5 seeks to secure the provision of 30% affordable housing on sites of fifteen or more dwellings, or in exceptional circumstances, a financial payment towards provision off-site.

Policy DM11 considers the location of development and managing travel demand. Development that would generate travel outside of rural settlement confines will not be permitted unless justified by development plan policies.

Policy DM13 sets out parking standards for dwellings and identifies that it should be a design led process.

Policy CP4 relates to housing mix, density and design on sites of 10 or more dwellings.

Policy CP6 requires infrastructure to be in place or provision for it to be provided to meet the demands generated by the development.

Dover District Council Local Plan 'saved' policies (DDLDP)

Policy TR9 refers to the need for the provision of cycle routes.

Policy TR10 refers to the retention of urban footpaths between West Street and the High Street.

Land Allocations Local Plan (LALP)

There is no policy within the LALP directly related to this proposal.

**Material Considerations**

National Planning Policy Framework (NPPF)

The NPPF states that at its heart is a presumption in favour of sustainable development, to be seen as a golden thread running through decision-taking. It sets out three dimensions to achieving sustainable development: economic, social and environmental. These should not be undertaken in isolation, because they are mutually dependent. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

Part 7 requires good design, which is a key aspect of sustainable development.

Part 12 refers specifically to the conservation and enhancement of the historic environment. In particular, it states that local planning authorities should take into account:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- The wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- The desirability of new development making a positive contribution to local character and distinctiveness; and
- Opportunities to draw on the contribution made by the historic environment to the character of a place.

In determining planning applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

When determining planning applications, local planning authorities should take account of:

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

### **National Planning Policy Guidance (NPPG)**

Provides guidance on matters relating to the main issues associated with development.

### **Other Documents**

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

The Kent Design Guide sets out design principles of development.

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

Application 15/01035: Erection of seventeen one and two bedroom apartments and maisonettes (existing building to be demolished) – refused. This application was

refused planning permission by decision notice, dated 16/05/2016 following Member's resolution at Planning Committee for the following reasons:

*(1) The proposed development, if permitted, would result in unacceptable overlooking into the gardens of adjoining properties to the detriment of the living conditions of neighbouring residential occupiers.*

*(2) The proposed development, if permitted, would be of a scale and form that would fail to respond positively to the character and appearance of the locality and Conservation Area.*

Application 15/01143: Demolition of MOT Centre – prior approval granted.

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

##### **Statutory Consultees**

**Head of Strategic Housing:** The proposal for 17 dwellings means that the affordable housing SPD should be set out in the planning application. Therefore in regard to this application, the Council could seek the on-site provision of 5 affordable dwellings. However, I recognise that there would be significant practical difficulties for an affordable housing provider in managing such a small number of properties within a block where the majority are tenure. The alternative would be for the Council to seek a financial contribution from the developer.

**Southern Gas Network:** identified two pipes on site that are owned by SGN, set out best practice advice for work in these areas and raise no objection to the application.

**KCC Highways:** As agreed for the previous application, the existing 2.4m x 43m visibility splay to the south of Anchor Lane needs to be maintained. A plan should be submitted showing this splay is achievable. Although no on-site parking is provided, the site is in a sustainable town-centre location and parking controls are in place on surrounding networks. I would not recommend refusal due to lack of on-site parking.

**Southern Water:** were consulted and raise no objection, subject to appropriate planning conditions to ensure that appropriate means of surface water disposal are proposed for each development.

**Deal Town Council:** object due to the over development of the site, it is detrimental to the Conservation Area and lack of parking. The environmental impact and flood risk assessment both say that exceptional measures need to be taken to deal with surface water and they raise doubt about the current drainage system.

**Environmental Health:** Environmental health has considered the reports relating to contaminated land. There is evidence to suggest that some contamination remains on site and there remains the requirement to remove some soils from proposed garden areas and backfill with 2 granular fill with geotextile membrane.

**Environmental Agency:** object to this application and recommend refusal of planning permission until a satisfactory FRA has been submitted.

