

# Public Document Pack



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15 June 2022

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 23 June 2022 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](mailto:democraticservices@dover.gov.uk).

Yours sincerely

A handwritten signature in black ink, appearing to read "Nicky", written over a horizontal line.

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  
D A Hawkes  
P D Jull  
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 4)

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

4 **MINUTES**

To confirm the Minutes of the meeting of the Committee held on 26 May 2022 (to follow).

## **ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING**

5 **APPLICATION NO DOV/21/01926 - UPPER GOLDSTONE FARM, COP STREET ROAD, ASH, CT3 2DN** (Pages 5 - 15)

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

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

6 **APPLICATION NO DOV/22/00044 - LAND SOUTH OF CROSSWAYS AND EAST OF DOVER ROAD, EASTRY, CT13 0JN** (Pages 16 - 24)

**Change of Use of land for dog walking, erection of 1.8m fence for the formation of enclosure and parking for 2no. cars.**

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

7 **APPLICATION NO DOV/21/01903 - SITE REAR OF 19 AND 21 BEWSBURY CRESCENT, WHITFIELD** (Pages 25 - 40)

**Erection of detached dwelling, driveway with associated parking, alterations to existing driveway and blocking up of windows to side elevation of number 21 and erection of 1.8m high fencing (existing garage and shed to be demolished)**

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

8 **APPLICATION NO DOV/22/00495 - LAND AT 5 BEECHWOOD CLOSE, WHITFIELD, CT16 3JZ** (Pages 41 - 50)

**Erection of a detached dwelling, associated parking, shed, bin store and landscaping.**

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

9 **APPLICATION NO DOV/21/01170 - 36-38 THE DROVEWAY, ST MARGARET'S BAY CT15 6BZ** (Pages 51 - 61)

**Variation of Condition 1 of planning permission DOV/21/00284 (a variation of Condition 2 of DOV/17/01137) to incorporate design changes - in the form of windows in the front and rear elevations at top floor level, changes to rooflights, enlarged rear dormer windows at first floor level, elevational**

**changes and increased depth of garages (retrospective & S73 application), and compliance with Conditions 4, 5, 7 & 10 and non-compliance with Condition 14 of DOV/21/00284.**

To consider the attached report of the Head of Planning 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](http://www.dover.gov.uk). Minutes are normally published within five working days of 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](mailto:democraticservices@dover.gov.uk), telephone: (01304) 872303 or email: [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk) for details.

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

**Declarations of Interest**

Disclosable Pecuniary Interest (DPI)

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

Other Significant Interest (OSI)

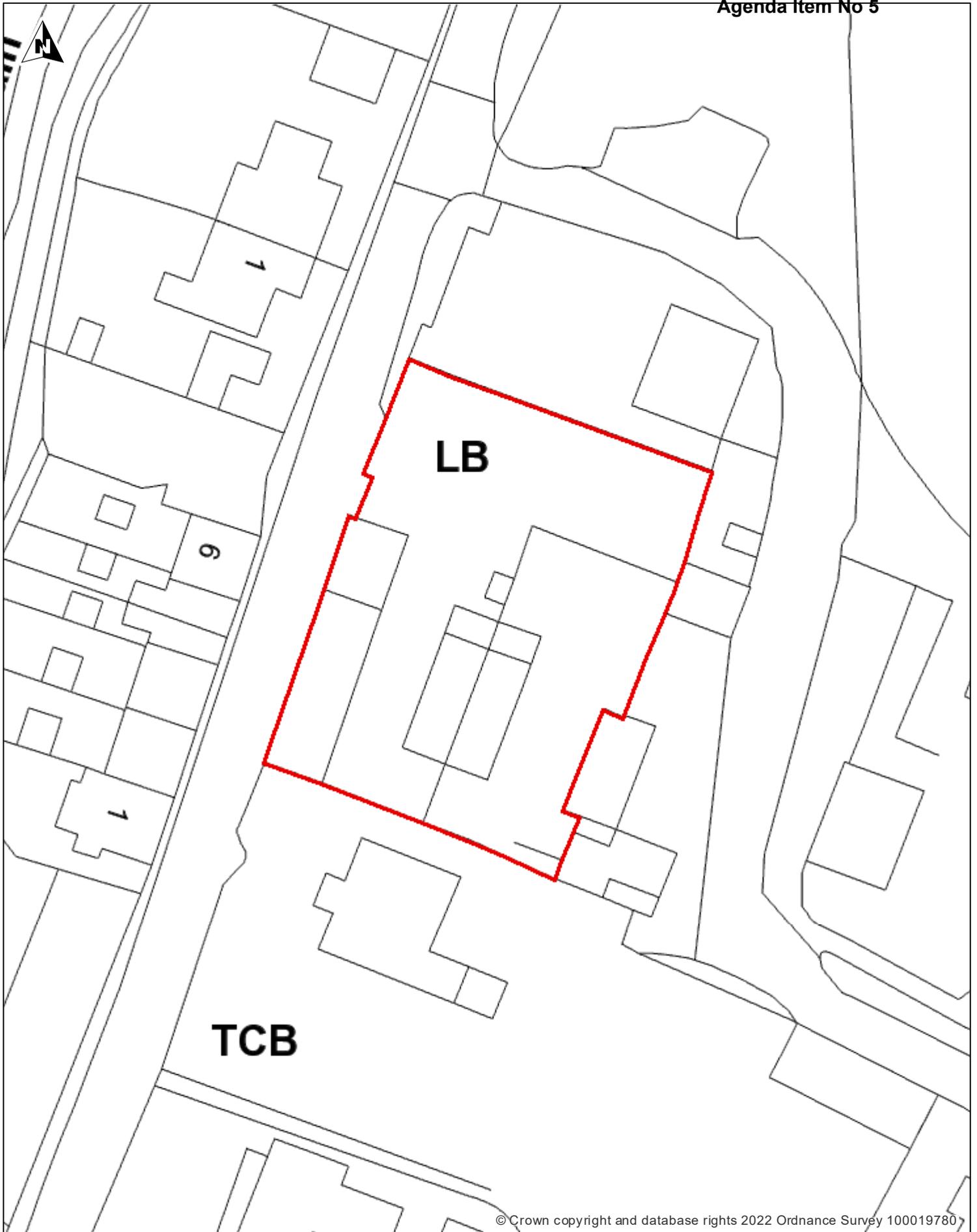
Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion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

Voluntary Announcement of Other Interests (VAOI)

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

Note to the Code:

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



21/01926

Upper Goldstone Farm  
Cop Street Road, Ash  
CT3 2DN

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/21/01926– Erection of a detached dwelling (existing agricultural building to be demolished)**

**Upper Goldstone Farm, Cop Street Road, Ash, CT3 2DN**

**Reason for Report:** Number of contrary views (9)

- b) **Summary of Recommendation**

Planning Permission be GRANTED

- c) **Planning Policy and Guidance**

Dover District Core Strategy (2010)

CP1, DM1, DM11, DM13, DM15 and DM16

Regulation 18 draft Dover District Local Plan

The consultation draft of the Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process (early), 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 (2021) (NPPF)

Paragraphs 2, 7, 8, 11, 130, 174

Kent Design Guide

National Design Guide

Nationally Described Space Standards (2015)

Ash Neighbourhood Plan (2021)

- d) **Relevant Planning History**

DOV/16/01154 - Prior approval for the change of use of two agricultural buildings into a dwellinghouse. Approved.

DOV/19/00380 - Prior approval for the change of use from two agricultural Buildings to two dwellings (C3) and associated building operations. Prior approval required and refused.

DOV/19/01213 - Prior approval for the change of use of an agricultural building to dwellinghouse – Prior Approval Refused and allowed at appeal June 2020 under reference APP/X2220/W/19/3243148

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

Ash Parish Council – No comments received

East Kent Public Rights of Way - No comments to make

Southern Water – no objections raised – information provided for the applicant.

Third Party Representations - A total of 9 individuals have raised objections to the proposal summarised as follows:

- Footprint is too big compared to other nearby properties
- Two storeys is not sympathetic to the area
- Use of fallback position with obtaining Prior Approval could set a precedent.
- Loss of privacy to neighbouring properties due to addition of first floor
- Overdevelopment of the site
- Extra traffic to a busy road
- Light pollution from new property
- Loss of views to Richborough

In Addition, 3 comments were received in support of the proposal:

- Converted buildings do not require a high level of insulation and energy efficiency.
- An application rather than prior approval allows for better quality materials
- A greener build compared to prior approval schemes

## **1 The Site and Proposal**

- 1.1 The application relates to two agricultural buildings set to the southeast of Cop Street Road, which lies outside of the settlement confines of Ash. The immediate area comprises two recently converted agricultural buildings to dwellings, The Hay Barn and The Oast House, with a Grade II listed building, Upper Goldstone Farmhouse located to the southwest. To the northwest of the site is a cluster of 10 residential dwellings.
- 1.2 The application is for the erection of a detached 3no. bedroom dwellinghouse and would include 2 parking spaces and a garden area to the north and south of the new dwelling. The dwellinghouse exhibits a 2-storey agricultural barn type design and would be finished in reclaimed red brick, with handmade clay roof tiles and timber and aluminium windows. The existing building which fronts Cop Street Road would be retained as incidental outbuildings to the dwelling to remove the need for new garden storage buildings and maintain the appearance of the site frontage from the road. The proposal also includes landscaping with the provision of/retention of hedgerows to denote the boundary of the dwellinghouse. The existing agricultural building would be demolished.
- 1.3 Prior approval has been granted for the conversion of the existing curved roof agricultural building into a 4-bedroom dwellinghouse.

