

Public Document Pack



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16 June 2021

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **PLANNING COMMITTEE** will be held in the Council Chamber at these Offices on Thursday 24 June 2021 at 6.00 pm when the following business will be transacted.

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

Yours sincerely

A handwritten signature in black ink, appearing to be "Nicky", written over a white background.

Chief Executive

Planning Committee Membership:

J S Back (Chairman)
R S Walkden (Vice-Chairman)
M Bates
D G Beaney
E A Biggs
T A Bond
D G Cronk
P D Jull
O C de R Richardson
C F Woodgate

AGENDA

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

3 **DECLARATIONS OF INTEREST** (Page 5)

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

4 **MINUTES**

To confirm the minutes of the meeting of the Committee held on 27 May 2021 (to follow).

5 **ITEMS DEFERRED** (Page 6)

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

ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING

(Pages 7-11)

6 **APPLICATION NO DOV/21/0500 - UNITED REFORMED CHURCH, THE STREET, ASH** (Pages 12-19)

Variation of conditions 2 (approved plans) and 5 (windows) to allow for additional rooflights, replacement of six stained glass windows to side elevation, internal layout alterations and re-positioning of a flue to planning permission DOV/20/00356 (Application under Section 73)

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

7 **APPLICATION NO DOV/20/01447 - LAND AT NORTH POULDERS, ASH ROAD, SANDWICH** (Pages 20-39)

Development comprising engineering and excavation works (including land re-profiling) to facilitate the creation of a shallow artificial lake for water sports activities with associated facilities (including reception building with ancillary uses, cable pulley system, inflatable aqua park and storage units), parking, landscaping and formation of a new site access from Ash Road

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

8 **APPLICATION NO DOV/20/00589 - THE OLD RECTORY, MONGEHAM CHURCH CLOSE, GREAT MONGEHAM** (Pages 40-52)

Change of use of land for wedding and events venue with marquee and works to single storey outbuilding to facilitate conversion to a toilet block

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

9 **APPLICATION NOS DOV/21/00284 & APPLICATION NOS DOV/21/00567 - LARKSPUR, 36-38 THE DROVEWAY, ST MARGARET'S BAY, DOVER** (Pages 53-66)

DOV/21/00284 – Variation of Condition 2 (approved plans) to incorporate design changes of planning permission DOV/17/01137, including increased height to garages, green roof to garages removed, dwarf wall to front bank, relocation of pedestrian steps, amended siting, flat roof to rear projections, amended windows to rear elevation, increased building height, increased eaves height (part retrospective) (Application under Section 73)

and

DOV/21/00567 – Variation of Condition 2 (approved plans) to incorporate design changes of planning permission DOV/17/01137, including increased height to garages, retaining wall to parking area, amended landscaping, relocation of pedestrian steps, amended siting, flat roof to rear projections, amended windows to front and rear elevations, increased building height, increased eaves height, addition of chimney stacks (part retrospective) (Application under Section 73)

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

ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING

10 APPEALS AND INFORMAL HEARINGS

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

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

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

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. 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, democraticservices@dover.gov.uk, 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 JUNE 2021

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/20/01236** **Erection of 5 three-storey (90 bed) motel buildings; 1 two-storey reception building; 2 single storey buildings for welfare and storage; installation of solar panels to roof of motel and reception buildings; and associated coach, lorry and car parking**

- & DOV/20/01220** **Erection of mixed-use development comprising swimming pool, restaurant, bar and mixed-use Class E (Commercial Business and Service)**

- Dover Marina Curve Phases 1A and 1B, Dover Harbour (Agenda Item 10 of 22 April 2021)**

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).

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.

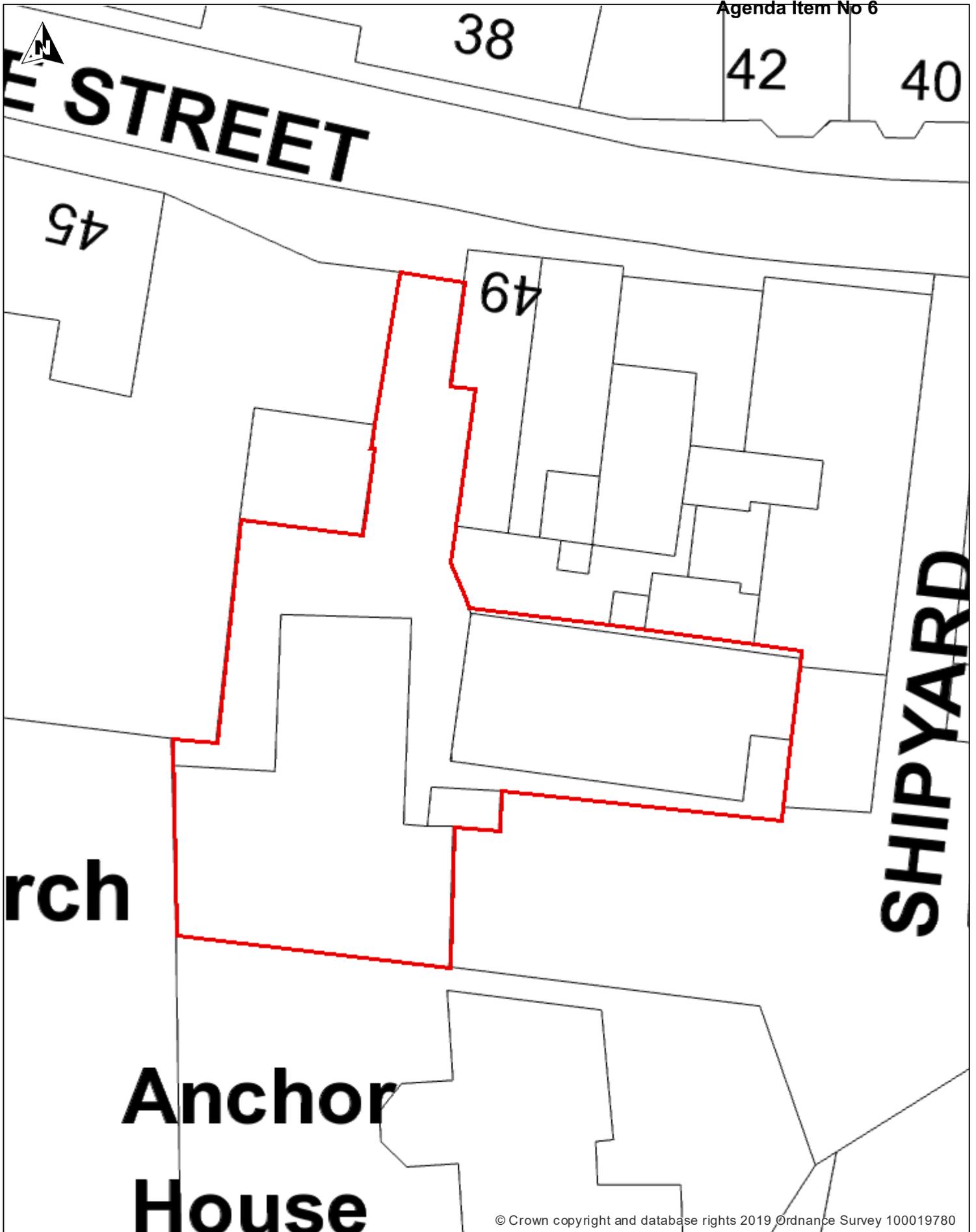
The Committee needs to bear in mind that its decision may interfere with the rights of particular parties, particularly under Article 8 and Article 1 of the First Protocol. The decision should be a balanced one and taken in the wider public interest, as reflected also in planning policies and other material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



21/00500

United Reformed Church
The Street, Ash
CT3 2EN

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/21/00500 – Variation of conditions 2 (approved plans) and 5 (windows) to allow for additional rooflights, replacement of six stained glass windows to side elevation, internal layout alterations and re-positioning of a flue to planning permission DOV/20/00356 (Application under Section 73) - United Reformed Church, The Street, Ash, Sandwich**

Reason for report: Number of contrary views

- b) **Summary of Recommendation**

Planning Permission be Granted

- c) **Planning Policy and Guidance**

Dover District Core Strategy (CS) Policies

CP1 & DM1

Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990

Section 72 of the above Act requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

National Planning Policy Framework 2019 (NPPF)

Chapters 5, 12 and 15 (Paragraphs 196 and 197)

The Kent Design Guide (KDG)

National Design Guide 2019

Regulation 18 Consultation on the Draft Local Plan 2021

The Draft Local Plan is undergoing its first public consultation exercise, which expired in March 2021. At this stage only minimum weight can be afforded to the policies of the Plan.

- d) **Relevant Planning History**

DOV/19/00341 – Demolition of church hall, partial demolition of church building together with conversion of church to residential dwelling (C3 Use Class). Approved

DOV/20/00356 – Conversion of church building and church hall building to 2no. residential dwellings (C3 Use Class) subject to a number of conditions being imposed. Approved

Condition 2 of DOV/20/00356 requires the development to be carried out in accordance with the approved drawings.

Condition 5 of DOV/20/00356 states: “All existing stained glass windows in the former church building shall be permanently retained in that form and shall not be altered to provide clear glazing. Similarly, the upper parts of all windows to the former church hall annotated 1 on the approved plans, shall be permanently kept as blackout glass sufficient to prevent intervisibility. Reason: In order to preserve the character of the buildings and to prevent any overlooking to adjoining residential properties.”

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

Ash Parish Council: strongly objects to this application (part retrospective) because there are material considerations of over-looking, loss of privacy, loss of amenity due to noise, and changes to a building of historical note that will have a detrimental impact on the heritage significance of the building that is in a Conservation Area.

Public Representations: 8 objections to the proposal, summarised as follows:

- The proposed windows and loss of the stained glass windows would harm the historic character and appearance of the buildings,
- The proposed windows are different sizes, portrait and landscape orientation, not flush and not aligned with the windows below,
- The rooflights will lead to overlooking and loss of privacy, light and noise pollution,
- The proximity of the proposed flue would cause harm to living conditions,
- The proposed doors are out of keeping,
- There is a lack of clarity in the drawings,
- Some unauthorised works have already taken place.

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

1.1 The application site is located within and forms part of the Ash - The Street Conservation Area. The area stretches across the road from No. 5 The Street towards the east, finishing on the eastern boundary of 128 The Street. The Conservation Area includes; the 5 linear development along The Street, 5no. properties on Chequer Lane including the Chequer Inn and a number of properties off of Pudding lane. There are a number of listed buildings within the Conservation Area.

1.2 The application site is situated on the south side of The Street and is an irregular shaped area of land with two church buildings located at its southern end. The church was probably constructed from 1843 and the church hall can be dated to 1882 by the foundation stone situated on the façade. By reason of their age, design, appearance, architectural articulation, use of materials and historic association with the village, these buildings make a positive contribution to the character and appearance of the Conservation Area. As such, it is considered that these should be regarded as non-designated heritage assets within the Conservation Area.

1.3 Although set back behind the front building line of properties facing onto The Street, the buildings are visible from the site's access and other public vantage points on The Street and more openly visible from views from 'Shipyard', across an informal car parking area (outside the site). 'Shipyard' appears to be a private road that serves a few residential properties.

1.4 The application properties comprise the main Church building and the Church hall constructed roughly perpendicular to it. The Church building's front elevation faces toward The Street, with its western flank elevation facing the rear garden of No.45 The Street and its eastern flank elevation mostly facing toward the informal car parking area along 'Shipyard'. The Church hall has its rear elevation facing toward and visible from 'Shipyard', its southern elevation facing the informal parking area and its northern elevation mostly facing the rear of the properties 49-53 The Street.

1.5 Both buildings have windows and/or doors on each of its elevations. The western boundary enclosure of the site, adjoining the boundary with No.45, is a fence and is some 1.8m-2m high.

1.6 Works have commenced on converting the Church hall and additional openings have been created within it - some of which are in accordance with the extant planning permission and others without the benefit of planning permission – which are under consideration in the current application. The works do not appear to have taken place within the main church building.

1.7 In comparison with the approved works, the proposed works comprise:

Church Building

- The replacement of existing No.3 stained glass windows on the ground floor east facing elevation with clear glazed windows.
- The replacement of existing No.3 stained glass windows on the ground floor west facing elevation with clear glazed windows.

Church Hall Building

- Addition of 2 new rooflights and change in design of No.1 approved rooflight on north facing roof slope.
- Addition of 1 new rooflight and change in design of No.3 approved rooflights on the south facing roof slope.

2. **Main Issues**

2.1 The main issues are:

- The principle of the development
- The impact upon the character and appearance of the Conservation Area
- The impact upon residential amenity
- The Planning Balance

Assessment

Principle of Development and Procedure

2.2 The application site falls within the village settlement of Ash. As such, under Policy DM1, the change of use of the buildings and changes to their external appearance are acceptable in principle, subject to design and other impacts being assessed.

2.3 One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition or conditions that can be varied. In this case, conditions 2 and 5 are sought to be varied. If permission is granted, this new permission will sit alongside the original permission, which will remain intact and unamended. This S73 application does not give an opportunity to refuse the first application – the decision on the S73 application is based upon the planning merits of the amendments sought.

2.4 In principle, the proposed development, and the submission of a S73 Application to achieve the variation to the approved works under the previous application, are acceptable.

Impact Upon Character and Appearance

- 2.5 Of the two buildings, the Church building is the most important in terms of its design, appearance and architectural articulation, whereas the church hall does not provide the same degree of visual attraction.
- 2.6 The insertion of the approved rooflights into the roof of the church hall has been undertaken and these 'velux' rooflights that have been installed (slightly raised above the roof slope so that they are not set flush with the slope) detract from the simple 'lines', form and appearance of the roof. However, there was no planning condition imposed on the previous application that was approved, requiring the rooflights to be set flush with the plane of the roof.
- 2.7 The proposed changes to the north facing roof slope of the church hall building are not obvious from views from public vantage points and can only be glimpsed. The changes to the approved scheme on the north facing roof elevation involve: changing an existing 'portrait' rooflight to a smaller 'landscape' rooflight and slightly realigning its location so that it does not sit directly above the window on the ground floor; installing a new 'square' rooflight centrally located along the roof elevation, sitting slightly off-centre of the window below it and, finally; inserting a smaller square rooflight on the roof slope sitting slightly off centre from the window below it. The rooflights are dark grey and aluminium.
- 2.8 Although visible from residential properties, the changes are not prominent within the street scene. Their appearance and visual impact upon the prevailing character and appearance of the conservation area are therefore considered to be limited and immaterial.
- 2.9 The proposed changes to the south facing roof slope of the church hall building are visible from 'Shipyards' with views across the informal parking area. Three 'portrait' style rooflights were approved. Two small square rooflights are proposed to replace two of the portrait rooflights, and one small landscaped rooflight is proposed to replace the other 'portrait' rooflight. One additional square rooflight is proposed above the centrally located window in the building.
- 2.10 Due to the reduction in the proportions of the rooflights and their overall scale in relation to the existing roof, the proposed rooflights would not be excessive or so out of character that they would detract from the prevailing appearance of the roof. Whilst the rooflights have different designs and scales this does not necessarily render the proposal unacceptable. In this case, the prevailing public view of the building will be of the building as a whole; and in this context, the proposal is, overall, acceptable.
- 2.11 Under this application, if the 'as proposed' rooflights are required by planning condition to be set flush with the plane of the roof this would result in some rooflights being flush and others being proud of the roof slope. This combination would appear 'out of kilter' and more incongruous. To ensure some degree of visual synergy, it is not considered necessary to insist that the rooflights that are 'as proposed' (and already installed) should be taken out and reinstalled with a different rooflight so that they are flush with the roof plane.
- 2.12 With regard to the relocation of the flue – this would rise above the next bay along in the building to its already approved location. This is not considered to have a material visual impact upon the design of the building or the character and appearance of the conservation area.
- 2.13 With regard to the Church building – the proposal seeks to replace stained glass windows in 6 locations with clear glass windows. These windows are on the

ground floor flank elevations of the Church building. The stained glass windows in the main front elevation of the building (ground and first floor) and in the upper floor projecting gabled ends in the flank elevations of the building are being retained.

