

Public Document Pack



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16 September 2020

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **PLANNING COMMITTEE** will be held as a Remote Meeting - Teams Live Event on Thursday 24 September 2020 at 4.30 pm when the following business will be transacted.

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

Yours sincerely

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

Chief Executive

Planning Committee Membership:

J S Back (Chairman)
R S Walkden (Vice-Chairman)
M Bates
D G Beaney
E A Biggs
T A Bond
J P J Burman
D G Cronk
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 attached minutes of the meeting of the Committee held on 13 August 2020 (to follow).

5 **ITEMS DEFERRED** (Page 5)

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

ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING

(Pages 6-9)

6 **APPLICATION NO DOV/20/00461 - LAND AT ROMAN ROAD, NORTH OF PINEHAM, WHITFIELD** (Pages 10-18)

Erection of a detached barn for storage of machinery and animal feed for equine use

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

7 **APPLICATION NO DOV/20/00304 - LAND FRONTING CHAPEL HILL, EYTHORNE** (Pages 19-27)

Erection of a detached dwelling, car parking, new vehicle access and associated landscaping

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

8 **APPLICATION NO DOV/19/01495 - THE HAVEN, DEAL ROAD, SANDWICH** (Pages 28-44)

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

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

9 **APPLICATION NO DOV/20/00319 - SANDWICH TENNIS CLUB, SANDOWN ROAD, SANDWICH** (Pages 45-60)

Construction of an additional tennis court and erection of a 2.5-metre high fence

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

10 **APPLICATION NO DOV/20/00425 - ELMSTONE COURT FARM, PADBROOK**

LANE, ELMSTONE (Pages 61-84)

Change of use for the siting of nine caravans for seasonal workers, conversion of a barn to amenity block and conversion of a farm building to dwelling house

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

ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING

11 **APPEALS AND INFORMAL HEARINGS**

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

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

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

Access to Meetings and Information

- The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 have changed the basis of the public's legal right to attend meetings. This means the public now has the right to hear Councillors attending the remote committee meeting that would normally be open to the public to attend in person. It is the intention of Dover District Council to also offer the opportunity for members of the public to view, as well as hear, remote meetings where possible. You may remain present throughout them except during the consideration of exempt or confidential information.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes will be published on our website as soon as practicably possible after each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Kate Batty-Smith, Democratic Services Officer, telephone: (01304) 872303 or email: democraticservices@dover.gov.uk for details.

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

Declarations of Interest

Disclosable Pecuniary Interest (DPI)

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

Other Significant Interest (OSI)

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

Voluntary Announcement of Other Interests (VAOI)

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

Note to the Code:

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

DOVER DISTRICT COUNCIL

REPORT OF THE HEAD OF PLANNING, REGENERATION AND DEVELOPMENT

PLANNING COMMITTEE – 24 SEPTEMBER 2020

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

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

- 1. DOV/19/01260** **Outline application for the erection of up to 14 dwellings (appearance, landscaping and scale to be reserved) – Land off Church Lane, Deal (Agenda Item 7 of 3 September 2020)**

Background Papers:

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

LOIS JARRETT

Head of Planning, Regeneration and Development

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



Remote Meetings

Planning Committee

The Council Offices will be closed during a remote meeting and it is not possible for members of the public to physically “attend” a remote meeting.

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 have changed the basis of the public’s legal right to attend meetings. This means the public now has the right to hear Councillors attending the remote committee meeting that would normally be open to the public to attend in person. It is the intention of Dover District Council to also offer the opportunity for members of the public to view remote meetings where possible.

Joining a Remote Meeting

To join a remote meeting, you will need to join via the link on the Council’s website. This can be accessed via the agenda page for each meeting. The Council is using Teams Live Events (a Microsoft Product) for its remote meetings and you will be taken to the meeting by clicking on the link.

The best way to view the remote meeting is through a laptop or desktop computer. However, you should also be able to view through a smartphone or tablet device. You will need internet access to do this.

Public Speaking

In accordance with Paragraph 9 of the Council’s Protocol for Public Speaking at Planning Committee, the Chairman has altered the public speaking procedure to allow written statements (of no more than 500 words) to be submitted in lieu of speaking.

The procedure for registering to speak itself remains unchanged. You must request to speak in writing by email to democraticservices@dover.gov.uk or by means of the form that can be found on the Council’s website at <https://www.dover.gov.uk/Planning/Planning-Applications/Making-Applications/Speaking-at-Planning-Committee.aspx>

In all cases, public speaking requests must be received by no later than 5pm on the second working day prior to the meeting.

Registration will be on a first-come, first-served basis. **If you have been successful in registering to speak, you will be contacted by a member of the Democratic Services team. If successfully registered, you must submit your written statement (of no more than 500 words) by email to democraticservices@dover.gov.uk by 10.00am on the day of the remote meeting.**

Registering to speak at a remote meeting confers the right to submit a written statement which will be read out to the remote meeting by an Officer (who is not a member of the Planning Department) on behalf of the speaker. Subject to normal public speaking procedures and the Chairman's discretion, there will be one speech in support of, and one speech against, an item for decision.

In submitting their statement, each speaker accepts that they remain fully responsible for its contents. If any defamatory, insulting, personal or confidential information, etc. is contained in any speech received from any speaker, and/or read to the remote meeting by an Officer, each speaker accepts full responsibility for all consequences thereof and agrees to indemnify the Officer and the Council accordingly.

Feedback

If you have any feedback on the Council's remote meeting arrangements, please let us know at democraticservices@dover.gov.uk

APPLICATIONS WHICH MAY BE SUBJECT TO PUBLIC SPEAKING

The Reports

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

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

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

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

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

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

Site Visits

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

The following criteria will be used to determine usefulness:

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

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

Background Papers

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

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

IMPORTANT

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

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

The Development Plan

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

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

Human Rights Act 1998

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

The key articles are:-

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

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

Account may also be taken of:-

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

Article 10 - Right to free expression.

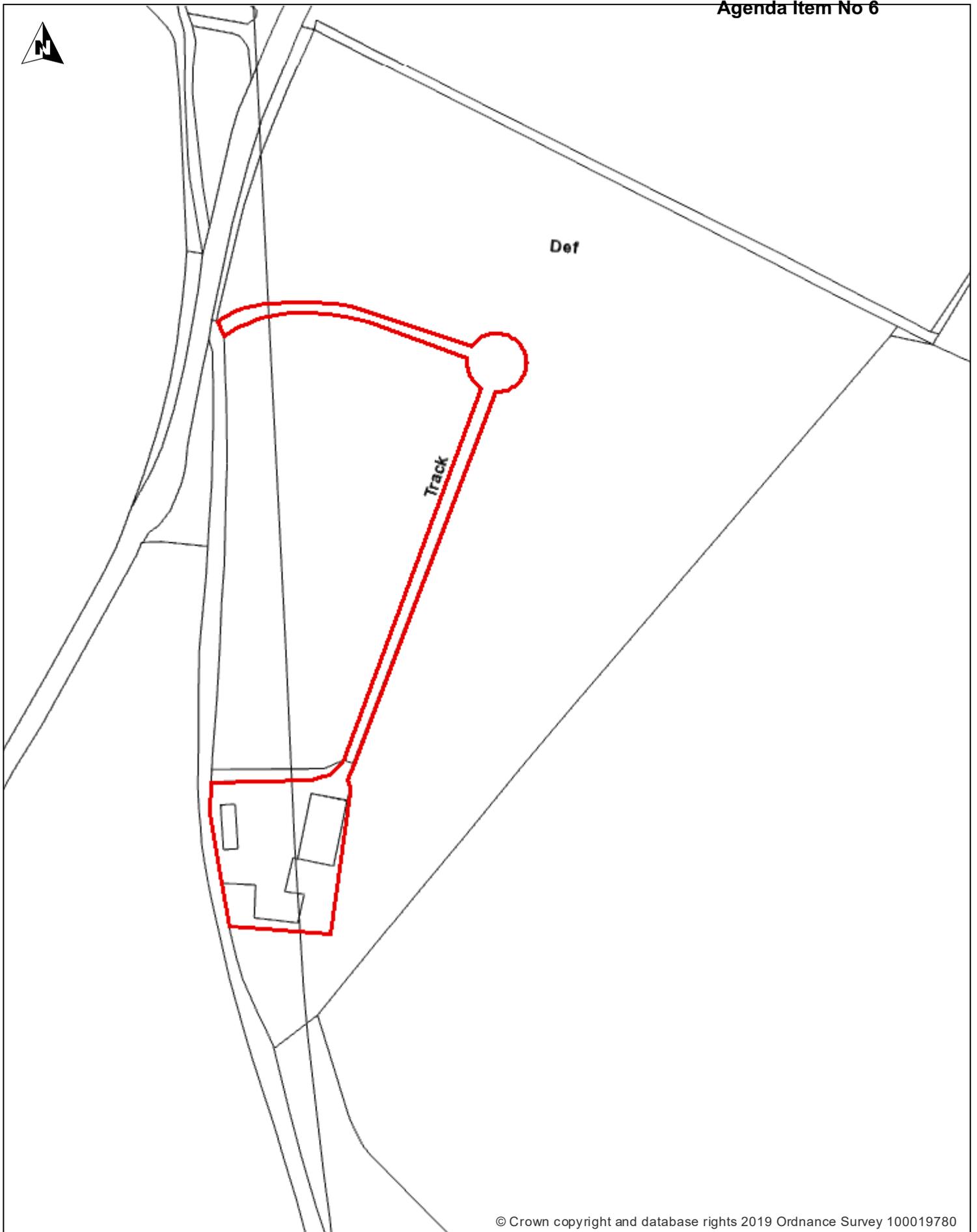
Article 14 - Prohibition of discrimination.

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

(PTS/PLAN/GEN) HUMANRI

PUBLIC SPEAKING AT PLANNING COMMITTEE

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



DOV/20/00461
Land at Roman Road
Whitfield
CT15 5HB

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/20/00461 – Erection of a detached barn for storage of machinery and animal feed for equine use - Land at Roman Road, North of Pineham, Whitfield**

Reason for report: Number of contrary views.

- b) **Summary of Recommendation**

Planning permission be refused.

- c) **Planning Policies and Guidance**

Core Strategy (CS) Policies

- DM1 - Development will not be permitted on land outside the urban boundaries and rural settlement confines unless specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM15 – Development which would result in the loss of, or adversely affect the character or appearance, of the countryside will only be permitted if it is:
 - i. In accordance with allocations made in DPD, or
 - ii. Justified by the needs of agriculture; or
 - iii. Justified by a need to sustain the rural economy or a rural community;
 - iv. It cannot be accommodated elsewhere; and
 - v. It does not result in the loss of ecological habitats

Provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character.

- DM16 – Seeks to prevent or mitigate harm to the character of the landscape

National Planning Policy Framework 2019 (NPPF)

- Section 12 is relevant as the proposal should seek to achieve well-designed places ensuring that development will function well and add to the overall quality of an area, be sympathetic to local character including landscape setting.
- Section 15 is relevant as it seeks to conserve and enhance the natural environment requiring decisions to protect and enhance valued landscapes and to recognise the intrinsic character and beauty of the countryside

The Kent Design Guide (KDG)

The Guide provides criteria and advice on providing well designed development that takes into account context.

National Design Guide 2019

This Guide provides detail and advice on how to achieve well-designed places as required by the NPPF. In this case, relevant to the determination of the application is the need to ensure that communities have a mix of home tenures and that communities are socially inclusive.

Landscape Character Area Assessment (2006)

The application site forms part of the Eythorne Arable Mosaic with Parkland Landscape Character Area.

d) **Relevant Planning History**

In December 2019, an appeal was dismissed and an enforcement notice upheld for: “The material change of use of the land from agriculture to a mixed use for agriculture and storage of a caravan” (APP/X2220/C/18/3214670)

DOV/14/00213 – Granted, for the erection of a detached stable block and change of use of land for the keeping of horses. The permission was for the private stabling/keeping of horses on the land and within the building. The approved building accommodated 8 loose boxes (stables) and 1 food store. Its location is shown on the current application drawing – some 7m from and perpendicular to the location of the proposed building under this current application.

In December 2009, an appeal was dismissed and an enforcement notice upheld for: The erection of two buildings on the land and the carrying out of other material operations (APP/X2220/C/09/2107356)

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

Whitfield Parish Council: No objections are raised.

Kent Archaeological Officer: “The site in question lies in an area of high archaeological potential. I note from the application details however that the new barn will be built off an existing slab belonging to a former, now demolished barn. This being the case, it would appear that no significant new groundworks will be required and therefore I suggest that no archaeological measures are required.”

Environmental Health Officer: No observations.

Rural Planning Adviser: “Many small-scale horse keepers make arrangements to bring in, or have delivered, feed and bedding at intervals throughout the year, using relatively limited storage facilities ...additional to the stables themselves. With this in mind, the proposed building appears rather larger than might be usually expected: I would have thought the identified uses could be reasonably accommodated in a building of about 2/3 the ground floor area. Furthermore, the building appears unnecessarily tall as I do not consider an additional mezzanine store to be necessary...the eaves height of any permitted store could be limited to about 3.3m in my view.”

Public Representations: There have been 10 other responses received from the public consultation exercise, 8 in support of the application and 2 opposing it. The supporting comments can be summarised as follows:

- There are other similar developments nearby and the site has permission for a stable building
- The existing trees/landscaping on the site provide an appropriate setting for the development
- There will be no further traffic generated
- The proposal would be in keeping
- There is a need for hygiene, sanitation and security
- The use of the site would help prevent fly-tipping
- Investment into the area should be supported

The objections may be summarised as follows:

- The proposal would be a visual intrusion in the un-spoilt countryside
- The proposal would be likely to increase in traffic generation and consequent impact upon the highway
- The proposal lacks justification,
- The scale and massing of the development are out of keeping.
- There needs to be a restriction on its use.

f)

1. **The Site and the Proposal**

1.1 The application site falls within the open countryside, beyond and some distance from any settlement. Landscape Character Assessment work undertaken by the Council describes this particular landscape character as having a topography that is undulating, with a distinct and regular pattern of gentle ridges and valleys flowing in a northeast-southwest direction.

1.2 The application site itself is mostly flat, but is raised up above the level of the adjoining public footpath which runs alongside the site, and above the carriageway further west. On the other side of the carriageway, the topography of the land falls in a westerly direction. PROW ER51, also forms part of and is called, for tourism purposes, the White Cliffs Country Trail. From the footpath, the application site can be glimpsed, through and between the dense vegetation along the site's boundary.

1.3 The application site comprises the access from the carriageway which leads to a 'dog-leg' halfway into the field, where it then proceeds in a straight line southward to a roughly square parcel of land that accommodates a rectangular-shaped excavated area in the location of the approved stable building. The area outside the application site but within the applicant's ownership, edged blue on the submitted drawing, is a triangular shaped parcel of land that wraps around the application site. At the times of officer's recent visits, the red and blue land was not in use and there were no horses on the land.

1.4 To the south of the application site, and along the 'blue line' of the applicant's stated ownership boundary, is a line of trees that provide

a degree of visual screening from views from the footpath further south.

- 1.5 The proposal seeks to erect a barn type building. It would have a rectangular form, with an eaves level of some 4.8m and a pitched roof, with a ridge height of 6.6m. The proposed materials are timber cladding on a brick plinth, with a corrugated roof. There are two openings into the building. A single pedestrian door on the front elevation (facing northward) and a set of double doors on the side elevation (facing eastward). The proposed building will be located close to the excavated land, at right angles to it, stated on the submitted drawing to be on an existing slab of a former barn building
- 1.6 The floor space will accommodate a barn/storage area with an enclosed 'welfare area' that accommodates a working area with a sink and working tops and a separate WC. There are stairs within the building that lead up to a storage area on a mezzanine floor – that is located above the welfare area.
- 1.7 The submission states that the building is needed to accommodate hay bales and other horse feed, equipment, welfare areas and security.

2. **Main Issues**

2.1 The main issues are:

- The principle of the development
- The impact upon the character and appearance of the area

Principle of Development

- 2.2 In March 2017 DDC Cabinet agreed to commence the review of the Core Strategy (CS) and Land Allocation Action Plan (LALP) through the preparation of a single local plan. The decision to review the CS and LALP is an acknowledgement that in some cases the evidence base is out of date. It is also recognised that some of the detailed policies applicable to the assessment of this particular application (including Policy DM1 and DM15) are to various degrees, now considered inconsistent with aspects of the NPPF and as such are out-of-date. That does not mean however that these policies automatically have no or limited weight. They remain part of the Development Plan and must therefore be the starting point for the determination of the application. Furthermore while the overall objective of a policy might be held out-of-date, greater weight can nevertheless still be applied to it depending of the nature/location of the proposal in question and the degree to which the policy (in that limited context) adheres to and is consistent with the policy approach in the NPPF.
- 2.3 Turning to the application of the Development Plan policies, the application site falls within the open countryside. As such, the principle of development needs to be considered against Policy DM1 which allows development beyond settlement areas (confines) where it is ancillary to an existing use.

- 2.4 The proposed barn building is stated by the applicant to be necessary for, or required by, the use of the stable building (and site). The permitted use of the stable building is for private stabling (for 8 loose boxes and a feed store), which means that the permitted use of the land (building and land) would not be for commercial purposes. The barn building is not required for agricultural purposes.
- 2.5 Notwithstanding, the applicant states that the proposed building is required to serve the approved stable building (and the keeping of horses) and on its face it would appear from the applicant's perspective that the proposed building would meet the requirements of policy DM1 – being ancillary to an existing use or development.
- 2.6 As it currently stands, the stable building has not yet been erected and the land is not in use for the keeping of horses. The Council's position and the Inspector's position in the 2019 Appeal (see planning history above) was that the land is in agricultural use.
- 2.7 In essence therefore the proposal seeks to justify the erection of the building without the existing stable building being erected and without the keeping of horses' use taking place on the land.
- 2.8 It is considered therefore that the proposal, at the moment, is not genuinely required for or ancillary to the existing development or use of the land as the land is not being used for horse keeping, and is in conflict with Policy DM1.
- 2.9 Policy DM15 resists the loss of countryside (i.e. the areas outside of the settlement confines) or development which would adversely affect the character or appearance of the countryside, unless one of four exceptions are met; it does not result in the loss of ecological habitats and provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character.
- 2.10 Resisting the loss of countryside as a blanket approach is more stringent an approach than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development. There is therefore some tension between this Policy and the NPPF. In this instance, the site's appearance within the open countryside does afford a contribution to its intrinsic beauty and character. Consequently, it is concluded that Policy DM15 should attract significant weight for the reasons set out in the Report section below.
- 2.11 In conclusion, the 'in principle' development plan approach to the development outside the settlement confines and where development results in the loss of the countryside should be afforded less weight as this approach is in tension with the requirements of the NPPF. However, as set out further in this Report, and for the purposes of protecting valued landscapes and conserving the character and intrinsic beauty of the countryside, Policies DM15 and DM16 are broadly consistent with paragraph 170 of the NPPF and therefore these policies can be given significant weight in the determination of this application.

