

# Public Document Pack



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9 July 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 18 July 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](mailto:democraticservices@dover.gov.uk).

Yours sincerely

A handwritten signature in black ink, appearing to be "Nicky", 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 5)

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 20 June 2019 (to follow).

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

5 **APPLICATION NO DOV/18/01168 - FORMER NEWLANDS RESIDENTIAL NURSING HOME, WELLINGTON PARADE, WALMER** (Pages 10-21)

**Erection of six self-contained flats and one dwelling-house incorporating a canopy link, associated landscaping, amenity space and formation of new vehicle access and parking (existing building to be demolished)**

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

6 **APPLICATION NO DOV/18/01169 - 12 KING STREET, DEAL** (Pages 22-34)

**Erection of a building incorporating three retail units (Use Class A1) and sixteen self-contained flats (existing building to be demolished)**

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

7 **APPLICATION NO DOV/19/00119 - 12 THE MARINA, DEAL** (Pages 35-44)

**Erection of a detached dwelling (existing dwelling to be demolished)**

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

8 **APPLICATION NO DOV/15/00126 - OVENDEN EARTH-MOVING PLANT, WELLHEAD FARM, WINGHAM** (Pages 45-54)

**Retrospective application for Change of Use of land for storage of heavy plant, machinery, equipment and materials and provision of an area of impermeable hard-standing**

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

9 **APPLICATION NO DOV/19/00440 - HAM BARN, UPDOWN ROAD, HAM, NORTHBOURNE** (Pages 55-69)

**Erection of a detached dwelling with associated garden and parking (existing barn to be demolished)**

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

10 **APPLICATION NO DOV/19/00243 - LAND EAST OF WOODNESBOROUGH ROAD, SANDWICH** (Pages 70-97)

**Erection of 120 dwellings, including 36 affordable homes, with new vehicular and pedestrian access, internal access roads, car-parking, landscaping, provision of 0.84 hectares of open space and a locally equipped area for children's play (LEAP) and the removal of vehicular rights over most of by-way ES10 Black Lane**

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

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

11 **APPEALS AND INFORMAL HEARINGS**

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

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

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

### **Access to Meetings and Information**

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

## **APPLICATIONS WHICH MAY BE SUBJECT TO PUBLIC SPEAKING**

### The Reports

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

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

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

Details of the abbreviated standard conditions, reasons for refusal and informatives may be obtained from the Planning Support Team Supervisor (Tel: 01304 872468).

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

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

### Site Visits

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

The following criteria will be used to determine usefulness:

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

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

### Background Papers

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

The Officer to whom reference should be made concerning inspection of the background papers is Alice Fey, Planning Support Team Supervisor, Planning Department, Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ (Tel: 01304 872468).

## **IMPORTANT**

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

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

### **The Development Plan**

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

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

## Human Rights Act 1998

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

The key articles are:-

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

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

Account may also be taken of:-

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

Article 10 - Right to free expression.

Article 14 - Prohibition of discrimination.

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

(PTS/PLAN/GEN) HUMANRI



## PUBLIC SPEAKING AT PLANNING COMMITTEE

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



DOV/18/01168

Former Newlands Residential Nursing Home  
Wellington Parade  
Walmer

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/18/01168 – Erection of six self-contained flats and one dwelling-house incorporating a canopy link, associated landscaping, amenity space and formation of new vehicle access and parking (existing building to be demolished) – Former Newlands residential nursing home, Wellington Parade, Walmer**

Reason for report: Level of public interest

- b) **Summary of Recommendation**

Planning Permission be Granted.

- c) **Planning Policy and Guidance**

Dover District Core Strategy (CS)

- Policy CP1 – Deal identified as suitable for urban scale development
- Policy CP4 – Housing quality, mix, density and design.
- Policy DM11 – Location of development and managing travel demand.
- Policy DM13 sets out parking standards and states that parking should be a design led approach based upon characteristics of the area.

National Planning Policy Framework

- Paragraph 8 – principles of sustainable development.
- Paragraph 9 – decisions should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- Paragraph 11 – approving development proposals that accord with an up to date development plan.
- Paragraph 509 - delivering sufficient supply of homes
- Paragraph 108 – promote sustainable transport modes and safe and suitable access to site.
- Paragraph 109 - development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Paragraphs 117 and 118 – promote effective use of land and substantial weight to value of using suitable brownfield land within settlements for housing.
- Paragraph 124 – good design is key aspect of sustainable development. Development should function well, add to the overall quality of an area and are sympathetic to local character and history.
- Paragraph 127 – developments should create places with a high standard of amenity for existing and future users.
- Paragraph 130 - permission should be refused for development which fails to take opportunity for improving character and quality of an area.
- Paragraph 163 – development should not increase flood risk elsewhere and where appropriate should be supported by site specific flood risk assessment.
- Paragraph 165 – developments should incorporate sustainable drainage systems.

Walmer Design Statement

Adopted as a material planning consideration in 2006. Forms part of Walmer seafront character area. Wellington Parade described as 'a few Edwardian houses but most built in the late C20, reflecting the designs of that period varying from 3 storey houses to large bungalows. All designed to take account of proximity to sea'.

Design guidance refers to typical local detailing including roofs, walls windows and garden areas

d) **Relevant Planning History**

Previous extensions to former nursing home use in 1980s

PE/18/00004 – Pre-application officer advice given regarding evolution and development of current proposal and supporting documents which would be required. Detailed discussions on design in order to develop a scheme which would respond to local context.

e) **Consultee and Third Party Responses**

Technical consultations

**KCC Highways** – Does not necessarily agree with trip rates in Transport Statement but considers proposals unlikely to generate significant increase in vehicle movements bearing in mind permitted use of site. Connection point to Kingsdown Road acceptable. Notes proximity of public right of way in front of site. Recommends Construction Management Plan to suitably manage construction traffic

**KCC Rights of Way Team** – No objections providing no interference with footpath itself. Confirms that National Cycle Route has been maintained by KCC although not part of the publicly maintainable highway. Points out that pebble section of Wellington Parade is private and maintained by the residents association.

**Southern Water**- No foul capacity issues identified but formal consents will be required for connections. No public surface water sewers in area and should not be disposed to public foul sewer. Notes that a SUDS system is proposed for which further details will be required.

**Environmental Protection Officer** – No observations

**KCC Flood and Water Management** – Since application is for less than 10 dwellings, it falls outside of KCCs remit as statutory consultee

**Natural England** – No comments. Considers proposal unlikely to impact upon statutory designated nature conservation sites or landscapes.

**Environment Agency** – No comments

**Principle Ecologist** – Accepts conclusions within the bat survey report and supports precautionary measures within that report

### Third Party Responses

**Walmer Parish Council** - objects to the proposal on design grounds and cites conflict with various paragraphs on design guidance within the NPPF. Also of the view that there is conflict with design advice in Walmer Design Statement in relation to development not harmonising with area, density should have regard to that in area and inadequate parking facilities

In response to the **revised plans**, the Council considers that the changes are cosmetic only and not significant enough to alter its original objections.

**Wellington Road Residents Association** – objects on grounds of: the design does not respond to the beach setting; not in keeping with the character of the area; flats are not part of the character of the area and could be holiday lets; no consultation locally; damage will be caused during construction to Wellington Parade; the development is not in accordance with the NPPF or the Walmer Design Statement

**27 representations** received from local residents expressing **objections** for reasons which may be summarised as follows:

- Poor design and contrary to advice in NPPF and Walmer Design Statement
- Existing buildings in harmony with Edwardian architecture. This proposal will be out of character
- Building is of historical interest and part of the town's seaside architecture
- Has been allowed to fall into disrepair. Loss of a sound building
- Should be restored
- Prominent as last building on Wellington Parade. Will ruin views
- Unclear if open market or sheltered housing
- Site not suitable for flats. No other flats in Wellington Parade
- Inadequate parking and will add to congestion
- Wellington Parade unsuitable for construction vehicles. Has only been recently re surfaced and will be damaged. Not a public highway
- Damage to nature conservation

Following **reconsultation** on revised plans **51 additional objections** received, largely re iterating above comments but with additional following points:

- Little change to previous plans
- Encroachment of site to rear
- No provision for refuse facilities shown
- Access to building is outside of site
- Many persons willing to restore the building
- No consultation with local community
- Likely to become holiday flats
- No details of sustainable measures

**1 comment in support** received commenting that the building is an eyesore with no architectural merit. A mixed community dwelling would enhance the area.

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

- 1.1 The site comprises the former Newlands nursing home located at the northern end of Wellington Parade and is the last building before open land to the north. It comprises a substantial 2.5 storey building and was formerly a distinctive building of some merit, but which has been compromised by the addition of a single storey wing to the south and a rather unfortunate curved single storey addition to the north. There are residential properties to the south, and also beyond the rear garden to the west, but open vegetated beach to the north. Consequently, the building is prominent when approaching from the Deal direction. Access is via an unmade gravel road which leads along Wellington Parade to the south before joining with Cecil Road and then to Kingsdown Road. The road is private and maintained by the Residents Association. National Cycle Route 1 passes directly in front of the property, adjacent to the gravel road, with the beach beyond.
- 1.2 The site was formerly a residential care home catering for up to 18 persons. However it has been empty for some 3 years now and showing signs of lack of maintenance and disrepair.
- 1.3 The site lies outside of the built confines of Walmer, is not within the Conservation Area and is also outside of any defined flooding zones by the Environment Agency.
- 1.4 The proposal is to demolish the existing building and erect a part single/part two storey building in its place which would largely occupy the footprint of the existing building. The main part of the building would be L shaped and would accommodate 6 two bedroom apartments. Attached to this on its southern side and beyond a covered vehicular access, there would be a single storey two bedroom house with accommodation within the roof space. The applicant has confirmed that the properties would be for open market housing. The access would lead to 7 parking spaces at the rear plus 1 visitor space. Additionally there would be 4 visitor spaces on the frontage. Either side of those spaces would be retained sections of existing flint walls with planting behind. To the rear of the parking area would be a mixture of communal and private garden areas.
- 1.5 A traditional form of design has been adopted with a large pitched and plain tiled roof over the main part of the building and with gable features elsewhere. Of note would be a turreted feature on the north east corner to exploit the open views. The single storey detached house would be smaller in scale than the adjoining property to the south which is a full two storeys in height. The extent of built form would be broken up by projecting gable features, the turret feature, balconies and a variety of window sizes.
- 1.6 Following officer concerns regarding the lack of detailing, revised plans were submitted showing additional tile hanging, chimneys, decorative barge boards, ridge tiles and finials, and deep window reveals. The applicant has also confirmed that materials will be red brick walls and tile hanging and clay plain tiles on the roof.

## 2. **Main Issues**

2.1 The main issues in the consideration of this application are:

- The principle of the development
- Design & layout considerations
- Highway and parking Issues
- Impact from habitat regulations
- Other considerations

### **Assessment**

#### Principle of Residential Redevelopment

2.2 The site lies outside the built confines of Walmer or Kingsdown and therefore although it is linked to a long ribbon of adjoining houses fronting the beach to the south, technically it is within the countryside for planning policy purposes. In that respect, Policy DM1 of the Core Strategy (CS) presumes against development in such areas unless it is justified by other development plan policies, functionally requires such a location, or is ancillary to existing development. Policy DM8 allows for replacement dwellings in the countryside, subject to the proposal being satisfied in other respects, and whilst not strictly applicable in this instance, there is some analogy with that policy given that one form of residential use is replacing another.

2.3 Aside from the above, the CS is currently under review and as such the Council has acknowledged that its policies for the supply of housing are out of date, notwithstanding that the Council currently has an identified housing land supply of in excess of 5 years. In such circumstances, the NPPF advises that such policies are given reduced weight and that sustainable development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

2.4 The detailed issues associated with the development will be considered below, but providing those can be satisfied and having regard to the above considerations and the fact that the site is currently a brownfield site which would not be extended in terms of its built footprint, development in principle is considered to be acceptable from a purely policy point of view.

2.5 In terms of type of residential use, a number of objections have opposed the principle of flats on the site, arguing that it is out of character with Wellington Parade. However, given the limited number of flats proposed, the fact that the previous use was a residential care home (which could be re-commenced without the need for planning permission) and that the site is at the very northern end of current development, rather than between individual houses, officers consider that there are no land use grounds which could be raised to oppose the development in that respect.

2.6 Drawing the above together, there are no objections in principle subject to detailed issues being considered satisfactory.

## Design and Layout

- 2.7 A number of representations have expressed a wish to see the existing building retained. However, that is not the proposal currently before members. The building, whilst attractive originally, is not of listable quality and currently falling into disrepair. Despite a number of representations referring to it being of local historical interest, no evidence has been submitted to explain exactly what that means or refers to, and officers have been unable to find any other information which might give weight to those views. In any event, given that it is not within a Conservation Area, subject to a prior approval process, it could in any case be demolished without the need for a specific planning permission.
- 2.8 The proposed replacement footprint is not dissimilar from the existing and in the case of the existing single storey wing, it would be substantially smaller. In overall height it will also be significantly lower than the existing building. The variety of projections, gabled features, the proposed turret, bay windows and differing window sizes, will also break up the scale and massing of the building so that it would not appear bland or uninteresting. Such architectural devices will also assist in giving the visual appearance of a large house, rather than a block of flats as such, which would respond to some of the objections raised. In terms of overall impact therefore, the proposed building will have no greater prominence than the existing, apart from a slightly extended frontage along the northern boundary.
- 2.9 From a design point of view, several representations have been made to the effect that the building would look out of place in Wellington Parade. However there are a variety of different designs, building heights and differing materials along the road, including a modern house immediately next door and some replacement contemporary buildings further to the south along the Parade. In reality therefore, there is an eclectic mix of designs which indeed is part of the character. Bearing that in mind, it is considered that the proposed design, being traditional in character and particularly drawing upon Edwardian design detailing found elsewhere in Walmer, such as steeply pitched clay tile roofs, decorative detailing, variety of window types and partial retention of flint boundary walling/vegetation, would assist in satisfactorily integrating the building within the street scene. Appropriate use of good quality materials, particularly in terms of the proposed clay plain tile roof, which is a general characteristic of the area, will help with that integration.
- 2.10 Given the above, officers are quite satisfied that the replacement building would be a worthy addition to the mixed character of buildings found along the Parade and will also provide interest when approaching the site from the North, along the cycleway/footway, particularly because of the turret feature which would be prominent from that direction. In doing so, it is considered that general design advice within the Walmer Design Statement and the NPPF would be complied with. For similar reasons, officers also consider that the proposal would comply with Policy DM16 in the CS which requires that the landscape character of the area should not be harmed.



- 2.11 In terms of detailed issues, the proposed single storey house would have a lesser impact upon the adjoining property to the south than the current building does. Windows have also been carefully sited to avoid any direct overlooking of adjoining properties. Provision of suitable refuse enclosures could be conditioned and there is satisfactory space within the site to achieve that. Boundary issues regarding the property to the rear and in relation to an access track along the side of the site, have also been clarified so that all development would relate to all land within the application site and current ownership of that site.

#### Highways and Parking

- 2.12 The key issues in these respects relate to potential traffic generation, parking requirements and site construction issues.
- 2.13 Dealing first with traffic generation, the applicant has obtained information from the previous owner to advise that the maximum number of residents was 18. With that number there would be a minimum number of 7 staff in the mornings, 6 in the afternoon and 2 through the night. Most of these would be drivers. Total staff on the payroll including part time staff would be between 22 – 26 persons. Weekly deliveries from suppliers would amount to 8 deliveries per week. Added to the above would be family visits, most of which would be weekends, together with other service visits such as doctors, ambulance, health visitors and service deliveries.
- 2.14 The Transport Statement submitted with the application suggests that trip generation from the proposed 7 residential units would actually be lower than the previous use using national highway modelling data (TRICS). The data suggests the previous use might have generated 44 two way vehicular movements on a typical week day, compared to the proposed use of 29 vehicular movements. Whilst the precise numbers could be argued, and traffic generation might have ebbed and flowed depending upon occupancy, it is clear that overall traffic generation between the previous and proposed use would be similar, thereby causing no significant additional stress on the Parade itself, nor at the junction with Kingsdown Road. Members will note that Kent County Council as Highway Authority, agrees with that assessment and raises no highway objections.
- 2.15 In terms of parking requirements, the proposal more than satisfies the requirements of Kent Vehicle Parking Standards which would be for 8 spaces, whereas a total of 12 are being provided, including the provision of visitor parking spaces. The site is in a reasonably sustainable location with bus stops in Kingsdown Road and easy access to Deal via the footpath and cycleway immediately outside. Shops and schools are within 2km. Whilst most trips are likely to be by private car, the proximity of such alternative means of transport may further reduce trip generation compared to the previous use.
- 2.16 Although concerns have been raised regarding conflict with walkers and cyclists, there is no reason why that should be the case given the clear demarcation between the gravel road and the surfaced footway/cycleway. In any event the situation is no different from other dwellings along the Parade nor from access arrangements that

previously existed. Indeed the proposed arrangement is an improvement from before where there appears to have been limited on-site parking; the main parking seeming to have been an informal parking area outside the site and on the opposite side of the footway/cycleway.

- 2.17 In summary from a highways point of view, the proposal is considered to be generally consistent with Policy DM11 of the CS in that it would not generate additional travel compared to the existing situation and that it is partly served by a range of means of transport.
- 2.18 With regard to Wellington Parade, officers acknowledge the local concerns regarding the potential for it being damaged during construction works, given that it is a private road and is a loose gravel construction. This would be the case of course with any development on the site, including renovation works, and also for any properties along Wellington Parade where building works were undertaken. It is understood that maintenance is a joint responsibility amongst adjoining owners, as indeed it would have been with the previous owners, and nothing will change in that respect. However, following discussions with officers, the applicants have agreed to the principle of a Construction Management Plan (CMP) in order to mitigate the impact of building works. The CMP would include such matters as: a pre development photographic survey in order to act as a benchmark for restoration in the event of any damage; wheel washing equipment to control dust and mud; construction times; details of vehicles sizes using the site etc. Such matters could be the subject of an appropriate condition.

The Conservation of Habitats and Species Regulations 2017 and other Ecological Matters

- 2.19 Turning to detailed ecological matters, a phase 1 habitat survey was carried out in June 2018 as the site lies adjacent to a coastal vegetated shingle which is a Priority Habitat. The survey found no evidence of protected species such as badgers or dormice, and there are no ponds to support amphibians. Given the presence of trees there is scope for breeding birds and accordingly it is recommended that clearance works are only carried out between September and March to avoid the breeding season. Evidence of bat droppings prompted a bat survey but no bats were seen to emerge from the buildings and the number of passes was found to be low. Nevertheless a mitigation strategy is proposed. Recommendations were also made in relation to planting of native species to enhance the ecological value and the installation of bird boxes, all of which the applicant has agreed to implement.
- 2.20 As part of the Appropriate Assessment required in respect of the above, 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.

- 2.21 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.
- 2.22 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.
- 2.23 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 harmful effects of housing development on the sites.
- 2.24 Given the limited scale of development proposed by this application, a contribution towards the Council's Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration involved 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.
- 2.25 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

#### Other Matters

- 2.26 As referred to above, the site does not lie within any zone identified by the Environment Agency which might be vulnerable to flooding. Bearing in mind that only 7 units are proposed, it is also below the threshold for any affordable housing or other development contributions. With regard to disposal of surface water, the applicant has clarified that this will be some form of sustainable urban drainage system. The usual solution in such instances is likely to be some form of attenuation tank which ensures flows of surface water into the system are less than existing. Details of such a system can be conditioned.

### 3. Conclusion

- 3.1 As explained above, the principle of redevelopment is considered acceptable in policy terms. In terms of achieving sustainable development, the NPPF says that the planning system should have

three overarching objectives, namely economic, social and environmental objectives.

- 3.2 In terms of economic benefits there would be short term gains through local construction work, whilst from a social objective, there would be a small but useful addition to the housing supply and better use of what is currently a vacant and deteriorating site visually. Although local representations have expressed concerns about the introduction of flats to the area, given the limited number of units involved, and the fact that the former use was a commercial care home, it is not considered that there will be any significant loss to the character of the area, particularly given the location at the very northern end of the Parade. The applicant has confirmed the flats will be for open market housing, and whilst potentially they could indeed be second homes to persons residing elsewhere, there are no planning controls to prevent that happening, as indeed would be the case elsewhere along the Parade.
- 3.3 From an environmental objective, there are a number of issues. Many representations have expressed a desire to see the building restored. However, that is not the proposal before members and given that it could be demolished without permission (subject to the prior approval process), the application could not be resisted on that basis alone.
- 3.4 Although a number of concerns have also been raised in respect of the proposed design, the overall scale, footprint and visual impact will be similar to the existing and less so in some respects. Officers consider that the proposed elevational treatment will successfully break up any massing and the revised plans shows architectural detailing which draws upon historical detailing found elsewhere in Walmer. Given the variety of designs, forms, size of buildings and use of materials that are found along the Parade, both in historical and contemporary buildings, including the site next door, officers consider it would be difficult to argue that that the proposal would be out of character.
- 3.5 In highway terms, whilst detailed points about trip generation could be debated, the overall numbers will not be dissimilar from the previous use and all parking requirements can be accommodated on site, which was not the case previously. Whilst there are understandable local concerns about potential damage to the Parade, that would be the case with any development to the existing site or other sites along the Parade. In that respect, a detailed Construction Management Plan would seek to mitigate issues associated with the construction phase.
- 3.6 For a combination of all the above reasons, officers consider the development complies with sustainable development criteria and that the overall benefits of the scheme outweigh any adverse impacts. Accordingly planning permission is recommended.

g) **Recommendation**

- I PERMISSION BE GRANTED subject to the following conditions:-

(1) standard time; (2) approved plans; (3) details of materials and architectural detailing such as ridge ties, fascia board etc; (4) parking and turning provision; (5) cycle provision; (6) details of refuse and recycling; (7) details of landscaping scheme; (8) removal of existing trees to be carried out in accordance with ecological report; (9) ecological measures, including bat mitigation strategy to be carried out in accordance with ecological report; (10) further details of surface water disposal and ongoing maintenance; (11) development to be carried out in accordance with construction management plan, to include pre commencement photographic survey, wheel washing, construction times and types of vehicles.