- 2.14 The stained glass windows in the west facing elevation are not visible from the public highway and therefore do not materially affect the conservation area. There is a lean-to to be demolished in front of a stained glass window on the east facing elevation and two other stained glass windows in the east facing elevation that will be visible from Shipyard.
- 2.15 It is considered that the loss of the stained glass, although not prominent in the street scene, would have a negative impact upon the appearance of the building and its historic significance and, as such, it is considered that the proposal would lead to less than substantial harm to the character, design and appearance of the church building and the character and appearance of the conservation area. As less than substantial harm has been identified, it will be important to consider the public benefits of the proposal to assess whether these outweigh the harm.

Impact Upon Residential Amenity

- 2.16 Whilst overlooking and loss of privacy are matters that have been raised as a result of the public consultation of the application, these have also been raised previously. Whilst these impacts are being reconsidered, in the light of the changes proposed, the Council's previous decision to grant permission is material to the determination of the assessment on this issue.
- 2.17 The approved rooflights in the Church hall building serve a bedroom (in the north facing roof slope) and the same bedroom and a further bedroom in the south facing roof slope. Under the current proposal, the proposed rooflights would serve the same bedroom (as before) a double height roof void and an en-suite room. It is not considered that the additional rooflights would give rise to a material increase in overlooking and loss of privacy to those occupiers of properties in The Street. In particular, as the new rooflights would not serve habitable rooms.
- 2.18 The proposed relocation of the flue is on the roof slope furthest from the properties in The Street and therefore this is unlikely to give rise to any material impact upon the living conditions of their occupiers. Likewise, the proposed additional roof light in the south facing roof slope would serve a double height void – which would not materially increase overlooking towards those properties being served by 'Shipyard'.
- 2.19 With regard to installing clear glazing to replace the stained glass in the west facing elevation of the Church building, the windows look towards a 1.8m high timber fence and toward a rear garden area and not directly towards windows or the area immediately behind No.45 The Street. As such, the change in glazing is unlikely to give rise to overlooking and loss of privacy that would be unduly harmful to the living conditions of the occupiers of No.45 The Street.

Impact Upon Residential Amenity

- 2.20 The less than substantial harm to the character and appearance of the conservation area that has been identified through the assessment of this application needs to be weighed against the public benefits arising from the

proposal, including securing the building(s) optimum viable use (Paragraph 196 of the NPPF).

- 2.21 The recent planning history of the site has established that residential use of the Church Building (through both recent applications) and residential use of the Church Hall building (through the most recent application) appears to be the best, or most optimum viable use of the building(s).
- 2.22 It is considered important that the residential conversion of the Church building originally retained the stained glass windows to serve a double height living area in the central section of the building. With the exception of two east facing rooflights in the roof slope, the living area would not be served by clear glazed windows. As such, they would not provide outlook for those residential occupiers standing or sitting in the living room area. It is considered that windows that serve habitable rooms should have a degree of outlook, light and ventilation. For such a conversion it should be important to achieve this. It is considered therefore that a degree of flexibility needs to be imposed on this proposal for the benefit of the future occupiers of this building.
- 2.23 The loss of the proposed 6 stained glass windows needs to be considered in the round, as the proposal retains 9 stained glass windows in the building, that are also located on more prominent and visually attractive elevations. As such, the historic significance of stained glass windows being located in the building would not be lost. The retained stained glass windows would continue to provide a public benefit and serve to provide a historic and visual reference for the building.
- 2.24 Finally, having identified a degree of harm from the rooflights in the Church hall building, which are not set flush with the plane of the roof, the applicant has agreed to a condition to be imposed on the current application, should permission be granted, to ensure that the 'as approved' 6 rooflights proposed on the Church building should be set flush with the plane of the roof. The previous application did not require this through the imposition of a planning condition. This means that the most important building of the pair would have more appropriately designed and installed roof lights.
- 2.25 In weighing the harm from the loss of the stained glass and replacement with clear glass against the public benefits, it is considered that the public benefits of securing an optimum, residential use of the building (that provides a reasonable level of residential amenity for the occupiers), the retention of the remaining stained glass in 9 other windows on more prominent parts of the building, and roof lights that would be installed flush with their roof planes on the building represent a level of public benefit significant enough to outweigh the less than substantial harm identified.

3. Conclusion

- 3.1 The buildings and their location within the conservation area have a degree of sensitivity attached to the outcome of this decision. The Council should ensure that the proposed application at least preserves the character and appearance of the conservation area, and/or, having identified less than substantial harm, should assess whether the public benefits of the proposal outweigh this harm. Weighing the public benefits in the balance, it is considered that the proposal should be supported for the reasons set out.

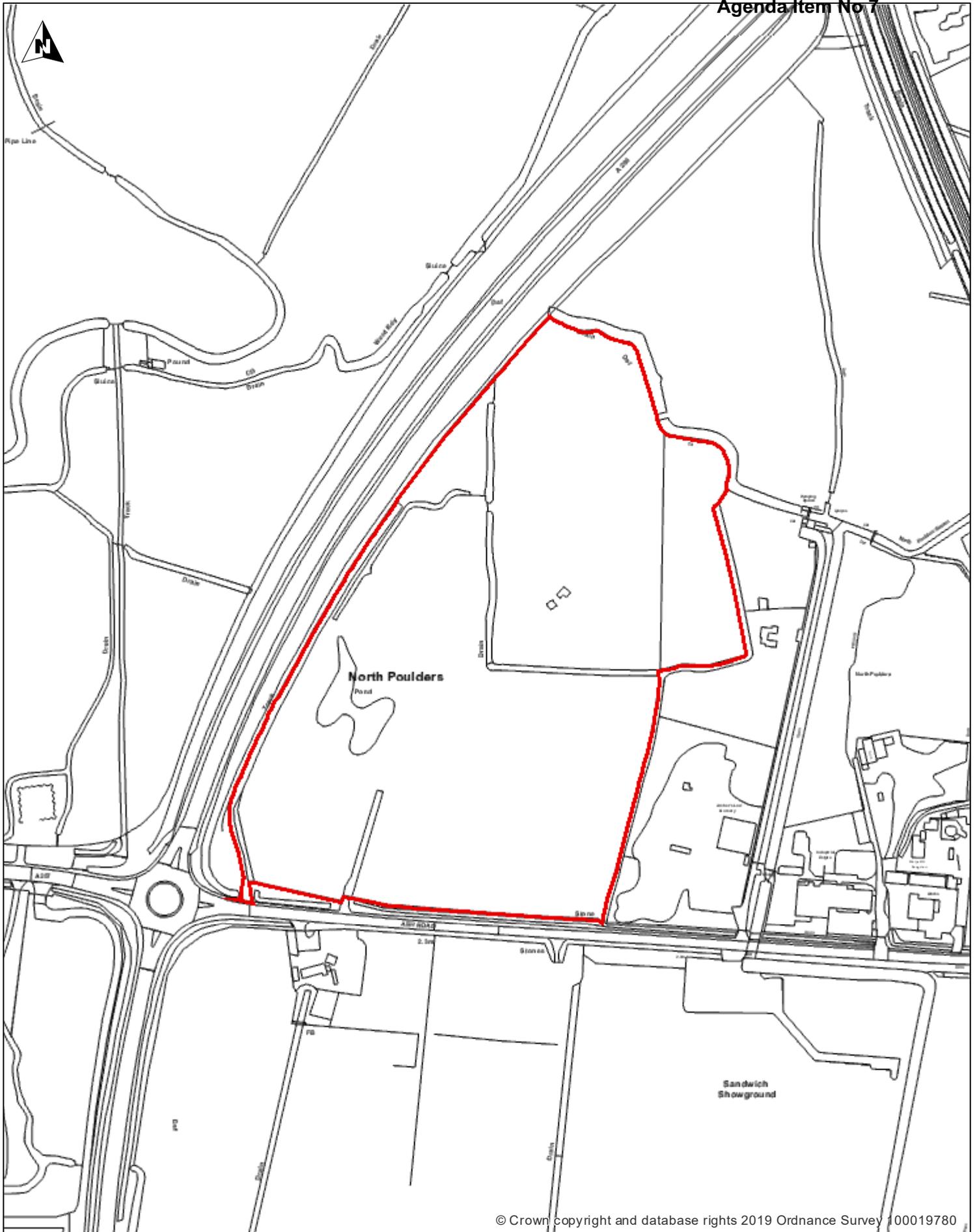
g) Recommendation

- I PERMISSION BE GRANTED with the imposition of the following conditions:
 - i) The conditions on the existing planning permission should be reimposed or updated. Condition 5 should be updated and varied to omit reference to the six windows in this application.
 - ii) Approved Drawings.
 - iii) An additional condition should be imposed to ensure that the rooflights in the Church Building are set flush with the plane of the roof slope.

- 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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20/01447
Land At North Poulders
Ash Road
Sandwich

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



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

- a) **DOV/20/01447 – Development comprising engineering and excavation works (including land re-profiling) to facilitate the creation of a shallow artificial lake for water sports activities with associated facilities (including reception building with ancillary uses, cable pulley system, inflatable aqua park and storage units), parking, landscaping and formation of a new site access from Ash Road – Land at North Poulders, Ash Road, Sandwich**

Reason for report: Number of contrary views.

- 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.

Draft Dover District Local Plan

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process however the policies of the draft Plan have little weight and are not considered to materially affect the assessment of this application and the recommendation as set out.

Core Strategy Policies

CP1, DM1, DM11, DM13, DM15 & DM16

Dover District Local Plan 2002

OS7 – Proposals for outdoor sports and recreational facilities or for the expansion/enhancement of existing facilities will be permitted provided:-

- i) major facilities are located in Dover or Deal, or if no such suitable sites are available they are well-related to the urban edge of Dover or Deal and sited so as to enable a significant proportion of users the opportunity to access the facility by public transport, cycle and on foot; or
- ii) if located at a rural settlement, they only satisfy an identified local need and associated built development is small in scale, ancillary to the outdoor sports or recreation use and unobtrusively sited.

In all locations development will not be permitted if it would cause harm to residential amenity through noise or illumination and where floodlighting is permitted conditions will be imposed to regulate operation, including hours of use.

National Planning Policy Framework (NPPF)

The most relevant paragraphs of the NPPF are: 8

11 - states that development proposals that accord with an up-to-date development plan should be approved without delay or, where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, permission should be granted unless:

- i. the application of policies in the NPPF that protect areas or assets of particular

importance provides a clear reason for refusing the development (having regard for footnote 6); or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Paragraph 80

83 - says that planning policies and decisions should enable the sustainable growth of all types of businesses in rural areas, the development and diversification of agricultural and land-based rural business, and sustainable rural tourism and leisure development which respect the character of the countryside.

84 - Sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements. If so, it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

Paragraphs 91, 96,108, 109, 110, 117

118 - states that decisions should (amongst other things) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains such as developments that would enable new habitat creation or improve public access to the countryside.

Paragraphs 127, 155, 163

170 - says that planning decisions should contribute to and enhance the natural and local environment by (amongst other things) recognising the intrinsic character and beauty of the countryside, and minimising impacts on and providing net gains for biodiversity.

175 - says that when determining planning applications, if significant harm to biodiversity cannot be avoided, adequately mitigated or, as a last resort, compensated for, planning permission should be refused. Development whose primary objective is to conserve or enhance biodiversity should be supported.

The National Design Guide and Kent Design Guide (KDG)

d) Relevant Planning History

DOV/03/00010, DOV/03/00936, DOV/04/01260 – Three separate applications all for change of use of land to recreational use for hovercraft experience – Refused.

e) Consultee and Third-Party Responses

Sandwich TC – Recommend approval, subject to the applicants agreement that they plant a variety of native trees and shrubs, not just a single species, and that the hedgerows be planted in two parallel, staggered rows.

Ash PC – Only the northern boundary of this site is shared with the parish of Ash and so the committee would support the comments of the Sandwich Town Council. However, should the application be granted, it is requested that consideration be given to a traffic management plan that would deal with any traffic tail backs on the A256/A257

roundabout in the peak evening times ie up to 18.00 from vehicles accessing and leaving this site and also in the event of the use of Manston for the holding of HGVs.

Environment Agency – The proposed development will only meet the National Planning Policy Framework’s requirements if the following planning conditions are included:

The development shall be carried out in accordance with the submitted flood risk assessment (ref Herrington Consulting April 2021) and the mitigation measures it details in the Recommendations section 9.

Our 8m Byelaw Margin adjacent to the Main River Gosshall Stream shall be kept clear of any development.

Advice is also offered on the need for permits from the EA for any works within specified distances of existing drainage infrastructure.

Southern Water – 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. The Environment Agency should be consulted directly by the applicant regarding the use of a private wastewater treatment works which disposes of effluent to sub-soil irrigation.

KCC LLFA – Application is supported by a Flood Risk Assessment produced by Herrington Consulting Limited (April 2021). This report includes a drainage strategy and development proposals for the Aqua Park.

1. It is noted that the EA have provided a planning condition for the development.
2. The applicant has noted that modelling will be required to inform detailed design for the diversion of the ordinary watercourse.
3. It is noted that the area is located within an area that is protected by flood defences and therefore there is a lack of fluvial flood risk to the development.
4. It should be noted that the site falls within the jurisdiction of the River Stour Internal Drainage Board; any works whatsoever that may have the potential to affect any adjacent watercourse (or the network’s ability to convey water) will require their formal prior written permission.

Information has been presented to demonstrate that a waterbody can be created at this location with an outlet control; therefore we do not have any objection to this application but would recommend that the following conditions:

Development shall not begin until a detailed drainage design including a drainage model, which reflects the ordinary watercourse diversion, has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker. The drainage scheme shall be implemented in accordance with the approved details.

No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has

been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

River Stour IDB – We have reviewed the submitted Flood Risk Assessment, which refers to our pre-application consultation from the applicant's flood risk consultants. We are therefore satisfied that the Board's interests have been duly considered in the preparation of the proposals and are satisfied that our comments and concerns have been addressed within the submitted documentation.

The SuDS scheme proposed makes use of allocated freeboard within the proposed lake, with a climate-change adjusted discharge to the receiving watercourse at a rate shown to be lower than that of the existing 'greenfield' situation. Provided KCC (as LLFA) are similarly satisfied, and that this is controlled by way of a suitably worded condition, we can confirm that we have no objection to this aspect of the application.

Our formal Land Drainage Consent will need to be obtained for any works whatsoever that may affect any existing watercourse within the boundaries of the site, and it must be ensured that the ongoing maintenance of any existing or diverted channel is provided for. We would recommend that the applicants or their appointed agents contact us at their earliest convenience to discuss our formal Consenting requirements. The ecology, biodiversity and water quality of the fluvial network must not be adversely affected by this development, both during and after construction works. It must also be ensured that the Environment Agency's permission is obtained for any works affecting the adjacent main river, and for any waste handling issues that may arise from the creation of the lake.

Natural England – Natural England is not able to fully assess the potential impacts of this proposal on statutory nature conservation sites or protected landscapes or, provide detailed advice on the application. The lack of detailed advice from Natural England does not imply that there are no impacts on the natural environment. It is for the local planning authority to determine whether or not the proposal is consistent with national and local environmental policies. Other bodies and individuals may provide information and advice on the environmental value of this site and the impacts of the proposal on the natural environment to assist the decision making process.

Kent Wildlife Trust – No response received.

KCC Highways – The site access arrangements shown are acceptable, however I suggest that within the site there should be a pedestrian connection from the car park to the path shown linking to the aqua park and facilities building, together with some form of informal crossing point across the car park access.

The response on trip generation is noted, as is the assertion that the expected patronage of the aqua park would only be 30 people in any one hour for operational, safety and management purposes. Together with the expected maximum 8 patrons of the water-ski cable runs, I concur with the suggested likely peak two-way hourly trip generation of 52 trips in the original Transport Statement, in relation to the day-to-day use of the site, and that there is unlikely to be a severe impact on the highway network from this number of trips.

The proposal for 100 spaces is likely to accommodate the demand generated by the number of patrons identified above and associated staff. The response on events/competitions at the site does not provide the details of the nature, frequency, timing and likely attendance for the same as previously requested. Clarification is also required as to whether or not the aqua park would continue to operate during such

events/competitions on the lake, or whether the whole site would be dedicated to the event only.

The comments on bunding and landscaping proposals along the A256 Sandwich Bypass boundary of the site are noted, however details of such proposals do not appear to have been submitted. Such details should therefore be provided and include cross sections or other suitable information to indicate the likely visibility of the site to drivers on the A256.