Impact Upon Character and Appearance

- 2.12 The proposed building is significantly larger than the approved stable building – having (in effect) room for a second storey within the building and having a ridge height of some 6.6m. The approved stable building has a ridge height of 3.5m.
- 2.13 The proposed barn building would dominate the scale of the stable building and would be visible across the landscape and from views from the highway. It would be an obvious intrusion into the open countryside and would harm its intrinsic character and beauty.
- 2.14 Visually, even if the stable building were to be erected, the proposed barn would not appear ancillary to the stable building. In addition, the amount of floor space proposed is not considered to be ancillary in function or scale to the approved stable building.
- 2.15 The applicant has not sought to justify the need for the specific amount of floor space or the height of the proposed building - when it seems (from the advice the Council has received from the Rural Planning Adviser) that if the stable building existed and if the land was used for the keeping of horses a much smaller building might be able to be justified.
- 2.16 As such, it is considered that the scale, location and appearance of the building would harm the character and beauty of the open countryside, and insufficient need or justification has been advanced to justify a building of this scale to outweigh the harm that has been identified.
- 2.17 As such, it is considered that the proposed building is contrary to the aims of Policies DM15 and DM16 of the Core Strategy and paragraphs 127 and 170 of the NPPF.
- 2.18 As Policies DM1 and DM15 are both important for assessing the application, as set out under paragraph 11 of the NPPF, the 'tilted balance' will need to be applied to the assessment of the application, meaning that the application should be assessed in the context of granting planning permission 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.

Other Matters

- 2.19 Matters raised through the consultation exercise have been taken into account. In response to two particular points, it is not considered that the proposed barn would give rise to a material increase in the use of the access as the intended or proposed use of the barn would be to supplement the use of the stable building.

2.20 Secondly, if the proposal had been considered acceptable, on all the other matters, it would not have been considered appropriate for the Council to impose a planning condition to ensure the building's use is ancillary to the use of the stables and use of the land for the keeping of horses, when that use is not the current use. The condition would not relate to the actual use of the land or have the effect of changing the use from what it is, to something it is not. As such, it is not considered appropriate to impose a planning condition to change the use (at some point in the future) and the nature of the occupancy of the land.

3. **Conclusion**

3.1 The proposed building is required by the applicant to serve the approved stable building and use of the land for the keeping of horses. However, the stable building has not been erected and the use of the land has not changed. The Council's position in the 2019 Appeal, which is also the Appeal Inspector's conclusion, is that the lawful use of the land is agricultural.

3.2 It follows therefore that the proposal seeks to erect a building to serve a use of land that does not exist.

3.3 Notwithstanding, the proposed building would have a significant scale and would dominate the open, rural character and appearance of the area. The proposal fails to provide adequate justification as to why a building of this scale is required on the site to provide hay, feed, machinery, and areas for welfare and sanitation to serve up to 8 horses for private use.

3.4 It is considered that even though the 'tilted' balance' approach should be applied, the adverse effects and harm identified to the character and intrinsic beauty of the countryside are considered to outweigh the benefits set out by the applicant, in this case.

g)

Recommendation

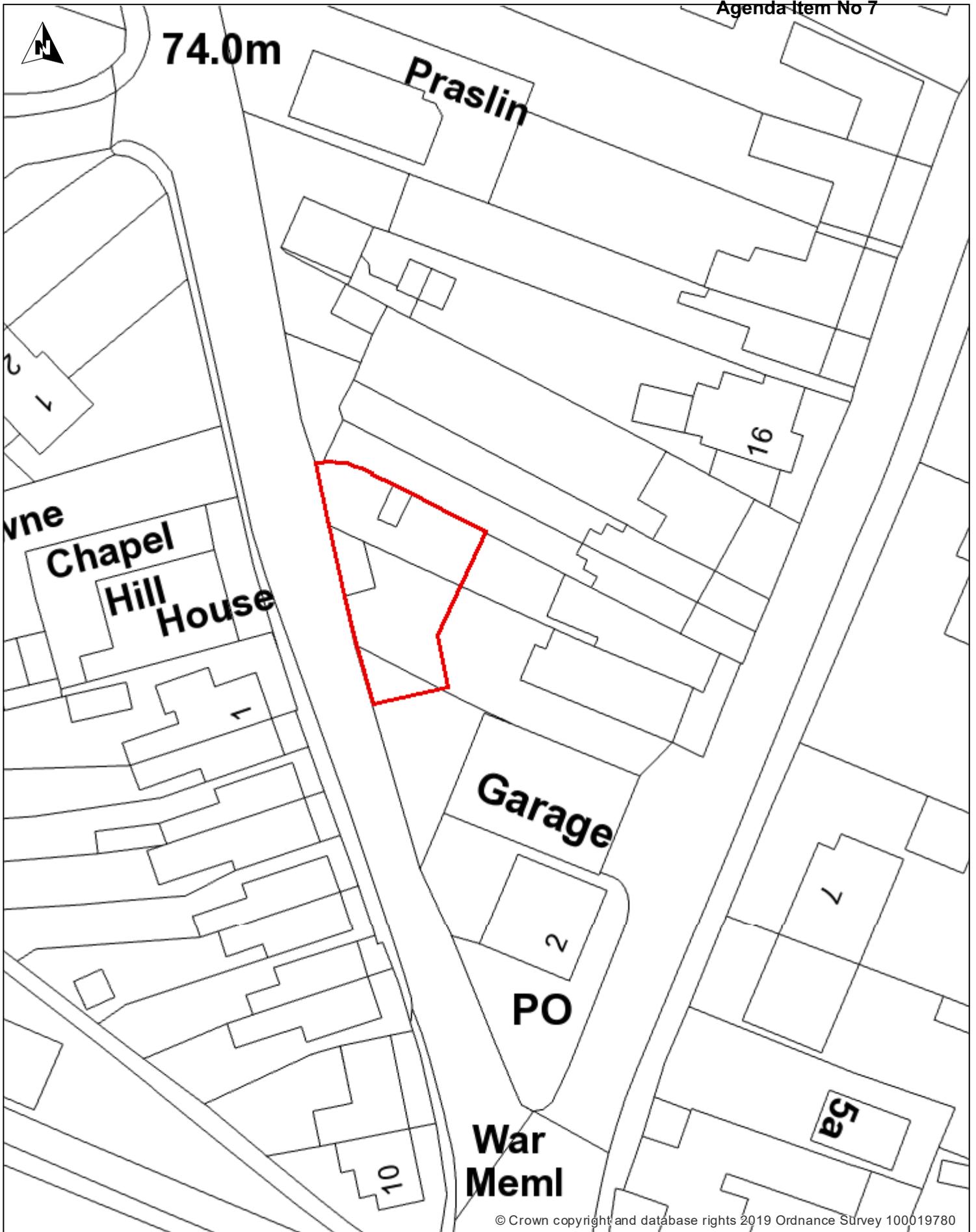
I PERMISSION BE REFUSED for the following reasons:

The proposed development, by reason of its scale, location and appearance would appear intrusive, dominant and harmful to the open character, appearance and beauty of the countryside contrary to Policies DM1, DM15 and DM16 of the Core Strategy and Paragraphs 127 and 170 of the National Planning Policy Framework and insufficient justification has been provided to demonstrate that the need for the development outweighs the harm identified.

II Powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary wording in line with the recommendations and as resolved by the Planning Committee.

Case Officer

Vic Hester



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DOV/20/00304

Fronting Chapel Hill
Eythorne
CT15 4AA

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/20/00304 – Erection of a detached dwelling, car parking, new vehicle access and associated landscaping - Land fronting Chapel Hill, Eythorne**

Reason for report: Number of contrary views.

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policies and Guidance**

Core Strategy (CS) Policies

- CP1 – Eythorne is a village suitable for a scale of development that would reinforce its role as a provider of services to its home and adjacent communities
- DM1 - Development will not be permitted on land outside the urban boundaries and rural settlement confines unless specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.

National Planning Policy Framework 2019 (NPPF)

- Section 5 is relevant as it seeks the delivery of a sufficient supply of homes, including the size, type and tenure of housing need for different groups in the community.
- Section 12 is relevant as the proposal should seek to achieve well-designed places ensuring that development will function well and add to the overall quality of an area, be sympathetic to local character and history 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.

The Kent Design Guide (KDG)

The Guide provides criteria and advice on providing well designed development that takes into account context.

National Design Guide 2019

This Guide provides detail and advice on how to achieve well-designed places as required by the NPPF. In this case, relevant to the determination of the application is the need to ensure that communities have a mix of home tenures and that communities are socially inclusive.

- d) **Relevant Planning History**

None relevant.

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

Eythorne Parish Council: Objections are raised for the following reasons: There will be increased traffic on an already crowded and busy road. Visibility splays are not achievable, and the access is unsafe. There is concern regarding disruption to the traffic flow while building takes place. There is restricted sighting of vehicles coming down from the Eythorne roundabout direction due to heavy parking and narrowing of the road. This is a main road through the village.

Kent Highways: Raised objections to the initial scheme, but comments are awaited on the additional information submitted by the applicant.

Public Representations: There have been 21 other responses received from the public consultation exercise, 12 support the application and 9 oppose it. The objections raised can be summarised as follows:

- There is existing congestion and parking on the highway which will be exacerbated by the development
- The proposed access and its lack of visibility would prejudice highway safety
- There would be disruption and inconvenience during building works
- The proposal amounts to overdevelopment and visual harm

Those that support the application consider there to be a visual improvement, the removal of the wall at the front of the site would make the access and use of the road safer and the proposal has its own on-site parking spaces.

f)

1. **The Site and the Proposal**

1.1 The application site falls within Eythorne village confines. It occupies the rear gardens of Nos. 6 and 8 Sandwich Road and a small section of the parking area that serves the garage at No.4 Sandwich Road, which has a frontage onto Chapel Hill. The rear gardens of Nos. 6 and 8 are elevated above the level of the highway behind a block and render wall which forms the boundary with the highway. The land within the curtilage of the garage is occupied by vehicle parking and has an existing access onto Chapel Hill.

1.2 Chapel Hill comprises mostly Victorian, two storey semi-detached cottages on its western side, leading from the roundabout at the top of the hill to No.1, opposite the site, which is a differently designed and slightly older detached two storey building called Chapel Hill House. Leading northwards from Chapel Hill House, the buildings on the western side of the road are more modern and sit further back from the highway. On the same side of the road as the application site, leading northwards, there are rear boundaries of Sandwich Road properties, some parking areas, outbuildings/garages and houses. This section of the street has a more sporadic development pattern, where buildings have been erected in a more un-planned, ad hoc way, in the rear garden of properties to form a more loose knit and varied form of development.

1.3 The Victorian properties along the western side of Chapel Hill are two storeys and have ground floor bay windows. Their front elevations and fenestrations have been changed such that although the form and pattern of development is uniform, their appearance and use of facing

materials have changed. The building opposite the site, No.1, is double fronted with a central doorway. It has red facing brick on the ground floor with a 'stucco' style finish to the first floor elevation.

- 1.4 The garage building located to the south is a converted industrial building and does not make a positive contribution to the mostly residential street scene.
- 1.5 Further north of the application site, the buildings have an eclectic design and appearance.
- 1.6 The proposal has been amended from its original submission, to lower the ground level and to provide additional details. However, in effect, the scheme remains the same. It comprises a two storey house that has a frontage onto Chapel Hill with a combined pedestrian/vehicle access that leads to the front of the new dwelling and to the side where two car parking spaces and bin storage are proposed.
- 1.7 A private garden area is proposed to the rear of the dwelling, with a further garden area to the side, in front of the north facing elevation of the building.
- 1.8 The house has been designed to have a main section having a square form, with a two storey 'addition' which is designed to have a subordinate appearance - having a smaller scale and being set in from the front and rear elevations and with a lower ridge line.
- 1.9 The front elevation has a two storey bay projection located centrally within the elevation with a gabled roof design, whilst the main building would also have gabled end roof designs. The windows are mostly aligned; with the ground floor windows having cills and headers and the first floor windows rising to the eaves. The building would be constructed using mainly yellow facing brickwork under a slate roof. The central bay would have its upper section rendered and coloured white.
- 1.10 The accommodation comprises a living/dining room, kitchen, study and WC on the ground floor, with 4 bedrooms and bathrooms on the first floor.
- 1.11 The building is angled on its plot to avoid its rear elevation facing directly towards Nos 6-8 Sandwich Road. The site levels will be lowered by some 1.5m, to reduce the overall height of the building.

2. **Main Issues**

2.1 The main issues are:

- The principle of the development
- The impact upon the character and appearance of the area
- The impact upon residential amenity
- The impact upon highway safety

Principle of Development

- 2.2 The application site falls within the village confines of Eythorne. As such, under Policies CP1 and DM1, the erection of a dwelling within the settlement boundary is acceptable in principle.
- 2.3 In March 2017 DDC Cabinet agreed to commence the review of the Core Strategy (CS) and Land Allocation Action Plan (LALP) through the preparation of a single local plan. The decision to review the CS and LALP is an acknowledgement that in some cases the evidence base is out of date. It is also recognised that some of the detailed policies applicable to the assessment of this particular application (including Policies CP1 and DM1) are to various degrees, now considered inconsistent with aspects of the NPPF and as such are out-of-date. That does not mean however that these policies automatically have no or limited weight. They remain part of the Development Plan and must therefore be the starting point for the determination of the application. Furthermore while the overall objective of a policy might be held out-of-date, greater weight can nevertheless still be applied to it depending of the nature/location of the proposal in question and the degree to which the policy (in that limited context) adheres to and is consistent with the policy approach in the NPPF.
- 2.4 With regard to this particular application, the focus of the NPPF is to locate new housing development within suitably sustainable locations. Supporting the principle of new housing within the village confines would be consistent with Paragraphs 78 and 79 of the NPPF, which seek to locate housing where it will enhance or maintain the vitality of rural communities and to avoid the development of isolated homes in the countryside.
- 2.5 As such, the principle of allowing housing development in this location is compatible with the objectives of the Development Plan and the requirements of the NPPF.

Impact Upon Character and Appearance

- 2.6 The proposed development has a simple form with the central bay and northern 'addition' designed to reduce the overall massing of the building and to provide some visual interest.
- 2.7 The building will sit within its plot to allow separation to each boundary and garden space to the rear and side. The site levels will be lowered to ensure that the building does not appear too dominant or overbearing within the context of surrounding buildings.
- 2.8 The central bay projection is a modern design interpretation of the bay windows in the buildings along Chapel Hill. The design detail around the openings also reflects the detail around the openings in those buildings. The use of yellow facing brick and some render also draws on the use of these materials in some of these nearby buildings. The proposed building's double frontage reflects the double frontage of Chapel Hill House, whilst the two storey 'addition' has a subservient impact on the design of the main house – and is presented to appear as an extension. This has the overall impact of reducing the scale and massing of the proposal.

- 2.9 Whilst the proposed building sits on an individual, isolated plot (on the eastern side of this section of Chapel Hill), it has a simplicity in its form and design detail that reflects the properties on the west side of Chapel Hill. The height of the proposed house (on the lowered site levels) should also ensure that the building would not visually dominate the street scene.
- 2.10 In conclusion, it is considered that the application building is well-designed and its proposed articulation through the provision of cills, headers, sliding sash windows and use of materials would add visual interest to the front elevation. The existing appearance of the existing garden wall along this section of the road is undistinguished whilst the proposal provides an opportunity to enhance the prevailing character and appearance of this part of the street scene.
- 2.11 As such, it is considered that the design of the new house and its impact upon the immediate area would meet the requirements for good design as set on in the NPPF.

Residential Amenity

- 2.12 The proposed house is designed to have its principal windows in its front elevation, with the exception of Bedroom 1 on the first floor which has its principal window facing south (along Chapel Hill). The windows in the rear elevation are secondary windows and with the angle to the properties to the rear, this arrangement would not give rise to unacceptable levels of overlooking of those properties.
- 2.13 The key impact to consider under this issue is the impact upon the residential amenity of the occupiers of Chapel Hill House – because the buildings will face each other. The first floor bedroom windows in the front elevation of the proposed house would look toward the front windows in Chapel Hill House. There would be an approximate 13m separation between buildings. The proposal has been amended to take into account this particular concern and to reduce this impact. The primary windows to two of the bedrooms have been relocated to the side elevations of the new house, whilst their previous openings have been ‘bricked up’ to retain some form of uniformity in the design of the front of the building. The window in the projecting bay will serve a hallway and is now proposed to be obscure glazed. This leaves one window at first floor level serving proposed bedroom 3, which would provide clear glazing and a view towards the front elevation of Chapel Hill House.
- 2.14 It is considered that as only one first floor window in the proposed house will allow clear views towards Chapel Hill House, there is a 13m separation between buildings and the front elevation of Chapel Hill House already faces onto the highway – allowing passers-by views to and through windows in that property, that the proposal would not materially impact the living conditions of the occupiers of Chapel Hill House, and therefore their living conditions would not be unduly harmed.
- 2.15 In other respects, due to the height of the proposed building and its separation from other properties, the proposal would not be overbearing or give rise to any material impact upon the living conditions of the occupiers of nearby properties.

- 2.16 In conclusion, it is considered that overall, the living conditions of the occupiers of nearby dwellings would not be unduly harmed by the proposal.

Highway Impact

- 2.17 The proposed development will accommodate two parking spaces on the site, which is in a location central to the village. This provision of on-site parking is considered to be acceptable.
- 2.18 The proposal uses part of an existing access that serves the garage, where the visibility of vehicles coming from the north is hindered by the height of the rear garden wall currently on the application site. As such, with the removal of the wall and the lowering of the site levels, the proposed access arrangement is likely to lead to an improvement.
- 2.19 It is considered that the access arrangements are acceptable, and the proposal would not give rise to a material increase in the demand for on street parking on a day to day basis that would result in harm to highway safety.