## **2 Main issues**

- 2.1 The main issues for consideration are considered to be:
  - The principle of the development
  - Impact on visual amenity and countryside
  - Residential amenity
  - Impact on nearby Listed Building
  - Highway Safety

### **Assessment**

#### **The principle of the 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 the plan unless material considerations indicate otherwise.
- 2.3 Policy DM1 states that development will not be permitted outside of the settlement boundaries, 'unless specifically justified by other development plan policies or it functionally requires such a location or is ancillary to existing development or uses.' This site is located outside of the defined settlement confines, is not supported by other development plan policies and is not ancillary to existing development or uses. As such, the application is contrary to Policy DM1.
- 2.4 Policy DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. As stated above, the proposed site is located outside of the settlement confines and is not justified by other development plan policies. The site is located approximately 1 kilometre from the Ash Bypass which would allow connections to both the village of Ash (approximately 1.2 kilometres away) which has a number of facilities and the wider area. However, the road connection between the site and the village of Ash, is such that occupants of the development would be reliant on a vehicle to travel in order to reach all necessary day to day facilities and services (for example secondary schools or grocery shops/supermarkets). That said, the development is contrary to DM11.
- 2.5 Policy DM15 requires that applications which result in the loss of countryside, or adversely affect the character or appearance of the countryside, will only be permitted if it meets one of the exceptions. The development would result in a limited adverse impact on the countryside (as detailed further in the report). The development would not meet any of the exceptions listed in Policy DM15. Whilst it is considered that the development would have only a limited impact on the character and appearance of the countryside (discussed in detail later in the report), this alone would be sufficient for a proposal to be considered contrary to DM15.
- 2.6 Policy DM16 states that development that would harm the character of the landscape, as identified through the process of landscape character assessment will only be permitted if it is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level. It is considered (further in this report) that the development would have only a limited impact on the character of the countryside and no significant adverse impact on the landscape. Consequently, the development would not conflict with DM16.
- 2.7 For the above reasons, the development is contrary to policies DM1, DM11 and DM15 of the Core Strategy, but would accord with DM16. It is considered that these policies are also the most important policies for determining the application.

- 2.8 The NPPF advises, at paragraph 11, that proposals that accord with an up-to-date development plan should be approved without delay. An assessment of the most important policies for the determination of the application must be undertaken to establish whether the 'basket' of these policies is, as a matter of judgement, out-of-date. Additionally, criteria for assessing whether the development plan is out-of-date are explained at footnote 7 of the NPPF. This definition includes: where the council are unable to demonstrate a five-year housing land supply; or, where the council has delivered less than 75% of the housing requirement over the previous three years (the Housing Delivery Test).
- 2.9 Having regard for the most recent Housing Technical Paper (2021), the Council are currently able to demonstrate a five-year supply. The council have delivered 80% of the required housing as measured against the housing delivery target; above the 75% figure which would trigger the tilted balance to be applied. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.
- 2.10 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver 557 dwellings per annum. As a matter of judgement, it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result of this, should carry only limited weight.
- 2.11 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The blanket approach to resist development which is outside of the settlement confines does not reflect the NPPF, albeit the NPPF aims to actively manage patterns of growth to support the promotion of sustainable transport. Given the particular characteristics of this application and this site, it is considered that the use of the site as proposed would weigh against the sustainable travel objectives of the NPPF. Whilst the blanket restriction of DM11 is in tension with the NPPF, given that the policy otherwise reflects the intension of the NPPF to promote a sustainable pattern of development, on balance, it is not considered that DM11 is out-of-date. However, the weight to be afforded to the policy, having regard to the degree of compliance with NPPF objectives in the circumstances presented by this application, is reduced.
- 2.12 Policy DM15 resists the loss of 'countryside' (i.e. the areas outside of the settlement confines) or development which would adversely affect the character or appearance of the countryside, unless one of four exceptions are met; it does not result in the loss of ecological habitats and provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character. Resisting the loss of countryside (another blanket approach) is more stringent than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development (Paragraph 174). There is some tension between this policy and the NPPF. In this instance the sites appearance within open countryside does afford a contribution to the character of

the countryside. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below.

2.13 Policy DM16 seeks to avoid development that would harm the character of the landscape, unless it is in accordance with allocations in the DPD and incorporates any necessary avoidance or mitigation measures; or it can be sited to avoid or reduce harm and/or incorporate design measures to mitigate the impacts to an acceptable level. As with Policy DM15, this policy is considered to be in some tension with the objectives of the NPPF (particularly Paragraph 174), by resisting development that would harm the character of the landscape, unless the impact can be otherwise mitigated or reduced. In this instance the sites appearance within wider landscape character does afford a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below.

2.14 The Council is in the Regulation 18 or 'consultation' phase of the draft Dover District Local Plan. This is the start of a process for developing a new local plan for the district, replacing in due course the Core Strategy and Land Allocations Local Plan. At this stage the draft is a material planning consideration for the determination of planning applications, although importantly it has little weight at this stage. As the plan progresses, it will be possible to afford greater weight to policies or otherwise, commensurate with the degree of support/objection raised in relation to them during the consultation process. A final version of the Plan will be submitted to the Planning Inspectorate for examination to determine if the Plan can progress to adoption and, if so, the degree to which final modifications will/will not be required. At the time of preparing this report therefore, policies within in the draft plan are material to the determination of the application, albeit the policies in the draft Plan have little weight at this stage and do not materially affect the assessment and recommendation.

2.15 Therefore, while it is considered that policies DM1, DM11, DM15 and DM16 are to a greater and lesser extent in tension with the NPPF (2021), for the reason above some weight can still be afforded to the specific issues they seek to address., having regard to the particular circumstances of the application and the degree of compliance with the NPPF objectives, in this context. Policy DM1 is particularly critical in determining whether the principle of the development is acceptable and is considered to be out-of-date. Having considered the Development Plan in the round, it is considered that the 'tilted' balance should be engaged and as such the application should be assessed in the context of granting planning permission unless:

- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for reusing the development proposed; or
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

An assessment of ii) will be made at the end of this report.

- 2.16 As part of this assessment, regard will be had to the 'fall-back' position afforded by the granting of prior approval DOV/19/01213 (see history section above) which granted permission for a single 4-bedroom dwelling on this site through the conversion of one of the existing agricultural buildings. This is considered to be an important material consideration to which significant weight will need to be given. If implemented, this 'fall-back' permission would allow for restrictive development that would fall within the confines of the existing agricultural building which has a curved roof. This 'replacement' new-build application is an opportunity to seek enhancements to the area by virtue of having a building that has the potential to sit more comfortably within the context of the site and the opportunity to including electric vehicle charging points, landscaping and the imposition of planning conditions that would not form part of a Prior Approval application and subsequent approval.

#### Impact on visual amenity and countryside

- 2.17 Paragraph 130 (f) of the National Planning Policy Framework sets out that 'planning decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development' The National Planning Policy Framework continues at paragraph 130 (c) setting out that 'planning decisions should ensure that developments are sympathetic to local character, including the surrounding built environment, whilst not preventing or discouraging appropriate innovation or change'.
- 2.18 The site is outside of the settlement confines and as discussed, is considered to be within the countryside and is therefore subject to Policies DM15 and DM16.
- 2.19 The application site sits within a small cluster of residential properties on Cop Street Road in Ash. Whilst there is some variety in this area of Cop Street, the properties are traditionally designed, with similar proportioned buildings set within a regular pattern. The existing site contains agricultural buildings which are no longer used, adjacent to two properties which have been converted from agricultural use to residential and a farmhouse (Upper Goldstone Farmhouse). Whilst the proposed two storey dwelling would be larger than the neighbouring buildings, when viewed in context with the cluster of residential properties, would not result in an incongruous addition to the street scene.
- 2.20 The application site is set back from the road and would retain the front wall and the existing agricultural building which fronts Cop Street Road. Due to its location to the northeast of Cop Street Road, there would be limited views of the dwelling from the wider countryside, which, in any event, would be seen within the context of the existing cluster of development. Given the agricultural barn type form of the dwelling together with the use of high-quality materials, including handmade clay tiles for the roof, then it is not considered that the property would result in a visually dominant addition within the area. Due to its location, it is also considered that the development would preserve the intrinsic character and scenic beauty of the countryside, in accordance with Policy DM15 and the objectives of Paragraph 174 of the NPPF.

- 2.21 In respect of impact on landscape character, due to the location of the site being set within a small residential area, as well as screening from the wider area provided by the trees and planting and other nearby development, then there would be no harm to the character of the landscape. The proposal is therefore considered to accord with Policy DM16.
- 2.22 For the above reasons, the development is considered to be acceptable in this location and is not visually inappropriate to its context. It is therefore considered to preserve the character and appearance of the area in accordance with paragraphs 130 of the NPPF and policies DM15 and DM16 of the local plan.

