

# Public Document Pack



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2 October 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 10 October 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. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Chief Executive

Planning Committee Membership:

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

AGENDA

- 1 **APOLOGIES**  
To receive any apologies for absence.
- 2 **APPOINTMENT OF SUBSTITUTE MEMBERS**  
To note appointments of Substitute Members.

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

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

4 **MINUTES**

To confirm the minutes of the meeting of the Committee held on 12 September 2019 (to follow).

5 **ITEMS DEFERRED**

There are no deferred items.

**ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING**  
(Pages 5-8)

6 **APPLICATION NO DOV/19/00962 - 16 LOOP STREET, SANDWICH** (Pages 9-15)

**Alterations to existing dwelling including lowered parapet with handrail, wirework screens, new 1.8-metre high brick wall with timber gate and formation of two parking spaces (existing double garage to be demolished)**

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

7 **APPLICATION NO DOV/19/00669 - LAND BETWEEN NUMBERS 107 AND 127 CAPEL STREET, CAPEL-LE-FERNE** (Pages 16-43)

**Outline application for the erection of 34 dwellings and means of access with associated landscaping (appearance, landscaping, layout and scale reserved)**

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

8 **APPLICATION NO DOV/19/00907 - 65 CORNWALLIS AVENUE, AYLESHAM**  
(Pages 44-52)

**Change of Use to hot food takeaway (class A5), erection of extraction flue to rear, access ramp and hoop guards to front, and external alterations to windows and doors**

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

9 **APPLICATION NO DOV/19/00968 - HAM BARN, UPDOWN ROAD, HAM, NORTHBOURNE** (Pages 53-69)

**Erection of a detached dwelling with associated garden and parking**

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

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

### **10 APPEALS AND INFORMAL HEARINGS**

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

To consider the report (to follow).

### **11 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.

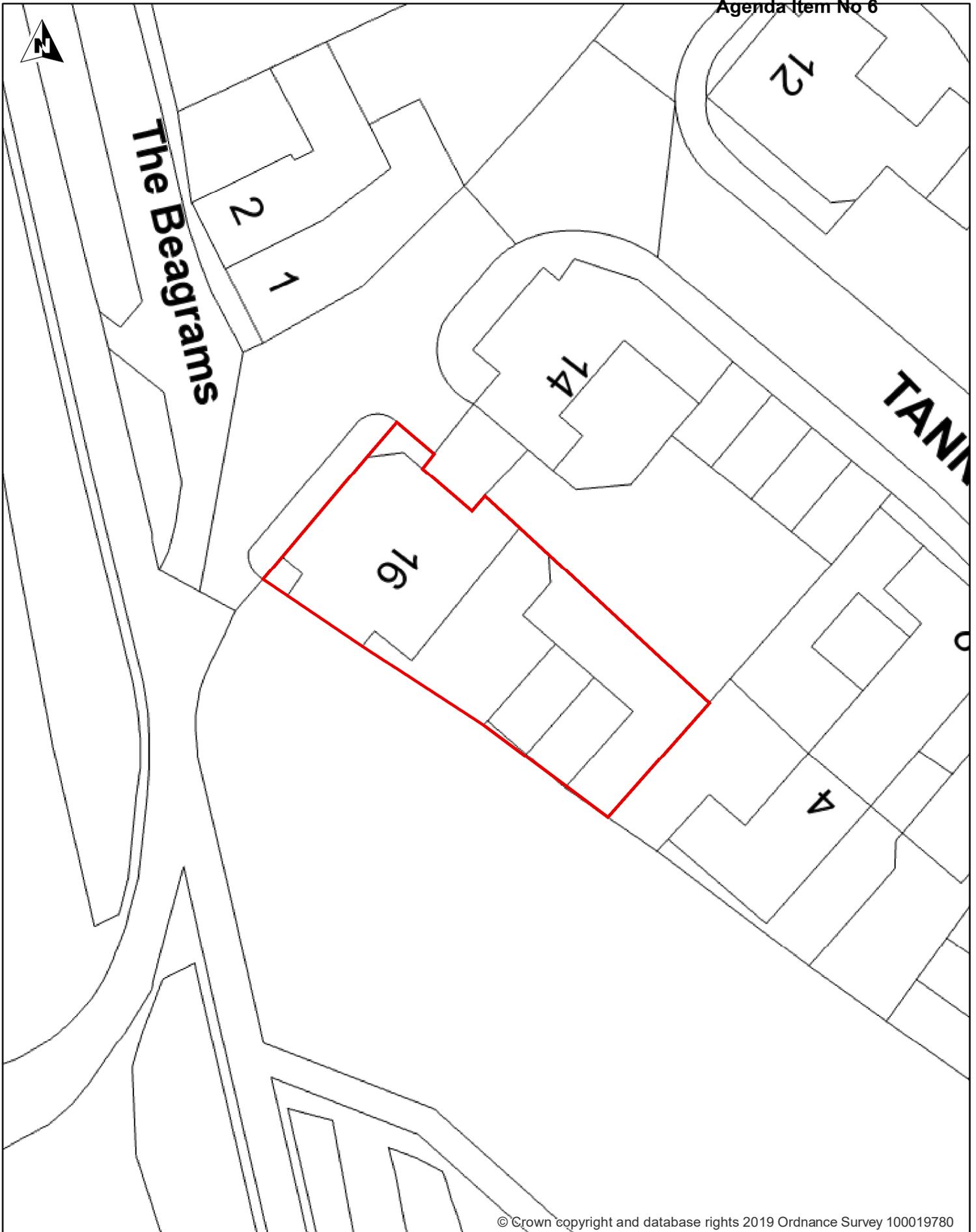
The Committee needs to bear in mind that its decision may interfere with the rights of particular parties, particularly under Article 8 and Article 1 of the First Protocol. The decision should be a balanced one and taken in the wider public interest, as reflected also in planning policies and other material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



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DOV/19/00962

16 Loop Street  
Sandwich  
CT13 9HE

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/19/00962 – Alterations to existing dwelling including lowered parapet with handrail, wirework screens, new 1.8-metre high brick wall with timber gate and the formation of two parking spaces (existing double garage to be demolished) - 16 Loop Street, Sandwich**

Reason for Report: Number of contrary responses (9 third-party objections)

b) **Summary of Recommendation**

Planning permission be granted.

c) **Planning Policy and Guidance**

Dover District Core Strategy 2010

- DM1 - Development within the built confines.
- DM13 – Parking

National Planning Policy Framework (NPPF) 2019

- Paragraph 8 – the three objectives of sustainability.
- Paragraph 11 – presumption in favour of sustainable development.
- Paragraph 91 – promoting safe communities.
- Paragraph 95 – Public safety and security.
- Paragraph 127 – achieving well-designed places.
- Paragraph 130 – permission should be refused for poor design.
- Paragraphs 189 and 196 – Development in a conservation area.

d) **Relevant Planning History**

DOV/90/01441 – Erection of 54 dwelling units – Granted.

e) **Consultee and Third Party Responses**

DDC Environmental Health: No observations

Kent Police (Design Out Crime): The garage was likely ‘designed in’ as a defensive barrier and for privacy. The removal of the garage losing the height and form of the pitched roof would be a security concern. It was suggested that the planting of 1.5m deep hedging to both sides of the boundary wall would help overcome this concern.

Third Party Reps: 9no. objections and are summarised below:

- The removal of the garage would impinge on the overall vision for this ‘award winning’ development.
- The replacement of the French doors would be out of keeping.
- The proposed awning would be out of keeping.
- There are no other examples of timber fences and gates to parking areas within the development.
- The loss of the garage would impact upon privacy: firstly to the courtyard, application site and the rear of No.14 Loop Street, and result in a loss of privacy to Nos. 2 and 4 Tannery Lane.
- There would be a loss of overall balance to the development when viewed from The Butts; 3no. garages have been ‘strategically placed’ along the boundary.

- Given the elevated position of The Butts, security would be reduced with the increased views into the courtyard.

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

- 1.1 16 Loop Street is a semi-detached dwelling located within a new-build (1990s) development within the Sandwich (Walled Town) Conservation Area which benefits from an Article 4(2) direction. It is located adjacent to The Butts, a Scheduled Ancient Monument (AM) at the south-western end of Loop Street. It is a three storied brick, 'neo-Georgian', single family dwelling which has been formed from the merging of two smaller dwellings. There is a rear parking court which is accessed via a 'carriageway' located between Nos. 14 and 16 Loop Street. There are 4no. garages to the rear of No. 14 and a double garage and open parking space to the rear of No.16. The rear (south-east) boundary of the parking court is shared with Nos. 2 and 4 Tannery Lane. The parking court is enclosed by 1.8m high brick walls and the rear elevations of the garages.
- 1.2 The application site forms part of the wider Tannery development which was designed to reflect the character of the historic core of Sandwich. It received developer awards at the time and was a good example (of its time) of a 'modern' intervention within a historic setting. The overall development remains largely unchanged (albeit with a few exceptions) and is formed a numerous smaller dwellings. Whilst No.16 forms part of the development, its location is on the very edge of the development and faces the more varied architecture on the other side of Loop Street and The Butts.
- 1.3 The nearest residential neighbours are No. 14 Loop Street and Nos. 2 and 4 Tannery Lane. No. 14 is attached to No. 16 via a flying freehold over the shared vehicle access and is to the north-east of No. 16. Nos. 2 and 4 Tannery Lane are located to the south-east beyond the 1.8m high brick boundary wall. There is approximately 15m between the rear elevations of No. 16 and No. 4.
- 1.4 The application seeks to make a number of changes to the existing dwellings which include:
- lowering of the brick parapet to the second floor balcony (existing) by several brick courses and the installation of black metal railings designed to match the railing/barrier designs within the development.
  - lowering the brick wall adjacent to the main entrance door (in the north-western corner of the Loop Street elevation) and the installation of a wirework trellis screen.
  - replacing the front and 'side door' (located within the vehicle access between Nos. 14 and 16) steps with tiled ramps within the same footprint.
  - replace existing railing to side door with wirework trellis (low level) and install a wirework screen to serve as a bin store.
  - install a replacement, non-glazed side door.
  - installation of bi-fold doors to replace the existing French doors to the rear elevation at ground floor level.

- demolition of the existing 2-car garage and the reduction in height of the gable to align with existing boundary walls.
- formation of 2no. open parking spaces which would make use of hardstanding to match the main parking court.
- erection of a 1.8m high brick wall to enclose an extension to the rear garden area, including a new timber pedestrian gate.
- re-orientation of the rear stairs from the terrace to the parking court and formation of a planter.

1.5 The proposal has been amended during the course of consideration. Part of the front elevation of the host dwelling was to be rendered and a timber fence with vehicle gates was to be erected to the rear of the site (following the demolition of the garage). These were not considered acceptable and were removed from the proposal.

## **2. Main Issues**

- 2.1
- Principle of development
  - Impact on the Conservation Area and the visual amenity of the street scene
  - Impact on residential amenity
  - Parking
  - Designing Out Crime

### **Assessment**

#### Principle of Development

2.2 The site is within the settlement confines of Sandwich and as such, is in line with Policy DM1 of the CS subject to other material considerations. Policy DM1 is considered to be up-to-date in this instance. A number of the alterations would normally be considered permitted development however, by virtue of the Article 4(2) direction relating to the conservation area, planning permission is required.

#### Impact on the Conservation Area and the Visual Amenity of the Street Scene

2.3 The majority of the proposed alterations are minor and would have a negligible impact upon the character and appearance of the conservation area or the visual amenity of the street scene. The reduction of the parapet height at second floor level would be visible only from The Butts and at an acute angle upwards. The railings would be affixed to the inside of the parapet and would therefore be largely screened. The reduction in height of the brick screen beside the main entrance and the installation of a traditional wirework trellis would open the views to the front door more whilst still retaining some sense of the enclosure of the original design. The alteration of the front and side steps to form tiled ramps would not result in any undue prominence within the CA or the street scene. The replacement of the existing deteriorated railing to the side door with wirework trellis (low on the side and higher to the rear to act as a screen to the bin store) would not be out of place on the host dwelling albeit a form of enclosure which is not typical of the development (but is within the 'neo-Georgian ethos'). The replacement side door does not raise any concerns however details can be secured by condition. The alteration and widening of the French doors to install bi-fold

doors would only be partially visible in public views but given the detailing would largely match the existing doors, would not result in an unsympathetic alteration to the property. The first floor of the rear elevation is clad in dark timber weatherboarding. The proposed awning would be housed in a dark timber boxing to match the weatherboarding and would therefore not be unduly visible when closed. The awning would be visible when open but as it is proposed to use an awning fabric to match the render colour (off-white/cream), even when in use, would not be unsympathetic or unduly incongruous. Finally, the proposed alteration to the rear steps and the formation of a planter would not raise any concerns and could actually be carried out under permitted development. Whilst there would be some cumulative impact of all of these small changes, it is not considered that this impact would result in any harm to the conservation area or to the visual amenity of the street scene.

- 2.4 The demolition of the existing two car garage would have more impact upon the application site. A number of third party concerns have been raised with regard to the impact the demolition of the garage (and thereby the boundary gable) would have on the setting of The Butts. The Butts are within the conservation area so views from this public footpath would be material considerations. The loss of the garage would not be highly visible from either Loop Street or Tannery Lane and as such, the discussion will be limited to the views from The Butts. The Sandwich (Walled Town) Conservation Area benefits from an Article 4(2) direction and as such, DDC Heritage was consulted. Given the modern nature of the wider development and of the application site itself, DDC Heritage did not consider that the proposal, including the loss of the existing garage, would result in any harm to the character and appearance of the conservation area.
- 2.5 The ridge of the pitched roof (with gable ends facing into the parking court and towards The Butts) of the existing garage sits 1.8m above the main boundary fence. As there are views into the parking court to either side of the roof due to the slightly elevated height of the footpath at this point, the loss of the garage will result in wider views of the parking court and 4no. garages behind No. 14. However, the garages are already partially visible so the removal of the garage to the rear of No.16 would not reveal a feature currently screened from the conservation area or the public footpath. The garages to the rear of No. 14 have been designed sympathetically and revealing a wider view of them would not result in harm to the character and appearance of the conservation area nor harm the visual amenity of the street scene.
- 2.6 It has been noted by a third party that the garage to be demolished is one of 3no. garages abutting the development boundary with The Butts and the removal of one would unbalance this elevation. However, when the development is viewed in aerial photographs, the other 2no. garages appear to carry on the pattern of dwellings rather than garages; they are located on opposite sides of an otherwise open courtyard. The application site, when viewed with No.4 would appear to have a similar relationship to this boundary (without the garage) and as such, the loss of the garage is unlikely to result in a harmful unbalancing of the boundary of the wider development to the detriment of the conservation area or the street scene.
- 2.7 To conclude, whilst the concerns raised with regards to the impact the proposed changes could have on the conservation area and the street scene are noted, this is a modern dwelling within a modern development. Whilst the

site is within a historic setting, it can accommodate some change. It is concluded that the cumulative impact of the proposed alterations would not result in harm to the character and appearance of the conservation area or to the visual amenity of the street scene. Overall therefore, the proposal is considered to be in line with Paragraphs 127, 130, 189 and 196 of the NPPF.