- II Powers be delegated to the Head of Planning, Regeneration and Development to resolve any necessary planning conditions, in accordance with issues set out in the report and as resolved by the Planning Committee.

Case Officer

Kim Bennett



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DOV/18/01169  
12 King Street  
Deal  
CT14 6HX

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/18/01169 – Erection of a building incorporating three retail units (Use Class A1) and sixteen self-contained flats (existing building to be demolished) – 12 King Street, Deal**

Reason for report: Level of public interest

- b) **Summary of Recommendation**

Planning Permission be Granted.

- c) **Planning Policy and Guidance**

Dover District Core Strategy (CS)

- Policy CP1 – Deal identified as suitable for urban scale development.
- Policy CP4 – Housing quality, mix, density and design.
- Policy CP6 – Development generating a demand for infrastructure requirements.
- Policy DM5 – Affordable housing target of 30% for schemes over 15 dwellings.
- Policy DM11 – Location of development and managing travel demand.
- Policy DM13 sets out parking standards and states that parking should be a design led approach based upon characteristics of the area.
- DM17 – Ground water protection zone.
- DM22 – Within Deal secondary frontage, permission only given on ground floor for A1, A2, A3, A4 and A5 uses.

National Planning Policy Framework

- Paragraph 8 – principles of sustainable development.
- Paragraph 9 – decisions should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- Paragraph 11 – approving development proposals that accord with an up to date development plan.
- Paragraph 59 delivering sufficient supply of homes.
- Paragraph 85 – ensuring vitality of town centres.
- Paragraph 92 – decisions should guard against loss of valued facilities and services.
- Paragraph 108 – Promote sustainable transport modes and safe and suitable access to site.
- Paragraph 109 Development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Paragraphs 117 and 118 – Promote effective use of land and substantial weight to value of using suitable brownfield land within settlements for housing.
- Paragraph 124 – good design is key aspect of sustainable development. Development should function well, add to the overall quality of an area and are sympathetic to local character and history.
- Paragraph 127 – developments should create places with a high standard of amenity for existing and future users.
- Paragraph 163 – Development should not increase flood risk elsewhere and where appropriate should be supported by site specific flood risk assessment.

- Paragraph 165 – Developments should incorporate sustainable drainage systems.
- Paragraph 193 – Great weight should be given to conservation of designated heritage asset.
- Paragraph 195 – Where proposals would lead to substantial harm of designated heritage asset, should be refused unless it can be demonstrated they would be outweighed by substantial public benefits.
- Paragraph 196 – Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- Paragraph 200 – Proposals that make a positive contribution to or better reveal the significance of Conservation Areas should be treated favourably.

d) **Relevant Planning History**

No relevant formal planning applications to this proposal.

PE/18/0045 – Pre application officer advice given regarding evolution and development of current proposal and supporting documents which would be required. Detailed discussions on design in order to develop a scheme which would respond to local context and mix of uses.

e) **Consultee and Third Party Responses**

**Technical Consultations**

**KCC Highways** – Accepts conclusions of Transport Statement that there will be no significant increase on the highway network on grounds that proposed trips would be similar to existing uses on site and that shoppers would already be in the town centre. Notes that no parking is provided but site in sustainable location and on street parking controls in surrounding streets. Separate highway consents will be required for re surfacing of the public footway to east of site. Conditions recommended relating to construction management and retention of cycle parking.

**Southern Water** - No foul capacity issues identified but formal consents will be required for connections. Initial response advised that it would not normally accept surface water discharges into public network and alternative solution required. Now accepts principle of strategy to use current system but with reduced flows than existing, subject to further technical details being received.

**Environmental Protection Officer** – No objections. Recommends condition regarding sound insulation between flats and shops to safeguard new residents from noise.

**Environment Agency** – No comments.

**KCC Flood and Water Management** – Accepts that proposed attenuation with reduced outflow will not increase risk of flooding. Further detailed calculations needed which can be secured through conditions.



**KCC Development Contributions** – Has assessed potential impact of proposal upon services and has identified a financial need of £864 for library books. Although a need would be generated for primary and secondary education, accepts that CIL Regulations preclude that on the basis of pooled contributions having been exceeded. Satisfied that contributions reasonably required in accordance with Community Infrastructure Regulations. Also requests that superfast fibre optic broadband is delivered to all buildings in keeping with objectives of Broadband Delivery UK.

**Kent Police** – Notes that considerable efforts made to design out crime. Has identified some areas of concern about defensive space and managing entrances. Further meeting held with agent and notes that a number of recommendations have/will be taken on board (note: some of these relate to non planning matters such as detailed design of door locks)

**Natural England** – No objections but notes that net increase may result in increased recreational disturbance to coastal Special Protection Areas and RAMSAR sites. Acknowledges that DDC has measures in place to manage impacts.

**Dover DC Infrastructure and Delivery Officer** – Development will create additional need for open space. In line with adopted formula, a contribution of £13,120 is sought in order to provide additional play equipment in a project delivered by the Council.

**Dover DC – Waste Services** – Residential waste bins and commercial waste need to be separate from each other and capacities should be provided in accordance with Council requirements.

### **Third Party Responses**

**Deal Town Council** – No Objections

**35 representations** received from local residents expressing **support** for reasons which may be summarised as follows:

- Good fit for town centre and will help Deal being busy and vibrant.
- The current building is an eyesore, is deteriorating and would be difficult to convert.
- Current uses unsuitable for the site.
- Independent retail units will be good for the town and provide opportunities for start up businesses.
- Good opportunity to re locate and live in the Town Centre.
- Good mix of residential and retail.
- Will enhance Conservation Area and attract more tourists.
- Will improve King Street which is one of town's most prized assets.
- Development will take Deal into the C21.
- Deal has always been a mixture of old and new buildings.
- Carefully considered design to reflect the area.
- Scale is appropriate to the area and breaks down into separate blocks.
- Excellent all round project.

**11 representations** received from local residents expressing **objections** for reasons which may be summarised as follows:

- Loss of a sound building. Part of the town's seaside architecture.
- The building should be converted and restored.
- Will not improve the character of Deal.
- Lack of parking will add to existing problems. There is inadequate public transport in Deal.
- The design is bland and generic; it resembles a Travel Lodge.
- The materials do not reflect the local area.
- The CGI misrepresents the true height of the building.
- Health issues with windows which face onto a parking area.
- Will add to drainage issues in the area.

**5 representations** received expressing **neutral** comments which may be summarised as follows:

- The current building is an eyesore which should be replaced.
- Disappointing that there is no affordable housing proposed.
- Would prefer larger retail units; chain stores are needed for Deal to survive

Following reconsultation on revised plans, 6 further representations were received, **4 objections and 2 in support**, raising similar points to the above.

- f) 1. **The Site and Proposal**
- 1.1 The site comprises the Royal Leisure Centre which is located on the south side of King Street and backs onto the Middle Street Car Park. Adjacent to the west is Odd Fellows Alley which backs on to commercial premises fronting the High Street, whilst to the east is a pedestrianised access leading from King Street to the car park. The building has a monumental scale within the street scene, with largely blank elevations fronting King Street and the car park. It is unlisted but lies within the Middle Street Conservation Area.
- 1.2 The building was originally constructed in 1890 as the Oddfellows Hall but was converted to a cinema around 1910. Following eventual closure of that in 1981, it was converted into an amusement arcade on the ground floor with a snooker club at first floor. Whilst the amusement arcade has recently closed, the snooker club remains open.
- 1.3 The proposal is to demolish the existing building and erect a new building on the existing site footprint with a total of 16 apartments on upper floors and 3 retail units on the ground floor. The mix would be 9 x 1 bed, 3 x 2 bed and 4 x studio units, with the retail units having floorspace between 60 sq m and 85 sq m. The building would be 4 storeys in height although the 4<sup>th</sup> storey would have a reduced floorspace area and set in from the floors below in order to reduce the actual and perceived massing. The architectural approach is contemporary in form with the main driver seeking to break up the main elevations by having articulated frontages split into plot widths similar to those found elsewhere in King Street, and by a variety of ridge heights. A mixture of materials, part of which reflect the local

palette, and architectural detailing such as projecting bay windows and deep window reveals, are intended to add further interest.

- 1.4 Because of the sustainable location, no parking spaces are proposed within the development, although there is provision for 16 cycle spaces and 2 mobility scooters in the ground floor. Separate refuse bin enclosures are also provided for the residential and commercial elements of the scheme, with external access via the car park. A smaller basement is also proposed providing additional residential and commercial storage. The 3 retail units would front onto King Street with each being self-contained.

## **2. Main Issues**

- 2.1 The main issues in the consideration of this application are:

- The principle of the development
- Loss of community facility and provision of housing
- Heritage & design considerations
- Highway and parking Issues
- Flood Risk
- Affordable Housing and Development Contributions
- Impact from habitat regulations
- Other matters

### **Assessment**

#### **Principle of Residential Redevelopment**

- 2.2 Given the site's location within the urban boundary of Deal and the fact that it is a brownfield site, there is no objection in overall policy terms to some form of development on the site. In that respect it would be consistent with Policy CP1 and DM1 of the Core Strategy. The site is also in a highly sustainable location, being within metres of the Town Centre and 500 metres of the railway station. In that regard the NPPF says that there should be a presumption in favour of sustainable development 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. The various issues are considered below.

#### **Loss of Community Facility and Provision of Housing**

- 2.3 The NPPF says that decisions should guard against the loss of valued facilities and services, and given the current role of the site, it could be argued that it falls into that category. In response, the applicant has submitted a detailed supporting statement which explains that both current uses have been a victim of falling demand. In relation to the snooker club, a combination of no smoking, availability of cheap alcohol elsewhere and gaming controls, have led to a serious decline in such clubs since the heyday of the 1980s. Similarly, amusement arcades have suffered from controls over gambling, the growth of home game consoles and family entertainment centres and a generally poor public image. Figures within the report show that over

200 amusement arcades closed between 2007- 2009. Unsurprisingly in the light of the above, detailed financial accounts for both uses show the extent of losses which have occurred year on year with little sign of recovery.

- 2.4 In terms of alternative venues for the existing uses, the statement notes that the applicant owns an alternative amusement centre in the town, whilst there are various locations where snooker could be played in social venues, community centres etc. should there be demand for that. As to demand for the existing building, an audit of local facilities reveals that the town is well equipped with a number of other leisure and community based buildings and that it is not lacking in community space. With regard to reinstating the former cinema use, the Astor Community Theatre shows films and there are also proposals to reinstate the Regent Cinema in the town. Aside therefore from the question as to whether there would be demand for a further cinema use, the cost of conversion and bringing the building up to modern day standards, is likely to be prohibitive.
- 2.5 Given the above, officers are satisfied that the case is made in terms of justifying an alternative use for the building or site from its current leisure uses. In terms of the proposed use, additional housing within the town centre is to be welcomed in terms of its sustainable location, assisting in the general sustainability of the town itself, and the addition of 16 units to the District's housing supply. Similarly, the proposed 3 commercial units are to be welcomed in that not only are they of a size which is likely to be attractive to independent retailers, but they will also assist in improving pedestrian footfall in King Street and add to the general life and vibrancy of the Town Centre.

#### Heritage and Design Considerations

- 2.6 Because of its inclusion within the Conservation Area, there is a statutory duty to consider the desirability of preserving or enhancing the character or appearance of that area. In that respect, although the building is of interest from its historical uses, an accompanying report from a firm of quantity surveyors explains the difficulties of converting it, in that all that would remain once the internal first floor is removed, would be the external walls and roof structure. The walls are uninsulated and out of plumb and with the added cost of forming additional window openings and dealing with likely asbestos in the building, the cost would be prohibitive. Given that there is unlikely to be an alternative leisure/community demand, retaining the building may well result in an unviable scheme commercially and therefore in all likelihood, a vacant building in a key location within the Town Centre.
- 2.7 Visually, the building has a monolithic presence within King Street because of its massing and lack of any active frontage through limited window openings. This contrasts with the dense urban grain and narrow plot widths of other buildings within King Street. The same massing and bland appearance presents itself to the Middle Street car park.

- 2.8 Drawing the above together and provided the replacement design is appropriate, officers consider there is a sound case to be made to support its demolition with a new building, provided that the design would preserve or enhance the character or appearance of the Conservation Area.
- 2.9 With regard to design, the applicants have opted for a deliberately contemporary approach with a flat roofed building and modern detailing, but one which also draws on local characteristics of the area in order to facilitate its integration within the street scene. This is considered to be a valid approach given that there is a variety of different styles, designs and storey heights within King Street at present. Whilst the overall footprint of the building would be similar to the existing, the massing would be broken up by projections within the elevations at intervals, in order to respond to general plot widths and rhythm of existing buildings in King Street. These would be emphasised by changes in materials. The set back of the fourth floor would also assist in reducing the monolithic impact of the current building, particularly when viewed from Kings Street. In terms of detailing, the use of vertically proportioned windows with inset reveals, projecting bay windows and oriel windows, all pick up on local characteristics. The use of render and a local stock brickwork will also provide references to local buildings, whilst the introduction of copper sections and the metal clad roof will provide the contemporary elements. Whilst the issue of design is somewhat subjective, it is worth noting that significantly more representations have been received supporting the proposal than against it, including importantly, the Town Council.
- 2.10 On detailed matters, revised plans have addressed some of the issues relating to crime prevention highlighted by Kent Police, in terms of access to the building and storage areas etc, whilst more detailed matters such as controlled entry and window security will be addressed at Building Regulation Stage.
- 2.11 In summary, officers are of the view that the proposal would provide a well designed building which, whilst responding to the scale of the existing building, would also result in a design more in keeping with the character of this part of Deal and which would better respond to the urban grain than the existing building does. As such it is considered that the character of the area would be preserved and indeed enhanced.

#### Highways and Parking

- 2.12 The Transport Statement submitted with the application demonstrates that based on nationally acknowledged TRICS data, the proposed uses would generate slightly less daily trips than the authorised uses would, which of course could be resurrected without the need for any new permission. Members will note that KCC Highways concurs with that assessment and agrees that there would be no significant increase in traffic generation on the local network.
- 2.13 In terms of parking, a number of representations have expressed concern about the lack of parking on site. As with trip generation

above, there is already a theoretical demand for parking associated with the existing uses, which would be 41 spaces according to parking guidelines set out in Policy DM13, compared to 18 spaces which would be required with the proposed uses. Additionally, the site is in a highly sustainable location being so close to both the Town Centre, the railway station, bus services and the National Cycle route. In the case of the latter, cycle storage provision would be made available within the building itself for each of the units. It may well be therefore that future occupiers would decide that they do not need reliance upon a private car.

- 2.14 Should that not be the case, there are resident parking permit schemes available nearby, but elsewhere on street parking restrictions apply in the locality, so that there is unlikely to be any added on street parking congestion. Members will note that similar arguments were made in respect of the nearby Quarterdeck development which was also approved without on street parking, and officers are not aware that this has given rise to any particular issues.
- 2.15 In terms of refuse provision, separate facilities would be made in the ground floor of the building which would be serviced from the car park. Size of the various commercial and residential containers would be in compliance with the standards of the Council's waste services section.
- 2.16 The NPPF advises that permission should only be refused on highway grounds if there is an unacceptable impact upon highway safety or the residual impacts would be severe. For the above reasons, officers do not believe that would be the case.

#### Flood Risk

- 2.17 Because of the location, a detailed flood risk assessment was submitted with the application. That study concludes that the only likely risk arises from potential coastal flooding. However, in view of the recent coastal defence works in Deal, the calculations show that even allowing for climate change, the building would be protected from a 1:200 year flooding event and therefore the risk from flooding is very low. The study also shows that would still be the case even allowing for a breach of the coastal defence works. Notwithstanding that, precautionary measures are recommended to be built into the design of the building, such as flood barriers across doorways and raising of electrical sockets, in order that it could be quickly returned to use following any extreme flooding incident. Such matters can be controlled through a condition. The study was prepared in consultation with the Environment Agency and the Agency has confirmed it has no further comments.
- 2.18 With regard to disposal of surface water, the current arrangement is that the existing building discharges into a combined foul and surface water sewer. Southern Water's position is that for new developments it would prefer alternative and separate arrangements, usually in the form of soakaways and such like. However, in the case of the application site there is no scope for that given that it is surrounded by highway land on all sides immediately beyond the boundaries of the site. Accordingly, the proposal is to install a surface water tank within

the basement area, which would be linked to the existing combined sewer but have a hydro brake to ensure that surface water is discharged at less than 50% of the discharge rate from the existing building. The revised flood risk assessment provides the general details of such an arrangement. Southern Water has now accepted the principle of the system, subject to detailed matters relating to the design, which can be secured through a condition.

#### The Conservation of Habitats and Species Regulations 2017

- 2.19 As part of the Appropriate Assessment required in respect of the above, 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.
- 2.20 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.
- 2.21 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.
- 2.22 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 harmful effects of housing development on the sites.
- 2.23 For proposed housing developments in excess of 14 dwellings (such as this application) the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy requires the applicant to contribute to the Strategy in accordance to a published schedule. This mitigation comprises several elements, including the monitoring of residential visitor number and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education). Natural England has been consulted on this appropriate assessment and concludes the assessment is sound. The applicant has agreed to such mitigation which is in the form of a financial contribution of £314 in accordance with the approved formula for such calculations.
- 2.24 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

### Affordable Housing and Development Contributions

- 2.25 Policy DM5 of the Core Strategy, requires that for developments of 15 or more dwellings, 30% of the units are expected to be affordable homes. For this proposal, that would equate to 5 affordable units with 70% rented and 30% intermediate tenures. Accompanying the application in that regard was a detailed viability assessment which concluded that the development would not be profitable if affordable housing was included within it.
- 2.26 Officers have had the assessment independently verified by a firm of consultants who have extensive expertise in such matters. The consultants have carefully appraised the various assumptions made in the assessment, and whilst questioning some of those and making adjustments because of them, have agreed with the applicants that the scheme would not be viable if affordable housing was included within it. In such a scenario, and if the Council insisted on affordable housing being provided, it is most unlikely that any scheme would proceed.
- 2.27 Whilst the above position is disappointing, officers have no reason to dispute the findings of either the viability assessment or the independent review of that study. On balance, it is considered that the wider benefits of the scheme going ahead in terms of provision of additional housing, a more appropriate design than the current building, and the potential of the retail units to add to the vitality of the town centre, outweigh the lack of affordable housing in this instance. It is also noted that whilst not falling within the definition of affordable units, the proposed 4 studio units and 9 x 1 bed units would at least offer accommodation at the lower end of the market.
- 2.28 In terms of other contributions, and in accordance with policy, the applicant has confirmed that the development would be able to sustain a contribution of £13,120 towards the provision of open space, which would be put towards enhancement of facilities at Victoria Park, and £868 towards provision of library books as required by Kent County Council. Additionally, as noted above, there would be a contribution of £314 towards mitigation for the Sandwich Bay SPA and Ramsar sites. All these contributions would be secured through a S106 Agreement, a draft of which has been submitted, and which would be completed prior to any formal decision being issued, should members be in agreement with the overall recommendation.

### Other Matters

- 2.29 From a residential amenity point of view, there is upper floor residential accommodation elsewhere in King Street. However, given the existing uses of the building and the scope for late night activity, it is considered that the potential impact of the new development would be less than currently. To the west, the proposed building would be very close to the rear of properties backing on to Odd Fellows alley, and which have rear windows in upper floors. However, that is already the case and the building would have no greater physical impact in that respect. Detailed matters relating to facing windows



and measures to ensure continued privacy, need to be finalised but can be resolved through a suitably detailed condition.

- 2.30 Although there is little documentary evidence of archaeology on the site, in view of the demolition of the existing building, there is the possibility of archaeological remains being present following excavation for new foundations. Such a possibility could be controlled through an appropriate watching brief condition.
- 2.31 Finally, the demolition of the building and construction of the new building would inevitably cause some localised disruption of the town centre and adjoining car park. Accordingly, it is recommended that a Construction Management Plan be submitted which would address such matters as hours of operation, vehicle routes, temporary road/car park closures etc.

### 3. **Conclusion**

- 3.1 The proposed development is considered to be a well thought out scheme in a highly sustainable location which would be consistent with a number of important planning objectives within the Core Strategy, including the provision of a useful contribution towards housing supply and additional retail units to assist with ongoing vitality of the town centre, both of which would provide appropriate uses for a building which may become difficult to let and potentially vacant for a long period. The design approach is considered to be appropriate, offering a reduced massing and greater articulation than the current building, and overall would enhance the character and appearance of the Conservation Area. Although the lack of affordable housing is disappointing, other contributions required by adopted policy would be secured, and officers consider that the overall advantages of the scheme outlined above, outweigh the lack of such housing in this instance, particularly as a range of smaller units of accommodation would be provided.
- 3.2 Accordingly, officers recommend that permission is granted subject to development contributions being secured through a S106 Agreement and the conditions set out below. In respect of the latter, new Regulations now require that any pre commencement conditions need to be agreed with the applicant in the first instance. This will relate to conditions 10, 11 and 12 and officers can confirm that the applicants are agreeable in that respect.

### g) **Recommendation**

- I Subject to completion of S106 Agreement in relation to Development Contributions as set out in the report above, PERMISSION BE GRANTED subject to the following conditions:-

(1) standard time; (2) approved plans; (3) details of external materials; (4) larger scale details of various architectural detailing, including doors, windows and balcony details; (5) details of fenestration and balconies in upper floors of western elevation to safeguard privacy; (6) details of flood resilient measures in design of building at basement and ground floor; (7) details of sound attenuation measures between

flats and retail units on ground floor; (8) cycle provision before occupation; (9) refuse and recycling before occupation; (10) detailed calculations of surface water disposal and ongoing maintenance; (11) development to be carried out in accordance with construction management plan; (12) archaeological watching brief.

