

Public Document Pack



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22 May 2019

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 30 May 2019 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 democraticservices@dover.gov.uk.

Yours sincerely

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

Chief Executive

Planning Committee Membership:

J S Back (Chairman)
R S Walkden (Vice-Chairman)
D G Beaney
E A Biggs
T A Bond
J P J Burman
D G Cronk
D P Murphy
O C de R Richardson
H M Williams

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 18 April 2019 (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/19/00328 - LUCIDA STUDIOS, EAST STREET FARM, EAST STREET, ASH** (Pages 10-19)

Change of use of existing building to artist's studio (B1) (Retrospective)

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

7 **APPLICATION NO DOV/19/00105 - LAND ADJACENT TO 44 FOSTER WAY, DEAL** (Pages 20-49)

Erection of a detached dwelling with associated parking and creation of vehicular access (existing boundary wall to be removed)

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

8 **APPLICATION NO DOV/19/00106 - LAND ADJACENT TO ST MARY'S GROVE COTTAGE, ST MARY'S GROVE, TILMANSTONE** (Pages 50-63)

Erection of a detached dwelling with associated parking

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

ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING

9 **APPEALS AND INFORMAL HEARINGS**

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

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

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

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes will be published on our website as soon as practicably possible after each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Kate Batty-Smith, Democratic Services Officer, telephone: (01304) 872303 or email: democraticservices@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 – 30 MAY 2019

**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/19/00105 Erection of a detached dwelling with associated parking and creation of vehicular access (existing boundary wall to be removed) – Land adjacent to 44 Foster Way, Deal (Agenda Item 7 of 18 April 2019)**

This item is dealt with elsewhere on the agenda

Background Papers:

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

LOIS JARRETT

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.

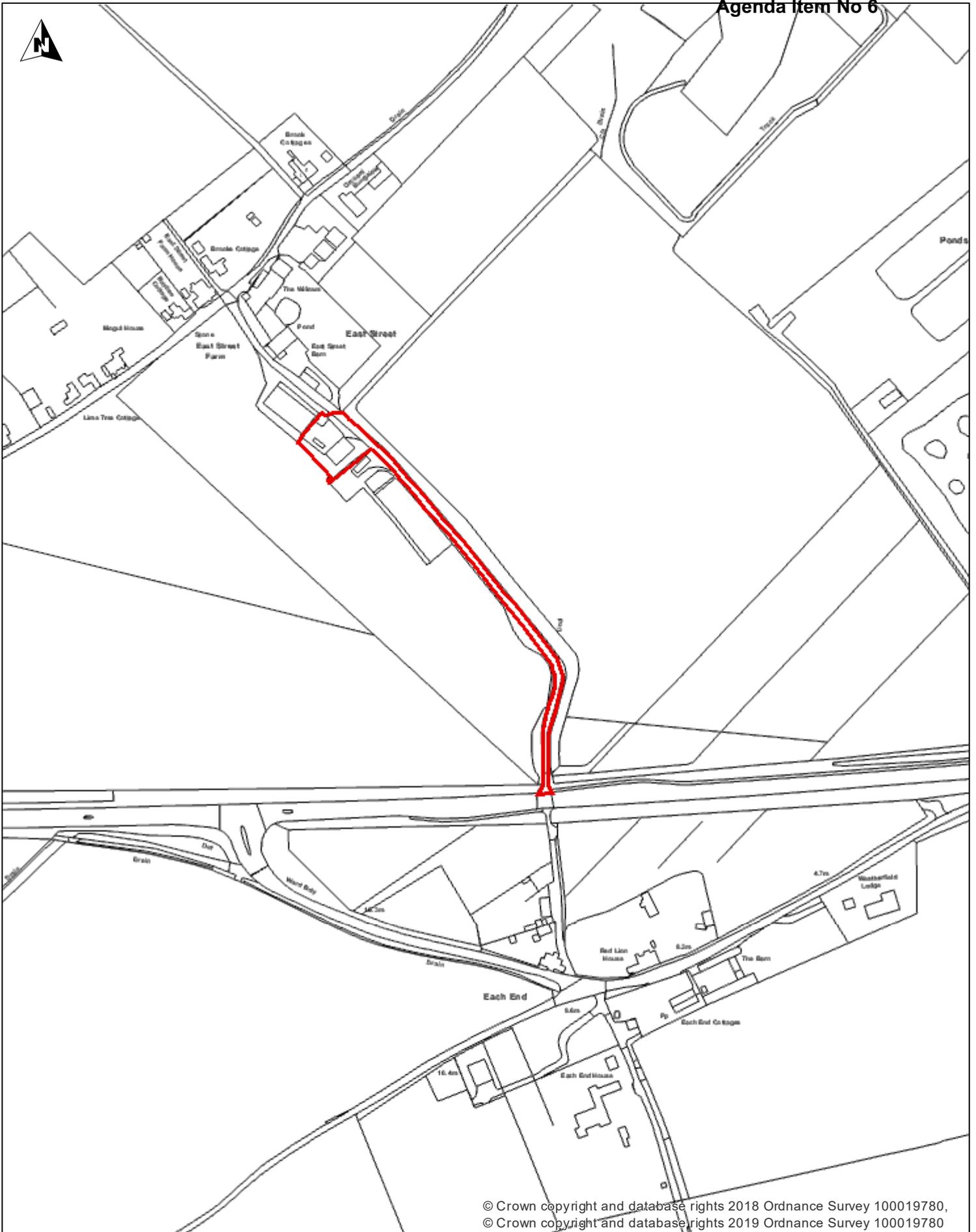
Article 14 - Prohibition of discrimination.

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

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.



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DOV/19/00328

Author: Planning Services

Lucida Studios, East Street Farm, Ash

Scale 1:3,000

Map Dated: 21/05/2019

Dover District Council
Honeywood Close
White Cliffs Business Park
Whitfield
DOVER
CT16 3PJ



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

- a) **DOV/19/00328 – Change of use of existing building to artist’s studio (B1) (retrospective) - Lucida Studios, East Street Farm, East Street, Ash**

Reason for report – Number of contrary views (10) and Councillor Call-in

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010)

DM1 – Settlement Boundaries
DM3 – Commercial Buildings in the Rural Area
DM4 – Re-Use or Conversion of Rural Buildings
DM11 – Location of Development and Managing Travel Demand
DM13 – Parking Provision
DM15 – Protection of the Countryside
DM16 – Landscape Character

Ash Neighbourhood Area

Note: No neighbourhood plan has yet been adopted.

National Planning Policy Framework (NPPF) (2019)

Paragraph 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development. The objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Paragraph 124 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and landscaping, are sympathetic to local character and history and create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users.

Paragraph 170 states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic beauty of the countryside.

Kent Design Guide (2005)

The guide provides criteria and advice on providing well designed development, emphasising that context should form part of the decision making around design.

Dover District Council Landscape Character Assessment (2006)

The site is within 'Ash Level'.

Kent and Medway Structure Plan (2006) - SPG4 Kent Vehicle Parking Standards

d) **Relevant Planning History**

DOV/95/00021 – Agricultural building to store fruit, fruit boxes and machinery -
Granted

DOV/02/00293 – (*the application building*) Erection of general purpose agricultural
farm building. – Prior Approval Not Required

DOV/09/01104 – (*located to northwest*) A change of use from agricultural storage
buildings to use as predominantly trade related showroom and materials library
related to the sale of hard surface landscaping materials - Refused

DOV/16/01490 – (*cold stores to north*) Prior approval for the change of use from
storage (use class B8) to residential dwelling (Use class C3) - Prior Approval
Refused – Appeal Allowed with Conditions

DOV/18/00732 – (*cold stores to north*) Erection of a detached dwelling, car barn,
garden/cycle storage, landscaping and drainage (existing buildings to be demolished)
– Refused – Pending Appeal Decision

DOV/18/01052 – (*barn to northwest*) Prior approval for the change of use from
Storage or Distribution buildings (B8) to 3no. Dwellinghouses (C3) – Prior Approval
Granted

e) **Consultee and Third Party Responses**

Representations can be found in full in the online planning file. A summary has been
provided below:

Ash Parish Council – object due to the creation of a habitable unit within the building
(containing food preparation and washing facilities) occupied by the applicant, which
is not applied for in this change of use. Furthermore, 5.5 (of the application form)
claims that the studio provides additional rural employment facilities which
contradicts claims in the planning statement & could have implications for highways,
access impact on residential amenity etc. The Parish Council asks for evidence of
what rural employment opportunities are proposed & their scale and scope so that it
can comment on that evidence in relation to the claim. Comments submitted by local
residents would appear to be contrary to some of the claims in the planning
statement & it is also noted that the application is retrospective.

Woodnesborough Parish Council – no objections

KCC Public Rights of Way – have no comments to make as the proposed change of
use will have no impact on the restricted byway EE93.

KCC Highways and Transportation – It would appear that this development proposal
does not meet the criteria to warrant involvement from the Highway Authority in

accordance with the current consultation protocol arrangements. An informative is suggested

Public Representations:

9 Representations of objection have been received and are summarised below:

- Sets precedent
- Site is outside of confines on agricultural land
- Change of use to studio has only commenced in last few months – prior to this, applicant was living in the barn & reported to Enforcement Officer in 2018
- Concerns there are plans to convert all buildings within applicants ownership to dwellings (due to prior approval conversion of other barn to three dwellings) and if developed to housing, would result in increase in housing in East Street by half, concerns area will end up as housing estate. Adjacent land (owned by applicant) is used for agriculture – concerns farm land will become a garden or another application will be submitted for an agricultural barn to service the land. Mobile home has been connected to a septic tank and electrics and a further portacabin is within the land under the ownership of the applicant.
- Lack of infrastructure including no mains drainage, gas & rubbish/recycling collection, issues with water supply and electricity and entire plot was subdivided into current arrangement (three plots)
- Agricultural barns on site were allowed on condition of tree screen – mature trees cut to hedge height in last 2 years
- Impact on noise
- Impact on wildlife and natural environment
- Light pollution
- Barn lies in the same field as the archaeological remains of a Roman Villa (identified in 1992 report)
- Highways safety issues – access to highway from A257 is hazardous due to speed and it is not possible for cars to enter and exit the byway simultaneously. East Street is a no through road with no passing places. Access from restricted byway which is unadopted and poorly maintained with no intention to develop the surface to cope with additional traffic the studio will bring – increased traffic could be problematic and dangerous for horse riders, ramblers, dog walkers and residents.
- Inaccuracies in application form and contradictions to planning statement – foul sewage & surface water cannot be disposed of in mains drainage (as there is none) – 13 residences rely on cess pits/septic tanks. Surely paints & solvents are hazardous materials – no details provided on how this will be disposed of, queries regarding employment of staff & benefit to rural economy

Agents' response

The agent responded to comments on 17th April 2019. This response is available to view in full in the online planning file and is summarised below;

- In respect of Ash Parish Council comments, the building is not occupied by the Applicant and it appears that their comments have been based on some local residents views. Woodnesborough Parish Council raises no objections. The KCC Public Rights of Way Officer raises no objections and confirms there will be no impact on the restricted byway EE93.