#### Residential Amenity

- 2.23 Paragraph 130 (f) of the National Planning Policy Framework sets out planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.
- 2.24 The properties on Cop Street that face the application site would be approximately 30 metres from the first-floor windows of the application property. Concern was raised that the addition of a first floor in this application, compared to the building approved under Prior Approval would result in loss of privacy to the nearby properties. However, the location of the dwelling within the plot of land would focus views towards the parking area adjacent to 6 The Row, limiting any harmful overlooking. Notwithstanding this, given the separation distance of 30 metres between the properties, it is not considered that there would be any harmful interlooming as a result of the proposals.
- 2.25 Due to the separation distance between the proposed dwellinghouse and the nearby properties there will be no overbearing impact or overshadowing in line with the aims and objectives of the NPPF (2021).
- 2.26 In terms of the amenities of the proposed occupiers, the proposed three bedroomed dwelling would meet National Space Standards (NSS) and all habitable rooms would be naturally lit. It would be provided with a private garden with space for recycling storage. One of the agricultural buildings will be retained for use as a garden shed. As details of refuse storage (including the location of bins for refuse collection) has not been submitted, it is considered appropriate to suggest a condition is imposed in this respect. Subject to this, it is considered that the living conditions of future occupiers would be acceptable and would accord with paragraph 130 of the NPPF.

#### Impact on Listed Building

- 2.27 Paragraph 199 of the NPPF (2021) requires great weight to be given to the significance of a heritage asset, when considering development proposals which may affect its setting. To the southwest of the site is Upper Goldstone Farmhouse, a Grade II Listed building. The listing description is as follows:  
*“House. Mid. C18. Painted brick and plain tiled roof. Two storeys on plinth with plat band and boxed eaves to hipped roof with central stack. Regular fenestration of 3 glazing bar sashes on first floor and 2 on ground floor with segmental heads. Central Boarded door in slate roofed gabled porch. Built soon after the division of Goldstone manor in 1754”*

- 2.28 Due to the traditional design and material finish of the proposed dwellinghouse, it is not considered that the proposed dwellinghouse would negatively impact the adjacent listed building. Furthermore, the proposed dwellinghouse is set further away from Upper Goldstone Farmhouse than the previously approved conversion, which would not have the same material finish and traditional design.
- 2.29 In addition to this, the setting of Upper Goldstone Farmhouse has changed over time, with agricultural buildings being converted to dwellinghouses. This has changed the setting from a working farm to a residential area, but still retains the significance of the listed building.
- 2.30 It is therefore considered that while the setting of the listed building has changed over time, due to its location, design and material finish, the addition of this property in this location would result in no substantial harm to the setting of the listed building and would be in line with the aims and objectives of the NPPF (2021).

#### Highway Safety

- 2.31 Policy DM13 sets out that dwellings of this size, in this location should provide 2 independently accessible off-street parking space. As this proposal includes 2 off road parking spaces, it is considered to accord with Policy DM13. Furthermore, concerns were raised regarding the additional traffic that this dwellinghouse would create onto an already busy road. As the application is for a single dwellinghouse, with 3no. bedrooms, it is not considered that the addition of a property in this location would create unacceptable additional pressure to the Cop Street Road or other nearby road networks.

#### Impact on Drainage

- 2.32 The application form states that surface water would be disposed of to a sustainable drainage system. Southern Water advise that further details should be submitted in respect of sustainable drainage systems, although raise no objection. Subject to the imposition of a condition requiring further details to be submitted in respect of the proposed surface water drainage, in order to reduce the impact of the development on flooding and manage run-off flow rates, the development is considered acceptable in this regard.

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

- 2.33 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay. Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in-combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.34 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 dogwalking, of the species which led to the designation of the sites and the integrity of the sites themselves. The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.

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

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

### **3 Conclusion**

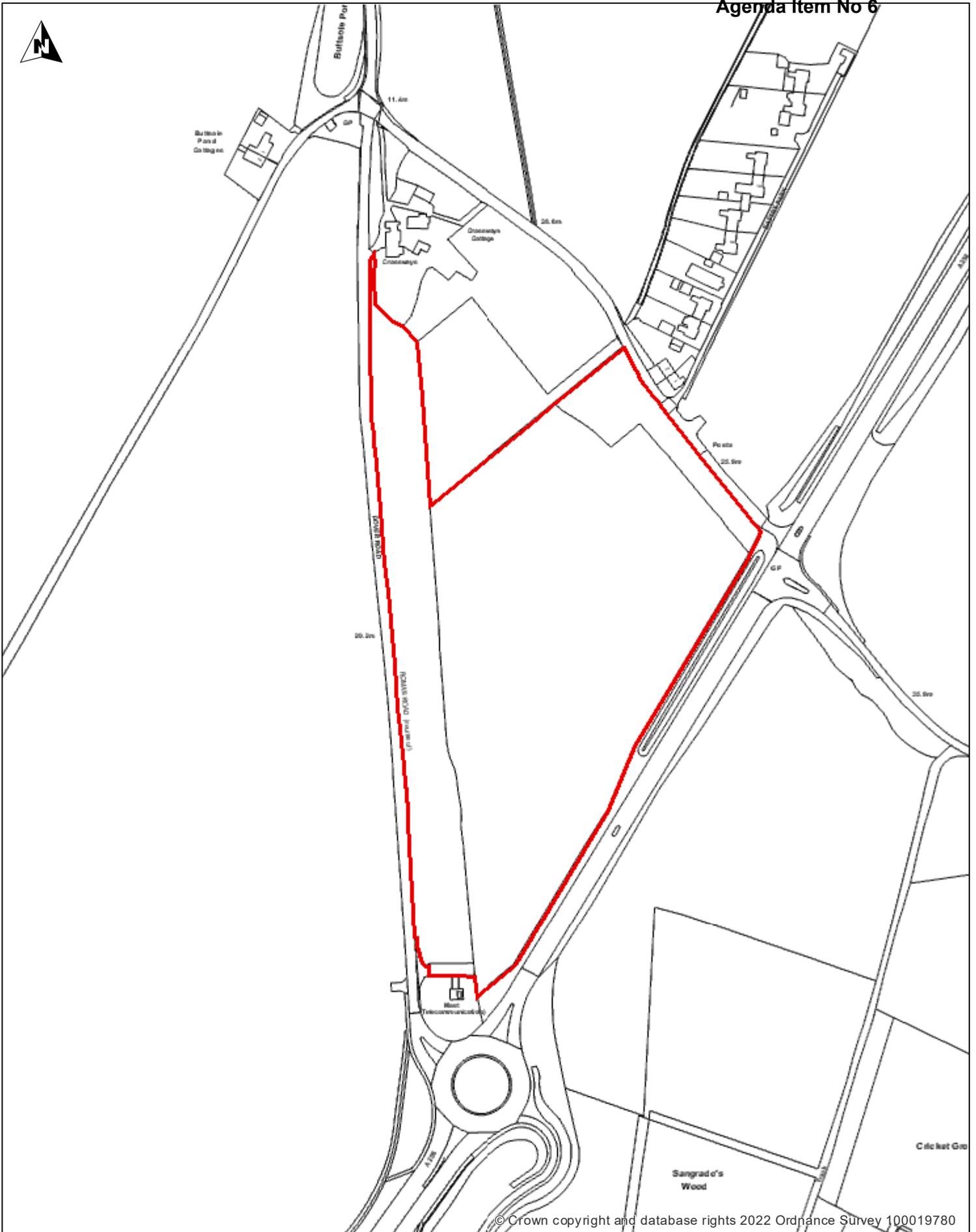
- 3.1 Significant weight is applied to the requirements of the Development Plan and NPPF policies and the materiality of the recent decision (June 2020) that amounts to a 'fall-back' position. It is also acknowledged that the 'tilted balance' approach under paragraph 11 of the NPPF should be applied.
- 3.2 To be weighed in the planning balance are the benefits of the provision of new housing against the harm arising from the development and specifically the conflict with the development plan, travel impacts and the limited harm to the character and appearance of the area.
- 3.3 As set out in the report, it is considered that many of these impacts would be more than comparable to the extant permission for a single dwelling on the site, in fact there would be enhancements to the site if permission was granted including having a dwelling that is of a traditional form, utilising high quality materials and with the opportunity for landscaping..
- 3.4 The scheme would provide an additional dwelling which would be a modest public social benefit. There would be economic benefits in the form of construction jobs as well as the benefits of additional residents to Ash and support for local facilities and services. However, these benefits would be small given that they relate to a single dwelling.
- 3.5 The proposed design, appearance and layout of the development, are sympathetic to the local character of the surrounding area, and there would be limited harm to the environmental objectives linked to the character and appearance of the countryside.
- 3.6 Set against the requirements of the 'tilted balance', it is not considered the proposal would undermine any key aspects of policy in the NPPF and taking into account the availability of the fall-back position, any adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework and taken as a whole. In the circumstances

of this case, it is considered that planning permission should be granted subject to the conditions specified below.

3.7 **g) RECOMMENDATION**

- I Planning permission be GRANTED, subject to the imposition of the following conditions:
  - (1) 3-year time limit for commencement
  - (2) Compliance with the approved plans
  - (3) Samples of materials
  - (4) Removal of existing barn
  - (5) Disposal of foul sewage details
  - (6) Drainage details
  - (7) Removal of PD rights
  - (8) Building to be incidental to main dwelling
  - (9) Landscaping scheme
  - (10) Rooflights condition
  - (11) External lighting shall be motion activated
  - (12) Refuse and recycling storage
  - (13) Provision and retention of parking spaces
  - (14) EV charging points
  
- II Powers be delegated to the Head of Planning and Development to settle any necessary issues in line with the matters set out in the recommendation and as resolved by planning committee.