- II Powers be delegated to the Head of Planning, Regeneration and Development to resolve any necessary planning conditions and matters connected with the proposed Development Contributions, in accordance with issues set out in the report and as resolved by the Planning Committee.

Case Officer

Kim Bennett



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DOV/19/00119  
12 The Marina  
Deal  
Enter postcode here...

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/19/00119 – Erection of a detached dwelling (existing dwelling to be demolished) - 12 The Marina, Deal**

Reason for Report: Number of contrary responses (15 including Town Council)

b) **Summary of Recommendation**

Planning permission be granted

c) **Planning Policy and Guidance**

Dover District Core Strategy 2010

- DM1 - Development within the built confines.
- CP1 – Settlement Hierarchy.

National Planning Policy Framework (NPPF) 2019

- Paragraph 8 – the three objectives of sustainability.
- Paragraph 11 – presumption in favour of sustainable development.
- Paragraph 127 – achieving well-designed places.
- Paragraph 130 – permission should be refused for poor design.
- Paragraph 131 – great weight should be given to outstanding or innovative design.
- Paragraph 197 – Non-designated heritage assets

d) **Relevant Planning History**

No relevant history.

e) **Consultees and Third Party Responses**

Deal Town Council: Strongly object as out of character with the area

KCC Archaeology: Note the historic interest of the existing dwelling. Should permission be granted, a condition requiring a scheme of archaeological measures should be secured by condition.

Southern Water: No objection to the proposal.

DDC Engineering: Concurs with the findings of the conditions report that the building is beyond reasonable structural repair and would need to be rebuilt.

Third Party Reps: 14no. objections have been received and are summarised below:

- The modern structure would not be in keeping with the character of the seafront.
- Gabions would be alien to residential properties in the area.
- The proposal could lead to a loss of amenity through overlooking, interlooming, loss of privacy and overbearing impact.
- Detailed design and the proposed materials out of keeping with the area.
- Large front window proposed out of keeping with area.
- The rooftop solar is not attractive.
- The materials are 'too black'.

- Loss of the building would be disappointing as it is historic and has formed part of the street scene for years.

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

- 1.1 The application site is made up of a two storey, timber-framed dwelling set to the north-east corner of a large garden and is located to the west side of The Marina within the settlement confines of Deal. It is not within a conservation area nor is it listed but it is considered to be a non-designated heritage asset and is on a site of high archaeological potential. It is within Flood Risk Zones 2 and 3 and is located opposite the seawall.
- 1.2 The existing dwelling is flanked by a dwelling to the south (11A The Marina) and The Deal Angling Club (DAC) to the north. To the rear of the dwelling is a large garden with access to a garage (accessed from Bulwark Road). To the rear of the garden is 2a Bulwark Road, a dwelling attached to the south side of the single garage belonging to the application site.
- 1.3 The existing dwelling is clad in white-painted timber weatherboarding with bay windows to the street frontage and a deep two-storey rear extension. The dwelling is set away from the boundary of No. 11a with a side garden which is enclosed by a high brick wall to The Marina. It is of a relatively simple, early 19<sup>th</sup> century design which is of a similar scale to the existing neighbouring buildings. It is in a poor state of structural repair and would be demolished as part of this application.
- 1.4 It is proposed to build a new detached, three-bedroom dwelling on the application site. The building would be of a contemporary design, making use of both modern and traditional materials which would include grey zinc, white render, grey-stained weatherboarding and a gabion-effect detailing to the ground floor level.
- 1.5 The front elevation would be articulated in such a way as to form two visual masses; the area above the main entrance which would be clad in grey weatherboarding and set under a steeply pitched roof and the main bulk of the dwelling which would be flat-roofed and rendered in white render. The gabions at ground floor level would unify the two sections. The second floor 'solar', clad in zinc, would be centrally sited, set back from the front and northern elevations. There would be a glazed balustrade around the roof terrace sited behind the front and side parapets. There would be a number of roof windows but these would not be visible in any public views hidden behind the parapets.
- 1.6 The proposed dwelling would occupy almost the full width of the plot, retaining a gated side access alley to the southern boundary (adjacent to No.11A). The alley would be adjacent to a part two-storey, part single storey section of the proposed dwelling; the two storey element would end just beyond the rear elevation of No. 11a to the south and would project into the garden by 3.9m as a single storey ground floor extension. The main section of the proposed dwelling would be largely two-storeys with a 'third' floor made up of the small 'solar' and roof terrace with views over the Channel. A section of the first floor adjacent to the northern boundary would be cantilevered to form a covered terrace area. The overall footprint of the proposed dwelling would be approximately one-third larger than the existing dwelling. The proposed dwelling would be adjacent to the northern boundary, immediately adjacent to the Deal Angling Club.

- 1.7 Internally, there would be 2no. bedrooms at ground floor level and a master suite at first floor level. Along with a utility room and wet room at ground floor level, there would be a large open space for use as a studio or workshop for personal use. The main living, dining and kitchen spaces would be at first floor level to take advantage of the views to the front.
- 1.8 Whilst the proposal remains largely as submitted, there have been alterations requested during the course of consideration. The drawings have been amended to reflect these alterations. The first alteration required the second floor solar room to be set in from the north-facing elevation by 1.0m to reduce the visual bulk of the development when viewed together with the Deal Angling Club. Secondly, the timber weatherboarding was, as originally submitted, to be black. This raised a number of third party concerns and it was determined that grey would be more appropriate, as this would visually tie the grey zinc solar and the largely grey gabions together without becoming overly dominant within the street scene. The roof terrace was open to the full extent of the front and side (south) areas of the flat roof. Views into the private spaces of No.11a would have been possible and this was not considered acceptable. A 1.1m high boundary railing which restricts the accessible areas of the flat roof (apart from maintenance) was included in the amended drawings to the south side of the solar room, restricting the roof terrace to the front section of the flat roof only (overlooking the street and seafront). Finally, the western end of the south-facing elevation of the two storey section was originally to be in black weatherboarding. It was noted that the north-facing garden area of No.11A gets reflected light from the existing dwelling and given the proximity the proposed development would have to the shared boundary, it was considered necessary to ensure this flank wall was white rendered. None of the amendments were such as to require a new advertisement/consultation period.

## **2. Main Issues**

- 2.1 - Principle of Development  
- Non-designated heritage assets  
- Impact on the visual amenity of the street scene  
- Impact on residential amenity  
- Flood Risk  
- Drainage  
- Parking

### **Assessment**

#### Principle of Development

- 2.2 The site is within the settlement confines of Deal and the proposal is therefore compliant with Policy DM1 of the DDC Core Strategy (2010) which allows, in principle, new development within the confines of urban centres as defined in Policy CP1 of the DDC Core Strategy (2010). New development in this location can be considered acceptable in principle subject to other material considerations.

#### Non-Designated Heritage Asset

- 2.3 The existing dwelling, a former public house, has been described as a non-designated heritage asset by both DDC Heritage and by KCC Archaeology.

The NPPF at Paragraph 197 states that “the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm of loss and the significance of the heritage asset”.

- 2.4 As required by Paragraph 197 of the NPPF, any decision for demolition (ie. loss) of a heritage asset must be balanced with the significance of the asset. DDC does not maintain a local list of non-designated heritage assets nor does the building appear on the Kent Historic Environment Record (the record however, does highlight the site as being significant archaeologically as the site of the North End Brewery). As such, it is considered the significance of the existing dwelling in heritage terms, whilst forming part of the street scene for many years, is not sufficient to require the building to be preserved at all costs. The supporting documentation submitted with the original application included a structural conditions survey relating to the existing timber-framed dwelling. This was discussed with DDC Heritage who were of the view that DDC’s Structural Engineer should evaluate the survey report. The Engineer concurred with the report findings that the building is structurally unsound and cannot be reasonably repaired. This was reported back to DDC Heritage who removed any objection to the demolition of the existing dwelling. Given that the building is beyond reasonable structural repair as confirmed by 2no. structural engineers, it is considered that the demolition of the building is acceptable in this instance.
- 2.5 The idea of ‘rebuilding’ the existing dwelling to match the existing dwelling has been put forward in third party representations and was also considered by the applicants themselves at pre-application stage. The pre-application scheme proposed the rebuilding of the façade of the existing dwelling and adding a side extension similar to the proposed timber-clad section above the entrance door as part of the current application. This resulted in a somewhat odd mix of old and new which did not sit comfortably in the street scene nor would it have been good design. It was recommended in the pre-application response to look at either a fully contemporary or fully ‘traditional’ scheme which would result in a unified elevation. The existing dwelling is not of sufficient historic significance to require its retention at the cost of good modern design. Paragraphs 130-131 of the NPPF gives great weight to good innovative design and would broadly support this proposal.
- 2.6 There were some concerns at Officer level as to the impact the proposal would have on the setting of the adjacent Deal Angling Club (to the north) which is also a non-designated heritage asset. This concern was that the northern elevation of the proposed dwelling would be significantly higher and introduce a significant increase in bulk to the setting of the DAC which would result in harm to the historic significance and views of it from the seafront and other public spaces. However, there is no provision in Paragraph 197 specifically relating to the setting of a non-designated heritage asset nor have DDC Heritage raised any concerns in this regard. Nevertheless, as noted in Section 1.8 above, the position of the solar room has now been amended to sit 1.0m back from the northern elevation and as such, the proposed northern elevation of the main structure would only be marginally above the existing northern elevation of the existing dwelling and therefore the increase in height and the relationship between the two buildings is similar to the existing situation albeit in a varied form. Overall therefore, it is considered that the

proposal would not result in any unjustified harm to any non-designated heritage asset and would accord with Paragraph 197 of the NPPF in this regard.

#### Impact on Visual Amenity of Street Scene

- 2.7 This section of The Marina located between Capstan Row and Dibden Road is characterised by a mixture of building types, styles and scales. No.1 Capstan Row and Nos. 8 and 9 The Marina form a terrace of three-storey terraced dwellings (some converted to flats) of a traditional, late Georgian style finished in white render. No.11a is a two storey mid-to-late 20<sup>th</sup> century modern detached dwelling of brick construction with green weatherboarding to the first floor. No.13 is the Deal Angling Club which dates from 1919, finished in white render and No.14 is a modern 4-storey block of purpose-built flats of brick construction. There is therefore, no unity of style, material or scale in this part of the seafront and the use of a mixture of the existing materials (render, brick and weatherboarding) albeit in differing colours in the case of the weatherboarding and brickwork and the limited introduction of new materials, would not be unduly out of character with the area.
- 2.8 The ridge heights, parapets and flat roof of the proposed dwelling would be above that of No. 11a (albeit with a matching eaves height in the pitched roof) but overall below the height of the Deal Angling Club. The broken roofline of the proposal goes some way to mitigating the potential bulk of the building as does the re-siting of the solar 1.0m from the northern elevation, whilst providing a transition between the heights of buildings in this part of The Marina. The proposed dwelling would be unlikely to appear either unduly bulky for the site nor overly dominant in scale within the street scene. It is considered that the design of the proposal would partially mitigate between the significantly differing heights of the buildings in this part of The Marina and would not introduce an incongruous or unsympathetic bulk or scale to the street scene.
- 2.9 The proposed design reflects the existing building through the use of a large white rendered section set towards the northern boundary in line with the front elevation of the Deal Angling Club. This therefore retains a level of visual relationship to the Deal Angling Club to the north (given the amended 1.0m set-back of the solar) similar to the existing dwelling on the site. The 'white' section of the front elevation is of a similar overall area to the existing white-painted dwelling. The entrance section of the proposed dwelling would replace the existing high brick front boundary wall. The visual impact of a first floor level in this location would be somewhat mitigated through the use of grey weatherboarding and would be sitting within the shadow of No.11a for much of the day. Darker colours tend to make an elevation recede even if, as in this case, it projects forwards of the ground floor building line. It is also noted that there is weatherboarding to No.11a (albeit green and horizontal) and therefore there is some level of relationship between the proposed and existing buildings. It is unlikely that the proposal therefore, would result in an unacceptable increase in bulk or built form on the application site to the detriment of the street scene.
- 2.10 A number of third party representations raised concerns about the use of black weatherboarding, zinc roof and the use of gabions as 'materials' on a dwelling. The agent has supplied a number of examples of the use of black/dark weatherboarding in the area, albeit not on The Marina. It is not an atypical material for Deal nor would it be likely to result in a scheme which



would be unduly prominent in the street scene given the varied materials in the area. The use of gabions is more unusual however, they are made up of natural stones of varying natural shades and would add a texture (somewhat similar to a rough brick in a similar location) which contrasts well with the crisp render and zinc. Concern has also been raised about the use of blue brick for the boundary wall. Again, whilst blue brick is somewhat atypical and non-traditional in the area, low front boundary walls are not atypical and based on the submitted brick sample, the wall would appear more black than a strong blue. This element of the proposal is unlikely to appear unduly incongruous. On balance, it is considered that the new materials are largely offset with a number of more traditional materials such as the white render, the use of zinc/lead and timber weatherboarding and would appear more as highlights than dominant materials. It is considered that the use of new materials would be unlikely to result in undue harm to the street scene.

- 2.11 Further, it is acknowledged that concerns have been raised regarding the size and shape of a number of windows, especially the large picture window to the front elevation at first floor level. Larger windows on the front elevations of unlisted properties on the Deal seafront have become more typical in recent years; taking advantage of both the views and light afforded by the seafront position. Providing these windows integrate well into the host dwelling, it is not considered unduly problematic. It is recognised that an effort has been made to balance the façade of the proposed dwelling and to relate it to the surrounding buildings. The majority of the windows are horizontal reflecting the fenestration of No.11a, whilst the entrance section is decidedly vertical, reflecting the windows and elevational detailing of the Deal Angling Club. Whilst it is acknowledged that these visual relationships are perhaps not as strong and obvious as could be achieved, it is considered that, on balance, it is unlikely that the proposal would result in undue harm to the street scene.
- 2.12 The replacement of a structurally unsound building with a new high-quality contemporary building is supported. Whilst the proposal would introduce materials which are not typical of this part of The Marina, given the high quality of the overall design and its relationship to the surrounding buildings, the new materials would not result in any harm to the street scene. The building would represent an example of good design as sought by the NPPF at Paragraphs 130 and 131. Overall, it is considered that the proposal would be likely to result in a development which is largely sympathetic to the visual amenity of the street scene in terms of massing, scale and some materials whilst still managing to introduce a number of contemporary elements and forms. As such, the proposal is considered to be in line with Paragraphs 127 and 130-131 of the NPPF.

#### Impact on Residential Amenity

- 2.13 The proposed dwelling would sit towards the front boundary of the site. The distance to the rear boundary from the rear elevation of the proposed dwelling would be 13.5m with a total distance to the rear of 2a Bulwark Road of 20m. The distance from the proposed kitchen window and the rear of No.2a would be 25m. Views towards other gardens or dwellings would be largely screened by existing outbuildings and boundary fencing. The southern elevation of the proposed dwelling would be approximately 1.0m from the boundary shared with No.11a. There is a 1.5m close-boarded fence topped with a 300mm trellis separating the application site from the garden of No. 11a. Approximately two thirds of the garden of No.11a is decked and

therefore the fence/trellis appears rather lower than from within the application site.

- 2.14 The proposed new dwelling would have windows facing to the rear, north and south of the property. The north-facing window would overlook an alley behind the Deal Angling Club and would not impact upon residential amenity. However, given this window is on a boundary, it is considered reasonable to require this window to be obscure glazed. The window on the south elevation at first floor level serves a hallway and could result in interlooking to the rear extension and garden area of No.11A. As such, it is considered necessary to require this window to be obscure glazed and fixed shut.
- 2.15 The majority of the proposed rear-facing windows would be unlikely to increase the opportunity for overlooking, interlooking or loss of privacy to any residential neighbour. There are a number of windows on the rear elevation of the existing two storey rear extension and the proposal is unlikely to worsen the existing situation. Whilst the proposed window serving the kitchen could allow some level of visibility into the garden space of No.11a, this would be a very oblique angle and would not likely result in an unacceptable level of overlooking or loss of privacy.
- 2.16 Concern was raised by the resident at No.11a that the use of black weatherboarding on the flank (south facing) elevation could lead to a sense of enclosure and could have an overbearing impact upon the garden space at No. 11a. Even with the colour of the weatherboarding amended to mid-grey, this was considered a valid concern given the proximity of the flank wall to the shared boundary (1.0m away). As such, the proposal was amended to show white render at first floor level for the rear section of the flank wall (the weatherboarding stops part way along the flank elevation). The varied heights with the two storey section projecting 2.5m beyond the rear elevation of No.11a then stepping down to a single storey, would also help address the potential for overbearing. It is considered that the white render and the varied massing would go some way to mitigating any sense of enclosure or overbearing impact of the development. The proposed materials and colour can be secured through a condition and removal of permitted development rights to alter the dwelling would protect the adjoining neighbour from further additions or alterations that could affect their amenities due to the increased scale of the proposal.
- 2.17 Concerns were raised regarding the roof terrace and second floor level as submitted as it allowed almost full access to the flat roof area. This was considered unacceptable in terms of overlooking to private garden space and could result in a loss of privacy. As such, a 1.1m high railing was proposed forward of the main roof light (roof light above the first floor stairway/hallway) which would restrict access to the area of the terrace to the front section of the flat roof which would be well-screened by the proposed high pitched roof above the entrance area. This amendment has overcome these concerns satisfactorily and has not been impacted by the re-siting of the solar. The provision of the railings prior to first occupation can be reasonably secured by condition.
- 2.18 Finally, there would be no loss of light to any residential neighbour as a result of this proposal. At this point, there is no residential neighbour to the north. Regardless, the proposal would be unlikely to result in a significantly greater loss of light to this site than is already experienced given the north-south orientation of the properties. Overall therefore, it is considered that with

suitable conditions, any undue harm to existing residential amenities can be mitigated to an acceptable level and therefore the proposal is considered to comply with Paragraph 127 (f) of the NPPF in this regard.

#### Flood Risk

- 2.19 The application site is within Flood Risk Zone 3a and a full flood risk assessment has been submitted as part of the supporting documentation in line with the EA's standing advice. It concludes that the risk of flooding is low and made recommendations for flood mitigation in line with this level of risk. It is considered reasonable to secure the provision of these flood risk mitigation measures prior to first occupation by condition given the presence of sleeping accommodation at ground floor level.

#### Drainage

- 2.20 A surface water drainage scheme has been provided in the supporting documentation. Given the soil conditions, soak away or infiltration is of limited use in this part of Deal. The supporting documentation submitted with the application states that a 300 litre water butt would be provided to collect water run-off from the roof. No calculations have been shown to securely state that this will be adequate given 300 litres is the size of a standard bath. Southern Water confirmed that there is no surface water sewer system in the area to serve the proposed development. Surface water cannot drain to the foul sewer system. As such, it is considered necessary to secure further details with regards to the surface water drainage scheme for this development.

#### Parking

- 2.21 There is no change proposed to the existing parking provision to the application site. As the application site is located within the urban confines of Deal, it is considered acceptable for a house of the size proposed to have a single allocated parking space to the rear of the property accessed from Bulwark Road. The proposal would be in line with Policy DM13 of the CS.

### **3. Conclusion**

- 3.1 The principle of the development accords with Policy DM1 of the CS. The loss of a non-designated heritage asset, whilst disappointing, is accepted as there are very limited repair options available and the LPA's duty under Paragraph 197 of the NPPF has been discharged. The proposal, whilst of a contemporary design and form and making modest use of new materials, has been designed to largely reflect the existing street scene and would be unlikely to result in any undue harm to the visual amenity of the street scene. On balance therefore, the proposal would accord with Paragraphs 127 and 130-131 of the National Planning Policy Framework (2019) and DM1 and DM13 of the Core Strategy (2010).