#### Impact on Residential Amenity

- 2.8 Whilst the majority of the proposed alterations would have no amenity implications, there are two aspects of the proposal which would raise concerns with regards to existing residential amenity and need to be fully evaluated. The reduction in height of the parapet around the second floor balcony could result in an increased opportunity for overlooking to neighbours. However, the windows and access to this balcony face over The Butts. One must be physically outside on the balcony to overlook any neighbour and the lowering slightly of the parapet does not alter this situation or increase the opportunity for overlooking, loss of privacy or interlooking. It is considered that this aspect of the proposal would not result in any harm to existing residential amenities.
- 2.9 However, the roof of the existing garage does provide some level of screening between the application dwelling and No. 4 to the rear. Without the roof, there would be views towards No. 4 from an additional first floor rear window. Whilst this increases the opportunity for overlooking, this window serves the same bedroom as a second rear-facing window which is not screened by the garage roof. The presence of the existing brick boundary wall and a shed in the garden of No.4 also serve to screen views into the ground floor kitchen area. There is 15m between the two dwellings. This is less than the 'rule of thumb' for new-build developments which would seek 20 to 21m between rear elevations to avoid interlooking. Given there is already the opportunity for interlooking between the dwellings as originally built, it is considered that the increase in interlooking resulting from the loss of the garage, would not result in undue harm to the existing residential amenities of either dwelling. The proposal is considered to comply with Paragraph 127 (f) of the NPPF in this regard.

#### Parking

- 2.10 The proposal would result in the loss of 1no. off-street parking space. Under Policy DM13 of the CS, a single family dwelling within the urban area would require 1 no. allocated parking space under current guidance. 3 no. parking places were originally required as this dwelling was originally built as two separate dwellings. As one single family, 4-bedroom dwelling, the loss of 1 no. parking space with the retention of 2no. parking spaces would be in line with Policy DM13 of the CS and not result in increased parking pressure locally. It is noted that under current legislation, parking in garages is not counted when assessing parking provision so it could be seen to be increasing parking provision by 1 no. space.

#### 'Designing Out Crime'

- 2.11 Paragraphs 91 and 95 of the NPPF seeks to secure proposals which integrate crime prevention or mitigation measures. Kent Police's Designing Out Crime Unit (DOCOC) has raised concerns that the increased visibility of the parking court and the rear of No.14 and 16 from The Butt, could result in increased safety concerns. DOCOC also noted that the existing garage was

likely 'designed in' as a defensive barrier and privacy screen. There is no evidence in the original case files that this was a conscious decision to design out crime, a concept which was largely unused in the 1990s. As noted in Section 2.4 above, there are areas of the boundary wall within the application site which are lower than the gabled roof of the garage and any access to the rear parking court over the boundary wall is already possible, with the roof of the garage screening the potential access point. The garages are also already partially visible so it would not reveal 'unknown' targets. If anything, the more open nature of the parking court following the demolition would be likely to increase the visibility of any unwanted activity in the parking court. Regardless, it is considered that the concerns raised on safety grounds are not sufficient to warrant a refusal given all other aspects of the proposal are considered acceptable. The recommendations of DOCO are also impractical given the suggested planting of 1.5m deep hedging to both sides of the boundary wall would reduce the possible parking provision and require planting on land outside of the applicants' ownership and therefore unreasonable in planning terms.

### **Conclusion**

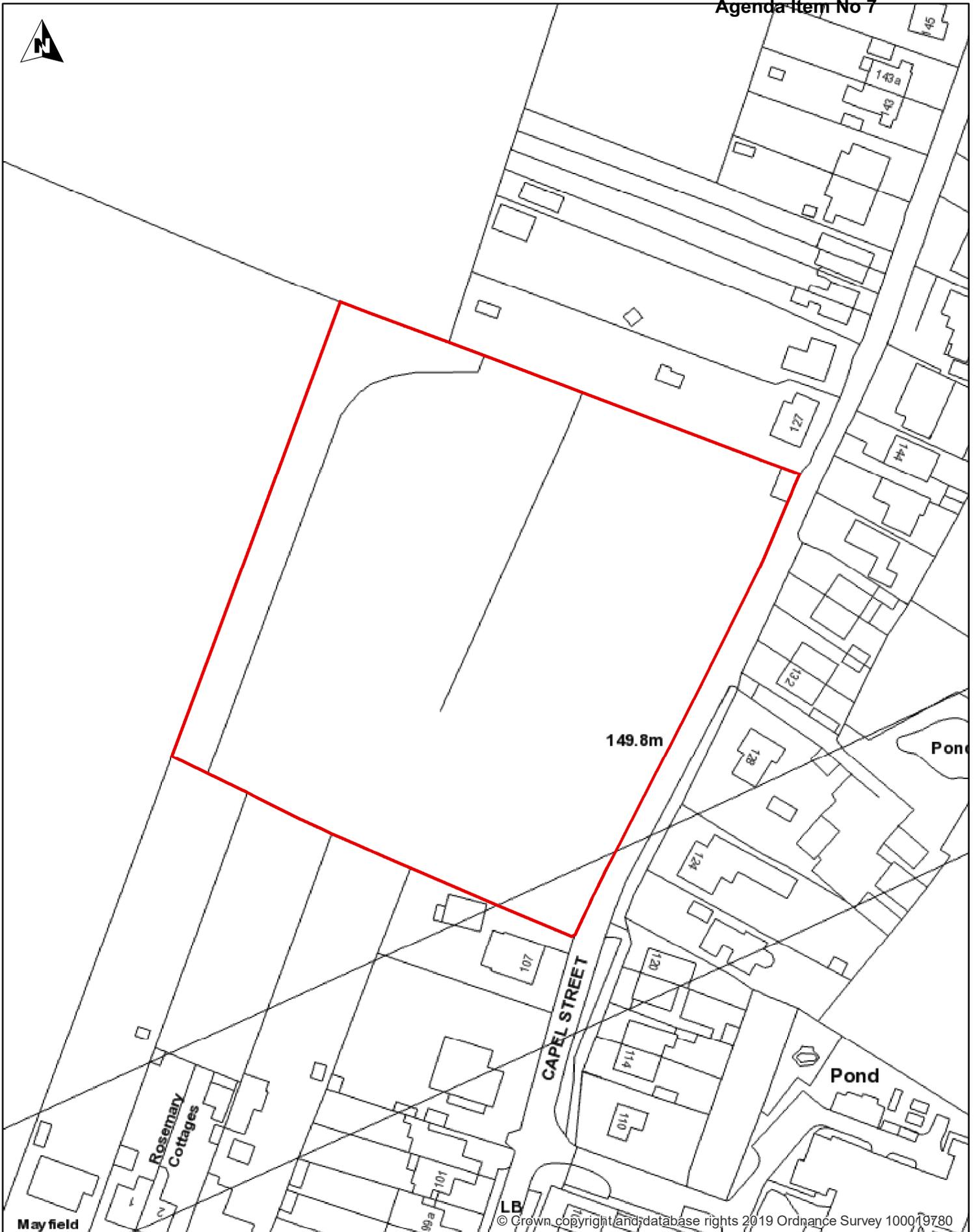
- 3.1 The principle of the development accords with Policies DM1 and DM13 of the CS. The proposed alterations to the application site would not result in any harm to the character and appearance of the conservation area, the visual amenity of the street scene or to residential amenity. Adequate off-street parking would be retained without resulting in increased safety concerns. As such, the proposal would accord with Paragraphs 127, 130, 91, 95, 189 and 196 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) Sample of brick to be used in rear garden wall
  - 4) Details to be submitted to show the finishing of the lowered parapet, wall adjacent to the main entrance door and boundary wall to The Butts
  - 5) details of the proposed railings and wirework screens.
  - 6) details of the housing box for the awing and colour of awning.
  - 7) new parking spaces shall be laid to hardstanding matching that used in the parking court.
  - 8) details of replacement side door.
- 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/19/00669

Land Between Nos 107 And 127  
Capel Street, Capel Le Ferne  
CT18 7HB

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/19/00669 - Outline application for the erection of 34 dwellings and means of access with associated landscaping (appearance, landscaping, layout and scale reserved) – Land between Nos 107 and 127 Capel Street, Capel-le-Ferne**

Reason for report - Number of contrary views (100).

- b) **Summary of Recommendation**

Planning permission be granted subject to conditions and S106 agreement

- c) **Planning Policies and Guidance**

Legislation

Planning and Compulsory Purchase Act 2004

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise”

Core Strategy Policies (2010)

CP1 - Settlement Hierarchy  
CP3 - Distribution of Housing Allocations  
CP4 - Housing Quality, Mix, Density and Design  
CP6 - Infrastructure  
DM1 - Settlement Boundaries  
DM5 - Provision of Affordable housing  
DM11 - Location of Development and Managing Travel Demand  
DM12 - Road Hierarchy and Development  
DM13 - Parking Provision  
DM15 - Protection of Countryside  
DM16 - Landscape Character  
DM17 - Groundwater Source Protection

Land Allocations Local Plan (2015)

LA26 - Land between 107 & 127 Capel Street  
DM27 - Providing Open Space

National Planning Policy Framework (NPPF) (2019)

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 - Identifies the three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles.

Paragraph 11-12 - Presumption in favour of sustainable development for decision-taking. For decision taking this means approving development proposals that accord with the development plan without delay unless adverse impacts significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.

Paragraph 38 - LPA's should approach decisions on proposed development in a positive and creative way and work pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision makers should seek to approve applications for sustainable development where possible.

Paragraph 59 – To support the Governments objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

Paragraph 78 – To promote sustainable development in rural areas, housing should be located where it will enhance the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.

Paragraph 108 – Applications for development should make appropriate opportunities to promote sustainable transport modes, provide that safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network in terms of capacity and congestion) or on highway safety can be mitigated.

Paragraph 109 - Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 117 – Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, whilst safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 122 – Planning policies and decisions should support development that makes efficient use of land, taking into account (amongst other considerations) the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and healthy places.

Paragraph 123 – Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site.

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

Paragraph 127 – Planning decisions should ensure that developments:

- Will function well and add to the overall quality of the area, for the lifetime of the development;
- Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

- 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, with a high standard of amenity for existing and future users and where the fear of crime does not undermine the quality of life.

Paragraph 128 – Design quality should be considered throughout the evolution and assessment of individual proposals. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably.

Paragraph 130 – Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards.

Paragraph 148 – The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise, vulnerability and improve resilience; encourage the reuse of existing resources, support renewable and low carbon energy and associated infrastructure.

Paragraph 163 - When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.

Paragraph 170 - Planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, recognising the wider benefits of ecosystem services and minimise impacts on biodiversity and providing net gains in biodiversity. Recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services. Preventing both new and existing development from contributing to or being put at unacceptable 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 unstable land, where appropriate.

Paragraph 172 - Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The scale and extent of development within these designated areas should be limited.

Paragraph 175 - When determining planning applications, local planning authorities should apply the principles to conserve and enhance biodiversity and development proposals where the primary objective is to conserve or enhance biodiversity should be permitted, opportunities to incorporate biodiversity in and around developments should be encouraged and planning permission should be refused for development resulting in the significant loss or deterioration of irreplaceable habitats, including SSSI's, ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

Paragraph 177 – 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,

unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

Paragraph 178 - To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 180 – Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. This includes noise from new development and the need to avoid noise giving rise to significant adverse impacts on health and the quality of life, identify and protect tranquil areas prized for their recreational and amenity value and limit the impact of light and pollution for artificial light on local amenity, intrinsically dark landscapes and nature conservation.

DDC Affordable Housing and Addendum SPD (2011)

Kent Design Guide (2005)

Kent Downs AONB Management Plan (2014)

SD1 – Sustainable Development

LLC1 – Landform and Landscape Character

**d) Relevant Planning History**

There is an extensive planning history; the most recent and relevant are listed below:

DOV/01/00924 - Erection of stables and hay store - Granted

DOV/96/01006 - Erection of 23 No. 2, 3 & 4 bed roomed houses with garages and access road – Refused - Appeal Dismissed

DOV/96/00222 - Erection of 23 No. 2, 3 & 4 bed roomed houses with garages and access road - Refused

DOV/16/01316 - Outline planning permission for the erection of 10 flats in 2 no. blocks (6x1 bed and 4x2 bed); and 31 dwellings (10x2 bed, 15x3 bed and 6x4 bed); plus associated access and parking (with appearance, landscaping and scale reserved) – Refused – Appeal Dismissed

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

Infrastructure and Delivery Officer – A contribution of £1900 will be required towards the Sandwich and Pegwell Bay access mitigation strategy to address its increased use.

The proposed development will be located close to the existing recreation ground and play area on Lancaster Avenue, which is owned and managed by the Parish Council. The distance between the development site and the play area is a little over

300m or around 450m along existing roads, which falls within the 600m accessibility standard set out in DM27 of the Land Allocations Document. The evidence supporting our adopted open space standard for children's equipped play is presented in the 'Review of Play Area Provision 2012-2026'. It includes the following text:

- Developments that are located outside the catchment of existing play facilities may give rise to the need for new play facilities.
- In other cases it may be more appropriate to secure an off-site contribution via a planning agreement, to increase the capacity of existing provision.

Therefore, provided that access to the existing play area can be improved, it would not be necessary to provide equipped play on site. A suitably scaled contribution for play may be calculated as follows: according to the adopted open space standards the additional need for children's equipped play space is 0.006 ha. The average play area size in our district is 0.01 ha and the cost of creating a Local Area for Play and providing fifteen years of maintenance has been calculated as £42,520 which equates to a commuted sum of £32,330 presuming interest at 2%. So the need created by this development equates to around 60% of a play area, which would result in a contribution of £19,400. If we also considered the additional need arising for outdoor sport facilities that might increase the level of contribution required, although the recreation ground does not provide formal pitch provision. It is stated that multifunction open space will be provided on site. The only other category to consider is the additional need for allotment or community gardens.