##### **Neighbour Representations**

Neighbouring properties were notified of the application, and a site notice was placed on site. 36 objections were received with regards to this application. Neighbours objected for the following reasons:

- No changes since last application;
- The proposed building is now higher than the adjacent Sainsbury's;
- Too many dwellings;
- Strain on drainage;
- Overshadowing;
- Impact on Conservation Area;
- Parking;
- Traffic and Access;
- Design;
- Flood Risk.

In addition there were 24 supporting comments with regard to this application. Neighbours supported this application for the following reasons:

- Development would provide much needed housing;
- Design is improved;
- The site is brownfield site;
- Discourages the use of cars; and
- Development would limit urban sprawl.

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

##### The Application Site

1. The site lies within the town centre of Deal, close to the station, and immediately adjacent to a Sainsbury's supermarket (and associated car park). The site formerly contained a garage/MOT testing station which has subsequently been demolished. This building was of a reasonable bulk, and its footprint encompassed the majority of the application site. The building was approximately 8 metres to its ridge.
2. To the north of the site lies Anchor Lane which is a narrow (made) track which serves a number of terrace properties at the end. These properties currently face on to both the application site and to a number of bungalows which sit immediately to the rear of the site. At the end of Anchor Lane is a one and a half storey dwelling, of brick and tile hanging construction.
3. A number of properties to the north of the site have their private amenity space backing on to the application site. There are a number of trees planted along their boundary which provide a level of privacy to these occupiers.
4. To the east of the application site (and across West Street) lies an open car park which is subject to a separate planning application. Surrounding this application site are terraced properties which lie within the Conservation Area.
5. Moving northwards, the area becomes characterised by traditional terraced properties, with timber sash windows, and walls/railings along their frontage. This is a particularly attractive part of the town, which has a distinctive character and scale of building.
6. Heading southwards, the character quickly changes to a more commercial and open feel in respect of scale, form of building and layout. There are large expanses of car parking within the locality, and the buildings are of a lesser merit than those to the north.

7. The application site therefore lies within a transition zone injecting between the larger, blockier commercial buildings (of which the MOT centre was one), to the smaller and more domestic scale residential properties to the north.

#### The Proposed Development

8. The proposed development seeks planning permission for the erection of seventeen one and two bedroom apartments and maisonettes.
9. The apartment block and maisonettes will be distributed across the site, with the apartment block fronting the site located in West Street and two maisonette blocks accessed to the rear along Anchor Lane. The blocks have been designed to represent the mass of the former MOT Centre; with the maisonette block being a slight reduction in mass, directly across from the Sunnyside Cottages.
10. The access to the apartment block will be via West Street. This block will provide level access to the lift and stair core of the new development. The proximity of the proposed development to the Town Centre with links to public transport has allowed for a car free development. The existing parking area used on the east side of West Street is proposed for re-development. Cycle parking is being provided for each unit by way of secure storage areas on the ground floor gardens accessed off Anchor Lane.
11. Each of the units will have its own landscaped approach or secure front door. Quality paving will make up the hard landscaping throughout the proposed area.

#### **Main Issues**

12. The main issues with regards to this planning application are:
  - The principle of development;
  - Heritage
  - Design and the impact upon the character of area and street scene;
  - The impact upon residential amenity;
  - Highways
  - Flood Risk.

#### Assessment

##### **Principle of Development**

13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
14. The NPPF states that any proposed development that accords with an up-to-date Development Plan should be approved and that which conflicts should be refused unless material considerations indicate otherwise. At the heart of the NPPF is a presumption in favour of sustainable development and for decision taking this means approving development that accords with the development Plan.
15. Whilst the Council are unable to demonstrate a five year supply of housing land it is not considered that in this instance, this would represent any overriding

requirement to grant planning permission in this location. There has historically been a presumption in favour of developing brownfield land in sustainable locations, and for this reason the lack of a five year housing land supply does not tip the balance in favour (or indeed otherwise).