### **g) Recommendation**

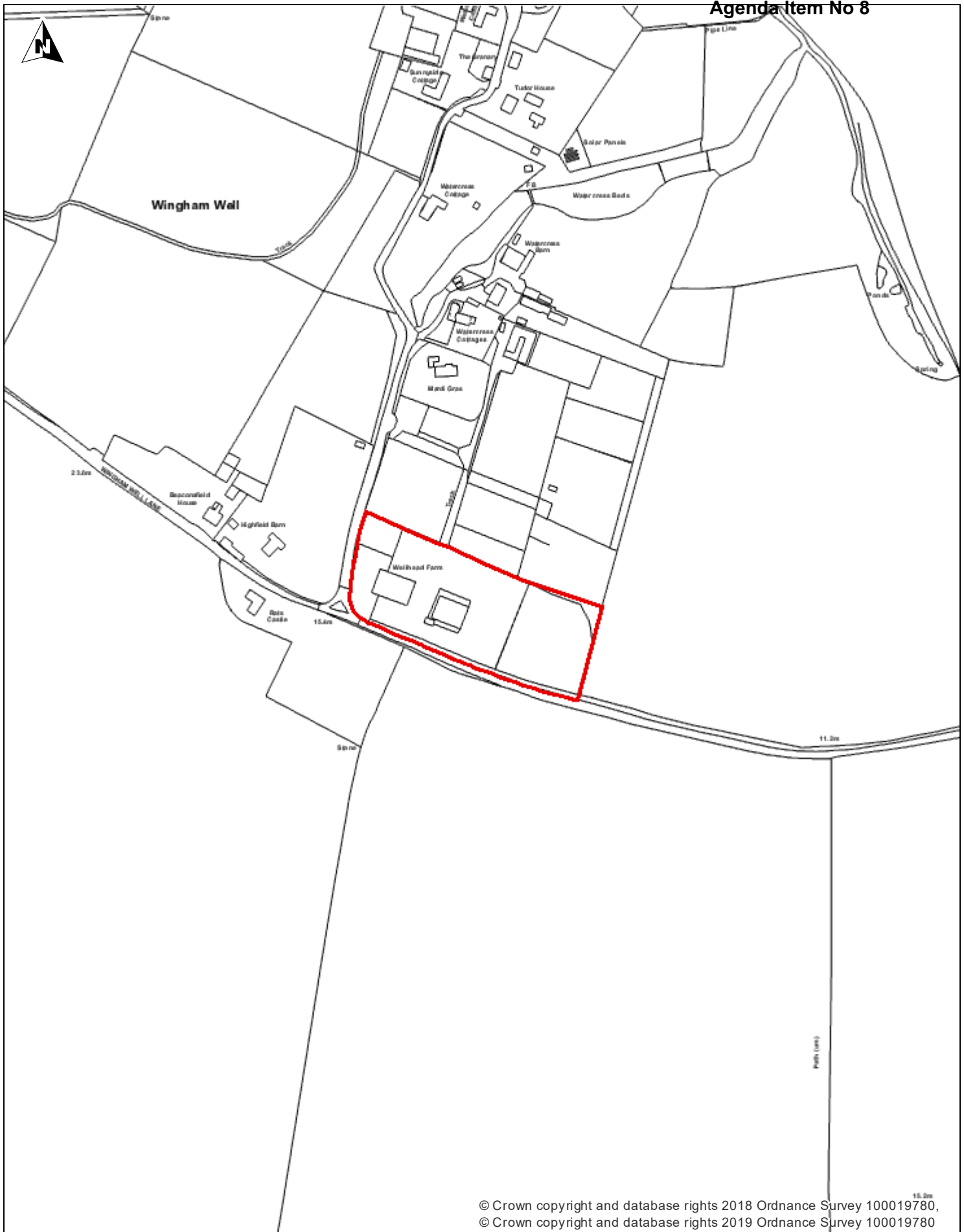
I Planning Permission BE GRANTED subject to the following conditions:

- 1) 3 year time commencement
- 2) Approved plans
- 3) Materials to match samples submitted on 25 February 2019.

- 4) The flood mitigation measures recommended in FRA shall be implemented prior to the first occupation of the dwelling hereby permitted.
  - 5) Prior to the commencement of works, a scheme of archaeological works shall be submitted to and approved in writing by the LPA.
  - 6) The windows in the north and south facing elevations at first floor level shall be obscure glazed and fixed shut.
  - 7) Remove PD for extensions or new windows at first and second floor level.
  - 8) Remove PD to alter cladding or colour of south-facing elevation
  - 9) The railings to prevent access to the rear section of the flat roof shown on the approved plans at second floor level shall be provided prior to the first occupation of the dwelling hereby approved and retained thereafter. Access to the remainder of the flat roof shall be for maintenance purposes only.
  - 10) No development shall take place until details of site drainage works for the disposal of the site's surface water, designed in accordance with the principles of sustainable urban drainage, have been submitted to and approved in writing by the local planning authority. The approved details shall be carried out before the dwelling is first occupied and the works shall be carried out and thereafter maintained in accordance with those details.
- II Powers be delegated to the Head of Planning, 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

Andrew Wallace



DOV/15/00126  
Ovenden Earthmoving Plant  
Wellhead Farm  
Wingham

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/15/00126 – Retrospective application for the change of use of land for storage of heavy plant, machinery, equipment and materials and the provision of an area of impermeable hard-standing - Ovenden Earth-Moving Plant, Wellhead Farm, Wingham**

Reason for Report: The number of contrary third party objections (25)

- b) **Summary of Recommendation**

Planning permission be granted

- c) **Planning Policy and Guidance**

Core Strategy 2010 (CS) Policies

Relevant policies are:

- Policy DM1 says 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.”
- Policy DM3 seeks to “allow expansion of an existing business in a rural area provided that it is consistent with the scale and setting of the settlement.”
- Policy DM11 concerns itself with “location of development and managing travel demand particularly for development that would increase travel demand outside of rural settlement confines.” Policy DM15 refers to protection of the countryside and at point (iv) refers to “development in the countryside will only be permitted if it cannot be accommodated elsewhere.”
- Policy DM15 refers to protection of the countryside and at point (iv) refers to “development in the countryside will only be permitted if it cannot be accommodated elsewhere.”
- Policy DM16 refers to the protection of the landscape.
- Policy DM17 refers to Groundwater Source Protection Zones that does not permit new development in Zones 1 and 2 unless there are adequate safeguards provided against possible contamination.

National Planning Policy Framework 2019 (NPPF)

- Paragraph 8 – the three objectives of sustainability.
- Paragraph 11 – presumption in favour of sustainable development.
- Paragraph 83 – supporting a prosperous rural economy.
- Paragraph 127 – achieving well-designed places.
- Paragraph 130 – permission should be refused for poor design.
- Paragraph 170 – contribute to and enhance the natural environment.
- Paragraph 175 – Protect and enhance biodiversity and habitats.
- Paragraph 178 – Protect against ground contamination.
- Paragraph 180 – Take account of cumulative impacts of polluting development upon living condition, health and the natural environment.

- d) **Relevant Planning History**

DOV/97/01269 – Certificate of Lawful Use (existing) for the

storage and repair of plant and machinery within the building and storage of plant and machinery on surrounding land – Granted 3/12/98.

- CLE/DOV/14/00216 – Certificate of Lawful Use (existing) for an existing use involving external storage of plant and machinery on surrounding land that was formerly a horse paddock and for an existing silver arc shaped building- Granted 21/11/14.
- DOV/13/00270 - Retrospective application for the importing and crushing of rock to provide material for a sub-base and laying of an area of hardstanding. Granted 22/01/15.
- ENF/WIN/13/00031 - Complaint about felling of trees on former Plant Nursery land and the importation of large rock boulders and change of use of land to storage of materials and vehicular storage and repairs.

e) **Consultee and Third Party Responses**

DDC Ecology: The Greenspace Ecological Solutions survey carried out on behalf of the applicant considered the likelihood of the site being used by Great Crested Newts to be negligible. Other biodiversity interest is similarly limited and consequently there are no objections on ecological grounds.

Environment Agency: No objection subject to conditions securing the submission of a drainage scheme and surfacing is used which prevents the infiltration of surface water given the vulnerability of the site which is located in a Source Protection Zone (SPZ) 1 for groundwater abstraction at Wingham Well.

DDC Environmental Protection: No objection to make about this application as it merely involves continued use of site to store equipment with no change in the hours of use. I have checked our records and can find no detail of any complaints regarding disturbance from the site up to and including December 2019. I suggest a condition restricting the use of the land to the storage of plant, equipment and materials only and preventing any industrial operations or processes including the servicing, repair and maintenance of plant.

KCC Highways & Transportation: No objections in respect of highways grounds subject to storage on the application site limited to that identified in the additional information submitted by the applicant. The existing site has a lawful use for storage of plant and machinery and repair of plant, vehicles and large machinery, which generates movements by HGV's including low-loaders. This current planning application does not include any additional buildings for office use or use of the land for repairs. Traffic surveys in Wingham Well indicate that the average two-way weekday flow is 556 vehicles. Traffic surveys at the site indicate that the average two-way weekday flow generated by the site is 42 vehicles. The vast majority (92%) of traffic using Wingham Well Lane is therefore not related to Wellhead Farm site. The site generates an average of 4HGV movements per day, which accounts for less than 1% of the traffic using the lane. In the ten years to the

end of June 2015 there have been no recorded personal injury crashes involving HGV's in Wingham well Lane or at the junctions with the A257 Canterbury Road and the B2046 Adisham Road.

Southern Water: The application makes reference to drainage using Sustainable Urban Drainage Systems (SUDS). Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

Wingham Parish Council: Objected to the rock crushing operations etc by Owendens. The Parish Council was also against the use of heavy/big vehicles on the country lane/road leading to and from Owendens. The Parish Council is also concerned that the site is a habitat for Great Crested Newts.

KCC Flood and Water Management: Outside of remit to comment.

Public Representations:

Twenty five letters of objection were received during the original 2015 consultation process; the material comments are summarised as follows:-

- Highways safety concerns regarding intensification of use because Wingham Well is a totally unsuitable road for this kind of activity.
- Increased vehicle movements causing noise and disturbance
- There is the possibility that despite precautions, contaminated waste water will get into and destroy the nearby watercress beds and water table.
- Loss of trees in this Conservation Area were removed prior to the application being submitted
- Detrimental impact upon the habitat of wildlife.
- Not in keeping with the environment of a rural economy.

One of the local resident's letter of objection contains a critique of the supporting Planning Statement and includes an independent Highways engineer's report. It raises the following points:-

- Owendens have significantly increased their activities on site since January 2013 and there has been a massive intensification of traffic movements since the rocks have been imported and the trees destroyed.
- Vehicles are oversized, dangerous and unsuitable for the type of road to access this site and are not in keeping with the European TRO recommendations.
- Multiple freelance firms frequently attend the site often outside the business hours detailed and via Watercress Lane. Evidence in this pack demonstrates the type of unsuitable vehicle, the damage caused, safety concerns that operations commence as early as 04.00 hrs and finish at 23.00 hrs including weekend, Bank Holiday and Easter Sunday. The question remains as to why some of the vehicles are escorted and others are without this support when all are the same oversized transporter?



- The vegetation that has been removed had the potential to support nesting birds and provide our local bats with roosting opportunities. These are protected by the Wildlife and Countryside Act 1981.
- The land is not a considerable distance away from nearby residential properties with Rats Castle being less than 20 metres from the Ovenden's boundary.
- Generating more space has generated intensification of the use of the site involving more vehicles being parked on the land.

No new third party comments were received during the recent 2019 consultation period. This new consultation period was required due to a change in the description of works discussed in 1.6 below.

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

- 1.1 This site known as Wellhead Farm is located adjacent to the hamlet of Wingham Well and situated south of Wingham between the B2046 and A257 road network. The application site itself is located in a vulnerable Water Source Protection Zone. Wellhead Farm is served by a narrow country lane known as Wingham Well Lane. Wellhead Farm was originally a tree nursery business but around 1991 used by RH Ovenden plant hire business as well as Ovenden Earthmoving Company Limited. The tree nursery business has since ceased trading. The site is largely enclosed by mature dense vegetation screening Area Z from public view (referred to in Appendix A). The nearest residential property known as "Rats Castle" is located some 150 metres away to the west of the application site (although the original section of the site facing onto Watercress Lane is much closer to Rat's Castle).
- 1.2 The nature of the use by Ovenden Earthmoving Company Limited involves use of the land for the external storage of plant and machinery and repair of large machinery which cannot be accommodated within a building. It comprises of a mixed use of general industry (Use Class B2) for the vehicular repairs and storage (Use Class B8) as well as ancillary office space. The wider site is effectively "split" into 3 parts. A plan is attached as an appendix to this report which identifies the 3 different parts of the site for ease of reference. The area identified as X (to the west) comprise the host building where vehicular repairs are primarily carried out with incidental office, kitchen and wc. This area was granted a Certificate of Lawfulness in 1998 for the use. Area Y (this was granted a Certificate of Lawfulness in 2014) was a former horse paddock area but now comprises a silver arc shaped building on surrounding land where vehicles are repaired and stored. The third area Z, the subject of this application, is currently under investigation and is being used as an extended heavy plant storage area without the benefit of planning permission.
- 1.3 This application therefore seeks part retrospective permission for the change of use from agricultural land to allow the storage of heavy machinery on the site (Area Z) and the laying of hardstanding to the area. The land has been laid with crushed stone. No other works have

taken place which was confirmed in an email from the agent dated 3 April 2019.

- 1.4 The application site was laid to hardstanding which made use of rock crushed on site. This rock was from works to the Deal Flood Defences where the applicant was required to remove the stone as part of that contract.
- 1.5 More recently, it became clear that the Environment Agency sought to secure an impermeable surface through the imposition of a condition to any permission. However, this required a large area of hardstanding (such as tarmac or concrete) which was not included in the originally submitted supporting documentation or listed in the original description of works. It was decided that the description of works needed to be changed to include provision of an impermeable hardstanding (details of which can then be secured by planning conditions). Accordingly, the application went through a new consultation process.

## **2. Main Issues**

- 2.1 The main issues to consider in this instance are to consider:-
  - The principle of the development,
  - Effect on the countryside, landscape and street scene.
  - Residential amenity.
  - Traffic.
  - Surface Water Drainage.

### **Assessment**

#### Principle of Development

- 2.2 In terms of the principle of development, the application site is outside the settlement confines in a rural location. The change of use proposed` supports the existing rural business and as such, it is considered that the proposed storage use of the land functionally requires the proposed location and therefore accords in part with Policy DM1 of the CS. The proposal involves the expansion of an existing rural business lawfully sited on the adjacent land. As such, Policy DM3 of the CS broadly supports the expansion of a rural business in the location proposed as it functionally requires a site adjacent to the existing site. Although normally Policy DM3 expects that commercial expansion would be within the rural settlement confines of a local centre. Paragraph 83 of the NPPF also supports the expansion of existing rural businesses. Overall, whilst the application site is currently an unauthorized use, the hardstanding is now lawful through the passage of time (having taken place 4 or more years ago). It is therefore, considered that it would be unreasonable to resist the development given the policy position.

#### Countryside, Landscape and Street Scene

- 2.3 The site is well screened by existing trees on the boundary with Well Lane and by the existing buildings on site (in views from Wingham

Well Lane) so that it cannot be easily viewed from the public realm. The plant and machinery to be stored was largely on-site at the time of a recent site visit at which time there was little evidence of the plant and machinery in any public views. During the winter months, the interior of the site may be more visible however, not so much so that it results in undue harm to the quality of the street scene. As such, it is considered that the impact of the proposal on the visual amenity of the immediate street scene is negligible.

- 2.4 Policy DM15 of the CS seeks to prevent development which would result in harm to the character and appearance of the countryside unless:
- in accordance with allocations made in Development Plan Documents, or
  - justified by the needs of agriculture, or
  - justified by a need to sustain the rural economy or a rural community;
  - it cannot be accommodated elsewhere; and
  - it does not result in the loss of ecological habitat.

It has been noted above that the proposal supports an existing rural business and therefore the extension to the business and is therefore justified in this location. The Phase 1 Habitat report submitted with the supporting documentation and verified by DDC Ecology Officer concluded that there is no loss of habitat as a result of this development. Finally, the existing mature vegetation screening the site, which would be retained, also mitigates against any undue harm caused to the character of the countryside.

- 2.5 DM16 of the CS deals with development which would have a negative impact upon the character of the landscape. The existing boundary screening prevents any deleterious impact of the development upon the landscape. There is no need for any additional screening as noted in representations. The development itself is low-key and restricted to ground level whilst the change of use only allows the storage of equipment on the land, the majority of which is below the existing boundary trees in height. As such, it is considered that the proposal does not result in any undue harm to the visual amenity of the street scene or the character and appearance of the countryside and landscape. In terms of disturbance and activity and its impact on the countryside and landscape, it is not considered that the development impacts are above original levels experienced. The change of use has not resulted in any increased noise or effect on the countryside or landscape.

The proposal therefore accords with Paragraphs 127, 130, 170, 175 and 180 of the NPPF and Policies DM15 and DM16 of the CS.

#### Residential Amenity and Noise

- 2.6 Whilst it is noted that when the crushing of stone was taking place on-site (in 2014/2015) when there was likely to have been noise concerns, none were received. The change of use proposed in this application for the storage of heavy plant and machinery is unlikely to result in any increased impact on existing residential amenities. There have been no official noise/odour/dust complaints to DDC

Environmental Protection as a result of the operation of this site. The hours of operation of this part of the site are the same as the existing site. A condition restricting the use of the land to the storage of plant and machinery is requested by DDC Environmental Protection to overcome concerns of future intensification of activities on the site. This is considered reasonable given the sensitive location.

- 2.7 The nearest dwelling is Rat's Castle, located 150m to the south-west of the application site. The operational development and change of use of the land (retrospective) does not result in any significant impact upon the existing residential amenity of this dwelling due to the distance and given the above considerations.

#### Highways

- 2.8 There is a Vehicle Operators License for the site to have up to 4 vehicles over 3.5 tonnes and three trailers at any one time and the license was renewed in 2017. The various heavy plant and machinery that is in need of repair are delivered on exceptionally long low-loader vehicles and Ovendens need to seek authority from the Police and KCC Highways and Transportation prior to being transported from site to Wellhead Farm. As such, the more disruptive vehicle movements are limited in number and only the day-to-day driving to the site by employees is typical and has a negligible impact upon either highway safety or road congestion.
- 2.9 Traffic surveys in Wingham Well Lane indicate that the average two-way weekday flow is 556 vehicles. Traffic surveys at the site indicate that the average two-way weekday flow generated by the site is 42 vehicles. The majority (92%) of traffic using Wingham Well Lane is therefore not related to the Wellhead Farm site. The site generates an average of 4 HGV movements per day, which accounts for less than 1% of the traffic using the lane. In the ten years to the end of June 2015 there have been no recorded personal injuries.
- 2.10 The items identified for storage in the current application site are ancillary to the use/maintenance/repair of plant which is already being lawfully carried out on the existing sites (areas X and Y in Appendix A), and appear likely to generate only occasional infrequent vehicle movements for delivery of spare parts or movement of specialist equipment. The additional storage area, if limited to the items identified, therefore appears unlikely to generate a material increase in vehicle movements. It is considered therefore that the proposal would have a negligible impact upon highway safety in the area and KCC Highways have raised no objections.

#### Surface Water Drainage

- 2.11 The Environment Agency (EA) and Southern Water (SW) were consulted as part of the 2015 consultation process. The EA have requested two conditions be added to any permission to overcome their concerns due to potential contamination of the ground water. One seeks to prevent infiltration of surface water drainage and the second seeks a surface water drainage scheme. SW have also required clarity with regards to the continued use of the existing SUDs

system on site. It is considered that conditions requiring the submission of surface water drainage scheme for the application site, specifically illustrating how it would connect to the existing system, would be reasonable in this instance. This would also require details of the hardstanding itself (finish materials and overall size). KCC Flooding and Water Management raised no new concerns when consulted as part of the 2019 consultation period. Given the mitigation measures to be secured through conditions, the proposal accords with the provisions of Policy DM17 of the CS and Paragraph 170(e) of the NPPF.

### 3. **Conclusion**

- 3.1 The views of third parties have been fully taken into account in considering this application. For a number of reasons, the principle of this development is considered to be acceptable. It seeks to regularise the unauthorised use of the application site for storage of plant and machinery associated with Ovenden's Earthworks. It also seeks to upgrade and bring up-to-date the surfacing of this area of the site. This will ensure that pollutants from the lawful use and activities being carried out from the site are controlled and do not enter this vulnerable water source protection zone. The development brings benefits which will ensure that the existing local successful rural business can continue to operate from this site without harm to the local ecology. The development is not visible from the wider area and has no landscape harm. Overall therefore it is considered that the development accords with Paragraphs 8, 11, 83, 127, 130, 170, 175, 178 and 180 of the NPPF and Policies DM1, DM3, DM11, DM15, DM16 and DM17 of the CS. Accordingly it is considered that planning permission should be granted, subject to conditions.

### g) **Recommendation**

- I PERMISSION BE GRANTED subject to conditions to include:
- 1) Development to be carried out in accordance with the approved drawings and details;
  - 2) Within 2 months of the date of this decision, details shall be submitted to the local planning authority for their approval in writing which shall include a suitable impermeable surface and details showing how the new area of hardstanding will connect to the existing SUDs system. These approved works shall be carried out in accordance with the approved details within 3 months of that written approval.
  - 3) The application site shall be used only for the storage of plant and machinery associated with the occupants use of the site. No other activity shall be carried out on the site notwithstanding the provisions of the GPDO.
  - 4) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority.
- II Informatives:
- 1) Opportunity to submit amendments.
- III Powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions in line with

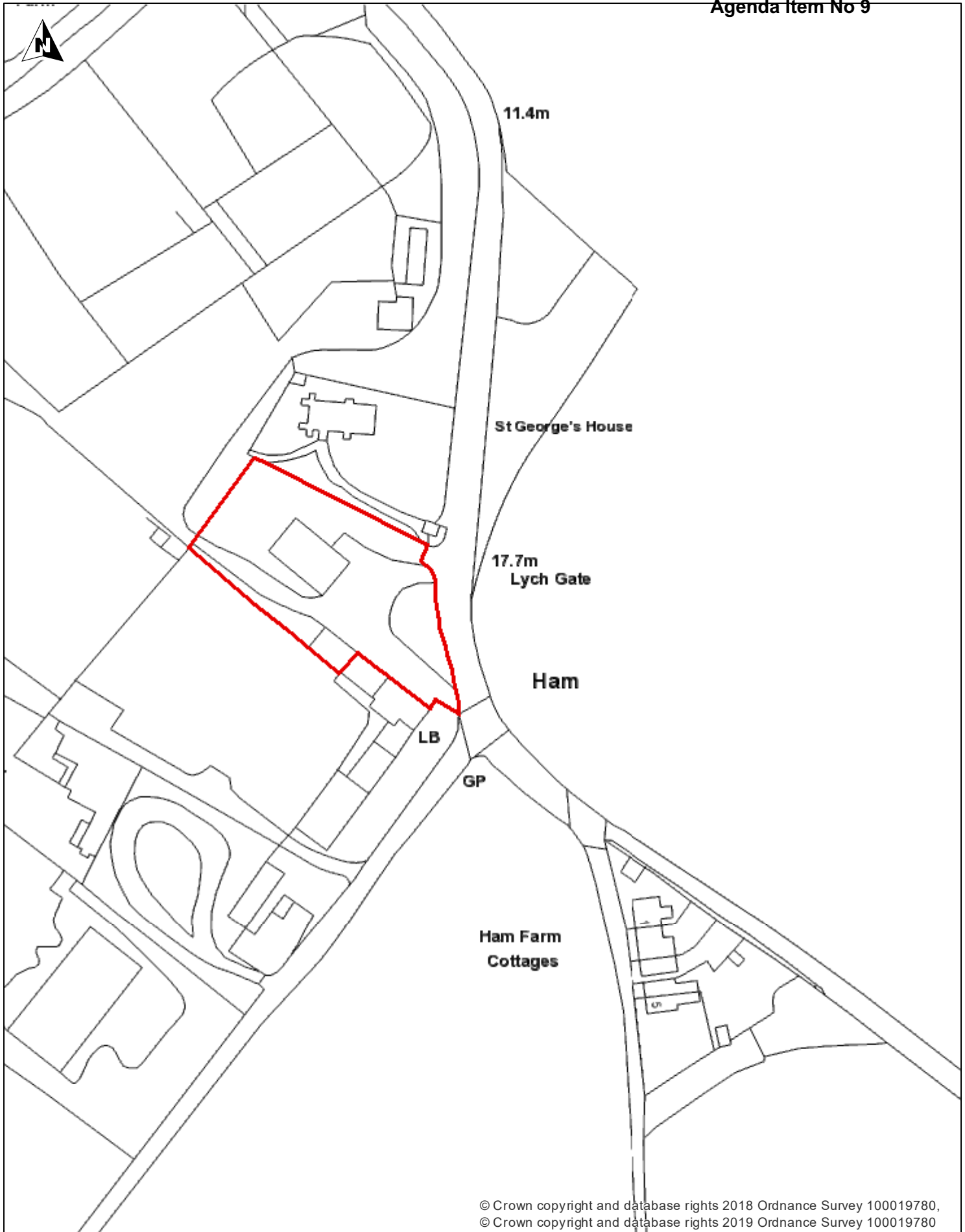
the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Andrew Wallace

**Appendix A**





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DOV/19/00440

Hay Barn  
Updown Road  
Northbourne

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/19/00440 – Erection of a detached dwelling with associated garden and parking (existing barn to be demolished) - Ham Barn, Updown Road, Ham, Northbourne**

Reason for report: Number of contrary views.