Case Officer  
Amber Tonkin



22/00044

Land South Of Crossways And East Of Dover Road

Eastry

CT13 0JN

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/22/00044 – Change of Use of land for dog walking, erection of 1.8m fence for the formation of enclosure and parking for 2no. cars.**

**Land South of Crossways and East of Dover Road, Eastry, CT13 0JN**

**Reason for Report:** Number of contrary views (11)

- b) **Summary of Recommendation**

Planning Permission be REFUSED

- c) **Planning Policy and Guidance**

Dover District Core Strategy (2010)

DM1, DM11, DM13, DM15, DM16

Regulation 18 draft Dover District Local Plan

The consultation draft of the Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process (early), 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 (2021) (NPPF)

Paragraphs 2, 7, 8, 11, 84, 85, 110, 111, 130, 179,180, 189-208

Kent Design Guide

National Design Guide

Section 72(1) of Planning (Listed Buildings and Conservation Area) Act 1990

- d) **Relevant Planning History**

No relevant planning history

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

Eastry Parish Council– No objections to this application

Historic England – *Historic England has significant concerns over the impact to the archaeology of the proposal. However, it is not currently possible to provide comment on this application as the submitted documents do not adequately address the impact to the historic environment, both physical impact to below-ground remains and also the setting of the scheduled monument.* Further explained below.

Heritage Team – Concerns raised regarding lack of information about the depth of archaeology and the impact of the depth of proposed fence posts upon this. Acknowledged that the planning application could be determined in isolation to the Scheduled Monument Consent.

Natural England – *The consultation documents indicate that this development includes an area of priority habitat, as listed on Section 41 of the Natural Environmental and Rural Communities (NERC) Act 2006.*

Kent Wildlife Trust – No comments received.

Kent Highways – *The application proposes utilising an existing agricultural access.. Given that there will be a slight increase in vehicle movements for the site, visibility splays will need to be demonstrated on a scale plan. Visibility splays of 2.4 x 43m will be sufficient given the proximity to the bend in the road on the approach to the roundabout with the A257. These splays must have no obstruction over 0.6m, and the splays must only fall over land that falls under the control of the applicant or KCC as the local highway authority.*

*The applicant has submitted drawings which show a gated entrance into the dog walking enclosure but has not specified if the existing gated entrance will remain. It is a requirement that the entrance is a minimum of 4.1m in width to allow for 2 cars to pass. Currently there is a single track entrance into the site which will need to be widened for the first 6m from the edge of the highway. This is to ensure there will be no conflict with vehicles exiting and entering the site, mitigating stationary vehicles on Dover Road.*

Environmental Health – *The proposed site is a considerable distance to nearby houses and while barking is likely with its use, it is likely that the sound level of barking would be below any guidance levels for disturbance. That said, I am not suggesting that disturbance could not be caused especially when background levels from the nearby A256 reduce and certainly given the low sound background level in a rural setting.*

*One concern is the use may continue outside of the times stipulated or that the area may be used by more dogs than identified in the application. With this in mind I request that the times of operation offered are conditioned. The description of summer is too open in my view and we also object to the 20:00pm use as this moves into the evening period where disturbance in my view is more likely. We are happy to agree to times of 08:00am until 18:00pm Monday to Saturday and 09:00am until 17:00pm Sundays and Bank Holidays. A later start on a Sunday could give nearby residents more opportunity for peaceful enjoyment.*

*In terms of the amount of dogs, we note that the applicant mentions 12 with general use later in the day. We request that the amount of dogs using the area at any one time is limited to 12 but are happy to agree a small increase to allow for slight expansion. I feel that the control of the amount of dogs at the site will be key to both noise control but also the control of accumulations of dog faeces at the site.*

Environment Agency – No comments to make.

KCC Ecology – *No ecological information has been submitted with this application. As a result of reviewing the data we have available to us (including aerial photos and biological records) and the information submitted with the planning application, we advise that further information is sought with regards to the potential for ecological impacts to arise as a result of the proposed development.*

*Habitats and features, including priority habitat deciduous woodland are present on and around the site, indicating ecological value and the potential for protected species presence that must be taken account of in the planning decision. It is also assumed that the grassland would require a change in management to facilitate the dog walking area (such as more intensive management). Therefore, there is a potential that if the grassland holds intrinsic biodiversity value that this would be lost as a result of the proposed development. Therefore, we would expect an assessment of the grassland*

*alongside any proposed changes in management and the impact that this would have on any grassland.*

*As such, a preliminary ecological appraisal (PEA) must be undertaken by a suitably qualified ecologist, in accordance with good practice guidelines - the PEA will assess the habitats and features within and around the site and identify if there is a need for further ecological surveys to assess ecological value and/or confirm protected species presence/likely absence.*

*To ensure that the planning determination is adequately informed in respect of all potential ecological impacts, we advise that the PEA report, OR, if further surveys are required, an Ecological Impact Assessment (EclA) report, detailing all surveys and outcomes, must be sought as part of the planning application. This is in accordance with paragraph 99 of ODPM 06/2005 which states: "it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision". An EclA is a process of identifying, quantifying and evaluating the potential effects of development on habitats, species and ecosystems, so providing all ecological survey information alongside any necessary avoidance, mitigation and compensation proposals within one document.*

*One of the principles of the National Planning Policy Framework is that "opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity". We advise that Dover City Council should seek to ensure that ecological enhancement measures are delivered within the proposals, with the applicant's ecological advisor providing site-appropriate recommendations in the submitted ecological reports."*

*County Archaeologist – The site includes the area of a large early medieval cemetery which is a Scheduled Ancient Monument. A part of the 'Updown' cemetery has been archaeologically excavated but the proposed fence posts would potentially impact on parts of the scheduled area where graves and other below-ground archaeological remains may exist. This issue of archaeological interest and impacts is in part recognised in the submitted Heritage Statement. However, it is not possible at this stage to understand in sufficient detail what impact the proposals would have and a more detailed assessment of the site and likely impacts is needed. This information will be needed by Historic England to consider any application for Scheduled Monument Consent.*

*The planning application should be paused or refused until further detailed assessment is undertaken.*

*The Kent Historic Environment Record includes a copy of the 1989 excavation report for the Eastry bypass and this information along with information from 1976 (if it can be located) and any other relevant information will need to be used to inform an assessment of the site and likely impacts. The applicant will need to engage a professional archaeologist to undertake this work. Whilst it is up to the applicant to decide who they wish to employ it would probably be sensible for them to contact the Canterbury Archaeological Trust to act on their behalf in this case.*

*East Kent Public Rights of Way – No comments to make*

*Rural Property Consultant – The proposed change of use would not appear to preclude a reversion to agricultural use at some future date, if so required. Consequently, it is not considered that the current proposal would result in significant, permanent loss of agricultural land.*

Third Party Representations - A total of 11 individuals have commented in support of the proposal. Comments referred to the proposal being an excellent idea for the area where such a facility is not currently available. The area would be useful for nervous dogs and training purposes and would allow nervous dogs to run free in a safe area away from traffic, and if needed away from other dogs.

## **1 The Site and Proposal**

- 1.1 The application relates to a field located to the northeast of Dover Road, Eastry and lies outside of the settlement confines. The field is accessed by a private entrance off Dover Road, 60 metres from the Eastry Roundabout on the A256. The field is flat with planting to all boundaries. The field is bounded by 1 and 2 Eastry Place located to the northwest and Crossways and Crossways Cottage to the north. The residential dwellings are separated from the field by dense woodland.
- 1.2 The application is for the change of use of the field to be an enclosed area for dog walking. The proposal includes the erection of a 1.8 metre fence and gates at the access point to the south of the site to contain part of the site for the dog walking.
- 1.3 No buildings are proposed in connection with the use and no indication has been given that any light or structures/ training obstacles would be installed. The applicant has stated that the enclosed field will be used by Liberty Pet Services in the mornings for the exercising of up to 12 dogs which would be collected in a van by staff members. In the afternoons the field would be available for private hire in one hour time slots. Users of the field would be given a code for the gate and parking would be provided using parking mesh close to the entrance to the site. During the hours of private hire, which would be between 8am and 5pm in winter months, and between 8am and 8pm in summer months, a maximum of two vehicles would be able to access the site at any one time. All waste will be removed by users of the site.

## **2 Main issues**

- 2.1 The main issues for consideration are considered to be:
  - The principle of the development
  - Impact on visual amenity
  - Impact on ecology
  - Impact on scheduled monument and archaeology
  - Residential amenity
  - Highway Safety

### **Assessment**

#### **The principle of the development**

- 2.2 The site is located outside of the settlement confines where development would usually be resisted unless it can be justified by other development plan policies, functionally requires such a location or is ancillary to existing uses. The dog walking field would require a rural and more remote location, away from other uses and

residential properties due to the extent of the land required and the nature of the proposed use relating to potential noise and disturbance. Furthermore, Paragraph 84 supports rural businesses, providing they are sustainable and respect the character of the countryside. Therefore, the principle of the proposed use and the scale of the proposed activity is considered to be acceptable in this instance in this location, subject to further material considerations.

#### Impact on visual amenity

- 2.3 The NPPF states that planning decisions should ‘recognise the intrinsic character and beauty of the countryside’ (Paragraph 174) ensure that developments ‘will function well and add to the overall quality of the area’, be ‘visually attractive as a result of good architecture, layout and appropriate and effective landscaping’, be ‘sympathetic to local character and history’ and ‘establish or maintain a strong sense of place’ (paragraph 130).
- 2.4 The application site is located outside of the confines of Eastry and is considered to be in the countryside and is therefore subject to Policies DM15 and DM16. DM15 resists the loss of ‘countryside’ (i.e. the areas outside of the settlement confines) or development which would adversely affect the character or appearance of the countryside, unless one of four exceptions are met. This is provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character. The proposals would result in minimal visual changes within the plot of land, with 1.8 metres high fencing to contain the dogs using the space. There will also be a parking area for two cars using reinforced grass mats. These changes would be largely screened from the wider area due to the planting around the field. It is therefore not considered that the proposals would result in any harm to the visual amenity of the street scene or wider area in accordance with DM15.
- 2.5 In respect of the impact on the wider landscape, due to the containment of the site and the limited development on the land, it is considered that the proposal would not result in harm to the character of the wider landscape area, in accordance with DM16.
- 2.5 For the above reasons, the development is considered to be acceptable in this location and would preserve the intrinsic character and scenic beauty of the countryside in accordance with paragraph 174 of the NPPF (2021) and Policies DM15 and DM16.