DDC Ecologist – I have reviewed the suite of ecological survey reports submitted and accept their findings. They make recommendations for mitigation of impacts upon protected species including foraging bats and badgers to include:

- A bat sensitive lighting scheme, this should follow the Bat Conservation Trust and Institution of Lighting Professionals guidance.
- Working exclusion zones around active badger setts during development along with a suite of best practice procedures during the construction phase. The recommendation is for a 10-metre zone around each sett to be left undeveloped with badger proof fencing erected to the southern, eastern and northern sides of these setts. This fencing will need to be maintained throughout construction and post development and its' suggested that it is promoted as a wildlife area to new residents of this site. The importance of the wide hedgerow along the western boundary as commuting route is also highlighted and the recommendation is to maintain its current width.

The only recommendation for ecological enhancement is the development of new hedge-lines and herbaceous borders, within the planned development zone. To achieve biodiversity net gain as required by the NPPF 2019, I advise that the following are considered:

- Provision of hedgehog nesting boxes and 12cm square gaps under any new fencing to allow hedgehogs access onto all garden areas.
- Provision of ready-made bird boxes (mix of open-fronted and hole-nesting boxes)
- Integral Swift bricks or external boxes
- Provision of bat roosting spaces within the new buildings or installation of ready-made bat boxes.
- Provision of reptile/amphibian hibernacula (as stand alone or within new walls)
- Provision of log piles for invertebrates- stag beetles, reptiles and amphibians.
- Green walls
- Establish wildflower areas in addition to amenity grassland

- Integration of Sustainable Urban Drainage Systems
- Integration of green or grey roofs

#### Habitat Regulations Assessment

The current Thanet Coast Mitigation Strategy recognises the possible cumulative impacts of recreational pressure caused by developments within the whole of the Dover district. The conclusion that the distance of this development (20km) from the Thanet Coast & Sandwich Bay SPA/Ramsar is too great for the proposal to have any impact and reference is made to making financial contributions to the Thanet Coast Mitigation Strategy. Reference is also made to possible impacts upon Folkestone to Etchinghill Escarpment SAC but its stated that the scale of the proposal will not affect protected species. The report makes no assessment of what the possible pressures might be. I would suggest that the only likely significant effect is recreational pressure, leading to erosion of the chalk grassland the notified feature. The applicants therefore should consider why use of the SAC by the new residents would not have an adverse effect upon its integrity.

DDC Environmental Health - No objection, subject to conditions relating to discovery of potential contamination and hours of construction.

DDC Strategic Housing – Across the Dover District there is a need and a demand for affordable rented properties of all sizes. In addition, there is a demand for homes to be made available for sale via Low Cost Home Ownership schemes such as shared ownership - in particular there is demand for 2 bedroom houses as starter homes. This development proposes 10 affordable homes, which is in line with DDC policy for a development of this size and type. Of these properties, 7 should be for affordable rent and 3 for shared ownership. In order to meet the demand for low cost home ownership starter homes, the shared ownership homes ideally should be 2 bedroom houses, and the affordable rented homes should be 5 x 3 bedroom houses and 2 x 2 bedroom houses.

KCC Highways and Transportation – Initial concerns were raised in respect of various highway matters which need to be addressed, such as, minimum carriageway width, proposed pedestrian crossing point, conflict with on street parking, shared service requirements, location of off-street car parking and required visibility splays. In addition traffic levels and demand and trip generation of development need to be clarified. A safety audit is also required for all the highway alterations in Capel Street, including any amendments.

Following amendments to the site layout and the submission of additional information KCC Highways have the following comments:

I refer to the amended plans and additional information submitted and confirm I now raise no objections in respect of highway matters. The site is allocated in the adopted Local Plan under policy LA26 for an estimated 40 dwellings and therefore the principle of development has been accepted. I also note the appeal Inspector's conclusion on the previous application DOV/16/01316 that the proposed similar access arrangements were satisfactory.

The proposals are likely to generate approximately 19 two-way vehicle movements in the morning and evening network peak hours. Whilst the existing level of traffic in Capel Street is generally of a low level, there is clearly a significant increase in traffic during drop-off and pick-up periods for the nearby school, with the associated parking demand and consequent narrowing of the road to single way working in the section near the school. There are some existing accesses which prevent parking and therefore provide passing places/give way points but some of these are of insufficient length and make manoeuvring more difficult. Over time there may be a few places at

the school taken by pupils in the new development, reducing the number of pupils being driven to the school from further afield and therefore the number of vehicle trips in Capel Street. However, the development is still likely to lead to an increase in vehicle movements overall, particularly in the combined morning peak hour/school drop-off period. As such the development proposals include improvement of passing places in the section of Capel Street near the school, to assist with the flow of traffic particularly during the morning peak period. These improvements take the form of parking restrictions in the following locations:

- i) Between (and encompassing) the accesses to numbers 82 and 84 Capel Street
  - ii) Across the accesses to numbers 96 and 98 Capel Street, but extended sufficiently to provide sufficient room for a car to readily manoeuvre in/out of the passing place.
- These add to existing passing areas to create adequate two-way flow and passing opportunities at regular intervals to accommodate the additional traffic from the development.

The site access arrangements include minor widening of Capel Street where necessary along the site frontage to enable vehicles to pass each other and the provision of a footway linking the site to the existing footway network in Capel Street, providing pedestrian access to the school, bus stops and the wider village. The access arrangements require parking restrictions to maintain appropriate visibility at the proposed pedestrian crossing point and site accesses in Capel Street. Whilst this may remove a small amount of on-street parking, some additional unallocated parking can be made available within the new site and the reallocation of some school places to children living on the new development should help to reduce the demand for on-street parking at school drop-off and pick-up times.

A Traffic Regulation Order (TRO) would be required for the parking restrictions and this can be made by Kent County Council as the highway authority. According to advice to Planning Inspectors TROs must be made for qualifying purposes including avoiding danger to persons or traffic and facilitating the passage of traffic, which clearly apply in this case. Traffic flow and highway safety should be the primary concerns in relation to introducing a prohibition of waiting rather than matters of inconvenience or change. Therefore, if KCC is satisfied that the TRO is required and is the correct form of mitigation then they are in a position to dismiss erroneous objections and make the Order. The TRO could therefore be reasonably secured through a planning condition or s.106 agreement, with the drawings which highlight the TRO also referred to as approved drawings in the decision notice.

All the proposed highway alterations have been subject to an independent safety audit and can be carried out by the developer through a s.278 agreement with the highway authority.

Construction traffic and timing/routing of the same, associated parking/turning areas and wheel washing facilities can be dealt with by condition through a Construction Management Plan.

Taking all of the above into account the proposals are unlikely to have a severe impact that would warrant a recommendation for refusal on highway grounds. Highway conditions should be secured. Whilst not currently a policy requirement, I would request that all curtilage parking spaces are fitted out to allow the charging of electric vehicles.

KCC Flooding and Waste Management - No objection subject to further testing to be undertaken prior to the design stage to ensure adequate cellular storage capacity and conditions relating to further design details at reserved matters stage, a detailed SuDS scheme and its management and verification.

KCC - Economic Development – Financial contributions are requested from the developer for the enhanced provision and projects towards community services to include:

- Secondary Education
- Community Learning
- Social Care
- Libraries

These contributions total £145,053.68 to be secured through a Section 106 Legal Agreement as part of any submission. In addition, 1 Wheelchair Adaptable Home should form part of the social housing proposals and the provision of Fibre Optic Broadband across the site should be provided.

KCC Public Rights of Way Office - No comments to make.

Southern Water - No objection as they can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

Environment Agency - No objections and development should cause no significant risk to the environment if developed appropriately, subject to conditions including no infiltration and contamination safeguarding and informatives in respect of pollution prevention and waste control.

NHS South Kent Coast CCG – No healthcare contribution is being sought in respect of this development.

Kent Downs AONB Unit – No comments submitted

Kent Police Crime Prevention – No objections in principle subject to a condition for measures to minimise the risk to crime to be submitted and approved.

Kent Fire and Rescue – The means of access is considered satisfactory.

Capel-le-Ferne Parish Council - Objects to the application and cannot support for the following reasons:

One of the reasons given for dismissing the previous outline planning application was: the harmful environmental effect the works would have on the character and appearance of the street scene would outweigh the social and economic benefits of the proposed development. Whilst accepting this application has removed the blocks of flats, the site still appears to be overdeveloped and at odds with the street scene in this part of Capel-le-Ferne. An example of the density of development in this part of Capel-le-Ferne can be seen in Elizabeth Drive, which runs to the rear of Capel Street. This estate was built on a parcel of land that is of similar size to the Capel Street plot, but there are only 21 dwellings on this plot. By further reducing the density of development in this application, it would satisfy the concerns with the character and appearance of the street scene for this part of Capel, but also alleviate the concerns regarding traffic congestion in Capel Street.

The application claims the proposal will meet the social dimension of the sustainable development balance by contributing to meeting the need for affordable housing in the district. The proposal will deliver an affordable housing provision of 30% which is in line with and Policy DM 5 of Dover's Adopted Core Strategy (2010). The affordable

housing for this site will total 10 units, 5 x 2 bed and 5 x 3 bed units. It is difficult to understand how the 3 bed units will come under the affordable housing umbrella.

The responses to the 2019 Capel-le-Ferne Community Plan indicated that only 8% of Parishioner were between the age of 19 and 44, indicating that there was insufficient affordable housing for that age group. Capel-le-Ferne needs more 2 bed units and less 4 bed units.

Additional comments: continue to object to this application and submit further comments:

The Road Safety Audit - According to Para. 1.3, Capel Street appears to have reverted to a 30MPH speed limit. PLEASE NOTE this is a 20MPH ZONE LIMIT. Traffic exceeds this 20mph, with some drivers travelling more than 50% of the speed limit, as can be proved by Parish Council Speed Watch data over the last year. With a wider road and double yellow lines, i.e. no parked vehicles, this will lend Capel Street to become a much faster Street in the future, with the drivers who use this route now to/from Dover. The proposal of a new estate in this rural one lane location would increase the volume of traffic, adding to the likelihood of more vehicles speeding and spoiling the tranquillity of Capel-le-Ferne.

Parish Council do not understand the lining plan document, as this shows double yellow lines outside 84 and 98 Capel Street, both properties are on the Green Lane side of the School. Why is this being done?

The Masterplan has now been revised, reducing the number of driveways (crossovers) accessing directly onto Capel Street from 5 to 4. The Road Safety Audit raises concerns about these driveways (crossovers). The Audit states:

No details relating to the width of the vehicle crossovers serving the proposed residential units fronting Capel Street have been provided. The widths of the vehicle crossovers appear to be narrow and as a result there may be an increased risk of collisions between vehicles entering and exiting the access simultaneously. Although the driveway widths have been amended, to further reduce the risk of collision, the plans should be revised so that the houses fronting Capel Street have shared driveways that crossover onto the development access road and not Capel Street. Capel Street has several driveways and junctions already with blind exits. Drivers and residents using this Street have to exit these driveways and junctions with extreme caution, because of the speeding mentioned above. The proposal of a new estate in this rural one lane location would increase the volume of traffic, adding to the likelihood of "an accident waiting to happen".

Some residents and their visitors, have no driveways in Capel Street and rely on the "on-street parking". As is the same with school traffic at session times, parents need somewhere to park. Therefore, using the site for parking can only be a foreseeable problem for both residents of the site and likewise the parents.

Third Party Representations - A total of 103 representations have been received with 100 objecting, 2 neutral comments and 1 letter of support. The following is a summary of the objections received:

- Capel street is unsafe as existing with no footpaths, increased use will only make the road more unsafe for everyone
- Road not wide enough for extra traffic
- Cumulative impact of development on village, existing village will be compromised

- Parked cars obscure visibility
- Traffic generation and lack of nearby road capacity
- Adverse and increased impact on highway safety
- Driveways are already blocked by parked cars
- Parts of the highway are on private land
- Car parking falling below car parking standards and not sufficient for the proposed development
- Insufficient car parking resulting in on street car parking pressure
- Change character of whole village, community and tranquillity
- Urbanisation of Capel, affect local character of village
- Pressure on local services
- Mud on the road
- Lack of facilities and amenities in village to accommodate proposal
- Overdevelopment of site, too many dwellings and too many for Capel
- Inappropriate ribbon development
- The highway works proposed will make the use of Capel Street even more complicated, unworkable and push school parking outwards affecting more residents
- The road safety audit is inaccurate and out of date
- There will be nowhere for existing residents to park due to the proposed highway works
- Housing should not be in the village
- The need to retain the front boundary hedge is being ignored
- Further removal of countryside and wildlife
- Creating sprawl not infilling
- The development will affect the wellbeing of the whole community
- Development needs to be scaled down
- Adverse impact on AONB and view of it
- No more development is necessary in Capel
- Transport report submitted is 2 years out of date and re-use of the same supporting documents
- Development of the site was dismissed by an Inspector due to being harmful to the environment, effect on local character and street scene
- Too close to a school
- Dwellings proposed inappropriate
- Proposal overbearing out of scale and character with the area
- Surrounding area mostly bungalows
- Pedestrian crossing is sited in the wrong place
- Capel needs shops and facilities not housing
- This is not a sustainable development
- Lack of 'soft edge' to development as proposed in LA26
- Adverse impact on local wildlife on site, due to loss of hedge and habitats which should be protected
- The site is totally unsuitable for the proposed development.
- Insufficient drainage
- Removal of the hedge should not even be considered
- This is a rural village not an urban area where you would expect to see double yellow lines
- The submitted reports are unreliable and inaccurate
- Increased flood risk and drainage will not be sufficiently addressed
- Social housing is required in Capel not market housing
- Light pollution
- Increase in air and noise pollution and crime
- Landscape buffer zone inadequate

- Adverse impact on internet speed
- This greenspace should be protected
- Lead to overlooking and loss of privacy and loss of outlook which is unacceptable
- Construction period will be chaos for local residents
- No consultation of village
- Why should the village be changes forever for profit
- Capel Street is largely single lane and not enough room for vehicles to pass
- Highway safety is already a serious issue in Capel Street which is regularly blocked and access restricted by parked cars, road safety will only get worse
- There is no footpaths and the road can't be widened it is already unsafe for pedestrians including school/nursery children.
- Road is already unsafe and dangerous for everyone, it is only a country lane
- Overdevelopment of the site
- Proposed off-site parking bays are on private land
- Increased double yellow lines increases pressure elsewhere and are ignored and not enforced
- Road is inadequate to serve the development or construction vehicles
- Up to 18 parked vehicles will be displaced, where are these residents supposed to park their cars, this will cause more problems and is not a solution
- Widening of road will increase speeding further, which is already a problem
- Speed bumps are required
- Not the right site for development
- All hedgerows should be retained, birds use the hedge, it should not be removed and this is contrary to policy LA 26 that requires its protection
- Existing utilities can't cope, more development will make things worse
- Any development should only be adjacent to the main roads
- The site is not close enough to a bus stop to be acceptable
- The hedgerow to be removed is an ancient hedgerow and should be retained
- Local residents don't want double yellow lines
- Parents dropping children off for the school ignore all existing measures the proposed double yellow lines will not work, no-one will enforce the measures
- The need for more housing ignores the views of the local population
- Capel street is a rat run and the speed limit of 20mph is completely ignored, this will only get worse
- Residents views are not being taken seriously

The letter of support identified the need for new houses and affordable housing allowing people to stay in the village.