If all other matters are satisfactorily resolved, it will be necessary to impose a condition restricting the number of patrons per hour to that identified.

(Additional comment upon receipt of further information): If DDC is happy that we can deal with events and landscaping by condition then I have no problem with that, but please bear in mind the details agreed through the conditions will need to be acceptable in highway terms. I note your agreement to restrictions on the maximum number of patrons at any one time. The only outstanding matter is not really a highway issue but relates to the internal pedestrian path arrangements.

KCC PROW and Access Service – Does not wish to comment.

Kent Fire and Rescue Service – I can confirm that it is my opinion that the off-site access requirements of the Fire & Rescue Service have been met. I note that the existing site entrance is to be retained for fire brigade access to the Facility building I believe this will now also satisfy the on-site access requirement.

KCC Archaeology – The site is located on reclaimed marshland within the former Wantsum Channel and there is the potential for deposits of palaeoenvironmental and geoarchaeological interest, and also possibly for buried ancient land-surfaces and associated archaeological remains. We are not aware of any previous archaeological/geoarchaeologically-led investigations of the deposits within North Poulders area (nor any part of the Goshall Valley or indeed the wider channel on the southern side of Richborough Island) and therefore questions around the depths at which significant deposits (be those organic-rich sediments, peats or indeed archaeological surfaces) might survive, have not been addressed.

As well as such buried sequences and deposits the site covers a significant part of RAF Sandwich - a WW2 Ground Controlled Interception (GCI) radar station. The wartime 'Happidrome' (operations room) is extant a little further to the east (at White Mill) but there are extant radar plinths within the proposed application site - the most obvious being the Type 79 radar plinth (and adjacent substation) which is visible on aerial photographs. We think that this survives in good condition. The significance of the surviving remains of the radar station would need to be assessed to inform these proposals. Other sunken equipment, wells, etc may survive and have been infilled rather than removed.

We would also note our concerns about the impact of the scheme in altering the sense of how the undeveloped nature of the reclaimed marshlands contributes to our understanding of the Wantsum, its great scale and the sense of place derived when visiting the very important medieval town of Sandwich and Roman Richborough. Based on the 3D visualisations the proposed scheme would appear to include some substantial vertical elements in an otherwise low-lying and flat landscape.

Before a decision is made on this application we recommend that an Archaeological Desk-Based Assessment (DBA) is undertaken and this should include the results of a detailed walkover survey with input from someone appropriately experienced in identifying military remains.

Given the scale and depth of excavation impacts we would also recommend that purposive geoarchaeological evaluation of the site is undertaken and this would need to include both electromagnetic or electrical resistivity survey (the latter if impact beyond 6m depth) and borehole core studies. We would wish to provide a brief for field evaluation

and this would be dependent on the results of the Archaeological Desk-Based Assessment. The latter should include a consideration of any available data from existing geotechnical or ground investigation studies and if such data is available the DBA should include a preliminary deposit model.

If a decision is made on the application without the above submissions, a condition is requested requiring archaeological field investigation works. Further comments awaited following submission of Archaeology Desk-based Assessment.

Kent Police Designing Out Crime Officer – Has provided detailed advice on security and related issues. In particular:

- The rear and side boundary treatments to be min height of 2m continual. The development layout must not allow any access strip to the rear elevations, between the units and the perimeter treatments as this could attract crime.
- The parking areas are unrestricted, and the design would make securing them difficult, therefore, the crime opportunity risks can be reduced if access onto the site beyond the entrance forecourt and car park is restricted. Vehicle mitigation methods such as heavy-duty planters, sculptures and bollards can assist with ensuring vehicles have no further access to the site other than to the car park.
- Lighting is required, we recommend that a suitable lighting policy is installed to ensure that the units and staff have safe access to and from the units and to help deflect criminality. External lighting to conform to min standard of BS5489-1:2020.
- To minimise the opportunity for crime, especially out of hours and as these units might be used by businesses that could attract crime the physical security standard should meet current standards as shown in SBD Commercial 2015. Cycle and Bin Store should be secure and well lit.
- Security should be provided for Motorbikes, Mopeds, E-bikes and similar. Secured by Design or Sold Secure approved ground or wall anchors can help provide this.
- CCTV is advised for all areas, especially at entry points and other areas with limited natural surveillance. Please ensure the CCTV supports the lighting plan.
- If approved, site security is required for the construction phase.

DDC Environmental Health – (Initial comments): I note that the issue of residential amenity in terms of potential noise disturbance from the activities. Environmental health do not object to the proposals, however whilst the proposed cable equipment (8pole electric motor 400 v 50Hz) is described as ‘low noise’ I would recommend that details of sound power levels are sought from the applicant to ensure there is no loss of residential amenity. Additionally, clarity should be sought on any proposals to install a public address system within the development area and if so siting details and mitigation measures proposed to ensure noise levels do not cause disturbance should be provided.

(Additional comments following receipt of Noise Impact Assessment): The report examines the noise impact of the wakeboarding activities associated with this development. Conclusions of the report are accepted and I note that the noise levels generated will result in negligible impact at the nearest residential receptor. Whilst no plans appear to be in place to install a public address system, the report identifies acceptable sound levels for such a system in the future if required.

DDC Natural Environment Officer – Initially raised concerns that the survey information on protected species and habitats generally was incomplete and inadequate, particularly with regard to wintering birds, water voles and great crested newts. Advised that further survey work should be undertaken and at the appropriate time(s) of year.

Upon receipt of the results of the further surveys that were undertaken, has raised a couple of technical queries and advised against the use of one particular species in the planting scheme. The technical queries have been resolved and the species in question has been replaced.

Most recent comments: I accept the survey results for protected species, including wintering birds and the proposals for biodiversity enhancement of the site. However, I would expect to see the following proposal for water voles at page 34 paragraph 10.8 attached as a condition of planning consent and the results sent to the council for approval:

To ensure that no animals have moved into the Site prior to construction, a walkover survey of suitable habitat will be conducted within two weeks of the start of works

DDC Leisure Services – Support the provision of Wakeboarding Centre at Ash Road, Sandwich. The proposal provides a unique Sport & Leisure offer to residents in the district and further afield. Accessible design features including disabled parking and accessible shower changing/toilet facilities are important to make this an inclusive facility. The Wakeboarding Centre would greatly complement existing outdoor leisure facilities and help to diversify this offer. In particular, given that Dover is a coastal town, the Outdoor Wakeboard and Aqua Park Centre together with ancillary facilities would help to further promote, grow and develop outdoor water safety & water sports across the district. It is very likely to attract a wide range of abilities, user groups & ages given the variety of challenge and fun water activities. This project will benefit residents of Dover District, helping to encourage users to lead healthier lifestyles and improve physical & mental well-being. It is also very likely to attract tourists and visitors from outside the district given the unique design features of an outdoor water sport & leisure experience. It is understood the applicant is undertaking local engagement through the Statement of Community Involvement and this is welcomed.

DDC Inward Investment and Tourism: This application represents a major investment in Sandwich and the district, which will further add to confidence in the locality, especially at this time and in relation to recovery from the impact of COVID-19. Tourism is a vital industry across the country and district in terms of economic growth with the potential to grow much further. We recognise that tourism is a crucial driver for regeneration and our economy, and any opportunity to explore and harness new projects should be encouraged.

The pandemic has also highlighted the increased importance and value of outdoor leisure activities and amenity space, and this proposed development is perfectly placed to fit market demands. This quality, water-based leisure centre proposal is a considerable opportunity to positively improve tourism and boost the visitor economy in not only Sandwich, but across Dover District as a whole. An opportunity that is extended by the unique nature (cable-system wakeboarding) of the proposed development in Kent.

This sustainable and eco-minded proposal - with already identified avenues for future growth (open water swimming for example) - is in tune with the emerging Dover District Council 'Tourism & Visitor Economy Strategy' and is a recognised potential opportunity to fill a gap in the market, as we seek to build an innovative, employment led economy and position the district and our towns & villages as 'great places to live, work, visit, learn and invest.

The creation of up to 10 members of staff (3 FT /7 PT/ 6.5 FTE) at peak-time are listed as part of this application, with up to 6 members of staff (2 FT/4 PT/ 4 FTE) during off-peak hours – as well as further additional part-time employment opportunities, potentially, also required in the summer months once established.

The proposed development's volunteer scheme is also on note. The applicant's focus upon inclusivity, participation in sport and building a strong community (both resident and visitor) through the centre should also be noted, as well as the aspiration to work with

the wider community, offering opportunities for youth development and school programmes. The leisure-based development's aims to also enable individuals to lead healthier lifestyles and improve physical & mental well-being should also be acknowledged.

This Wakeboarding & Aqua Park Centre investment is a prime example of new potential to deliver new jobs, experiences, opportunities and economic benefit for the entire district. DDC's Tourism & Visitor Economy Department, supports this application.

Third-Party Representations:

52 objections received, raising the following issues:

- Proximity to housing
- Will bring noise and disturbance
- Concerns over traffic generation and adequacy of parking
- Out of character with mediaeval Sandwich
- Safety concerns
- Impact on wildlife (nesting birds and mammals); proximity to LNR
- Wrong location for this development; experience of previous uses was not good
- Distraction to drivers on the bypass
- Lack of local consultation
- Economic benefits are only seasonal and won't benefit Sandwich
- Loss of countryside/outside settlement boundary
- Buildings are of poor quality
- Flood risk; impact on drainage flows
- Risk to archaeology
- Business model is unsustainable
- Should go to Dover/Ramsgate/Margate instead, where there are more young people; encouraging young people to the area will bring noise, vandalism and theft

46 representations in support, raising the following issues:

- Welcome addition to sports provision locally; will complement other local facilities such as Betteshanger
- Will bring economic benefits: jobs; multiplier effect; tourism
- Good use of an unproductive site
- Health benefits
- Will be a boost for Sandwich town
- Good design and well laid out
- Good strategic location and away from the town
- Principle OK, but traffic and wildlife impact will need to be managed
- Brings a unique offer to Kent

4 further representations received, neither objecting nor supporting, but raising comments already mentioned, above.

f) 1. The Site and the Proposal

1.1 The application site extends to around 7ha and lies to the north of Ash Road and to the east of the A256 Sandwich bypass. The north/north-eastern boundary is partly formed by Gosshall Main Stream. The site itself is largely flat, although the bypass sits on a raised embankment to the west. A network of drainage ditches cross the northern and eastern parts of the site and there is a small lake (size varying seasonally) towards the western boundary. It currently appears to be used for agriculture (low intensity rough grazing) although it is understood that at various

times in the past it has been used for recreational uses, either under permitted development rights or unauthorised. It lies outside any settlement confines and therefore in the countryside for planning policy purposes, and in part is within Flood Zones 1, 2 and 3. There are two points of vehicular access to Ash Road. The surrounding countryside is characterised by agricultural uses including a farm shop and nursery; apart from isolated dwellings, the closest residential properties are at Wantsome Leas, beyond the railway line and approximately 280m to the east at the closest point on the site boundary.

- 1.2 It is proposed to use the site for open air water-based recreation purposes including a wakeboarding centre, open air swimming and an aqua park. Wakeboarding is a sport and leisure activity in which an individual is towed across the surface of the water on a board, a bit like water-skiing. In this instance, instead of being towed behind a boat, the participant is pulled by a series of cables suspended above the water and winches using raised pylons and electrically powered motors.
- 1.3 In order to accommodate these uses, excavation would take place to create a lake on the western part of the site, approximately 200m long and 100m wide, minimum depth 1.5m (for wakeboarding). The aqua park would be located in a south-eastern extension of the lake and have a minimum depth of 2m. The excavated material would be used to form low bunds around the lake, partly to accommodate informal seating/viewing areas. Five masts (with supporting anchors) would support a 430m long cable pulley system to propel participants clockwise around the lake. Although the masts are up to 16m tall, much of this will be below water level; the cable run is 9m above water level. Within the lake there would be a timber launching pad and a series of anchored ramps and obstacles for the participant to negotiate. A central island would be retained within the lake; this would have limited access and is intended to provide a nature conservation "refuge". The aqua park element would cover an area about 32m x 21m and comprise a series of inflatable features up to 3.8m high (above water level), for swimming under/through and climbing over.
- 1.4 A number of single-storey buildings would be provided at the southern end of the site, between the lake and Ash Road. These include a facility building 16m x 12.5m (reception, café/bar, shop, viewing deck), changing rooms (including toilets and wetsuit storage) and two shipping containers (within a 2.4m fenced enclosure) for storage. The buildings would be finished in wood/composite cladding with aluminium sheet roofs. A new vehicular access would be created towards the eastern end of the Ash Road frontage. A car parking area formed of permeable materials would be created in the south-eastern corner of the site (100 parking bays including 10 disabled), together with cycle parking for 20, close to the facility building. The existing access closest to the roundabout would be closed; the other existing access towards the centre of the site frontage would be retained for emergency fire access only. The proposed opening hours of the leisure facilities would vary according to season: every day from June to October and at Easter; Tuesday to Sunday in April and May, and Wednesday, Saturday and Sunday for the rest of the year, apart from December and January, when it would be closed. Whenever it is open it is intended to close at dusk; there would therefore be no requirement for extensive external lighting (apart from security lighting).
- 1.5 Part of one of the drainage ditches currently crossing the site would be diverted to make way for the lake. The proposals also include the creation of an extensive ecological compensation and enhancement area, to include ditches, scrapes and wetland scrub bunds as well as significant areas of wetland scrub planting around the margins of the created lake and proposed screening bunds. The proposal

makes provision for a 1,400m² scrape with a 20m mown grazed grassland buffer, with native planting and reed planting throughout the site. A series of ditch banks (circa 720m in total; along a series of 360m of linear bank) is also proposed. In total, a 10% biodiversity net gain is proposed across the site, improving the ecological characteristics of the site beyond that of its current configuration.

2. Main Issues

2.1 The main issues are:

- The principle of developing this site for recreational use;
- Landscape impact and impact on the character of the area;
- Drainage implications, closely related to the water environment and ecology/biodiversity impacts;
- Impact on residential amenity (particularly noise);
- Parking and highways considerations.

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 Policy CP1 states that the location and scale of development in the District must comply with the Settlement Hierarchy which informs the distribution of development in the Core Strategy. The site lies outside the confines of any defined settlement and is therefore in the rural area/countryside for the purposes of applying planning policy.
- 2.4 Policy DM1 says that development will not be permitted on land outside settlement confines unless specially justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses. Saved policy OS7 relates to the provision of outdoor sports and recreation facilities and requires major facilities to be provided in Dover or Deal, or close to the urban edge of those towns or, if located at a rural settlement, they are intended only to satisfy an identified local need. This proposal relates to a major water-based facility for which there is no readily identifiable and available site within or close to Dover or Deal. Given the nature of the facility, the specific functional requirements, and the size of site required to accommodate a facility of this scale, it is reasonable to conclude that it functionally requires a rural location, thus fulfilling one of the requirements of DM1. Notwithstanding this compliance with DM1, the restrictive nature of the policy with regard to development in the countryside is not entirely consistent with the NPPF (policy DM1 pre-dating the NPPF by several years). For example, NPPF paragraph 84 explicitly says that sites for business and community needs may have to be found beyond settlement boundaries.
- 2.5 Notwithstanding policy OS7, there are no other adopted policies in the Development Plan that directly address the issues raised by a facility of this nature. This being the case, NPPF paragraph 11(d) provides the basis upon which this application should be decided. This applies a presumption favour of sustainable development and says that permission should be granted unless either:

- the application of NPPF policies that protect areas or assets of particular importance (such as habitats sites, AONB, SSSI) provides a clear reason for refusing the development proposed; or
- any adverse effects of granting permission would significantly and demonstrably outweigh the benefits, when assessed against NPPF policies taken as a whole.

As discussed in more detail below, there are no clear reasons for refusal under the first of these criteria, so it is the second criterion that will be the primary determining issue.