- Representations express concern that this change of use to an artists studio will somehow result in more dwellings being built, with suggestions that this change if use will result in 10 dwellings or even a 'housing estate'. Any such development would be subject of separate planning permission and these assumptions are baseless. My Client is a successful artists with an established reputation both at home and abroad and he has been using the building as an artists studio for several years without, it appears from the representations, many of his neighbours even being aware that this studio exists. The neighbours refer to the use as 'proposed' and raise concerns about the change of use leading to extra traffic and also concerns about the change of use creating noise impacts to residents. Clearly, as my Client has been using the building as a studio for some time, none of these issues have arisen, otherwise these representors would have known the studio was there, including the nearest neighbour who states she is the closest neighbour living directly opposite the 'proposed studio'.
- The barn subject of this application was granted permission in 2002 under reference DOV/02/00293. Several representors have referred to removal of trees that were 'required to be retained by a condition'. The approval did not include any such condition.
- Contrary to the comments made by one representor, my Client purchased the barn in 2015 and commenced the use of the studio straight away. My Client does not live in the barn, having his own residence elsewhere (I am happy to provide you with evidence of his private address should you wish) and your recent visit clearly shows you the contents of the Studio. On this point, my Client would like to add the following comments; *'The building seemed to me to present the possibility of an ideal studio away from the hustle and bustle of city life.(I have worked as artist, photographer and film-maker in a wide variety of different spaces and this smaller barn is as good as I have achieved elsewhere in three decades). The studio is most definitely not viewed by me as any kind of permanent accommodation. What provision I have made for an overnight stay, which is all I would ever do, and that only occasionally, is of a basic kind and would simply be invoked on an art project which required a few days of continuous and concentrated work. The studio is ideal for the construction of larger-scale works due to easy transport access both in and out via the new double doors leading to the courtyard in front of the barn. The Case Officer will surely have assessed for herself that this building has been used in its present form for some time (as it happens since it was purchased) and the fact that none of the present objectors were aware of this means that I must have been successful in keeping a private and low profile (with an added determination not to disturb my neighbours if at all possible. Regarding fears that I will be seeking to use other parts of my property of additional buildings, these are really groundless concerns as it is not my intention to do this: apart from anything else, the agricultural designation of my smallholding would preclude this from any such possibility either now or in the future. Finally I feel justified in speaking up for myself (even just a little) as a moderately successful artist who has established a reputation here and abroad, which I am more than willing to share with those of my immediate neighbours who feel in our age of commerciality and consumerism, that a lifetime engagement with the beauty of nature through their work is a goal worth pursuing.'*

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

- 1.1 The application site relates to a detached agricultural building within part of a larger agricultural site located outside of the settlement. The application site is

located on the western side of East Street in Ash, which is to the north of the A257 (Ash Bypass). The site is part of a larger plot of land under the ownership of the applicant and part of this is rented to farmers for keeping sheep. The barn in question was constructed in 2002 following the prior approval application for the erection of a general-purpose agricultural building (planning reference DOV/02/00293). To the north of this barn is an enclosed courtyard and parking area, bounded by an approximately 2m high timber fence and gate on the northeast side. The means of enclosure and gates have been installed as permitted development. There is a portable building within the courtyard to the northwest side of the site and to the northwest is a larger detached storage building currently used to store private motor vehicles, which was the subject of a recent prior approval application for the change of use to three dwellinghouses (DOV/18/01052 – Prior Approval Granted). To the south of the application building is a caravan and hardsurfaced area. This is the subject of a separate enforcement investigation.

- 1.2 The application site is accessed via restricted byway (EE93) which runs to the east of the site, connecting the A257 to East Street. On the opposite side of the byway (to the northeast of the site) is East Street Barn and beyond this is The Willows which together with the application site, was previously one larger site. Access to the byway from East Street is restricted by a timber gate across the byway and to the north of the site. As such, vehicular access is from the entrance to the byway from the A257 to the south of the site.
- 1.3 This application seeks permission for the change of use of the existing building to artist's studio (B1) (retrospective). The description of the application has been amended to include 'retrospective'. This amended description was subject to further advertisement and consultees were notified. The agents' Planning Statement and Response to Representations identifies that the building has been used as an artist's studio for at least 3 years. The submitted floor plan indicates a single open space in the building, with no subdivision. The change of use results in no new external alterations to the building, which is finished in dark green corrugated steel, with a pitched corrugated roof (with translucent panels allowing daylight into the building). There are large glazed doors on the northwest elevation (opening to the enclosed courtyard).
- 1.4 Within the building are a number of racks, shelves and sets of drawers for the store and display of artwork, as well as a number of tables, chairs and other domestic furniture. There is also, what appears to be living accommodation within the eastern half of the building which includes a kitchen, bedroom and shower/WC. It is noted that the agent has advised residential use occurs for overnight stays on occasions. Notwithstanding, the application before committee (as supported by the submitted plans) is for a change of use to an artist studio (B1) only. The matter relating to residential use is subject to a separate enforcement investigation and does not form part of the proposal subject of this planning application.

2. Main Issues

- 2.1 The main issues for consideration are:
 - The principle of the development
 - The impact on the character and appearance of the area
 - The impact on residential amenity

Assessment

Principle of Development

- 2.2 The site lies outside of the settlement confines identified in Policy DM1 and is therefore within the countryside (subject to Policies DM15 and DM16 discussed later). Policy DM1 (Settlement Boundaries) states that development will not be permitted on land outside the urban boundaries and rural settlement confines unless specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- 2.3 Policy DM3 makes provision for new commercial development in the rural area. Although outside settlement confines, the use applied for generates little traffic or other related activity. On balance it is considered the use applied for is suitable particularly in the light of policy DM4.
- 2.4 Policy DM4 (Re-Use or Conversion of Rural Buildings) states that beyond the confines of Rural Service Centres, Local Centres and Villages permission will be given for re-use or conversion of such buildings for commercial uses.
- 2.5 It is therefore considered that the principle of the development is acceptable in this rural location, subject to site-specific considerations.

Impact on the Character and Appearance of the Countryside

- 2.6 By virtue of its siting, the application building is visible from East Street, the A257 and restricted byway EE93 (providing access to the site from the A257), as well as surrounding countryside and agricultural land. The site is located outside of the settlement confines identified in Policy DM1 and, being in the countryside is therefore subject to Policies DM15 (Protection of the Countryside) and DM16 (Landscape Character). Policy DM15 seeks to avoid development which will harm the character or appearance of the countryside and Policy DM16 seeks to avoid development which would harm the character of the landscape area.
- 2.7 The proposals result in a change of use of the existing building and no additional external alterations are proposed as part of application. As such, the development is not considered to result in the loss of, or to adversely affect the character or appearance of the countryside. The proposals would therefore accord with Policy DM15. Furthermore, the development is not considered to harm the character of the landscape and would therefore accord with Policy DM16 and Paragraph 170 of the NPPF.

Impact on Residential Amenity

- 2.8 The application building is located approximately 60m to the west of the nearest neighbouring dwelling; East Street Barn to the north of the site. There are a number of dwellings to the north of the site along East Street, however these are in excess of 100m from the application building and are therefore considered unlikely to be affected by the proposals in respect of impact on residential amenity (including overbearing, overshadowing or loss of privacy). As stated, no new external alterations are proposed as part of this application for a change of use of the existing building and as such, there is no change to the siting, scale or massing of the barn.

- 2.9 In respect of privacy, the development would create no new windows, doors or openings and does not overlook or result in perceived overlooking of the nearby properties. As such, it is considered the change of use does not result in harm to the privacy of nearby residents.
- 2.10 It is stated in the planning statement that the use of the building as an artist's studio has been operating at the site for several years and that the applicant works alone in the studio. No complaints have been received by environmental health in relation to the building in the past three years. In respect of disruption to nearby residents from noise or light pollution, were this to become an issue, it could be controlled by environmental health legislation.
- 2.11 Consequently, as the proposals result in no change to the siting, scale or massing of the existing building, the change of use does not result in undue harm to the residential amenities of nearby properties in accordance with Paragraph 127 of the NPPF.

Other Material Considerations

Impact on Parking/Highways

- 2.12 The change of use results in no change to the siting or scale of the building. There is an existing paved parking area (providing one parking space) to the northeast of the application building, with further parking space available in the adjacent enclosed yard to the northwest. 2006 SPG4 Kent Vehicle Parking Standards states that for this type of use, 1 car parking space per 35m² is required. Based on this, approximately 4 parking spaces are required. Whilst it is stated the applicant works alone in the studio, were the number of users of the building to increase in the future, given the availability of parking within the site, the development is unlikely to cause increased parking pressure in the surrounding area. A condition can be imposed requiring details and securing parking for the use applied for.
- 2.13 Whilst concerns have been raised regarding the access to the site from the A257 via the restricted byway (which is an unmade road), no changes to the existing access are proposed under this application. The agent has confirmed that, as there is a locked gate across the section of restricted byway to the north of the site (preventing vehicular access from East Street), all access to the site for deliveries or other service vehicles (such as sewage collection) is from the A257 to the south (via the byway). The extent of the use is limited by the floor area of the building and based on the current use, by one occupant, the use is likely to be very limited and is therefore unlikely to result in additional harm to highway safety.

Impact on Flood Risk

- 2.14 The application site is located in Flood Zone 1, which has the lowest risk from flooding. The proposals result in no increase to the scale or massing of the building and the proposed use would be non-habitable. As discussed, the alleged residential occupation of the building is the subject of an enforcement investigation. Nonetheless, the proposals are considered acceptable in respect of risk from flooding.

Other Issues

- 2.15 As stated, the change of use to an artist's studio involves no additional external alterations to the siting, scale or massing of the building. The use is considered unlikely to result in significant harm to local wildlife.
- 2.16 Concerns have been raised in relation to foul sewage disposal as the application form states this will be disposed of to mains sewers. There are no public sewers in proximity to the site and as such, the agent has clarified that foul sewage, as well as grey water from the studio sink are stored in a septic tank. Concerns have also been raised in relation to the storage and disposal of hazardous waste. The agent has clarified that the applicant is "very conscious of the potential negative impact on the environment of oil-based products so only uses water dispensable colours" and as this waste water is grey water from the studio sink, it would be stored within the septic tank which would be emptied by a contractor and is therefore unlikely to result in pollution or contamination.
- 2.17 One of the representations received references archaeological findings of a Roman Villa in relatively close proximity to the application barn. Furthermore, land to the southwest of the application building is within an area of archaeological potential surrounding a Roman dock. However, as the change of use results in no additional groundworks or excavation, there would be no harm to archaeology.

3. Conclusion

- 3.1 Whilst the application site is located outside of the settlement confines identified in Policy DM1, the change of use would accord with Policy DM3 and DM4 and is therefore considered acceptable in principle. No new external alterations or changes to the siting or scale of the existing building are proposed and therefore the development does not result in harm to the character or appearance of the countryside and landscape. Due to the separation distance from nearby residential dwellings, as well as the lack of external alterations to the application building, the change of use does not result in undue harm to residential amenity in respect of overshadowing, overbearing or loss of privacy and the development therefore accords with Paragraph 127 of the NPPF. Conditions can be imposed which would control the use of the building, to ensure no resultant harm occurs. Concerns have been raised regarding occasional overnight stays at the barn. The implications of this are currently being investigated by the Councils Enforcement section and are not the subject of this application.

g) Recommendation

I PERMISSION BE GRANTED subject to conditions which include:

- 1) The development hereby permitted shall only be carried out in accordance with the following approved plans: 190226-S-001 Rev A (Site and Location Plans) received 3rd May 2019 and 190226-E-001 (Existing Plan and Elevations) received 13th March 2019.
Reason: For the avoidance of doubt.

- 2) The application building shall only be used as an artist's studio (B1) and for no other purpose, including any other purpose in the same use class of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
Reason: In order to preserve the amenity of the locality.
- 3) The application building shall at no time be used as a gallery or open to any visitors or members of the public to view or purchase artworks or for any other purpose.
Reason: In the interests of sustainability and in order to prevent further activity and parking at the site which would be likely to be detrimental to highways and byway safety.
- 4) Detailed plans showing the provision of four car parking spaces within the site shall be submitted to the Local Planning Authority for their approval within two months of the date of this decision notice. The approved parking spaces shall be provided as such, within one month of the approval of details and retained for such purposes thereafter.
Reason: In the interests of highway safety and amenity.
- 5) No deliveries and dispatches to or from the site shall take place before 08:00 and after 21:00 on any day.
Reason: In the interests of residential and rural amenity.