Other Matters

- 2.20 The site is located within the area where the development is likely to have a significant effect on the Thanet Coast and Sandwich Bay Special Protection Area (SPA). Applying a pre-cautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within the district, to have an adverse effect on the integrity of the protected SPA and Ramsar sites. Following consultation with Natural England, the identified pathway for such an adverse effect is an increase in recreational activity which causes disturbance, pre-dominantly by dog-walking, to the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.21 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. For proposed housing developments in excess of 14 dwellings the SPA requires the applicant to contribute to the Strategy in accordance with a published schedule. This mitigation comprises several elements, including monitoring and wardening.
- 2.22 Having regard to the proposed mitigation measures and the level of contribution currently acquired from larger developments, it is considered that the proposal would not have an adverse effect on the integrity of the SPA and Ramsar sites. The mitigation measures will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

3. Conclusion

- 3.1 There is a need for new housing development that is in a sustainable location, with reasonable access to public facilities and amenities. The application site is located within the village confines within reasonable walking and cycling distances of the village's facilities and amenities. Its location would meet the requirements of the Development Plan and is supported by the NPPF. Even so, there remains the requirement to ensure that the 'tilted balance' is applied to this application, as the Development Plan policies are out of date. Applying the approach in Paragraph 11 of the NPPF it is considered that the proposed development (in respect of its appearance in the street scene) would not have an adverse impact – rather, it would make a positive contribution to the quality of the street scene.
- 3.2 Whilst the concerns of local residents have been taken into account, it is considered that the proposal would not cause undue harm to residential amenity, highway safety or the other matters raised.
- 3.3 In conclusion, and applying the 'tilted balance', it is considered that the proposal is in a suitably sustainable location within the village, close to existing amenities and facilities, and is consistent with the objectives of the NPPF to locate development in the rural areas that would enhance or help to maintain the viability of rural communities. As such, the proposal should be supported.
- 3.4 A number of conditions are recommended as needed to help minimise the impact of the proposal. With these safeguards in place it is considered that the proposal should be supported as a sustainable form of development in a suitably sustainable location.

g)

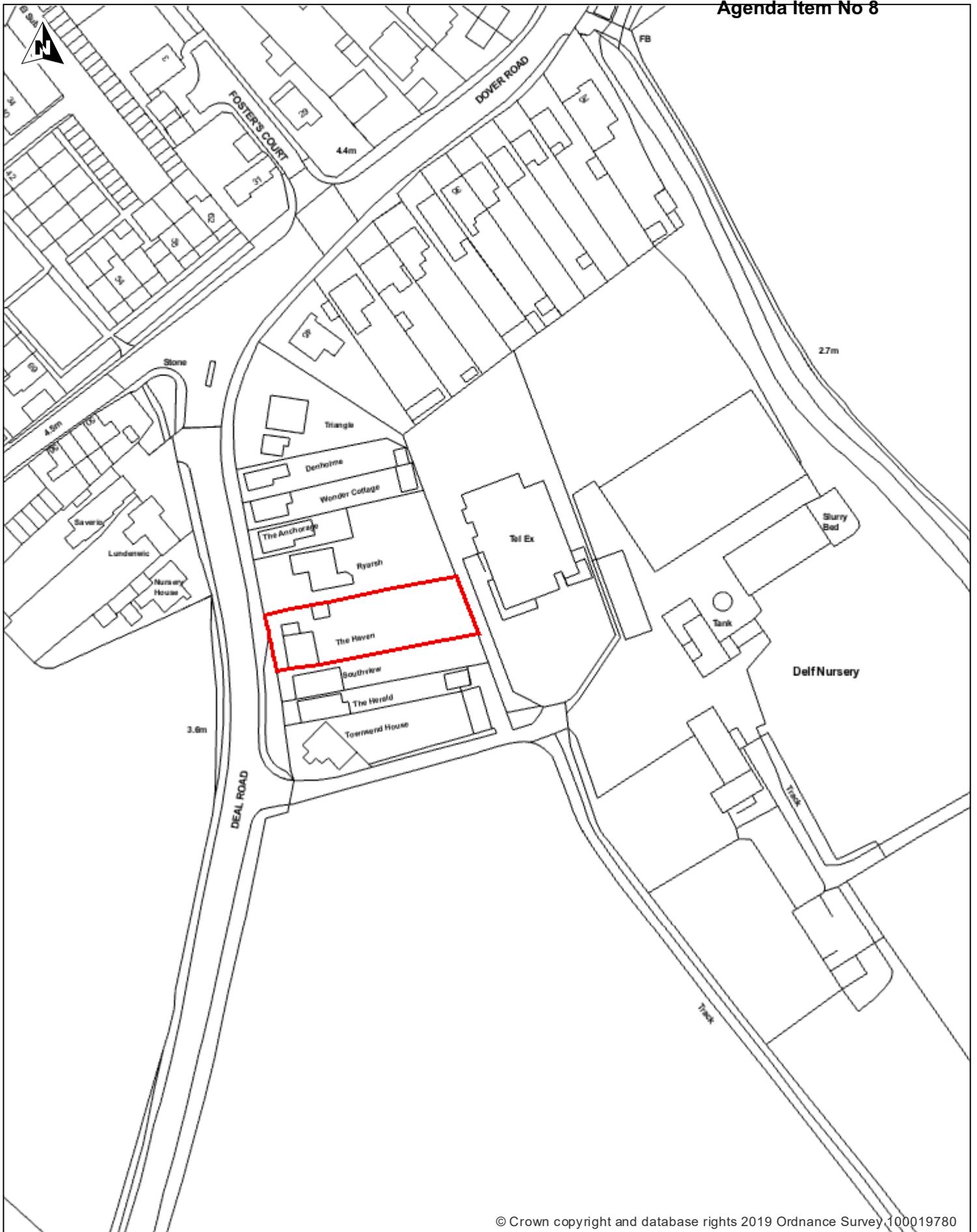
Recommendation

- I PERMISSION BE GRANTED with the imposition of the following conditions:
 - i) 3 year time limit to commence development
 - ii) The development to be in accordance with the submitted drawings
 - iii) Full details to be submitted of how the development will dispose of foul and surface water drainage
 - iv) The development to be constructed in accordance with the site levels shown on the approved drawings.
 - v) Samples of the building and hard surfacing materials to be submitted for approval
 - vi) Cills, reveals, headers and sash windows to be provided and details to be implemented prior to the first occupation of the dwelling
 - vii) The visibility splays as shown to be provided
 - vii) The access, parking spaces and refuse storage areas to be provided and retained as shown
 - ix) Covered sheltered cycle spaces to be provided
 - x) No surface water run-off allowed onto the highway
 - xi) No additional windows to be permitted
 - xii) Permitted development rights removed to extend, alter the roof or to erect an outbuilding
 - xiii) Boundary enclosures to be submitted for approval

- II Powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary wording in line with the recommendations and as resolved by the Planning Committee.

Case Officer

Vic Hester



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DOV/19/01495
The Haven, Deal Road
Sandwich
CT13 0BU

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/19/01495 – Erection of a detached dwelling (existing dwelling to be demolished) - The Haven, Deal Road, Sandwich**

Reason for report – Number of contrary views (18 + Sandwich Town Council)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010)

CP1 – Settlement Hierarchy

DM1 – Settlement Boundaries

DM11 – Location of Development and Managing Travel Demand

DM13 – Parking Provision

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.

National Planning Practice Guidance

National Design Guide (2019)

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.

SPG4 Kent Vehicle Parking Standards

d) **Relevant Planning History**

DOV/19/00848 – Erection of a detached dwelling (Existing bungalow to be demolished) – Refused – Appeal Dismissed

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

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

KCC Highways and Transportation – The proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements (suggests an informative included at the end of the report).

Environment Agency – Have assessed this application as having a low environmental risk and therefore have no comments to make. The applicant may be required to apply for other consents directly from the EA and is advised to contact the EA to establish whether a consent will be required (contact details included as an informative).

Waste Services – Under point 14 the applicants have advised that refuse and recycling wheelie bins will be kept at the rear of the garage. As long as they can be presented at the front boundary of the property for collection I can see no reason why this wouldn't be acceptable.

Southern Water – Requires a formal application for a connection to the foul sewer to be made by the applicant or developer and suggests an informative in relation to SUDS (included at the end of this report)

Sandwich Town Council – Sandwich Town Council planning committee met on 16th January 2020 to consider this application and decided to refuse this new application as it does nothing to alleviate the concerns previously raised. The proposed development due to its siting and set back from the road, would be out of keeping with the character and appearance of the street scene and would result in an unacceptable loss of light to Ryarsh, Deal Road, contrary to Paragraph 127 of the NPPF

On receipt of amended plans following the appeal decision of the previous application (DOV/19/00848), consultees made the following representations:

Environment Agency – Have no comments to make on the amended plans.

KCC Highways and Transportation – The proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements (suggests an informative included at the end of the report).

Southern Water – The comments of the previous response remain unchanged and valid for the amended details.

Sandwich Town Council - The amended application was considered by Sandwich Town Council on 1st June 2020. The Council resolved to recommend that this application be refused; as the amended proposal has not addressed the problems with this development that were originally raised:- the proposed development, due to its siting and set back from the road, would be out of keeping with the character and appearance of the street scene and would result in an unacceptable loss of light to Ryarsh, on Deal Road; contrary to Paragraph 127 of the NPPF.

Waste Services – The changes do not alter my previously submitted comments.

An amended shadow plan was submitted and was subject to further advertisement and consultation.

Sandwich Town Council - This application was considered at a meeting of Sandwich Town Council's Planning Committee on the 13th August 2020 and it was resolved to continue to object to this proposal; the "Shadow Path Cast" report does not allay the previous material considerations that have been raised by this Council.

The proposed development, due to its siting and set back from the road, would be out of keeping with the character and appearance of the street scene and would result in an unacceptable loss of light to Ryarsh, on Deal Road; contrary to Paragraph 127 of the NPPF.

Public Representations:

18 members of the public have objected to the proposals (as of 15th September 2020) and the material considerations are summarised below. Matters such as impact on an individuals' property value are non-material considerations and are not included below.

- Overdevelopment. Too large for plot. Incongruous.
- Overbearing / domineering
- Loss of privacy/ overlooking
- Contravenes Protocol 1, Article 1 and Article 8 of the Human Rights Act
- Overshadowing/ loss of light (particularly to neighbouring conservatory)
- Concerns regarding accuracy of shadow plan & opinion of Herrington Consulting Ltd on 'Shadow on Ground Path Plan' document submitted (questioning software used, information used to produce plots, accuracy, recommending use of 3D model of scheme, quoting BRE Guidelines, opining that a full overshadowing assessment should be carried out)
- Siting of dwelling – crosses 45 degree line and relationship with front site line of other houses in the area, 'creating void', concerns regarding where house will be sited within plot
- Loss of outlook

- Suggestions the development should be moved forwards towards the road to fill void between properties which would be out of character to the street scene and that this would not affect parking. Set back of Ryarsh was so that it would not block flank window of The Haven.
- Concern regarding scale/ height
- Previous plans refused and issues not addressed
- Conflicting statements in application form and design and access statement as to when existing bungalow will be demolished (before or after new dwelling is constructed)
- Suggestions that existing dwelling be demolished first
- Development has not been discussed with neighbouring residents (section 128 of NPPF)
- Sandwich Town Council oppose plans
- Design - fails to conserve and enhance, doesn't blend with surroundings, out of character, unsympathetic design
- Safety concerns – extremely busy road and plans would exacerbate this problem due to increase in traffic and introduction of construction traffic. Poor access and egress – lack of ability for construction traffic to wait and load without blocking the highway or neighbouring driveways – limited parking on road and a bus stop opposite – this would become a pinch point
- Contrary to NPPF (2019) paragraph 8 – fails to achieve the three overarching objectives of the planning system (economic objective, social objective and environmental objective)
- Wildlife impact – application form dismisses conservation and biodiversity without any supporting assessment. Lack of attention of potential impact on birdlife habitat. Existing dwelling provides potential bat roosting habitat. Site is close to countryside and suitable foraging habitat. No assessment of protected species or habitats has been provided – therefore it is not possible for the potential impacts on any species to be assessed, should they prove to be present.
- Contrary to NPPF Paragraph 39 – neither owners nor representatives have sought to engage with neighbouring properties or Councils.
- Contrary to NPPF Para 127 – proposal doesn't provide SUDs strategy, no details of landscaping
- Contrary to Local Development Framework Core Strategy Policies DM8 (replacement dwellings in the countryside), CP5 (DDC has declared a climate emergency – current proposal meeting Building Regulations would not comply with former code of sustainable homes level 5 stipulated by policy)
- Possible land contamination – existing bungalow could contain asbestos due to age

1. The Site and the Proposal

- 1.1 The application site relates to a detached bungalow located on the east side of Dover Road, Sandwich. The site is flat and the bungalow is finished in red brick with a tiled gable roof and white timber framed windows. To the north side of the dwelling is a detached garage and to the front of this is an informal driveway with space to park two vehicles.
- 1.2 The character of this section of Dover Road is varied, containing predominantly two storey detached dwellings. Most are finished in brick, with some having sections of render or cladding. With the exception of Ryarsh, directly to the north of the site, all other properties on this side of the road at this section of Dover

Road have shallow front gardens with no off-street parking. Ryarsh, to the north is a 1 ½ storey detached dwelling set back from the public highway, with a parking area to the front. The site is also bounded by Southview to the south and to the rear (east) is a large non-residential building.

- 1.3 This application seeks permission for the erection of a detached dwelling (existing dwelling to be demolished). The original design proposed was two and a half storeys in height (containing accommodation within the roof level) and featured single storey and two storey rear projections. However, the design has been amended from that originally proposed following the dismissal of an appeal at the site (discussed further in the Planning History of the Site section below).
- 1.4 The proposed detached dwelling would be two storeys in height and would contain 4 bedrooms. It would be finished in light coloured render with a brick base, white uPVC windows and composite doors, a slate roof which would be part hipped and part flat roof. There would be an attached garage to the south side with a part hipped and part flat roof. The dwelling would be set back from the public highway by approximately 11.4m and would have a driveway to the front. There would be no change to the existing vehicular access to the site. The dwelling would measure approximately 9.5m in width and 9.45m in depth and would have an eaves height of approximately 5.3m and ridge of approximately 6.9m, with the flat roof measuring approximately 6.25m in height. The garage would measure approximately 3.45m in width and 9.9m in depth and would have an eaves height of approximately 2.85m and ridge height of approximately 4m. It would project approximately 1.7m forwards of the main front elevation and would be set back approximately 1.2m from the rear elevation. The design and access statement also states that sustainability features will be incorporated in the design.

2. Main Issues

- 2.1 The main issues for consideration are:
 - The principle of the development
 - Planning history of the site
 - 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 accords with the aims and objectives of the NPPF. It is therefore considered that the principle of a replacement dwelling is acceptable in this location, subject to site specific considerations.

Planning History of the Site

- 2.3 The most relevant planning history to the site is application DOV/19/00848, for the erection of a detached dwelling (Existing bungalow to be demolished). The proposed detached two storey dwelling contained 4 bedrooms and was to be finished in light coloured render with a brick base, white composite windows and doors and a slate (side to side) gable roof with hipped ends. To the south side, an attached garage with a part hipped and part flat roof was proposed. The dwelling was to be set back approximately 11m from the public highway, with a

driveway to the front and side (with no change to the existing vehicular access). The dwelling measured approximately 9.8m in width and 9.4m in depth and had an eaves height of approximately 5.25m and ridge of 8m. The garage measured approximately 3.2m in width and 7.65m in depth and had an eaves height of approximately 2.8m and ridge height of approximately 3.95m.

- 2.4 The application was considered by Members at Planning Committee on 7th November 2019 where the application was refused, contrary to the Officer recommendation, and the decision upheld at appeal. The reason for refusal was:

The proposed development, due to its siting and set back from the road, would be out of keeping with the character and appearance of the street scene and would result in an unacceptable loss of light to the amenities of Ryarsh, Deal Road, contrary to Paragraph 127 of the NPPF.

- 2.5 The Inspector's appeal decision sets out further consideration of the key points of the application. The Inspector considered that, "the proposed development would not be out of place in its immediate context which exhibits a range of design styles and elevational finishes. Indeed, the landscaped set-back and the tiled hipped roof-ends would accord with the adjacent dwelling of 'Ryarsh', and the rendered properties seen further along Deal Road. Moreover, the deeper set back of the proposed dwelling would align with 'Ryarsh' and help to bring a degree of cohesion and retain the built rhythm along Deal Road. Therefore, I conclude that the proposal would accord with the wider character and appearance of the area. For the above reasons, the proposal meets the requirements of Paragraph 127 (c) of the Framework which requires that development is sympathetic to local character and history, including the surrounding built environment".

- 2.6 In respect of the impact on living conditions, the Inspector found that, "The proposed development would be a dwelling of some considerable size and mass in comparison to the existing bungalow. Moreover, despite the hip ends and boundary treatments, it would be closer to the side boundary with 'Ryarsh' than the existing building. As such, the submitted evidence demonstrates that despite the orientation of the building, throughout the day and the course of the year the sunlight and daylight to the rear of 'Ryarsh' would be eroded by the increased height and width of the proposed dwelling, and hence harm the living conditions of the occupiers of 'Ryarsh'. My overall opinion is reinforced by the modest size and proximity of the neighbouring conservatory, that would be overshadowed at various times of the day and year by the scale and bulk of the proposed development. Consequently, the proposal is contrary to Paragraph 127 (f) of the Framework which aims include, amongst other things, that development creates places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users".

- 2.7 As discussed at paragraph 1.3, the design of the proposed development was amended following the conclusions of the appeal decision. The revised design, which was re-advertised and subject to consultation, is more similar to the refused application in respect of the design of the front elevation and the floor plan, however features a hipped roof with section of flat roof, lowering the ridge height of the development by approximately 1.1m.

Impact on the Character and Appearance of the Street Scene

- 2.8 The site is located towards the edge of the settlement confines of Sandwich and the surrounding area is predominantly residential. The character of the street scene in this section of Deal Road is varied, comprising a range of materials and architectural styles, although dwellings are predominantly detached and two storeys in height. The character of the street scene changes towards the north of the site where the road bends towards the east and the site is no longer visible.
- 2.9 The Inspector of the previous appeal decision considered that the set back of the dwelling, in alignment with 'Ryarsh', would help to bring a degree of cohesion and retain the build rhythm along Deal Road. Furthermore, the Inspector considered that the previous proposal, which was similarly finished in light coloured render and a slate roof, would not be out of place in its immediate context, which exhibits a range of design styles and elevational finishes.
- 2.10 The proposed dwelling would be finished in light coloured render with a brick base, white uPVC windows and a slate roof. There are three other properties within this section of Deal Road which are finished in render and it is therefore considered that the use of this material would not be out of keeping with the character of the area. Properties on this side of Deal Road predominantly feature pyramid shaped roofs, with the exception being Ryarsh, located directly adjacent to the site, which has a brown tiled gable roof (side to side ridge) with barn hipped ends. The proposed roof would be finished in slate which would be visually similar to the tiles of other surrounding roofs and would be hipped with a lower, flat roofed section. Due to the positioning of the building, being set back from the highway, there would be limited views of the flat roof, which would be set behind a pitch matching the main slope of the hipped roof. The design of the roof is considered to lessen the visual impact of the dwelling, such that it would be unlikely to dominate or detract from the character of the street scene. The proposed garage would have a hipped roof and would be sited to the south side of the proposed dwelling. Whilst the garage would project forwards of the main front elevation of the dwelling, due to its scale and design, it is considered that it would appear subservient to the main dwelling and would create a visual gap at first floor level between the proposed dwelling and Southview (to the south), similar to the gap between Ryarsh (to the north) and the proposed dwelling. Furthermore, as part of the proposals, low level shrubs and sections of grassed lawn would be planted to the front of the proposed concrete paved driveway. It is considered that this landscaping would soften the visual impact of the dwelling when viewed within the wider street scene and a condition for details of landscaping (including boundary treatments) to be submitted is suggested in the interests of visual amenity.
- 2.11 On balance therefore, it is considered that the proposed development would preserve the character and appearance of the street scene in accordance with Paragraph 127 of the NPPF.

Impact on Residential Amenity

- 2.12 The proposals would be directly visible from a number of surrounding properties and the impact on residential amenity is discussed as follows:

Southview

- 2.13 Located to the south of the site, this two storey detached dwelling has several windows from which the proposed dwelling would be directly visible. The exact internal configuration of the property is not known, however the dwelling has a

single storey rear extension with windows on the rear elevation and rooflight windows on both roof slopes, which are considered likely to serve a dining/living room. There is also an obscure glazed window on the flank elevation of the extension (facing the site) which is believed to serve a WC and another window, set approximately halfway along this elevation which is believed to serve a kitchen. At first floor level of the main dwelling, there is a window on the flank elevation which is believed to serve a staircase/landing and there are additional windows at first floor level on the rear elevation; the closest to the site believed to serve a bathroom.