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

- 1.1 The site is located on the northern side of Capel Street and is extensively screened by hedgerow to all boundaries. To the west is the Kent Downs AONB with views of the site possible along Cauldham Lane where there are gaps in the hedgerow and from Green Lane which is a Public Right of Way between Capel Street and Cauldham Lane. Capel Street and the surrounding streets are predominantly residential with a mix of one and two storey detached and semi-detached housing of varying architectural styles.
- 1.2 The northern boundary adjoins a two storey semi-detached residential property and garden, to the south is a single storey detached dwelling on Capel Street and further rear gardens serving properties on Green Lane adjoining the southern boundary, opposite the site are a mixture of two storey properties. The site is currently undeveloped and used as horse paddock and occupies an area of 1.51 hectares. It is with Flood Zone 1 and Groundwater Source Protection Zone 3

- 1.3 The site lies within the settlement boundary with residential development to both the northern and southern boundaries. It is a designated housing allocation site under the Local Plan Land Allocations Policy LA26 subject to certain criteria and in effect infills this gap in the defined settlement.

#### The Proposal

- 1.4 The proposed development is a resubmission of a previous proposal that was refused at planning committee and subsequently dismissed at appeal (Ref: DOV/16/01316). This application is in outline form and includes details of the means of access and parking with appearance, layout, landscaping and scale reserved for future consideration in a reserved matters application. However detailed indicative plans have been submitted in this regard that show the proposed layout and typical housing designs along key sections. The proposal is for the erection of 34 dwellings including an indicative mix of 10 affordable units which is a 30% provision of affordable housing and overall 8 x 2 bed, 16 x 3 bed houses and 10 x 4 bed houses.
- 1.5 The indicative plans submitted provide an indication of the expected form, scale and layout of the proposed development. The indicative site layout includes the layout of the roads which comprises a main access road with two smaller sections extending off to form two cul-de-sacs formed around two courtyards with a central turning area. In addition to this four separate vehicular access points are proposed from Capel Street to serve 1-2 dwellings fronting Capel Street. The main access/junction into the site is in a similar location to the previous proposal but is more rural in character and form. Off-street car parking is available for all the dwellings in the form of drives and dedicated car parking spaces.
- 1.6 The indicative layout and design of the units provides an eclectic mix of design form and size. A number of the units are shown to be bungalows and single storey this includes some of the units along the Capel Street frontage which include both detached and semi-detached units with varying roof forms and scales. These are sited behind a new boundary hedgerow with a new public footpath extending along the site frontage. The existing hedgerow to the western boundary will therefore be removed and replaced to allow a new footpath to be created. Overall the proposed dwellings are predominantly a maximum of two storeys in height. The siting of the units has been set back along the western boundary of the site to ensure the western landscaped 'buffer' (previously proposed) is retained and enhanced to reduce the visual impact on the adjacent AONB. Substantial new tree and hedge planting and associated landscaping is proposed throughout the development and along the principle access roads. The boundary landscaping to the northern and southern boundaries is to be retained and enhanced to provide a landscaped buffer to all boundaries.
- 1.7 The proposals also include off-site highway works which involve the provision of a stretch of public footpath along the eastern side of Capel Street and the provision of double yellow lines in front and near the site and at two further sections on Capel Street. The proposals also include the widening of Capel Street to 5.5m close to the site's main access and a new footpath along the length of the site frontage.
- 1.8 The following documents have been submitted in support of the application:
- Design & Access Statement
  - Planning Statement
  - Tree Report

- Transport Statement
- Stage 1 Road Safety Audit
- Drainage Report
- Habitats Regulation Assessment
- Statement on Surface Water Drainage Works
- Phase 1 Ecological Survey
- Reptile, Bat and Badger Surveys
- Flood Risk Assessment
- Statement of Community Involvement
- Construction Management Plan
- Infrastructure/Utilities Statement

1.9 An amendment to the indicative layout has been submitted that has reduced the number of points of vehicular access from six in total to five. There has also been a minor reduction of the level of hard surfacing across the site layout (although this still appears to be quite high). The proposed off-site highway works were also submitted at a later date which set out the proposed double yellow lines, restrictions to car parking and additional footpath works. The amended site layout and additional information have been subject to re-consultation.

## **2. Main Issues**

2.1 The main issues to consider are:

- Principle of Development
- Impact on the AONB and Visual and Rural Amenity
- Affordable Housing and Dwelling Mix
- Impact on Residential Amenity
- Highways Issues
- Appropriate Assessment
- Ecology
- Drainage and Flooding
- Planning Contributions
- Other Material Considerations

### **Assessment**

#### Principle of Development

2.2 The application site lies within the settlement confines of Capel-le-Ferne, a Local Centre as identified in Policy CP1 of the Core Strategy, where development suitable for the scale that reinforces its role as a provider of services to local communities is appropriate. It is a site allocated for housing development under Policy LA26 of the Land Allocations Local Plan. The proposal is therefore considered to be in accordance with Policy DM1 and CP1 of the Core Strategy, as it is within the settlement boundaries. The principle of residential development on the site is therefore established by the adopted development plan which allocates the site for housing.

2.3 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 adopted development plan. Decisions should be taken in accordance with the policies in the plan, unless material considerations indicate otherwise.

- 2.4 Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The site is located within the defined settlement confines and is supported by other development plan policies (LA 26) and is ancillary to existing development or uses. As such, the application is in line with Policy DM1.
- 2.5 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. The site is located within the settlement confines. It is considered that the occupants of the development could access necessary day to day facilities and services. The development is justified by other development plan policies -LA 26 and as such, the development is in accordance with Policy DM11.
- 2.6 Policy DM15 requires that applications which result in the loss of countryside, or adversely affects the character or appearance of the countryside, will only be permitted if it meets one of the exceptions. The development would not result in the loss of countryside, as the site is within the confines of Capel. It is considered that the development would have only a limited impact on the adjoining character and appearance of the countryside which is further mitigated by the proposed landscaping and form of the development.
- 2.7 For the above reasons, the development is in accordance with policies DM1, DM11 and DM15 of the Core Strategy.
- 2.8 However, notwithstanding the primacy of the development plan, paragraph 11 of the NPPF states that where the policies which are most important for determining the application are out of date (including where the LPA cannot demonstrate a five year housing land supply or where the LPA has 'failed' the Housing Delivery Test), 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 (known as the 'tilted balance') or where specific policies in the NPPF indicate that development should be restricted.
- 2.9 Having regard for the most recent Annual Monitoring Report 2018/9, the Council is currently able to demonstrate a five-year supply and the Council have not 'failed' the Housing Delivery Test. It is considered that the policies which are most important for determining the application are DM1, DM1, DM15 and LA26.
- 2.10 The current Core Strategy policies and the settlement confines referred to within the policies were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver 629 dwellings per annum. As a matter of judgement it is considered that some policies in the Core Strategy are in tension with the NPPF, are out-of-date and as a result, should carry only limited weight.
- 2.11 Whilst it is considered that policy LA 26 is not out of date, policies DM11 and DM15 are not out-of-date, although they are in tension with the NPPF and DM1 is out of date. Nevertheless, policy LA 26 is considered to be the critical policy for the determination of the principle of the development and therefore the 'tilted balance' is not engaged. In addition an assessment as to whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the development will be made at the end of this report.
- 2.12 Policy LA26 of the Land Allocation Local Plan (2015) is considered, as identified above, to be up to date and provides for housing development on the site of up to

40 dwellings, to include a mix of housing types and densities with substantial landscaped boundaries and a lower density development on the western section. It sets out 9 criteria which development of the site would need to comply with which are:

- I. The design and layout should incorporate frontage development with adequate parking arrangements;
- II. The existing boundary hedgerows and vegetation to the west are retained;
- III. A landscape buffer is provided along the western boundary to reduce the impact on the AONB;
- IV. Development proposals are sensitively designed in terms of height and massing in order to ensure the development does not have an adverse impact on the AONB and countryside;
- V. Footway connections are provided within the site and new footway provision is facilitated on KCC highway land on the eastern side of Capel Street to provide pedestrian connectivity to the primary school and beyond;
- VI. A financial contribution is secured to mitigate the impact on the Thanet Coast and Sandwich Bay SPA;
- VII. Development should provide a connection to the sewerage system at the nearest point of adequate capacity and ensure future access to the existing sewerage and water supply infrastructure for maintenance and upsizing purposes;
- VIII. If street lighting is required this should be designed to minimise the impact of light pollution and conserve the dark night skies of the AONB; and
- IX. Vehicular access is achieved onto Capel Street which is designed to minimise the loss of the existing hedgerow.

2.13 As this is a criteria based policy it is important that any development proposal addresses as many of the criteria set out above. In addition to these site specific criteria, the development must be acceptable in all other material aspects. The proposed development, although only in outline form at this stage, where details are indicative, appears to appropriately address most of these criteria, which shall be discussed in more detail later in this report. It therefore largely accords with Policy LA26 and is considered an acceptable form of development on this site. The proposal is therefore largely in accordance with relevant development plan policies, being an allocated housing site, as well as the NPPF Framework and is acceptable in principle.

2.14 It should be noted that an earlier outline planning application for 41 units ref: DOV/16/01316 was refused at Planning Committee in September 2017 on the grounds of the effect on the character and appearance of the street scene and the impact on the landscape and scenic beauty of the AONB. This decision was appealed (ref: APP/X2220/W/18/3196016) and the appeal was dismissed in June 2018. The Inspector accepted that the impact on the AONB was acceptable but found the proposed layout to be harmful to the character and appearance of the street scene. It is considered that due to the revised proposal, layout and reduction in the number of the proposed units the development now proposed has addressed the concerns regarding the impact on the character and appearance of the street scene. This position shall be discussed in more detail later in the report.

#### Impact on the AONB and Visual and Rural Amenity

2.15 In terms of the impact on the wider landscape policies DM15 and DM16 of the Core Strategy are most relevant. Policy DM15 relates to the protection of the

countryside and states that development that would result in the loss of, or adversely affect the character or appearance, of the countryside will only be permitted if it is in accordance with allocations made in Development Plan Documents or the development justifies a rural location. Although not situated in the countryside, an assessment of the proposals impact on the character and appearance of the adjoining countryside is required.

- 2.16 Policy DM16 relates to landscape character and states that development that would harm the character of the landscape, as identified through the process of landscape character assessment, will only be permitted if:
- i. it is in accordance with allocations made in development plan documents and incorporates any necessary avoidance and mitigation measures; or
  - ii. it can be sited to avoid or reduce the harm and/or incorporate design mitigation measures to mitigate the impacts to an acceptable level.
- 2.17 The site is not situated within one of the defined landscape character areas but consideration of the impact on the existing landscape and its character is necessary to ensure the proposed development does not affect the character of the wider landscape.
- 2.18 The application site also adjoins the Kent Downs AONB on its western boundary and to the north. The proximity of the site immediately adjacent to the AONB and the scale and nature of the application proposal is such that development of the site could affect the AONB, by virtue of impact on its setting. The setting of the AONB and its importance is recognised in the Kent Downs AONB Management Plan and policies SD1 and LLC1 of the plan are the most relevant. The Plan advises that the weight to be afforded to setting issues will depend on the significance of the impact with matters such as the size of the proposals, their distance and incompatibility with their surroundings likely to affect impact. Paragraph 172 of the NPPF is also relevant in this regard and seeks to protect the landscape and scenic beauty of the AONB. Consequently, the impact on the setting of the AONB, countryside and landscape adjacent to the site need to be considered, along with paragraph 170 of the NPPF that relates to the need to enhance the natural and local environment, ecology, biodiversity and the importance of the intrinsic character and beauty of the countryside.
- 2.19 Policy LA26 also has a number of requirements in respect of minimising the impact on the character and setting of the AONB, the surrounding countryside and landscape. This includes the retention of boundary hedgerows, a landscaped buffer along the western boundary and the sensitive consideration of the height, massing and street lighting of any proposals. These requirements are to ensure that the impact on the AONB and landscape character is minimised and protected by any development proposal. Consideration and an assessment of the requirements of the Kent Downs AONB Management Plan were taken into account in the allocation of this site. The policy allocation therefore seeks to address any impact through the setting of the relevant criteria and ensuring the mass and height of the proposed buildings are minimised and landscaping provides the appropriate screening.
- 2.20 The proposal incorporates substantial landscape buffers to the western, northern and southern boundaries of the site, especially along the western boundary where further enhancement through tree planting is proposed, (along with development set back along this boundary). Although landscaping is reserved for future consideration it is necessary to ensure at this stage that the landscape 'buffers' would incorporate both native planting and biodiversity gains appropriate to the landscape character and site. The proposed landscaped buffers, at this

stage, more an adequately address the need for landscape screening on site and accord with the requirements of Policy LA26 with any impact mitigated on the setting of the AONB, wider landscape and adjoining countryside. The protection of this proposed landscaping would, however, need to be controlled through appropriate conditions to ensure such measures are carried through to the reserved matters stage.