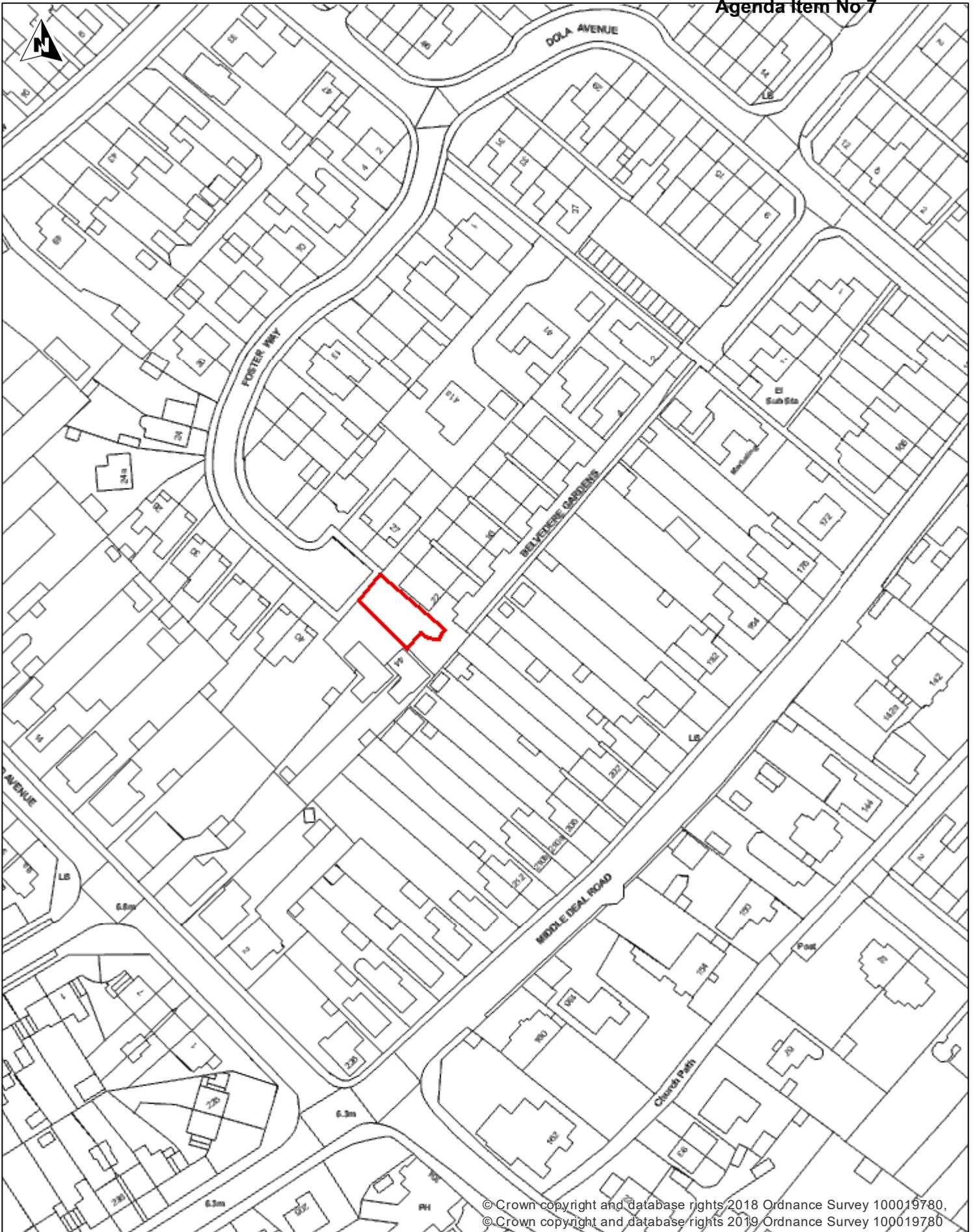
II The following informative from KCC Highways and Transportation be included in the decision notice:

- i) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>
The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

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

Case Officer

Rachel Morgan



DOV/19/00105

Author: Planning Services

Scale 1:1,250

Map Dated: 10/04/2019

Land Adjacent To 44 Foster Way Deal CT14 9QP

Dover District Council
Honeywood Close
White Cliffs Business Park
Whitfield
DOVER
CT16 3PJ



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

- a) **DOV/19/00105 – Erection of a detached dwelling, with associated parking and creation of vehicular access (existing boundary wall to be removed) - Land adjacent to 44 Foster Way, Deal**

Reason for report: Deferred at Planning Committee meeting of 18 April 2019.

- b) **Summary of Recommendation**

Planning permission be refused.

- c) **Planning Policies and Guidance**

Core Strategy Policies

- CP1 – Requires that the location and scale of development complies with the Settlement Hierarchy. Deal is identified as a District Centre, which is the secondary focus for development in the District; suitable for urban scale development.
- CP6 - Development that generates a demand for infrastructure will only be permitted if the necessary infrastructure is either already in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.
- DM1 - Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM11 - Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- DM13 - Parking provision should be design-led, based upon an area's characteristics, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.

National Planning Policy Framework 2018 (NPPF)

- Paragraph 2 states that “planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise”.
- Paragraph 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental. These three overarching objectives are interdependent and need to be pursued in a mutually supportive way.
- Paragraph 11 states that where development accords with an up-to-date development plan it should be approved without delay; or where there are no relevant policies or the most important policies for the determination of the application are out of date, then also granting consent. Where there is a clear reason for refusing the proposed development due to conflict with an area/asset of particular importance (as identified in the framework); and/or where any adverse impacts of granting permission significantly and

demonstrably outweigh the benefits, when taking the Framework as a whole, then planning permission should be refused.

- Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
- Paragraph 47 'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing'.
- Chapter five of the NPPF seeks to significantly boost the supply of housing, requiring Local Planning Authorities to identify specific deliverable sites sufficient to provide five years' worth of housing.
- Chapter nine of the NPPF seeks to promote sustainable transport.
- Chapter twelve seeks to achieve well-designed places, with the creation of high quality buildings and places being fundamental to what planning and development process should achieve.
- Chapter fifteen requires that the planning system contributes to and enhances the natural and local environment, by recognising the intrinsic character and beauty of the countryside, protecting valued landscapes, geological conservation interests and soils, recognising the value of ecosystems, minimising impacts on, and where possible enhancing, biodiversity, preventing pollution and remediating contamination.
- Chapter sixteen of the NPPF seeks to conserve and enhance the historic environment.
- Paragraph 177 states 'The presumption in favour of development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.'

The Kent Design Guide

The guide provides criteria and advice on providing well designed development, emphasising that context should form part of the decision making around design.

d) **Relevant Planning History**

DOV/15/00327 – Erection of 9 chalet bungalows, associated parking and vehicular access – Granted

DOV/16/00998 – Erection of two detached dwellings and creation of parking – Refused and Dismissed at Appeal

DOV/16/01038 – Variation of condition 2 of planning permission DOV/15/00327 to allow amendments to the approved plans (amendments to the rear dormer roof extensions on chalet bungalows and alterations to fenestrations) (section 73 application) – Refused and Allowed at Appeal

DOV/17/00194 – Variation of condition 2 of planning permission DOV/15/00327 to allow amendments to the approved plans (amendments to the rear dormer roof extensions on chalet bungalows and alterations to fenestrations) (section 73 application) – Refused

DOV/17/00514 - Variation of condition 2 of planning permission DOV/15/00327 to allow changes to approved plans (application under section 73) – Granted

DOV/17/00832 – Erection of a detached dwelling – Granted

DOV/17/01022 - Erection of a detached dwelling with associated parking and creation of vehicular access - Refused

In addition to the above applications, the following applications, which relate to neighbouring sites, are of note in the assessment of the current application.

210 Middle Deal Road, Deal (Rear of Site with Access Proposed off Foster Way)

DOV/04/01318 – 2No. detached two storey 3 bedroom houses – Granted

Land Rear of 41 Dola Avenue, Deal

DOV/04/01287 – Erection of two detached bungalows – Refused and Dismissed at Appeal.

DOV/06/01461 – Erection of one detached chalet bungalow – Refused and Allowed at Appeal.

DOV/17/01022 - Erection of a detached dwelling with associated parking and creation of vehicular access. Refused and dismissed at appeal.

DOV/17/01369 - Erection of single storey dwelling with associated parking and creation of vehicular access. Refused and dismissed at appeal.

DOV/18/01006 - Erection of a detached dwelling with associated parking and creation of vehicular access. Refused.

e) **Consultee and Third Party Responses**

Deal Town Council – object to the planning application for the following reasons:

- over development of site,
- proximity to adjacent houses,
- party wall cannot be removed
- amended proposal does not address issues in DDCs previous refusal

Southern Water – no objection raised. An informative has been recommended to be attached in the event of grant of permission.

County Highways – this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

Public Representations:

Twenty four (24) representations received objecting to the planning application and raising the following relevant planning matters:

- would erode the openness
- over intensification of the site.
- Removal of boundary wall will result in increase in parking in Foster Way.
- The current gap provides a pleasant break between developments.
- Extremely overbearing.
- Loss of privacy, security.
- Tunnelling effect.
- Landscaping as approved under the previous application never materialised and the reason this area is looking as waste ground is because the builder refuses to finish clearing this site and therefore is using this area as a dumping ground for building materials.
- Would result in the overdevelopment of the site.
- The development would obstruct views.
- Fails to integrate into the area.
- Out of keeping with Belvedere Gardens and Foster Way homes and appears very cramped.
- Does not address the reasons why planning permission was rejected on 4 previous occasions and 3 rejections by the Planning Inspectorate.
- Affects the lives of the residents of Foster Way.

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

- 1.1 The site lies within a wholly residential area of Deal. The area has a mixed character with linear and perimeter block development to the south east and winding cul-de-sacs to the north west. The scale and form of development is equally varied, with a mixture of detached, semi-detached and terraced properties of one, one and a half or two storeys in height, although distinctive styles of dwellings are typically found grouped together.
- 1.2 The site itself lies at the end of a row of nine dwellings which are understood to have been substantially completed (some of these dwellings appear to have been occupied). The access road is now known as Belvedere Gardens.
- 1.3 The site was previously intended, under the original application (DOV/15/00327, as amended) and a subsequent Section 73 application to provide residential garden. However, the development has not been completed and the site remains vacant. The approved landscaping has not been carried out. More recently, trenches have been dug and concrete slabs (which have the appearance of foundations) have been poured on site.
- 1.4 This application seeks permission for the erection of a detached two storey dwelling which would be located towards Foster Way (south west) end of the site. It is proposed to demolish the existing boundary wall along the northwest boundary of the site to provide access off Foster Way. The dwelling would be provided with one car parking space which would be accessed from Foster Way. It is important to note that the dwelling which is the subject of the current application is in about the same location as the dwelling which was refused and subsequently dismissed at appeal, under application number DOV/16/00998 and in the same location as the recently refused dwellings under application numbers DOV/17/01022, DOV/17/01369 and DOV/18/01006. The Inspector's decision, the decision notice for the refusal and the changes which have been made will be important considerations in the assessment of this application.

- 1.5 A report covering this application was previously reported to Committee at its meeting held on 18th April 2019. Members resolved to defer determination of the application to allow for the provision of an updated/additional report to address/clarify comments made by the applicant (in writing) before the April Planning Committee. A report addressing these matters is included as an addendum attached at Appendix 1). Regard has been had to whether the correspondence received from the applicant raises any material planning issues relevant to the consideration of this application.

2. **Main Issues**

- 2.1 The main issues are:

1. The principle of the development
2. The impact on the character and appearance of the area
3. The impact on residential amenity
4. The impact on the highway network
5. The impact on ecology

Assessment

Principle of Development

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose 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.
- 2.3 The site lies within the settlement confines of Deal. It is considered that the principle of the development is acceptable, subject to site-specific considerations.