- 2.14 Due to the siting of the proposed dwelling, entirely to the north of the neighbouring property, as well as the sun path, the development would be unlikely to result in overshadowing or significant loss of light to the residential amenities of the adjacent property.
- 2.15 The dwelling would be set back from the footprint of the existing bungalow such that it would project beyond the rear elevation of Southview. Whilst this would result in some harm to visual amenity, the proposed garage would be sited closest to Southview and would be a single storey in height with a hipped roof. Whilst the depth of the garage has been increased, to project beyond the front elevation of the dwelling, the garage would still be set 1.2m in from the rear elevation of the dwelling, as proposed under the previous application. The two storey dwelling would be set further from Southview and would be finished in light coloured render. Due to the design and appearance of the dwelling, as well as the staggered depths of the proposals, the development is considered, on balance, unlikely to have a significantly overbearing impact on the residential amenities of the adjacent occupiers.
- 2.16 With regard to impact on privacy, the proposed elevations show that the two first floor windows on the southeast elevation of the dwelling would be fitted with obscure glazing. These windows would serve a bathroom and en-suite bathroom (non-habitable rooms) which would be used sporadically, rather than for prolonged periods of time. Nonetheless, in the interests of the privacy of the adjacent occupiers, a condition is suggested to ensure that these windows be fitted with obscured glazing and be non-opening below 1.7m from the internal floor level. The proposed dwelling would also feature windows on the rear elevation at ground and first floor level. Whilst the upper floor windows (which would serve bedrooms) would afford occupants some views across neighbouring gardens, the primary view would be the garden of the application site itself. On balance therefore, the proposals are considered unlikely to result in significant harm to the privacy and residential amenities of the occupiers of Southview in accordance with Paragraph 127 of the NPPF which relates to amenity.

Ryarsh

- 2.17 Located to the north of the application site, this detached two storey dwelling has no windows on the flank (south) elevation, however has windows on the front and rear elevations, as well as a glazed conservatory to the rear.
- 2.18 Due to the siting and design of the proposed dwelling, which would be almost aligned with Ryarsh and set approximately 5.3m from Ryarsh, the proposals are considered unlikely to have a significantly overbearing impact on the residential amenities of the neighbouring property.

- 2.19 In respect of privacy, the proposed dwelling would have two windows and a door on the flank elevation, with the windows being fitted with obscured glazing. The windows would serve an en-suite bathroom and WC (both non-habitable rooms). As stated above at section 2.16, a condition is suggested to secure the use of obscured glazing in the interests of privacy. The proposed dwelling would have windows at ground and first floor level on the rear elevation, where the primary outlook would be the rear garden of the application site. There would be some views across the neighbouring garden due to the elevated positioning of the windows, however this is on balance, considered unlikely to result in significant harm to the privacy of the adjacent occupants.
- 2.20 The proposed dwelling would be sited to the south of Ryarsh and would therefore result in shadow being cast towards this neighbouring property throughout the day. Through the mornings, the shadow would mostly fall on the flank elevation of the neighbouring dwelling, which has no windows and would therefore be unlikely to result in significant harm. However, during the afternoons and evening, the shadow would fall towards the rear half of the neighbouring dwelling and would result in some loss of light to the glazed rear conservatory. During the course of the application, the professional opinion of daylight and sunlight consultants Herrington Consulting Ltd. was submitted as part of a third-party response in relation to a shadow study submitted. The consultant did not undertake any comparative study, but questioned the software used to produce the study, the information used to produce the shadow on the ground plots (which did not include the full massing of the proposed dwelling – in particular the hipped roof, and was produced using a 2D plan, rather than 3D plan which they considered would better visualise the extent of the overshadowing caused by the proposed development), the date of the shadow plots (as the conservatory is mostly used during the winter months, rather than the month plotted), recommending that a full overshadowing assessment should be carried out. Following this, a revised shadow path study for March 21st was submitted by the agent and re-advertised accordingly.
- 2.21 A shadow path diagram for 21st March was submitted in support of the appeal of the previous application (DOV/19/00848), which showed that shadow from the barn hipped roof would be cast across the conservatory of the neighbouring property from 12pm until 3pm. The appeal Inspector found that the sunlight and daylight to the rear of 'Ryarsh' throughout the course of the year would be eroded by the increase in height and width of the building (compared to the existing scenario), harming the living conditions of the occupiers of this neighbouring property. It was stated that, "My overall opinion is reinforced by the modest size and proximity of the neighbouring conservatory, that would be overshadowed at various times of the day and year by the scale and bulk of the proposed development. Consequently, the proposal is contrary to Paragraph 127 (f) of the Framework which aims include, amongst other things, that development creates places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users".
- 2.22 The shadow path study submitted in support of the current scheme shows that a small area of shadow would be cast across the southernmost section of the neighbouring conservatory from 11am until (and including) 2pm. The area cast in shadow is less than that shown on the shadow plan in relation to the previous scheme (DOV/19/00848). Furthermore, the current proposal would be set approximately 5.3m from Ryarsh (approximately 0.2m further away than previously proposed under application DOV/19/00848), separated by planting and vegetation as well as the boundary fencing and vegetation which forms the

dividing boundary. The dwelling would have a part hipped and part flat roof, the overall ridge height being approximately 1.1m lower than that previously refused. Due to the introduction of the lower, flat roofed section, the massing of the proposed roof is reduced from that previously refused (which was a pitched roof with barn hipped ends), lessening the impact on the neighbouring conservatory. It is considered that the changes made to the proposal (since the previous appeal) and as evidenced through the reduced impact illustrated on the shadow plan, are on balance, sufficient to address the previous concerns. The proposal would result in some overshadowing but not to an extent that would be so injurious to the living conditions of the adjoining occupiers to warrant the refusal of the application on this ground.

Other Nearby Dwellings

- 2.23 The proposals would be visible from a number of other dwellings, particularly those to the south of the site. Whilst the first floor windows of the proposal would provide some views across neighbouring gardens, the views would be of the rear-most part of these gardens, rather than the private garden areas immediately to the rear of the dwellings. As such, the development is considered unlikely to result in significant harm to the privacy of surrounding residents. Furthermore, due to the siting and scale of the proposals, the development would be unlikely to result in overshadowing or loss of light to other nearby properties. Whilst the proposal would be visible from the windows and gardens of other properties, due to its design and appearance, it is considered unlikely to result in an overbearing impact on the residential amenities of nearby occupants and would accord with the objectives of Paragraph 127 of the NPPF in respect of impact on amenity.

Amenity of the Proposed Occupiers

- 2.24 The proposed dwelling, together with its individual rooms, would be of a good size and all habitable rooms would be naturally lit. It would be provided with a large private garden and areas which could be used for refuse 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.

Other Material Considerations

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

- 2.25 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.26 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.

- 2.27 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.28 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.29 Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.
- 2.30 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

Other Matters

Impact on Parking/Highways

- 2.31 The proposals would involve the creation of a parking area to the front of the dwelling (on the site of the existing bungalow) which would provide space to park at least two vehicles. This would accord with the requirements of Policy DM13 – Parking Provision. Furthermore, an additional vehicle could be parked in the attached garage. No changes are proposed to the existing vehicular access to the site and as such, the development is considered unlikely to result in significant harm to highway safety, subject to suggested conditions requiring the provision and retention of the parking area and measures to prevent the discharge of surface water onto the highway.
- 2.32 Many objectors address concerns relating to the timing of the demolition of the bungalow. The proposed dwelling would be constructed prior to the demolition of the existing bungalow, with only the rear projection to the bungalow being demolished prior to construction of the new dwelling. It is likely that builders' vehicles and delivery vehicles would need to park on the public highway and as such, this would result in increased parking pressure during the construction period. Furthermore, the proposed driveway could not be completed until the existing bungalow has been demolished and therefore it is likely the occupants would need to park on the public highway until this has been completed. No details of the proposed parking arrangements for construction vehicles, workers vehicles or delivery vehicle parking have been submitted and it is therefore considered appropriate to suggest that a condition for a construction management plan to be submitted is imposed. Furthermore, in order to ensure the timely demolition of the remains of the bungalow, it is considered appropriate

to impose a condition for its demolition within 1 month of the completion of the new dwelling.

Impact on Flood Risk

- 2.33 The application site is located in Flood Zones 1 and 2, with the proposed dwelling being located in Flood Zone 1, which has the lowest risk from flooding. No bedrooms or sleeping accommodation would be located on the ground floor level of the property and the Environment Agency has been consulted, advising that the application has a low environmental risk. Nonetheless, a condition for details of surface water disposal to be submitted is suggested. Subject to this, the development is considered acceptable in this regard.

Ecology/Wildlife

- 2.34 Public representations received have suggested the potential for bats to be present within the existing bungalow (to be demolished). No evidence of bats being present within the building was apparent at my site visit. Nonetheless, bats are a European protected species, protected under The Conservation of Habitats and Species Regulations 2017. Further guidance, including when a licence is required, is available from Natural England and an informative is suggested at the end of this report.

3. Conclusion

- 3.1 The application site is located within the settlement confines and the proposed erection of a dwelling is considered acceptable in principle in this location. A previous application for the erection of a dwelling at the site was refused and dismissed at appeal, with the Inspector concluding that the dwelling would not be out of place in its immediate context due to the range of design styles and elevational finishes. It was considered that the deeper set back of the proposed dwelling would align with 'Ryarsh' and help to bring a degree of cohesion and retain the built rhythm along Deal Road. For these reasons, the Inspector concluded that the proposal would accord with the wider character and appearance of the area. The current development proposal is also set back from the public highway in alignment with Ryarsh, finished in light coloured render with a slate roof (the same materials as previously proposed). Due to its scale, siting and design, the proposal is considered to preserve the character and appearance of the street scene.
- 3.2 On the previous scheme, the Inspector found that due to the size and mass (in comparison to the existing bungalow), despite the hip ends and boundary treatments, the proposed dwelling would be closer to the side boundary with 'Ryarsh' than the existing building. Throughout the day and the course of the year the sunlight and daylight to the rear of 'Ryarsh' would be eroded by the increased height and width of the proposed dwelling, and hence harm the living conditions of the occupiers of 'Ryarsh'. The current development proposal features a hipped roof with lower ridge height and section of flat roof which reduces the roof massing and lessens the impact on the amenities of Ryarsh from that previously refused. Consequently, and on balance, the proposals are considered unlikely to result in significant harm to the residential amenities of the surrounding residents. Subject to the conditions suggested below, it is considered that, on balance, the proposed development would accord with the aims and objectives of the NPPF.

g) Recommendation

I PERMISSION BE GRANTED subject to conditions:

(i) Standard time condition, (ii) list of approved plans (iii) samples of materials (iv) demolition of the existing bungalow within 1 month of the completion of the new dwelling (v) details of soft and hard landscaping (including boundary treatments) and schedule of planting (vi) submission of a construction management plan (vii) provision and retention of the parking area (viii) measures to prevent the discharge of surface water (ix) details of surface water disposal (x) removal of PD rights (Classes A, B and C) (xi) restricting PD rights for the insertion of windows on the flank elevations of the dwelling (xii) requiring windows on the flank elevations to be fitted with obscured glazing and be non-opening below 1.7m from internal floor level

II Informatives:

KCC Highways and Transportation

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Environment Agency

The applicant may be required to apply for other consents directly from us. The term 'consent' covers consents, permissions or licenses for different activities (such as water abstraction or discharging to a stream), and we have a regulatory role in issuing and monitoring them. The applicant should contact 03708 506 506 or consult our website to establish whether a consent will be required. <https://www.gov.uk/environmental-permit-check-if-you-need-one>

Southern Water

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The disposal of surface water from this development should be in compliance with the following hierarchy of Part H3 of Building Regulations:

- a) An adequate soakaway or some other adequate infiltration system.
- b) A water course.
- c) Where neither of the above is practicable: a sewer. It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site. For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119). Website: www.southernwater.co.uk or by email at: developerservices@southernwater.co.uk

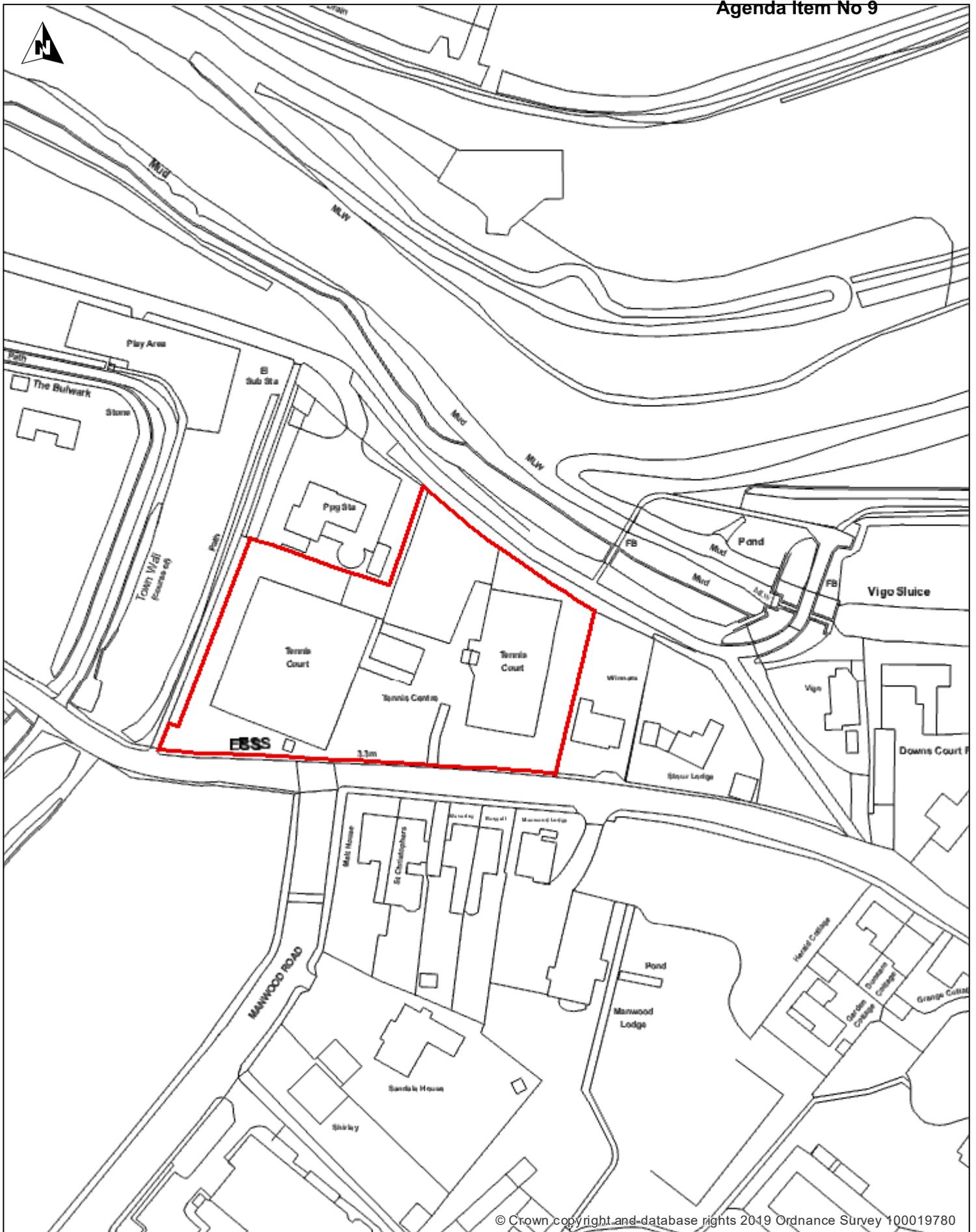
Bats

All bats and their roosts are given full protection under the 1981 Wildlife and Countryside Act (as amended) and the Conservation of Habitats and Species Regulations 2017. Should any bats or evidence of any bats be found prior to or during works, works must stop immediately, and Natural England contacted for further advice before works can proceed. This is a legal requirement and applies to whoever carries out the work. All contractors working on site should be made aware of it and provided with Natural England's contact phone number 0300 060 3900 or email address enquiries@naturalengland.org.uk

- III 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



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DOV/20/00319
Sandwich Tennis Club
Sandown Road
CT13 9JZ

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/20/00319 – Construction of an additional tennis court and erection of a 2.5-metre high fence – Sandwich Tennis Club, Sandown Road, Sandwich**

Reason for report: Due to the number of objections received.

b) **Summary of Recommendation**

Planning Permission be Granted

c) **Planning Policy and Guidance**

Planning and Compulsory Purchase Act 2004

- Section 38(6) – requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

Core Strategy Policies

- CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy.
- DM1 – Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM11 – Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- DM13 – Parking provision should be design-led, based upon the characteristics of an area, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.
- DM25 – Proposals for development that would result in the loss of open space will not be permitted unless the development complies with set out criteria.

National Planning Policy Framework (NPPF)

The most relevant parts of the NPPF are summarised below:

- Chapter 2 of the NPPF seeks to achieve sustainable development, which can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. Sustainable development can be broken down into three overarching and interdependent objectives: an economic objective; a social objective; and an environmental objective.
- Decision should apply a presumption in favour of sustainable development. This means that: development proposals which accord with an up-to-date development plan should be approved without delay; or, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granting unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
- Chapter 4 states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise and advises that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.
- Chapter eight states that planning decisions should aim to achieve healthy, inclusive and safe places which, inter alia, promote social interaction, are safe and accessible and “enable and support healthy lifestyles, especially where this would address green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling”. To provide social, recreational and cultural facilities and services the community needs, planning decisions should:
 - (a) “plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
 - (b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;
 - (c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs;
 - (d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and
 - (e) ensure an integrated approach to considering

Access to opportunities for sport and physical activity is important for the health and well-being of communities.

- Chapter twelve 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. Planning policies and decisions should ensure that developments:
 - (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - (c) 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);
 - (d) 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;
 - (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - (f) 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 crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- Chapter 16 requires that the historic environment is conserved and enhanced. Applicants should describe the significance of any heritage assets affected, including any contribution made by their setting. Local planning authorities should identify and assess the significance of any heritage asset that may be affected by a proposal. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

The Kent Design Guide (KDG)

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

Section 72(1) of Planning (Listed Buildings and Conservation Area) Act 1990 states that, 'In the exercise, with respect to any building or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'

d) **Relevant Planning History**

DOV/08/01286 - Display of non-illuminated post sign – Granted.

DOV/14/01069 - Erection of a new clubhouse – Granted.

DOV/16/00151 - Variation of condition 2 of planning permission DOV/14/01069 to allow amendments to approved drawings (application under Section 73) – Granted.

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

Sports England

The proposed development does not fall within either our statutory remit (Statutory Instrument 2015/595).

KCC Highways and Transportation

An additional court could be used by 4 players for doubles. They are unlikely to all drive alone to the site so it could generate a demand for two parking spaces. If there is another doubles game on immediately afterwards then another 4 players may turn up before the end of the first match, requiring another two spaces. There could be a demand for 4 spaces at one time.

There are parking restrictions as necessary on the highway in the vicinity of the site and other areas where on-street parking already takes place. The site is accessible from the town by non-car modes. The demand for on-street parking would not have a severe impact on the highway.

County Archaeologist

Views awaited.

Public Rights of Way Officer

No comments to make.

Sandwich Town Council

RESOLUTION: To recommend approval with the caveat that vehicular access to the Sandown Road Allotments be provided.