- 2.21 The massing of the development, as shown on the indicative site layout, has also been significantly set back from the western side of the site and particularly along the western boundary which reduces the visual impact on the adjacent AONB, countryside and landscape. The indicative layout and limited massing of the overall development accords with the need for the sensitive treatment of the development site, as identified in Policy LA26. The indicative layout therefore confirms that the development of this site can be appropriately sited in this regard and can mitigate the impact on the landscape and countryside.
- 2.22 In terms of the height of the proposed dwellings these are to be two storeys in height with some of the proposed buildings indicated as being single storey bungalows, including along the Capel Street frontage. The previous proposal ref: DOV/16/01316 that was refused by Members and dismissed at appeal proposed up to 3 storey development, in the form of a block of flats that raised concerns regarding the visual impact on the landscape and the impact on the setting of the AONB. The Planning Inspector nevertheless found the impact on the landscape and setting of the AONB to be acceptable. All flats and three storey elements have now been removed from the scheme and the reduced number of units 34 instead of 41, (as originally proposed) spreads built development more evenly across the site and provides a high level of landscaping. The maximum height of the proposed dwellings is to be up to two storey and therefore addresses this aspect. Nevertheless, it is still considered necessary to require proposed ground levels, sections through the site/buildings and details of the finished heights of the proposed buildings above ground as a condition. This is to ensure that the resultant height of the proposed dwellings is appropriate to its context and acceptable in terms of visual amenity.
- 2.23 In policy LA 26 it identifies that development should incorporate frontage development with adequate parking and footpath arrangements and the retention of the existing boundary hedge. However this proposal involves the removal and replacement of the existing hedgerow along the site frontage. This is to enable a public footpath along the roadside in front of a replacement hedge to form the garden boundaries. Along the Capel Street frontage, 11 detached and semi-detached dwellings are proposed, set back from the boundary with Capel Street with 4 joint vehicular access points in addition to the main access into the rest of the site. The previous proposal retained the hedge, although there was some loss due to the proposed access and related visibility splays and provided a public footpath behind the hedge line to the north of the proposed access and along the frontage to the south of the access with hedge planting reinstated behind. Although the former scheme retained a greater proportion of the existing hedge along Capel Street, it provided a footpath behind the hedge that restricted its use by all. This proposal although not seeking to retain the hedge frontage along Capel Street, is intending a replacement hedge along the frontage which in the long term will result in a greater proportion of hedgerow than the previous scheme, due to the set back offsetting the need for wider visibility splays at the road side.
- 2.24 At street scene level the indicative designs and layout proposed provide a more rural character to the development than the previous application and the varied house design, form and scale are more respectful of the existing eclectic

character within Capel, (rather than a standard housing estate design), that also includes bungalows and individually designed units. This is more appropriate for Capel and would reflect existing building materials and design details. Although this aspect is to be addressed at a later Reserved Matters application, it has been shown that the previous concerns raised by Members and the Planning Inspector can and have been addressed in the revised proposals. The key reason for the Planning Inspector's dismissal of the appeal was the regular form, appearance and footprint of the proposed dwellings which were a standard size and layout resulting in a development that would be out of keeping in the varied character of the existing street scene. The application provides a great variety of units, of differing forms and designs, which although indicative, is more appropriate within the street scene and is therefore considered to be acceptable on this allocated housing site.

- 2.25 As such, it is considered that the relevant requirements of LA26 have largely been observed (albeit the loss of the boundary hedge along Capel Street and the reduced number of units allocated on the site), which state that "development should be sensitively designed in terms of height and massing in order to ensure the development does not have an adverse impact on the AONB and countryside". It should be borne in mind that the layout and design plans are indicative and careful consideration will need be given to the detailed layout submitted as part of any reserved matters proposals to ensure suitability of spatial layout arrangements. It is therefore considered that the scheme does not give rise to any adverse impacts on the visual amenity of the site and immediate surrounding area, nor does it fail to conserve and enhance the natural beauty and special character of the adjoining AONB. As such the proposal is in accordance with Policies DM15 and DM16 of the Core Strategy, policy LA 26 of the LALP, paragraphs 170 and 172 of the NPPF and the policies of the Kent Downs AONB Management Plan.

#### Affordable Housing and Dwelling Mix

- 2.26 Core Strategy Policy DM5 and the adopted SPD require that for schemes of this scale, the Council should seek an on-site provision of 30% affordable housing. The applicant is proposing to provide the required 30% affordable housing, which amount to 10 dwellings. The affordable units should be designed and positioned in small clusters and be tenure blind. The Council would seek 70% (7) of the affordable units to be provided as affordable rented homes with the balance provided as shared ownership units (3). It is considered that, subject to being secured through a condition, which would require further details of the provision and tenure, the development could accord with Policy DM5 of the Core Strategy and the Affordable Housing SPD. Further details of the affordable housing provision would be considered at the Reserved Matters stage, subject to viability and design considerations. The proposal therefore responds to the need for affordable housing through the provision of policy compliant affordable housing proportion for local people with 50% of this housing being 2 bedroom units that also satisfies Capel Parish Council's concerns in this regard.
- 2.27 The latest Strategic Housing Market Assessment (SHMA) identifies the broad split of demand for market housing to meet the prioritised needs of the district. Whilst these recommended proportions should inform the housing mix, they are not rigid. At this outline stage indicative details of the dwellings have been provided and indicate the proposed housing mix of 8 x 2 bed units; 16 x 3 bed units and 10 x 4 bed units. This provision would be considered in line with the needs identified in the SHMA.
- 2.28 Policy CP4 of the Core Strategy requires applications for residential development

for 10 or more dwellings to identify the purpose of the development in terms of creating, reinforcing or restoring the local housing market in which it is located and develop an appropriate housing mix and design, taking into account the guidance from the SHMA. It also identifies the need to create landmarks, foreground and background buildings, vistas and focal points in the layout of sites. It is noted that some of these aspects have been considered in the supporting documents. The policy also identifies a need to provide an appropriate density for development sites which will be design led and determined through the design process at the maximum level consistent with the site. Policy CP4 guidance is for a density wherever possible to exceed 40 dwellings net per hectare and will seldom be justified at less than 30 dwellings per hectare. The proposed development proposes a net density of 33.8 dwellings per hectare which is at the lower end of the density level required under CP4. It should also be noted that policy LA 26 required 40 dwellings on the site, therefore the density of the development is below that expected on this site but is considered more appropriate in relation to the character of the Capel. At the local level the mix and indicative design of the units is considered appropriate for this edge of village location and largely complies with the relevant policies identified.

#### Residential Amenity

- 2.29 The proposed development in outline form reserves the appearance, layout, landscaping and scale of the development. However, the indicative site layout identifies all the proposed dwellings are but set well back from Capel Street boundary and all other adjoining boundaries. The closest existing properties along Capel Street are to the north and south, although proposed built development is sited a good distance from the respective boundaries and is unlikely to affect their residential amenity. Accordingly, it is unlikely that any adverse impacts with regard to privacy and overlooking, loss of outlook or overshadowing are anticipated on existing properties. Therefore the juxtaposition of the proposed units suggests that no adverse amenity issues.
- 2.30 The precise location of the proposed dwellings is unknown at this stage, however, the proposed access roads have been submitted in full and indicative plans submitted show the layout of dwellings at this stage. The final layout, will be the subject of an application for reserved matters, but will be likely to closely align with the layout shown on the indicative plan. The plans submitted demonstrate that the proposed development can be accommodated in a manner which would ensure that reasonable separation distances between properties and reasonable a standard of accommodation can be achieved. Given the location of the site and the substantial separation distances to other properties, it is not considered that the living conditions of any properties would be directly harmed by the development, but a detailed assessment would form part of any reserved matters application.
- 2.31 Whilst the living conditions of the proposed new build dwellings cannot be established at this stage, the size of the site and the density of the development are more than sufficient to demonstrate that the proposed dwellings could be accommodated in a manner which would ensure a high standard of accommodation, particularly when regard is had for the indicative layout. It is considered that the living conditions of occupants of the dwellings would be likely to be acceptable.

#### Highway Impacts

- 2.32 The relevant Core Strategy policy is DM11 and to a lesser degree policies DM12 and DM13. DM11 requires planning applications for development that would

increase travel demand should be supported by a systematic assessment to quantify the amount and type of travel likely to be generated and include measures that satisfy demand to maximize walking, cycling and the use of public transport. Development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. 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.

- 2.33 Policy DM12 requires that developments that would involve the construction of a new access onto a trunk or primary road will not be permitted if there would be a significant increase in the risk of crashes or traffic delays unless the proposals can incorporate measures that provide sufficient mitigation. Whilst policy DM13 requires that development provides a level of car and cycle parking which balances the characteristics of the site, the locality, the nature of the proposed development and design objectives.
- 2.34 Full details of the means of access are submitted under this application and include a 4.8m wide access road to serve the site from Capel Street, along with four joint points of access to serve 10 dwellings off Capel Street. The access road would lead on to two clusters of dwellings within courtyards. Although only an indicative layout, 75 car parking spaces are proposed throughout the development, which exceeds KCC requirements and provides 7 visitor spaces to assist in the school peak periods. The proposed works also include the widening of the southern section of Capel Street to 5.5m, the provision of a public footpath along the site frontage, that will enhance pedestrian safety, a new footpath on the eastern side of Capel Street to link up with the existing public footpath network and the provision of double yellow lines in front of the southern section of the site and extending south up to the boundary of No. 114 Capel Street.
- 2.35 KCC Highways initially raised concerns in respect of the proposal as various matters needed to be considered further and addressed, such as the minimum carriageway width, proposed pedestrian crossing point, resolution of conflicts with on-street parking, location of off-street car parking and required visibility splays. In addition, a safety audit was also required for all the proposed highway alterations in Capel Street. In response to these concerns, additional highway work details and a road safety audit were submitted. These documents proposed the works required to the adopted highway on Capel Street and have been the subject of re-consultation. This includes the addition of double yellow lines on Capel Street, including two sections further along Capel Street to enable suitable passing places.
- 2.36 The proposed development is likely to generate approximately 19 two-way vehicle movements in the morning and evening peak hours; however, there is clearly a significant increase in traffic during drop-off and pick-up periods for the nearby school, with the associated parking demand and consequent narrowing of the road to single way working in the section near the school. Although some passing places are available these are short in length and make manoeuvring difficult. Therefore, the development proposals include the improvement of sections of Capel Street to assist with the flow of traffic. These improvements take the form of additional parking restrictions between (and encompassing) the accesses to numbers 82 and 84 Capel Street and across the accesses to numbers 96 and 98 Capel Street, but extended to provide sufficient room for a car to manoeuvre in/out of the passing place. These add to existing passing areas to create adequate two-way flow and passing opportunities at regular intervals to accommodate the additional traffic from the development.

- 2.37 The site access arrangements also include minor widening of Capel Street along the site frontage to enable vehicles to pass each other and the provision of a footway linking the site to the existing footway network in Capel Street, providing pedestrian access to the school, bus stops and the wider village. The access arrangements require parking restrictions to maintain appropriate visibility at the proposed pedestrian crossing point and site access. Whilst this may remove a small amount of on-street parking, 7 additional unallocated parking spaces are to be made available within the application site to ease this pressure which would also provide public footways to the school and a crossing to improve pedestrian safety.
- 2.38 KCC Highways have advised of the acceptability of these highway proposals and that a Traffic Regulation Order (TRO) would be required for the proposed parking restrictions on Capel Street. TROs must be made for qualifying purposes including avoiding danger to persons or traffic and facilitating the passage of traffic, which applies in this case and could be secured through a planning condition. In addition, all the proposed highway alterations have been subject to an independent safety audit and can be carried out by the developer through a s278 agreement with the Highway Authority.
- 2.39 The proposed highway layout and associated parking arrangements for the new dwellings are therefore acceptable and are in accordance with current guidance, including exceeding parking standards. KCC Highways has confirmed that the off-site passing bays and road works proposed will be on the public highway and not on private land. Adequate access and turning facilities are also available for all of the proposed dwellings, refuse and emergency vehicles with a reduced need to park on-street and in particular Capel Street. If the application were to be granted conditions could be attached to ensure that the effects of the development would be sufficiently mitigated so as not to cause undue harm to the local highway network. In addition, a condition can require full details to be submitted for the off-site highway works, comprising the provision of footpaths and the TRO's required. A Construction Management Plan would deal with other matters such as associated parking/turning areas for construction vehicles and wheel washing facilities.
- 2.40 Significant concerns have been raised by third parties that the development would significantly and detrimentally increase and impact on traffic and the local highway which is identified as already struggling to cope with existing levels of traffic locally. A strong level of concern is also raised over the narrowness of Capel Street which causes significant local concern. It is however considered that with appropriate conditions and controls in place these concerns would to a sufficient degree, be addressed. On balance, it is not considered that the proposal would not result in a severe highway impact and would therefore accord with the aims and objectives of paragraph 109 of the NPPF as well as local standards and planning policies.

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

- 2.41 The impacts of the development are considered and assessed in this report. It is also necessary to consider 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.
- 2.42 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.

- 2.43 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. 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.
- 2.44 *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.*
- 2.45 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. A contribution of £1990 is therefore sought to this effect.

#### Ecology

- 2.46 In furtherance to the impacts on the off-site Thanet Coast and Sandwich Bay, Ramsar/ SPA, regard must be had for whether the development would cause any harm to habitats or species on or adjacent to the application site, in accordance with paragraphs 170, 175 and 177 of the NPPF. In addition, regard must be had for Natural England's Standing Advice. The application was supported by a Phase 1 Ecological Survey which considers both the flora and fauna of the site and in addition reptile, bat and badger surveys.
- 2.47 The site is grassland and grazed horse pasture of low ecological significance. The mixed hedgerow around the boundaries of the site provide botanical interest at a local level and should be retained where possible. The hedge lines provide nesting and foraging areas for birds, reptiles and bats and there is an active badger sett on site, to the north western corner. Badgers and their setts are protected by the Protection of Badgers Act 1992. Therefore, a specific badger survey is required which can then inform the proposed development, in order to comply with ODPM Circular 06/2005 (para. 99).
- 2.48 The species surveys have identified the potential for low reptile populations on site, the use of the site by two types of bats for foraging and commuting and the active use of the site by badgers. There is therefore potential for a detrimental impact on protected species, however, the submitted species surveys recommend a series of mitigation measures, to ensure that the impacts on these protected species and biodiversity generally are minimised and enhanced and such measures can be controlled by suitable conditions. The Councils Ecologist has confirmed that the findings of the submitted ecological appraisals are

accepted and subject to the implementation of the full mitigation measures identified and additional measures to encourage and enhance biodiversity across the site; there is no ecological constraint to development. All of these measures can be addressed through planning conditions.

- 2.49 In addition, the site has potential for hedgehog and, as such, precautionary safeguards for these species and improvements to their habitats have been recommended. In respect of birds using the site, these may be nesting on site and safeguards can be put in place that include construction work outside of the bird breeding season and under ecological supervision. Such safeguards have been recommended and these could be conditioned.
- 2.50 In respect of existing trees on the site these have been surveyed and a Tree Report submitted. The majority of tree cover is associated with the line of the mixed hedgerows to all boundaries. A small proportion of low category trees and some hedgerow is proposed to be removed to facilitate access to the site and the new public footpath along Capel Street. However, it is proposed to replant the hedgerow along Capel Street and includes a significant level of tree planting and landscaping across the site, along with reinstating gaps in hedgerows with appropriate species. Therefore, although there will be a loss of the hedgerow along the eastern boundary this is not significant to the wider area ecologically and the replacement hedge planting will ensure the impact on the street scene is minimised. To minimise the impact on the trees and hedges to be retained, the necessary protection measures required can be controlled by conditions.
- 2.51 The proposed layout allows the existing hedgerows to the north, south and western boundaries to be retained and additional planting to allow deeper landscaped areas where new trees can be planted. On the western site boundary the enhanced hedgerow depth and the new trees will provide a landscape 'buffer' between the site and the AONB to the west. New planting will consist of a mix of native species which could be controlled by suitable conditions. Overall the proposals are acceptable in respect of the protection of ecology and protected species, landscape designations and conservation and enhancement of biodiversity which are considered to comply with the aims and objectives identified through the NPPF and the Kent Downs AONB Management Plan.