Impact on the Character and Appearance of the Area

- 2.4 It is considered relevant to draw a comparative analysis between the previous refusals, appeal decisions and the current application. To date, there have been four refusals followed by three dismissed appeals, relating to the erection of a dwelling on this site.
- 2.5 Application DOV/16/00998, which proposed a dwelling on the site, was refused, in part, due to the harm it would cause to the character and appearance of the area. The reason for refusal read:

“The proposed development, by virtue of the location, layout, scale and design of the dwellings, together with their relationship with adjoining properties, would create a cramped and congested form of development, out of character with the pattern of development within the area. Consequently, the development would fail to integrate into, and cause harm to, the character and quality of the area, contrary to paragraphs 17, 58, 59, 60, 61 and 64 of the National Planning Policy Framework”.

- 2.6 This decision was subsequently dismissed at appeal. In respect of the proposed dwelling on the current application site which would have been a detached chalet

bungalow of similar design to the approved dwellings in Belvedere Gardens, the Inspector commented at paragraphs 6, 7 and 8 of her Appeal Decision:

“No 24 would occupy a plot at the end of a run of new semi-detached chalet this run of buildings and would have very limited effect on the street scene from Dola Avenue, being separated by some distance. I am again advised that the plot was proposed to form a garden area under the permitted scheme, which would give a pleasant, spacious character to this end of the development. However, given that the siting, scale and design of No 24 would reflect that of the adjacent new buildings, I consider that the character and appearance of the wider development, of itself, would not be significantly altered by the introduction of this additional unit.

Notwithstanding, this end of the development, and particularly the plot which would accommodate No 24, is clearly visible from Foster Way. From there, the plot offers separation between the individual style of the new development and existing houses in Foster Way, particularly Nos 44 and 42. This gap provides a sense of openness between the two streets and is currently dominated by a tall tree. No 24 would significantly erode this openness, partially obscuring the tree from Foster Way, which would result in a cramped appearance to this end of the development when viewed from Foster Way. Furthermore, No 24 would present a rear elevation to Foster Way, bounded by a wall enclosing the dwelling from the road, which would be generally out of keeping with the front elevations interacting with the road in this vicinity. For these reasons, No 24 would appear out of keeping with the general form and pattern of development of the surrounding area.

In light of the above, I conclude that the proposed development would significantly harm the character and appearance of the area. This would be contrary to the aims of the National Planning Policy Framework (the Framework), in particular Paragraphs 17, 58, 60 and 64 which among other things seek high quality design that responds to local character, promotes local distinctiveness and takes opportunities to improve the character and quality of an area. Paragraphs 59 and 61 are of no significant relevance to this appeal in that they respectively relate to design codes and policies and to connectivity between people and places”.

- 2.7 In summary, the Inspector concluded that the development would cause no harm to the visual amenity of Belvedere Gardens or Dola Avenue. However, the Inspector considered that: the dwelling on the current application site would be clearly visible from Foster Way; the gap created by the site provides an important sense of openness; the loss of this gap would cause a cramped appearance to the development when viewed from Foster Way; and the design of the development would be out-of-keeping with the properties in Foster Way.
- 2.8 Subsequently, a further application was submitted on this site, under application number DOV/17/01022 for a chalet bungalow. The size and general form of the building proposed by that application was similar to the previously dismissed scheme, but was located around half a metre further from the side elevation of No.22 Belvedere Gardens and consequently closer to the boundary with No.44 Foster Way. Whilst the detailed design was amended, the changes were not significant and, as such, the development was not considered to have overcome the previous concerns. The application was therefore refused and subsequently, dismissed at appeal.

- 2.9 In respect of the proposed dwelling on the current application site, the Inspector in his decision commented at paragraph 8:

“The chalet bungalow proposed in Appeal B would reflect the scale and appearance of the neighbouring development, and the entrance from Foster Way means that it would relate to neighbouring dwellings in that road. As such, it would not harm the character and appearance of the surrounding area”.

It is noted that the Inspector in his assessment, did not comment upon the importance of this gap which was discussed by the previous Inspector for a similar scheme refused under (DOV/16/00998). It is considered that the assessment regarding the sense of openness that this gap provides remains relevant in this instance and has been discussed at length at paragraph 2.14.

- 2.10 A further application was submitted on this site, under application number DOV/17/01369 for a single storey dwelling in a similar location as, and having a similar footprint to, the refused and discussed schemes. However, the scale of the building had been significantly reduced to a single storey height and, consequently, the design had also been amended. The proposal was refused on the grounds of impact on visual amenity and unacceptable impact on residential amenity and was dismissed at appeal.

- 2.11 In respect of the proposed single storey bungalow, the Inspector in his decision commented at paragraphs 6 and 7:

“The appeal site is prominent in views along Foster Way as it is located at the end of the road. The bungalow proposed would contrast with the surrounding development. It would be low and there is a wall that forms the boundary to the Foster Way, limiting views into the site. Nevertheless, the roof of the proposed bungalow would be visible and would appear incongruous between the two storey houses at 42-44 Foster Way and chalet bungalows in Belvedere Avenue and at 27 Foster Way.

I note that there are other bungalows at the other end of Belvedere Avenue. However, these are located a short distance away, within a different immediate context and in a less prominent location. As such, they do not affect my conclusions as to the effect of the proposed bungalow in Appeal A on the character and appearance of the area.”

- 2.12 In summary, the Inspector concluded that by virtue of its overall form and design, the proposed single storey bungalow would be out of keeping with the properties in the street and deemed it unacceptable in terms of its impact on the visual amenity.

- 2.13 The fourth application was submitted on this site, under application number DOV/18/01006 for a two storey dwelling in a similar location as, and having a similar footprint to the current application and the refused and discussed schemes. Consequently, the proposal was refused by the authority of Planning Committee on the grounds of impact on visual amenity and unacceptable impact on residential amenity.

- 2.14 Members will note that the site is visible from Foster Way and it was the impact of the development from here that led to the previous refusals and three dismissed appeals. This application introduces a dwelling of a substantial scale which is similar in scale and design to the previously refused scheme (DOV/18/01006). It is also relevant to note that it is substantially larger than the other three previously refused and dismissed schemes in terms of overall massing and height. As such,

the issue with regards to the intrusion of the sense of openness raised by the previous Inspector remains unaddressed. The application site functions as a transition space between the developments on either side and facilitates their co-existence in an amenable manner. Prior to concluding, regard must also be had to the detailed design of the scheme which should be assessed in conjunction with the identified harm which would be caused by virtue of erosion of an important transition gap. The overall appearance of the building would remain consistent with the overall appearance of the dwellings in the immediate vicinity to the southwest (i.e. nos 42 and 44 Foster Way), thereby exhibiting stark differences in terms of design with respect to the dwellings immediately adjoining the application site to the northeast. Given the clash of architectural styles, it is felt that the need for the retention of open space between the developments becomes even more pronounced. Whilst the proposal replicates the design of the immediately adjoining properties in Foster Way, it is not considered that this design overcomes the concerns raised regarding its impact on the character and appearance of the street scene.

Impact on Neighbours

- 2.15 The most recent applications DOV/18/01006 and DOV/17/01022 were refused, in part due to the unacceptable sense of enclosure to, and corresponding loss of outlook from, that property, resulting in an unacceptable loss of amenity to No.44 Foster Way. Moreover, in dismissing the appeal (DOV/17/01022), at paragraphs 11 and 13 of the appeal decision, the Inspector commented that:

“The chalet bungalow proposed in Appeal B would have a side gable end facing towards the boundary of no.44 and would replace previous mature planting on the appeal site. The relationship between the proposed chalet bungalow and no.44 would result in the proposed chalet bungalow dominating that front garden area and the front windows of no.44 to create a tunnelling effect similar to that referred to in the previous appeal decision. The modest gap between the dwelling and the boundary and removal of boundary wall would not materially alter that effect.

For these reasons, I conclude that the proposal in Appeal B would result in harm to the living conditions of the occupiers of 44 Foster Way by reason of outlook. As such, the development in Appeal B (DOV/17/01022) would be contrary to policies contained within the Framework that seek a high quality of design and a good standard of living conditions for existing occupants of buildings”.

- 2.16 It is considered that the thrust of the above assessment remains relevant in this instance. For ease of understanding, it would be relevant to draw a comparison between the two schemes (DOV/17/01022 and DOV/19/00105 (current)) with a view to fully understand the associated impacts.
- 2.17 The height of the proposed dwelling is about the same height as the previous scheme (DOV/17/01022); however, it has been amended from a chalet style bungalow (which had a lower eaves height of approximately 2.5m) to a two storey dwelling with a gable roof with an eaves height of approximately 3.9m and a ridge height of 7.5m. The gable ends would face Belvedere Gardens and Foster Way to the southeast and northwest respectively whilst the southwest roofslope would face nos 42 and 44 and the northeast roofslope would face no.22. In summary, it means that the proposed dwelling has been orientated such that the longer and bulkier elevation would face the neighbouring properties in question, i.e. nos. 42 and 44,

albeit the gables would no longer be adjacent to these neighbours. It is considered that the proposal would result in a severe sense of enclosure, loss of outlook and overshadowing and would thereby unduly prejudice the living conditions of the occupiers of no.44. It is considered that having regard for the previous refused applications and dismissed appeals, this harm is sufficient to warrant a refusal.

- 2.18 Whilst unacceptable harm would be caused to the living conditions of no.44, the side elevation of No.42 does not contain any windows and, as such, no sense of enclosure, loss of light or overshadowing would occur.
- 2.19 Concerns have been raised by third parties that the development would obstruct views. However, the loss of or harm to a view is not a material planning consideration and cannot, therefore, be attributed weight.

Living Conditions of Future Occupiers

- 2.20 The dwelling proposed would be of a reasonable size, would be naturally lit and ventilated and would have access to a private external amenity area. An area is shown on the submitted drawings for the convenient and discrete storage of refuse. Consequently, it is considered that the living conditions of future occupiers would be acceptable.

Highways/Travel Impacts

- 2.21 The application proposes the provision of one car parking space, which would be accessed from Foster Way.
- 2.22 The dwelling is shown to provide two bedrooms and is within a suburban location. Table 1.1 of the Core Strategy advises that 2-bed dwellings in such locations will be expected to provide 1 allocated car parking space, with an additional 0.2 spaces provided for visitors. As such, the development would give rise to a need for 1.2 car parking spaces. Consequently, the development would be deficient in car parking, albeit by a fraction of a space. It is acknowledged, as set out by third parties, that car parking in Foster Way is constrained, particularly in the evenings and at weekends. Whilst the development would be likely to increase pressure for visitor parking at Foster Way, it is not considered that this additional pressure would amount to a severe cumulative impact on the road network or cause an unacceptable impact on the highway safety, which is the relevant test within the NPPF (paragraph 109). It is noted that none of the previous applications were refused or dismissed on highway grounds.
- 2.23 The submitted drawings show the provision of vertical cycle storage, consistent with the storage which has been provided for the approved dwellings in Belvedere Gardens. This provision is considered to be acceptable, subject to a condition ensuring that the storage is provided at the time of occupation.

Ecology

- 2.24 Having regard for Natural England's Standing Advice, it is not considered that the site includes any features likely to provide habitat for protected or notable species.

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

- 2.25 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.26 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in-combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.27 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.28 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.29 Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.

Other Matters

- 2.30 This report includes an addendum report (attached at Appendix 1) which considers matters raised by the applicant about the processing of the application and previous advice given by officers. None of the issues arising from the conclusion of the addendum report are considered to have a bearing on the recommendation (in planning terms) set out herein.