Public Representations –

Thirty- eight letters of support have been received, raising the following issues:

- It will enhance a fantastic local community owned sporting facility, opened to all;
- The proposed extra court is sited within the existing footprint of the tennis club land;
- The proposal would not impact to the overall aspect of the tennis club site;
- An additional court would greatly improve the facilities available to local community whether players are actual club members or not;
- More courts would mean that players would not have to queue/wait to play as currently happens, making joining the club a more attractive proposition;
- A thriving club is an invaluable community asset in terms of physical recreation as well as social interaction;
- The tennis club is outdated, being tarmac, this is an opportunity to improve facilities;
- The club is overwhelmed by members wanting to play;
- The extra court will greatly enhance the possibilities to expand the junior and adult coaching programmes benefitting the whole community;
- Tennis is a sport that not only has physical benefits and also positive mental stimulation.
- The position of the court will ensure minimal impact to neighbouring properties;
- The club links to the schools is strong and will provide further opportunities for schools and club facilities;
- The club is busier at weekends, when Manwood Road is empty at this time, so there will be plenty of parking;

- The courts are not up to date with current Lawn Tennis Association Standards as they recommend artificial clay as the preferred surface. This will allow the club to have 2 court surfaces to meet the criteria of the LTA;
- Post Covid19 world the pursuit of healthy outdoor activities should be paramount in peoples thinking and future planning in leisure activities for young and old alike;
- Many players walk or cycle to the club and there are bike racks to encourage this;
- Players use of the courts is principally during weekends and summer evenings at a time when the roads are quiet and ample parking;
- The proposal will not impinge or impact on surrounding areas or access points;
- It will enhance the look of the area as well as being inducement for sport for all;
- The club has been badly impacted by the need to allow Southern Water to take over the single court, so the expansion would provide a much-needed boost to recovery;
- The Sandwich Tennis Club has been active at this site for over a hundred years and will be better to serve the community in line with the national drive to improve people's fitness and wellbeing;
- The matter of access to allotments across the land leased to the tennis club by DDC were discussed and agreed prior to the granting of new leases in 2016, the new court will have no effect whatsoever on the existing legal access to the allotments, which uses a shared path several metres from the new court;
- The tennis club made an informal agreement to allow allotment holders access by vehicles along the far side of the existing pair of courts;
- I do not believe the issue of the vehicle access across the new court site has any relevance to this application, since there is no existing right of access to the affected new court;
- Raising money for such developments is always very difficult for clubs so having the possibilities to do so when Southern Water finish their essential work, is an opportunity not to be missed;
- There is a misconception that the land belongs to the allotments when the fact is, it belongs to the tennis club since the lease was signed off with all respective councils some years ago indicating that at some point in time, a fourth court would be built;
- There is an existing single court which has been destroyed and a 4th court is currently no more than an industrial wasteland due to the Southern Water;
- The Town Council has had no complaints about the club as it is run well.

Fourteen letters of objection have been received, raising the following points:

- The club do not have site parking and park outside houses on Sandown Road, making parking difficult for residents;
- There has been no vehicular access been allocated for the use of the allotment holders;
- Without the ability to bring heavy loads of manure, compost and other supplies close to the site would be unworkable;
- The allotments are a benefit to future generations of the town, and we hope the Council will help preserve them;
- In recent years a great deal of hard work has been done to restore the land and achieve the high level of success that has been recognised by awards and many visitors;

- There is a pedestrian access via a path to a gate, periodically allotment holders need to take deliveries of heavy deliveries, to achieve these necessary jobs, the vehicles need to get as close to the allotments as possible;
- There has always been a verbal permission to cross a grass area between the two courts, this will be closed off completely;
- The SAS are suffering and need help from Dover District Council in regard to the vehicular access;
- Everyone has had to fight for survival due to the losses of the sewage works by Southern Water;
- The allotment site is award winning that is both diverse for wildlife and high yielding for its plot holders;
- I would urge anyone who believes this application has little or no impact on its neighbours, to walk down the site and have a look at just how close the proposed court is to the existing allotment plots;
- The tennis court is a tight fit, effectively locking the allotments in and blocking our vehicle drop off facility;
- Vehicle access is a necessity for any allotment's future viability, to function properly and is a standard to maintain well-kept plots and site;
- There is a footpath leading to a very narrow passage to the allotment and a wooden gate provides access, but is not practical to ferry any of the above heavy bulky materials all the way from the road;
- Sandown Road has little available parking, certainly not for offloading which would block traffic flow and be a hazard;
- 40% of the allotment holders are octogenarians;
- In 2016 the Tennis Club showed the projection plan for the future layout of this court, this included parking to the front of the club house which could have been used by allotment holders;
- The new plan shows that the court will remove almost 50% of the existing allotments;
- An environmental impact study should be undertaken;
- Section 12 of the application form that ticked no box for all sections but given the wildlife biodiversity awards from the Kent Wildlife Trust this declaration is also erroneous;
- Section 23 of the application form, yes has been ticked, however the applicant has failed to complete the advice information section as required;
- There are serious errors and incorrect statements submitted by the applicant render it invalid and consequently permission should be refused;
- Designated sites, important habitats or other biodiversity

Three neutral representations have been received, raising the following comments:

- The understanding is that the screening vegetation removed by Southern Water shall be replaced;
- Some of the members of the tennis club are quite dismissive of the potential impact on residents of the proposed expansion;
- There hasn't been any evidence of the courts being used by local schools;
- The block plan would suggest that there is room to move the proposed double court eastwards by metre;
- The proposed construction of the base of the court mentions a limestone layer, obviously to aid surface water drainage. I'm concerned that using limestone would have a lasting impact on the soil surrounding it by changing

the ph. This is something that could affect the allotments long term. There are inert alternatives available;

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

- 1.1 The site is located to the north of Sandown Road, to the east of the main settlement of Sandwich. The application site is located within an Area of Archaeological Potential, Article 4, Sandwich Conservation Area and Open Space. For the purposes of this application, due to the location outside of the Settlement Boundaries, the application site is technically considered to be within the countryside for planning policy purposes.
- 1.2 Along the northern edges, the tennis club borders the water treatment plant, Sandown Road Allotments, Quay and River Stour runs beyond the allotments, with an established screening dividing the pedestrian walk and the River Stour. Along the southern edge, the Sandwich Tennis Club borders Sandown Road and is screened from the street by an established screen, although following the emergency works undertaken by Southern Water, a section of this screen has been removed. Sandown Road is characterized by Sporadic dwellings opposite the proposal. To the west, is a detached dwelling known as Spindrift, dividing this property and the existing single tennis court is an area of grassland, at the time of the site visit, being used by the allotment holders and a 1.8 metre fence forms the perimeter of Spindrift. To the west, of the application site is an area currently laid to grass, providing an informal access to the rear of the site.
- 1.3 Sandwich Tennis Club consists of a double tennis court, club house and single tennis court (adjacent to the application site). The application site had previously been laid to lawn, with an informal arrangement between Sandown Allotment holders and Sandwich Tennis Club, to allow parking for unloading for the allotment holders. The application site has recently been the subject of emergency works required by Southern Water and the single tennis club has also been damaged and is currently not in use. There is an existing pedestrian access between the double tennis courts and the club house for access to the allotments to the north of the site (to be retained).
- 1.4 Planning permission is sought for the construction of an additional tennis court and the erection of a 2.5, high fence. The proposed tennis court would measure 36.2 metres x 17.4 metres abutting the existing club house and consist of a quarter-inch polypropylene membrane glued onto a hard surface. The Inline filler would then be applied to provide a reddish coloured tennis surface. The access and vehicular access do not form part of this application.

2. Main Issues

The main issues are:

- The principle of the development
- Heritage Impacts;
- The potential impacts on the residential amenities;
- Highways
- Ecology
- Other Matters

- Planning Balance

Assessment

The Principle of Development

- 2.1 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 is the development plan, unless material considerations indicate otherwise. This starting point for the assessment of applications is replicated at Paragraphs 2 and 12 of the National Planning Policy Framework (NPPF). An important material consideration is the NPPF which seeks to achieve sustainable development. Notwithstanding the primacy of the development plan, paragraph 11 (c) and (d) of the NPPF state that development which accords with an up-to-date development plan should be approved without delay whilst, where there are no relevant development plan policies or where the policies which are most important for determining the application are out-of-date, permission should be granted unless:
- i) the application of policies in 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.
- 2.2 In assessing point (i) above, the 'policies' referred to are those relating to: SPA's; SAC's; Ramsar Sites; SSSI's; Greenbelt; Local Green Space; AONB's; National Parks; Heritage Coast; irreplaceable habitats; designated heritage assets (including assets of archaeological interest which are demonstrably of equivalent significance to Scheduled Monuments); and areas at risk of flooding or coastal change.
- 2.3 In March 2017 DDC Cabinet agreed to commence the review of the Core Strategy (CS) and Land Allocation Action Plan (LALP) through the preparation of a single local plan. The decision to review the CS and LALP is an acknowledgement that in some cases the evidence base is out of date. It is also recognised that some of the detailed policies applicable to the assessment of this particular application (including Policies CP1, DM1, DM11, DM15 and DM16) are to various degrees, now considered inconsistent with aspects of the NPPF and as such are out-of-date. That does not mean however that these policies automatically have no or limited weight. They remain part of the Development Plan and must therefore be the starting point for the determination of the application. Furthermore while the overall objective of a policy might be held out-of-date, greater weight can nevertheless still be applied to it depending of the nature/location of the proposal in question and the degree to which the policy (in that limited context) adheres to and is consistent with the policy approach in the NPPF.
- 2.3 As a matter of judgement, the most important policies for the determination of this application are considered to be Core Strategy policies CP1, DM1, DM11, DM13, DM15, DM16 and DM25. These policies relate to the principle of whether the development is acceptable on this site or, in the

case of policy DM16, whether the development would cause harm to the character of the landscape.

- 2.4 Policy CP1 sets out a settlement hierarchy and provides that “the location and scale of development in the District must comply with the Settlement Hierarchy”. In locations such as the application site, the policy states ‘that it is suitable for a scale of development that would reinforce its role as a provider of services to a wide rural area’. CP1 is considered to be more restrictive than the NPPF, which is more supportive of promoting healthy and safe communities than CP1. However, the proposed development is considered to reinforce its role as a provider and is ancillary to the existing use of the site. As such, the development would accord with CP1 and, for the purposes of assessing this particular application, it is considered that CP1 broadly accords with the NPPF and should be attributed only slightly reduced weight.
- 2.5 Policy DM1 generally seeks to restrict development, which is located outside of the settlement confines, unless it is justified by other development plan policies or it functionally requires such a location or is ancillary to existing development or uses. In this instance, the proposed development is adjacent to the settlement confines and therefore is considered to be (technically) within the countryside. It should be noted, at the time of the most recent site visit, the existing single tennis court was not currently able to be used following the emergency works by Southern Water and the proposed application site. The application site is positioned between the existing club house and a single tennis court (albeit it not currently in use), and therefore would be ancillary to the existing use of the site. Consequently, the development is considered to be in accordance with DM1.
- 2.6 Policy DM11 requires that, (1) applications which would increase travel demand should be supported by a systematic assessment to quantify the amount and type of travel likely to be generated and include measures that satisfy demand to maximise walking, cycling and the use of public transport. The policy also states that, (2) development that would generate travel will not be permitted outside of the settlement confines unless justified by other development plan policies. Finally, the policy states, (3) Development that would generate high levels of travel will only be permitted within urban areas in locations that are, or can be made to be, well served by a range of means of transport. Sandwich Tennis Club is an established club with three existing courts and is accessible from Sandwich by a range of different types of transport. The additional court could be used by 4 players for doubles and it is unlikely they would all drive alone, so on balance, it is accepted that an additional car journey could be generated due to the proposal, however the proposed development is unlikely to generate high levels of travel demand and have a detrimental impact on the highway. It is considered that the proposed development complies with Policy DM11 and is support largely by the NPPF.
- 2.7 Policy DM15 advises that applications which would result in the loss of, or adversely affect the character or appearance of, the countryside, will only be permitted if one of three exceptions are met, where it cannot be accommodated elsewhere and where it does not result in the loss of ecological habitats. Development will also be required to incorporate measures to reduce, as far as practicable, any harmful effects on

countryside character. Given the position of the application site between the clubhouse and the existing tennis court, the proposed development is not considered to impact on the character and appearance of the countryside and meets the criteria in respect of DM15 point v. in that it does not result in the loss of ecological habitats.

- 2.8 Policy DM16 requires that development which would harm the character of the landscape will only be permitted if it accords with a development plan allocation and incorporates any necessary avoidance or mitigation measures; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level. Due to the nature of the proposal and the position as discussed above, it is considered the proposed development would not be highly visible within the street scene and as such, would not result in a negative impact on the landscape. It is therefore concluded that the development accords with Policy DM16. Policy DM16 is consistent with the NPPF and is considered to attract full weight.
- 2.9 The application site is designated as open space and therefore policy DM25 is considered to apply. Policy DM25 sets out that proposals for development which would result in the of loss of open space will not be permitted unless inter alia it is for small-scale development that's ancillary to the enjoyment of the open space; and the site has no overriding visual amenity interest, environmental role, cultural importance or nature conservation value. Paragraph 97 of the NPPF seeks to protect open space from development except where the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use. In this instance the proposed development is considered to be small-scale and is clearly ancillary to the enjoyment of the open space by members of the community. The open space affected is not considered to have any overriding visual amenity interest. The development would result in an enhancement of recreation provision. For the purposes of this application, it is considered that policy DM25 is broadly consistent with the NPPF and full weight should be given to it. The application proposal is considered to accord with the objectives of policy DM25.

Heritage Impact

- 2.10 The application site is located within the Sandwich Walled Town Conservation Area. The NPPF (Para 193 & 194) require that great weight be given to the conservation of the heritage asset and that any harm to or loss of the significance of the asset should require clear and convincing justification. In line with NPPF requirements, a Statement of Significance and a Heritage Statement have been submitted with the application.
- 2.11 Sandwich Tennis Club currently consists of a double tennis court to the west of the site, a single tennis court to the east (which has recently been removed, due to Southern Waters work) and a club house in the centre of the site. The proposed development would be sited between the existing clubhouse and the single tennis court and the land levels would remain the same as they are at the moment. New 2.5m high fencing would be placed around the court. This would consist of green and powdered coated green posts, with a green coated wire chain-link fence. The form/appearance of the development would be entirely consistent with the existing visual

character of the site. Fronting the site with Sandown Road is a 2.5m high hedge which screens much of the existing tennis club facilities from wider views within the conservation area. The proposed new court will benefit from the same screening and by reason of its form and the prevailing context (formed by the existing tennis infrastructure) it is not considered that any harm would arise from the proposal to the character or appearance of the Conservation Area - it would not appear as an isolated and/or incongruous feature.

- 2.12 The site falls within an archaeologically sensitive area. Information from the applicant states that an archaeological survey was conducted very recently as part of the 2016 clubhouse construction, directly adjacent to the proposed new court and that the area was found to be a medieval town 'waste dump' of no archaeological significance. In addition, the entire footprint of the proposed new court was excavated as part of Southern Water's repairs to the Sandwich sewer main under the river Stour. Prior to commencing work, Southern Water carried out their own test digs and found nothing of historic significance. The sewer pipe excavations are to a depth far in excess of what will be required for the foundations of a tennis court. The applicant indicates therefore that there are unlikely to be any archaeological implications arising from the proposal. Comments are awaited from KCC County Archaeology and the recommendation is framed to account for any late comments received.

Residential Amenities

- 2.13 Chapter 12 of the National Planning Policy Framework aims to achieve well - designed places. Paragraph 127 (f) of that chapter sets out 'planning decisions should ensure that developments create places with a high standard of amenity existing users. Abutting the eastern boundary of the application site is Spindrifft a detached dwelling with a 1.8 metre close boarded fence denoting their perimeter. Currently separating this property and the existing single tennis court is an area of shrub land, which was being used by the allotment holders when the Southern Water works were being undertaken. Given the existing arrangement in respect of the single tennis court and the positioning of the proposed tennis court to the west of the existing, it is considered the potential impact on these residents would remain unaltered.
- 2.14 Concerns had been raised by residents directly opposite the site in Sandown Road in respect of the loss of established screening during the SW works. Following a recent site visit, this screening and fence has been replaced and will take some time to reestablish. However, the comments received in respect of this issue, was to request the replacement of the screen and therefore it is considered these concerns have been addressed. For the reasons set out, I consider the proposal would not cause undue harm to the residential amenities currently enjoyed by the existing occupiers of the surrounded dwellings.

Ecology

- 2.15 The Sandown allotment holders have over the previous year's won wildlife biodiversity awards from the Kent Wildlife Trust. Following the recent Southern Water works, it is regrettable that these works have resulted in the loss of wildlife. Having regard for Natural England's Standing Advice, it

is not considered that the site subject of this application contains any features likely to provide habitat for protected to notable species or their habitat, being impact impacted by the development and therefore it is considered unreasonable in the circumstances to request the developer to provide an ecological appraisal. On this basis, I am satisfied the proposal would not cause undue harm to ecology.

Highway Considerations

- 2.16 Concerns have been raised over the impact the additional tennis court could have on the existing highway. Policy DM11 of the Dover District Council's Core Strategy sets out 'development that would generate travel will not be permitted 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 transport'.
- 2.17 The application site is located adjacent to the settlement confines of Sandwich, which is served by a range of means of transport including, a train station, bus stops and car parks within the town and a network of pedestrian walkways to the site. Having taken advice on this matter from Kent Highway Services, they have advised that an additional court could be used by 4 players for doubles. However, these players are unlikely to drive alone, so it could generate a demand for two parking spaces. If there is another doubles game on immediately afterwards then another 4 players may turn up before the end of the first match, requiring another two spaces. There could be a demand for 4 spaces at one time. There are parking restrictions as necessary on the highway in the vicinity of the site and other areas where on-street parking already takes place. The site is accessible from the town by non-car modes. Therefore, the demand for on-street parking would not have a severe impact on the highway. On this basis, and in line with the aims and objectives of policy DM11 of the Core Strategy and would warrant a reason for refusal.
- 2.18 Consideration has also been given to the loss of the current informal vehicle access arrangements for allotment holders. Given the infrequency of the need for such vehicle access and the availability of other parking within the vicinity, no concerns are raised by KCC Highways about the possibility of displacement of parking arising from the loss of this access.

Flooding

- 2.19 The application site is located with flood zones 2 and 3 and therefore consideration needs to be given to paragraphs 151 – 161 of the NPPF which sets out the need to apply a sequential test and exception test. In this case the proposed development is considered to fit within the 'Less Vulnerable category of development and the site functionally requires to be located on this site as it needs to be co-located with the existing tennis club and as such, the sequential test is passed. In this instance, no exception test is required due to the nature of the development and therefore the proposed development is considered acceptable in respect of the aims and objectives of the National Planning Policy Framework.