#### Drainage and Flooding

- 2.52 The site lies within Flood Risk Zone 1, where there is the lowest risk of flooding. However, given the size of the site, it is appropriate to consider whether the development would be likely to lead to localised on or off-site flooding. The NPPF, paragraph 163, states that local planning authorities should ensure that flooding is not increased elsewhere and priority should be given to the use of sustainable drainage systems. In furtherance to this, the Planning Practice Guidance states that sustainable drainage systems should be designed to control surface water run-off close to where it falls and replicate natural drainage as closely as possible.
- 2.53 A Drainage report and FRA have been submitted in support of the application which confirms that infiltration drainage is suitable on this site. It is proposed to deal with all surface water and run-off by 4 deep bore soakaways into the subsoil below so that there will be no increase in run-off from the site as a result of the proposed development. There will also be an underground tank for each soakaway of between 50 and 200 cubic metres to allow storage capacity for storm water.

- 2.54 This method of surface water disposal is considered acceptable for this site with the Environment Agency and KCC raising no objection but advising of appropriate conditions to ensure the protection of the groundwater quality in respect of pollution prevention and waste. KCC Flood and Water Management are the Lead Local Flood Authority and have also raised no objection subject to conditions relating to further testing and final details in respect of the surface water drainage measures and management and verification of the approved scheme. The proposed drainage measures for this outline proposal are therefore considered acceptable at this stage, subject to conditions, further testing and details that could also be considered at a Reserved Matters stage.
- 2.55 Southern Water supplies foul waste at this location and they have raised no objection as they can provide foul sewage disposal capacity for the proposed development. They advise that they would require a formal application for a connection to the public sewer to be made by the applicant or developer. The proposal is therefore acceptable in this regard.

#### Planning Contributions

- 2.56 The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (CIL Regulations) require that requests for development contributions of various kinds must comply with three specific legal tests, being necessary, related to the development, and reasonably related in scale and kind.
- 2.57 Policy CP6 of the Core Strategy requires planning applications to provide an appropriate mechanism to ensure that any necessary infrastructure to support the development can be secured at the time it is needed. This policy therefore confirms the need to address any increased infrastructure needs as part of the application process. Such needs would normally be addressed in a s106 legal agreement, as long as all provisions comply with the relevant tests outlined in the NPPF and planning policy guidance. It is considered that the tests have been duly applied in the context of this planning application.
- 2.58 In accordance with Policy DM27 of the LALP, the development would be expected to provide Open Space on site, or a contribution towards off-site provision, to meet the Open Space demands which would be generated by the development. As there is access to an existing play area at Lancaster Avenue it would not be necessary to provide equipped play on site. However, a suitably scaled contribution for upgrading or additional play equipment/space has been calculated according to the cost of creating a new Local Area for Play and providing fifteen years of maintenance at £42,520 which equates to a commuted sum of £32,330 including interest at 2%. Therefore the need created by this development equates to around 60% of a play area, which would result in a contribution of £19,400. This would need to be secured through a s106 and with the payment of this contribution, the proposal would accord with Policy DM27 of the Core Strategy.
- 2.59 KCC Economic Development have advised that the development would increase demand for local facilities and services and where there is currently inadequate capacity to meet this additional need, contributions should be sought to provide infrastructure improvements proportional to meet the need generated. In this instance, KCC have advised that there is sufficient primary school provision but insufficient secondary school provision to meet the needs of the development. KCC have also requested a contribution of £139,910 towards the Phase 1 expansion of Dover Grammar School for Girls, due to exceeding the capacity of pupil spaces generated by the development. In addition a contribution of £1,632.54 towards additional book stock for Capel mobile library, a Social Care

contribution of £2639.42 towards Dover Social Care Hub and a Community Learning contribution of £871.72 towards Adult Education at Dover Discovery Centre, would ensure that the needs generated by this proposed development would be met. It is considered that the requested contributions are 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.

- 2.60 NHS CCG have advised that no contribution will be sought for this development.
- 2.61 The applicant is in the process of agreeing the Heads of Terms in relation to these contributions, that are considered necessary to make the development acceptable in planning terms. The Heads of Terms are:
- Secondary Education- towards Phase 1 expansion of Dover Grammar School for Girls of £139,910
  - Library - contribution towards additional book stock for Capel mobile library of £1,632.54
  - Social Care - £2639.42 towards Dover Social Care Hub
  - Community Learning - £871.72 towards Adult Education at Dover Discovery Centre
  - A total of £1,990 is required as a contribution towards the Thanet and Sandwich Coast Management Strategy
  - An off-site public open space contribution of 60% towards enhanced play space facilities at Lancaster Avenue of £19,400.
  - Payment of all associated legal costs.

2.62 In addition, a separate s278 Agreement under the Highways Act with KCC Highways and Transportation in respect of the access arrangements and highway improvements outside of the application site will be required.

2.63 The full range of contributions required by the development are being met by this proposal.

#### Other Material Considerations

- 2.64 The likelihood of contaminants on site is limited due to the previous use of the land, nevertheless, as the proposed end use is residential it is susceptible to risks of contamination, a condition would be required to ensure that should any contamination be identified during construction then further investigation and remediation and/or mitigation measures would need to be submitted and approved.
- 2.65 The Kent Police Crime advisor has no objection subject to a condition being imposed to submit details for approval which accord with the principles and physical security requirements of Crime Prevention through Environmental Design.
- 2.66 External lighting details have not been submitted but would need to be appropriately mitigated at reserved matters stage. External lighting will need to be included in a condition identify its requirement at reserved matters stage, due to its importance in this sensitive location as a result of the adjoining AONB and bat protection measures.
- 2.67 Other matters such as cycle parking, refuse storage and materials will be required to be submitted at reserved matters stage and would not be subject to

outline conditions or scrutiny at this stage.

### **3. Conclusion**

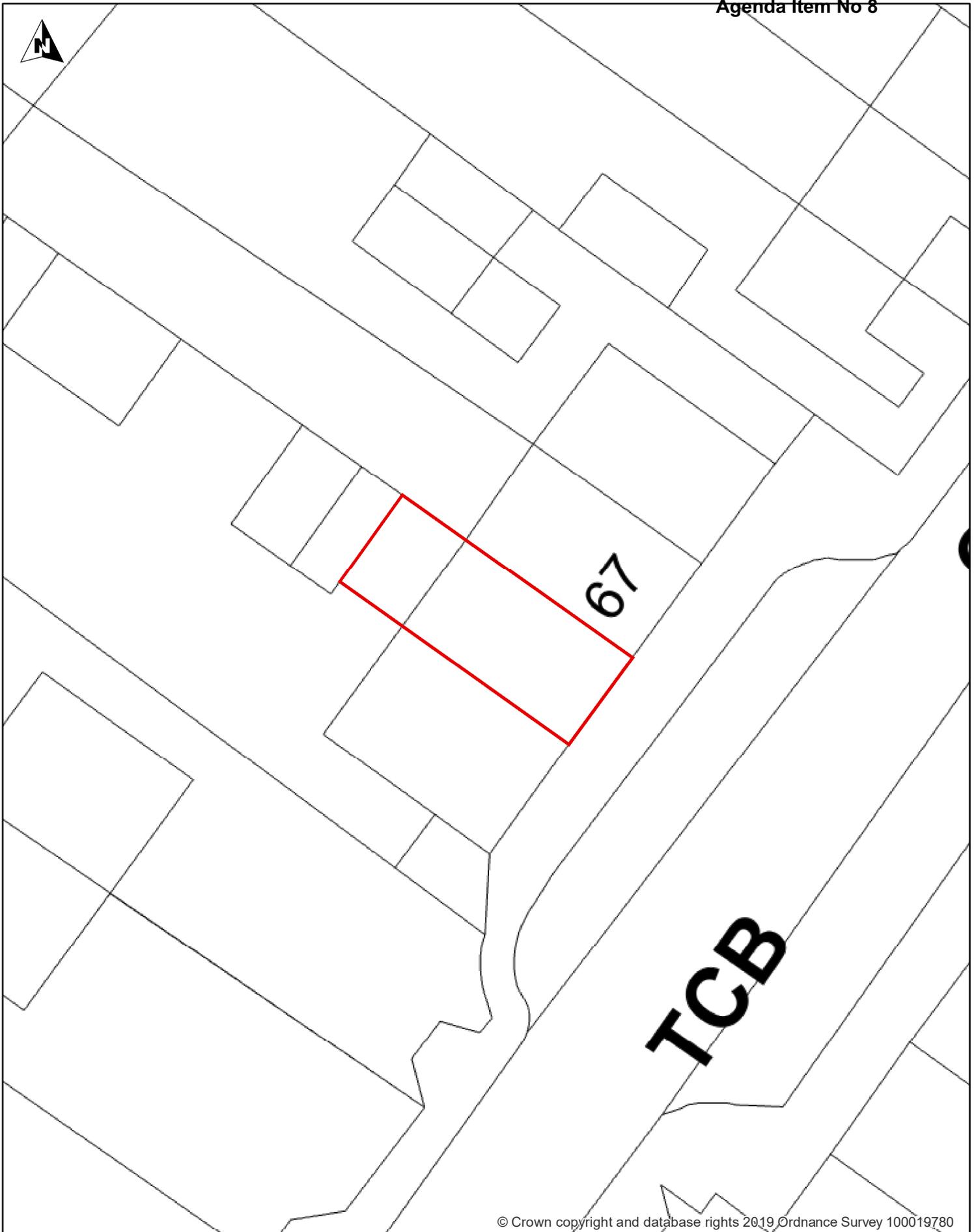
- 3.1 In terms of planning policies, development of this site within the settlement confines and on land allocated for residential development under Policy LA26 of the LALP is acceptable in principle and is in accordance with policies in the Core Strategy, Local Plan and the NPPF.
- 3.2 In addition, there are no development plan policies or policies in the Framework that suggest development should be refused. When weighing up the adverse impacts of the development identified in the report, although there is a large proportion of local objection to the proposed development, there are no clear planning reasons that would significantly and demonstrably outweigh the benefits of providing additional housing on an allocated site within the district, including the provision of 30% affordable housing.
- 3.3 The proposed development of 34 dwellings will be a substantial addition to the availability of housing sites within the district and will contribute towards the 629 units per annum now required under the standardised methodology for the calculation of housing need. The additional housing will also have social benefit of providing 10 affordable housing units on the site. In addition, the relevant contributions towards local infrastructure costs have largely been agreed in principle, including education and open space contributions.
- 3.4 The proposal is of a relatively low density but within the quantum of housing suggested by LA26 (and other development plan policies) which also seek to retain a significant amount of natural screening in the context of the site location and its setting. As has been discussed above, the impact on the setting of the AONB is minimised and its special character protected. The proposed plans have also sought to address the concerns raised by the Planning Inspectorate by providing a mix of housing sizes, form and design rather than a standardised housing design with a similar footprint that would be out of keeping in the highly varied character of the dwellings in Capel. The proposals are therefore considered to be in keeping with the character and street scene of Capel Street and development should be approved.
- 3.5 Initial objections from KCC Highways have also been overcome following additional information submitted which included a Road Safety Audit. KCC Highways consider the revised proposals to be acceptable, subject to necessary conditions and agreements relating to off-site highway works. The proposed impact on the highway is therefore not severe and accords with paragraph 109 of the NPPF, the impact on the highways is consequently acceptable.
- 3.6 The proposed development, although only in outline form, largely addresses most of the criteria identified in Policy LA26 of the Land Allocations Local Plan and accords with the principles of this policy, albeit with the loss of the frontage hedgerow, although this is proposed to be replaced and allows the provision of an accessible public footpath; it is therefore an acceptable form of development for this housing allocation site. The proposal therefore accords with relevant development plan policies, the NPPF and is acceptable in principle. All other matters raised can be addressed by planning conditions. Consequently the application is recommended for approval, subject to conditions and a suitable s106 legal agreement to secure the required contributions.

#### **4. Recommendation**

- I. PLANNING PERMISSION BE GRANTED subject to a Section 106 legal agreement to secure necessary planning contributions and subject to the following conditions to include:
- 1) Reserved matters details
  - 2) Outline time limits
  - 3) Approved plans
  - 4) Existing the proposed site levels and building heights
  - 5) Ecological mitigation and recommendations implemented
  - 6) Ecological/biodiversity mitigation, enhancement and management plan
  - 7) Construction Management Plan
  - 8) Highway conditions (parking, visibility splays, highway works fully implemented, turning facilities, cycle parking, gradient, surface, works to all footpaths and drainage)
  - 9) Affordable housing provision (numbers, type, tenure, location, timing of construction, housing provider and occupancy criteria scheme)
  - 10) Landscaping Details and maintenance of buffer zones
  - 11) Open space management plan
  - 12) Protection of Trees and Hedges
  - 13) Hard landscaping works and boundary details/enclosures
  - 14) Reporting of unexpected land contamination
  - 15) No works on site until final SuDS testing is undertaken and submitted
  - 16) Design details of surface Water drainage strategy
  - 17) Implementation and verification of SuDS scheme
  - 18) No other infiltration on site other than that approved
  - 19) Contamination safeguarding
  - 20) Off-site highway works undertaken and implementation of a Traffic Regulation Order
  - 21) External lighting to be addressed at reserved matters
- II. Powers to 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

Lucinda Roach



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DOV/19/00907  
65 Cornwallis Avenue  
Aylesham  
CT3 3HG

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/19/00907 – Change of use to hot food takeaway (class A5), erection of extraction flue to rear, access ramp and hoop guards to front and external alterations to windows and doors - 65 Cornwallis Avenue, Aylesham**

Reason for report – Number of contrary views (13 Public and 1 Parish Council)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010)

CP1 – Settlement Hierarchy

DM1 – Settlement Boundaries

DM2 – Protection of Employment Land and Buildings

DM20 - Shopfronts

National Planning Policy Framework (NPPF) (2019)

Paragraph 2 states that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

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

Paragraph 8 identifies the three overarching objectives of the planning system in relation to the aim of achieving sustainable development; an economic, social and environmental objective.

Paragraph 11 states that decision making should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up to date development plan or where there are no relevant development plan policies or the policies are out of date, granting permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in this Framework taken as a whole.

Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

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

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

Kent Design Guide (2005)

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

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

d) **Relevant Planning History**

There is no relevant planning history for the site.

e) **Consultee and Third Party Responses**

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

Aylesham Parish Council – object to the application, stating “There will be major parking and traffic issues that will add to the already existing ones. There are no mention of the business hours in the application. Increase in litter. There are bins that do not get used, this area has always been mostly a residential apart from a few shops. Increase in noise from vehicles and customers. Increase in smell (food). The applicant has proposed for a ramp to be built. It is a public footpath (pavement) and a ramp would be an obstacle on the pavement”.