- 2.6 The NPPF identifies a social objective as being one of the three overarching objectives contributing towards achieving sustainable development. This social objective is defined as being to support strong, vibrant and healthy communities with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being. This is expanded further in NPPF paragraphs 91, 92 and 96 which, in summary, provide support for development that enables people to live healthy lifestyles by being able to participate in outdoor sport and recreation. As set out above, the Council's Leisure Service strongly supports and welcomes this proposal, seeing it as an opportunity to build upon the water-based leisure themes already catered for, but by providing a new type of facility that broadens the range.
- 2.7 Although, by virtue of the nature and scale of the facility and the comparative lack of similar facilities on a regional basis, it is aimed at a wider catchment than Dover District alone, this is also seen as a benefit in terms of the District's economy and tourism offer. In this regard, further support is gained from NPPF paragraph 83 which supports the sustainable growth and expansion of rural businesses, specifically mentioning sustainable rural tourism and leisure developments which respect the character of the countryside.
- 2.8 Taken together, these considerations provide a case for supporting the provision of this type of facility on this site and, subject to consideration of all other issues including landscape and visual impact, ecology, highways and residential amenity, it would be possible to conclude, under NPPF paragraph 11(d), that there are identifiable benefits that justify the granting of planning permission. The determining issues for this application therefore rest on detailed consideration of the impact of the proposed development under the various headings set out below. Subject to those issues being appropriately addressed, there is general support in the NPPF for this proposed development.

Landscape Impact and Impact on the Character of the Area

- 2.9 Members aware of the different, but inter-related, requirements of policies DM15 and DM16. The support from the NPPF for open recreation and sports facilities (paragraphs 83 and 84) and the encouragement to make effective use of land (paragraphs 117 and 118) are also subject to the impact on the countryside and rural environment being acceptable. Although the extent of built development proposed is relatively small, and limited to the southern end of the site, the formation of the large lake, creation of bunds and introduction of other paraphernalia such as the pulley system and supporting masts, will also have an impact on the character and appearance of the site.
- 2.10 The Landscape Character Assessment prepared as part of the background evidence for the new Local Plan identifies the site as lying within the Ash Levels Landscape Character Area (LCA). This is described as a distinctive large scale,

flat and low-lying area of arable and pasture grazing. Key characteristics include flat, low-lying marshland with a network of linear water-filled drainage ditches and small streams. It is a largely undeveloped landscape, with few roads or buildings, and limited tree cover. However, although large parts of the LCA are characterised by an open, visually exposed landscape, this site is visually separated from the remainder of the LCA by the embankment that carries the bypass, meaning that it does not share the longer-distance views that prevail in the rest of the LCA.

- 2.11 The Landscape and Visual Assessment submitted with the application concludes that:

“The nature of the proposal is predominantly flat and low lying. The lake will be created with proposed water level corresponding to existing water levels on and around the proposal site. New topographical features consist of a bund running parallel to the existing embankment of the Sandwich bypass and around the north and north east sides of the lake. The proposal recreates drainage ditches to the north east of the proposed lake to recreate habitat and provide net gains. The new scrape with grassland buffer, lake and filtration pond comprise a combination of seasonal and permanent standing water which is characteristic of the area. New ditches will assist with drainage of the site and ensure the existing character of the site is conserved. Characteristic wetland reed and sedge planting will enhance habitat resource around water bodies and along ditches. The proposal conserves a flat open landscape across the majority of the site. Bunding has been located to enhance tranquillity of the site in relation to the Sandwich Bypass. Earthworks - The Monk’s Wall and flood defence berm close to Discovery Park - are characteristic components of the setting of the character area.”

- 2.12 In assessing the proposal against the sensitivity of the characteristic features of the LCA, the effect is described as “insignificant” for most of the identified features. Where adverse effects occur, the significance of the effect is “low”. Some enhancements occur through the creation of water features and ecological features. In terms of the impact on visual amenity, the comparative visual enclosure provided by the bypass is noted; there is a “moderate” impact on visual amenity from a number of viewpoints, but these are primarily those on the bypass itself, which affords elevated views into the site. The overall conclusion is that there would be no significant harm to either landscape character or visual amenity.

- 2.13 These conclusions are accepted and the proposal satisfactorily meets the requirements of policies DM15 and DM16, and the slightly different requirements of NPPF paragraph 170. It is also worth noting that, given the comparatively flat landscape and the intervening development, there will be no adverse impact on the setting of the town of Sandwich itself, and no intervisibility between the historic features of the town and this site. Similarly, because of the physical presence of the bypass and its embankment, the LVIA demonstrates that there is no intervisibility between this site and Richborough. Given that it is intended to close the facilities at dusk (whatever the season), it is not anticipated that there would be a requirement for external lighting, other than for security purposes; this can be secured by condition.

Drainage and Biodiversity

- 2.14 These topics are dealt with together because changes to the water environment are a major part of the proposal overall and, arguably, this is what gives rise to the greatest potential for biodiversity impacts. There are several aspects to consider, including the need to avoid increased flood risk (NPPF paragraphs 155 and 163), to protect the water environment (paragraph 180) and protect and enhance

biodiversity (paragraphs 170 and 175). In addition to the formation of the lake, a significant length of drainage ditch is to be removed and replaced; this has implications not only for the drainage regime but also for habitat protection and reinstatement. The application is supported by an updated Flood Risk Assessment and an amended Ecological Impact Assessment, which includes the results of additional surveys relating to birds, water voles and great crested newts. Details of the proposed ecological compensation and enhancement measures are described in paragraph 2.24 below.

- 2.15 Parts of the site lie within Flood Zones 1, 2 and 3 but the majority is within Zone 3; the main flood risk comes from tidal flooding, as the local drainage network is hydraulically linked to the tidally influenced River Stour. However, the site is shown to be protected by flood defences; it is not functional flood plain. The NPPF requires that inappropriate development should be avoided in areas at risk of flooding by directing it away from areas of highest risk. However, given the specific nature of the proposed uses, requiring a relatively flat site capable of accommodating a sizeable body of water, and the consequential requirement for an extensive site, it is unlikely that a suitable alternative site could be found in an area of lesser flood risk; indeed the regional significance of the proposal is indicative of the wide area of search that would be appropriate. Moreover, water-compatible development is categorised as “less vulnerable” in NPPG advice regarding the location of development in different flood zones; the Exception Test does not need to be applied, therefore.
- 2.16 The FRA concludes that there is a low risk of flooding to the site and that the residual risk is low, given the flood defences, and even in the absence of those defences any inundation would be gradual and with adequate warning. The proposed buildings are predicted to be unaffected by any flood event, being on raised land, but flood resistance and resilience measures are to be incorporated. Surface water from the roof of the buildings will drain to the proposed lake, which has been designed to accommodate this additional water, before controlled discharge to the watercourses within the site. Foul water drainage is to be dealt with by a package treatment plant on the southern edge of the site; this would discharge to an adjacent drainage ditch; details of the plant can be secured by condition.
- 2.17 The EA does not object to the proposals provided that it is carried out in accordance with the recommendations in the FRA, and subject to conditions relating to the protection of existing drainage infrastructure. KCC, as LLFA, has no objections subject to conditions including a requirement to submit a detailed drainage design for the diversion of the watercourse. Similarly, the IDB raises no objection. However, it is noted that formal consent (separate from the process for granting planning permission) is required from both the EA and the IDB for different elements of the scheme.
- 2.18 Turning to biodiversity issues the amended Ecological Assessment takes into account the outcomes of several additional surveys undertaken at appropriate times of year relating to water voles and newts, and also assesses the potential of the site for accommodating birds, including those species whose protection underlies the designation of the nearby SSSI, SPA and Ramsar sites.
- 2.19 The results of the submitted Ecological Assessment may be summarised as follows. No Habitats of Principal Importance are present within the site. Due to the poor species composition of the grassland and overall management of the site, it does not constitute grazing marsh habitat. The site lies within 7.2km of the Thanet Coast and Sandwich Bay SAC, SPA and Ramsar Site. There is potential, although

low due to the nature of proposals, for indirect and in-combination impacts, including an increase in recreational pressure.

- 2.20 No suitable roosting habitat for bats is present. The boundary vegetation and ditches within the site provide suitable habitat for foraging and commuting bats. Proposals do not include severance of any commuting corridors, although some foraging habitat will be impacted. Habitat enhancement measures, including the creation of new ponds and ditches and planting of scrub, will provide additional foraging habitat.
- 2.21 No evidence of Water Voles was found within the site or surrounding offsite suitable habitat within 200m of the site boundaries during surveys undertaken in October 2020 and April 2021. Given that Water Voles have been historically recorded within the surrounding area, precautionary mitigation will be undertaken to avoid impact to individual Water Voles that, although unlikely, may colonise the site prior to development works. Enhancement measures, including the creation of ponds and a network of ditches, will provide a net gain in Water Vole habitat in the locality and encourage the recolonisation of the site by the species which are present within the local area.
- 2.22 Wintering bird surveys carried out in 2020 and 2021 show that the site does not constitute functionally linked habitat for the qualifying species of the designated sites, namely Golden Plover. During the surveys no Golden Plover were recorded within the site and only small numbers of a few wetland species currently use the site. Schedule 1 Cetti's Warbler, and species listed as 'red' and 'amber' on the Birds of Conservation Concern may nest within the site. Mitigation and compensation measures to avoid impact to nesting birds and retain and enhance habitat in the long-term will be undertaken as part of development proposals. Enhancement measures, including an overall net gain in ditch habitat, wetland scrub planting and the creation of meadow habitat will provide additional opportunities for nesting birds within the site, including Schedule 1 listed Cetti's Warbler.
- 2.23 The majority of the habitat is unsuitable for reptiles. Survey results confirmed the absence of Great Crested Newts within the site and surrounding accessible waterbodies. Enhancements measures, including a net gain in ditch and wetland habitat within the site and creation of the creation of wildflower meadow and scrub will benefit an array of invertebrate populations within the locality. Other flora and fauna are either unlikely to be present, or the impact is assessed as being low.
- 2.24 The proposal includes ecological compensation and enhancement measures. These include the creation of an ecological enhancement area (approximately 2.65ha in size), which will create an additional 10% of ditch habitat. Ditches will be planted with suitable native wetland and marginal plant species to improve foraging opportunities for water voles, should this species colonise the site in the future. In addition, the lack of nutrient enrichment and bankside poaching from livestock and the appropriate management of marginal vegetation will enhance this habitat type within the site for botanical species and invertebrates in the long-term. The enhancement area will include two permanent ponds managed specifically to benefit the biodiversity value of the site. These ponds will provide suitable habitat for common amphibians, and therefore provide additional foraging opportunities for grass snakes and bird species. An area of wildflower meadow will be created within the ecological enhancement area, which will significantly increase the availability of habitat for invertebrate communities, particularly pollinators, which in turn will provide enhanced foraging opportunities for birds, bats and small mammals. It is intended that these enhancements measures be backed up by a

more detailed ecological enhancement and management plan, and this can be secured by condition.

- 2.25 The conclusions and recommendations within the Ecological Appraisal are accepted, however the commitment to carry out a walkover survey of suitable habitat within two weeks prior to the start of works to ensure that no animals have moved onto the site prior to construction, should be secured by condition.

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

- 2.26 Reference is made within the Ecological Assessment to the potential need for an “Appropriate Assessment”. All impacts of the development need to be 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. Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves. The Council has adopted a mitigation strategy to address these potential impacts, but this is only engaged in relation to housing development, so is not directly relevant here; however, there is still a need to consider whether the current proposal is likely to have any similar effects on the designated sites.

- 2.27 The submitted information establishes, with a reasonable degree of certainty, that there will be no direct impacts on the integrity of the designated sites as a result of this development. Although this scheme is likely to attract additional visitors to the locality, the nature of the facilities provided is such that it is considered that the vast majority will be visiting specifically to use this site, and the potential for this to generate additional trips or visitor pressure on the designated sites will be low. On that basis, 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.

- 2.28 To conclude, the relevant statutory bodies are satisfied that, subject to appropriate conditions, the proposed development will not have an adverse effect on the water environment, including the local drainage regime, and will not increase the risk of flooding; the objectives of NPPF paragraph 163 are met. Similarly, the development has the potential to provide a net biodiversity gain, pursuant to paragraph 170; subject to the mitigation measures that have been set out, there will be no long-term adverse effect on ecological interests, and the principles set out in NPPF paragraph 175 are adhered to.

Impact on Residential Amenity

- 2.29 NPPF paragraph 127 says that planning decisions should create places that have a high standard of amenity for existing and future users. Paragraph 180 also says that planning decisions should take into account the likely effects of new development on health and living conditions, and mitigate and minimise noise from new development in order to avoid this having significant adverse impacts on health and the quality of life. In this instance, given the distance between the application site and the nearest residential properties, the principal issue to consider in terms of impact on residential amenity is noise.

- 2.30 The submitted Noise Impact Assessment identifies two potential sources of noise: noise from wakeboarding activities (principally the pulley system and its drives), and noise from an external public address system. However, it is understood that the applicant has no current intention to install a PA system, and in view of this it is recommended that a condition be imposed requiring details of any such system to be submitted for approval, should that intention change in the future.
- 2.31 Although the properties at Wantsome Lees are about 280m from the closest point on the site boundary, the Noise Assessment identifies that the closest noise-sensitive premises (individual dwellings to the south-east and north-east of the site) are at least 440m from the easternmost cable run, which is the closest noise source. The Assessment concludes that the experienced noise levels at the closest receptor as a result of the proposed development will be significantly below evening background noise levels, and the impact is therefore insignificant. No specific mitigation measures are required. These findings are accepted by DDC Environmental Health.

Parking, Highways and Road Safety Issues

- 2.32 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. Whilst in terms of encouraging sustainable development this is broadly consistent with the NPPF, paragraph 84 says that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements; in these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads, and exploits any opportunities to make a location more sustainable. Similarly, paragraphs 108 and 110 encourage the use of sustainable modes of transport, require safe and suitable access for all users, and that any significant on the transport network can be mitigated to an acceptable degree.
- 2.33 Policy DM13 advocates a design-led approach to the provision of car parking, based upon the characteristics of the site, the locality, the nature of the proposed development and design objectives.
- 2.34 The application is supported by a Transport Assessment and a Travel Plan. These identify the opportunities for access on foot, by cycling and using public transport. There is a footway along the northern side of Ash Road, providing a pedestrian link into Sandwich. There are bus stops for local services about 200m away from the proposed site entrance. National Cycle Route 1 is approximately 800m to the east. The design and layout of the proposed new access to Ash Road is discussed, along with visibility requirements and safety audit outcomes. The provision of a 100-space car park is based upon assessment of peak demand at similar sites elsewhere in the country, and cycle parking is based on KCC standards. Trip generation levels were assessed using published databases, validated against first principles and it was concluded that peak demand would not coincide with traditional peak periods on nearby roads.
- 2.35 Whilst much of this analysis was accepted by KCC highways, they did raise questions over the likely level of traffic generation (and consequent need for parking), potential clashes of peak hour movements, availability of non-car modes of transport, and the level of attendance that might be expected if competition events were to be staged. Concerns were also raised over the potential for drivers using the bypass to be distracted by activities at the application site. This led to further discussions between KCC and the applicant's Highway Consultants, and

further details were provided. The outcome of those discussions has resulted in the majority of these issues being satisfactorily resolved. The remaining issues related to how “events” were to be handled, whether there was a need to restrict the number of visitors to the site at any one time, and potential distraction of drivers.

- 2.36 In response, the applicant has explained that use for competition events is explicitly outside the scope of the current proposal, although the potential for the site to be used as such in the future is not ruled out; the intention would be to close for public use on such occasions. It is therefore proposed that a condition be imposed requiring that no use of the site for competition events may take place until an “events management plan” has been submitted and approved; this would cover such issues as parking, access and noise.
- 2.37 With regard to the potential distraction of drivers, the proposed bunding and planting between the lake and the bypass will restrict views to a certain extent but, given the height of the bypass embankment, some elevated views will still be available. However, there are a number of other considerations that may be relevant, including the significant distance between vehicles on the bypass and the areas within the site where greatest activity will take place, and the natural or immediate line of vision for drivers which, from those parts of the bypass where uninterrupted views might be possible, is not directly towards the activity areas. In reality, this situation is not dissimilar to many others that occur in various locations, and it would be difficult to justify objection to the current proposals on this ground alone. Overall the proposals would be in accordance with paragraph 109 of the NPPF and the traffic from the development is not considered to be severe.

Other Issues

- 2.38 Archaeology: The County Archaeologist recommended that a desk-based assessment be undertaken in view of the potential for the site to contain remains, both historic and more recent. The applicants have carried out an assessment which concludes that a watching brief during the construction phase would be sufficient to safeguard and remains that may exist. To date, no further response has been received from KCC following receipt of the desk-based assessment. The applicants accept the need for a condition in some form, but the most appropriate wording can only be determined once KCC comment further.
- 2.39 Designing Out Crime: The applicant has considered the advice provided by Kent Police. Whilst it is accepted that some of those suggestions are inappropriate for other reasons (including visual impact), there is scope to incorporate many of them and this can be secured by condition.