16. The Council has quite correctly identified that some of their housing trajectory (213 units) can be met through windfall sites (of which this is one) but given that the number of units is relatively small, it is not considered that this should be given significant weight in the determination of this application.
17. The application site is situated on West Street within the defined settlement confines of Deal. Policy DM1 of the adopted Core Strategy states that development will not be permitted on land outside the urban boundaries and rural settlement confines shown on the proposals map.
18. Housing applications should be considered in the context of the presumption of sustainable development if the local planning authority cannot demonstrate a five year supply of deliverable housing.
19. The proposed site is in a sustainable location, with Deal Train station being less than a 5 minute walk away. It is approximately 0.3km to the town centre comprising Sainsbury's, pharmacies and restaurants etc.
20. By virtue of the location of the site within the designated Deal urban area; the principle of additional residential accommodation can be accepted, subject to an appropriate design, scale, residential amenity and other matters.

### **Heritage**

21. The application site falls just outside of and faces onto the extended Middle Street Conservation Area. As such in accordance with paragraphs 128, 129, 131, 132, 133, 134 and 137 of the NPPF development proposals should seek to preserve and enhance heritage assets. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal and take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.
22. The previous application 15/01035 was refused as it was considered that the proposed development, if permitted, would be out of scale and of a form that would fail to respond positively to the character and appearance of the locality and Conservation Area.
23. This proposal would be of a similar scale that would also result in an overbearing impact upon the character of the Conservation Area. Whilst it is accepted that the development would replace a large commercial building, this of course was a commercial building which was of a scale that would be expected to serve the former use. This proposal would introduce a residential use to the site but it would not reflect such a use by virtue of its scale and form nor respond to the character of the more residential development beyond. It is this residential character that any development here should respond positively to, but in this instance fails to do so.
24. This application has sought to overcome the previous reasons for refusal, by the increased use of brickwork and slate tiling to the roof. Nevertheless, one has to



consider what the ground for refusal was in the first instance in order to assess whether these proposals have fully addressed these concerns.

25. Overall, the development remains large, and of a contemporary nature which would not sit easily with the surrounding development. The lack of space around the building would compound this appearance and it is for this reason that the proposal is therefore considered contrary to the requirements of both local and national policy in regards to heritage impact.

### **Design and the impact on Character of the Area and Street Scene**

26. The NPPF attaches great importance to the design of the built environment and advises that good design is a key aspect of sustainable development and indivisible from good planning (paragraph 56).
27. Previously, application 15/01035 was refused on the scale of the development, and as a result development appearing incongruous within the street scene, dominating the surrounding area.
28. To the north of the proposed site is a mainly two-storey terraced housing. A scheme for one and two bedroom apartments and maisonettes in three-storey blocks will be distinct within the townscape. The mass of the proposed building is similar to that of the original building but the building would increase the built form mass upon the application site significantly.
29. Paragraph 58 of the NPPF refers to the need to ensure that developments will function well and to establish a strong sense of place and to optimise the potential of the site to accommodate development. It is considered that the proposed development would not function well nor relate to the characteristics, form and scale of residential buildings in the local area and would be intrusive in the local townscape.
30. In terms of design, paragraph 59 of the NPPF states that the Councils should: *'...design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.'*
31. The Council has identified that the scale and mass of the building would result in significant harm within the locality. The applicant overlaid the proposed plans upon the existing (previous building), which shows a minimal increase in height, nevertheless, this does not take into account the fact that the MOT garage had a pitched roof which pulled away from the Anchor Lane boundary, thus reducing its impact from short to medium distance views.
32. It is concluded that the design of the development is out of character compared to the neighbouring residential properties. Firstly, the development has integrated balconies, which has not been seen in the local proximity. The roofscape is articulated with dormers and gabled terraces with the use of slate tiles, zinc cladding and flashing which compared to the open gable roofs, will be extremely dominant in the streetscape.
33. Secondly the proposal is of a scale that would allow for no set back from the highway and would utilise all space within the site. This, together with its scale would represent an overbearing form of development that would fail to respond

positively to the character and appearance of the locality, and in particular the Conservation Area.