Environmental Health – The Environmental Protection Team has considered the documents submitted in support of the application. Though we have no objections to it, we note that there are flats immediately above the development that may be affected by noise, odour and vibrations from the kitchen extract system and from customers. We recommend, therefore that the following conditions are applied to any planning permission that may be granted:

A scheme should be provided showing that, when operating, the design and installation of new items of fixed plant shall be such that the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1 metre from the facade of the nearest noise sensitive premises, shall be a rating level 5dB (A) below the background noise level LAf90 Tbg.

Details showing how the extraction system will alleviate fumes and odour and how the extraction trunking will be isolated from the structure of the flat above the development (to prevent vibrations) shall be submitted to the local planning authority for approval. After the system has been approved in writing by the authority, it shall be implemented to the authority’s satisfaction before the development hereby approved first commences and shall thereafter be permanently maintained in efficient working order to the authority’s satisfaction.

The premises shall cease operating at 23.00 hours each evening.

Reason: To protect the amenity of the area.

Public Representations:

15 Representations of objection have been received (as of 30<sup>th</sup> September 2019) and the material considerations are summarised below. A number of non-material considerations were raised, including competition, which cannot be considered.

- Not justified by expansion of village
- No parking or delivery study undertaken – will result in additional journeys
- Parking and highways issues/ lack of parking
- No opening hours guide
- No potential mitigation of the smells coming from the ventilation to the flats above
- Impact on neighbours
- noise
- Smells
- Fire risk
- Rubbish/waste - No provisions for rubbish bins to the front of the shop – existing bins are often full leading to rubbish being left or blown about. Litter will attract vermin, rodents, foxes, blowflies etc
- Flue appears too small for proposed use
- Carbon footprint - Flue will add to pollution problem
- Other types of business could use property which would have much less of an impact on the current business already in Cornwallis Avenue and on neighbours of property
- Young people loitering & associated noise
- Crime & anti-social behaviour
- Ramp obstructs footpath

2 comments received neither supporting nor objecting:

- Object to another fast food shop - Aylesham already has a number of outlets Cornwallis avenue has a fish shop, a kebab shop and a tea shop, it will be between a funeral parlour and a tea shop
- Concern regarding parking in area

77 representations in support of the proposals have been received and are available to view in the online planning file and are summarised below;

- Commercial properties in Cornwallis Avenue are long established (appearing first on Ordnance Survey in 1956)
- Previous businesses in Cornwallis Avenue have included: fish & chip shop, hairdressers, barbers, funeral directors, gymnasium, fruit & vegetable shop, hardware store, bookmakers, tanning & beauty salon, ironmongery, florist, newsagents, Hill's Convenience Store, kebab shop, coffee shop/café, laundrette, Londis Mini-Market
- Change of use sought has already been sought by some of the neighbouring properties
- Unit is existing commercial property and parking is already catered for
- Noise and smells dealt with by flue and Environmental Health comment
- Bins and litter – waste is due to consumers who choose to discard their waste inappropriately – perhaps DDC and APC co-fund some new bins in the area
- Shops have been in existence for long time – before area became mostly residential

- Ramp will make premises more accessible to elderly and disabled residents of the community – hope other businesses will follow suit
- Has been vacant for unusually long time
- Good addition to/ supports community
- New job opportunities
- Variety of takeaways benefits village and those who do not drive
- More than enough people for all food businesses to have custom

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

- 1.1 The application site relates to an empty commercial unit at ground floor level in one half of a parade of shops located on the north western side of Cornwallis Avenue in Aylesham. The last use of the unit was as a hairdressers, although it is understood the premises has been empty for a number of years.
- 1.2 This half of the parade incorporates four commercial units, including a funeral directors, a café and a fish and chip shop. Opposite on the south eastern side of Cornwallis Avenue is the other half of the parade, with commercial ground floor units including a beauty salon, Londis supermarket and a pizza/kebab takeaway. Both sides of the parade have residential accommodation at first floor level and the parade is located within a village/suburban residential area.
- 1.3 There are approximately 10 parking spaces to the front of each half of the parade, with additional parking available on-street in the surrounding area.
- 1.4 This application seeks permission for the change of use of the ground floor unit to a hot food takeaway (class A5), the erection of an extraction flue to the rear, access ramp and hoop guards to the front and external alterations to windows and doors. The existing painted timber shopfront would be replaced with an aluminium glass shopfront, with the entrance door being relocated on the front elevation (rather than set back from the highway as existing). The windows and doors of the rear elevation (at ground floor level only) would be replaced with new windows and doors (of the same size and siting as existing). The flue would be located on the rear elevation and would have a height of approximately 7.3m from ground level (approximately the same height as the flue to the rear of the fish and chip shop at the end of this part of the parade).
- 1.5 The unit would have a customer area with a serving counter and the agent has clarified that several chairs would be provided within this area for customers to wait for their meal to be cooked, with two bins also provided internally.

**2. Main Issues**

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

**Assessment**

Principle of Development

- 2.2 The site lies within the settlement confines identified in Policy DM1 and as such, the site is suitable for development in principle. It lies within a parade of commercial units which are well established. The parade includes two other A5 (takeaway) uses which have been operating successfully for several years.
- 2.3 It is therefore considered that the principle of the development is acceptable in this location, subject to site specific considerations.

#### Impact on the Character and Appearance of the Street Scene

- 2.4 The site is located within a parade of shops on the northwest side of Cornwallis Avenue. These commercial ground floor units have large glazed windows with signage above and a door to the side, set back from the main front elevation. The existing signage and surrounds of these shopfronts are a range of colours, however are all similar in design. On the opposite side of Cornwallis Avenue, the parade of shops has been altered externally, with a shutter installed to the front of the pizza/kebab shop and the two inner units combined to form one shop, with a central doorway, ramp and hoop guards and metal window/shopfront surround.
- 2.5 Policy DM20 states that permission for new shopfronts and alterations to existing shopfronts will only be given if the proposals respect the composition, materials and detailed design of the building and the context provided by the street in which they are located.
- 2.6 The proposals would result in the installation of a ramp and hoop guards for safety, similar to those to the front of the Londis store opposite. The existing timber framed shopfront window would be replaced with a new aluminium shopfront installed with a lower cil height. Furthermore, the existing door, which is set back from the front elevation would be repositioned to be in line with the shopfront window. Whilst this would differ from the other shopfronts on this half of the parade, the design would be similar to that of the Londis supermarket opposite. As such, it is considered that the proposals would accord with the objectives of Policy DM20. The development is considered to have a neutral impact on the character and appearance of the street scene, in accordance with Paragraph 127 of the NPPF.

#### Impact on Residential Amenity

- 2.7 The application site is located within a parade containing commercial uses at ground floor level and residential accommodation at first floor level. Furthermore, the site is within a predominantly residential area within Aylesham.
- 2.8 The proposals would result in changes to the existing shopfront and replacement of the windows and door on the rear elevation. In addition, a flue would be installed on the rear elevation. In keeping with an existing flue serving a neighbouring premises, this would extend to just above the eaves level at first floor. However, due to their siting and scale, these alterations are considered unlikely to result in significant harm to the residential amenities of surrounding residents in respect of overshadowing, overbearing or loss of privacy.
- 2.9 The opening hours for the adjacent funeral directors are not known, however 24hour access to the unit is required. The adjacent café Jam and Roses is open Monday to Saturday 9:30am to 3pm and Cornwallis Fish Bar is open from 11:30 to 2pm and 4:30 to 9pm Mondays to Saturdays. On the opposite side of the parade, the Londis supermarket is open every day from 6am until 11pm. The

Countryside Kebab and Pizza takeaway is believed to be open 2pm to 10pm Monday to Saturday and 3pm to 10pm on Sundays. Tan N Tone opens Monday to Friday 10am to 7pm and 10am to 6pm on Saturdays. The proposed hours for the takeaway are 12:00 until 23:00 every day (including Sundays and Bank Holidays) and therefore the unit would be open no later than the Londis supermarket opposite. Due to the nature of the use, there would be visitors entering and exiting the building frequently during these hours. Whilst this would result in some associated noise and disturbance, the level is considered unlikely to result in significant harm to residential amenity and were this to become an issue, could be controlled through environmental health legislation.

- 2.10 Furthermore, conditions are recommended by Environmental Health relating to the operating hours and requiring details to be submitted of the noise levels of new fixed plant and showing how the extraction system will alleviate fumes and odour and will be isolated from the structure of the flat above the development (to prevent vibrations).
- 2.11 The full wording of the suggested conditions is included at the end of the committee report and subject to their imposition, the development is considered unlikely to result in unacceptable harm to the amenity of surrounding residents in accordance with Paragraph 127 of the NPPF.

#### Other Material Considerations

##### Impact on Parking/Highways

- 2.12 The application site forms part of a terrace of four units which have 10 unmarked spaces to the front, with an additional 10 unmarked spaces to the front of the units on the other side of the parade. Additional on-street parking is available along Cornwallis Avenue and given the intended 'takeaway' use of the business, it is likely customers would park their cars for short periods of time only. As such, the change of use is considered unlikely to result in significant increase in on-street parking demand or cause harm to the free flow of traffic in the street and is considered acceptable in respect of paragraph 109 of the NPPF.

##### Impact on Flood Risk

- 2.13 The application site is located in Flood Zone 1, which has the lowest risk from flooding. The proposals result in no increase to the scale or massing of the building and the proposed use would be non-habitable. The proposals are therefore considered acceptable in respect of risk from flooding.

##### Other Matters

- 2.14 Any new signage would require advertisement consent and would be subject to a separate application.
- 2.15 In respect of refuse storage and collection, the agent has clarified that the refuse would be stored in a lockable 1100L EuroBin to the rear of the property, adjacent to the back door. Nonetheless, a condition requiring details of refuse storage to be submitted is recommended, in order to ensure facilities are provided prior to the operation of the premises.

### **3. Conclusion**

- 3.1 The application site is located within the settlement confines and the proposed change of use to a hot food takeaway is considered acceptable in principle in this location. The proposed external alterations, which include replacement of the shopfront window and door, replacement rear windows and door and erection of an access ramp and hoop guards are considered to accord with Policy DM20 and would have a neutral impact on the character and appearance of the street scene. Subject to the conditions suggested below, the development should safeguard residential amenity in accordance with Paragraph 127 of the NPPF.

### **4. Recommendation**

I PERMISSION BE GRANTED subject to conditions which include:

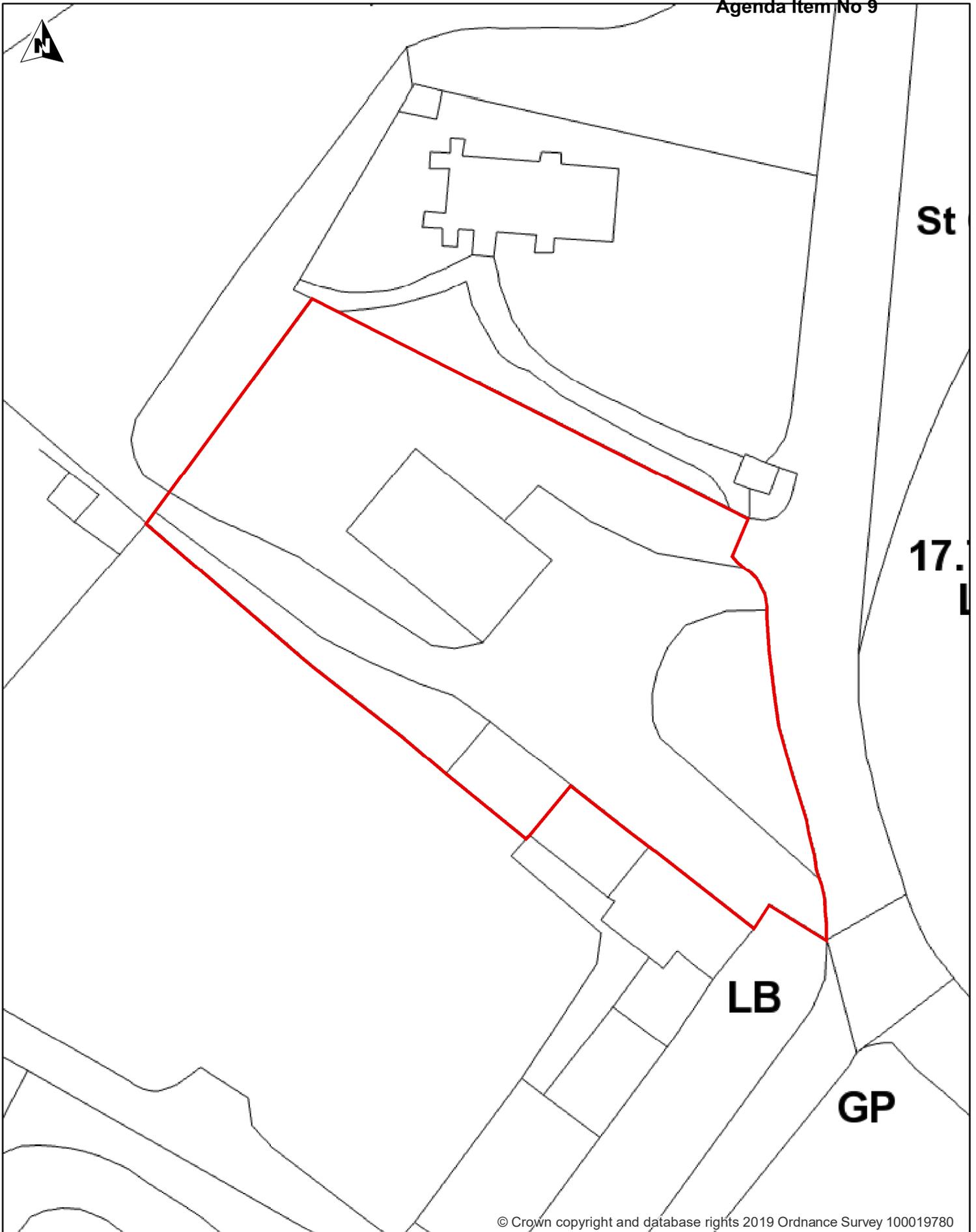
- 1) The development hereby permitted shall only be carried out in accordance with the following approved plans/documents:  
19\_1147\_01, 19\_1147\_02, 19\_1147\_03, 19\_1147\_04, 19\_1147\_05, 19\_1147\_06, 19\_1147\_07 and Application Form received 29<sup>th</sup> July 2019.  
Reason: For the avoidance of doubt.
- 2) The premises shall not be open to the public other than between the hours of 12:00 to 23:00 hours on any day. The premises shall cease operating at 23:00 hours each evening.  
Reason: To protect the residential amenity of the adjoining properties.
- 3) Prior to the first use of the development hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority showing that, when operating, the design and installation of new items of fixed plant shall be such that the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1 metre from the facade of the nearest noise sensitive premises, shall be a rating level 5dB (A) below the background noise level LAf90 Tbg. The development shall be carried out in accordance with the approved details.  
Reason: In the interests of residential amenity.
- 4) Prior to the first use of the development hereby permitted a scheme showing how the extraction system will alleviate fumes and odour and how the extraction trunking will be isolated from the structure of the flat above the development (to prevent vibrations) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development hereby approved first commences and shall thereafter be permanently maintained and operated when the premises are in use.  
Reason: In the interests of residential amenity.
- 5) Prior to the first use of the development hereby approved, a scheme for the storage of refuse shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and shall thereafter be retained in that form.