3. Conclusion and Sustainability

- 3.1 The proposed facilities would bring a substantial and beneficial addition to the range of water-based leisure opportunities in the District. As well as the consequential health and recreation benefits, there would also be notable economic advantages. It is almost inevitable that a facility such as this would be in the rural area, given the practical considerations of function and size of site; however, this site is well-related in terms of the strategic road network and is in a reasonably sustainable location relative to the built-up area. The visual impact would be relatively well-contained within the site and its immediate surroundings, and the impact on the character of the landscape is acceptable. There would be insignificant impacts on residential amenity, and the concerns over traffic generation and highways issue generally have either been addressed or can be appropriately mitigated through planning conditions. It would bring tangible net gains for biodiversity.

- 3.2 The NPPF identifies three interrelated objectives that underpin the achievement of sustainable development: economic, social and environmental. This scheme brings benefits under each of those headings. As there are no identified adverse effects of granting planning permission that would significantly and demonstrably outweigh the benefits, planning permission should be granted in accordance with NPPF paragraph 11.

g) Recommendation

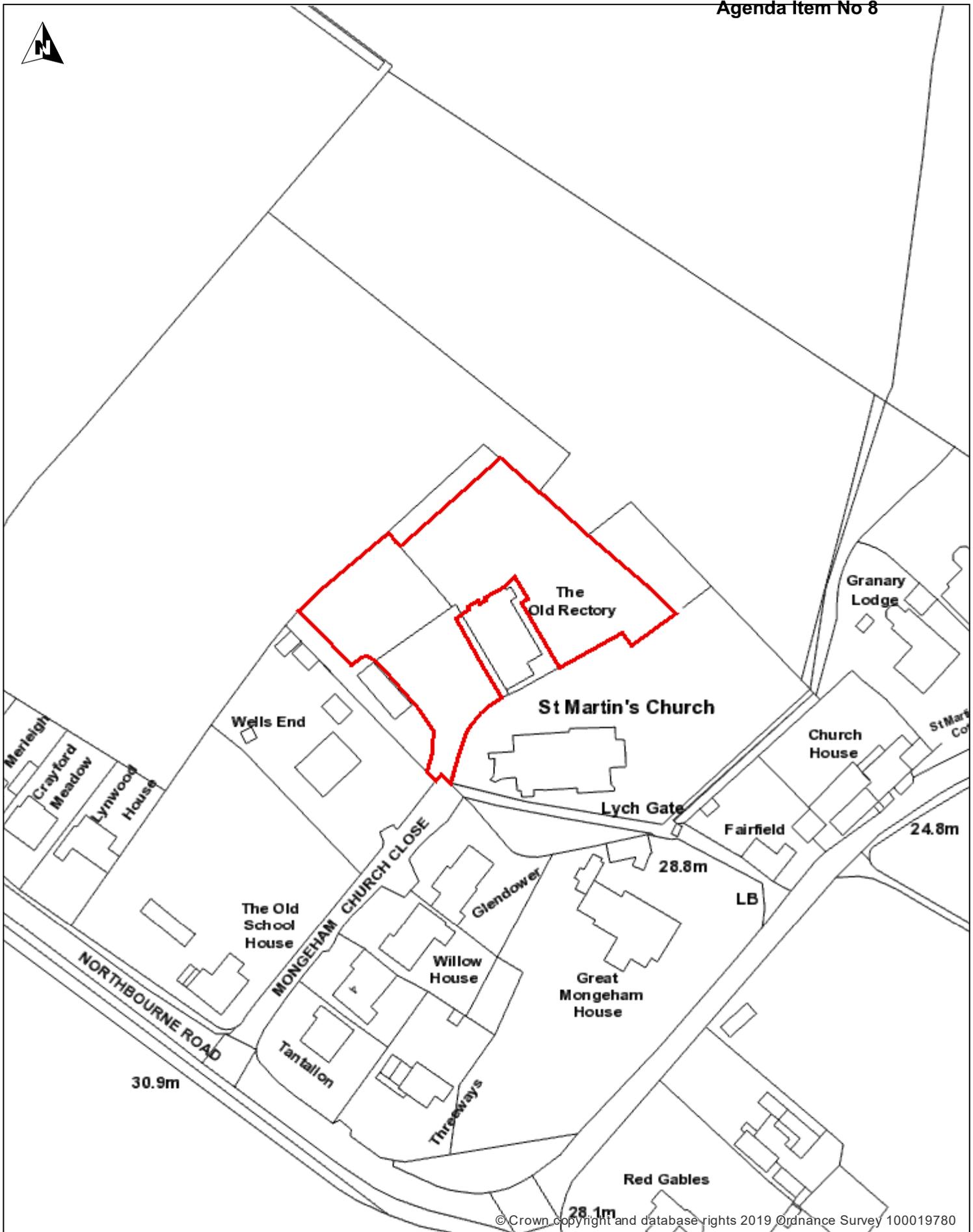
I GRANT PLANNING PERMISSION subject to conditions to cover the following matters

- i. Standard commencement condition
- ii. List of approved plans
- iii. Submission of details of appearance of masts
- iv. Implementation of landscaping scheme
- v. Provision of car parking (including submission of surfacing material)
- vi. Provision of new access, vehicular crossing and sight lines, before occupation
- vii. Existing access to be closed
- viii. Limitation on use of retained access – emergency only
- ix. Buildings to be constructed at the agreed slab level
- x. Provision of cycle parking
- xi. Submission of a detailed drainage scheme regarding the diversion of the watercourse
- xii. Submission of verification report regarding the above
- xiii. Development to be carried out in accordance with recommendations of the FRA
- xiv. Observance of EA bylaw margin
- xv. Submission of details of foul water package treatment plant
- xvi. Submission of, and adherence to, Construction Management Plan
- xvii. Walkover inspection of site for water voles and other animals prior to construction commencing
- xviii. Submission of, and adherence to, detailed ecological enhancement and management plan
- xix. Submission and approval of external lighting
- xx. Archaeological investigation

- xxi. No competition or similar events to be staged unless and until an event management plan has been approved, and thereafter to conform to the approved plan
 - xxii. No external public address system to be installed unless details have first been approved
 - xxiii. Control over opening hours (including to close at dusk)
 - xxiv. Implementation of Travel Plan
 - xxv. Submission of details to demonstrate compliance with principles of Secured by Design
- 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

Neil Hewett



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20/00589
The Old Rectory
Mongeham Church Close, Great Mongeham
CT14 0HL

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/20/00589 – Change of use of land for wedding and events venue with marquee and works to the single storey outbuilding to facilitate conversion to a toilet block - The Old Rectory, Mongeham Church Close, Great Mongeham**

Reason for report: Number of representations (129 letters of support and 105 letters of objection)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policies and Guidance**

Core Strategy Policies

DM1, DM11, DM13, DM15 & DM16

Draft Local Plan Reg 18

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process however the policies of the draft Plan have little weight and are not considered to materially affect the assessment of this application and the recommendation as set out.

National Planning Policy Framework 2019 (NPPF)

Paragraphs 2,8,11,12, 47, 83, 177 & 180. Chapters 9 (sustainable transport), 12 (well-designed places), 15 (natural and local environment) & 16 (historic environment)

National Design Guide 2019

Kent Design Guide

- d) **Relevant Planning History**

DOV/90/00139 - Proposed swimming pool. Approved

DOV/93/00310 - Construction of detached swimming pool & games room. Approved

DOV/16/01474 - Listed building consent - Conversion of stable to form 2 bedroom ancillary accommodation. Alterations including: Removal of staircase and insert partitions. Approved

DOV/17/00256 - Conversion of outbuilding to ancillary accommodation and the insertion of new window and door. Approved

DOV/20/00590 - Listed Building consent - Replacement roof and side window including repairs to single storey outbuilding attach to the north east corner of the walled garden. Pending - recommended for approval

DOV/20/00933 - Erection of a gazebo. Approved

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

KCC Highways – The proposal is for a maximum of 30 weddings per year with a maximum of 50 guests at each wedding. There is unlikely to be a severe, residual, cumulative impact on the transport network or on highway safety with the mitigation measures and restrictions proposed. It is recommended that the following be secured by condition:

- Number of weddings limited to 30 per year.
- Maximum number of guests at each wedding limited to 50.
- Provision of a bus stop clearway at the stop in Northbourne Road.
- Provision of a minimum of 17 car parking spaces.
- Provision of a guest minibus service between the venue and locations in Deal with details to be submitted.
- Provision of a Travel Plan Statement to encourage sustainable travel.

KCC PROW - Object to the application because of the access required via Mongeham Church Close, which also has the recorded status of Public Footpath ED49 of which pedestrians have the right of access. The increase of vehicle movements envisaged to be between 18 to 40 per day at peak times would have significant impact on the footpath and exasperate a problem for pedestrians using the route on a regular basis.

The travel plan states that *“There is currently no parking area associated with the Church and so all wedding guests (and guests associated with Christenings, funerals, or other Church events) must park along Mongeham Church Close or on Northbourne Road.”* I have visited the site on many occasions but never at the weekend and have yet to see a car parked on Mongeham Church Road, I am unsure if it would be possible for two vehicles to pass each other on this road due to its narrow width (approx. 5 metres). I believe that venue guests avoiding the public transport would inevitably park on the footpath as there is inadequate parking on Northbourne Road. If you are minded to grant consent to this application in order to prevent future incidents I would request a condition that there should be no parking on Mongeham Church Close associated with events at the church.

DDC Environmental Health – The Team has reviewed the Sustainable Acoustics Noise Impact Assessment. The findings of the report are accepted and approved on the basis that weddings are to be limited to 30 events per year and guest numbers limited to 50 per event. The report makes recommendations for planning conditions regarding the submission of an updated Noise Management Plan and the installation of a noise limiting device. No objection has been raised subject to conditions requiring submission of an updated Noise Management Plan and installation of a noise limiter.

DDC Ecologist – I have reviewed the bat survey report and accept the findings. Bats were not found to be roosting within the outbuilding, however, a bat sensitive lighting scheme has been proposed as a mitigation measure. This should follow the published guidance of the Bat Conservation Trust and the Institute of Lighting Professionals 2018.

DDC Heritage Team – no objection raised. Amended drawings were received during the application process and the parallel listed building application was approved

Mongeham Parish Council – object to the planning application for the following reasons:

- Removal of historic hedge
- visibility splays required by KCC Highways for the safety of increased traffic in

- Mongeham Church Close cannot be attained.
- blight the conservation area and disturb the surrounding village.
- would cause considerable disruption to the residents of Great Mongeham Church Close and the whole of Great Mongeham in terms of increased noise, increased traffic movements/congestion and parking issues
- the proposed marquee system could cause noise issues for the residential properties in close proximity as well as the rest of the village, as well as the noise generated by the increased vehicle movements and departing guests at the end of the wedding reception.
- the site is not in a sustainable location
- noise nuisance
- significant pressure of parking leading to cars being parked on Northbourne Road
- Mongeham Church Close is a very narrow, no more than 3m wide, single lane residential cul-de-sac. There is no room for cars to pass each other. The proposed venue is at the end of the close so all the other residents will be greatly inconvenienced by the coming and going of vehicles.
- There will be significant disruption for the residents of the Close on non-wedding days with catering lorries and other vehicles bringing supplies for weddings.

Public Representations

129 letters of support received making the following comments:

- Given the current economic situation in the UK, due to COVID 19, I can fully see the benefit to the local economy (i.e. job creation, use of local produce and suppliers, accommodation, restaurants and pubs, taxi firms).
- It is a beautiful venue which seems ideal for the proposed plans.
- It would bring much needed funds in helping to maintain and repair the 14th century church financially through extra wedding fees
- In addition to direct employment each event will require supplies from local businesses,
- predominantly catering but also other services.
- There will also be secondary spending by travelling guests, not accommodated on site, before and after the ceremony, in the local hospitality and accommodation sectors particularly but also in the wider visitor facing economy.

105 letters of objection received raising the following relevant planning matters:

- Increase in traffic
- Increase in vehicles along this narrow lane could cause problems for people accessing and leaving their homes by car and for pedestrians, including the elderly and young residents, and walkers accessing the footpaths to the fields beyond the church.
- The noise levels generated by weddings with late night music & revellers will disturb local residents, especially in the close and carry across the rear field to neighbours living on Northbourne Road.
- This is a quiet, residential Conservation area with a mixed population from very old to very young and is totally unsuitable for such a venue.
- Unsuitable access
- Will lead to dangerous parking on Northbourne Road
- Mongeham Church Close is a very narrow residential close which will not support the number of cars that can be anticipated at a wedding.

- There will also be significant disruption for the residents of the Close on non wedding days with catering lorries and other vehicles bringing supplies for forthcoming weddings.
- There is no room for cars to pass each other apart from a small turning area.
- When leaving Mongeham Church Close onto Northbourne Road there are always residents cars parked especially at weekends. Any additional parking would not be possible.
- There is inadequate parking at The Old Rectory for guests, catering staff, security attendants etc. and the overflow would be forced to park elsewhere.
- The disturbance caused would be unbearable both during the day setting up and when the guests arrive and leave late at night.
- There are plenty of other venues locally licensed for Weddings and Events and another is definitely not required in Mongeham Church Close.
- Having to put up with loud music for more than 6 months of the year is very disturbing.
- This is a peaceful, residential close and the quiet will be shattered by the noise of loud music, people partying, cars coming and wedding guests leaving late at night.
- Would cause considerable traffic problems and congestion on surrounding roads.
- Visibility splays are inaccurately shown.
- Consideration of local wildlife especially to the Bats
- Will have an adverse effect on the nesting birds and general wildlife.
- Out of keeping with this residential area
- Up to 200 guests yet the most the church gets is maybe once a year 100 people for the Christingle service.
- A shuttle bus would be problematic.
- At St Martins we also have various regular events, IE Music evenings, Art displays, Bell ringing, Flower festivals, Visiting bell ringing teams, and other functions as well as the usual regular services per week. There is absolutely no way that the access to the church which is shared with the old rectory could cope with the amount of traffic that would be involved.

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

- 1.1 The application site is located at the end of Mongeham Church Close, which is accessed off Northbourne Road. Mongeham Church Close is an adopted road and a Public Right of Way (ED49). The site lies within the village confines of Great Mongeham and within Church Great Mongeham Conservation Area. The Old Rectory lies adjacent to St Martin's Church (to the south). There is also a separate pedestrian route available between the churchyard and Northbourne Road.
- 1.2 The Old Rectory at Great Mongeham (application property) was originally the Rectory associated with Great Mongeham Church, which is dedicated to St Martin. The Old Rectory is a Grade II listed property, and the architectural style of the building suggests that the building was constructed during the second half of the 18th Century. From the review of the submitted statement, it is understood that during the second world war, The Old Rectory was used as living accommodation for a gun battery that was stationed within the grounds. After the war, the property was returned to the church and the current owners bought The Old Rectory in 1985 as a family home. The property now also operates as a bed and breakfast.
- 1.3 The main house sits towards the middle of the plot, with a gravel forecourt to the front of the property to the southwest. There are two walled gardens, one to the northwest side of the building and the second to the rear, northeast of the building. The main

house is two storey, with rooms in the roof, constructed of red brick, with large, four-over-four, sliding sash windows, a hip ended roof finished with Kent peg tiles and three dormer windows to the front. On the west side of the gravel forecourt is an outbuilding, which was formerly a stable and cart shed. This building is of brick construction, with a shallow pitched slate finished roof, hipped at both ends. This building is currently used as a B&B.