Other Matters

- 2.20 Of concern to the Sandown allotment holders is the loss of the grassed area, which has been used for the periodic unloading and loading of heavier, bulky items. This has been an informal arrangement between the allotment holders and the tennis club. The allotment holders have a legal 'right' of pedestrian access through the middle of the site and this arrangement would remain and is set out in the lease agreements between Dover District Council and Sandwich Tennis Club. Legally, the existing right of access is an easement, which is a legal interest in land.
- 2.21 Therefore, the allotment holders benefit from a legal right to access the plots by foot. The use of vehicles to access the allotment land is not a right that was granted when the leases were entered into. Thus, the allotment holders currently have no right to pass over the pedestrian access with vehicles. It is possible for easements to also arise by prescription (long use – over 20 years) but no claim has been made to this effect.
- 2.22 It is accepted the proposed development would not facilitate the existing informal vehicle access arrangement. In that regard though, it's important to point out, given the informal arrangement that currently exists, that vehicle access could be prohibited at any time by the Tennis Club.
- 2.23 Given the above, it's considered that the loss of the vehicle access is essentially a private matter between the allotment holders and the Tennis Club. In view of the informality of the access and the ability of the Tennis Club to prohibit its use, it is not considered to be a matter of public interest such that the control of this access need form part of the deliberations regarding the acceptability or otherwise of this application. The imposition of a planning condition for instance that sought to maintain this access would be both unnecessary (to make the current application acceptable) and unreasonable (imposing a burden on the applicant that would not be justified in the public interest) – Any such condition(s) therefore would fail the tests in the NPPF for imposition.
- 2.24 Another area of concern from the Sandown allotment holders is the loss of some of the existing allotment arrangements. However, having taken advice from Dover District Council Estates department, I am informed that the proposed tennis court is on the land being leased by the Sandwich Tennis Club and not that of the allotment holders and as such there would not be an unjustifiable loss of allotment land.
- 2.25 It's understood that discussions are well advanced between Dover District Council, Sandwich Tennis Club and the allotment holders to secure vehicle access to the allotments by other means which would be pursued outside the scope of this planning application. This is considered to be the appropriate means for dealing with this issue.

Planning Balance

- 2.26 The National Planning Policy Framework seeks to achieve sustainable development. Paragraph 8 of the National Planning Policy Framework states, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives): These three overarching objectives to sustainable development are economic, social

and environmental. In respect of the proposed development these can be divided as set out below:

- 2.27 Economic role – The proposed development would make use of existing unused land, thus ensuring that the existing site would support the growth of a local sports club. The proposed development would be built to Lawn Tennis Association standards which could encourage new members to the club. Given the positioning of the site near the town of Sandwich, it is considered the proposal would encourage members to walk into the town and encourage more people to use the local shops and facilities, thus contributing to the local economy.
- 2.28 Social Role – The application site is located within the boundaries of the existing Sandwich Tennis Club. The proposed development would promote social interaction. Chapter 8 of the NPPF sets out amongst other things that 'planning policies and decisions should aim to achieve healthy, inclusive and safe places which 'enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of sports facilities. In this instance, the proposed development would result in an additional tennis court, which is considered to be provision of an additional sporting facility, which would allow more members/new members to support their healthy lifestyle.
- 2.29 Environmental – The proposed development would use an existing site and as a result would make effective use of the land. Impacts on the visual appearance/character of the area would be very limited.
- 2.30 It is considered the proposal would satisfy the relevant NPPF objectives.

3. Conclusion

- 3.1 The tennis club (applicant) has indicated it needs to update its facilities to the new Lawn Tennis Association standard for competitive and leisure tennis. They wish to expand their facilities to keep pace with public demand for tennis in Sandwich and it's understood that by expanding to two pairs of courts this would enable competitive match and league tennis to be scheduled at the same peak times as group coaching and group leisure tennis sessions.
- 3.2 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, unless the adverse impacts would significantly and demonstrably outweigh the benefits. In this instance, the proposed development is easily accessible by a number of different modes of transport, including walking and cycling. The proposal is not considered to adversely impact on the character and appearance of the conservation area or cause undue harm to residential amenities and the enhancement of facilities within the club would adhere to the NPPF objective of promoting and supporting healthy lifestyles.
- 3.3 In all respects the proposal is considered to be acceptable in planning terms. Views of the County Archaeologist area awaited, but subject to these, it is recommended that permission be granted.

g)

Recommendation

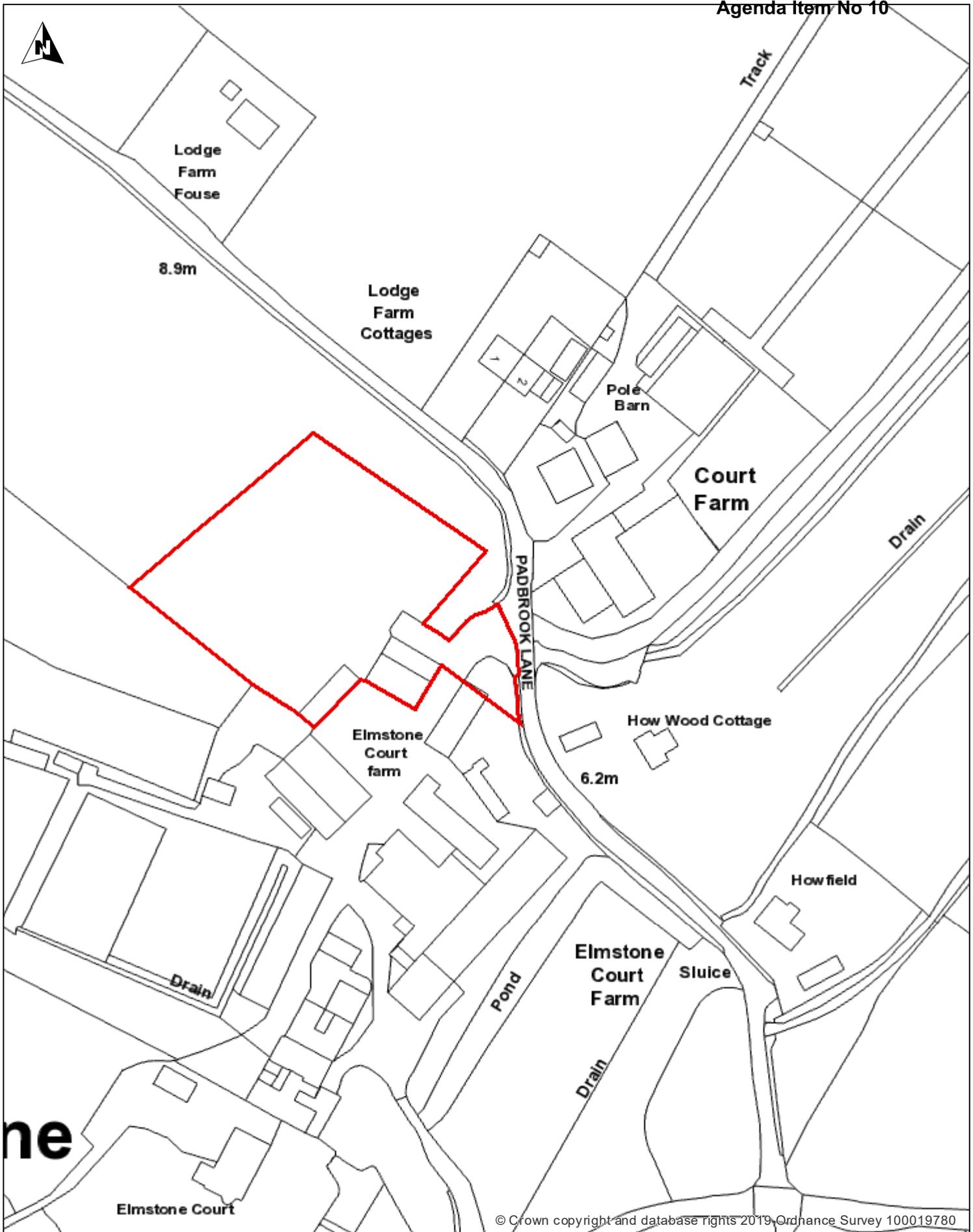
I SUBJECT TO the views of the County Archaeologist, PERMISSION BE GRANTED, subject to the following conditions:

(1) Time limits for implementation, (2) approved plans, (3) details of hard and soft landscaping with details of maintenance, (4) construction management plan, (5) provision of loading and unloading areas for vehicles, (6) Relevant archaeological conditions.

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 report and as resolved by Planning Committee and to draft and issue a Statement of Reasons.

Case Officer

Karen Evans



DOV/20/00425
Elmstone Court Farm
Padbrook Lane
CT3 1HF

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/20/00425 - Change of use for the siting of 9 caravans for seasonal workers, conversion of a barn to amenity block and conversion of a farm building to dwelling house - Elmstone Court Farm, Padbrook Lane, Elmstone**

Reason for report: As a result of the number of representations received that are contrary to the recommendation and at the request of Cllr Connolly.

b) **Summary of Recommendation**

Planning permission be granted, subject to conditions.

c) **Planning Policies and Guidance**

Development Plan

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

Core Strategy Policies

A summary of relevant policy is set out below:

- CP1 -The location and scale of development in the District must comply with the settlement hierarchy. Elmstone is a hamlet which is not suitable for further development unless it functionally requires a rural location.
- DM1 - Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM4-Supports the re-use or conversion of rural buildings beyond settlement confines to commercial uses where the building is of suitable scale and character and is acceptable in all other respects.
- 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 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 or appearance of the countryside will only be permitted where it is in accordance with allocations in Development Plan Documents, is justified by the needs of agriculture, is justified by the need to sustain the rural economy or it cannot be accommodated elsewhere.

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 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development. The objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- Paragraph 11 states that decision making should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up to date development plan or where there are no relevant development plan policies or the policies are out of date, granting permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, or any adverse impacts of granting permission doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in this Framework taken as a whole.
- Paragraph 80-identifies that significant weight should be put on the need to support economic growth and productivity.
- Paragraph 83-supports a prosperous rural economy and states decisions should enable growth and expansion of all businesses through the conversion of existing buildings and well designed new buildings. The development of agriculture and other land based rural businesses should be enabled.
- Paragraph 85-recognises that sites to meet local business needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport. It is important to ensure that development is sensitive to its surroundings and does not have an unacceptable impact on local roads.
- 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.

Sections 66(1) and 72(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.'

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

Kent Design Guide

The guide provides criteria and advice on providing well designed development.

National Design Guide

Provides guidance on objectives for good design and how this can make a positive contribution to the character of an area.

d) Relevant Planning History

DOV/20/00142 - Certificate of Proposed Lawful Development for the Siting and Use of nine caravans for seasonal agricultural workers over the harvesting season 1 August to 30 November-Certificate granted.

e) Consultee and Third-Party Responses

KCC Highways - Initially requested extra information about the farm operations and occupation of the caravans, number of daily vehicle movements in relation to the proposed number of workers and how workers would gain access to shopping and entertainment if they do not own a car. In response to feedback the following KCC observations were made:

"The caravans are already permitted to be sited for four months of the year, from 1st August to 30th November. This may generate a small number of daily vehicle movements, mostly minibuses taking workers to/from the caravans or for food shopping, but there may be a smaller number of car movements associated with a few of the workers owning cars. These daily movements will occur throughout the year under the current proposals to permanently site the caravans, although the number of movements outside the harvest season is likely to be less as the number of workers will decrease. The current situation without the caravans requires the majority of workers to be taken to/from the farm by minibus and a few in their own cars. Again this will occur at its peak through the harvest season and less so outside this period. The proposed manager's accommodation may generate a limited number of vehicle movements typical of a single dwelling, however it will remove the movements associated with the manager travelling to/from work as at present. The permanent retention of the caravans removes the vehicle movements associated with transporting the caravans to and from site each year.

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. I therefore have no objections in respect of highway matters subject to the following being secured by condition:

- 1) Submission of a Construction Management Plan before the commencement of any development on site to include the following:
 - (a) Routing of construction and delivery vehicles to/from site

- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage
- 2) Provision and permanent retention of the vehicle parking spaces shown on the submitted plans prior to the use of the site commencing.
- 3) Provision of a minibus service for workers shopping trips in accordance with details to be submitted to and approved by the Local Planning Authority.”

Rural Planning Consultant - Initially requested further information in relation to the need for year-round accommodation given that there are no packing and storage facilities at Elmstone Court Farm (ECF). Details were requested about the number of operatives involved, whether there is currently a farm manager and if so where do they live.

In response to feedback the following observations are summarised below:

“The applicants are large scale local fruit growers and packers of their own fruit with an operational base at Flanders Farm, Hoo, Medway. In addition, three main hub farms are used at Bobbing near Sittingbourne, Bicknor and ECF. In 2018 the yield at Elmstone Court Farm was 3684 bins of fruit but this is expected to rise to 4050 bins in 2020 and 6500 bins in 2027, as a result of new planting.

The additional occupation of the caravans would be for tasks such as tree planting, pruning, tree tying, fruit thinning, and fruit bin mending at ECF. This would avoid the mobiles having to be taken off site, during every period they are unoccupied, and then brought back again. This approach saves on the costs and additional traffic that such movements would cause, and it is now very common on farms of this sort of arrangement to be approved, subject to suitable conditions.

The proposed conversion for a staff amenity block, with utility and recreation space (floor area 19.8m x 6.25m) appears an appropriate associated facility necessary for the provision of the overall well-being of staff and the ability for such workers to be attracted and retained by the applicants.

Finally, the proposal includes the conversion of an existing farm building into permanent accommodation for the farm manager, who currently lives in Sandwich in rented housing.

The farm manager’s accommodation would be located close to the mobile homes. The submitted statement argues that “This will ensure that there is a manager on site to monitor and support the occupiers of the mobile homes during work and leisure hours, whilst also providing a manager who is on site at all times for the overall management of the farm”, and “The ability to house a manager on site will ensure that someone is always there to oversee farm operations day and night, as well as any essential emergencies, whilst also having the provision of separate space.

However, as indicated above, the farm does not include any fruit storage or packing facilities and having regard to the nature of the other farming activity, it would be difficult, in my view, to regard it as essential (in terms of any emergencies requiring immediate attention at short notice) for the farm manager to live here, as opposed to elsewhere in the general locality. That said, as indicated above this accommodation would be modest in scale, has the benefit of utilising an existing redundant building rather than being a new build, and would be of considerable benefit to the business in terms of convenience, and the ability to attract and retain a suitable manager.”

DDC Environmental Health - "Whilst it is not customary to comment on facilities for foul drainage, I note concerns have been raised relating to the capability of the current mains drainage network to cope with additional feed to the system. I am advised by the applicant that it is the intention to feed foul drainage to the existing mains sewer manhole within the farm. Whilst it is likely consent will be required from SWA I would suggest that confirmation is sought from SWA that the existing sewer network is able to manage additional waste water input."

Southern Water-notes that there is a public water distribution main within the access and that the exact position must be determined by the applicant. No excavation works should take place within 6m of the public water main and no new soakaways should be located within 5m and all existing infrastructure should be protected during construction works. All works should be in consultation with and approved by Southern Water.

A formal application for connection to the public sewerage system is required in order to service the proposed development. Proposals for cess pit or private treatment plant in the presence of public foul sewerage network close to the development site would not be supported. The foul sewerage shall be disposed in accordance with Part H1 of Building Regulations hierarchy. Environment Agency shall be consulted directly regarding the use of a cess pit.

Initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer.

Confirm that there are no issues with regard to sewer network capacity in relation to the planning application.

Environment Agency – agree with Southern Water that all foul drainage should be discharged to the mains sewer with their permission and that an alternative strategy for surface water drainage will be required rather than using the foul sewer. It is noted that the design of infiltration SuDS may be difficult or inappropriate in this location given the shallow depth to groundwater. Any permission granted should include a condition to cover this matter. Without this condition an objection would be raised in line with paragraph 170 of the NPPF as it cannot be guaranteed that the development will not be put at unacceptable risk from or adversely affected by unacceptable levels of water pollution.

KCC Local Lead Flood Authority - The site is located within an existing orchard. It is not shown as being subject to any flood risk associated with surface water flooding nor any fluvial flood risk; therefore the issue for development of the site is the provision of drainage to the proposed caravans, appropriate control of surface water generated and the final discharge destination. The site is shown to be underlain by Woolwich Formation. BGS information indicates that water table may be found at less than 3 m, but that the underlying bedrock should be freely draining. The EA has indicated there may be constraints in relation to utilisation of infiltration from the new development and Southern Water have indicated that they would not accept the disposal of surface water to the foul sewer. We would raise the point specifically in response to EA comments that this proposal is for an impermeable area of approximately 340 m² in a total site area of approximately 0.6 ha and for control of clean roof runoff. As the development proposal is of small size, we would estimate that shallow infiltration trenches around the perimeter of each caravan would be sufficient to manage the clean roof runoff and would replicate the existing surface water management within the site. We do not

assess the impact to surface water flood risk as significant and believe this can be dealt with through appropriate design of on-site controls based upon some additional investigation as proposed by the EA.

Parish Council - "The Parish Council generally supports the viable use of buildings on the site and has no objection in principle to the conversion of the buildings to provide managers accommodation and a welfare block. However, whilst acknowledging the need for accommodation for seasonal workers, and of the prior approval for the stationing of 9 mobile homes on the site between 1st August and 30th November each year, the Council objects to the proposals to, effectively, make those arrangements permanent. The current nature of agriculture is one of change and, whilst there is currently a need for mobile home accommodation on the site that may not be the case going forward. The prior approval would require the annual removal and re-siting of the mobile homes and that at least maintains the temporary nature of the arrangements and ensures that they are kept under annual review. In the event that the seasonal mobile homes are not required, the land would then simply revert back to agricultural use. The Parish Council would be happy to work with the applicants to seek positive outcomes for this and any future proposals for the site."

Third-Party Representations

A total of 29 representations have been received, all of which raised objections.

The following comments were made:

- Development is unsightly and would have a harmful visual impact that would change the nature of Elmstone
- Inappropriate and disproportionate scale of development
- Adverse effect on character and appearance of Conservation Area and nearby Listed Buildings
- Site is disruptive for the local community and businesses
- No justification for year round workers at the site. If caravans are for "seasonal" workers, why are they needed all year round? A more detailed business based economic justification is needed if caravans are to be permanent. The application has only been made to ease logistical issues associated with delivery and removal of caravans that are permitted on a temporary basis.
- No justification for the conversion of the whole building for farm managers accommodation. Why would it not be possible to make use of the farmhouse to accommodate workers.
- Noise pollution associated with use of the caravans
- Light pollution from use of caravans
- Loss of privacy
- Loss of views
- Increase in population of Elmstone
- Impact on highway safety and conflict with residents, horse riders, cyclists and walkers.
- Site should be accessed from Church Hill rather than Padbrook Lane.
- Staff parking details required
- Refuse storage/collection details required.
- Other existing redundant buildings should be used to provide accommodation for workers.
- Local water and sewerage problems already exist locally and could not cope with extra demand.

- Social distancing within the caravans would be difficult and lead to spread of Covid
- Suggest use of caravans at alternative farms to accommodate workers
- Proposal could be a step towards alternative permanent residential development at the site.

f) 1. The Site and Proposal

The Site

- 1.1 Elmstone is a hamlet situated to the east of Preston, outside of any settlement confines and within the countryside. Much of the hamlet lies within a Conservation Area. The Elmstone Court Farm (ECF) buildings are located towards the centre of the hamlet with land under the applicant's ownership extending mainly to the north and south. There are some residential properties on the north side of Padbrook Lane together with the Court Farm site to the north east. The area is rural in character with surrounding fields in agricultural or horticultural use.
- 1.2 Elmstone Court Farm forms part of a larger scale fruit growing and packing business for its own fruit farms and also for other farms. The company has an operational base at Hoo, Medway where there are fruit processing and storage facilities at Flanders Farm. The applicants own or rent 29 farms with a total of over 1000 hectares of land and have undertaken extensive orchard re-planting programmes. ECF is one of their 3 hub farms, the others being at Bobbing and Bicknor.
- 1.3 ECF comprises a cluster of buildings/barns/former stables/redundant cold stores and pack house buildings around the farmyard, with accesses from Padbrook Lane and Sheerwater Road to the south. There are 63.5 hectares of land associated with ECF.
- 1.4 The application relates to an irregularly shaped area of land that falls within the northern part of the farm that is currently in use as part of a larger orchard. This parcel of land is approximately 1.25 hectares in size. The application also includes two single storey buildings that adjoin this land- a Dutch barn in the southern corner of the identified site and a brick building to the south east of the orchard.
- 1.5 The application site is reached via the existing access from the western side of Padbrook Lane. Whilst the two identified farm buildings fall within the Conservation Area the proposed caravans would be located on land adjacent to but outside the Conservation Area.