- b) **Summary of Recommendation**

Planning permission be refused.

- c) **Planning Policies and Guidance**

Core Strategy Policies

- DM1 - Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM11 – 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.
- DM15 - Development which would result in the loss of, or adversely affect the character and appearance of the countryside will not normally be permitted.
- DM16 - Generally seeks to resist development which would harm the character of the landscape, unless it is in accordance with a Development Plan designation and incorporates mitigation measures, or can be sited to avoid or reduce the harm and/or incorporates design measures to mitigate the impacts to an acceptable level.

National Planning Policy Framework 2019 (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 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.'

#### Sections 66(1) of Planning (Listed Buildings and Conservation Area) Act 1990

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

d) **Relevant Planning History**

DOV/18/00666 - Prior approval for the change of use from an agricultural building to a residential dwelling. Refused.

DOV/18/00905 - Prior approval for the change of use from an agricultural building to a residential dwelling. Refused.

e) **Consultee and Third Party Responses**

Northbourne Parish Council

No objections raised.

Tree Officer

The submitted tree survey seems to show no conflict between the footprint of the proposed development and trees present on the northern boundary of the site (three of which are protected). I do however have concerns over post development pressure on these trees as they will be in such close proximity to the proposed dwelling. On this basis, I object to the scheme in its current form and recommend that the relocation of the proposed dwelling be considered as it seems that this conflict could be avoided when looking at the size of the site in relation to the dwelling.

County Archaeologist

No objection subject to a watching brief condition.

Southern Water

No objection however an informative has been recommended to be attached to the permission.

Heritage Officer

The proposed development would have an impact on the following designated buildings:

- Grade II\* listed St Georges Church (House) (converted to residential which retains the character and appearance of the church);
- Grade II listed Ham Manor with outbuildings, and
- Grade II listed stable block to Ham Manor.

The existing C20 barn is a large building which is clearly visible from some distance in relation to the outbuildings relating to Ham Manor. In close context, due to being set back within the plot away from the road, it is not as imposing as might be expected in the streetscene but within the boundary of the grade II\* listed church the structure is overwhelming and dominant. In addition while there is a benefit to its position in relation to the streetscene, it partially blocks the inter-relationship between the church and Ham Manor (it is notable that the principle front elevation of the Manor is facing the church although historic maps show a larger farmstead than currently exists). It may not be considered to be of any

particular interest in itself but it is a not-unexpected building within the rural area. That said I have no concerns with its removal.

As the new development affects the setting of listed buildings a heritage statement has been submitted. There is limited evidence that the impact of the development has been assessed from the curtilages of the listed buildings, with the assessment of impact on the setting being contained to the view from the road. No assessment of the mid-range view across the fields from the lane has been included. Consequently the setting of the listed buildings has in my view been inadequately considered.

In consideration of my comment above, I note that the heritage statement states at 6.20 that the *“proposed dwelling, being considerably lower than the existing barn and to be constructed in traditional materials, will help to improve the historical visual relationship of buildings to one another, opening up views towards St George’s House from Ham Manor”* (my underlining). As the proposed new build would be wider than and as deep as the existing building I am not convinced that this statement is correct, or consequently that the impact has been adequately assessed. In addition, the heritage statement notes that the proposed building would be of timber framed construction: the plans show a brick construction. No landscaping plans have been submitted which whilst I appreciate could be conditioned would in the circumstances be necessary upfront to enable DDC to be content that any harmful impact on the setting could be mitigated by landscaping. In particular, what is the boundary treatment? This is a rural area which character contributes to the setting of the listed buildings. An overt domestication of the site could have a harmful impact on this aspect of the listed buildings significance.

In respect of the new development, should you consider a new dwelling to be acceptable in principle, I have the following comments:

- The new build is large and bulky with a bigger planform than the grade II\* listed church, and although slightly shorter than the existing barn is wider and deeper. It would in my view dominate and impose on the church to its detriment. The side elevation facing the church is a dominant mass of brick. In my view the development does not result in an improvement of the current relationship between the existing building and the church as suggested in the planning statement. Siting, scale and bulk are an issue that require reconsideration.
- The proposed is rather squat in appearance from the front and poorly proportioned. It is a domestic building and being adjacent to simple, functional outbuildings and a church would not in my view make a positive contribution to the grouping of historic buildings within this rural setting.
- The detailed design is simple but uncomfortably bland; a reduction in size to reduce the expanse of brickwork, better placement and design of windows (for example, a hierarchy of openings) could be of benefit.

Recommendation: On the basis of the information submitted I am of the opinion that the setting of the listed buildings, in particular the grade II\* listed church, would be harmed.

#### Environmental Health

No objections subject to land contamination conditions. It has also been recommended that care should be exercised during the dismantling/demolition process when removing such material (asbestos) to ensure that the safety of site

personnel is protected. All such materials must be completely removed from the site, safely transported and properly disposed of.

#### Public Representations:

Seventeen (17) representations received supporting the planning application and making the following comments:

- the existing building is an eyesore
- it is suited for residential use
- the proposed dwelling has sympathetic design and materials
- any development of it would be an improvement on the existing structure
- making use of existing old derelict barn
- the site is not visible widely due to mature trees
- the existing building is a blot on landscape
- use of brownfield land
- it would be good to see this dilapidated building going to good use
- prominent corner and visually unappealing

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

1.1 The application relates to a parcel of land comprising an existing agricultural building which forms part of the farmstead of Ham Manor. The site lies outside of any defined settlement confines and for the purposes of planning, it is considered to be within the countryside. Ham Manor and a stable block associated with Ham Manor are Grade II listed buildings which lie to the southwest at a distance of approximately 65m from the site. To the north, the site adjoins the curtilage of a Grade II\* listed St George's House. To the west of the site is the open countryside and immediately to the south are existing single storey agricultural buildings. The application site has two existing unmade (informal) accesses off Updown Road. Opposite the application site across the junction lies a standalone group of three terraced properties at a distance of approximately 35m from the site. Another farmstead 'Beech Tree Farm' lies across the fields to the north abutting Hay Lane.

1.2 The proposal seeks full planning permission for the erection of a two storey 5 bedroomed detached dwelling. The dwelling would have a pie-ended platform on a hipped roof (a roof which has sloping ends to all four sides with a flat roof over). The dwelling would be 7.5m in height, 14.8m in width and 18.3m in depth. The proposed dwelling would be finished in red brickwork and would have aluminium folding doors, an oak frame with glazing, timber casement windows and handmade clay roof tiles. It is proposed to utilise the existing accesses off Updown Road.

#### 2. **Main Issues**

2.1 The main issues are:

- The principle of the development
- The impact on the character and appearance of the area
- The impact on the listed building
- The impact on residential amenity
- The impact on the highway network

- The impact on ecology
- The impact on trees
- Archaeology

## **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 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.
- 2.4 It should be noted that the Council has published its Authority Monitoring Report for 2017-2018. This demonstrates that the Council can now demonstrate a 5 year housing land supply. With regard to this application, it is recognised that policies in the Core Strategy (Policies CP2 & CP3) are not up to date due to the evidence base upon which they rely. However, weight should still be applied to Policies DM1, DM15 and DM16 as they are consistent with the aims of the NPPF to: promote sustainable pattern of development; improve the character and quality of the area; and recognise the intrinsic character and beauty of the countryside. The conclusion that these policies are broadly consistent with the NPPF has been upheld at some recent appeal decisions.
- 2.5 Regard will be had later in this report to whether there are any material considerations which indicate that permission should exceptionally be granted.

### Impact on Character and Appearance of Area

- 2.6 The site lies outside of any defined settlement confines. The site is within a sensitive location, being within the countryside, where policy DM15 applies. This policy directs that planning permission for development that adversely affects the character or appearance of the countryside will only be permitted if it satisfies one of four criteria and the development would not result in the loss of ecological habitats.
- 2.7 The application site constitutes a prominent corner plot and lies at the junction formed by Updown Road, West Street and Ham Lane. It is highly visible from this junction and from the Updown Road to the north, whilst the views of the site are obscured by virtue of the existing mature trees and buildings abutting Updown Road to the south. The application site abuts a narrow rural lane with no footpaths or streetlights and is bound by hedges and trees which gives the area a strong rural character. The application property and its neighbours lie within a predominantly open landscape comprising arable farmland, punctuated by similar small pockets of development focussed on farmsteads, often screened by trees. The area constitutes very limited development and does not have any strong defining character. It is noted that some of the buildings face towards the roads, however, the separation from the

road varies considerably, with some buildings directly addressing the roads and others set back by a significant distance.

- 2.8 Given the scale and siting of the proposed dwelling, views of the dwelling would be readily achievable from Updown Road. From there it would appear uncharacteristically large and bulky for a domestic building, particularly in the context of the other more modest traditional residential properties nearby. Thus it would stand out as an incongruous and dominant feature on the site which presently contributes to the rural character of the area and the setting of the listed buildings. These views would include the poorly detailed front and side elevations of the proposed dwelling, which seen together with a range of domestic paraphernalia such as hardsurfacing, fences, walls, gates etc, would jar with the relatively unspoilt rural setting and would have sub-urbanising effect to the detriment of the rural character and appearance of the immediate area. The visual impact of the development is exacerbated by the scale of the development, producing a prominent and dominant form of development which would be visually intrusive and at odds with the prevailing character of the area and harmful to the character and appearance of the countryside.
- 2.9 It has been established that the development would adversely affect the character of the countryside; as such Policy DM15 would apply. Regard must be had, therefore, to whether in light of this harm, the proposed development could be acceptable by meeting any of the four criteria listed under Policy DM15 *which include (i) it is in accordance with allocations made in the Development Plan Documents; or (ii) justified by the needs of agriculture; or (iii) justified by a need to sustain the rural economy or a rural community; (iv) it cannot be accommodated elsewhere and it does not result in the loss of ecological habitats.* In respect of these matters, the proposed dwelling would be located in a rural location beyond any designated settlement confines. It is not justified by the needs of agriculture. Whilst it is acknowledged that the proposal would provide a short term economic benefit, by providing employment during the construction phase, it is not considered that this very limited benefit justifies the development. Furthermore, no overriding justification has been provided that demonstrates why it needs to be in this location and why it cannot be accommodated elsewhere. Whilst the development would not result in the loss of ecological habitats, as none of the four preceding criteria would be met, the development is contrary to Policy DM15.
- 2.10 Regard should also be had to policy DM16 of the Core Strategy which generally seeks to resist development which would harm the character of the landscape, unless it is in accordance with a Development Plan designation and incorporates mitigation measures, or can be sited to avoid or reduce the harm and/or incorporates design measures to mitigate the impacts to an acceptable level.
- 2.11 The site falls adjacent to Betteshanger and Northbourne Historic Parks LLCAs (Local Landscape Character Assessment) as identified within Landscape Character Assessment 2018. The features of the locality identified include arable farmland dissected by narrow lanes, structural vegetation, partial enclosures by woodland and trees, Historic parks, Conservation Area and numerous listed buildings. The potential for development has been identified as either none or very limited.
- 2.12 The topography of the land is relatively flat. By virtue of limited boundary vegetation, the site together with the existing building appears prominent in views from some of the viewpoints in Hay Lane. The existing views from Hay Lane are dictated by hedges, mature trees and the existing building is seen in conjunction with other agricultural buildings in its vicinity within the farmstead with no other built

development being prominent in views. The farmstead is a relatively typical and unremarkable group of agricultural buildings in the rural area and retains a strong relationship with its rural context. Despite the large size of the existing building, it has a subdued appearance and sits comfortably within the rural area and whilst utilitarian, it is typical of agricultural buildings around farms and thereby reflects the agricultural character of its surroundings. The proposed dwelling is of substantial size and given its exposed location, it would appear prominent in views in Hay Lane and would be out of keeping with the prevailing subdued agrarian character of the area. Given the scale of the proposal, it is not considered that landscape mitigation would help resolve the visual impact arising from the development. As the development is not in accordance with allocations in the development plan and does not mitigate such harm to an acceptable level, it is contrary to Policy DM16. The NPPF paragraph 170 calls for development to take into account the intrinsic character and beauty of the countryside. The proposed development fails to address this and is therefore unacceptable.

- 2.13 Overall, by virtue of the scale, siting and type of development, the proposed development would erode the rural character of this part of the countryside and landscape, introducing a suburban form of development which would fail to respect or respond to its setting and fail to integrate into the natural and built environment or reinforce local distinctiveness. As such, the development would be contrary to Core Strategy Policies DM15, DM16 and aims and objectives of the paragraph 170 NPPF.

#### Impact on Grade II-Listed Buildings

- 2.14 Regard must be had for the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), which requires that, in relation to listed buildings, “special regard” be had to “the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”. Regard must also be had for the provisions of the NPPF, in particular the paragraphs (189 – 196) at Chapter 16: Conserving and Enhancing the Historic Environment. Notwithstanding the statutory duty, the NPPF paragraph 195 requires that regard must be had for whether development would cause harm to any heritage asset (both designated and non-designated), whether that harm would be substantial or less than substantial and whether, if harm is identified, there is sufficient weight in favour of the development (public benefits) to outweigh that harm.
- 2.15 The application property is a steel framed barn which is accessed from Updown Road and is highly visible from Updown Road, the Grade II\* listed Church (St George’s House) to the north and the Grade II listed buildings ‘Ham Manor’ and the stable block to the southwest. The site adjoins the curtilage of St George’s House (Church) to the north. To the west of the site is the open countryside and to the south are existing single storey agricultural buildings which form part of the Ham Manor Farmstead.
- 2.16 The proposed dwelling would sit at a distance of approximately 17m from the listed church. The dividing northeastern boundary comprises sparse mature vegetation readily permitting views of the barn from within the listed curtilage. The Glossary to the Framework defines the setting of a heritage asset as the surroundings in which it is experienced.
- 2.17 By virtue of the proximity of the application site and the listed building, views of the southeast and northeast elevations of the barn in conjunction with the southwest elevation (walls and roof) of St George’s House are achievable through the entrance

to the application site from Updown Road and from the within the curtilage of the listed church. The application site has a visual and historic relationship with the adjacent listed building and its agricultural nature allows St George's House's significance to be appreciated. In essence, it is considered that the application property forms part of the setting of St George's House.

- 2.18 Paragraph 190 of the Framework advises that significance can be harmed through development within the setting of a heritage asset. English Heritage (now Historic England) Advice Note 3, The Setting of Heritage Assets (December 2017) explains that the extent and importance of a setting is often expressed by reference to visual considerations. It also recognises that although views of or from an asset will play an important part; the way in which we experience an asset in its setting is also influenced by other environmental factors such as (amongst other things) by our understanding of the historic relationship between places.
- 2.19 Currently, the application property is seen as a substantial agricultural building that is generally consistent with an understated rural aesthetic. It has a large opening to its front elevation in an arrangement reflective of its functional agricultural purpose. As a result it sits comfortably within the rural area and whilst utilitarian, it is typical of agricultural buildings around farms and thereby reflects the agricultural character of its surroundings. It also has a relatively open appearance, so that despite its size and proximity, it does not compete visually with St George's House to any great extent.
- 2.20 In contrast, the proposal would seek the demolition of the existing barn and erection of a two storey solid brick built dwelling of a larger footprint i.e. its planform is bigger than that of the grade II\* listed church and although slightly lower in height than the existing barn, the dwelling would be much wider. DDC's Heritage Officer has advised that the proposed development would dominate and impose on the church to its detriment. The side elevation facing the church is a dominant mass of brick. It is squat in appearance and poorly proportioned and lacks fenestration hierarchy. It would not be consistent with an agricultural building or the buildings it is grouped with. Furthermore, the associated curtilage and resultant residential paraphernalia would add to the domestication of the area. It is noted that the proposed development would utilise aluminium folding doors, an oak frame with glazing, timber casement windows, red brickwork and handmade clay tiles. Whilst the choice of materials is considered appropriate, it does not overcome the visual harm identified.
- 2.21 The heritage statement submitted with the application provides limited evidence that the impact of the development has been assessed from the curtilages of the listed buildings, with the assessment of impact on the setting being contained to the view from the road. No assessment of the mid-range view across the fields from the lane has been included. Consequently, it is the view that the settings of the listed buildings (St George's House, Ham Manor and the stable block) have been inadequately considered.
- 2.22 For the foregoing reasons, the proposal would fail to be in keeping with, and would detract from, the rural character of the site, the wider area and the setting of St George's House, which is of significance to the area's heritage. Finally, Paragraph 192 of the Framework indicates that the desirability of sustaining and enhancing the significance of heritage assets should be taken into account in determining planning applications. Whilst the proposal would lead to less than substantial harm to the significance of the listed building (as described at paragraphs 193, 194 and 196 of the Framework), the harm caused would be material.



### Highways/Travel Impacts

- 2.23 Regard has also been had to Policy DM11 which states that development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. The proposed dwelling would give rise to additional travel in a location beyond the settlement confines. The proposed development would therefore be contrary to policy DM11 of the Core Strategy.
- 2.24 The proposed development would utilise the existing accesses. Table 1.1 of the Core Strategy suggests that a minimum of two independently accessible car parking spaces be provided for residents of the dwelling, together with an additional 0.2 spaces per dwelling for visitors, although parking should be a design-led process. The submitted plans do not include car parking provision. However, given the size of the application site, it is considered that two car parking spaces could be accommodated within the site. The proposed parking provision would therefore be in accordance with policy DM13 of the Core Strategy.
- 2.25 The development does not include any defined provision of cycle parking spaces. In accordance with the recommendations of the Kent Design Guide (including Interim Guidance Note 3) and the NPPF, and to encourage and facilitate the use of this sustainable form of transport, it is considered that details for the provision of cycle parking (at one space per bedroom) could be secured by condition.

### Impact on Neighbours

- 2.26 The finished dwelling would lie at a distance of approximately 17m from St Georges House to the north and approximately 65m from Ham Manor to the southwest. Having regard for the substantial separation distance, it is not considered that the proposed dwelling would cause harm to the residential amenity of the neighbouring occupiers.

### Living Conditions of Future Occupiers

- 2.27 The proposed dwelling, together with their individual rooms would be of a good size, whilst all habitable rooms would be naturally lit. It would be provided with a large private garden and areas which could be used for refuge storage and general amenity space. As such, the living conditions of future occupiers would be acceptable and would accord with paragraph 127 of the NPPF.

### Archaeology

- 2.28 KCC archaeology have advised that the application site lies in an area with archaeological potential. Therefore, 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 this instance. Therefore, the proposal would accord with paragraph 189 of the NPPF.

### Impact on Trees

- 2.29 There is a row of protected mature trees along the dividing boundary with St Georges House which lie within the listed curtilage. It is relevant to note that the proposed dwelling would sit at a distance of approximately 12m from the row of trees. A tree survey has been submitted with the application which also includes an arboricultural

method statement and a tree protection plan. The tree protection plan identifies the precise location of the trees, crowns and the root protection zones of the trees. A Construction Exclusion Zone (CEZ) has been marked and the protective fence positions have been shown to clearly demarcate the area from the construction zone, to ensure that there is no compaction of the soil or severance of tree roots.

- 2.30 DDC's Tree Officer has raised concerns regarding the probable post development pressures given the proximity of the trees to the proposed dwelling. However, it is noted that the proposed development is unlikely to result in the loss of the trees. Therefore, whilst some probable harm is identified, it would not cause sufficient harm to warrant a refusal on this basis. In the event that the planning permission is granted, appropriately worded conditions could be attached to the permission to ensure that the above recommended course of action is implemented.

### Ecology

- 2.31 The application has been accompanied by a preliminary ecological appraisal dated 27 March 2019. From the review of the survey report, it is apparent that the Krag datasearch revealed that the closest recorded reptile is Grass Snake, located at [Private Residence], 0.71 km to the SE (record id: 20341). The site has been considered as having a high potential to support breeding birds within the trees. It is apparent that jack daws, sparrows and pigeons were found to be nesting inside the agricultural building; barn owls were not nesting but signs of roosting were present, with some feathers and pellets present in the north-west corner. The site has been assessed as having no potential for Hazel Dormouse, Badgers and Bats whilst the surroundings have been assessed as having the potential to support hedgehogs.