- 1.4 This application seeks permission for the change of use of land for a wedding and events venue with marquee and rebuilding works to the single storey brick outbuilding (sited within the northeast corner of the walled garden to the northwest of the main house) to facilitate the conversion to a toilet block. The building is on the site of a former brick-built garden shed, which made use of the north and east walls of the walled garden and is accessed off the rear garden, via a door through the north garden wall. The structure is considered to be curtilage listed due to its age (mid-19th century), historic and current relationship to the principle Grade II listed building.
- 1.5 Originally, the application sought permission for over 60 weddings a year with a maximum capacity of 200 guests per wedding, although it was the estimated the average would be 100-120 guests per event. Significant concerns were raised by KCC Highways in respect of the highway impacts associated with the proposed use. The applicant's agent submitted a series of amendments to the application which involved reduction of the number of events to a maximum of 30 per year and the number of heads, up to a maximum of 50 per event. The amendments also included clarification in respect of how travel and parking would be managed during the event, along with amended plans and a topographical survey of the junction, to clarify the extent of visibility splays that could be achievable.
- 1.6 The proposal would make provision for 17 car parking spaces within the forecourt without double parking. The supporting statement also states that the use of the forecourt will be limited to the occupants of the house, bed and breakfast guests associated with the wedding and delivery vans associated with the event. Wedding guests not staying at The Old Rectory will be offered free transportation to and from the event via a 16-passenger seat minibus. Waiting staff will also be transported to and from the venue in a 16 seat minibus.

2 **Main Issues**

- 2.1 The main issues are:
 - The principle of the development
 - Impact on character and appearance
 - Impact on Heritage
 - Impact on residential amenity
 - Impact on the highway network
 - Impact on ecology

Assessment

Principle of Development

- 2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in such plans, unless material considerations indicate otherwise.
- 2.3 The site is located within the settlement confines and as such, Policy DM1 applies which limits development to within the confines, unless specifically justified by other development plan policies, functionally requires a rural location, or it is ancillary to existing development or uses. The site lies within the village confines of Great Mongeham. The proposal is therefore considered acceptable in principle subject to site specific considerations.
- 2.4 Prior to the assessment of the impacts of the proposed development, it is necessary to establish whether the change of use of the site to a Wedding Venue is acceptable in principle. Regard has been had to the paragraph 83 of the NPPF which states that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings.
- 2.5 A Business Plan was submitted with the application with a view to demonstrate the viability of the business case. Having reviewed the business case, it is noted that the aim is to generate local employment and help facilitate the increased use of existing commercial facilities in the surrounding area, which would assist local businesses. It is expected that many of the wedding guests may would be likely to stay locally at nearby hotels and B & B facilities as well as use local taxis and minibuses. It is considered that the proposals could contribute to wider economic benefits in the District. It sets out that catering and bar facilities for the proposed functions will be provided by local firms, as will waiting staff, florists and DJ's or musicians. A typical example of spending on local businesses associated with a wedding at the venue is outlined within the submitted Business Plan. It is expected that a list of local businesses will be supplied to prospective clients to encourage local employment. It is argued that with an approximate use of 30 times per year, this would make a substantial contribution to local employment. Whilst representations received with the application have questioned the information provided within the application, the figures stated in terms of income generation and jobs are estimates. The precise economic contribution will be variable, however, it would be reasonable to assume that the provision of a new wedding facility in the area would generate income for those local businesses that provide goods and services for such a use.
- 2.6 It is considered that there would likely be a significant benefit to the local economy from the provision of the facility in this location. Furthermore, the proposal would be consistent with the objectives of the NPPF in terms of the need to support new business ventures through the conversion of existing buildings in rural areas. The proposal would meet the objectives of the economic dimension to sustainable development. In conclusion, taking into account the benefits arising from the change of use, the business case put forward for the conversion to a wedding venue is considered acceptable in principle.

Impact on the Character and Appearance of the Area

- 2.7 The site is within a sensitive location, on the edge of countryside. Therefore, policy DM15 applies in this instance. This policy directs that planning permission for development that adversely affects the character or appearance of the countryside will only be permitted if it satisfies one of four criteria and the development would not result

in the loss of ecological habitats. Regard should also be had to policy DM16 of the Core Strategy which generally seeks to resist development which would harm the character of the landscape, unless it is in accordance with a Development Plan designation and incorporates mitigation measures, or can be sited to avoid or reduce the harm and/or incorporates design measures to mitigate the impacts to an acceptable level.

- 2.8 The walled garden area, which is proposed to be used for civil ceremonies, would have formal landscaping, with pathways bordered by low level box hedges, with a lawn in the central areas and flowers planted in the surrounding beds. The submission of detailed landscaping plan could be secured by an appropriately worded condition. The proposal involves rebuilding of the toilet block in the northeast corner of the walled garden. By virtue of the limited scale and height of the building, the visual impact associated with the works to the toilet block remain unchanged. Nevertheless, it is relevant to note that the existing walls to the garden are about 2.4m high and shield views from the surrounding areas.
- 2.9 The garden area immediately to the rear of the existing dwelling is proposed to be used for the receptions where a temporary marquee would be erected for each event. The marquee will be located in the area to the northwest of the house, which is the furthest point from any other residential properties. By virtue of the existing 2.4m high boundary walls and existing landscaping on site, a temporary marquee would not be highly prominent in views from the surrounding countryside/landscape. Equally, given the location of the marquee to the rear, it would not be visible from the neighbouring properties or the public realm or conservation area.
- 2.10 For the foregoing reasons, the proposed development would not be contrary to policies DM15, DM16 and paragraph 170 of the NPPF which calls for development to take into account the intrinsic character and beauty of the countryside.

Impact on Heritage

- 2.11 Regard must be had for the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), which requires that, in relation to listed buildings, “special regard” be had to “the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”. Regard must also be had for the provisions of the NPPF, in particular the paragraphs (189–196) at Chapter 16. Notwithstanding the statutory duty, the NPPF paragraph 195 requires that regard must be had for whether development would cause harm to any heritage asset (both designated and non-designated), whether that harm would be substantial or less than substantial and whether, if harm is identified, there is sufficient weight in favour of the development (public benefits) to outweigh that harm.
- 2.12 The proposal involves part rebuild and conversion of the outbuilding to a toilet block. Although in a state of disrepair, the structure is considered to be curtilage listed due to its age (mid-19th Century) and relates to the principal Grade II listed building. Therefore, this aspect of the proposal is also subject to a Listed Building Consent application. The Principal Heritage Officer has advised the structure is within the walled garden and consequently not viewed within the context of Old Rectory itself; works to the outbuilding are therefore not considered to have an impact on the setting of the principal listed building. The outbuilding is currently largely derelict, with the roof structure largely lost and the structure covered by vegetation.
- 2.13 The proposal seeks to replace the derelict corrugated roof structure with a new slate roof and replace a side elevation window which is in a poor state of repair. The brick

elevations have in part been damaged by vegetation growth and will require rebuilding and repointing. The proposed works are considered to be sympathetic to the character of the outbuilding. Finally, having regard for both the statutory duty of the council under The 'Act' and the policy within the NPPF, no harm would be caused to the setting of the Listed Buildings or the Conservation Area. It would therefore be in accordance with paragraphs 195 and 196 of the NPPF.

Highways/Travel Impacts

- 2.14 The NPPF requires that development that generates a significant increase in movements are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised, consistent with the policy objectives of DM11. Planning must play an environmental role by contributing to, protecting and enhancing the natural environment including adapting to climate change including moving to a low carbon economy.
- 2.15 Originally, the application sought permission for over 60 weddings a year with a maximum capacity of 200 guests per wedding, although the estimated average was 100-120 guests per event. The forecourt of the application property has the capacity to accommodate 17 car parking spaces without double parking. Significant concerns were raised by KCC Highways in respect of the travel impacts associated with the proposed use by virtue of the intensification of the use of the existing road and lack of parking. KCC PROW also raised an objection in respect of the potential intensification of the use of Mongeham Church Close (whilst an adopted road for vehicular traffic, it is also a Public Right of Way).
- 2.16 A series of amendments were made to the application which involved the reduction in the number of events to a maximum of 30 per year and the number of heads per event would be up to a maximum of 50. The reduction in number of events and number of heads per event would result in a significant reduction in vehicular traffic and the need for parking at the venue. The peak number of movements is estimated to be 15 over a short period of 1 hour in relation to the arrival and departure of guests. Whilst Mongeham Church Close is narrow for a relatively short section, it is wide enough for two vehicles to pass in the northern section leading to the application site, and at the junction with Northbourne Road. KCC Highways have advised that bearing in mind the existing low traffic levels in the close and the fact that the movements by wedding guests will be tidal in nature, these additional movements are unlikely to significantly increase the incidence of opposing vehicles meeting in the close. The movements associated with a wedding are also over a short period of time. Whilst there are no footways in the close, it is an existing low speed environment shared by pedestrians and vehicles without any apparent issues. Third party concerns were raised in respect of the resultant unmanageable traffic if events took place both at St Martin's Church and the application site. Whilst there is the possibility of an event taking place at the church at the same time as a wedding, there is no parking available at the church and associated vehicle movements in Mongeham Church Close are therefore likely to be minimal.
- 2.17 In respect of parking, from the review of submitted plans, 17 spaces could be achieved within the site without double parking. KCC Highways have advised that the likely car sharing between wedding guests; the availability of a guest minibus service between the site and Deal; and catering staff being transported by minibus, 17 spaces is likely to be sufficient for a wedding, if limited to 50 guests, and with use of 5 rooms available limited to wedding guests only. The applicant has also advised that their vehicles can be parked at another property for the duration of a wedding event. The delivery vehicles associated with a wedding will be visiting when guests are not parking on site,

thereby providing them with room to turn within the site. The use of minibus and car share could be encouraged through measures incorporated in a Travel Plan Statement. In light of the above, it is considered reasonable to attach conditions to restrict the number of weddings/events to 30 per year and a maximum of 50 heads per event; secure adequate parking on site; provision of a guest minibus service between the venue and locations in Deal and submission of a Sustainable Travel Plan to incorporate appropriate sustainable travel measures.

- 2.18 KCC Highways raised concerns in respect of the limited visibility available at the junction formed by Mongeham Church Close and Northbourne Road. Subsequently amended plans were received with a view to clarify the visibility splays achievable at the access. However, the visibility splays were based on the legal boundaries documented within the land registry documents for properties on either side of the access. There was, therefore, a discrepancy in respect of the situation of visibility splays 'on the ground' and the boundaries within the legal documents (i.e. they did not corroborate). As a result, KCC Highways recommended that a topographical survey be carried out to provide further clarity and to avoid any ambiguity in this regard. Subsequently, survey plans were received and reviewed by KCC Highways.
- 2.19 KCC Highways advised that the visibility at the junction of Mongeham Church Close with Northbourne Road is poor and not in accordance with current guidance of 43 metres x 2.4 metres x 43 metres. However, this is due to vegetation encroaching on the highway verge and this can be cut back by the highway authority. The visibility available to the west of the junction, with vegetation cut back, is approximately 2.4 metres x 43 metres. Nevertheless, there are some existing steps and associated side walls within the highway which may impact on this visibility due to their height, and therefore taking this into account, a splay of approximately 2.4 metres x 38 metres is available. Visibility available to the east of the junction with vegetation cut back to the base of the existing wall is approximately 2.4 metres x 38 metres measured to the centre line of the road, which is acceptable in these circumstances as there is unlikely to be any overtaking due to the adjacent bend. In conclusion, whilst the achievable visibility splays do not conform with the current guidance they are a significant improvement over the existing situation (i.e. improve the visibility of the existing access), particularly in the critical direction to the west, where a splay of only approximately 2.4 metres x 12 metres is available at present.
- 2.20 It is noted that there is prevalence of on-street parking taking place in Northbourne Road, including at the bus stop opposite the junction. The increased use of the junction as a result of the proposals could lead to undesirable parking across the bus stop. KCC Highways have recommended that this issue could be resolved by attaching a condition requiring provision of a yellow bus clearway at the bus stop.
- 2.21 KCC PROW have been reconsulted on the amended proposals. However, no revised comments have been received to date. Notwithstanding, given the fact that Mongeham Church Close is also an adopted road, it is not considered that the intensification of use of the road for short periods during the year would result in unacceptable impact on the public safety to level that justifies a refusal.
- 2.22 Having regard for the above, it is considered that the highway impacts arising as a result of the traffic generated by the proposed change of use could be managed by attaching suitably worded conditions as recommended above. Therefore, it is not considered that the proposed change of use would cause unacceptable harm to the pedestrian/highway safety, free flow of traffic or harm the convenience of road users. It would therefore accord policy DM11 of the Core Strategy and paragraph 109 of the NPPF which 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.

Impact on Neighbours

- 2.23 Regard has been had to 180 which states, "Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life."
- 2.24 It is proposed that the marquee in the rear garden would have amplified music during the reception, which will be turned off at 11:15pm and all events will finish at 11:45pm. It should be noted that the nearest properties are located to the south, and are about 60m from the rear garden area, separated by two garden walls. The other properties to the south are separated by the house. To the east, the rear garden beyond the walls, is bounded by the church yard, with the properties about 65m away.
- 2.25 This application was accompanied by an initial Acoustic Mitigation Proposal and Noise Management Plan. It has been proposed that an acoustically lined marquee would be used to mitigate noise. The proposal seeks to install the state-of-the-art directional music system for the dance floor within the marquee. It is understood that it is a modular speaker system enabling a number of loudspeakers to be installed across a single plane. Due to the alignment and orientation of the speakers, the system becomes highly directional. The Environmental Health Officer has visited the site to inspect this arrangement. It was considered that the directional music system works well with limited noise spillage outside the dance floor. The proposed acoustics proposal also includes use of a distributed audio system. It comprises of multiple smaller speaker cabinets and is omni-directional. It is considered that the use of distributed audio speakers could result in noise impacts, however, the overall noise levels could be controlled by virtue of installation of a noise limiter to ensure no unacceptable noise impacts arise from the proposal. A further Acoustics report was received which sets out recommendations for an updated Noise Management Plan and installation of a noise limiting device. Environmental Health have accepted the findings of the report and have not raised an objection in respect of the proposal, however, conditions have been recommended requiring submission of an updated Noise Management Plan and installation of a noise limiter which have been included in the recommendation.
- 2.26 Having regard to the above, it is not considered that the proposed change of use would cause unacceptable noise impacts (subject to conditions) such that the living conditions of the neighbouring occupants would not be unduly prejudiced. Therefore, the proposed development would be accordance with paragraph 180 of the NPPF.

Ecology

- 2.27 The EU Habitats Directive 1992, requires that the precautionary principle is applied to all new projects, to ensure that they produce no adverse impacts on European Sites. Regard has been had to Natural England's Standing Advice which suggests that in rural areas, the likely presence of bats, breeding birds, badgers, reptiles and great crested newts could be expected. Given the characteristics of the surrounding area and the poor state of the outbuilding, a bat survey was recommended to be carried out

during the application process. Subsequently, a bat survey was carried out which revealed no evidence of any bats using the building during the building during the emergence survey period, although bats were seen crossing over the survey site and adjacent areas from the south – east. Notwithstanding the absence of bats, it has been recommended that the proposed building should be lit according to Bat Conservation Trust recommendations. In light of the above, it is considered that the proposed development would not result in harm to the ecology subject to a condition requiring the proposed lighting to conform with Bat Conservation Trust recommendations.