Reason: To facilitate the collection of refuse and preserve visual amenity

- II Powers to 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

Rachel Morgan



DOV/19/00968  
Ham Barn  
Updown Road, Northbourne  
CT14 0EB

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/19/00968 – 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.

DOV/19/00440 - Erection of a detached dwelling with associated garden and parking (existing barn to be demolished). Refused (Committee decision).

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

Northbourne Parish Council

No comments received.

Tree Officer

No objection subject to a condition securing the protection measures as Appendix B of the Tree Survey and Report: Tree Constraints Plan.

County Archaeologist

No objection subject to a condition requiring a programme of archaeological works.

Heritage Officer

I have reviewed the plans against my comments on the previous application and make the following comments:

- I noted previously that the setting of the listed buildings had not been adequately addressed in the heritage statement. Whilst the new submission is better on this matter, unfortunately it is still deficient: you will note from photos that I provided with the comments on the previous application that there is a mid-range view of the site within the context of the listed buildings as a group from Updown Road. The updated statement does not include this view; those submitted are again very tightly contained so do not show the relationship of the site to the listed buildings and their wider setting. In addition there is no assessment of the development from the curtilages of the listed buildings: this latter is important due to the bulk and detailed design of the proposed development.
- The design has changed to a structure that is a jettied hall house/over-sized cart entrance to a barn amalgamation. I'm not sure where the inspiration has been taken from but I'm not aware of timber framing being particularly prevalent in this part of the district, nor do I feel that the design is consistent with the character of that grouping of historic buildings. The issues of bulk, siting and scale are unresolved with the current plans, and I'm afraid that the large cart entrance type structure would be rather imposing architecturally. The proposed building would not sit comfortably in this context adjacent to the church and the former agricultural buildings of Ham Manor.
- The roof form is more interesting and mass has been reduced somewhat, but I'm not sure about the chimneys: they are not shown on the layout plans (are they false?) or the roof plan. There is a hierarchy of windows to front elevation,

which was one of my points, but the other changes to the front elevation are not positive.

I am of the view that we have received insufficient evidence to demonstrate that the proposed development would not harm the setting of the listed buildings. The issues re bulk, scale and siting have not been addressed, plus the amended design raises issues as noted above. In my view the setting of the listed buildings would be harmed by the proposed development.

#### Public Representations:

Fourteen (14) representations received supporting the planning application and making the following comments:

- Well thought out scheme
- sympathetic development
- good use of derelict barn
- the proposed dwelling has sympathetic design and materials
- use of brownfield land
- conversion of the metal barn to a family home
- the existing building is unsightly
- design is in keeping

#### f) 1. **The Site and the 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 bedrooomed detached dwelling. The dwelling would have a combination of roof types with front gable projection, pitched roof with gabled ends whilst the majority of the length of the dwelling would be under a flat roof with sloping ends to the sides. The dwelling would be 8.5m in height, 15m in width and 15m in depth. The floor area would measure approximately 360sqm. 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.

1.3 It is relevant to note that a previous application for a similar scheme was refused by the authority of the Planning Committee (DOV/19/00440) in July 2019.

#### 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
- Dwelling for a rural worker
- 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 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 adopted development plan. Decisions should be taken in accordance with the policies in such plans, unless material considerations indicate otherwise.
- 2.3 However, notwithstanding the primacy of the development plan, paragraph 11 of the NPPF 2019 states that where the policies which are most important for determining the application are out of date (including where the LPA cannot demonstrate a five year housing land supply or where the LPA has ‘failed’ the Housing Delivery Test), 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 (known as the ‘tilted balance’) or where specific policies in the NPPF indicate that development should be restricted.
- 2.4 Having regard for the most recent Annual Monitoring Report 2018/9, the Council are currently able to demonstrate a five-year supply and the Council have not ‘failed’ the Housing Delivery Test.
- 2.5 It is considered that the policies which are most important for determining the application are CP1, DM1, DM11, DM15 and DM16.
- 2.6 Policy CP1 of the Dover District Local Development Framework Core Strategy adopted February 2010 (the Core Strategy) seeks that the location and scale of development in the District complies with the Settlement Hierarchy. This identifies Ham, where the application site is, as a hamlet not suitable for further development unless it functionally requires a rural location. Whilst there is some tension, this policy accords with the strategic aim of the NPPF to promote sustainable development. Therefore, it is considered that some weight should be afforded to this policy.
- 2.7 In respect of Policy DM1, the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council’s 2010 Adopted Core Strategy. In accordance with the Government’s standardised methodology for calculating the need for housing, the council must now deliver 629 dwellings per annum. As a matter of judgement it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result, limited weight should be afforded to this policy.
- 2.8 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside

confines. Whilst there is some tension, this policy broadly accords with the NPPF's aim to actively manage patterns of growth to support the promotion of sustainable transport and is therefore not considered to be out-of-date and should continue to attract significant weight.

- 2.9 Policies DM15 and DM16 generally seek to resist development that would result in the loss of, or adversely affect the character or appearance, of the countryside or would cause harm to the character of the landscape. However, these policies are broadly consistent with the aims of the NPPF including the need to: recognise the intrinsic character and beauty of the countryside.
- 2.10 Whilst it is considered that policy DM11, DM15 and DM16 are not out-of-date, it is concluded that given how critical Policy DM1 is for the determination of the principle of the development and having considered the development plan in the round, the 'tilted balance' is engaged. As such, the application should be assessed in the context of granting development unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. 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.
- 2.11 Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The site is located outside of the defined settlement confines, is not supported by other development plan policies and is not ancillary to existing development or uses. As such, the application is contrary to Policy DM1.
- 2.12 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. The site is located outside of the settlement confines. It is considered that the occupants of the development would need to travel in order to reach all of the necessary day to day facilities and services (for example secondary schools or a doctor's surgery). The development is not justified by other development plan policies. As such, the development is contrary to Policy DM11.
- 2.13 The NPPF paragraph 78 requires that "housing should be located where it will enhance or maintain the vitality of rural communities" and paragraph 110 prioritises pedestrian and cycle movements and facilitating access to high quality public transport. Therefore, the proposal would be contrary to paragraphs 78 and 110 of the NPPF.
- 2.14 The report contains an in-depth assessment of the degree of compliance of the proposal with policies DM15 and DM16 and whether the development would cause harm to the character and appearance of the countryside and the wider landscape under the section 'Character and appearance' of the report.
- 2.15 Regard has also been had later in this report to whether there are any material considerations which indicate that permission should exceptionally be granted.

#### Character and Appearance

- 2.16 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.
- 2.17 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 comprises 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.
- 2.18 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.
- 2.19 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 (this issue is considered later in the report). 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 (this issue is considered later in the report), as none of the four preceding criteria would be met, the development is contrary to Policy DM15.

- 2.20 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.
- 2.21 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.
- 2.22 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.
- 2.23 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

- 2.24 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.

- 2.25 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.
- 2.26 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.
- 2.27 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.
- 2.28 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.
- 2.29 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.
- 2.30 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 and its planform is bigger than that of the grade II\* listed church. Although slightly lower in height than the existing barn, the dwelling would be much wider. DDC's Heritage Officer has raised concerns regarding the design of the dwelling and describes the development as a 'jettied hall house/over-sized cart entrance to a barn amalgamation'. Concerns are raised regarding the use of timber framing which is not prevalent in this part of the district whilst the design is inconsistent with the character of the grouping of the historic buildings particularly the large cart entrance type structure would be rather imposing architecturally. In addition to this, the issues of bulk, siting and scale raised during the previous application (DOV/19/00440) remain unresolved.

- 2.31 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 Heritage Officer's view that the settings of the listed buildings (St George's House, Ham Manor and the stable block) have been inadequately considered.
- 2.32 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.

#### Dwelling for a Rural Worker

- 2.33 The application has been supported by a planning statement which makes reference to the fields owned by the applicant around the application site. This has been presented as the basis for the proposed development in this rural location. It is therefore felt relevant to discuss the matter in-depth and establish whether the argument presented carries weight in the decision making process.
- 2.34 The revised Framework at paragraph 79 allows for isolated homes in the countryside where there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside. Whilst technically the site is not defined as isolated, it lies in a highly unsustainable location and is isolated from the day to day facilities and services.
- 2.35 There is a consistent approach across the Planning Inspectorate which requires the following to be taken into consideration whilst assessing the case for a rural worker's dwelling.
- a) Whether there is an essential need for a dwelling to accommodate a rural worker
  - b) Whether, having regard to national planning policy that seeks to avoid isolated new homes in the countryside, there is an essential need for a rural worker to live permanently at or near their place of work.
  - c) Is it necessary for a worker to live at or near their place of work in order for that work/enterprise to function properly?
  - d) Is the work/enterprise in question likely to endure in the long term? (i.e. is there a significant risk that the enterprise might cease in the near future, leaving behind a new dwelling that would not otherwise have been approved?)
- 2.36 The Planning Inspectorate guidance further advises to take into account whether a worker needs to be on or near the site at most times, including the night – i.e. outside of regular hours of work. It also requires the submission of evidence to demonstrate that other measures have been considered such as automatic alarms in the event of power failure etc. Further to this, the applicant is required to sufficiently demonstrate the adverse effects that might arise if a worker were not present at most times and how serious these effects might be i.e. could their absence on the site materially affect the functioning of the enterprise or the viability of the business.

- 2.37 Overall no evidence has been provided with the application to establish that there is a 'need' for a rural worker to live at or near the site. No details of the applicant's business have been submitted to support the argument. Notwithstanding the lack of evidence, in the event that it was established that there is a need for a worker to live at or near the site, it is necessary to first consider whether there is existing accommodation in the area that might reasonably meet the need. Further to this, the guidance also requires the size of the dwelling to be proportionate for the intended purpose i.e. appropriate to the essential need and not be unnecessarily large. In contrast, the proposal would result in the creation of an uncharacteristically large and bulky domestic building (approximately 360sqm), particularly in the context of the other more modest traditional residential properties nearby. In summary, there is no justification in this case for granting permission on the basis that the proposed dwelling is required to meet the needs of the agricultural holding.

#### Highways/Travel Impacts

- 2.38 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.
- 2.39 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.
- 2.40 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

- 2.41 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

- 2.42 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.

### Land Contamination

- 2.43 Environmental Health have not been formally consulted on this application. However, it is noted that on the previous application DOV/19/00440, EH raised no objections subject to land contamination conditions. It was also recommended that care 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. It is considered reasonable to attach the recommended conditions should the permission be granted.

### Archaeology

- 2.44 The application site is situated within a chalk downland landscape that is generally rich in archaeological remains. Immediately to the north of the site is the former St George's Church (now converted into a private dwelling). This former church is Grade II\* listed and is reputedly of Anglo-Saxon date. Also of Anglo-Saxon date are numerous metal detecting finds recorded from fields immediately to the east and south-east. These chance finds include several Anglo-Saxon buckles and brooches (including examples in silver) and an Anglo-Saxon gold bracteate (decorated gold disk). These finds almost certainly originated in a funerary context and are strongly suggestive of an Anglo-Saxon cemetery site.
- 2.45 Other finds from the area include several coins of Iron Age and Romano-British date. Also within the fields to the east there are various crop- and soil- marks visible on aerial photographs which demonstrate the presence of buried archaeological features. These crop- and soil- marks include an enclosure and also a ring-ditch, the latter probably representing the ploughed-out remains of a Late Neolithic/Early Bronze Age burial mound.
- 2.46 Given the archaeological potential of the area, KCC Archaeology have advised that it is possible that the proposed development may affect remains of archaeological interest. Consequently, it is recommended that in the event of grant of planning permission, a condition be attached for a programme of archaeological works.

### Impact on Trees

- 2.47 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.
- 2.48 DDC's Tree Officer has raised no concerns regarding the proposal and recommended that in the event of grant of planning permission, appropriately worded conditions be attached to the permission to secure the tree protection measures as detailed within the submitted tree survey.

## Ecology

- 2.49 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.
- 2.50 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

- 2.51 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.
- 2.52 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.
- 2.53 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.

- 2.54 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.
- 2.55 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

- 2.56 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.
- 2.57 The proposed development would provide a short term and very modest economic benefit, by providing employment during the construction phase.
- 2.58 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.
- 2.59 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. Further to this, 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) and the harm caused would be material.
- 2.60 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.

- 2.61 The application site is around 1.4km as the crow flies (ATCF) from a site near Finglesham (hamlet), which was refused planning permission at appeal for one dwelling (DOV/17/01499 and APP/X2220/W/18/3199790) in August 2018. The site has similar characteristics to the application site in terms of its remoteness and the very limited access to day-to-day facilities and services. In respect of the proposal, the Inspector opined that the rural nature of the highways and the public rights of way in the area would not provide a realistic prospect for walking or cycling to and from urban areas and that the occupiers of the proposed dwelling would be highly reliant on the private car and would be contrary to Policy DM11 and the principles of the Framework that seek to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. He also concluded that the development in such a rural location would result in a diminution of the rural character and appearance of this location by further consolidating urbanising development in this locality. He concluded that the harm identified would significantly and demonstrably outweigh the benefit associated with the provision of one dwelling.
- 2.62 Whilst every case should be judged on its own merits, it is considered that the recommendation to refuse the current application would be consistent with the approach taken by the Inspector, for a single dwelling, in a nearby rural location, which was to very firmly dismiss the appeal on the grounds that it would be contrary to both the local and national planning policies. It is also worth noting that this appeal decision was made when the Council was unable to demonstrate a 5 year housing land supply. However, in case of the current application, the Council is 'able' to demonstrate a 5 year housing land supply.
- 2.63 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. Nil evidence has been submitted to demonstrate that there is an essential need for a rural worker to live permanently at or near the site. 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 necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Benazir Kachchhi