34. In conclusion, the redevelopment of the appeal site for residential development would be unacceptable in terms of the design. The site is adjacent to a number of neighbouring properties and the Conservation Area; therefore the development would be detrimental in terms of the townscape. With this borne in mind, it is considered that this proposal does not represent a significant amendment to the proposal and as such, the previous ground for refusal would still stand as it is not been overcome.

### **Impact on Residential Amenity**

35. Paragraph 17 of the NPPF outlines that one of the core principles of sustainable development is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
36. Previous application 15/01035 was refused for the following reason: the proposed development, if permitted, would result in unacceptable overlooking into the gardens of adjoining properties to the detriment of the living conditions of neighbouring residential occupiers.
37. The scheme proposes obscure glazing on all windows that would overlook the properties within Anchor Lane. These windows would therefore not result in any direct overlooking of these properties, but would also need to be non-openable to ensure that any direct overlooking was prevented. This could be secured by condition.
38. The question therefore arises as to whether the inclusion of obscure glazing would result in an unacceptable living condition for the future occupiers of the units. The windows within this elevation would be secondary windows to a living area, and to a bedroom, as well as being the sole window for one bedroom. Had these windows served only the living areas then concerned would have been raised, but given that the proposed living areas would be glazed to the front also, I do not consider this to be unacceptable.
39. Whilst it is regrettable that one of the bedrooms within each unit on the ground, first and second floor would only be served with obscure glazing, it is not considered in itself to warrant a ground for refusal on future amenity.
40. No concern was previously raised with regards to the height and massing of the building in regards to overshadowing or the creation of a sense of enclosure, and for this reason no objection is raised to this proposal.
41. I am therefore satisfied that, on balance, the ground for refusal of the previous application has been overcome with regards to amenity.

### **Highways**

42. Paragraph 35 of the NPPF states that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people.
43. The proposed development will not be providing any car parking spaces due to its locality to Deal Town Centre, the railway station is approximately 190m away

from the site and provides services to London, Dover, Ashford, Canterbury and Thanet. In addition, there are a number of local bus stops providing access to Deal and the surrounding Villages. There will also be an area available for the storage of 34 bicycles in secure storage areas on the ground floor gardens accessed of Anchor Lane.

44. The application has been fully assessed by Kent County Council Highways. Whilst no off-street parking provision is proposed, the site lies within a sustainable town centre location and there are parking controls in place on the highways surrounding the site. There is also a good level of off-street parking nearby (including within the adjacent car park). As such, no objection is raised to this proposal on highway safety grounds.
45. The County Council do request however, that due to the constrained nature of the site, the delivery of materials during any construction phase will need to be carefully considered and a condition is suggested that would ensure the provision of vehicle loading/unloading on site (where possible), the provision of suitable cycle parking, and the provision and maintenance of suitable visibility splays.
46. It is agreed that suitable cycle storage and visibility splays could be provided and maintained, but it is also considered that the details of the delivery of materials is not necessary, given there are existing parking controls within the locality that would overcome these matters.
47. Whilst it is understood that there are significant concerns locally with regards to car parking provision, given the sustainable nature of the site, and the number of readily available public car parks within the vicinity – there are no grounds to object to this proposal on this basis. The County Highways Authority have raised no objection to this proposal on the basis of a lack of off street parking provision because of the sustainable location of the site and because of its accessibility by other means of transport.
48. For these reasons, there are no grounds to seek to refuse the application on highway safety or accessibility grounds.