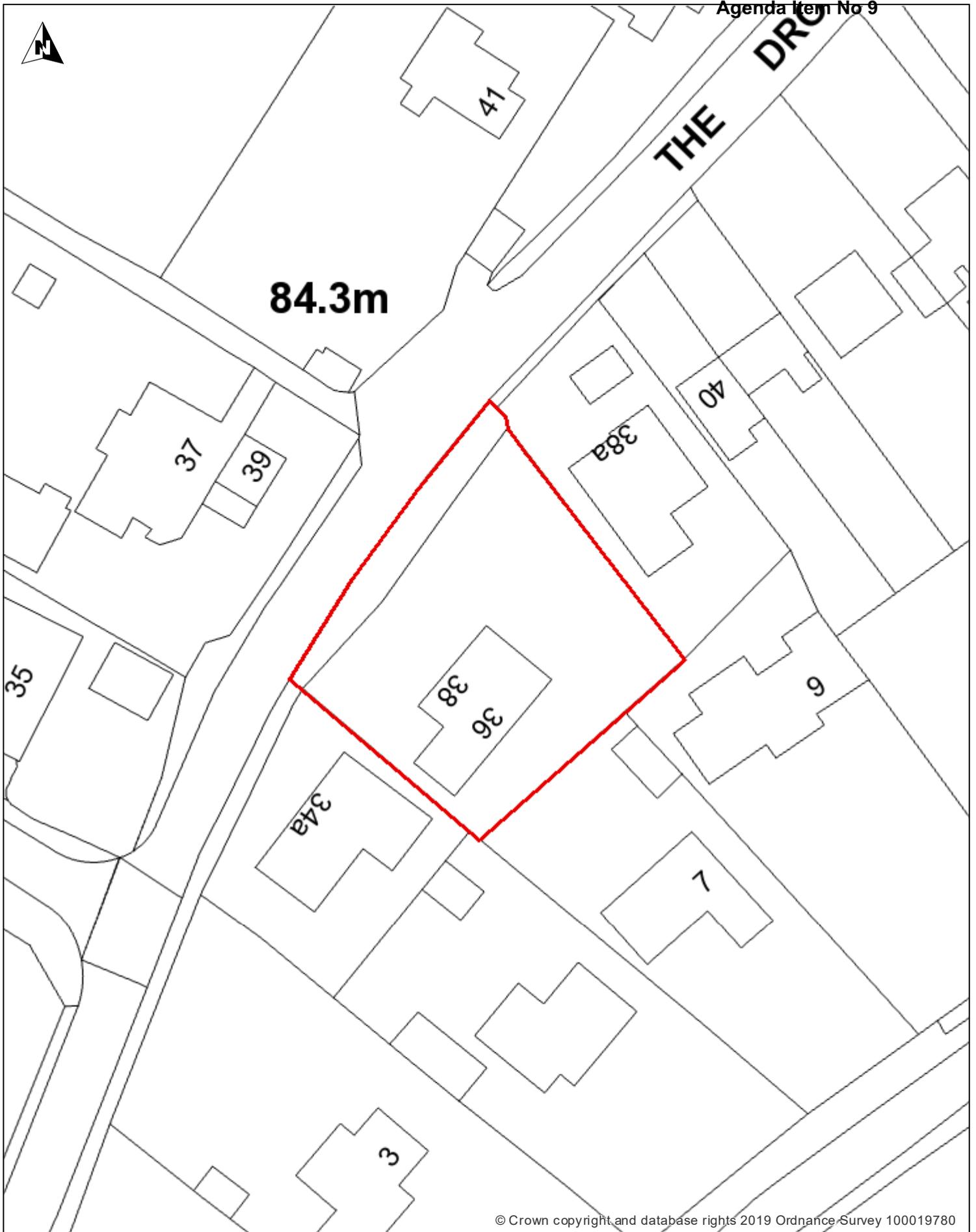
3. Conclusion

- 3.1 The proposal would cause no harm to the rural character and appearance of the surrounding area. It would bring back a disused listed outbuilding back into use and would not cause harm to the setting of the principal listed building or the character of the Conservation Area. It would not cause harm to the living conditions of the neighbouring occupants. Finally, the proposed development would not cause harm to the wildlife habitats. It would promote expenditure within the local economy and contribute towards the social viability and functioning of the local area. Significant weight has been attached to this public benefit. Weighed against these benefits is a potential periodic short-term increase in traffic and competition for on-street parking. However, it should be noted that the proposal would also encourage sustainable travel i.e. guests transported by means of minibuses and use of car share. Notwithstanding, it is acknowledged that the likely increase in traffic and parking demand constitute minor negatives and whilst would carry some weight, it is considered to be more than outweighed by the benefits of the scheme. The proposal would therefore accord with development planning policies and the NPPF. It is therefore recommended that the application be granted.

g) Recommendation

- I. PLANNING PERMISSION BE GRANTED, subject to conditions which include:
- 1) 3-year standard time limit
 - 2) Approved plans
 - 3) Samples of materials for the outbuilding
 - 4) Joinery details
 - 5) number of weddings restricted to 30 per year and number of heads to 50 per event
 - 6) Provision of a bus stop clearway at the stop in Northbourne Road
 - 7) Provision of a minimum of 17 car parking spaces as shown on the plans
 - 8) provision of a guest minibus service between the venue and locations in Deal
 - 9) Provision of a Travel Statement to encourage sustainable travel
 - 10) Bat sensitive lighting scheme
 - 11) Landscaping scheme
 - 12) Installation of a noise limiter prior to first use
 - 13) Submission of a detailed noise management plan prior to first use.
 - 14) Restricting hours of use (amplified music during the reception, which will be turned off at 11:15pm and all events will finish at 11:45pm).
 - 15) Marquee shall be removed within 2 weeks after each event.
- II. Powers to be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer
Benazir Kachchi



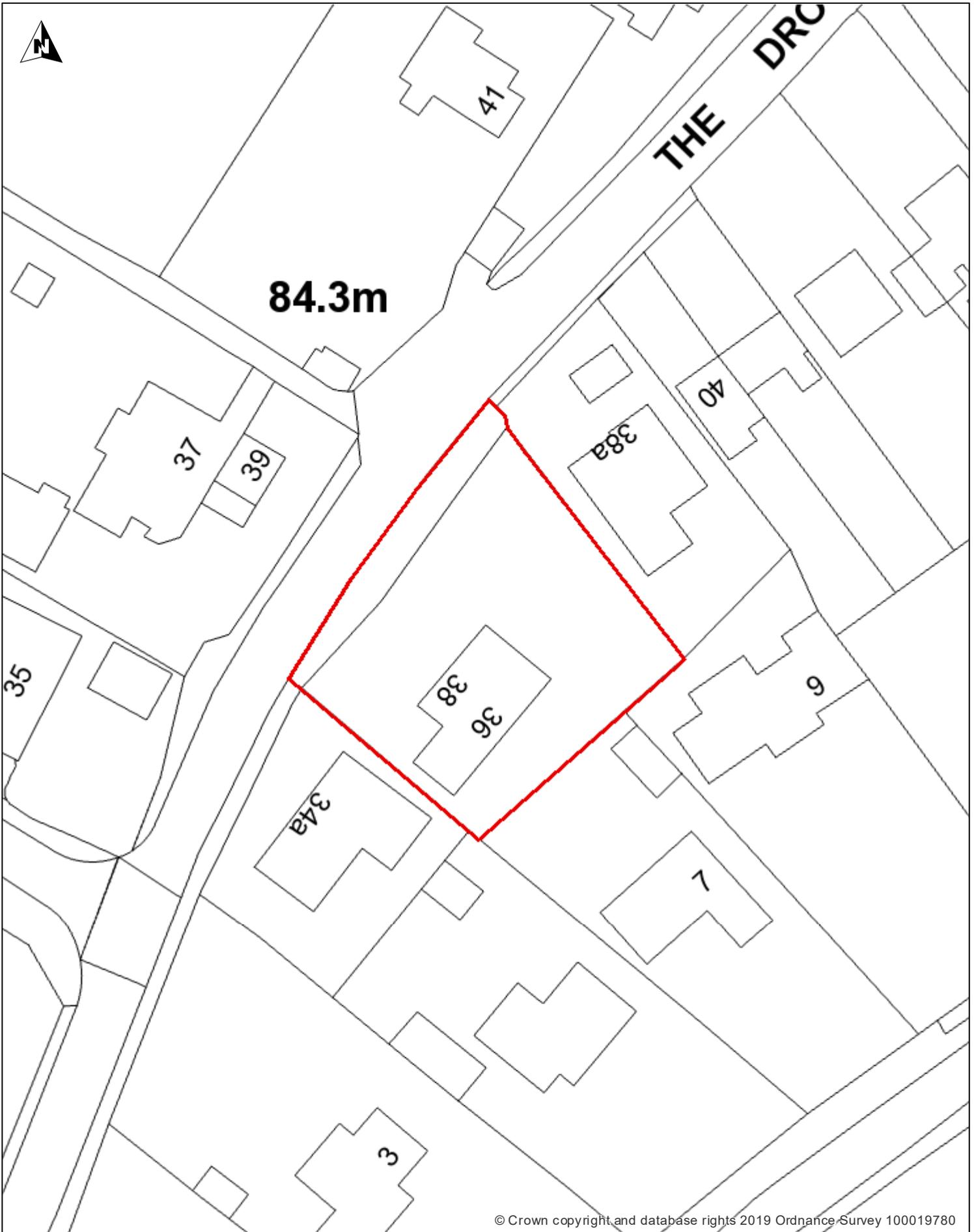
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21/00284
Larkspur 36-38 The Droveaway
St Margarets Bay
CT15 6BZ

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



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



21/00567
Larkspur 36-38 The Droveaway
St Margarets Bay
CT15 6BZ

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/21/00284 – Variation of Condition 2 (approved plans) to incorporate design changes of planning permission DOV/17/01137, including increased height to garages, green roof to garages removed, dwarf wall to front bank, relocation of pedestrian steps, amended siting, flat roof to rear projections, amended windows to rear elevation, increased building height, increased eaves height (part retrospective) (Application under Section 73) – Larkspur, 36-38 The Droveaway, St Margaret’s Bay**

and

DOV/21/00567 – Variation of Condition 2 (approved plans) to incorporate design changes of planning permission DOV/17/01137, including increased height to garages, retaining wall to parking area, amended landscaping, relocation of pedestrian steps, amended siting, flat roof to rear projections, amended windows to front and rear elevations, increased building height, increased eaves height, addition of chimney stacks (part retrospective) (Application under Section 73) - Larkspur, 36-38 The Droveaway, St Margaret’s Bay, Kent

Reason for report

DOV/21/00284 and DOV/21/00567 – member call-in (Councillor Bates)
DOV/21/00284 – third party contrary responses (8)

- b) **Summary of Recommendation**

DOV/21/00284 – grant permission
DOV/21/00576 – refuse permission

- c) **Planning Policies and Guidance**

Statute

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

Dover District Core Strategy (2010)

DM1 – Settlement boundaries
DM11 – Location of development and managing travel demand.
DM13 – Parking provision

National Planning Policy Framework (NPPF) (2019)

2. Decisions to be made in accordance with the development plan and any material considerations.

8. Sustainable development – planning objectives – economic, social, environmental.

11. Presumption in favour of sustainable development, unless adverse effects outweigh benefits.

48. The weight that may be given to relevant policies in emerging local plans.

124. Good design is key to sustainable development.

127. Principles of good design.

130. Refuse developments of poor design.

d) **Relevant Planning History**

In chronological order:

DOV/20/01316 – Variation of condition 2 (approved drawings) of DOV/17/01137, to incorporate the following amendments - retaining wall to parking area, amended stair arrangement, increased height to detached garages, increased height to dwellings including increased eaves height, amended elevational details, amended siting of dwellings within application site (application under section 73) (part-retrospective) – REFUSED.

DOV/17/01137/C – Non-Material Minor Amendment to 17/01137 - Revision to mono pitched roof to rear of houses to parapet type flat roof with roof lanterns. Additional windows in gables to Street elevation at roof level. Minor revisions to interior layouts – REFUSE NON-MATERIAL AMENDMENT.

DOV/17/01137/B – Non-material amendment – Revision to roof fascia height – REFUSE NON-MATERIAL AMENDMENT.

DOV/19/01130 – Variation of Conditions 2 and 3 (approved plans and samples) pursuant to outline permission DOV/17/01137 (application under S73) – GRANTED.

DOV/17/01137 – Erection of two detached dwellings, detached garages, formation of vehicular access and associated landscaping (existing dwelling to be demolished) – GRANTED.

DOV/16/00418 – Erection of two detached dwellings, formation of access and parking (existing building to be demolished) – REFUSED.

DOV/15/01215 – Erection of two detached dwellings with associated vehicular access (existing building to be demolished) – REFUSED.

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

DOV/21/00284:

KCC PRow – considered – no comments.

KCC Archaeology – no comments.

St Margaret's Parish Council – Strongly object - to this proposal and the manner in which the development is being undertaken. The development needs to maintain compliance with the original Planning Officer report.

Public comments – 8 x objections

- Description of development not accurate.
- Character of development not as originally approved under DOV/17/01137.
- Height of houses.
- Proposal should return to original permission.
- Concern about further incremental changes, even if this permission is granted.

- Reference to report under DOV/20/01316 about proposal being unacceptable.
- Bulk and height on a raised plot at a bend in the highway i.e. prominence.
- Disappointed as extant permissions were the result of compromise.
- Contradictory statements in regard to reasoning for proposed amendments.
- Garages constructed at a raised level and are too large.

DOV/21/00567:

KCC PRoW – considered – no comments.

KCC Archaeology – no comments.

St Margaret's Parish Council – Strongly object to any changes which increase height of property - original report of Planning Officer should remain pertinent. Existing garage should be demolished to lower height and to be built in line with proposed dimensions

Public comments – 13 x objections

- Application should be a full application rather than section 73, queries extent of changes and whether these are acceptable as minor material.
- Application bears significant similarity to previous refusal DOV/16/00418.
- Footprint of garages is increased beyond extant permissions.
- Disagrees with incremental changes to original proposal.
- Developer should build as per extant permission and should consider impact on existing residents.
- Addition of side windows.
- Distress at number of applications submitted.
- Concern about time and resources expended on this site.

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

1.1. The Site

The site is located on the south east side of The Droveaway in St Margaret's Bay. It formerly comprised a single building split into two dwellings. The site is raised above street level by between 3 and 4 metres.

1.2. The site is already in the process of being redeveloped, with the former dwelling having been demolished and the site levelled at approximately two to three metres above street level. A levelled strip of land at street level has been created adjacent to the street boundary. Two brick built garages have largely been constructed, each with a height so far of 3.45 metres above street level. Between the front part of the site and the rear part of the site is a retaining wall with steps in the centre joining the two levels.

1.3. On the upper level of the site, footings have been dug and poured.

1.4. Neighbouring the site to the south east are the rear gardens 7 and 9 Salisbury Road. Number 9 has been extended and is sited close to the dividing boundary. Neighbouring the site to the north east is 38a The Droveaway, a relatively recently constructed dwelling on land that previously formed the rear garden to 9 Salisbury Road. To the south west is 34a The Droveaway, another relatively recently constructed dwelling.

1.5. Dimensions:

- Site depth – 30.3 metres.
- Site width – 34.6 metres at road frontage, 27.3 metres at rear boundary.

1.6. Previous Permissions Granted

DOV/17/01137: Permission was granted for the erection of two detached dwellings, detached garages, formation of vehicular access and associated landscaping (existing dwelling to be demolished). The dwellings comprised two storeys, contained 4 bedrooms each and were sited up to 3m above street level. The land to the front (northwest) of the dwellings would be graded to form a bank leading down to a parking area with a garage on either side and a shared access. The garages would have green roofs and would be orientated parallel with The Droveaway, with planting providing visual screening.

1.7. The dwellings were to be finished in a mix of weatherboard cladding and render and would feature side hip come catslide roofs, with front facing gables and dormer windows (on the inward elevations facing each other). Each dwelling would measure approximately 10.6 metres in width and 12.1 metres in depth, with an eaves height of 3.5 metres to 5.2 metres and ridge height of 8.3 metres. They would be set back approximately 11.4 metres from the highway.

1.8. **DOV/19/01130:** Amended the materials proposed to brick and stone cladding and incorporated roof lights and a rear facing dormer for each dwelling to create a room in the roof and accommodate a bathroom at first floor level. Windows in the dormers were to be obscure glazed and top hung with a restricted opening.

1.9. Most Recent Refusal

DOV/20/01316. The most recent application, which was refused on 10 February 2021, sought the following changes:

- Layout as was being constructed, including retaining wall to parking area instead of grass bank.
- Access steps moved central to be shared, rather than each dwelling being served directly.
- Increased height of garages, as constructed, up to 3.45 metres above street level – approximately one metre taller than as approved.
- Addition of chimneys.
- Amendments to rear dormers and location of windows on rear elevations.
- Amendment to form of rear single storey projection to incorporate flat roof, rather than sloped.
- Amendments to measurements, including increased ridge heights and eaves heights, and corresponding heights above the street level.

1.10. The reasons for refusal under that application were:

1.11. **Reason 1.** *The proposed development, if permitted, would by virtue of its dimensions, design details and siting, including increased base height to the dwellings, increased height to the dwellings and garages, increased use of engineered materials and proposed retaining wall, result in an obtrusive and incongruous form of development out of context with, and causing harm to, the street scene, which taken in combination, represents poor design, contrary to the aims and objectives of the NPPF at paragraphs 8, 11, 127 and 130 in particular.*

1.12. **Reason 2.** *The proposed development if permitted would by virtue of its dimensions, siting and design details, cause harm to residential amenity by way of overbearing, interlocking, overlooking and/or the perception of overlooking, to neighbouring residents at 38a The Droveaway, 9 Salisbury Road, 7 Salisbury Road, and 34a The Droveaway, all of which is not in accordance with the aims and objectives of the NPPF, at paragraphs 8, 11 and 127 in particular.*

1.13. Proposed Development

1.14. **DOV/21/00284:** Two development proposals are incorporated into this application. The first proposal, submitted under DOV/21/00284 is in many respects similar to the proposal refused under DOV/20/01316. However, under that application, the footprint of the dwelling was shown to have moved to the east, towards the dwellings 7 and 9 Salisbury Road. The drawings upon which the application was determined were later shown to be incorrect, with subsequent onsite measurements demonstrating the proposed dwellings had not moved closer to 7 and 9 Salisbury Road.