#### Impact on Ecology

- 2.7 Paragraph 174 (a) of the NPPF (2021) states that “Planning policies and decisions should contribute to and enhance the natural and local environment by: protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).
- 2.8 KCC Ecology are of the view that due to the habitats and features of the site there is the potential for protected species to be present on the site together with the potential for the loss of grassland of biodiversity value. As a consequence, they have requested a Preliminary Ecological Appraisal to be undertaken prior to the application being determined. This might conclude that further survey work is

required to inform any consideration of the impacts of the proposed development on the natural and local environment. Whilst requested this information has not been submitted as part of the planning application. In the absence of this information, it is considered that the proposals would result in harm to protected species and land of biodiversity value. and would be contrary to Paragraph 174 of the NPPF (2021).

#### Impact on scheduled monument and archaeology

- 2.9 Paragraphs 201 and 202 require 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. Regard must also be had for Section 72(1) of Planning (Listed Buildings and Conservation Area) Act 1990 which states that, 'In the exercise, with respect to any building or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Furthermore, Paragraph 194 states that local planning authorities (LPA) *should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.*
- 2.10 Historic England has advised that they have significant concerns about the impact of the development upon matters of archaeological importance and they continue to say that they are unable to comment further as the application does not adequately address the impact to the historic environment, both physical impact to below-ground remains and also the setting of the schedule monument.

The proposals impact upon the scheduled monument of Large cemetery north of Sangrado's Wood (list entry number 1004211). This designation means that it has been recognised a nationally important archaeological monument by the Scheduled Monuments Act 1979 and there should be careful management of any development there. The need for Scheduled Monument Consent (SMC) is therefore required from Historic England in addition to planning permission.

The cemetery includes the archaeology of an early medieval inhumation cemetery containing several densely populated east-west aligned burials, and associated ring ditches and pits. The proposal includes fencing to be constructed through the centre of the cemetery and along the extents of it, all within the scheduled monument. The fencing would be dug 1.2 metres into the ground for corner posts and 0.6 metres every 3 metres across the site.

- 2.10 While a Heritage Statement was submitted with the application, which stated that "the installation of the fence posts will not have any harmful impact on the ancient monument as the driven fence posts will be above any buried remains." There is no evidence for this claim. Historic England raised concerns regarding the preservation of burial sites, but also the long-term use of the site and how any

activity could impact the setting of the ancient monument. Furthermore, concerns were raised by Historic England that the addition of a fence in this location would divide an open monument with modern fencing, removing its' openness and wholeness, resulting in significant harm to the setting of the monument.

- 2.11 Historic England recommended the applicant engage with an archaeological consultant to prepare additional information to be submitted as part of the application to enable the significance of the site to be fully understood. This has not been provided.
- 2.12 Therefore, in the absence of information to the contrary, the proposed erection of a fence on the application site would result in substantial harm to the below ground archaeology and the setting of the monument and would be contrary to Paragraphs 194, 199 and 202 of the NPPF (2021). There would be no substantial public benefit from the development to outweigh the harm identified.

#### Residential Amenity

- 2.13 Due to the nature of the proposals there would be no overlooking, overbearing impact or loss of privacy as a result of the change of use, or fence installation.
- 2.14 Environmental Health initially raised concerns regarding potential noise disturbance from the site, but after a site visit were satisfied that the distance between the residential dwellings and the area proposed for dog walking was sufficient to prevent an unacceptable level of noise. A condition was requested to limit the operational hours to be different from those set out in the application form.
- 2.15 As such it is considered that there would no harm to the residential amenity of nearby properties and the proposals would accord with Paragraph 130 of the NPPF (2021).

#### Highway Safety

- 2.16 Kent Highways requested further information to be submitted regarding visibility splays from the site given the proximity to the bend on the road on the approach to the roundabout, and also that the entrance to the site would need to be widened to allow 2 cars to pass and prevent any conflict with vehicles existing and entering the site. This information was requested from the applicant and was not provided. In the absence of this information, it is considered that the proposals may result in harm to highway safety. This would be contrary to Paragraphs 110 and 111 of the NPPF (2021).

### **3 Conclusion**

- 3.1 Due to the nature of the proposals, they would not result in harm to the visual amenity of the area or negatively impact the residential amenity of neighbouring properties. However, in the absence of requested information the proposals may result in harm to an ancient monument and its setting. Furthermore, as no information was submitted regarding the ecological impact of the proposals, it is considered that there may be harm as a result of the change of use. Lastly, requested information was not received to demonstrate that users of the site could safely enter and exit without resulting in harm to Highway safety. Consequently, due to lack of sufficient information, the proposals would conflict with the overarching

aims and objectives of the NPPF and it is recommended that planning permission should be refused.

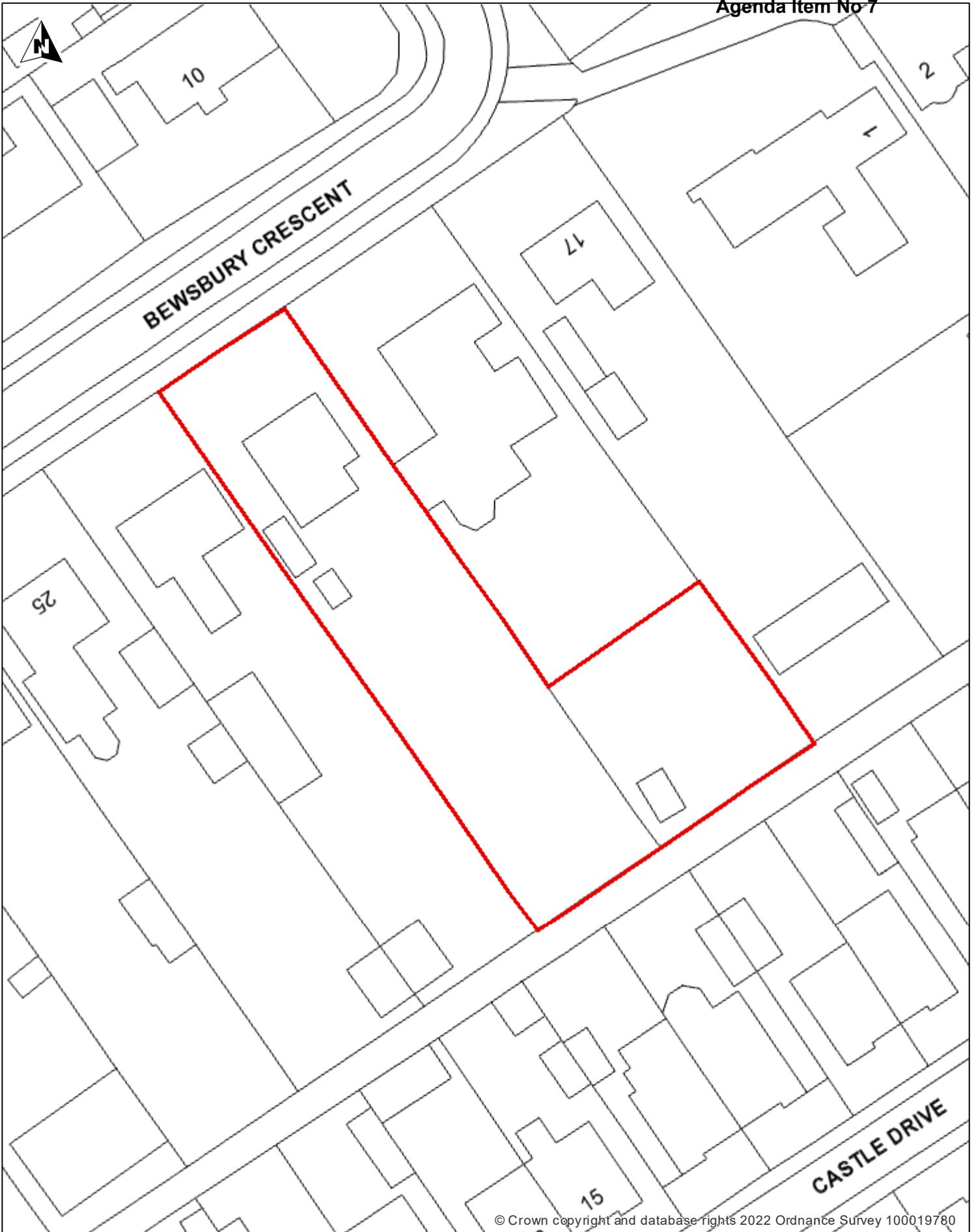
**g) RECOMMENDATION**

I Planning permission be REFUSED for the following reasons:

1. Insufficient information has been submitted to allow a full assessment to be made of the implications of the development on below ground archaeology and the setting of a scheduled monument and would therefore be contrary to Paragraphs 194-208 of the NPPF (2021).
2. Insufficient information has been submitted to allow a full assessment to be made of the implications of the development on the ecology and wildlife within the site and the ecological and nature conservation value of the site. The proposal is thus contrary to Paragraph 174 of the NPPF (2021).
3. Insufficient information has been submitted to allow a full assessment to be made of the implications of the development on Highway safety and would therefore be contrary to Paragraphs 110 and 111 of the NPPF (2021).