3. Conclusion

- 3.1 It is not considered that the development has overcome the concerns which led to the refusal of the previous applications (DOV/16/00998, DOV/17/01022, DOV/17/01369 and DOV/18/01006) and the subsequent dismissal of the appeals in relation to the same, insofar as they relate to the development of the current application site. In particular, the development would cause unacceptable harm to the character and appearance of the area and harm to the residential amenity of No.44 Foster Way. For these reasons, it is recommended that planning permission be refused.

g) Recommendation

- I Planning permission be REFUSED for the following reasons:

- 1. The proposed development, by virtue of the location, layout, scale and design of the dwellings, together with their relationship with adjoining properties, would create a cramped and congested form of development, out of character with the pattern of development within the area. Consequently, the development would fail to integrate into, and cause harm to, the character and quality of the area,

contrary to paragraphs 127, 130 and 131 of the National Planning Policy Framework.

2. The proposed dwelling, by virtue of its location, scale and relationship with No.44 Foster Way, would cause an unacceptable sense of enclosure to, and corresponding loss of outlook from, that property, resulting in an unacceptable loss of amenity, contrary to paragraphs 127 of the National Planning Policy Framework.
- II Powers to be delegated to the Head of Regeneration and Development to settle any necessary matters in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Benazir Kachchhi

Appendix 1

a) Addendum to Committee Report of 18 April 2019

Introduction

1.1 This application was presented to planning committee on 18th April 2019 when it was recommended that planning permission be refused for the following reasons:

1. *The proposed development, by virtue of the location, layout, scale and design of the dwellings, together with their relationship with adjoining properties, would create a cramped and congested form of development, out of character with the pattern of development within the area. Consequently, the development would fail to integrate into, and cause harm to, the character and quality of the area, contrary to paragraphs 127, 130 and 131 of the National Planning Policy Framework.*
2. *The proposed dwelling, by virtue of its location, scale and relationship with No.44 Foster Way, would cause an unacceptable sense of enclosure to, and corresponding loss of outlook from, that property, resulting in an unacceptable loss of amenity, contrary to paragraphs 127 of the National Planning Policy Framework.*

1.2 At the April Committee meeting, members resolved to defer determination of the application to allow for: the provision of an updated/additional report which addresses/clarifies the comments made by the applicant before the Planning Committee.

Clarification

1.3 Four letters were received from the applicant prior to the Planning Committee in April which were circulated to the members directly by the applicant. The letters were received on 11th, 12th, 15th and 18th April respectively. The letters are attached at Appendix 2. From the review of the applicant's letters, it is apparent that matters raised predominantly reflect the opinion of the applicant rather than providing new evidence which is material to the determination of the planning application. Nevertheless, the application was deferred so that responses could be provided to these letters and to allow members to consider these responses in advance of the next committee meeting.

The following matters were raised in the letters received from the applicant:

- A) The letters dated 12th April 2019 and 15th April 2019 refer to paragraph 1.4 which states, "*More recently, trenches have been dug and concrete slabs (which have the appearance of foundations) have been poured on site.*"

In relation to this matter, the applicant contends that these were required to construct the retaining wall in order to raise the pathway and facilitate disabled access into no.22 Belvedere Gardens. At the time of the site visit, it was noted that a raised platform had been constructed to the side elevation of no.22; however, it is not considered that the location of the trenches on

site support the applicant's assertion, as they are perpendicular to the raised platform. Photos of the trenches are attached at Appendix 3 for reference.

B) I refer to the EXHIBIT 3 from the letter dated 15th April 2019. This diagram shows that the part of the dividing boundary with no.44 and the boundary wall fronting Foster Way would be removed. The applicant is of the opinion that the removal of the boundary wall overcomes the Inspector's concerns regarding the 'tunnelling' effect and the sense of enclosure. However, the 'tunnelling' effect cited in previous refusals and dismissed appeals would be caused by the side elevation of the proposed dwelling and not the wall. Members will note that the previous officers and Inspectors raised concerns regarding the sense of enclosure caused by virtue of the scale, siting and proximity of the proposed dwelling to no.44, which constituted one of the reasons for refusal. It is felt that the applicant's understanding in relation to the Inspector's concerns regarding the tunnelling effect and the sense of enclosure is therefore misconceived. The removal of the wall as shown on the diagram does not overcome the reason for refusal as asserted by the applicant.

C) The applicant has referred to an e-mail sent by a previous case officer to him on 10th November 2015, which he alleges states that: 1) the applicant contends that the site was never intended to be used as residential garden; (2) the inclusion of the land within the Garden of Unit 9 was to 'fool' the neighbours; and (3) planning permission for the land was conceded by the previous case officer.

(1) Amended drawings were received which incorporated the land within the garden of Unit 9 and these drawings were approved. A copy of the approved plan is included at appendix 4.

(2) The case officer's e-mail begins by suggesting the land that would have previously been used for an access onto Foster Way be incorporated into the garden of Unit 9, rather than being left vacant, to alleviate "concerns about rubbish dumping, anti-social behaviour etc.". There was no intention to 'fool' neighbours as suggested by the applicant and there is nothing in the e-mail to corroborate this allegation. For the avoidance of doubt, the relevant part of the e-mail reads:

"Firstly, some residents were concerned by the area being left as open space outside the ownership of any one property (due to concerns about rubbish dumping, anti-social behaviour etc.). Would it be possible to include this left over area within the garden of Unit 9, but providing a fence running from adjacent to the front door to where the tree is shown? This would give ownership to the space and would be likely to alleviate this concern".

(3) The applicant further avers that it is his understanding that planning permission for this piece of land has been "conceded". This is not supported by the comments in the officer's e-mail. The section of the email identified by the applicant confirms that the inclusion of the land within the garden area of Unit 9 would not prevent the applicant from later making an application for the erection of a dwelling on the land, but does not provide any commentary on the likelihood of any application being successful, let

alone provide any support for such a scheme. Again, for the avoidance of doubt, the relevant part of the e-mail reads:

“I understand that you may submit an application for a new dwelling on this land at a later date; however, it is not considered that including this land within the curtilage of Unit 9 would prejudice this”.

- D) The applicant states that the development cannot be completed or the landscaping cannot be carried out until planning permission for this site is determined/granted. The site was previously intended, under the original application (DOV/15/00327, as amended by Section 73 applications) to provide residential garden, as shown on the approved plan. A condition was attached to that permission requiring that a landscaping scheme be submitted for approval and then carried out within 12 months of the completion of that development. The application site remains vacant and the approved landscaping scheme has not been carried out.
- E) The applicant is of the opinion that it should be referred to as a one and half storey dwelling as opposed to a two storey dwellinghouse as advertised. The description of the dwelling as a two storey or one and a half storey is not considered to be fundamental to the determination of the application, rather the key issue relates to the details shown on the submitted plans and an assessment of whether the scheme as presented is appropriate for the location. This said, it is perhaps worth noting that Inspectors reporting on the appeals covering DOV/17/01369 and DOV/17/01022 described the properties of 42-44 Foster Way (which the current application seeks to replicate) as “two storey houses”.
- F) The applicant refers to a sentence from a previous appeal decision from within the officer report which states, “Furthermore, No 24 would present a rear elevation to Foster Way,…”
As is made clear in the April 2019 officer report, however, this is a quote from a previous appeal decision relating to the site and is not a description of the current proposal which clearly fronts Foster Way.

Conclusion

- 1.4 On assessment of the correspondence received from the applicant, it is not felt that it raises any material planning issues which justify setting aside the recommendation in the officer report to refuse planning permission. The applicant disagrees with the reasons for refusal; however, no compelling case has been presented to your officers which would overcome the previous reasons for refusal. Accordingly, the previous conclusions drawn in relation to the current application remain unchanged. The current application has been assessed as causing material harm.
- 1.5 Whilst the site lies within the settlement confines, in accordance with policy DM1, it is not considered that the development has overcome the concerns which led to the refusal of the previous applications (DOV/16/00998, DOV/17/01022, DOV/17/01369 and DOV/18/01006) and the subsequent dismissal of the appeals in relation to the same, insofar as they relate to the development of the current application site. In particular, the development which is the subject of the current application would cause unacceptable harm to the character and appearance of the area and harm to the residential

amenity of No.44 Foster Way. For these reasons, it is recommended that planning permission be refused.

Appendix 2

- Letter dated 11th April 2019
- Letter dated 12th April 2019
- Letter dated 15th April 2019
- Letter dated 18th April 2019

Letter dated 11th April 2019

A. Easton FMB
EASTON BUILDERS LTD

This proposal compromises, befits and respects all of the inspector's views and criticisms with the removal of the gable and eaves raised slightly higher matching the immediate neighbours of 20 Belvedere Gardens in order that the "out of context" single storied bungalow previously rejected by the inspector now fits in and 44 Foster Way enjoys much greater space. No further criticism of this design of concept can be levelled it is now perfectly suited to its environment, indeed it actually makes for a more attractive setting in regards to the previous comments from both the case officer and the Planning Inspector below

Case Officer Benazir Kachchhi
DDC Planning Officer

The proposed development, by virtue of the location, layout, scale and design of the dwellings, together with their relationship with adjoining properties, would create a cramped and congested form of development, out of character with the pattern of development within the area. Consequently, the development would fail to integrate into, and cause harm to, the character and quality of the area, contrary to paragraphs 127, 130 and 131 of the National Planning Policy Framework.

AJ Steen BA (Hons) DipTP MRTPI Inspector
Appointed by the Secretary of State

The chalet bungalow proposed in Appeal B (2 storey) would reflect the scale and appearance of neighbouring development, and the entrance from Foster Way means that it would relate to neighbouring dwellings in that road. As such, it would not harm the character and appearance of the surrounding area.

Case Officer Benazir Kachchhi
DDC Planning Officer

The proposed dwelling, by virtue of its location, scale and relationship with No.44 Foster Way, would cause an unacceptable sense of enclosure to, and corresponding loss of outlook from, that property, resulting in an unacceptable loss of amenity, contrary to paragraphs 127 of the National Planning Policy Framework. II Powers to be delegated to the Head of Regeneration and Development to settle any reasons for refusal in line with the issues set out in the recommendation and as resolved by the Planning Committee.

AJ Steen BA (Hons) DipTP MRTPI Inspector
Appointed by the Secretary of State

Appeal B (2 Storey with the Gable facing 44 Foster Way,) Now Removed

I conclude that the proposal in Appeal B would result in harm to the living conditions of the occupiers of 44 Foster Way by reason of outlook.

Appeal B (Single Storied Bungalow)

The proposed development in Appeal A would not materially affect the living conditions of occupiers of 44 Foster Way. As such, the development in Appeal B would be contrary to policies contained within the Framework that seek a high quality of design and a good standard of living conditions for existing occupants of buildings.

"Whilst I have concluded that neither of the proposed developments would be unacceptable that does not mean development of the site would be unacceptable in principle."

Letter dated 12th April 2019

Case Officer Benazir Kachchhi recommended that Planning permission be REFUSED for only the 2 following reasons:

1/ "Would create a cramped and congested form of development, out of character with the pattern of development within the area. Consequently, the development would fail to integrate into, and cause harm to, the character and quality of the area",

See contradictory response from the Inspector below

AJ Steen BA (Hons) DipTP MRTPI Inspector Appointed by the Secretary of State

The chalet bungalow proposed in Appeal B (2 storey) would reflect the scale and appearance of neighbouring development, and the entrance from Foster Way means that it would relate to neighbouring dwellings in that road. As such, it would not harm the character and appearance of the surrounding area.

Case Officer Benazir Kachchhi

2/ "Would cause an unacceptable sense of enclosure to, and corresponding loss of outlook from, that property, resulting in an unacceptable loss of amenity",

See attached plan showing huge additional outlook once wall is removed

Case Officer Benazir Kachchhi has again quoted Mr Luke Blaskett's former report

1.3 The site was previously intended, under the original application (DOV/15/00327, as amended) and a subsequent Section 73 application to provide residential garden. However, the development has not been completed and the site remains vacant. The approved landscaping has not been carried out. More recently, trenches have been dug and concrete slabs (which have the appearance of foundations) have been poured on site.