- 2.32 In respect of the above findings, the following has been recommended:
- The site contains suitable habitat for breeding birds, consideration must be given to the timing of the clearance works, if any is to take place. The effect on birds can be avoided by demolishing the building outside of the nesting season (which extends from March – August inclusive) or only after a survey has confirmed the absence of nesting birds
  - Also, as there is evidence of barn owls roosting inside the building, a Barn Owl roosting/nesting box should be provided within 200 metres of the development at least 30 days before any part of the site used by Barn Owls is altered in any way.
  - There is some potential for hedgehogs to be present on site. Therefore any areas where mammals could be sheltering should be hand searched prior to disturbance. Excavations should not be left open for animals to fall into, or planks of wood should be placed to enable any animals which may fall into such a hole to escape.

In the event that the planning permission is granted, the above recommendations could be secured via suitably worded conditions.

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

- 2.33 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.

- 2.34 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.
- 2.35 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.
- 2.36 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.
- 2.37 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 Material Considerations

- 2.38 The NPPF, at paragraph 8, states that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. Therefore, the assessment of sustainability can be separated into three dimensions: social, economic and environmental.
- 2.39 The proposed development would provide a short term and very modest economic benefit, by providing employment during the construction phase.
- 2.40 With regards to the social role, it is not considered that the proposal would result in the creation of a high quality environment. Given the fact that the Council can demonstrate a 5 year housing land supply, the benefit associated with the provision of one dwelling would be negligible. Furthermore, it is considered that the proposed development lies in an unsustainable location and would not enhance or maintain the vitality of rural communities.
- 2.41 Turning to the environmental role, it is considered that the proposal would cause significant harm to the character and appearance of the countryside contrary to the (paragraph 170) NPPF's aim of recognising the intrinsic beauty of the countryside and the landscape.
- 2.42 The site forms part of an existing farmstead located on a narrow lane, which lacks footpaths and is unlit. The nearest bus stop is located on Deal Road at a distance of approximately 1.45km (0.9 miles) from the application site. It is served by No.80 and No.80A buses, which link to Dover, Deal, and Sandwich. The nearest train station, Sandwich, is located approximately 3.7km (2.3 miles) away by road. The nearest settlements providing reasonable levels of facilities and services are Ash, around 3.5km away to the north, and Eastry, around 2.4km (1.5 miles) away to the west. Given the distances, the convenience and safety of walking and cycling routes and

the lack of convenient public transport, it is considered that there is no realistic alternative but to travel by car, whilst such travel would be over considerable distances. It is therefore considered that the site is not sustainably located, contrary to paragraph 78 of the NPPF, which requires that “housing should be located where it will enhance or maintain the vitality of rural communities” and would fail to prioritise pedestrian and cycle movements or facilitate access to high quality public transport, contrary to paragraph 110 of the NPPF. For the same reasons, the development would be contrary to Policy DM11 of the Core Strategy.

- 2.43 To conclude, the proposal would provide only limited economic benefits; however, this is considered to be more than outweighed by the significant and demonstrable harm caused to the wider environmental objectives relating to the detrimental impact to the countryside and wider landscape and the unsustainable travel patterns that the development would necessitate. To conclude, it is not considered that the development represents ‘sustainable development’ and is, therefore, not supported by the NPPF and as such the development should be refused.

### **3. Conclusion**

- 3.1 The application site lies outside of settlement confines, where planning policy strictly controls new development. The proposal doesn’t address any of the exceptions allowed for by policy and as such is considered to be unacceptable in principle, contrary to Policy DM1 of the Core Strategy. The proposal would constitute an incongruous and visually intrusive feature in this important rural environment to the detriment of the character and appearance of this part of countryside and would cause harm to the wider landscape, contrary to policies DM15 and DM16 of the Core Strategy. The very limited benefits associated with the proposal are considered to be more than outweighed by the significant and demonstrable harm caused to the wider environment. Furthermore, it would cause less than substantial harm to the significance of the listed buildings and the harm caused would be material. Finally, by virtue of its location, the proposal would constitute an unsustainable form of development and would therefore be contrary to the development plan policies and the NPPF.

### **g) Recommendation**

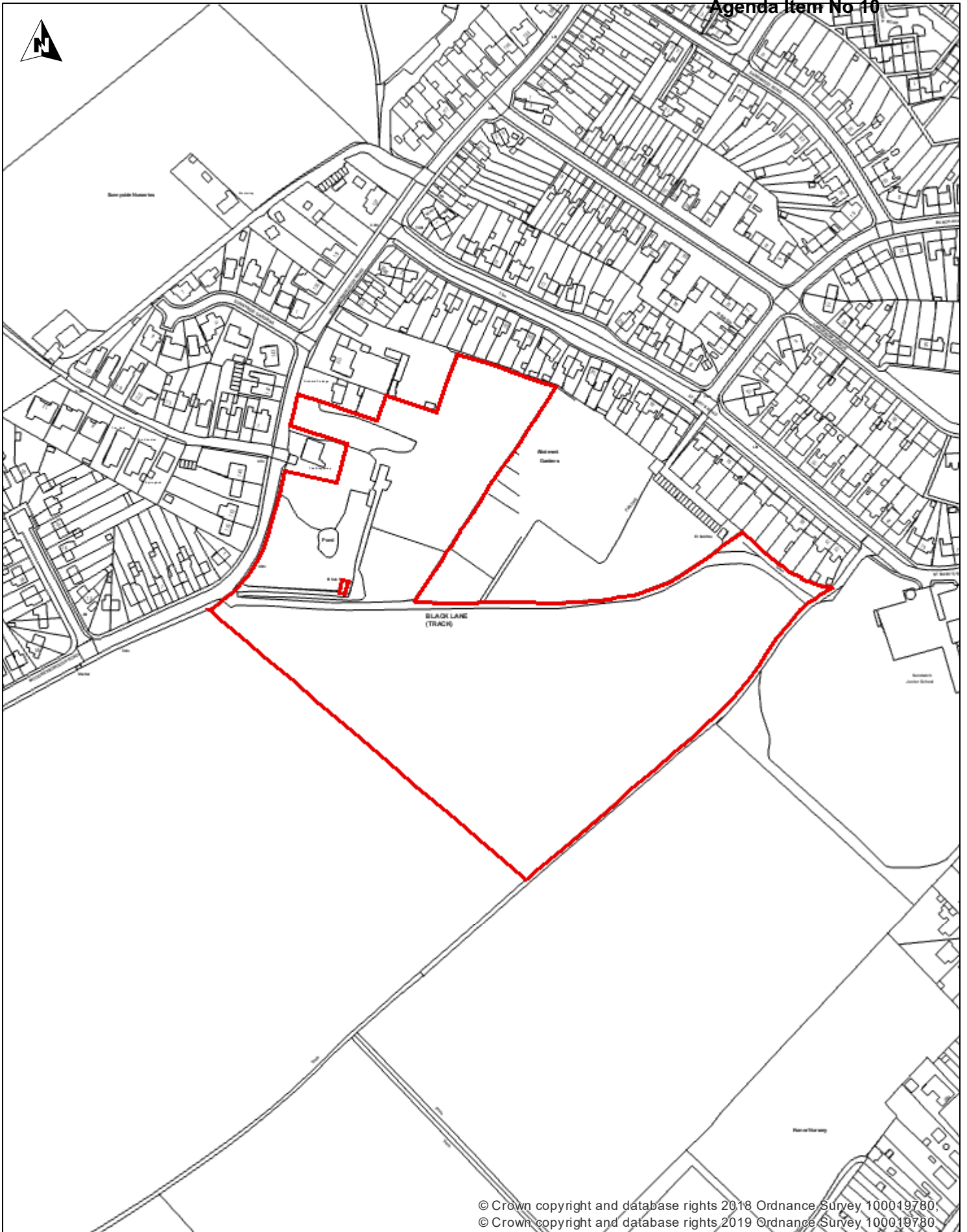
I Planning permission be REFUSED for the following reasons:

1. The proposed development, if permitted, would result in an unjustified dwellinghouse, outside of any defined urban or village confines, the need for which has not been demonstrated sufficiently to override normal restraint policies. The proposal would constitute unsustainable unjustified residential development in this rural location, resulting in additional vehicle movements and the need to travel by private car. and would significantly and demonstrably harm the rural character and appearance of the locality contrary to policies CP1, DM1 and DM11 of the Core Strategy (2010) and paragraphs 78, 110, 127 and 170 of the National Planning Policy Framework (2019).
2. The proposal would result in an overtly domestic form of development within a rural location which would appear as an incongruous and intrusive feature, detrimental to the rural character and appearance of the countryside and the wider landscape, contrary to policies DM15 and DM16 of the Dover District Core Strategy (2010) and paragraphs 127, 130 and 170 of the National Planning Policy Framework (2019).

3. The proposal would have a detrimental impact on the setting of the Grade II\* listed St George's House. It would lead to less than substantial harm to the significance of the designated heritage asset for which no overriding justification (public benefits) has been presented, contrary to paragraphs 192, 193, 194 and 196 of the National Planning Policy Framework.
- II Powers to be delegated to the Head of Planning, Regeneration and Development to settle any issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Benazir Kachchhi



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DOV/19/00243  
Land East of Woodnesborough Road  
Sandwich

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/19/00243 – Erection of 120 dwellings, including 36 affordable homes, with new vehicular and pedestrian access, internal access roads, car parking, landscaping, provision of 0.84 hectares of open space and a locally equipped area for children’s play (LEAP) and the removal of vehicular rights over most of by-way ES10 Black Lane – Land East of Woodnesborough Road, Sandwich**

Reason for report: Number of contrary views.

- b) **Summary of Recommendation**

Planning permission be granted

- c) **Planning Policies and Guidance**

Core Strategy Policies

- CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy.
- CP3 – Of the 14,000 houses identified by the plan 500 (around 5%) is identified for the Sandwich.
- CP4 - Developments of 10 or more dwellings should identify the purpose of the development in terms of creating, reinforcing or restoring the local housing market in which they are located and development an appropriate mix of housing mix and design. Density will be determined through the design process, but should wherever possible exceed 40dph and will seldom be justified ta less than 30dph.
- CP6 – Development which generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.
- DM1 – Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM5 – Development for 15 or more dwellings will be expected to provide 30% affordable housing at the site, in home types that will address prioritised need.
- DM11 – Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- DM13 – Parking provision should be design-led, based upon an area’s characteristics, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.
- DM15 – Development which would result in the loss of, or adversely affect the character and appearance of the countryside will not normally be permitted.

- DM16 – Development that would harm the character of the landscape will only be permitted if it is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures or it can be sited to avoid or reduce harm and incorporate design measures to mitigate impacts to an acceptable level.

#### Land Allocations Local Plan

- LA16 – Land to the west of St Bart’s Road, Sandwich is allocated for residential development with an estimated capacity of 120 dwellings, subject to meeting the following criteria:
  - i. development proposals are sensitive to the adjacent rural landscape and reflect the spatial and rural characteristics of adjacent landforms and development;
  - ii. there is a comprehensive approach to development of the whole site;
  - iii. a mitigation strategy to address any impact on the Thanet Coast and Sandwich Bay Ramsar and SPA sites and Sandwich Bay SAC site is developed. The strategy should consider a range of measures and initiatives;
  - iv. the Byway (ES10) , which crosses the site, should be retained and enhanced as part of any development except where access to the eastern part of the site is required to cross it. The bridleway (ES8) is retained and enhanced.
  - v. development should provide a connection to the sewerage system at the nearest point of adequate capacity and ensure future access to the existing water supply infrastructure for maintenance and upsizing purposes;
  - vi. intermittent landscaping, providing glimpses of development behind, is provided along the south western and south eastern boundaries in order to provide a suitable transition to the countryside;
  - vii. existing boundary hedgerows and vegetation are retained;
  - viii. the design and layout of the proposed development addresses the relationship of Black Lane and the allotments; and
  - ix. vehicular access to the site is from Woodnesborough Road with an emergency access from St Bart's Road.
- DM27 - Residential development of five or more dwellings will be required to provide or contribute towards the provision of open space, unless existing provision within the relevant accessibility standard has sufficient capacity to accommodate this additional demand.

#### National Planning Policy Framework (NPPF)

- Paragraph 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.
- Paragraph 11 states that development proposals that accord with an up-to-date development plan should be approved without delay or, where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, permission should be granted unless:



i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development (having regard for footnote 6); or

ii. 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.

- Paragraph 12 states that the NPPF does not change the statutory status of the development plan. Development which accords with an up-to-date development plan should be approved and development which conflicts should be refused unless other material considerations indicate otherwise.
- 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. Where there is a need for affordable housing, developments should typically provide this housing on site. Of particular note, is paragraph 78 which directs housing in rural areas to be located where they will enhance or maintain the vitality of rural communities.
- Chapter eight encourages development to aim to achieve healthy, inclusive and safe places by, amongst other things: promoting social interaction; allowing easy pedestrian and cycle connections; providing active street frontages; supporting healthy lifestyles; and ensuring that there is a sufficient choice of school places to meet the needs of existing and new communities.
- Chapter nine of the NPPF seeks to promote sustainable transport. In particular, patterns of growth should be managed to maximise the use of public transport, walking and cycling and address potential impacts on transport networks. Safe and suitable access to the site should be achieved for all users. Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Chapter eleven seeks the effective use of land by using as much previously-developed land as possible whilst safeguarding and improving the environment and ensuring safe and healthy living conditions. Low densities should be avoided, although account should be taken of the need for different types of housing, market conditions and viability, infrastructure capacity, maintaining the area's prevailing character and securing well-designed attractive places.
- Chapter twelve seeks the creation of well-designed places, with high quality buildings. Good design is a key aspect of sustainable development. Development should: function well and add to the overall quality of the area, be visually attractive; be sympathetic to local character and history; establish or maintain a strong sense of place; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and support local facilities and transport networks; and create places that are safe, inclusive and accessible and which promote health and well-being.

- Chapter fourteen requires that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk.
- Chapter fifteen requires that the planning system contributes to and enhances the natural and local environments, by protecting and enhancing valued landscapes; recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services; minimising impacts on and providing net gains for biodiversity; preventing new and existing development from contributing to, being at risk from or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unattractive land, where appropriate.

The Kent Design Guide (KDG)

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

d) **Relevant Planning History**

DOV/17/00876 - Erection of 120 dwellings, including 36 affordable homes with new vehicular and pedestrian access, internal access roads, car parking, landscaping, provision of 0.84 hectares of open space and a locally equipped area for children's play (LEAP) – Refused and Dismissed at Appeal

e) **Consultee and Third Party Responses**

Natural England – No objection, subject to appropriate mitigation being secured.

KCC Highways and Transportation – *Initial response received 15<sup>th</sup> March 2019*

The scheme is the same as the scheme considered by the Inspectorate, who concluded that the development would not adversely affect the operation of the local highway network and would accord with policies LA16 and DM11.

The site is allocated for 120 dwelling and therefore the principle of the development has been accepted. The development achieves satisfactory access from Woodnesborough Road and emergency access from St Barts Road, in accordance with LA16.

The proposed development is likely to generate approximately 65 two-way vehicle trips in the network peak hours, split along Woodnesborough Road to the west, Woodnesborough Road towards the town centre and St Barts Road/Dover Road to the east. The greatest number of additional vehicle movements (around half) will be along St Barts Road and improvements are proposed to maintain the flow of traffic, improve the spacing and length of passing places and assist pedestrians.

Vehicular access rights on ES10 will be removed and should be improved to provide suitable width, surface and signage.

The internal road layout is acceptable and adequate car parking would be provided.

The proposals are therefore unlikely to have a severe impact on the highway that would warrant a recommendation for refusal on highway grounds. A series of conditions are recommended to secure: a construction management plan; measures to prevent the discharge of surface water onto the highway; provision and retention of vehicle parking and turning facilities and cycle parking; use of a bound surface material to the first five metres of the highway; completion of the highway works to Woodnesborough Road and St Barts Road and the alterations to ES10; the completion of certain works between each dwellings and the highway; and the provision of visibility splays.

*Subsequent response received 30<sup>th</sup> May 2019*

The amended plan is acceptable. The remainder of the letter reiterates the comments provided in the earlier response.

KCC Public Rights of Way – *Initial response received 29<sup>th</sup> March 2019:*

Holding objection. Further information is required in order to: demonstrate why there is a need to downgrade byway ES10; confirm how ES10 will be downgraded; alter the proposed width and finish of the ES10; reassess the provision of bollards; and consider the impacts of the development on the PROW ES8.

*Subsequent response received 11<sup>th</sup> June 2019:*

No objection raised to the amended plans, subject to the following being achieved:

- Vehicular rights to ES10 are to be removed but equestrian are to be retained
- Bollards to restrict vehicular access required. These should be 3ft apart
- ES10 is to be a shared 'hoggin' style surface
- Surface specification or bollard spec and location should be submitted for approval

Highways England – The development is unlikely to result in a 'severe' impact on the Strategic Road Network and therefore will not materially affect the safety, reliability and/or operation of the Strategic Road Network.

KCC Economic Development – Request contributions comprising: £436,194 towards the Phase 1 expansion of Sir Roger Manwood Secondary School; £3,076.68 towards community learning classes in Sandwich; £14,614.80 towards large print books in Sandwich Library; £9,315.60 towards the Age Concern Care Centre in Sandwich; and one wheelchair adaptable home. It is also recommended that the developer should seek the provision of high speed fibre optic broadband.

KCC Lead Local Flood Authority – No objection to the principle of the development. The local planning authority should consider whether the below ground surface water pipes and storage is acceptable. If the local planning authority is minded to grant permission, three conditions are recommended regarding: the submission and approval of a detailed surface water drainage scheme; off-site surface water drainage works to be secured and protected; the provision of a verification report which demonstrates that the approved surface water drainage system has been implemented.

KCC Archaeology – The application has been supported by an archaeological desk based assessment which advises that the site has a moderate potential from Romano-British and medieval archaeology and a lower potential for archaeology of other periods. It is therefore recommended that a condition be attached to any grant of permission to require that a programme of archaeological work take place.

DDC Waste Service – There is uncertainty as to whether a freighter could access plots 71 and 83. The freighter may cause damage to block paving. The bicycle/bin stores may not be large enough to accommodate waste and recycling. The developer will need to pay for the bins required.

DDC Environmental Health – The site has no history of contaminative historical activity. It is requested that electric vehicle charging points be provided. There are no local noise sources that are likely to impact on residential amenity.

Conditions are recommended regarding the provision of a Construction Management Plan and electric vehicle charging points.

DDC Principal Ecologist – *Initial comments received 3<sup>rd</sup> May 2019*

#### Reptiles

The proposed reptile habitat management plan is robust but it would have been helpful if they could have clarified within their timetable at section 8 when the reptile translocation exercise will occur. Any created habitat would require a maturation period of at least a couple of growing seasons before moving animals there. A section 106 would be the best mechanism for addressing translocation and habitat management/preservation. In perpetuity maintenance of the receptor site would be ideal but realistically the timeframe would be more like 25 years.

#### European Designated Sites

There is a need to carry out a Habitat Regulations Assessment.

*Subsequent response received 5<sup>th</sup> June 2019*

The inspector's HRA seems to be along similar lines to that used for developments where the only likely significant effect is recreational disturbance, which should be accepted. There appears to be no objection from Natural England so I can only assume that they concur with the inspector's HRA. Developer contributions should be sought, as per the current SPA strategy.

Environment Agency – No comments

River Sour Internal Drainage Board – the applicant states that disposal of surface water by soakaways is not considered feasible. If this is agreed with KCC's SuDS team to be the case, the applicant should clearly show how and to where the site currently drains. If this confirms that off-site discharge is the only practicable option the applicant should be urged to incorporate open SuDS, rather than the proposed underground pipe and crate storage system, as open systems such as swales and ponds provide wider benefits to water quality, biodiversity and amenity.

Notwithstanding the above, if the proposal to discharge to main sewer at a maximum discharge rate of 10l/s is pursued, the applicant should clearly identify where this sewer discharges and provide an assessment of local flood risk to ensure adequate capacity of the receiving watercourse. The details of site drainage and its future maintenance should be designed and agreed in direct consultation with KCC's SuDS team.

Southern Water – Public water mains should be protected during the development of the site. Surface water should not be discharged into the foul sewerage system. Due to the vibration, noise and potential odour generated by sewage pumping stations, no habitable rooms should be located closer than 15 metres to the boundary of a proposed pumping station site.

A condition is recommended should permission be granted requiring details of foul and surface water sewerage disposal to be submitted for approval.

Sandwich Town Council – Object. The Committee resolved to stand by the previous objections made by Sandwich Town Council there are extreme concerns regarding access and road safety, and this application will not be supported in its current form due to the lack of provision/access to the bypass.

Eastry Parish Council – Objects on traffic grounds.

Woodnesborough Parish Council – Objects to this application on traffic and social infrastructure grounds.