1.15. Other amendments in comparison to those proposed under DOV/20/01316 are as follows:

- Removal of retaining wall, creation of originally proposed grass bank.
- Reduction in height of garages by half a metre, grass roof no longer proposed.
- Amendment to location of windows on front elevation to de-emphasise height.
- Amendment to proposed cladding of front elevations to de-emphasise height.
- Removal of proposed chimney to de-emphasise height.
- Kitchen windows at ground floor level (included in 20/01316).

1.16. **DOV/21/00567:** This proposal retains the outline dwelling form and dimensions of the dwellings proposed under DOV/21/00284, with some notable variations.

1.17. Amendments are as follows:

- Front gables, retention of cladding proposed under DOV/20/01316.
- Addition of glazed front gables, serving a bedroom at second floor level.
- Addition of glazed front dormer window gables.
- Addition of second floor window to rear gable, to be obscure glazed.
- Retaining wall not removed.
- Garages maintained at built height, incorporating green roof.
- Additional rooflights.

1.18. **Boundaries and siting:** Across the extant permissions and applications for proposed amendments, the scaling data on submitted files appears not to be completely accurate/comparable, which has meant that it has been difficult to use absolute measurements for comparison purposes. However, overlaying the site plans and street elevations has given a more reliable representation of the proposed amendments, such that effects can be gauged. This is combined with measurements taken on site.

1.19. Under DOV/20/01316 there were some amendments to the depicted rear boundary, with later drawings correcting the position of the boundary as being further to the east, and thus further from the dwellings. The drawings in applications DOV/21/00284 and DOV/21/00567 now show the boundary in its correct position.

- 1.20. Drawings will be presented at committee which show the overlay of site boundaries, foundation siting and street elevations across the various applications, in order to provide an accurate basis on which to make an informed decision.

2. **Main Issues**

- 2.1. The main issues to consider are:

- Principle of development.
- Design, street scene and visual amenity.
- Residential amenity.
- Highways impact.
- Ecology/appropriate assessment
- Policy context and material considerations
- Other matters

Assessment

- 2.2. **Principle of Development**

The proposed dwellings under each application are considered to be acceptable in principle. The dwellings are located within the St Margaret's Bay settlement boundary, and the application in each case is for an amendment to the proposed drawings of an existing permission. While section 73 applications are new permissions in their own right, no material circumstances have changed such that the proposed dwellings would no longer be acceptable in principle.

- 2.3. For clarity regarding policy positions, housing land supply status, and government guidance, this matter is expanded further under the 'Policy context and material considerations' section below.

- 2.4. **Design, Street Scene and Visual Amenity**

For confirmation, the heights of the proposed dwellings are the same as that refused under application DOV/20/01316. As noted above, reason 1 for refusal under that application references the effect of the increased heights.

- 2.5. **DOV/21/00284:** This application on balance is now considered to be acceptable in terms of its design. Design elements incorporated into DOV/20/01316 served to increase the vertical emphasis of the scheme, namely the proposed narrow vertical bands in the cladding/stonework, the height above the front facing first floor gable windows, the increased height garages, the retaining wall and the chimneys. All of these aspects have now been addressed, and while the actual dwellings would be no lower in the street than those which were refused, the overall effect, including the reversion to a grass bank behind the parking area, would serve to soften the impact and reduce the emphasis on height. The cladding proposed under this application seeks to create a horizontal, rather than vertical emphasis, such that on balance, no objections are raised in respect of design and the impact on the street scene.

- 2.6. The loss of green roofs on top of garages is considered to be regrettable, however, it is understood that the lower garages cannot incorporate the necessary roof structure to support the weight, and at the same time create

adequate internal space for the garage to be sufficient for its purpose.

2.7. **DOV/21/00567:** This application takes a different approach in regard to the design of the proposal. Again, the dimensions proposed are the same as with DOV/21/00284, but the attempts to reduce vertical emphasis are not included. The proposed dwellings incorporate glazed gable openings stretching from the first floor window to the apex, and this is repeated in the front facing dormer windows – this serves to stretch the appearance of the gable, as does the retained cladding/stonework pattern. In addition, the chimneys are retained, which adds further vertical emphasis. The garages are not proposed to have their height reduced, albeit they are proposed to incorporate the originally approved green roofs. The retaining wall is also proposed to be kept in its built form. All taken together, it is considered that by amending the proposal with these elements, this serves to substantiate and reinforce the issues identified under reason 1 for refusal in DOV/20/01316. This is therefore considered to be unacceptable.

2.8. To the rear of the dwellings, an additional window is proposed at second floor level in each gable. While this does serve to accentuate the height of the buildings, this is not considered to affect the appearance from the street scene, which is the main consideration in this instance.

2.9. Residential Amenity

The key impacts on residential amenity are repeated across both applications. Notably, these are in regard to the occupants at 38a The Droveaway and 9 Salisbury Road; and to 7 Salisbury Road and 34a The Droveaway.

2.10. **DOV/21/00284:** Under DOV/20/01316, the key concern was about the dwellings incrementally moving closer to neighbouring dwellings, notably those on Salisbury Road (east, to the rear). This was combined with the increased height of the proposals, in absolute terms, and in terms of their relationship with the street. Subsequent comparison of drawings submitted under DOV/20/01316, with on site measurements, shows that these drawings were in error, showing the dwellings to be at approximately the same distance from the neighbours as approved under DOV/17/01137 and DOV/19/01130.

2.11. Therefore, in terms of the neighbours to the rear, the concern in relation to an overbearing impact was no longer substantiated to the same degree (accepting that the height is still proposed to increase) – this remains the case with the dwellings as proposed under DOV/21/00284. Although additional windows are proposed on the rear elevation, these would be obscure glazed, which with an appropriate condition, and dwellings remaining sited, in terms of separation distance, as previously approved, is not expected to unduly harm privacy.

2.12. At 38a The Droveaway, the dwelling to the north, the resident has raised concern about overshadowing to their single storey kitchen room. This is noted in particular in relation to the increased eaves height of the northern dwelling, where a hipped roof would not assist with reducing shadows. Overshadowing was not included as a reason for refusal under DOV/20/01316, but was noted as a potential concern. One further element in regard to this will be illustrated in the committee presentation where overlay drawings show the relative positions of the dwelling footprints in the extant permissions, the refusal under DOV/20/01316, and the on-site constructed footprint/applications as now proposed.

- 2.13. The resident at 38a has requested a shadow study and submitted engineering comments to support this request. The applicant was requested to provide drawings in order to confirm whether there would be an impact but declined. Therefore, consideration must be made without such a study. Given the nature of side elevations relating to side elevations, where these are usually in closer proximity, and the neighbouring kitchen incorporating a range of windows including roof lights and rear doors, allowing light from a number of sources, it is considered that on balance, the increase in eaves height would be unlikely to create an unduly harmful effect in respect of overshadowing or loss of light.
- 2.14. In respect of 7 Salisbury Road, while there remains an impact from the proposed southern dwelling, it is not considered to be more harmful under this application than with the permission granted under DOV/19/01130, which allowed a rear facing dormer window, but with obscure glazing and restricted opening. Subject to imposing appropriate conditions in relation to the proposed additional windows, privacy should be maintained.
- 2.15. In respect of 34a The Droveaway, it is considered that the decreased garage height, combined with an appropriate condition restricting access to the roof of the garage, means that any consideration in regard to potential overlooking should be addressed adequately, albeit it is accepted that the neighbour at this location retains concerns. There is a side window proposed, serving the kitchen which potentially raises concern about the prospect of overlooking to the rear garden of 34a. The nature of the window could potentially give rise to standing and looking, while at the kitchen sink – accordingly a condition is recommended to obscure glaze and top hang the window, with restricted opening.
- 2.16. Accordingly, this proposal is not considered to result in undue harm to the amenity of neighbouring occupiers, to a degree that would substantiate refusal, particularly when considered in the context of the extant permissions, and the use of planning conditions.
- 2.17. **DOV/21/00567**: The key differences in respect of residential amenity are the proposed second floor windows in the front and rear gables. The front facing glazed apex window has the potential to result in overlooking from a raised position into the front of 39 The Droveaway (opposite, west). However, this is a front garden which is semi-private, and the separation distance is approximately 25 metres. Taking into account a notable appeal decision at the land rear of Palmerston on Sea View Road/Lighthouse Road in St Margaret's Bay, refusal based on front to front overlooking tends not to be particularly strong. The rear gable windows, facing toward 9 and 7 Salisbury Road, while potentially giving rise to overlooking and/or the perception of overlooking are of a small size and can be adequately conditioned in relation to opening and obscure glazing, such that this concern is properly addressed. A number of additional rooflights are proposed, but it is not considered that these would result in overlooking due to internal heights, but were it considered necessary the lower of the rooflights in each case could be conditioned to be fixed shut or obscure glazed.
- 2.18. There is some concern about the use of the garage roofs under this proposal, which would be kept at their as built height, being used as sitting out areas, and allowing overlooking and loss of privacy. While not at the preferred height, particularly for visual amenity reasons, the garages could nevertheless be conditioned such that any access to their roofs is for maintenance or emergency purposes only. The impact of the increased height garage immediately adjacent to number 34a The Droveaway would be regrettable in terms of its potential to create an overbearing effect, however, as a primary reason for refusal on

residential amenity grounds, this is likely to be unsatisfactory. Accordingly, and very much on balance, DOV/21/00567 is considered to be acceptable in terms of residential amenity.

2.19. Highways Impact

Both proposals would incorporate the same access arrangements i.e. central access, with a visibility strip secured by condition, as approved under DOV/17/01137 and DOV/19/01130. There is some concern about the extent to which the footprint of these garages encroaches on the visibility strip, however, having visited the site and considered the site boundary relative to the garages as constructed, it appears that safe access and egress could still be achieved. Therefore, access, and the impact on highways, is considered to be acceptable.

2.20. Ecology/Appropriate Assessment

DOV/17/01137 was permitted prior to a ruling by the European Court of Justice, which determined that mitigation measures in relation to ecological sites could not be taken into account at the habitat regulations assessment screening stage. DOV/19/01130 was permitted after this ruling and incorporated the following appropriate assessment to consider the impact of the two dwelling on this site, in regard to the Thanet Coast and Sandwich Bay SPA and Ramsar sites. The appropriate assessment is considered to remain relevant, and there have been no subsequent changes in ecological terms. The following appropriate assessment therefore applies to the consideration of **both DOV/21/00284 and DOV/21/00567**.

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

- 2.21. 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.
- 2.22. 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 an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.23. Following consultation with Natural England, the identified pathway for such an adverse 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.
- 2.24. 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.
- 2.25. Given the limited scale of the development proposed by this application, a contribution towards the Council's Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration

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.

- 2.26. Having had regard to the proposed mitigation measures, it is considered that the proposal would not have an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

2.27. Policy Context and Material Considerations

Consideration has been given to whether there have been any material changes in circumstance since the previous applications were determined, including any which may lead to different conclusions being reached.

- 2.28. Whilst the council is able to demonstrate a five year housing land supply and has not 'failed' the housing delivery test (insofar as the 'tilted balance' would be applied), it accepts that some of its policies are out of date. In this instance policies DM1, DM11 and DM13 are considered to be the 'most important' policies for the determination of this application. DM1 is considered to be out of date (and attracts reduced weight) as it is significantly more restrictive than the NPPF and was devised with the purpose of delivering significantly fewer houses than are now required. DM11 is broadly in accordance with the aims of securing sustainable development, albeit the 'blanket' elements of these policies (resisting travel generating development outside of confines and resisting the loss of countryside) are in tension with the NPPF. These policies are not considered to be out of date but do attract reduced weight. Policy DM13 is generally permissive and allows a degree of flexibility based on design – nevertheless its guidance is met by the proposal. Overall, whilst DM1 is the most important policy in the determination of this application, the site is located well within settlement boundaries. Together with the conclusion that DM11 and DM13 are not out of date, or generally permissive, this leads me to conclude that the basket of most important policies are not out of date. Consequently the 'tilted balance' is not applied and the application should be determined in accordance with the development plan without delay unless material considerations indicate otherwise.

- 2.29. The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process however the policies of the draft plan have little weight and are not considered to materially affect the assessment of this application and the recommendation as set out.

2.30. Other Matters

When visiting the site, the planning agent described the archaeological measures that had been agreed and undertaken on site prior to development commencing. While this may be the case, there appears to be no record of agreement with the LPA through approval of conditions. Therefore, if the recommendations are agreed, the archaeological condition will be reimposed, and formal agreement will be required.

3. Conclusion

The consideration of these applications comes with a notable amount of context provided by many other applications for similar proposals stretching back to 2015. The site, due to its raised topography, and proximity to neighbours, has meant that the proposed dwellings have evolved into a form which attempts to temper the perception of height within the street scene, while also limiting any harm on residential amenity. The outcome is a design that has evolved through many iterations and has limited tolerances for amendments – hence refusals under non-material amendment applications, as well as the aforementioned DOV/20/01316.

Some of the previous considerations have been affected by incorrect drawings and incorrect site surveys, however, following a visit to the site with the designer, measurements taken have addressed these issues.

Inevitably, there is concern from the neighbours about residential amenity and the degree to which the proposal affects them. However, taking the context into account i.e. the extant permissions; the proposals as they are now submitted, are not considered to substantiate a refusal on these grounds, particularly where planning conditions can address any unresolved issues.

Where concern does remain, is the impact of the proposal on the street scene. The former character of The Drove way at this location no longer remains. There once was a verdant bank which ran from 34a, north through the site, and across the frontage of 38a (34a and 38a were both built on the rear gardens of Salisbury Road dwellings). This has been replaced with an overengineered appearance along this stretch of the road – yet it is still proper to try and get the right design, as directed by the NPPF. The incorporation of green landscaping and reversion of the retaining wall to a grass bank, as well as improvements to reduce the vertical emphasis of the proposal means that on balance, it is considered that **DOV/21/00284** overcomes the reasons for refusal under DOV/20/01316, and is recommended for **permission to be granted**.

DOV/21/00567 takes a different approach in this regard, and as considered above, retains a harmful emphasis on height, on a site where the opposite approach is required. Therefore, the recommendation is to **refuse permission**.

While it might be said that the recommendations above have implications for sustainability, perhaps in regard to the provision of housing, there are legitimate fall back positions in terms of the extant planning permissions. Accordingly, these recommendations are considered to have been made with regard to all relevant policy and material considerations.

g) **Recommendation**

- I. DOV/21/00284 – planning permission be GRANTED, subject to conditions including the following:
 1. Drawings
 2. Reversion of retaining wall to bank.
 3. Lowering of height of garages.
 4. Materials and elevational treatment
 5. Windows
 6. Hard and soft landscaping – in accordance with approved details
 7. Refuse and recycling – in accordance with approved details
 8. Vehicle parking

9. No access to garage roofs except for maintenance or emergency
10. Bicycle parking
11. Bound surface
12. No surface water on highway
13. Visibility strip
14. Ground levels – in accordance with approved details
15. Earthworks – in accordance with approved details
16. PD removal A, B
17. Archaeology
18. Construction management plan – in accordance with approved details

II. DOV/21/00567 – planning permission be REFUSED for the following reason:

1. The proposed development, if permitted, would by virtue of its dimensions combined with its design details and siting, including increased base height to the dwellings, increased height to the dwellings and garages, proposed elevational finish, fenestration details, increased use of engineered materials and proposed retaining wall; result in an obtrusive and incongruous form of development out of context with, and causing harm to, the street scene, which taken in combination, represents poor design, contrary to the aims and objectives of the NPPF at paragraphs 8, 11, 127 and 130 in particular.

III. That powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions and/or reasons for refusal in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Darren Bridgett