See attached email Luke Blaskett clearly showing that this land was never ever intended as garden land and asking me to hoodwink the neighbours, which I refused due to Honesty and Integrity issues. Please also note confirmation for this to be a building plot. The foundation was to build a support wall for the entrance of No 20 Belvedere Gardens

From: Luke Blaskett [mailto:Luke.Blaskett@DOVER.GOV.UK] Sent: To Easton Builder Ltd

10 November 2015 16:38 Subject: RE: Dola Avenue pedestrian access

Hi Tony, Thank you for the drawing. You may curse me for this, but I have a couple of comments.

Firstly, some residents were concerned by the area being left as open space outside the ownership of any one property (due to concerns about rubbish dumping, anti-social behaviour etc.). Would it be possible to include this left over area within the garden of Unit 9, but providing a fence running from adjacent to the front door to where the tree is shown? This would give ownership to the space and would be likely to alleviate this concern. I understand that you may submit an application for a new dwelling on this land at a later date; however, it is not considered that including this land within the curtilage of Unit 9 would prejudice this.

Secondly, it is noted that the dropped kerb on Foster Way is still shown on the drawings, which may lead to some confusion or concerns that an access will be added at a later date. From our discussions I know that this is not the case, but for the purposes of avoiding uncertainty for residents, it is recommended that the dropped kerb is not shown on the drawings. I hope this is of assistance and doesn't cause any issues.

Thanks, Luke.

Mr Dave Robinson (Planning Manager) and Miss Benazir Kachchhi (Planning Officer) both stated "the entrance from Foster Way is the preferred option. See email From: Dave Robinson

[\[mailto:dave.robinson@officer.dover.gov.uk\]](mailto:dave.robinson@officer.dover.gov.uk) Sent: 10 December 2018 18:11

Subject: Re: FW: FOSTER WAY CURRENT PROPOSAL WITH ALTERNATIVE ACCESS COMMENTS

Dear Tony and John, We are of the opinion that the Foster Way access is the better option and would suggest we go with that and take this application to January's Committee. You just need to confirm and submit any relevant plans. I would revise the plans for the Foster Way access and lets see what happens at Committee. As discussed previously, I do feel it would help if you got someone to speak in support of the application at Committee

Regards Dave

Letter dated 15th April 2019

DDC Statements in Blue

Easton Builders Ltd replies in Black

The site was previously intended, to provide residential garden.

False: It was the entrance to site, and Planning Permission was conceded for a new dwelling if and only if agreement was met to close entrance.

See Luke Blaskett's email below proposing
THE FOOLING OF THE NEIGHBOURS.

(Exhibit 1)

The development has not been completed and the site remains vacant.

The approved landscaping has not been carried out.

Cannot complete the development or carry out landscaping until planning is determined/granted

More recently, trenches have been dug and concrete slabs (which have the appearance of foundations) have been poured on site.

To construct retaining wall in order to raise pathway to facilitate disabled access into No 22 Belvedere Gardens

This application seeks permission for the erection of a detached two storey bungalow

False: It is a one and a half storey house to match several other such houses in Foster Way as described in report No 1.1 not a bungalow

Furthermore, No 24 would present a rear elevation to Foster Way,

False: This Application Fronts Foster Way

Main Issues

The principle of the development

Already Accepted by both DDC and Inspectorate

The impact on the character and appearance of the area

See Montage as Professionally Produced by N-Viz clearly showing huge improvement to Street Scene making a mockery of this objection.

(Exhibit 2)

The impact on residential amenity

See Drawing as Professionally Produced by Red House Design clearly showing vast improvement Outlook, Amenity & Outlook making a mockery of this objection.

(Exhibit 3)

The impact on the highway network

See Highways Comments. No Objections

The impact on ecology.

See DDC Report. No Objections

The Two Reasons for Refusal

1/ The proposed development, by virtue of the location, layout, scale and design of the dwellings, together with their relationship with adjoining properties, would create a cramped and congested form of development, out of character with the pattern of development within the area.

See Professional Montage Produced by N-Viz clearly showing huge improvement to Street Scene by virtue of the layout, scale and design of the dwelling, together with its relationship with adjoining properties completely in character with the pattern of development within the area.

(Exhibit 2)

2/ The proposed dwelling, by virtue of its location, scale and relationship with No.44 Foster Way, would cause an unacceptable sense of enclosure to, and corresponding loss of outlook from, that property,

See Professional Drawing as Produced by Red House Design clearly showing vast improvement of Outlook, Amenity & Outlook

(Exhibit 3)

EXHIBIT 1 proposing fooling neighbours but conceding plot for housing

10/November 2015

Hi Tony, Thank you for the drawing. You may curse me for this, but I have a couple of comments. Firstly, some residents were concerned by the area being left as open space outside the ownership of any one property (due to concerns about rubbish dumping, anti-social behaviour etc.). Would it be possible to include this left over area within the garden of Unit 9, but providing a fence running from adjacent to the front door to where the tree is shown? This would give ownership to the space and would be likely to alleviate this concern. I understand that you may submit an application for a new dwelling on this land at a later date; however, it is not considered that including this land within the curtilage of Unit 9 would prejudice this.

Secondly, it is noted that the dropped kerb on Foster Way is still shown on the drawings, which may lead to some confusion or concerns that an access will be added at a later date. From our discussions I know that this is not the case, but for the purposes of avoiding uncertainty for residents, it is recommended that the dropped kerb is not shown on the drawings.

I hope this is of assistance and doesn't cause any issues. Thanks, Luke.



Luke Blaskett
Principal Planner
Dover District Council
Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ
Tel: 01304 872449
Email: luke.blaskett@DOVER.gov.uk
Web: dover.gov.uk

Please Note: Mention has been made in the above email from Mr Blaskett concerning harm to the Residents of Foster Way in regards to attracting rubbish dumping, anti-social behaviour etc. if this land is left as open space.

This is still an ongoing problem and is now also the concern of the residents of Belvedere Gardens who of course deserve the same treatment shown by Mr Blaskett to be afforded unto them, of course the ultimate sufferer is the immediate neighbour in No 22 Belvedere Gardens who looks at the eyesore every day and every evening with the added worry and knowledge that hers and the Foster Way neighbours house is currently and will continue to be de-valued by this eyesore.

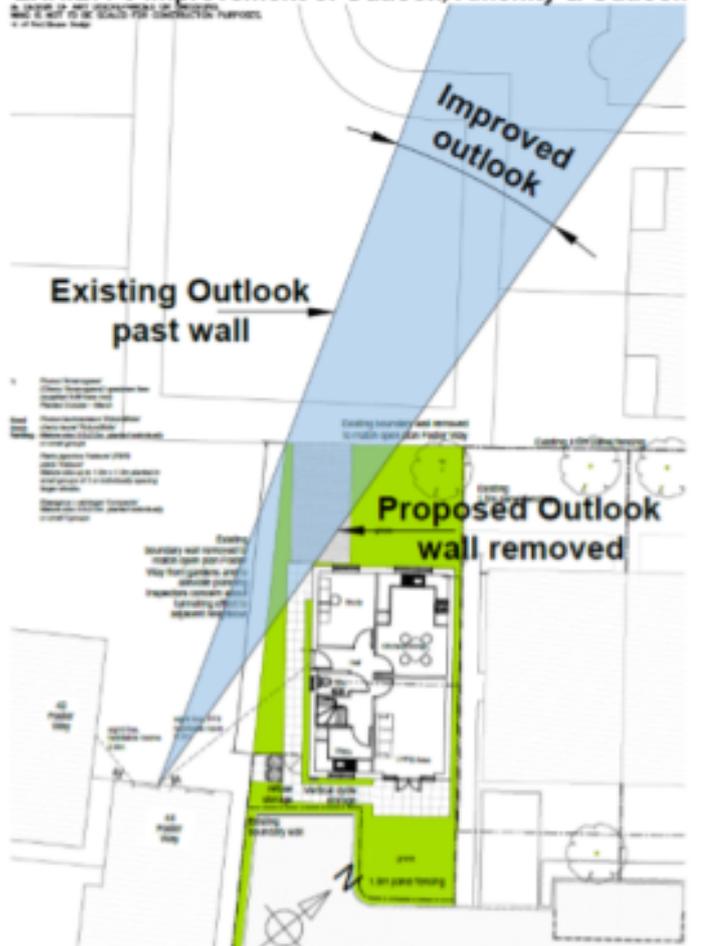
This application must be seen to be fair and just to the people of Belvedere Gardens who must under law be afforded the same respect as those in Foster Way. therefore a grant of permission to alleviate this straightforward decision should be given, hope you all agree

A. Easton.

EXHIBIT 2. Improving Street Scene & Complimenting all Neighbours



EXHIBIT 3 Improvement of Outlook, Amenity & Outlook



Letter dated 18th April 2019

(Exhibit 2)



Only Two Reasons have been given for Refusal. They Are...

Reason 1/ for refusal

The proposed development, by virtue of the location, layout, scale and design of the dwellings, together with their relationship with adjoining properties, would create a cramped and congested form of development, out of character with the pattern of development within the area.

See above Professional Montage as Produced by N-Viz clearly showing huge improvement to Street Scene by virtue of the layout, scale and design of the dwelling, together with its relationship with both adjoining properties completely in character with the pattern of development within the entire area by taking out the foreboding wall and creating an open planned garden area mimicking the other properties of Foster Way. The only way the relationship/duplication of 44 Foster Way could be improved is if it were moved to within 6 inches matching the relationship with 42 Foster Way.

Appendix 3 – Site Photos

Image 1 - Trench filled with concrete



Image 2

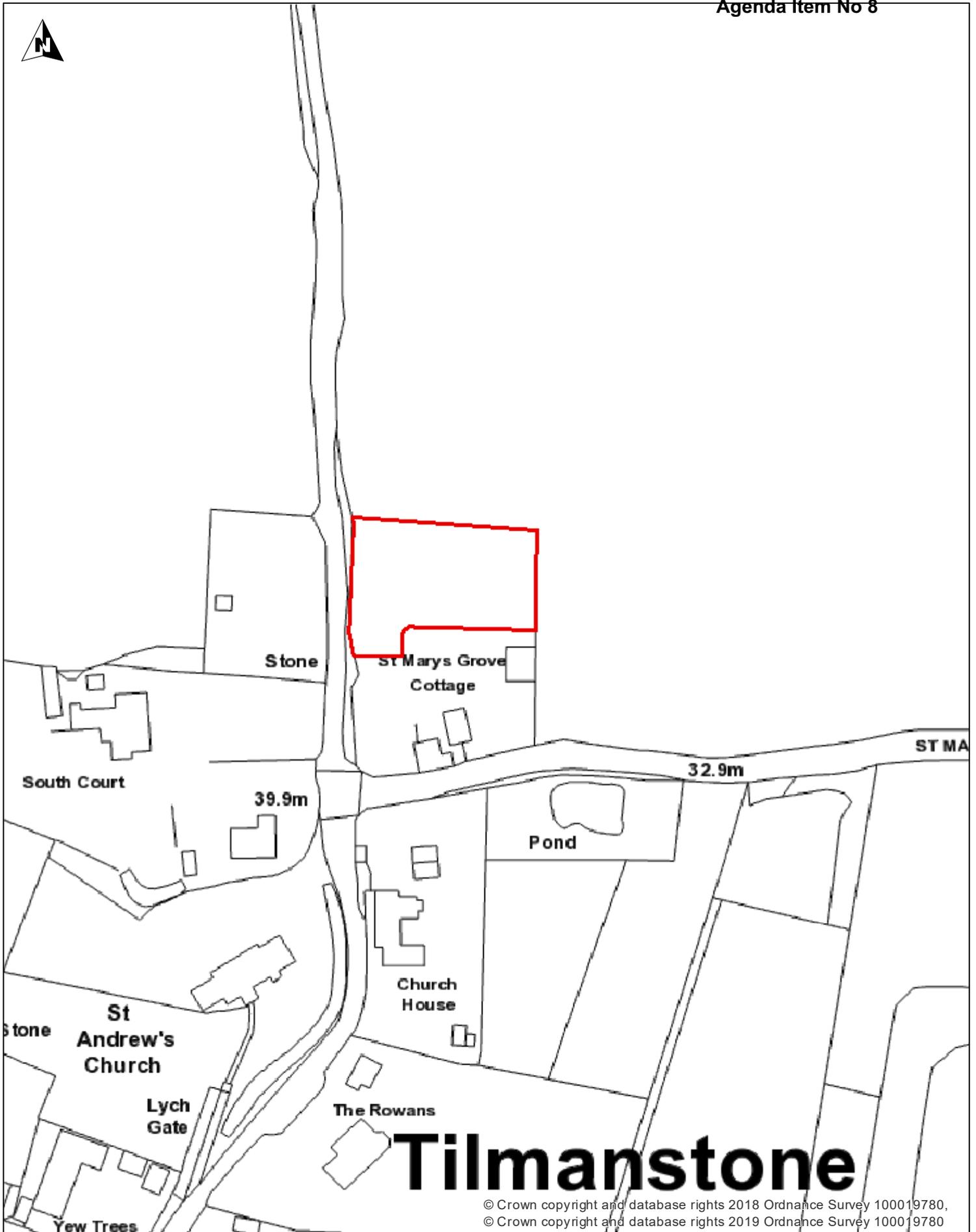
**Concrete
filled trench
is
perpendicu
lar to the
raised
platform as
shown on
Image 3.**



Image 3 – photo supplied by the applicant



Appendix 4 – approved plan showing site granted as residential garden to Unit 9 which contradicts the applicant’s contention that the site was never intended to be used as residential garden.