The Proposal

- 1.6 The application comprises three elements, as follows:
1. To change the use of a small area of the orchard close to the entrance to the farm from Padbrook Lane to accommodate 9 x seasonal workers caravans arranged either side of an accessway. It is stated that each caravan measures approximately 10m x 3.8m and would be spaced 6m apart in accordance with industry recommended standards. The caravans are required to accommodate workers not just at harvest time but also throughout the year whilst other routine jobs and maintenance work are carried out. These include hedge cutting, grass mowing, erection of tree stakes and wire networks. There is a requirement for around 40 workers at ECF, although not all 40 would be required throughout the year. Each caravan would accommodate 4 or 5 people with the resulting potential for between 36 and 45 workers at the site.

The caravans are to be painted light green to blend with the surrounding setting. It is proposed to plant a hedge around the caravans to provide some screening. A drainage system is proposed to be installed to allow the mobile homes to be connected to mains drainage.

2. To convert a brick building to a farm manager's house with car port and office. The proximity of the proposed house to the caravans would enable the farm manager to monitor the workers accommodation. External works will include cladding with timber weather boarding and replacement composite sheets to the roof. Existing openings will be used to provide windows and doors. In support of this element of the application a Building Inspection report has been provided which assesses the capability of the building to function in the alternative residential use. From a visual inspection it is concluded that apart from some general maintenance issues there is no evidence of significant distortion and the building is structurally sound.
3. To convert a Dutch barn to an amenity block for use by the seasonal workers. The barn in question lies to the south of the caravans and would be used to provide welfare facilities for the agricultural workers such as washing machines and recreational areas. The conversion will involve replacing the external cladding from corrugated sheeting to composite panels above a brick plinth. Windows and doors will be inserted in the north west and south eastern elevations to provide light and drainage.

Background Information Provided by the Applicant

- 1.7 Approximately 75% of top fruit handling in the UK is said to take place in Kent and is carried out by a number of small companies including the applicants. By way of background information it is understood that the current owner purchased the farm in 2013 together with 63.5 hectares of farmland. The applicant is one of the largest UK growers of apples and pears and farms a total of 2400+ acres of land for top fruit over 16 freehold farms and 13 rented on long term agreements.
- 1.8 The applicants have a hub farm in Medway (Flanders Farm at Hoo) and ECF is the hub farm for east Kent. It is not possible to make every farm self-sufficient in storage terms, so the hub system allows the pooling and sharing of labour and equipment with an associated reduction in capital investment.
- 1.9 To meet increased demand and changing customer preferences farmers have had to adapt their techniques to replant orchards with rootstocks at closer densities, introduce new high yielding varieties, installing drip feed irrigation systems and training of fruit on wires. These measures allow the fruit growers to remain competitive and commercially viable.
- 1.10 The increased level of input requires cost and time which puts pressure on the farmer for additional labour, to maintain higher volumes of fruit per hectare. The aim is to extend the growing season and produce quality produce at affordable prices. Increased levels of labour, equipment and infrastructure have resulted in increased costs leading to the pooling of resources at hub farms. It is understood that the applicant's business has invested £63.4 million throughout Kent in order to advance growing methods and remain competitive.
- 1.11 The fruit growing season commences towards the end of November, after the harvest is over with the removal of dead or dying trees, followed by replacement planting, pruning, thinning and spraying in the spring. The company's workers are grouped into teams of up to 40 comprising tractor drivers, labourers, supervisors and a forklift truck driver. It is

possible that different teams need to be accommodated at different farms dependent on the range of tasks that need to be carried out and the time of year.

1.12 It is understood that the workers serving Elmstone Court Farm are currently accommodated on a range of farms occupied by the applicant., principally at Howt Green Farm, Bobbing. This has resulted in logistical problems in addressing labour requirements and matters on site with workers having to leave early in the morning to travel to ECF. This arrangement is not attractive to workers and cannot continue.

As part of the assessment of the application, officers have asked for clarification from the applicant regarding the precise nature of the operation and the need for the proposals subject of the application. In response, the applicant has provided the following detailed review:

Requirement for Caravans

1.13 “The majority of farming takes place at Elmstone Court Farm, with only packing and storage of the fruit taking place at other holdings. It is important that the applicant’s need for occupation of the mobiles beyond the four-month period allowed under the Lawful Development Certificate is not lost. As has been the accepted case elsewhere on the applicant’s other farms the need for the workers in orchards principally relates to caravans being occupied for nine months of the year – primarily between 1 March and 31 December.

1.14 The core farming of the land, which is extremely labour intensive takes place at Elmstone Court Farm. This is not by any means limited to the harvest period and is in no way a minimal task. Core staff are required at Elmstone Court Farm from the beginning of March to the end of December to not only harvest the fruit, which can take place at different times of the year, but to prune, thin, train and tie fruit, spray for disease control, fungus, fertilise, as well as ensuring the correct levels of irrigation for blossom development, fruit setting as well as to optimise cropping levels and sizing. Elmstone Court Farm is currently used for the storage of apple bins, so the repair and maintenance of these is also undertaken by the workers. These jobs are all undertaken by seasonal workers. Alongside this, the orchards are constantly being monitored and managed to ensure that the wire work and stakes that are in place are fit for purpose.

1.15 A lot of the existing orchards at Elmstone Court Farm have been or are being replaced with new more modern varieties of orchard stock. This planting and the care for young stock to fruiting age is a closely monitored process which requires significant labour to check and manage that all conditions will facilitate optimum growth and development. This is very labour intensive. The changing climate, which in turn is producing some ‘out of season’ events, requires the factors that can be controlled- such as water in times of unseasonably low rain to be dealt with immediately.

1.16 Aside from the direct jobs that relate specifically to the individual orchard trees, the whole holding right down to orchard level needs to be maintained. This involves topping, flailing, hedge cutting, ditching, repair and replacement of stakes and/or fencing as well as pest control. This will ensure that the orchards are not constrained due to light, rabbit damage, are weed free and the drainage is optimised as much as it can be.

1.17 The precise occupancy rates of caravans are always difficult to give not least because of the unpredictability of farming times due to weather and overall growing conditions but also due to the changing labour conditions. What might happen one year might be delayed or earlier by weeks the next year by an early spring or a late winter. As a general rule the mobile homes will hold 36 people so for each month this is the approximate number of people that will be residing in the mobiles:

January- 24
February- 12
March- 12
April- 12
May- 12
June- 9
July- 18
August- 36
September-36
October- 36
November- 36
December- 27

1.18 As previously identified though, it is not in the businesses interest to have workers on site for longer than necessary or when not needed as this costs the business. If the mobile homes are not available for them to reside in, the seasonal workers numbers provided (as a minimum) will have to be bussed in and out from other accommodation across AC Goatham's holding.

1.19 This obviously has an impact upon the local road network, but also has an impacts upon the business financially as well as in terms of workers welfare. AC Goatham will have to pay to transport the workers in/out of their place of work, whilst also paying the workers for their travel time rather than just their time 'at work'. The seasonal workers work long days as it is, adding on a commute to this is obviously not favourable for their welfare, the productivity of the business or its response time to the farming demands and weather patterns.

1.20 As can be seen from these workers numbers and the table previously provided, it is clear that there is another pruning season where a certificate could be obtained for the mobile homes to be utilised on site for December and January (albeit the pruning season is longer than this in farming terms). This would mean that the mobiles could be provided on site for at least 6 months of the year.

1.21 For reasons of efficiency and through workers choice, the mobile homes would be occupied at slightly lower densities but not spread throughout the whole of the nine mobiles, depending upon the time of year. There will be empty mobiles at certain times, but again this very much depends on the seasonal demands at the time. Again, we would stress, it is not in the businesses interest to have people retained on site if not needed, whilst there are also obvious costs associated with occupying multiple units as opposed to all of them. When mobiles are unoccupied, it is a good chance to redecorate, repair and undertake any necessary works on them. The workers' pay a rent so it is more efficient for occupiers to share units rather than housing workers in lots of different units which all need to be heated, have water and electricity too.

1.22 The workers that are required to sort and pack fruit at other parts of the business will not reside at Elmstone Court Farm. Elmstone Court Farm is considered to be a hub farm due to its size and geographical location, together with the yard and range of buildings which are used to store equipment, machinery and fruit bins.

1.23 This application seeks the occupation of the mobile homes outside of the harvest season, to allow a place for the various pruning, maintenance, mowing teams to reside on site. The in situ storage of the mobile homes is also sought outside of the harvest and wider management season, when the mobiles are unoccupied, so that they are not having to be brought in and out of the site at various times of the year.

1.24 The Rural Planning Consultant recognises that this management approach is a necessary and accepted way to facilitate and enable farms to operate efficiently. A fact which he has re-iterated in his comments for Elmstone Court Farm.

Requirement for Farm Manager's Accommodation

1.25 With regard to the proposed farm managers accommodation the applicant does not share the view of the Rural Planning Consultant, as outlined below:

1.26 "A manager is needed on site, this is indisputable as a senior member of staff needs to be available on site at all times to ensure that the holding is running smoothly as well as for security. This senior staff member needs to be on hand not only to manage all of the different staff and teams at various times of the year but to also ensure that the irrigation control is monitored at all times of the day.

1.27 With regard to the occupation of the caravans these could 'function' without a manager in so far as they can be occupied without one, but this is not favourable, as it is ultimately the manager who ensures that all occupants are respectful of each other, the mobiles they reside within and their surrounding neighbours. The manager is the person who implements the 'zero tolerance' procedure to safeguard the entire team and neighbours against any bad behaviour so, it is not possible to implement this if off site. Asking the team of workers to self-regulate causes obvious conflict amongst workers and gives no comfort to neighbours that they have a point of contact. The holding could not function without a manager as it needs someone to decide on the daily tasks and implement these accordingly.

1.28 The house which exists at Elmstone Court Farm is already in use for seasonal workers and is already set up and laid out to accommodate multiple occupants. In order to ensure that mobile home numbers are kept to the absolute minimum and existing built form can be utilised, it was proposed to convert an existing building.

1.29 The farmhouse will continue to be used to accommodate seasonal workers that are required on site as the fruit trees mature and the crop increases, it will not remain empty all year round. The mobile homes are proposed to house the majority of the workers and will be relied upon for this; the farmhouse will take up any necessary excess that cannot be housed in the mobiles. It is true that the majority of the workers prefer to be located within the mobile, but with that many workers there are always a small minority who are content or even prefer to be located in shared accommodation. This happened when you get a larger family unit of workers or where workers have subsequently introduced their friends to the business.

1.30 It would not be financially efficient for the farm manager here to reside in the farmhouse due to its size. The farm manager for this unit (which is not one of the company's Directors) will not want or be able to pay for the upkeep of a five bedroom house, when only a couple of bedrooms are needed, even if this would be partially subsidised. This is not an attractive prospect for this level of farm manager's salary package, who would rather have a more disposable income in the 'salary package' compared to the 'benefits offered' in having a larger, older house with greater running costs and far less efficiencies (where the costs of this are effectively taken out of their salary package) than a smaller modern conversion which costs less to run but also puts more in the pocket in term so disposable income for the farm worker. Whereas, occupation by multiple seasonal workers better spreads the running costs, and therefore the overall reduction on each workers salary package, meaning they all have a greater amount of 'cash' in their pocket. This approach is also more cost effective for the business overall.

1.31 As previously advised the holding is forecast to generate circa 4050 bins for the 2020 harvest. This equates to a workforce requirement of 40.5 workers. With 4 people in each mobile unit, and one manager the head count would be 37 workers. So the farmhouse is needed in addition to this to make up the residual. So in short yes the farmhouse is in addition to the 36 workers in the mobiles.

1.32 Outside of the seasonal workers occupation time periods, a farm manager is still needed on site to deter theft, monitor irrigation systems, as well as to ensure that someone is on site to deal with situations raised by inclement weather. It is therefore put forward that it is essential for a rural worker to live permanently at their place of work as these tasks cannot be undertaken or acted upon quickly enough, remotely.

1.33 The mobile homes could still function without a manager on site, but the holding would not. It is also put forward that the local residents have concerns regarding the behaviour of the seasonal workers. This is not uncommon amongst residents reactions to such proposals and as such, having a manager on site to be a point of contact for locals, as well as to ensure effective management and behaviour, has become a way for AC Gotham & Son to ensure that harmony is maintained.

1.34 Respectfully, it is considered that the conversion of an already redundant building (which is encouraged by the NPPF) to serve an agricultural business is a sensible proposal. “

Amenity Building

1.35 “The proposed amenity building would accommodate games, television and computer areas as well as a laundry room. This facility would allow the workers to have a separate amenity area with only minimal alterations required and avoid the need for an additional building. The amenity building will provide an enclosed social area separate from the mobile homes and will provide an attractive facility to attract employees.”

Applicant's Economic Justification

1.36 “If planning permission is not granted for the proposals then in the first instance the decision would be appealed as there is the identified need. A point, we have already successfully been through at appeal twice with two different authorities for this client (and in both cases for even more mobiles on both sites) and won on both occasions; one with costs. (Flanders Farm, Hoo and Turkey Hall Farm, Upper Stoke, Rochester).

1.37 In the short term, the applicant would have no choice but to transport workers on a daily basis to obligate existing fruit contracts, but this would be at great additional expense, with added logistical concern and increased unpredictability about actually having the staff to do this. In reality, finding that many staff to rise extra early for added travel after a busy and long day's work the day before is nearly impossible; especially to ensure workers welfare is protected. Having to do this may even mean having to try to find twice the number of people to get the operations done to ensure that unreasonably long hours are not required of the workers (whose productivity then drops off, which in turn jeopardises the fruit being harvested within certain weather patterns) which itself is a difficult enough task when there have already be labour shortages across the country. This obviously costs considerably more in direct labour terms but also in sorting minibuses, having to house these labourers elsewhere (as the provision of labour is an industry standard). It also significantly increases movements to and from the site, requires far greater logistical planning, and if the weather is bad (meaning tasks need to be put on hold) it puts a far greater number of people in the vicinity with nowhere to go whilst they are on standby (whereas, the proposal means they can have waiting time in their mobiles).

1.38 In the long run, the viability would be significantly jeopardised. There a risk that the harvest could not be brought in (meaning all the year's investment on site is wasted), the income generated does not meet the labour demands throughout the year for this particular holding but does not contribute to the wider overheads of the business (in particular the businesses HQ where over £20 million has been invested in modern infrastructure at the forefront of British agriculture in less than 10 years) and the business actually faces fines from their supermarket for failing to get fruit to them in time. This is not just a physical cost out to the business, but this jeopardises the businesses ability to renew entire contacts with suppliers – which in itself ensures the continuity of the entire business in the future. Further, a failure to produce the quantity and quality of fruit also diminishes the supply of British apples into the food supply chain (which then only increases the demand for foreign produce which increases air miles of our fruit, CO2 with it and in turn the price to consumer). Finally, further concern should be given to the fact that if the farm becomes unviable, the land doesn't become managed, whilst, there are also obvious and very serious economic impacts for all those employees and businesses that are dependent on AC Goatham and Son.

1.39 An inability to harvest the fruit on this farm and farm it in the future, will in affect see the investment across this site, which is estimated to be in the order of £1.5 - £1.75 million (not including the farm purchase) for the 64 hectares entirely wasted. This has undeniable economic consequences for any business, but none more so for a business that has had to wait several years for its community to come into fruition and get to the point where it starts to produce a reasonable yield.

1.40 Alongside the appeal the applicant would use permitted development rights to station mobile homes for the seasonal workers required for the pruning season in any event. This brings none of the benefits offered in direct landscaping terms locally whilst it does nothing to frame parameters or provide continuity and ease of conducting the farming operations. The movement of the mobiles in/out of site at least twice a year is not only an inconvenience to the road network and business, it has a financial cost and onward implications. The mobile homes would need to be stored somewhere, so either planning permission would need to be obtained for this somewhere on this or another holding, or a site which provides this already would need to be found and utilised. Research into the cost to store 9 mobile homes ranges between £2115 to £2700 at Milgate Storage or Artoe storage in Folkestone, DJ Storage in New Romney to name the closest certified caravan storage sites. It appears that there are up to 34 week waiting lists for these sites.

1.41 In addition to the storage of the mobile homes off site, there is the cost of the transportation of each mobile home which costs between £800-£1000 per mobile for a 2-way trip. The cost to the business would therefore be in the order of £20,000 per year to store the mobiles elsewhere based on them being on site for only pruning and harvest. If a space can't be found or an alternative permission will be required. This does not then give consideration to any costs associated with making such application, any necessary appeal.

2. Main Issues

- Principle of the Development
- Planning History
- Justification
- Impact on character of area
- Impact on residential amenity
- Highway Matters
- Heritage Matters

- Other Matters

Assessment

Principle of Development

2.2 The starting point for decision making is Section 38(6) of the Planning and Compulsory Purchase Act 2004. This states that regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be in accordance with the plan unless material considerations indicate otherwise.

2.3 In March 2017 DDC Cabinet agreed to commence the review of the Core Strategy (CS) and Land Allocation Action Plan (LALP) through the preparation of a single local plan. The decision to review the CS and LALP is an acknowledgement that in some cases the evidence base is out of date. It is also recognised that some of the detailed policies applicable to the assessment of this particular application (including Policy DM1) are to various degrees, now considered inconsistent with aspects of the NPPF and as such are out-of-date. That does not mean however that these policies automatically have no or limited weight. They remain part of the Development Plan and must therefore be the starting point for the determination of the application. Furthermore while the overall objective of a policy might be held out-of-date, greater weight can nevertheless still be applied to it depending of the nature/location of the proposal in question and the degree to which the policy (in that limited context) adheres to and is consistent with the policy approach in the NPPF. In the circumstances of this application therefore, with regard to the policies mentioned at the outset of this report, these are considered to remain generally consistent with the aims of the NPPF with regard to agricultural development at an existing farm location in the countryside.

2.4 Under policy CP1 of the Core Strategy Elmstone is defined as a hamlet and the proposed development lies outside of any urban or village confines. Both policies CP1 and DM1 recognise that development is not normally permitted in such locations unless it functionally requires a rural location or it is ancillary to existing development. Agricultural related development is considered to be one of the exceptions to the aims of policies CP1 and DM1 and which clearly require a rural location. The proposals are therefore broadly in accordance with adopted policies.

2.5 The application is also in accordance with paragraphs 7, 11, 80 and 83 of the NPPF which as mentioned above outline that there is a presumption in favour of sustainable development and a need to support businesses including those in rural areas such as agricultural enterprises. The NPPF highlights the need for economic growth with the expansion of existing businesses and the development of agriculture. In addition, paragraph 85 states that there is a need to meet local business requirements in rural areas beyond settlements in areas not well served by public transport. The proposals at ECF are in broad accordance with these aims.