II Powers be delegated to the Head of Planning and Development to settle any necessary issues in line with the matters set out in the recommendation and as resolved by planning committee.

Case Officer  
Amber Tonkin



21/01903

Site Rear Of 19 & 21 Bewsbury Crescent  
Whitfield  
CT16 3EU

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/21/01903 – Erection of detached dwelling, driveway with associated parking, alterations to existing driveway and blocking up of windows to side elevation of number 21 and erection of 1.8m high fencing (existing garage and shed to be demolished)**

**Site Rear Of 19 And 21 Bewsbury Crescent, Whitfield**

Reason for report – Number of contrary views (19 + Whitfield Parish Council)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010)

CP1 – Settlement Hierarchy

DM1 – Settlement Boundaries

DM11 – Location of Development and Managing Travel Demand

DM13 – Parking Provision

National Planning Policy Framework (NPPF) (2021)

Paragraphs 2, 7, 8, 11, 110-112, 124, 130, 167, 174, 180

National Planning Practice Guidance

National Design Guide (2021)

National Model Design Code (2021)

Kent Design Guide (2005)

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

SPG4 Kent Vehicle Parking Standards

Draft 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.

- d) **Relevant Planning History**

Various applications including:

DOV/14/00388 – Erection of three detached dwelling, creation of parking and provision of replacement parking and new vehicular access for no. 21 (existing garage at no.21 to be demolished) – Refused – Appeal Dismissed

DOV/14/00726 – Outline application for the erection of two detached single storey

dwellings, creation of parking and provision of replacement parking and new vehicular access for no.21, (existing garage to no.21 to be demolished) – Refused – Appeal Dismissed

DOV/15/01065 – Erection of two single storey bungalows – Refused – Appeal Dismissed

DOV/16/00909 – Erection of two single storey bungalows, construction of a vehicular access and parking – Refused – Appeal Dismissed

DOV/21/00664 – Erection of detached dwelling, driveway with associated parking. Creation of 2no. parking bay and blocking up of existing windows to side elevation of number 21 (existing garage and shed to be demolished) (trees and hedges to be removed) - Refused

e) **Consultee and Third Party Responses**

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

Whitfield Parish Council – continue to object to this application. This is a back garden development to which WPC are strongly opposed. The proposed access will affect the neighbouring property and cause additional traffic problems in the crescent

KCC Public Rights of Way and Access Service – have no comments to make.

Environmental Health – Environmental Protection would have no significant comments as long as the site is constructed as per the drawings supplied. They may wish to provide details of the fencing but this could be done at consultation stage. We would want to ensure that the fencing was reputable and of complete design. We would also want to ensure that the fencing (especially around the driveway access) was maintained for the life of the development.

KCC Highways and Transportation –it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If there are any material highway safety concerns that you consider should be brought to the attention of the HA, then please contact us again with your specific concerns for our consideration. (An informative is suggested)

Southern Water – requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. 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. (To be included as an informative should permission be granted)

Kent Fire and Rescue Service - It appears from the proposed block drawing number 1623/02 that the driveway to the proposed development is narrow and would not give the required access for a fire appliance. In the event of an emergency, there

would be an extended hose laying distance from a suitably parked fire appliance on Bewsbury Crescent to the furthest point of the development. Applicants should be aware that in the event of planning permission being granted the Fire and Rescue Service would require emergency access, as required under the Building Regulations 2010, to be established. Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service. (To be included as an informative should permission be granted)

#### Public Representations:

19 members of the public have written in objection to the proposals (as of 9<sup>th</sup> June 2022) and 20 members of the public have written in support. The representations are available to view in full on the online planning file and material considerations are summarised below. Matters such as low of view, impact on an individuals' property value, applicants' personal circumstances are non-material considerations and are not included below.

#### Objection

- Number of applications submitted at site and previous appeals – duplication of previous (little different to 21/00664). Reference made to reason for refusal for 14/00726 (overintensive form of development disrupting linear pattern of development) and previous refusals and appeals at the site
- Character/appearance – back garden development. Concerns regarding space for proposed boundary fence and hedgerow either side. Parking to front of No. 21 would be visually jarring and not in keeping with design along the Crescent. Proposed fencing is industrial grade, imposing and not in keeping with visual amenity of surrounding homes, high, would kill hedge as no light. Crowding and overbearing impact on surrounding properties. Would be very close to rear boundary. Current openness of area, with numerous trees and bushes will be replaced by over intensive concentration of buildings.
- Residential amenity - impact on enjoyment of neighbouring residents and their gardens. Loss of privacy. Would overlook neighbouring gardens and caravan rear of No. 17 (looking into bedroom) and rear windows of Castle Drive.
- Noise & disturbance – Concerns regarding building noise and traffic from development in area (impact on residential amenity to neighbouring bedrooms, patio and garden) and car noise from development. Discrepancies within application. Noise levels in report are predicted and concerns regarding location of monitoring device (on opposite side of no. 21 to proposed access drive), monitoring times and results. Suggest access relocated between Nos. 19 and 21
- Emergency services – concerns regarding adequate access for fire emergency services to houses rear of houses.

- Traffic/parking/access – concerns regarding increased traffic volumes using Singledge Lane and road safety. Concerns regarding residents of Bewsbury Crescent parking on the road rather than driveways. Concerns that narrower access proposed than previous refused applications (access is 3m wide, not 4m as stated by supporter) and maintenance required for sufficient access
- Impact on wildlife/open space – building on rear gardens will reduce habitats for local wildlife within village. Another two gardens lost to construction.
- Loss and damage of trees – will result in saplings replacing them
- Concerns regarding damage/damp to neighbouring property as a result of proposed boundary fencing (cutting off natural light and air circulation due to proximity)
- Would set precedent - concerns it could result in new row of houses between Bewsbury Crescent and Castle Drive with bridlepath as road (concerns regarding notification of application at Castle Drive) and encourage other applications. Precedent not already set as 3 back garden developments have been granted which are not similar to this application (have access routed using driveway next to driveway)
- Whitfield Parish Council Annual Report stated “we are concerned about ‘back garden’ development; this increases housing density and puts pressure on existing services”. Parish Council objected to 15/01065 at this location.
- Need – no need for small projects of this nature with expansion of Whitfield
- Concerns in respect of flooding (and surface water at neighbouring property)
- Supporting information – four photographs submitted are not similar to proposals; are examples of driveways next to driveways, not driveways next to flank walls.
- Concerns regarding comments in support from residents outside of Bewsbury Crescent or Castle Drive, using similar wording
- Concerns regarding amendments to plans and time to determine application. Change to acoustic fencing which will not make any difference to noise. Concerns regarding effective maintenance of acoustic fences and hedges and whether action would be taken to enforce maintenance (concerns there was no notification of changes) – same as previous application 21/00664 and reasons for refusal stand. Suggestions planning department should visit site and speak with neighbours regarding their concerns

### Support

- In keeping with surrounding properties
- Proposal is for bungalow whereas all large building development in this area are of houses. Bungalows are much sought after by older couples living in houses and wishing to downsize, thus freeing their properties for use as family homes.
- Precedent already set in this area and road on at least 5/6 previous applications. Area already housing area so little impact and other homes in direct vicinity have completed similar projects

- See no reason why planning consent should not be granted – reference made to larger residential development in Whitfield
- Need for homes across the UK and particularly Kent. Need for more housing with growing population and government targets.
- Benefit to make use of existing areas where homes already are for homes to be built with least impact on green space. Sustainable solution to benefit local area and businesses.
- Minimum access for fire engines to enter a building is at least 3.7m wide to the driveway. Proposals is more than ample.
- Reference made to static home in neighbouring garden being lived in full time and has not been granted planning permission

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

- 1.1 The application site relates to two dwellings (Nos. 19 and 21) on the southeast side of Bewsbury Crescent, within the settlement confines of Whitfield. The site comprises two detached bungalows, with associated gardens, driveways, sheds and garages. To the east of No. 19 is No. 17 Bewsbury Crescent, which has a detached annexe within the rear garden of the property. To the west of No. 21 is No. 23 Bewsbury Crescent, a detached single storey bungalow. Public bridleway ER74 runs adjacent to the south eastern site boundary and to the south of this are Nos. 17, 19, 21, 23 and 25 Castle Drive, which are chalet bungalows with dormer windows on the rear roof slopes facing towards the site.
- 1.2 Bewsbury Crescent contains a mixture of bungalows, chalet bungalows and two storey dwellings, with the vast majority of properties being detached. The dwellings are generally finished in brick and/or render and there are a range of roof types and orientations. All dwellings are set back from the public highway behind either driveways or front gardens and there is a strong building line. However, a number of dwellings have been constructed in the rear gardens of properties, particularly in the eastern corner, and along the north eastern side of Bewsbury Crescent. Permission has also been sought for similar back garden development at properties along this southern section of Bewsbury Crescent (including this site – discussed further below) and permission for one detached bungalow has been granted to the rear of No. 31 Bewsbury Crescent (DOV/20/01542).
- 1.3 This application seeks permission for the erection of a detached dwelling, driveway with associated parking, alterations to the existing driveway (of No. 21) and blocking up of windows to the side elevation of No. 21 and erection of fencing (the existing garage and shed are to be demolished).
- 1.4 The proposed bungalow would be sited approximately 24m to the rear of No. 19 Bewsbury Crescent, 33m to the rear of No. 21 Bewsbury Crescent (and approximately 53m from the pavement). It would contain two bedrooms, bathrooms and an open-plan living/kitchen/dining room. The bungalow would be finished in composite cedar cladding, monocouche render and face brickwork, with fibre cement slate combination roof (tallest ridge height of 4.8m from ground level) and anthracite powder coated aluminium framed windows and doors. There would be a private garden to the rear (south), side (northeast) and front (north) and there would be a turning and parking area to the northwest of the dwelling. The existing vehicle access serving No. 21 would be retained and the driveway would be extended (the existing garage and shed demolished) to serve the proposed dwelling. New hedging

would be planted on either side of the driveway and acoustic fencing would be installed (measuring 0.9m in height between the pavement and the front of Nos. 21 and 23 and then 2m in height between these dwellings and along the lengths of their gardens.