Nonnington Parish Council – Object. Concerns are raised regarding increased traffic and highway safety

Public Representations –

12 letters of objection have been received, raising the following objections:

- Increased vehicle movements and traffic congestion
- Additional pressure on local road network
- Vehicles currently speed along Woodnesborough Road
- The road has a history of accidents
- The provision of double yellow lines would remove on-street car parking which is already restricted
- The provision of double yellow lines would remove natural traffic calming measures (parked cars), increasing vehicle speeds
- Harm to highway and pedestrian safety
- Insufficient car parking
- The PROW provides equestrian rights, which should not be excluded from this route.  
Any enhancements should not be to the detriment of these users
- The PROW gets muddy in winter
- Impact on wildlife
- Increased noise, dust and pollution
- Lack of capacity in local schools, doctors and dentists
- The development is too big for this location
- Loss of property values

- Loss of trees
- The play area should not be as close to the pumping station
- The play area is not needed
- The planning history for the site is not relevant
- There are other more suitable sites
- Construction vehicles should park on the site and not on the surrounding roads
- Harm to the character and appearance of the area
- Insufficient provision of affordable housing

f)

## 1. **The Site and Proposal**

- 1.1 The site lies adjacent to the existing built up area of Sandwich, with Woodnesborough road to the east and St Bart's Road to the north. To the east of the site are the playing fields of Sandwich Junior School and to the south are open agricultural fields. The site, which is roughly U-shaped, also bounds three sides of an area of allotments. Running through the site is a Byway (ES10) which is open to all traffic, whilst a bridleway (ES8) forms the south eastern boundary of the site.
- 1.2 The application site comprises two distinct parcels of land. The first, to the north of the ES10 and to the east of Woodnesborough Road comprises an area of grass and mixed trees and sits between the rear of properties fronting Woodnesborough Road and the allotments. The second parcel comprises a triangular agricultural field to the south of the ES10, the south western boundary of which is delineated by a hedgerow.
- 1.3 The site is allocated by Policy LA16 of the Land Allocations Local Plan for residential development, having an estimated capacity of 120 dwellings. The policy sets 9 criteria which must be met by any application for the site.
- 1.4 The application seeks permission for 120 dwellings which will be a mix of 1 to 5 bedroom dwellings. Of these 120 dwellings, 36 dwellings will be affordable units. The development would be accessed from Woodnesborough Road, with an emergency access from St Bart's Road, with works being proposed to these roads. Towards the Woodnesborough Road frontage and to the north of the ES10 an area of open space is proposed, under which would be storm cell attenuation for surface water. To the same frontage, but to the south of the ES10, a sewerage pumping station and an equipped play space are proposed.
- 1.5 The application is substantially the same as the previous application which was dismissed at appeal. The only reason for that application being dismissed was ecology (the application had failed to secure appropriate mitigation for reptiles). The current application has been supported by further work which seeks to address this issue. The current application also proposes changes to the ES10 PROW in response to comments from KCC PROW which had not been made in relation to the previous application.

## 2. **Main Issues**

- 2.1 The main issues are:

- The principle of the development
- The impact on the character and appearance of the area
- The impact on neighbouring properties
- The impact on the highway network
- Ecology
- Infrastructure and Contributions

## **Assessment**

### Principle

- 2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the development plan, unless material considerations indicate otherwise. However, notwithstanding the primacy of the development plan, paragraph 11 of the NPPF states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, 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 or where specific policies in the NPPF indicate that development should be restricted. Footnote 7, in relation to paragraph 11, confirms that policies may be out-of-date where a five year housing land supply cannot be demonstrated. In addition, policies may be out-of-date where the evidence base used to formulate those policies can no longer be relied upon.
- 2.3 Having regard for the most recent Annual Monitoring Report, the Council are able to demonstrate a five-year supply and so paragraph 11 is not triggered for this reason. However, the conclusions of the Strategic Housing Market Assessment 2017 show that Core Strategy policies CP2 and CP3 which relate to the supply of housing are out-of-date. The presumption in favour of sustainable development described at paragraph 11 (d) is therefore engaged.
- 2.4 The site is allocated for development by Policy LA16 of the Land Allocations Local Plan. This policy estimates that the site can accommodate a capacity of 120 dwellings, subject to a series of nine criteria being met. These criteria relate to detailed matters such as the developments impact on the character and appearance of the area, ecology and access. As these are detailed matters, it is appropriate that they are covered within the body of the report under the relevant headings. However, the strands will be brought together at the end of the report where a conclusion will be reached. This policy supports the provision of housing on the site and is considered to accord with the NPPF. It is therefore considered that this policy is not out-of-date and attracts full weight. Consequently, in accordance with legislation and having regard for paragraph 11 of the NPPF, the application should be approved unless material considerations indicate otherwise.
- 2.5 It is also necessary to consider the appropriate weight which should be given to development plan policies. The weight attributed will be dependent upon the degree to which they are consistent with the NPPF. The Inspectors for recent

appeals agreed with the Council's case that Policies DM1, DM15 and DM16 are broadly consistent with the NPPF and should continue to carry significant weight.

- 2.6 It should be noted that, when the previous application was considered by the Council, it was concluded that the principle of the development was acceptable. This conclusion was not challenged by the Inspector.

Housing Mix

- 2.7 The proposal would provide 120 dwellings comprising forty-six three-bed, thirty-five four-bed and three five-bed open market dwellings, together with two one-bed, twenty-three two-bed and eleven three-bed affordable dwellings. Policy CP4 of the Core Strategy requires that housing application for 10 or more dwellings identify how the development will create, reinforce or restore the local housing market, particularly in terms of housing mix and density. Paragraph 3.43 of the Core Strategy identifies the broad split of demand for market housing, recommending: 15% one-bed; 35% two bed; 40% three-bed; and 10% four bed and larger. The proposal comprises the following market housing mix:

Number of Bedrooms	% Proposed
One (0)	0%
Two (x0)	0%
Three (x44)	52%
Four + (x40)	48%

When the affordable housing provision is added to this mix (albeit affordable housing is not counted in the monitoring of policy CP4 in the AMR), the table reads as follows:

Number of Bedrooms	% Proposed
One (x2)	2%
Two (x23)	19%
Three (x55)	46%
Four + (x40)	33%

- 2.8 As can be seen from the above tables, the market housing would be substantially skewed towards larger three and four+ bedroom properties, at odds with the demand in the District. Whilst the recommended housing mix proportions are certainly not rigid, they should inform the housing mix proposed. It is also noted that the most recent Authority Monitoring Report (for 2017-2018) advises that over the monitoring period, one, two and three bedroom dwellings have been under-provided (at - 5%, - 4% and - 3% of the overall mix respectively), whilst the number of four bedroom dwellings provided has significantly exceeded required need (+12% of the overall mix), with more than double the required number being provided. The proposed bias towards larger dwellings would significantly increase this disparity and would not provide the size of dwellings which are required to meet the needs of the District. This failure must be weighed in the planning balance.

Character, Appearance and Heritage



- 2.9 Woodnesborough Road has a loose character to its eastern side, with properties of varying scales and designs which are well separated from each other and set back from the road. Notwithstanding this variation along the road, the properties of Poulders Gardens do have a cohesive and regular design. The existing properties typically have pitched roofs which run parallel to the road, with gables fronting onto the road whilst dwellings are set back from the highway with a regular street fronting layout.
- 2.10 The southern section of the scheme, to the south of Black Lane (ES10), comprises largely perimeter block development. It is considered that this layout would produce a high quality character to the scheme which would be permeable, legible and provide interesting views as you move through the site. Whilst this layout is more organic compared to the linear pattern of development along Woodnesborough Road, it is considered that it responds to the perimeter block layout of Poulders Gardens whilst the looser pattern of development would provide a softer edge to the settlement in views across the agricultural land beyond the site. The perimeter blocks within the site also substantially reduce the number and length of blank elevations and stretches of boundary treatments, instead providing active and attractive frontages throughout the development.
- 2.11 The development within the northern section (north of ES10) is arranged around a main curvilinear access which links to short cul-de-sacs. This layout maintains a predominantly street fronting yet organic character, although the perimeter block layout is lost. Whilst it is not considered that this layout is as successful as the layout to the south of ES10, in particular due to the presence of buildings behind the main frontage, it is considered that, in public views, this layout would positively address the open space and would be legible.
- 2.12 Of particular importance is how the site responds to the PROW ES10, the countryside (and bridleway ES8) and the allotments. Accordingly, the layout provides development which fronts onto these aspects behind deep landscaped buffers. Whilst the proposed dwellings to the west of the allotments would not front onto the allotments, the boundary between the two is formed by tall, established vegetation, such that the limited number of buildings which would be close to the allotments would not appear dominant.
- 2.13 The density of the development and the scale of buildings within the scheme are considered to respond to the prevailing characteristics of the existing area. The density of the scheme is slightly higher than that of the development on Woodnesborough Road, by virtue of having smaller rear gardens, but is of a significantly lower density than other development in the vicinity of the site, for example the development on Fordwich Place. It is considered that this density strikes an appropriate balance between encouraging the efficient use of land and ensuring a high quality environment. The scale of the dwellings within the development is predominantly two storeys, according with the prevalent height of buildings around the site. Five pairs of dwellings and one flat block would rise to two and a half storeys; however, these buildings would not have significantly higher ridges and are located towards the centre of the site where they will be less prominent in views.

- 2.14 The detailed design of the buildings is relatively traditional. There are thirteen house types, together with a separate design for the block of flats closest to the site entrance, within the scheme which would provide some variation across the site. However, these designs share a common design language which will provide a unity to the appearance of the development as a whole. Common features include pitched roofs, projecting gables with a lower ridge height, brick window cills and headers, chimneys and small roofs over entrance doors. Where dwellings propose accommodation within their roofs, light is provided by small dormers and roof lights which would sit comfortably on the roof slopes. The flats would also have similar architectural features, such that they would complement the design of the dwellings. Further variation will be provided through the use of mixed materials across the site, albeit from a defined palette. These materials include red brick, white or black weatherboarding, red hanging tiles, cream render and a mixture of either red or grey roof tiles. Whilst the detailed designs of the building are considered to be quite conventional and perhaps lacks local distinctiveness or originality, it is not considered that this amounts to a poor quality scheme that it warrants refusal.
- 2.15 The proposal seeks to remove a number of trees within the interior of the site, to the north of the ES10. Details of these trees have been provided within application, confirming that a number of native trees of predominantly poor quality are to be removed, largely around the area of the proposed vehicular access from Woodnesborough Road and the access road which serves the parcel of land to the north of the ES10. This parcel also includes a number of groups of conifer/spruce trees, which are of lesser value.
- 2.16 In order to retain a semi-rural character, and in accordance with policy LA16, hedgerows are to be retained and enhanced, with breaks in the hedges only made where necessary to allow access into and through the site and to allow for enhancements to the ES10 PROW. Subject to replacement trees being provided and retained trees and hedges being protected it is considered that the development would appear suitably verdant given its edge of settlement location. Accordingly, subject to conditions being attached to any grant of permission requiring that existing trees and hedges to be retained are protected and enhanced and requiring details for a high quality landscaping scheme to soften the visual impact of the development and mitigate the loss of some trees, it is considered that the landscaping of the development would be acceptable.
- 2.17 it is considered that whilst in views from the south and west the development would be visible above hedges across the open fields, the development has been sensitively designed, in terms of its layout, detailed design and landscaping, to substantially reduce its prominence. Landscaped buffers and the retention, enhancement and provision of structural planting would further mitigate this harm. The layout of the scheme is considered to be well conceived, whilst it would provide a uniform character across the site. Consequently, it is considered that the development would not cause unacceptable harm to the character and appearance of the area and would accord with the requirements of Policy LA16. The development would also produce a coherent character and sit comfortably in this edge of settlement location. It is therefore considered that the development would cause no unacceptable impacts on the character and appearance of the area.

### Impact on Residential Amenity

- 2.18 The majority of the development faces onto open fields, allotments or proposed open space and, as such, would not cause any significant impacts on the residential amenities of neighbouring properties. However, the properties towards the northern boundaries of the site are closer to neighbouring properties and require more careful consideration.
- 2.19 The block of flats numbered 113 to 120 would be located around 12m from the south western boundaries of numbers 62 to 72 St Bart's Road, which themselves have rear gardens of around 25m in length. Given the separation distances between the proposed flats and the properties on St Bart's Road (and their gardens), it is not considered that any significant loss of light, sense of enclosure or overlooking would be caused to those properties, or their gardens.
- 2.20 Plots 27 to 31 would also be located to the south of properties on St Bart's Road. These proposed dwellings would be positioned around 13m from the rear boundaries of No.'s 16 to 28 St Bart's Road, which themselves have rear gardens of around 15m or more. Again, given the separation distances, it is not considered that any significant loss of light, sense of enclosure or overlooking would be caused.
- 2.21 The side elevation of plot 35 would be located to the east of Orchard Cottage, which addresses Woodnesborough Road. This side elevation (which would not contain any windows) would be separated (and offset) from the rear elevation of Orchard Cottage by around 24m, causing no loss of light, sense of enclosure or overlooking.
- 2.22 Finally, plots 32 to 35 back onto the gardens of No.'s 108 and 110 Woodnesborough Road. However, given the significant distance to these properties and the substantial size of their gardens, no significant harm to residential amenity would result.
- 2.23 Whilst the development itself would not cause any significant noise and disturbance once built out, regard must also be had for the noise and disturbance which could be caused during construction. No concerns have been raised by Environmental Health regarding the potential for the development to cause harm in this way and it is noted that only very limited parts of the application site would be in close proximity to residential properties. However, the sole access to the site would be within close proximity of neighbours and would likely be in use for a considerable period of time given the size of the development and the likely build out period. As such, it is considered that it would be reasonable to require that a construction management plan be submitted for approval by way of condition, as recommended by Environmental Health and KCC Highways. This should include details of access arrangements and delivery timings; details of where construction vehicles, plant and materials will be parked and stored; hours of noisy activities and the plant to be used and details of how dust and other debris will be controlled.

2.24 The proposed dwellings themselves would all be of a reasonable size, providing their occupants with natural light and ventilation. Each would be provided with a private garden or, in the case of the flats, shared external space. The density of the development allows dwellings to be set away from each other by reasonable distances, with 'back-to-back' distances of typically between 20m and 25m. Where these distances are reduced, for example between plots 4 and 5 and 9 and 10, dwellings are set at an angle to each other and have rear gardens of at least 10m in length. As such, it is not considered that any of the proposed dwellings would be severely enclosed, overlooked or overshadowed. DDC Waste Services have identified uncertainty as to whether a refuse freighter could access plots 71 and 83. The applicant has provided swept path drawings which demonstrate that refuse vehicles could navigate and turn along the roads within the site, including the road to the north west of plot 71 and the turning head to the north east of plot 83. In addition, refuse collection points are to be provided half way between these dwellings and the nearest point where a refuse vehicle would be able to gain access. Whilst the carry distance for unit 83 would be more than is desirable, it is not considered that it would cause a significant level of harm. For these reasons, the living conditions of future occupants are therefore considered to be acceptable.

#### Impact on Local Highway Network

2.25 The site was allocated in the Land Allocations Local Plan, under Policy LA16, for residential development with an estimated capacity of 120 dwellings. Bullet point ix. of Policy LA16 requires that vehicular access to the site be from Woodnesborough Road with an emergency access from St Bart's Road. In accordance with the policy, the application proposes its sole vehicular access onto Woodnesbrough Road, together with a secondary emergency access onto St Bart's Road. This secondary access would restrict non-emergency vehicles through the provision of lockable bollards.

2.26 Strong concerns have been raised by third parties, Sandwich Town Council and neighbouring parish councils regarding the safety of Woodnesborough Road and convenience of road users in the locality. Evidence has been provided which shows that vehicles have left the road close to the proposed access to the site, whilst many respondents have referred to vehicles travelling at excessive speeds along the road. Given the information which has been provided and the consistency of the comments, particular attention must be paid for how the road is operating at present and what impact the development would have on these existing issues.

2.27 The proposed development has been modelled using standard methodology, concluding that it is likely to generate approximately 67 and 61 two-way vehicle trips in the AM and PM network peak hours restrictively. Journeys would split along Woodnesborough Road to the west, Woodnesborough Road towards the town centre and St Barts Road/Dover Road to the east. Around half of these movements would be directed towards St Bart's Road, with many vehicles then travelling away from Sandwich.

2.28 At present, Woodnesborough Road operates at a 40mph speed limit which reduces to 30mph speed limit approximately 40 meters south west of the

proposed site access. The application proposes to extend the 30mph speed limit by approximately 120m further west along Woodnesborough Road. Within Woodnesborough Road, it is proposed to construct two islands, to the south west and north of the proposed access respectively. These, together with dropped curbs either side of the site in these locations, would provide safer places to cross the road, offering refuges within the road, to improve access to the existing footpath network and bus stops. It is noted that this crossing point, which currently has no formal crossing point or refuge within the highway, is well used, with particular attention drawn to the number of school children who use PROW ES10 and cross Woodnesborough Road in this location. The proposed features, whilst maintaining sufficient road width to allow passage by articulated vehicles create a natural narrowing of the carriageway which will be likely to help manage vehicle speeds. Between the two islands, a turning lane would be provided to serve the site, ensuring that vehicles waiting to access the site will not hold up traffic. In order to augment the carriageway to provide these features, it is proposed to provide double yellow lines to either side of Woodnesborough Road between Poulders Road (although the lines extend slightly further on the eastern side of the carriageway) and approximately half way between the proposed access to the site and Poulders Gardens. The provision of double yellow lines will improve the free-flow of traffic along this section of the road, which can cause delays (particularly when buses try to navigate around cars); however, it will also remove the ability of vehicles to park on the highway, reducing the convenience of road users. It is noted that most properties fronting onto the proposed stretch of double yellow lines have off-street parking and, whilst inconvenience would still result from the changes, this would not amount to a severe cumulative impact on the highway. Moreover, as will be dealt with in more detail later in this section, the application proposes a level of car parking (and visitor spaces) in excess of the levels required by the Councils Policy DM13. The double yellow lines are intended to operate during weekdays, such that car parking on Woodnesborough Road will be permitted at evenings and weekends.

- 2.29 On St Bart's Road, between Burch Avenue and Hazelwood Meadow it is proposed to provide two crossing points to provide greater visibility for crossing the road. Dropped curbs are also proposed along this stretch of road. The existing double yellow lines on the south side of the road at the Woodnesborough Road junction are proposed to be extended for an additional 5 metres, which would result in the loss of one car parking space. This loss is not considered to be significant, whilst the increased length of the double yellow lines will provide additional space for vehicles around the junction, which can become congested at busy times. Short lengths of single yellow lines are also proposed adjacent to No.48, adjacent to No.60 and 62, adjacent to No.125 and either side of the existing zig-zag markings adjacent to the access to Sandwich Junior School. These restrictions will, as this road is relatively narrow, provide longer passing places to improve the flow of traffic, accounting for the increased use of the road due to the development. Additionally, these areas will improve visibility for vehicles and pedestrians, improving the safety of the road.
- 2.30 It is acknowledged that understandable concerns exist regarding the safety of the highway network in the vicinity of the site and its ability to accommodate the additional vehicle movements which would be generated by the development. However, having regard for the number of additional peak hour movements which

would be generated by the development, together with the various improvements which would be carried out to the local network which would be likely to both improve safety and the free flow of traffic, it is not considered that the development would be detrimental in this respect. The NPPF advises that permission should only be refused on highway grounds where there would be an unacceptable impact on highway safety or where the residual cumulative impacts on the road network would be severe. It is not considered that this would be the case in this instance. It must also be reiterated that the site was assessed through the land allocations assessment and considered to be suitable to accommodate approximately 120 dwellings accessed from Woodnesborough Road.

- 2.31 Notwithstanding the conclusions that have been reached above, which have taken into account the comments of the highways authorities, the Inspector also considered the highways impacts of the development in determining the appeal for the previous scheme for this site. The Inspector adopted the predicted vehicle movements of 65 two-way movements in the peak hours and the distribution of these movements on the highway network. The Inspector considered the council's case that additional off-site highway works should be provided, but attached limited weight to this argument. Likewise, the Inspector did not accept there was a demonstrable need for a link onto the A256 or that the highway works proposed would increase vehicle speeds and concluded that there was "no evidence demonstrating that Woodnesborough Road is subject to a poor accident record". Given the highway authority's assessment of the application in consultation responses and the highway safety audit revealing no adverse effects, the Inspector concluded that the development would not adversely affect the operation of the local highway network. The Inspector's assessment, which relates to a near identical scheme and given that no evidence has been submitted to demonstrate that there has been a material change in circumstance since the Inspector's decision, must carry substantial weight in the assessment of the application.
- 2.32 The proposed internal site layout has, with the exception of private drives, been designed to adoptable standards, with good forward visibility and visibility around corners. The access roads are of a reasonable width, sufficient to allow cars to pass each other and to allow larger vehicles such as refuse and emergency vehicles to manoeuvre around the site freely. It is intended that the vast majority of the access roads within the site (other than small drives serving up around 5 dwellings) are to be offered to the highway authority for adoption.
- 2.33 Policy DM13, having regard for Table 1.1, requires the development to provide adequate parking to meet the needs which would be generated, balancing this against design objectives. The location of the site is considered to best fit within the suburban edge/village/rural category described by Table 1.1 of the Core Strategy, where 1 and 2 bedroom houses will be expected to provide 1.5 spaces per unit and 3 and 4+ bed dwellings will be expected to provide 2 spaces per unit. Additionally, visitor parking should be provided at a rate of 0.2 parking spaces per dwelling. Garages are not considered to provide car parking spaces, although open car ports or car barns may be considered. The vast majority of dwellings would be provided with two open car parking spaces, although some have either one or two open spaces together with one space provided within a garage or car

barn. This level of parking is reduced to one space per dwelling for some of the smaller affordable dwellings. There are also a significant number of spaces which are provided in tandem, reducing their usability. However, these tend to be located close to generous on-street unallocated parking spaces. Overall, 317 car parking spaces would be made available on the site, of which: 161 would be on driveways; 83 would be provided in garages or car barns; 20 spaces would be allocated to the flatted affordable housing; and 53 unallocated visitor spaces would be provided. The unallocated spaces are evenly distributed around the development such that they would be convenient for visitors to the site. Details have been provided of the dimensions of the parking spaces, which demonstrate that they have been appropriately designed and would be usable. Table 1.1 recommends that the mix of dwellings be provided with a total of 227.5 spaces be provided for the residents of the development, together with 24 visitor spaces (i.e. around 252 spaces in total). The development would provide more than this minimum provision, with 264 allocated spaces and 53 visitor spaces. Whilst the provision of some garages (which may not be used for car parking) and tandem spaces is not ideal, and whilst some of the smaller dwellings are provided with just one car parking space, it remains the case that the development would provide more than the requisite number of car parking spaces. In particular, the generous provision of unallocated parked spaces on the street would provide mitigation through the provision of more flexible car parking.