2.6 Policy DM4 covers the conversion or re-use of structurally sound rural buildings both within and outside of identified confines. Outside of the confines permission will be given for the re-use for commercial, community or private residential purposes. The use as a dwelling is related to the commercial operation of the farm and if approved would need to be conditioned to prevent its use as independent private property in the future.

2.7 The suitability of the site for the development in this case is considered to turn on the detailed assessment of the merits of the three elements of this scheme as set out in this report, relative to matters including the impact on character of the area and existing residential amenities and a consideration of its general compatibility with the requirements of the NPPF, including paragraph 11 (presumption in favour of sustainable development). It is also necessary to consider the most recent planning history for this site.

Planning History

2.8 An application for a Certificate of Lawful Development was made earlier for the installation and use of 9 caravans for seasonal agricultural workers at the site under DOV/20/00142. The initial application was to site and use the caravans from 1st March until 31st December, a period of 10 months.

2.9 The main issue in determining application DOV/20/00142 was whether the proposal fell within the Permitted Development rights as set out in Schedule 2 Part 6 Class A of the Town & Country Planning (General Permitted Development Order 2015 as amended). Under such an application it is not possible to consider the desirability (planning merits) of the scheme, but simply whether it would be lawful (i.e. meet certain criteria and be classed as Permitted Development).

2.10 During the assessment of application DOV/20/00142 the initial request to site the caravans for 10 months was considered having regard to relevant appeal decisions and legal interpretations of a “particular season”. In recent case law concerning the length of a “particular season” Inspectors have noted at appeal that the length of a “season” will vary depending on the nature and scale of the agricultural use, but that a temporary use is envisaged. As a matter of fact and degree a period of 6-7 months is generally found to be two seasons and not sufficiently temporary to be properly regarded as a seasonal use.

2.11 In the light of the above application DOV/20/00142, the request for a 10 month period for the siting of the caravans was not considered to represent a season. As a result the description of the development was amended to cover the months from August to November and a Lawful Development Certificate was issued to reflect the amendment.

Justification for the Development

2.12 As outlined above the applicant’s agent has submitted a significant amount of supporting information explaining the company’s proposed changes for ECF and their plans going forward to grow the business through enhanced farming methods. The need for the caravans, farm managers accommodation and amenity building appear to be based on projected labour levels at ECF as it develops as a hub farm.

2.13 The movement of 9 caravans into and out of the site each year would involve considerable time and expense for the applicant. The stationing of the caravans for a further 8 months of the year (in addition to those already agreed under the Lawful Development Certificate) would avoid the need for the caravans to be brought in and taken off site and the associated traffic movements. This requirement has led to the submission of the current application which is essentially to change the use of a small area of orchard to the siting and storage of 9 caravans for workers with either continuous or intermittent occupation throughout the year depending on the nature of the seasonal work. As has been explained above, occupation may not necessarily be at full capacity at all times.

2.14 The Council’s Rural Planning Consultant notes that this is a very common approach to housing agricultural workers on farms and one that has been approved throughout the County. Such year round siting arrangements avoid the need for costs and the upheaval of having to move units back and forth when accommodation may not be in use. The need for and number of caravans appears appropriate for the scale of proposed enhancements to the fruit farming business at the Elmstone Court site and the Rural Planning Consultant has not raised an objection to the caravans.

2.15 The need for the amenity building and farm managers accommodation are linked to the provision of the agricultural workers caravans. The farm managers dwelling and office is required to facilitate the effective management and security of the holding including the

workers. The amenity building will enable the applicant to attract workers to this expanding agricultural enterprise whilst maintaining welfare standards.

2.16 With regard to the possible use of the farmhouse for the agricultural workers at the site, the agent advises that they do not enjoy living separately from fellow employees and this leads to complaints that not all workers are treated equally but will be accommodate there as necessary.

2.17 It should be remembered that in some instances it is possible to convert agricultural buildings to dwellings without the need for a full planning application under Schedule 2, Part 3, Class Q of the Town & Country Planning (General Permitted Development) Order 2015 as amended, subject to certain criteria. This would not be an option at this site as the building in question falls within the Conservation Area where such rights are not permitted.

2.18 The Rural Planning Consultant recognises that there are no storage or packing facilities at the ECF site and that the provision of a farm managers dwelling whilst not essential, would be of considerable benefit. The applicant does not share the Rural Planning Consultants view that a farm managers dwelling is non-essential. They argue that it is required to secure the smooth running of the farm and for security reasons. The proposal would make use of an existing building at the site that is said to be of modest scale and in this instance the conversion to provide a farm managers dwelling is considered to be justified.

2.19 The proposed number of caravans and associated amenity block appear commensurate with the size and nature of the farming enterprise and its labour requirements. While some questions remain about the need for the farm managers dwelling, as advised by the Council's Rural Advisor, the convenience of such a facility here is acknowledged and its small scale nature, involving the change of use of an existing building. Comments raised by the applicant regarding the benefits of having a manager on site 24hrs to enforce 'zero-tolerance' and to act as a regular contact point for neighbours is considered to provide a helpful and compelling basis for concluding in the circumstances of this case that the limited farm managers accommodation can be justified.

2.20 In the light of the above there appears to be a sufficient need for the three elements of the application and satisfactory justification, given the scale of the agricultural activity proposed at the farm.

Impact on Character of the Area

2.21 Paragraph 8 of the NPPF recognises the intrinsic character and beauty of the countryside as a core planning principle and the conservation and enhancement of the natural environment. Core Strategy policy DM15 relates to the impact of proposed development in terms of its visual appearance and the need to protect the countryside.

2.22 Notwithstanding the Certificate of Lawful Development for the 9 caravans for 4 months of the year, it is necessary to consider the permanent siting of these structures on the general character of the area. The part of the orchard the subject of the application is elevated slightly above road level and is set a short distance from the main cluster of farm buildings. There will however be a distance of at least 20m from the nearest caravan to Padbrook Lane and a separation distance of approximately 32m from the vans to the nearest residential property in Padbrook Lane. There is currently a substantial hedge along Padbrook Lane and additional native hedge planting is proposed around the group of caravans, together with some planting to infill any gaps along Padbrook Lane. Full details of the species and hard surfacing to be used have been provided by the applicant.

2.23 The caravans are to be sited close to the cluster of farm buildings and the development would involve the loss of only a small portion of orchard land. Given that the caravans are of a single storey nature, will be grouped together, painted pale green and surrounded by

boundary planting, any visual impact is likely to be at low level. It is considered that there will be no long term adverse impact upon the character and appearance of the nearby countryside such as to justify withholding planning permission. A planning condition can be used to ensure the implementation of the proposed landscape planting. No objections are raised in terms of policy DM15.

2.24 If any external lights are required, it is envisaged these should be relatively unobtrusive in the site context. That said, a condition is recommended to ensure details of all lighting are provided. Details will be required of refuse storage facilities for the occupants of the caravans and managers accommodation.

Impact on Residential Amenity

2.25 The caravans would be sited sufficiently far away from existing residential properties such that there would be no overlooking or loss of privacy. Whilst there might be some change in outlook, under Planning legislation residents are not entitled to a view.

2.26 During the day time employees would be working either in the fields or within farm buildings/yard as is to be expected at such a site. In the evening workers would either be in their caravans or making use of facilities in the amenity block with occasional visits to local shops for food. The provision of an on-site manager (24hrs) provides the opportunity for greater supervision and the addressing of any noise concerns. Notwithstanding, it is recommended that a condition be imposed to require a plan as to how any residents concerns can be raised with the manager as/if required. .

No objections in respect of noise impacts have been raised by Environmental Health

Highway Matters

2.27 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. For the purposes of assessing this application, the site falls outside the settlement confines. The KCC Highways Engineer raises no objections.

2.28 Access to the site is shown from Padbrook Lane. This would represent a suitable option given the location of the application site so close to this existing farm access.

2.29 Policy DM13 concerns the need to provide parking facilities at the site to meet the needs of the development. The submitted plans show an open car port on one side of the farm managers dwelling to accommodate several vehicles. The agent states that the rate of car ownership is low and is discouraged. Based on experiences elsewhere of a similar size workforce it is anticipated that a maximum of 3 cars might be associated with the number of workers.

2.30 There is sufficient space within the farm holding to accommodate parking needs in association with the proposed development. A condition has been recommended to cover this matter.

2.31 In weighing up the travel impacts associated the proposal, it is considered that benefits would arise from a body of workers no longer having to be brought to/from the site daily. The avoidance of the bi-annual transportation of the caravans (to/from site) will also reduce travel and assist the safe/efficient use of the highway network.

Heritage Matters

2.32 The views of the Council's Senior Heritage Officer have been sought and it is acknowledged that the caravans already have permission to be in place for part of the year. It

is considered that the visual impact of the caravans on the Conservation Area would be negligible.

2.33 It is proposed to convert two adjacent buildings to form the managers accommodation, office and parking area. One of these is a brick structure in relatively good condition that is said to be capable of conversion without the need for substantial reconstruction. This building is noted to have no particular heritage value in its own right and the proposed external works will not be harmful to the character of the Conservation Area.

2.34 The adjoining building is a partly open sided lean to structure of no heritage value. The modern materials would be removed and a cart shed style parking area provided. These works should represent a visual improvement.

2.35 The third building to be converted to the amenity block currently comprises an open sided structure that is partly screened from view by other buildings and vegetation. This would be enclosed by composite panels to maintain its agricultural appearance without harm to the heritage values of the Conservation Area.

2.36 There are no objections in terms of any impact on the heritage values of the Conservation Area.

Drainage Matters

2.37 The applicant has confirmed that they are happy to follow the advice of the Southern Water with regard to connection to the public sewerage system to dispose of foul sewerage appropriately and SWS have confirmed that there is capacity in the existing network for this.

2.38 For the avoidance of doubt, no surface water drainage is proposed into the mains sewer. As the development is of a small scale, the LLFA has estimated that shallow infiltration trenches around the perimeter of each caravan should be sufficient to manage the clean water run off. As there is no impermeable hardstanding proposed on site it is considered that the site offers adequate soakaway for surface water as is currently the case – so in effect the status quo will remain in this regard. A condition is recommended to cover this matter.

Temporary Permission

2.39 The possibility of a temporary permission has been raised with the applicant. The following response has been received from the agent:

“This has not been accepted elsewhere on holding’s which have justified agricultural workers in the same circumstances. Neither Medway, Maidstone or Swale have sought to implement such a condition on eight other approved applications involving the siting of mobile homes to serve the functional need to manage orchards, including the above-mentioned appeal. Furthermore, and most respectfully, we are not aware of any policy requirement for such and we would therefore conclude that such a condition is not necessary to make the development acceptable in planning terms. Again, most respectfully, as was set out in appeal APP/A2280/W/17/3181443 (a different appeal made by the applicant which was allowed together with an award of costs against an inappropriate condition) it was set out by the Inspector that “A condition cannot be imposed to remedy a problem not created by the development, and the impact of the development does not justify a condition which seeks to control the effect of unknown future development. For these reasons the condition does not fairly and reasonably relate to the development or to planning.” We considered the same to be relevant in this case.

2.40 Respectfully, we would point out that significant investment would need to be made by AC Goatham & Son to provide this proposal. If this was to be of a temporary nature then this offers no security to this investment on any reconsidered application at a later date. Whereas

suitable conditions and a manager's dwelling enable any perceived impact to local residents to be managed and where necessary, enforced against."

2.41 The conditions recommended in this case will be noted which require that the caravans only be occupied by those working for the applicant and that in the event that they are no longer required then they can be removed.

Land Ownership

2.42 During the determination of the application a neighbour has made claims about ownership of a parcel of land adjacent to the south western boundary of the area of the proposed caravans and a right of way through the farm site. The land in question appears to fall within the "blue line " area of land under the applicant's ownership, but outside the "red line" area, the subject of the proposals.

2.43 The applicant's agent has been contacted about this matter. The neighbour has been made aware that the Council does not hold details of land ownership and that a private right of way is a matter between the parties concerned.

2.44 The issues raised by the neighbour do not appear to have a bearing on the determination of the current application.

Neighbour Comments

2.45 Within the neighbours comments some reference has been made to the possibility of increased Coronavirus spread with workers living in the proposed caravans. Occupants of the caravans would need to comply with current safeguarding measures in place, in the same way as any others living in more communal circumstances.

2.46 Any proposal for other residential development at the site would need to be the subject of a further planning application.

3. Conclusion

3.1 The applicants have provided a very detailed account of their farming requirements at the application site in connection with their wider business across Kent and their justification for the caravans, managers accommodation and amenity facility.

3.2 It is concluded that the siting of the caravans to accommodate teams of workers required in conjunction with this agricultural business is required/justified and that their permanent siting is appropriate and would avoid the need to alternately install and remove the structures. The provision of a farm managers dwelling and office and an amenity block for workers through the conversion of disused agricultural buildings are also considered to be appropriate.

3.3 The business case for the application has been fully made and arguably represents a logical next step which will bring economic advantages arising from the more efficient/effective operation of the enterprise. The proposal will have a very limited local impact on the rural character of the immediate area and/or the character of the conservation area. Opportunities for additional landscaping will bring environmental benefits, as will the reduction in travel arising from the current need to transport workers in/out of the site from across Kent. No highways objections to the scheme are raised by KCC Highways. It is recognised the proposal might be 'sensitive' for existing local residents. However there is no evidence to suggest the proposal would cause any undue harm to residential amenity. No objections are raised by Environmental Health. The applicant is alive to local concerns and measures would be put in place (through the on-site manager) to help address any unanticipated and unexpected eventualities. Overall, the application is considered to be in accordance with Core Strategy policies and relevant paragraphs of the NPPF

3.4 This application must be assessed in line with the 'tilted balance' at paragraph 11 of the NPPF which in the circumstances of this case requires that planning permission be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the scheme. From the foregoing, it is not considered that there are any harmful impacts arising that would justify the refusal of the application in line with the requirements of the NPPF (paragraph 11)

3.5 It is concluded that planning permission should be given in this instance subject to all necessary conditions.

Recommendation

PERMISSION BE GRANTED subject to the following conditions:

I Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
Reason: To comply with the requirements of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (or any legislation revoking or re-enacting that legislation with or without modification).
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
ACG&S_ESF_541, 542, 550, 551, 552, 553, 554, 555, 556, 557 received 21.4.2020.
ACG&S_ESF_540 received 16.6.2020 and 543 received 7.7.2020
Planning Statement received 20.4.2020.
Heritage Statement received 7.7.2020
Building Inspection report received 19.8.2020.
Reason: For the avoidance of doubt.
3. The 9 caravans hereby approved shall only be occupied by agricultural workers employed at Elmstone Court Farm, Padbrook Lane, Elmstone and in accordance with the details received 20.5.2020. At no time shall they be occupied as permanent residential accommodation.
Reason: To reflect the special occupational need for the permitted development.
4. If any of the caravans subject to this permission are not used for accommodating seasonal agricultural workers during 2 consecutive calendar years, or if at any time they are no longer required for accommodating seasonal workers, they shall be removed from the site and the land upon which they were sited restored within 3 months to its previous condition, unless any variation is otherwise first agreed in writing by the Local Planning Authority.
Reason: To reflect the special occupational needs for the permitted development and the site's location within an area where residential development would not normally be permitted.
5. No more than 9 caravans shall be located on the site at any one time.
Reason: In the interests of visual amenity.
6. The caravans hereby approved shall be painted green in accordance with a colour sample that shall first be submitted to and approved in writing by the local planning authority. The caravans shall be maintained thereafter in that colour.
Reason: In the interests of the visual amenities of the area.

7. The landscaping scheme outlined in the details received 27.7.2020 and 15.9.2020 shall be carried out fully within 12 months of the first occupation of the caravans hereby approved. Any trees or other plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the local planning authority give prior written consent to any variation.
Reason: In order to protect and enhance the amenity of the area.
8. No development above ground level shall take place until samples of materials to be used in the construction of the external surfaces of the buildings hereby permitted to be converted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
Reason: In the interests of visual amenity.
9. The occupation of the dwelling shall be limited to a person solely or mainly working or last working in the locality in agriculture (as defined in Section 336 of the Town and Country Planning Act 1990) or forestry or a widow or widower of such a person and to any resident dependents
Reason: To reflect the special occupational need for the development.
10. The amenity building hereby approved shall only be used by the agricultural workers based at Elmstone Court Farm.
Reason: In the interests of the residential amenities of the occupants of nearby properties.
11. The Construction Management arrangements shall be carried out in accordance with the details received dated 15.9.2020.
Reason: In the interests of highway safety.
12. The area shown on the approved drawings as vehicle parking space and turning space shall be provided, surfaced and drained before the use is commenced/ accommodation to which it relates hereby is/are first occupied, and shall be retained for that use thereafter whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, and re-enacting that Order with or without modification).
Reason: Development without provision of adequate parking of vehicles is likely to lead to highway safety issues to other road users.
13. The minibus service for workers to undertake shopping and other trips shall be carried out in accordance with the details received 15.9.2020 and shall be implemented in this way at all times.
Reason: To reduce the number of vehicle movements to/from the site and in the interests of highway safety.
14. No caravan hereby approved shall be occupied and the residential unit and amenity block shall not be brought into use until details of refuse/recycling storage facilities for each have been submitted to and approved in writing by the local planning authority. The approved details shall be provided before the caravan/dwelling/amenity block to which it relates is first brought into use/occupied and shall thereafter be kept available for their approved purpose at all times.
Reason: In order to ensure satisfactory provision of on site storage for refuse/recycling facilities.

15. No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 170 of the National Planning Policy Framework.

16. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details submitted to and agreed in writing by the local planning authority. Such details shall include a statement as to the need for the lighting, the hours and frequency of operation, the areas of illumination and beam angles, and the number and location of any lighting. Thereafter any lighting details shall be installed as agreed and retained in that condition.

Reason: In the interests of the visual and residential amenities of the area.

17. A Management Plan shall be submitted to and approved in writing by the local planning authority before the use first commences. The Management Plan shall set out how the applicant will monitor the use in respect of its impact on the residential amenity of nearby local residents, ensure impacts are minimised and how local residents will be informed of a named person whom they can contact to discuss any concerns arising from the use. Once approved, the Management Plan shall be implemented in full and operated for the duration of the use hereby approved.

18. Prior to the development hereby approved commencing, details of infiltration trenches around the perimeter of each caravan, sufficient to manage clear roof run off, shall be submitted to and approved in writing by the Local Planning Authority. Such details as are agreed shall be carried out concurrently with the development and maintained at all times.

Reason: In order to secure a satisfactory standard of surface water management.

Informatives

1. A formal application for connection to the public sewerage system is required in order to service this development. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link: southernwater.co.uk/infrastructure-charges.
2. Southern Water would not support the proposals for cess pit or private treatment plant in the presence of public foul sewerage network in the close vicinity of the development site. The foul sewerage shall be disposed in accordance with Part H1 of Building Regulations hierarchy.
3. Only clean uncontaminated water should drain to the surface water system. Roof drainage shall drain directly to the surface water system (entering after the pollution prevention measures). Appropriate pollution control methods (such as trapped gullies and interceptors) should be used for drainage from access roads and car parking areas to prevent hydrocarbons from entering the surface water system.

There should be no discharge into land impacted by contamination or land previously identified as being contaminated. There must be no direct discharge to groundwater, a controlled water.

- 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 report and as resolved by Planning Committee and to draft and issue a Statement of Reasons.

Case Officer

H Johnson