- 1.5 A new block paved parking area (for two vehicles) and associated access would be created to the northeast of No. 21 Bewsbury Crescent, serving that property. As part of the works, the window on the flank (southwest) elevation of No. 21 (a secondary window serving a living room which has another window on the southeast elevation) would be blocked up. The existing rear gardens of Nos. 19 and 21 would be sub-divided to form the garden of the new dwelling, which would be separated by a 2m hedge.

## **2. Main Issues**

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

## **Assessment**

### Principle of Development

- 2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in the plan, unless material considerations indicate otherwise.
- 2.3 Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The site is located within the defined settlement confines and therefore accords with Policy DM1.
- 2.4 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. Again, as the site is located within the settlement confines, the development accord with Policy DM11. The occupants of the development would be able to access most day to day facilities and services within Whitfield and would be able to reach these facilities by more sustainable forms of transport, including walking and cycling. The site is located relatively close to public transport links.
- 2.5 For the above reasons, it is considered that the development accords with Policies DM1 and DM11. It is therefore concluded that the development accords with the development plan.
- 2.6 The NPPF advises, at paragraph 11, that proposals that accord with an up-to-date development plan should be approved without delay. An assessment of the most important policies for the determination of the application must be undertaken to

establish whether the 'basket' of these policies is, as a matter of judgement, out-of-date. Additionally, criteria for assessing whether the development plan is out-of-date are explained at footnote 7. This definition includes: where the council are unable to demonstrate a five-year housing land supply; or, where the council has delivered less than 75% of the housing requirement over the previous three years (as assessed by the Housing Delivery Test).

- 2.7 Having regard for the most recent Housing Delivery Test, the Council are currently able to demonstrate a five-year supply. The council have delivered 88% of the required housing as measured against the housing delivery target; above the 75% figure which would trigger the tilted balance to be applied. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.
- 2.8 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver 557 dwellings per annum. As a matter of judgement, it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result, should carry only limited weight.
- 2.9 Policy DM11 is consistent with the NPPF which seeks to focus development in locations which are or can be made sustainable, where there is access to a range of modes of transport (including walking and cycling) and where development will support existing facilities and services, and social integration. It is considered that the blanket restriction imposed under (1) of DM11 however is contrary to the NPPF, albeit the remainder of the policy broadly accords with the NPPF. It is considered that DM11 is not out-of-date and should continue to attract significant weight.
- 2.10 The Council is in the Regulation 18 or 'consultation' phase of the draft Dover District Local Plan. This is the start of a process for developing a new local plan for the district, replacing in due course the Core Strategy and Land Allocations Local Plan. At this stage the draft is a material planning consideration for the determination of planning applications, although importantly it has little weight at this stage. As the plan progresses, it will be possible to afford greater weight to policies or otherwise, commensurate with the degree of support/objection raised in relation to them during the consultation process. A final version of the Plan will be submitted to the Planning Inspectorate for examination to determine if the Plan can progress to adoption and, if so, the degree to which final modifications will/will not be required. At the time of preparing this report therefore, policies within in the draft plan are material to the determination of the application, albeit the policies in the draft Plan have little weight at this stage and do not materially affect the assessment and recommendation.
- 2.11 Consequently, it is considered that the development plan policy most important to the determination of the application (Policy DM1) is out of date and, notwithstanding the proposals' compliance with the policy, the tilted balance approach of Paragraph 11 of the NPPF is engaged.

#### Planning History of the Site

- 2.12 There is extensive planning history for the site, with previous applications for three detached dwellings, two detached single storey dwellings and two single storey bungalows having been refused and dismissed at appeal. A more recent application

for a single storey detached bungalow was also refused and these decisions are discussed below.

- 2.13 Application DOV/14/00388 sought permission for three detached (two storey) dwellings, with the proposed access to the west side of No. 21 (as currently proposed). Application DOV/14/00726 sought outline permission (all matters reserved) for two detached bungalows, also proposing to use the same access as proposed under this application. Both applications were refused and dismissed at appeal. The Inspectors Report which addressed both refusals considered the impact on the character and appearance of the area and on the living conditions of the occupiers of an adjoining dwelling, No. 21 Bewsbury Crescent, with particular regard to activity and disturbance arising from the use of the new access. The Inspector considered that “Taken together with the other tandem forms of development in the immediate area, the proposed dwellings would be in keeping with the established residential character”. However, the Inspector raised concern that the traffic movements very close to the private area of No. 23, whilst limited in number, would undoubtedly result in increased noise and disturbance close to the sitting out area and the bedroom windows of No 23 which “would not result in a good standard of amenity for existing residents” contrary to the fourth bullet point of Paragraph 17 of the Framework (2012).
- 2.14 Subsequent applications DOV/15/01065 and DOV/16/00909 (both for two detached dwellings) proposed a driveway between Nos. 19 and 21. The impact on character and appearance (in respect of the principle of tandem or backland development) was no longer raised as an issue, however permission was refused as “By reason of the intensification of the use of the access between no. 19 and 21, the proposal would result in an unacceptable impact upon the amenities of the occupiers of in particular no 21, through the introduction of vehicle movements along the side and rear of properties 19 and 21 Bewsbury Crescent and the associated activity and disturbance that would arise from these movements. The proposed development is therefore contrary to Paragraph 17 of the National Planning Policy Framework.”
- 2.15 Application DOV/21/00664 proposed a detached bungalow. Based on the previous appeal decisions, no concerns were raised in respect of the siting, scale, design or principle of the erection of a detached single storey bungalow to the rear of Nos. 19 and 21. However, the application was refused as it was considered on balance that “The extension of the driveway to the proposed dwelling would by reason of its use, the comings and goings of pedestrians and vehicles and associated levels of activity along it by the occupiers of and visitors to the proposed dwelling, harm the living conditions of the occupiers of No. 21 Bewsbury Crescent and No.23 Bewsbury Crescent, contrary to Paragraph 127 of the National Planning Policy Framework (2019) and Paragraphs C1 and H2 of the National Design Guide”.
- 2.16 The current scheme proposes a single storey detached bungalow of the same siting, scale and design as that previously considered under DOV/21/00664. However, alterations have been made to the parking arrangements for the site such that the existing access and extended driveway would now serve only the proposed bungalow, with a separate parking area provided to the front of No. 21 to serve that dwelling (resulting in a reduced number of vehicle movements at the access point and removing vehicles which would previously have been manoeuvring in close proximity to the front and side elevations of Nos. 21 and 23, compared to the previous scheme). In addition, a 2m tall acoustic fence (a fence of this height could currently be installed under permitted development rights) would be installed either side of the access in line with the flank elevations of Nos. 21 and 23 Bewsbury Crescent and running the length of the garden of No. 23 Bewsbury Crescent (the

revised plans confirm that the acoustic fence would span the full length of the boundary with No. 23 where this was previously ambiguous and hedging was relied upon to soften noise disturbance). Furthermore, the proposed site block plan clarifies that the entire driveway serving the proposed bungalow would be finished with a bound surface to minimize noise disturbance as much as possible. Whilst it is considered to be a very balanced case (as was the previous application DOV/21/00664), it is considered that the minor changes to the parking arrangements and clarification of boundary treatments now weigh in favour of the scheme, as set out further below.

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

- 2.17 The site is located within a predominantly residential area and, as discussed at paragraph 1.2, Bewsbury Crescent contains dwellings of a mix of designs, materials and heights. As such, the character of the street scene is considered to be varied. Whilst there is a strong building line along Bewsbury Crescent, as discussed above, there have been a number of applications within the Crescent to erect dwellings in the rear gardens of properties and the principle of backland development, having also had regard to previous Inspectors' decisions (set out at Paragraph 2.14) is therefore considered to be acceptable.
- 2.18 The proposals would create a single storey detached bungalow to the rear of Nos. 19 and 21 Bewsbury Crescent. The dwelling would be set well back from the highway and would be accessed via a driveway to the west side of No. 21 Bewsbury Crescent. There would be limited views of the dwelling from the public highway, with glimpsed views between the existing bungalows along this section of Bewsbury Crescent and views of the roof of the bungalow from the Public Bridleway to the rear (with a distance of approximately 4.5m between the rear elevation of the bungalow and the rear boundary fence). Notwithstanding this, due to the scale and design of the proposed dwelling, it is considered the development would be in keeping with the varied character and appearance of the area, in accordance with the objectives of Paragraph 130 of the NPPF.
- 2.19 In terms of the other external alterations proposed, concerns have been raised in representations in respect of the proposed parking area to be provided to serve No.21 Bewsbury Crescent (creating two parking spaces). However, there are numerous dwellings within Bewsbury Crescent which have parking areas to the front and it is not considered that this would be out of keeping with the character of the street scene. In addition, the height of the acoustic fencing (with hedgerow) to be installed either side of the driveway serving the proposed dwelling has been reduced in height (and re-advertised accordingly) such that it is considered this would preserve the appearance of the area.