- 2.34 Details of communal cycle stores have been provided within the application documents. For individual dwellings, cycle storage is proposed within garages or, for properties which do not have garages, within lockable sheds in rear gardens.
- 2.35 Bullet point iv. of Policy LA16 requires that the byway (ES10) which crosses the site be retained and enhanced as part of any development, although it is acknowledged that the vehicular access to the site will need to cross the byway. The proposals retain the ES10 and provide a landscaped corridor along part of its route. KCC PROW did not comment on the previous application, but have commented on the current application. These comments gave rise to new concerns regarding the treatment of ES10 and how the PROW would be integrated into the scheme. Following these concerns, the applicant has amended the scheme to increase the width of the PROW, to ensure that it will be usable for pedestrians, cyclists and equestrians, whilst retaining a 'green corridor' around the PROW where possible. As proposed by the previous application, it is intended to remove the rights of way for vehicular traffic along the route, which will allow safer access for the retained users and allow the provision of a suitable width, surface and signage for such use, together with suitable bollards/barriers as necessary. This effectively provides a pedestrian, cycle and equestrian connection between the site and St Barts Road to the north, which can also serve as an emergency access, to improve safety for pedestrians and cyclists, although this will require a separate legal process to formally extinguish vehicular rights.
- 2.36 The byway (ES10) will be altered to provide a 3.5m wide track suitable for pedestrians, cyclists and equestrians, with bollards installed to prohibit vehicular access but allowing access for the retained users. The track would be finished with 'hoggin' self-binding gravel. The bridleway which runs along the south eastern boundary of the site (ES8), which is tarmacked, will be retained. The development proposes a soft landscaped buffer along this route, to include trees,

grass and sections of hedging. It is considered that these works accord with the requirements of Policy LA16 to retain and enhance these routes.

- 2.37 Given the scale of the development, it will necessitate a significant number of vehicle movements during the construction phase, including those by larger vehicles. Whilst it is not considered that this is unfeasible (Woodnesborough Road is currently served by double decker buses), it is considered that it would be reasonable and proportionate to carefully consider how construction can be controlled to reduce temporary impacts on the highway. In accordance with the advice from KCC Highways, it is therefore recommended that, should permission be granted, the submission and approval of a Construction Management Plan should be secured by condition to manage: routing of construction and delivery vehicles to and from site; parking and turning areas for construction and delivery vehicles and site personnel; timing of deliveries; provision of wheel washing facilities; details of temporary traffic management and signage; and access arrangements.
- 2.38 In addition to the above, KCC Highways have recommended a suite of conditions to ensure that the access road, car parking, turning areas, cycle parking, works of rights of way and highway improvement works are carried out in accordance with the plans and to an acceptable standard. It is considered that, having regard for the requirements of Policy LA16 and the details submitted and subject to conditions and securing the off-site highway works, the development would be acceptable in highway terms.
- 2.39 It has been commented by third parties that the development should provide a new slip road onto the A256 Sandwich Bypass. A new slip road does not form a part of this application and is consequently not for consideration. The highways impacts of the development have been assessed and are considered to be acceptable. Moreover, the Inspector for the previous application rejected the need for slip roads in order to make this development acceptable.

### Ecology

- 2.40 The application has been supported by a suite of documents which consider the ecological impacts of the development. These documents are predominantly updated versions of the reports which were submitted with the previous application, but also now include an additional report which details the reptile receptor site, the method of translocation and management of the translocation site.
- 2.41 Separate Bat, Reptile and Great Crested Newt reports have been submitted, which have informed the Ecological Impact Assessment. The bat report confirmed that the grounds of the Ridgeway and the northern boundary of the arable field are likely to be of local importance for foraging, whilst the arable field and the hedgerow along the western boundary of the arable field are of negligible importance for foraging bats. Given the level of importance, the report recommends that mitigation for bats, as detailed in the Ecological Impact Assessment report, takes place. The Reptile Report confirmed a peak count of Slow Worm of 20 adults ('Good' population) and peak count of Common Lizard of 7 adults ('Good' population). No amphibians were recorded. The site is therefore



of 'local' importance for reptiles. The Great Crested Newt Report confirms that no Great Crested Newts were recorded during the survey and are therefore unlikely to be present on the application site and the site is unlikely to be of importance.

- 2.42 The application has also been supported by a Reptile Habitat Management Plan. This plan sets out the need for reptile translocation and the overall methodology for securing appropriate translocation. A site has been identified, which is within the applicant's control, to receive reptiles from the application site. The receptor site has been assessed as being capable of providing suitable habitat for reptiles, subject to appropriate planting first becoming established and log piles being provided. The applicant has confirmed that, once planted, the receptor site will be allowed to mature for a period of at least two years to ensure that the planting is sufficiently established to support the reptiles (it is understood that planting can take place in advance of the permission being issued, as the receptor site is already being developed). The receptor site will then be maintained and monitored to ensure that the required habitat is sustained. The applicant has confirmed that management of the receptor site will last for 25 years, in accordance with the recommendation of the council's Principal Ecologist. It is considered that the method of translocation, the location and characteristics of the site (subject to manipulation) and the management of the receptor site are acceptable and, consequently, the reason that the appeal was dismissed has been overcome.
- 2.43 The RAMSAR, SAC and SPA Report, the previous version of which had been submitted in response to the concerns raised by Natural England in relation to the previous application, confirms that there are three bird species which require consideration: European golden plover (wintering); Turnstone (wintering); and Little tern (breeding). Given the habitat preferences, the results of a local study of golden plover, the spatial juxtaposition of the site relative to the coast and given that wintering flocks of golden plover roam widely, the site is unlikely to form a significant component of 'functional land.' Therefore, direct impacts are unlikely, and consequently a likely significant effect is highly unlikely. An indirect effect arising from people walking from the site into the wider landscape is also unlikely because of the distance between the development site and the wintering sites most used by golden plover. Given the above, potential effects arising on 'functional land' used by birds associated with the International Sites have been scoped out of the assessment.
- 2.44 Finally, the Ecological Impact Assessment draws together the various strands of all of the other documents. The main findings of this assessment are that: the application site supports 'good' populations of slow worm and common lizard; The Ridgeway property provides c.1.5ha of habitat of moderate suitability for foraging bats and that common pipistrelle and soprano pipistrelle bats were recorded foraging within these habitats, and also along the northern boundary of the arable field; that the application site is of 'local' importance for reptiles and is likely to be of 'local' importance for foraging bats; and that the application site is located within c.1.5km of the Thanet Coast and Sandwich Bay Ramsar site and Special Protection Area and the Sandwich Bay Special Area of Conservation and, consequently, in the absence of mitigation, there is potential for adverse effects arising from 'in-combination' impacts with other development schemes. The report recommends ecological mitigation and compensation measures that

will be implemented. Prior to the commencement of site clearance works, reptiles will need to be trapped and translocated to a suitable off-site receptor habitat. The receptor site, identified as being land within the applicant's ownership at Singledge Lane, Whitfield, will need to be managed to benefit reptiles in the long-term. At least 60 reptile trapping visits will be required, within the period April to September (inclusive). The development proposal does not allow for the provision of compensatory bat foraging habitat within site and so the retained site boundary hedgerows will be enhanced to provide foraging opportunities. Finally, the proposed development can mitigate for 'in-combination' effects, through contributions to Dover District Council's mitigation strategy for the international sites. As a precaution, the developer will also provide information to new homeowners on appropriate behaviour within the international sites. In addition, measures will be designed and implemented to minimise the risk of pollution during the construction and occupation stage of the proposed development.

- 2.45 It is considered that the methodology of the surveys and the form of the reports are acceptable. Subject to the proposed mitigation and enhancement being secured by condition and within the S106 Agreement, the development would cause no harm to habitats or protected or notable species. The provision of SPA mitigation accords with bullet point iii. of policy LA16. It is particularly noteworthy that the sole reason for the Inspectors dismissal of the previous appeal was the failure to secure the provision and long term maintenance of a suitable receptor site for reptiles. This matter has now been addressed through the submission of a Reptile Habitat Management Plan and confirmation that the applicant will secure translocation of reptiles and the provision and maintenance of the receptor site through a S106 Agreement. As such, this shortcoming has been satisfactorily addressed.

#### Habitat Regulations Appropriate Assessment

- 2.46 The Conservation of Habitats and Species Regulations 2017, Regulation 63 requires that an Appropriate Assessment be carried out. It is for the council, as the 'competent authority', to carry out the assessment. The applicant has supplied information which has been used by the Council to undertake the assessment and this information has been reviewed by the Councils Principal Ecologist and Natural England.
- 2.47 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.
- 2.48 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.

- 2.49 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.
- 2.50 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.
- 2.51 For proposed housing developments in excess of 14 dwellings (such as this application) the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy requires the applicant to contribute to the Strategy in accordance to a published schedule. This mitigation comprises several elements, including the monitoring of residential visitor number and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education). The applicant secured a payment to fund this mitigation at the outline application stage.
- 2.52 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.
- 2.53 Notwithstanding the conclusion that the development would be no adverse effect on the designated habitats, it should be noted that the Inspector carried out an Appropriate Assessment when assessing the previous scheme, reaching the same conclusion, stating “while the development in combination with other development in the area would be capable of having a significant effect on the designated habitats, that effect would be capable of being acceptably mitigated”.

#### Archaeology

- 2.54 The application has been accompanied by a desk based archaeological assessment, which suggests that the site has a moderate archaeological potential for remains of Romano-British and medieval date, with a lower potential for other periods. It is therefore considered that there is a reasonable likelihood that the site contains features of archaeological significance and, as such, it is recommended that a condition be attached to any grant of permission requiring that a programme of archaeological work take place.

#### Contamination, Drainage and Utilities

- 2.55 The site lies outside of any ground water protection zone and there is no history of contamination on the site. As such, Environmental Health have advised that contamination is not a constraint to development.
- 2.56 The application has been supported by an Air Quality Assessment which considers both the construction and operational phases of the development. The

assessment concludes that the impacts of the development on local air quality is not significant and new residents would not be affected by elevated levels of air pollution. The report identifies that mitigation to deal with fugitive dust emissions from the construction phase can be dealt with by a construction management plan. The development would not, therefore, cause any significant harm to air quality. Environmental Health have requested that the development provide electric charging points for electric vehicles. The NPPF does support the provision of renewable and low carbon technologies. At paragraph 105, it requests that policies for local parking standards should take into account “the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles”. Paragraph 110 requires that, within the context of only refusing development on highway grounds where there would be an unacceptable impact on highway safety or where the residual cumulative impacts on the road network would be severe, applications should “be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations”. Whilst there is, therefore, some support for the provision of electric vehicle charging points, there is no adopted planning policy for the provision of charging points for plug-in vehicles, whilst it is considered that it would be impractical to provide such infrastructure for individual dwellings. Therefore, it would be unreasonable to require such provision in this instance. Notwithstanding this, the design of the scheme, with car parking typically adjacent to dwellings and car barns/garages being provided to many properties, it is considered that the scheme lends itself to individual owners installing electric vehicle charging points if required.

- 2.57 The site lies in Flood Risk Zone 1 and, as such, is in an area with the lowest risk of flooding from rivers or from the sea. The location of the site is therefore sequentially preferable in terms of flood risk. Notwithstanding this, it remains necessary to consider whether the development would cause an increased risk of localised surface water flooding.
- 2.58 The application has been supported by a flood risk assessment and drainage strategy. Following an investigation of ground conditions and having dismissed the potential to discharge to a watercourse due to the location of the site, it has been concluded that the development should discharge to the existing public surface water sewer network under controlled conditions, with hydrobrakes used to control the flow. Surface water will be dealt with through the provision of a large cellular storage area, which has been designed to hold and slowly release 2070 cubic metres of rainwater. This would provide sufficient storage for a 1 in 100 year storm event plus a 40% allowance for climate change, in accordance with guidance (together with a further buffer of 10% for ‘Urban Creep’). The storage area would then allow for a restricted discharge into the surface water drainage network. This controlled flow can be accommodated within the local network. The development also proposes two areas of permeable paving within the site, which will provide improved drainage. Overall, the attenuation proposed will result in discharge rates from the development being comparable to the pre-development greenfield rate run off rate. Subject to a condition being attached to any grant of permission which requires that a scheme for the provision of surface water drainage infrastructure, together with a timetable for its implementation, it is considered that the development would provide adequate surface water drainage, without increasing the risks of localised flooding. The LLFA concur that

the attenuation proposed would ensure that off-site flood risk will not be exacerbated.

- 2.59 The existing foul drainage infrastructure on Woodnesborough Road has insufficient hydraulic capacity to meet the needs of the development without additional infrastructure being provided. The applicants were aware of this in March 2016, following early discussions with Southern Water. Subsequently, the applicants made a Section 98 Requisition Sewer application in June of 2016, to ascertain the likely downstream improvements which will be necessary and a preliminary scheme, subject to a detailed survey and detailed design, was provided. Within the site, the application proposes the installation of a new foul water pumping station which will accept all of the flows from the development. Off-site works will be required to upgrade the capacity of the network to accommodate the additional flows, which will be undertaken by Southern Water, albeit it is appropriate to ensure that the timing of the upgrades coincides with occupation to ensure that the risk of on or off site flooding is not increased. Subject to a condition being attached to any grant of permission requiring a detailed scheme for the provision of foul drainage infrastructure, together with a timetable for its provision and verification of its implementation, it is considered that the development will be adequately served, without increasing the risks of localised flooding.
- 2.60 Notwithstanding the above, Southern Water has confirmed that a public water main crosses the site, which will need to be located and protected during the course of construction. This will need to be secured by condition to prevent flooding. Southern Water has also advised that the development should ensure that there are no habitable rooms within 15m of the pumping station. The plans show that the nearest dwelling is around 16m from the pumping station. Finally, Southern Water has confirmed that they can provide a water supply to the site.

#### Contributions

- 2.61 Core Strategy Policy DM5 requires that for schemes of more than 15 dwellings an on-site provision of affordable housing, amounting to 30% of the dwellings proposed, will be required. However, the policy also acknowledges that the exact amount of affordable housing, or financial contribution, to be delivered from any scheme will be determined by economic viability, having regard to individual site and market conditions.
- 2.62 The applicant has confirmed that affordable housing will be provided on site and has provided a plan indicating the locations of the plots. In total 36 affordable houses will be provided, which equates to a policy compliant 30% of the total provision. These dwellings would be provided in two groups, although two dwellings would be set slightly away from one of these groups. It is considered that this layout provides a suitable balance between co-located affordable houses to allow for their efficient management and maintenance, such that they will be attractive to affordable housing providers, whilst avoiding large concentrations of affordable units. The identified affordable houses would comprise two one-bed units, twenty-three two-bed units and eleven three-bed units. The applicant has also confirmed that one of these affordable houses will be wheelchair adaptable,

in accordance with KCC's request. Subject to the affordable housing being secured, it is considered that the requirements of Policy DM5 will be met.

- 2.63 In accordance with Policy DM27 of the Land Allocations Local Plan, the development would also be expected to provide Open Space on site, or a contribution towards off-site provision, to meet the Open Space demand which would be generated by the development. In this instance, the application proposes an area to the Woodnesborough Road frontage which would provide an equipped play area of around 400sqm. In addition, there would be a large open area which could be used for informal play. Both of these areas are located such that they would be easily accessible for future occupants of the development. The applicant has confirmed that the play area would be provided with a suitable range of play equipment and the area would be maintained in perpetuity. It is considered that the provision of play equipment can be secured through a suitably worded condition, whilst the maintenance could be secured by a S106 Agreement. Subject to securing the provision and maintenance of this Open Space, it is considered that the requirements of Policy DM27 will be met.
- 2.64 It is noted that third parties have raised concerns that there is an area of Open Space with play equipment at Poulders Gardens, just a short walk from the site. However, no requests have been made to upgrade that facility, whilst the development has proposed a scheme which would meet the needs of the development and will be maintained. As such, it is concluded that the scheme is acceptable in this respect.
- 2.65 KCC have advised that the application would place additional demand on their facilities and services, for which there is currently insufficient capacity. The development would increase the number of school children within the area and, whilst it is advised that there is currently no need to increase the capacity of primary schools, a request has been made for a contribution of £436,194 towards the Phase 1 expansion of Sir Roger Manwood Secondary School. The development would also increase pressure on community learning, libraries and social care provision, for which there is currently insufficient capacity. Consequently, contributions have been requested towards projects in Sandwich to meet the needs generated by the development. In particular: £3,076.68 has been requested for equipment for community learning classes; £14,614.80 has been requested for large print library books; and £9,315.60 has been requested to increase the capacity of the Age Concern Care Centre.
- 2.66 Projects have been identified which would increase the capacity of each local facility. The identified projects are reasonably close to the application site and the construction or expansion of these facilities would meet the needs which would be generated by the development. KCC have not requested contributions towards primary school provision or youth services in the area, although they have not confirmed whether this is due to there being sufficient capacity to meet the needs of the development or the lack of an identified project.
- 2.67 It is considered that the requested contributions set out above are CIL compliant. Each has been demonstrated to be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development and in each case there

is an identified project. The applicant has confirmed that they are willing to provide the accepted contributions.

#### Other Material Considerations

- 2.68 The principle of the development is considered to be acceptable, being an allocated site within the settlement confines of Sandwich. Notwithstanding the primacy of the development plan, as described in the 'Principle' section, regard must be had for whether there are any material considerations which indicate that permission should be refused. Together with the material considerations which have been considered within the body of the report, which did not identify any harm which would warrant refusal, it must be acknowledged that the NPPF is a material consideration of significant weight. The NPPF provides a presumption in favour of sustainable development. Sustainable development can be split into three roles: economic, social and environmental.
- 2.69 The development would provide a short term economic benefit by providing employment during the construction phase. The development would provide housing which plays a role in facilitating economic growth. The development would also provide a significant increase in the local population, which would produce a corresponding increase in spending in the local economy. The site is allocated for housing and it has therefore been assessed by the Council to be in the right place to support growth.
- 2.70 In terms of the social role, the proposal would contribute towards the supply of housing supply and would accord with the aim of significantly boosting the supply of housing. The mix of housing proposed would deviate from the mix which has been identified as being required by the district, which detracts from the benefits of the housing being provided and weighs against the development. However, the provision of 30% affordable housing, or 36 dwellings, is considered to be of substantial weight. The development would necessarily alter the character of the site; however, it is considered that this impact has been kept to a minimum by virtue of the layout of the development, reduced density towards the west of the site and the use of landscaping. The development would be in an accessible location, close to local facilities and services.
- 2.71 In terms of the environmental role, the proposal would alter the character of the area, as set out above. It has been established that the site provides habitat for protected species; however, mitigation has been proposed to address this, whilst ecological enhancements have also been proposed. The location of site would reduce the need to travel.
- 2.72 Overall, it is considered that there are a number of significant benefits which must be attributed significant weight in favour of the development. Furthermore, the disbenefits of the development are limited and have been mitigated where possible. Overall, weighing up the various dimensions of sustainable development, it is concluded that the development is 'sustainable', as defined by the NPPF, providing support for the proposals.
- 2.73 The Inspectors Decision is also a material consideration of substantial weight, given that it considered a scheme almost identical to the current application and

given that it is recent. The Inspector found the development to be acceptable in all material respects with the exception of ecology; in particular the failure to secure an appropriate mechanism for the translocation of reptiles. This application has addressed this issue, providing details of the translocation, the receptor site and management of the site. As set out, the councils Principal Ecologist has confirmed that these details are acceptable and, adopting this advice, it is concluded that the Inspectors concern has been overcome.

### **Overall Conclusions**

- 2.74 The principle of the development is considered to be acceptable, according with Policy LA16 of the Land Allocations Local Plan, with the development meeting the criteria of this policy. It is acknowledged that genuine concerns have been raised by third parties and Town and Parish Councils regarding the potential impacts on highway safety and traffic. However: the proposed access point accords with the requirements of Policy LA16 of the Land Allocations Local Plan; the access has been assessed by KCC Highways and Transportation and was found to be acceptable; a safety audit has been carried out and passed; and the access was considered by the Inspector, who concluded that the access was acceptable and that off-site works proposed would satisfactorily address impacts on the highway network. Consequently, it is concluded that the access to the site would be safe and would not cause unacceptable highway impacts. It is considered that the development is acceptable in all other material respects and would provide significant benefits. It is therefore recommended that this application is granted.

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### **Recommendation**

- I PERMISSION BE GRANTED subject to a Section 106 legal agreement to secure necessary planning contributions, provision of affordable housing, reptile translocation, ecological mitigation and the provision and maintenance of play space, and subject to conditions to include:
- (1) approved plans; (2) provision of off-site highway work; (3) construction management plan; (4) provision of measures to prevent the discharge of water onto the highway; (5) provision of vehicle parking and turning areas; (6) provision of cycle parking; (7) provision of alterations to the ES10, including surface material to be used and details of bollards; (8) completion of certain works to the access roads prior to the occupation of dwellings; (9) provision of visibility splays; (10) scheme for the provision of foul drainage, including an implementation timetable and verification report; (11) scheme for the provision of surface water drainage, including an implementation timetable and verification report; (12) archaeology; (13) ecological mitigation and enhancements; (14) identification of the exact position of the water main and details for its protection; (15) protection of existing trees and hedges to be retained; (16) details for excavations near trees; (17) detailed landscaping scheme, including details of replacement trees; (18) samples of materials; (19) provision of refuse and recycling facilities.
- II Powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions and to agree a S106 agreement in line



with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Luke Blaskett