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© Crown copyright and database rights 2019 Ordnance Survey 100019780

DOV/19/00106

Author: Planning Services

Scale 1:1,120

Map Dated: 21/05/2019

Land Adjacent To St Marys Grove Cottage, Tilmanstone

Dover District Council
Honeywood Close
White Cliffs Business Park
Whitfield
DOVER
CT16 3PJ



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

a) DOV/19/00106 - Erection of a detached dwelling with associated parking - Land adjacent to St Mary's Grove Cottage, St Mary's Grove, Tilmanstone

Reason for report: At request of Cllr Manion

b) Summary of Recommendation

Planning permission be REFUSED.

c) Planning Policies 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.

A summary of relevant planning policy is set out below:

Core Strategy Policies

- CP1-The location and scale of development in the District must comply with the Settlement Hierarchy. Tilmanstone is identified as a hamlet and not suitable for further development unless it functionally requires a rural location.
- DM1 - Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM11-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 to satisfy demand to maximise walking, cycling and the use of public transport. Development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by Development Plan policies.
- DM13 – Provision for parking should be a design led process based upon the characteristics of the site, the locality, the nature of the proposed development and its design objectives. Provision for non-residential development, and for residential cycle provision, should be informed by Kent County Council Guidance SPG4, or any successor. Provision for residential development should be informed by the guidance in the Table for Residential Parking.

National Planning Policy Framework 2018 (NPPF)

- Paragraph 2 states that “planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise”.
- Paragraph 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development. The objective of sustainable

development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

- Paragraph 11 states that decision making should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up to date development plan or where there are no relevant development plan policies or the policies are out of date, granting permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in this Framework taken as a whole.
- Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Paragraph 124 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- Paragraph 127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and landscaping, are sympathetic to local character and history and create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users. Paragraph 47 'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing'.
- Chapter five of the NPPF seeks to significantly boost the supply of housing, requiring Local Planning Authorities to identify specific deliverable sites sufficient to provide five years' worth of housing.
- Paragraph 177 states: The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
- Paragraphs 184, 185, 189, 190, 192 and 193 relate to the determination of planning applications in relation to the historic environment and heritage assets.

The Kent Design Guide

The guide provides criteria and advice on providing well designed development, emphasising that context should form part of the decision making around design.

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

Section 66 states that “In considering whether to grant planning permission for development which affects a Listed Building, special regard should be had to the desirability of preserving the building or its setting.”

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

d) Relevant Planning History

DOV/04/00747 Erection of a covered swimming pool - refused

e) Consultee and Third Party Responses

Parish Council

No representations received at the time of preparing the report.

Southern Water

There are no public foul and surface water sewers in the vicinity and the applicant is advised to examine alternative means of foul and surface water sewage disposal. The applicant is advised to consult the Environment Agency directly regarding the use of a septic tank drainage which disposes of effluent to sub-soil irrigation. The Council’s Building Control Officers should be asked to comment on the adequacy of soakaways to dispose of surface water. Any sewer found crossing the site during construction works will require investigation to ascertain its condition.

County Archaeologist

Notes that the submitted Heritage Statement does not consider the archaeological impact of the proposal. It is noted that Tilmanstone is located in an archaeological landscape that is generally rich in archaeological remains. The Kent Historic Environment Record notes that Roman pottery has previously been found within the village churchyard, whilst Roman archaeological remains are also recorded around 50m to the north east of the proposed site. It is possible that the proposed development may affect remains of archaeological interest and it is recommended that if planning permission is granted, provision is made for a programme of archaeological work.

KCC Highways

The Highways Engineer would not normally comment on a proposal of this scale. The proposed development would make use of an existing vehicle access which would become a shared driveway for both dwellings. The use of the access by one additional dwelling would not have a detrimental impact on highway safety.

KCC PROW

Notes that PROW EE266 passes along North Court Lane and adjacent to the proposed site which is a material consideration. No objections are raised to the proposal but safeguarding Informatives are recommended in the event that planning permission is granted.

Environmental Health

If development is carried out and contamination is found then it shall be reported immediately to the Local Planning Authority and a remediation scheme shall be prepared.

Heritage Officer

The proposed building would not be widely visible from public view points and views within the Conservation Area including from the church yard. Confirmation has been received that there is sufficient separation between the existing Listed Building and the proposed dwelling that the setting would not be harmed. If a recommendation for approval is taken forward then it is suggested that Permitted Development rights are removed to ensure a quality building. Relevant conditions would also be required covering external materials, eaves details, flues, meter boxes etc.

Natural Environment Officer

The Ecological Appraisal has been reviewed and no concerns raised. Any permission should adopt the recommendations for biodiversity net gain.

Third Party Representations

A total of 8 representations have been received. Of these 6 are in support and 2 raise objections. Those in support make the following comments:

- The proposed dwelling would be in sympathy with the surrounding architecture and local environment. A barn style home would be no more harmful to the area than a barn that could be erected on the adjoining field.
- The proposal would meet the policies for sustainable homes.
- St Marys Grove Cottage is a small Listed Building that is unsuitable for a person with disabilities. This is a much needed Lifetime Home.
- The surrounding garden would be attractive and wildlife friendly.
- The development adjoins the Conservation Area and can be seen from the church.

Those against the proposal make the following comments:

- The proposal would involve the creation of a separate dwelling and would encourage other similar schemes in gardens within Tilmanstone, creating a precedent for other sites within the Conservation Area.
- Lack of facilities such as shop, school, surgery etc.
- Proposal would add to poor air quality.
- There are enough new houses locally.

f) 1. Site and Proposal

- 1.1 St Marys Grove Cottage is a detached dwelling and grade II Listed Building situated on the north side of St Marys Grove at its junction with North Court Lane on the edge of the hamlet of Tilmanstone and adjoining open countryside. It is described as dating from the late 17th century, being single storey with attic room, shaped gabled roof, two gabled dormers and a contemporary rear wing. The property falls within the Conservation Area and also lies in an Area of Archaeological Potential.
- 1.2 The property is situated adjacent to the southern boundary of the site and reached via a vehicle access leading from North Court Lane. To the rear of the dwelling is a detached building that is used for ancillary residential accommodation. There are also various sheds and stores within the garden that are incidental to the enjoyment of the dwelling.
- 1.3 St Marys Grove Cottage benefits from a large residential curtilage that extends to the north which is primarily maintained as a grass meadow. The dwelling is adjoined by undulating agricultural land.
- 1.4 The application relates to the northern half of the site which comprises generally flat land that is laid to rough grassland with some mown paths within it. There is a small summer house towards the rear of the application site and a mix of tree and shrub planting of various ages around the boundaries. The land appears to be part of the residential curtilage based on planning history and from photographic evidence. It would appear that it has been used in this way for around 15 years. The application site has a frontage to North Court Lane of approximately 33m and a depth of 42m.
- 1.5 Tilmanstone is identified on the Local Plan map as a hamlet. No confines are defined due to the category of the settlement. In the immediate vicinity are several other older dwellings that are also Listed Buildings, as is the nearby Grade I listed St Andrews Church.
- 1.6 Full planning permission is sought to sub divide the plot and erect a detached three bedroom L-shaped dwelling to be sited roughly centrally within the proposed plot.
- 1.7 The proposed house would comprise a living area and kitchen, utility room, porch/WC, en suite bedroom and hobbies room on the ground floor. A lift would provide access to the first floor which would accommodate two further en suite bedrooms.
- 1.8 The proposed dwelling would be of a contemporary design and is described as a "Lifetime Home" that would incorporate features which would add to the comfort and convenience of the occupants whilst supporting their changing needs.
- 1.9 The building is designed with a slightly higher pitched roof section at the rear, positioned parallel with the frontage of the site and a second ridged roof section projecting forwards at right angles. The dwelling would be finished in grey metal profile sheeting to the walls and roof with grey aluminium framed windows. The rear section would incorporate roof lights and solar panels on the eastern elevation.

- 1.10 The proposed dwelling would be reached via the existing access which would be shared for the first section with St Marys Grove Cottage. A new driveway would then lead in front of the proposed dwelling towards two parking spaces adjacent to the northern boundary of the plot. Sufficient access and parking space would remain within the curtilage for the occupants of St Marys Cottage.

2. **Main Issues**

The main issues are:

- The principle of the development.
- The impact on the character and appearance of the Conservation Area and setting of the Listed Building.
- The impact on the adjoining countryside
- The impact on residential amenity.
- The impact on the highway network.
- The impact on ecology.

Assessment

Principle of Development

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose 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.
- 2.2 Also, policy CP1 states that the location and scale of development in the District must comply with the Settlement Hierarchy which informs the distribution of development in the Core Strategy. Policy CP1 deems that sites outside of defined settlements are unsuitable for further development unless it functionally requires a rural location. DM1 states that development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- 2.3 In March 2017 DDC Cabinet agreed to commence the review of the Core Strategy (CS) and Land Allocations Action Plan (LALP) through the preparation of a single local plan. The decision to review the CS and LALP is an acknowledgement that in some cases the evidence base is out of date. With regard to this application, it's recognised that policies in the Core Strategy (Policies CP2 & CP3) are not up to date. However, some weight should still be applied to Policies CP1 and DM1 of the Core Strategy.
- 2.4 Under policy CP1 of the Core Strategy Tilmanstone is identified as a hamlet. No village confines are applied to this category of settlement, which are not considered suitable for further development unless a rural location is functionally required. The proposed dwelling in this instance does not functionally require a rural location and would not be ancillary to any existing development. Policy DM1 presumes against development in such a location (beyond settlement confines) and circumstances unless justified by other development plan policies, none of which apply here. The proposal is therefore contrary to policies CP1 and DM1.

- 2.5 Policy DM11 seeks to manage travel demand and states that development that would generate travel will not be permitted outside rural settlement confines unless justified by development plan policies. There are no other policies which support the principle of the development and as such the proposal is also contrary to policy DM11.
- 2.6 In recent times the Council has not been able to demonstrate a five year housing land supply. In March 2019 however an Annual Monitoring Report concluded that the Council now has an available 5 year supply of housing land.
- 2.7 Regard will be had in this report to whether there are any material considerations which indicate that permission should exceptionally be granted contrary to the Development Plan.