### **Flood Risk**

49. It is noted that an FRA has not been submitted with this application and the Environment Agency have objected to the application on the basis of flood risk. Previously, application 15/01035 was accompanied by a Flood Risk Assessment that had been fully analysed by the Environment Agency and they raised no objection to that application. The question therefore is whether there have been any reasons for this alternative stance in terms of physical alterations, or alterations to planning policy.
50. The site is included within Flood Zone 3a on the Environment Agency's flood map and therefore has a 1 in 100 year or greater annual probability of river flooding, or a 1 in 200 year or greater annual probability of sea flooding. In this case it is the latter and to put it into context, a large part of the Deal urban area falls within that same zone. Primarily for that reason, new flood defence works were recently completed in June 2014 also the Deal sea frontage. Together with rock revetment at Sandown Castle, new wave wall and new beach, coastal flood defence works now provide a 1 in 300 year standard of protection against coastal flooding and wave overtopping.

51. The NPPF (paragraph 100) stipulates that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk i.e. land within Flood Zones 2 and 3. It also indicates that residential development is classed as a 'more vulnerable use' which requires the application of the Sequential Test and if required the Exception Test. Paragraph 101 of the NPPF indicates that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
52. The NPPF goes on to advise that if the Sequential Test demonstrates it is not possible for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. The NPPF explains that for the Exception Test to be passed, it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk. It also directs that a site specific Flood Risk Assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flooding elsewhere, and, where possible, will reduce flood risk overall. The NPPF explains both elements of the Exception Test will have to be passed for development to be permitted.
53. Previously, the submitted FRA did not demonstrate that there was a lack of other available sites for the proposed development in an area of lower probability of flooding. This is because in the case of Deal, given that most of the urban area lies within Flood Zone 3 and there are no obvious other sites within the Town Centre which pose less risk. The 3 allocated sites within the LALP are now committed and the remaining allocation relies heavily on windfall sites such as the current proposal, coming forward.
54. Despite the failure of the sequential test, there were considered to be significant material considerations and sustainability advantages that indicate the proposed development is acceptable on site and the Exception Test can be applied.
55. With regard to the exception test, the two key components are the wider sustainability benefits and the outcome of the specific flood risk assessment. The former has been dealt with, and the applicant demonstrated that the proposed development would be safe for its lifetime and has set out flood risk management measures that can be implemented to minimise the risk of flooding at the site and to reduce the risk of flooding off site as a result of the development proposal.
56. It was proposed that all sleeping accommodation would be at first floor level and that the finished floor levels would be 150mm above existing ground levels which would be sufficient for both actual risk events and residual risk events such as the new sea defences failing. The calculations were based on a numerical hydrodynamic flood model and have been previously accepted by the Environment Agency. However as a further precautionary measure, the Agency prefer to see thresholds set at 600mm above ground level due to the risk of some overland flow. The conditions requested require that the internal floor level of building be raised to 600mm above the possible flood level, and this ensures that there would be no water ingress into the building.
57. As such given that the floor levels in this case are the same as previously approved and the Environment Agency previously raised no objection, subject to the imposition of the same conditions – there is no sound reason for refusing the application on flood risk grounds.

## **Conclusion**

58. Whilst the principle of development is considered acceptable, the proposed development has failed to address the previous reasons for refusal in terms of its scale and massing.
59. Members were previously very clear in their assessment that the proposal would appear as incongruous within the street scene by virtue of the scale of the development, and this has not been amended as part of this application.
60. The applicant has sought to address the overlooking concerns that are raised through the inclusion of obscure glazing on the flank elevation. This does, to an acceptable extent address the concerns raised, and would not result in an unacceptable level of living conditions for future occupiers.
61. Matters of flooding and highways were not raised as matters of objection with the previous application, and it is not considered that there have been material changes to circumstance or policy that would alter this position.
62. Nevertheless, it is considered that the proposal would have a detrimental impact upon the character and appearance of the locality because of its scale and form, and it is therefore recommended that the application be refused for the reasons set out below.

## **g) Recommendation**

PLANNING PERMISSION BE REFUSED for the following reason:

- (i) The proposed development, if permitted, would be of a scale and form that would fail to respond positively to the character and appearance of the street scene, the wider locality and the Conservation Area contrary to the aims and objectives of the NPPF in particular at paragraphs 17, 56, 57, 58, 60, 61 and Part 12 – Conserving and Enhancing the Natural Environment.