Impact on Character and Appearance of the Area

Character of the Area

- 2.8 Tilmanstone is a fairly well spread out settlement with many houses adjoining the back edge of the highway. The size and shape of plots vary, as well as the scale and nature of the residential properties. The rear boundaries of many plots adjoin open countryside or agricultural land. The surrounding countryside is undulating with quite far reaching views across fields.
- 2.9 St Marys Grove Cottage lies at the edge of the hamlet and the Conservation Area. The built development in the vicinity is quite sparse and the application site is adjoined by farm land to the north and east. This relationship has a strong impact on the special character of the Conservation Area and makes a significant contribution to the setting of this Listed Building.

Impact on Conservation Area and Listed Building

- 2.10 Paragraph 193 of the NPPF advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the assets' conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. In addition, Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 require "special regard" and "special attention" to be paid to the desirability of preserving Listed Buildings and Conservation Areas.
- 2.11 The proposal would involve the introduction of a three bedroom dwelling with an L-shaped footprint and some accommodation at first floor level. The building would be designed with a steeply pitched roof and would be constructed of grey metal profile sheeting to the walls and roof. The dwelling is said to be in the style of a barn and would incorporate high levels of thermal insulation, grey water harvesting, solar panels and sustainable materials.
- 2.12 It is necessary to have regard to any impact of the dwelling on the setting of the listed building, St Marys Grove Cottage and its particular heritage assets. St Marys Grove Cottage is an historic, well maintained property positioned adjacent to the southern boundary of the plot. It is considered that there would be sufficient separation distance between the existing and proposed dwellings such as to avoid harm to the setting of the historic Listed Building. It is

concluded that the proposal would not result in a harmful alteration to the setting of the listed building and the significance of St Marys Grove Cottage as a listed building would not be lost with the subdivision of the plot. The Heritage Officer has confirmed that no objections are raised and that there would be sufficient separation between the existing listed building and the proposed dwelling.

- 2.13 In addition to the relationship with the host dwelling it is also necessary to have regard to the impact on the special character of the Conservation Area. It is acknowledged that the site can be glimpsed from various viewpoints when travelling through the hamlet on foot or by car. The proposed dwelling would be sited over 80m away from the listed church and its grounds to the south west and is well separated from it by North Court Lane, established hedging and some mature trees. Whilst it may be possible to view the site from the church yard, the proposed dwelling would not be seen in context with the church and will not affect its setting.
- 2.14 The proposed dwelling would clearly be in a contrasting design to that of St Marys Grove Cottage but would have reference to a rural building by reason of its design and external materials. The dwelling would be reached via the existing driveway avoiding the need for the creation of a new access and opening up of the site frontage, which could start to erode the rural character. The chosen design of the house and location within the site would not be harmful to the particular character of this part of the Conservation Area.

Impact on Countryside

- 2.15 The application site does not fall within any designated landscape and is accessed from a no through road. Whilst North Court Lane has limited vehicle use, it is also classed as a Public Right of Way and is available for use by pedestrians. The application site can be viewed from a distance or close up when using the Public Right of Way along North Court Lane.
- 2.16 The proposed dwelling would be sited on the edge of the hamlet, adjacent to undeveloped agricultural land. When travelling south along North Court Lane the proposed dwelling would (along with various other dwellings) be visible at a distance, but would be partly screened by some existing landscaping.
- 2.17 St Marys Grove Cottage is set well away from the northern boundary of the site and is separated from the countryside by its large garden and some boundary planting. It is generally seen as occupying a spacious plot and the garden provides a softer edge as it adjoins the undeveloped farmland beyond. The proposal would clearly introduce a dwelling of more contemporary design closer to the open undeveloped countryside to the north, in effect extending built development in a location where the character is open with views across the site dominated by an open rural landscape. The proposal would therefore be detrimental to its current rural character at this very sensitive edge of hamlet location. It is concluded that the proposed dwelling would be detrimental to the currently open landscape character and nature of the countryside, contrary to the aims of policies DM15 and DM16.

History

- 2.18 Planning permission was refused for a detached single storey building accommodating a swimming pool under application reference number DOV/04/00747. The submitted drawing showed a ridged roofed building situated towards the front of the application site. The proposal was refused for the following reasons:

“1. The construction of the proposed building would result in an isolated and sporadic form of development in the countryside. Accordingly it would be directly contrary to Policies ENV1 and RS5 of the Kent Structure Plan and policies C01 and DD8 of the Dover District Local Plan.

2. The proposed building, by virtue of its appearance, size, bulk and position would have a detrimental impact on the special character of the Tilmanstone Conservation Area and the setting of St Mary's Grove Cottage, a Grade II Listed Building. Accordingly it is contrary to the provisions of the Development Plan, in particular the Kent Structure Plan policies RS1, ENV17 and ENV19 and the Dover District Local Plan Policies DD1, DD8, HE2 and HE4. “

- 2.19 At that time it was noted that the proposed building (measuring 12x 7m) was large and would detract from the setting of the Listed Building. In particular the design of the building, despite having weatherboard cladding and clay tiles roof was considered to be modern and out of keeping with this rural fringe location. The scale of the building was also considered to be large in comparison to the more modest scale of the dwelling and would be visually prominent, detrimental to the rural setting of the cottage. Overall the structure was considered to be incongruous within this location.
- 2.20 This application, whilst somewhat historic, provides a useful background for how previous proposals were viewed on this site.

Impact on Residential Amenity

- 2.21 The proposed dwelling would be sited approximately 32m away from the nearest point of the host dwelling and 22m away from the ancillary residential outbuilding. Due to this satisfactory separation distance there would be no direct overlooking or loss of privacy such as to impact on the residential amenities of the occupants of either the existing or proposed dwellings.

Highways Impacts and Sustainable Travel

- 2.22 KCC Highways would not normally comment on a proposal of this scale. The proposed development would make use of an existing vehicular access associated with St Marys Grove Cottage. The use of this drive by one additional dwelling would not have an unduly harmful impact on the number of vehicles accessing North Court Lane. A satisfactory number of off street parking spaces and manoeuvring areas would be provided for the occupants of the existing and proposed dwellings in accordance with the requirements of policy DM13.
- 2.23 It is accepted that although the site is not in an isolated location there are not many amenities within the hamlet of Tilmanstone. The site does have good connections to the highway network. The A256 is located around 500m to the east of the site which connects Whitfield and Dover to Sandwich and Thanet to the north. The future occupier of the proposed dwelling would be heavily reliant on the use of a car, which would promote travel which is not sustainable.

- 2.24 It is understood that Tilmanstone is served by four bus routes, most of which offer a limited week day service and meet the needs of children going to school in Dover or Sandwich. As a consequence of the limited bus service it is considered that the proposal would increase travel demand by non-sustainable modes of travel, contrary to the objective of policy DM11.

Ecological Scoping Survey

- 2.25 The application site comprises garden land. The submitted Scoping Survey revealed that there were no unusual, uncommon or protected species at the site. The peripheral hedgerow habitat was a common one but has been modified over the years by gardening activities such as the addition of non-native species. The development proposals for the survey site will not affect the nearby designated sites, except for potentially increasing the footfall within all of them. No potential bird breeding habitat should be cleared between late March to the end of July inclusive.
- 2.26 It is strongly recommended that to provide some positive ecological benefits some wildlife conservation measures and mitigation should be incorporated into the proposal, such as the provision of bird boxes, bee nest boxes, native species landscaping etc.

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

- 2.27 The proposed development requires that an appropriate assessment be undertaken in relation to the potential effects of recreational pressure on the European sites at the Thanet Coast and Sandwich Bay.

The following appropriate assessment has been undertaken on that basis.

- 2.28 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.29 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.30 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.31 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.32 Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and

Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.

Archaeology

- 2.33 The site lies in an area with archaeological potential. Given the scale of the proposed development, it is considered that there is a reasonable likelihood that the development will impact upon heritage assets of archaeological interest. Consequently, it is considered that it would be reasonable to require an archaeological watching brief in the event that planning permission is granted.

Drainage

- 2.34 Southern Water advise that an alternative means of disposing of foul water will be required as there are no public foul and surface water sewers. This matter can be covered via a safeguarding condition and informative in the event that planning permission is granted.

Overview

- 2.35 It is understood that the applicants have lived in the village for a while and wish to remain in Tilmanstone. St Marys Grove Cottage is no longer said to be suitable due to the applicants' personal health issues. The concerns and wishes of the applicants are completely understood and the Council is sympathetic to their preferences. In planning terms however it is necessary to consider the wider and longer term policy implications of the proposal rather than the immediate requirements of the current occupants which would not normally have sufficient weight, as a material consideration, to overturn rural settlement policy.
- 2.36 Paragraph 11 of the NPPF states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 2.37 Assessed against the three core roles that planning fulfils, namely social, economic and environmental, the adverse impacts and benefits of this proposal are summarised as follows:
- 2.38 With regard to the social role the proposal would provide an additional dwelling which would, to a modest degree, contribute towards the Districts housing supply, although at this point in time it will be recognised that the Council now has a 5 year housing land supply. A single dwelling would also make a modest contribution to supporting local community activities, facilities and services, albeit the latter are relatively limited in number.
- 2.39 The development would provide a short term economic benefit, by providing employment during the construction phase. It would provide an opportunity for occupants of the dwelling to support local businesses in the hamlet and/or nearby settlements, albeit from one dwelling this would be a very limited gain, with the benefits further reduced by the relative remoteness of the hamlet from rural business services.

- 2.40 In environmental terms the relatively remote location of the site and lack of local services would mean a high level of travel for day-to day needs and activities. In all likelihood this would involve a heavy reliance on the use of the private car, although some limited opportunity for use of the local bus services are recognised. Based on the characteristics of the site and the sensitive design of the proposed dwelling, no adverse impact on the setting of the Listed Building or Conservation Area have been identified, although harm would arise to the character of the countryside through the introduction of a new building within a prominent edge of hamlet location and at a point where the character is formed by open views within a landscape setting.
- 2.41 Applying the tilted balance to this evidence, it is considered that harm would arise, this which would be contrary to Development Plan and NPPF objectives. This harm would be moderated to some extent by the availability of a restricted bus service at the hamlet and a range of limited benefits have been identified, the cumulative impact of which provides a modest beneficial impact. The test applied at paragraph 11 of the NPPF is that permission should be granted unless the harm is judged to significantly and demonstrably outweigh the benefits of the scheme. The conclusion drawn here is that the overall level of harm arising from the introduction of a new dwelling outside a hamlet with no defined confines, the impact on the landscape character and associated vehicle activity would significantly and demonstrably outweigh the benefits.

3 Conclusion

- 3.1 The application has been given careful consideration having regard to adopted local and national planning policies and guidance. The assessment has had regard to the fact that whilst the proposal is contrary to the Development Plan rural settlement policies, the infringement derives from the classification of the settlement under policy CP1 and this is currently in tension with the NPPF which seeks to avoid blanket restricting housing development in some settlements and not in others, unless supported by robust up to date evidence. It is recognised that in this case the evidence for the Core Strategy is no longer up to date.
- 3.2 Notwithstanding the above, the environmental harm as identified above is concluded to significantly and demonstrably outweigh the minor social and economic opportunities associated with a new dwelling in this location.
- 3.3 In the particular circumstances of this case and having regard to the tilted balance, it is considered that the proposal cannot be exceptionally justified and that planning permission for an additional dwelling should be withheld.

g) Recommendation

PERMISSION BE REFUSED FOR THE FOLLOWING REASON:

1. The proposed development would be located outside of any settlement confines, as identified on Dover District Council Policies Map 2015, does not functionally require a rural location and would not be ancillary to existing development and would therefore represent an unsustainable form of development. The proposal would be highly visible within its rural setting and harmful to the open character and appearance of the adjoining countryside. The proposal would be contrary to policies CP1, DM1, DM11, DM15 and DM16

of the Core Strategy and paragraph 127 of the National Planning Policy Framework.

Case Officer

Hilary Johnson