#### Impact on Residential Amenity

- 2.20 The proposals would be visible from a number of nearby properties (including the annexe to the rear of No. 17 Bewsbury Crescent and properties on Castle Drive) and as a result, the gardens of Nos. 19 and 21 Bewsbury Crescent would be

subdivided to form the garden for the proposed dwelling. Whilst the proposed bungalow would be directly visible from a number of neighbouring dwellings and annexe, due to the siting, scale and design of the bungalow, it is not considered that the proposed development would result in an overbearing impact on neighbouring residential amenity. Furthermore, due to the scale of the building, separation distance from nearby properties and direction of the sun path, the bungalow would largely overshadow its own garden and parking area and is not considered to result in undue overshadowing or loss of light to the amenities of neighbouring residents.

- 2.21 In respect of privacy, all windows would be located at the ground floor level of the bungalow and would predominantly overlook the garden and parking area of the site, with wider views restricted by boundary planting (and a distance of approximately 22m between the rear elevation of the proposed bungalow and the dwellings of Castle Drive). Whilst there would be large sections of glazing on the northeast flank elevation (facing towards the annexe to the rear of No. 17 Bewsbury Crescent), there would be a separation distance of approximately 10m between the proposed dwelling and the boundary treatment, which would obscure the majority of views between the two buildings. On balance, it is therefore considered the proposals would sufficiently preserve the privacy of nearby residents and would be unlikely to result in unacceptable overlooking. It is however considered appropriate to suggest a condition is imposed requiring the boundary treatments indicated on the block plan to be installed prior to first occupation, in the interests of residential amenity.
- 2.22 As part of the proposals, a window on the flank (southwest) elevation of No. 21 Bewsbury Crescent would be boxed in. This is a secondary window to a living room, also served by a window on the southeast elevation (looking into a glazed conservatory). Consequently, it is considered occupants of the dwelling would experience an acceptable quality of amenity. Notwithstanding this, a condition is suggested for this window to be blocked in prior to the first occupation of the proposed bungalow (due to the vehicle movements associated with the use of the driveway by occupants of the dwelling).
- 2.23 In respect of noise and disturbance, the proposed dwelling would be accessed via a driveway adjacent to the southwest site boundary, which would span the full depth of the retained garden of No. 21 Bewsbury Crescent and the majority of the length of the garden of the neighbouring No. 23 Bewsbury Crescent. In respect of No. 21 Bewsbury Crescent, as set out above, it is proposed to infill the existing window on the flank (southwest) elevation of this bungalow. There is also a bedroom window on the front elevation of the bungalow which would be in close proximity to the proposed driveway. However, a hedgerow and 0.9m acoustic fencing would be installed to the front of this dwelling, which is considered to reduce the noise experienced by occupants of the dwelling. In addition, 2m tall acoustic fencing and hedgerow would be installed along the length of the retained garden boundary of this dwelling. Consequently, whilst having regard to the previous decisions and on balance, it is not considered that the level of disturbance associated with the vehicle movements, residents and visitors of the two bedroom dwelling would result in such

harm to warrant a reason for refusal.

- 2.24 In respect of No. 23 Bewsbury Crescent, this neighbouring bungalow has windows on the front and rear elevations which serve bedrooms, with no windows on the immediate flank (northeast) elevation. There is an approximately 1m wide pathway to the northeast side of the dwelling, separating it from the boundary hedge with the site. Hedgerow runs along the majority of this boundary (except where the existing garage – to be demolished – is located, where new hedgerow would be planted), however the hedgerow is thin in sections, affording views between the two gardens. The proposed boundary treatments are to be formed of hedgerows, with 0.9m high acoustic fencing between the pavement and in line with the front elevation of No. 23 Bewsbury Crescent, and 2m high acoustic fencing along the rest of the length of the boundary (fencing of that height could be installed under permitted development rights, not requiring planning permission). Hedgerow is proposed either side of the this and it is considered appropriate to suggest a landscaping condition is imposed which would also demonstrate how this could be installed adjacent to the fence panel in a way which would ensure roots would be sufficiently protected to enable it to establish.
- 2.25 As identified in the planning history of the site section above, permission for dwellings utilising a driveway in this location has previously been refused. These schemes were for three and then two dwellings (DOV/14/00388 and DOV/14/00726 respectively), where the traffic movements close to the private area of No. 23 Bewsbury Crescent, whilst limited in number, were considered to result in increased noise and disturbance close to the sitting out area and the bedroom windows of No 23 Bewsbury Crescent. The most recent application at the site (DOV/21/00664) also proposed a driveway in this location, serving the proposed detached bungalow (albeit the access also served the driveway of No. 21 Bewsbury Crescent). It is considered that this was a balanced decision and that whilst the number of vehicle movements associated with the dwelling would be limited, the noise and disturbance was considered sufficient to warrant refusal.
- 2.26 This revised scheme proposes a separate driveway for No. 21 Bewsbury Crescent (avoiding the need for additional vehicle turning and manoeuvring in close proximity to No. 23 Bewsbury Crescent), with confirmation that the entirety of the driveway and parking area would be a bound surface and that the extent of the boundary with No. 23 Bewsbury Crescent would feature an acoustic fence. In support of the proposal, a Noise Impact Assessment (MRL Acoustics February 2021) has been submitted (and Environmental Protection Officers have been consulted accordingly). This examines the existing background noise climate (at the rear of No. 21 Bewsbury Crescent, near the boundary with No. 19 Bewsbury Crescent) and assesses the potential for unacceptable noise levels resulting from the use of the side access road to the new development as compared to BS:8233:2014. Conclusions of the report state that noise levels will be in the region of 48dB LAeq (1 hr). This level is below daytime noise levels recommended in the above British Standard. The report recommends 1.8m high acoustic boundary fencing (the majority of the proposed acoustic fencing is 2m tall) and a bound surface driveway (proposed for the entirety of the driveway and parking area as part of the scheme).

No objection has been received from Environmental Health Officers, subject to details of the fencing and maintenance (suggested to be secured by condition). Consequently, whilst very finely balanced, it is considered that subject to the imposition of the suggested conditions, the level of noise and disturbance to neighbouring occupants from the vehicle and pedestrian movements associated with the proposed two bedroom bungalow is unlikely to result in such significant harm to warrant a reason for refusal.

- 2.27 Conditions are also suggested requiring further details of hard and soft landscaping, including all boundary treatments and driveway surfaces to be submitted. In the interests of privacy, and to prevent the creation of dormer windows within the proposed bungalow under permitted development rights, a condition is also suggested restricting permitted development rights under class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

#### Amenity of the Proposed Occupiers

- 2.28 The proposed dwelling would contain two bedrooms, with a large open plan living/kitchen/dining room with windows and doors leading out to the private garden. No details of secured bicycle storage have been shown, however a condition is suggested for these details to be submitted should permission be granted. Subject to this, it is considered the proposals would provide a good standard of amenity which would accord with Paragraph 130 of the NPPF.

#### Other Material Considerations

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

- 2.29 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.
- 2.30 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in-combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.31 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.

- 2.32 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.
- 2.33 Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.
- 2.34 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

#### Impact on Parking/Highways

- 2.35 The existing garage and shed to the southwest of No. 21 Bewsbury Crescent would be demolished and a driveway, which would be finished in a bound surface, would be installed to serve the proposed bungalow, utilising the existing access. A parking and turning area would be provided to the west of the proposed bungalow, with space to park at least two vehicles. This would accord with the parking requirements set out in Policy DM13. In addition, a new parking area would be created to the north of No. 21 Bewsbury Crescent, with new access, to provide two parking spaces for that dwelling, which is also in accordance with the requirements of Policy DM13. As part of the suggested landscaping condition, details of the finish of the surface for the driveway and parking area would be required to ensure a bound surface would be used, minimizing noise disturbance.
- 2.36 In line with The Council's emerging policy approach and with the sustainable transport objectives of the NPPF, it is suggested that should permission be granted, a condition be imposed requiring cabling to be installed to serve the spaces for the proposed bungalow, to enable the installation of vehicle charging points. A condition is also suggested requiring the proposed driveways/parking areas to be completed, surfaced and drainage measures installed (to prevent the runoff of water onto the highway).

#### Impact on Flood Risk

- 2.37 The application site is located in Flood Zone 1 which has the lowest risk from flooding. Due to the size of the site (less than 1 hectare), a flood risk assessment is not required. Furthermore, as the proposed dwelling would be located within Flood Zone 1, a sequential test is not required. Nonetheless, given the concerns raised by

third parties regarding surface water flooding in the area, a condition for details of surface water disposal to be submitted is suggested. Subject to this, the development is considered acceptable in this regard.

#### Drainage

- 2.38 Southern Water was consulted on the application and advise that a formal application for a connection to the public foul sewer would need to be made by the applicant or developer. Should permission be granted, their consultation comments will be included on the decision notice as an informative. The application form states the disposal method for foul sewage is via the mains sewer and it is not considered necessary to request further details by way of condition.

#### Wildlife/Ecology

- 2.39 The site relates to garden land which appears reasonably well maintained, is bounded by fences and, having regard to Natural England advice, is considered unlikely to provide a suitable habitat for European Protected Species.

#### Safety

- 2.40 Concerns have been raised in public representations regarding access for emergency vehicles such as fire engines. Having had regard to the comments of Kent Fire and Rescue Service, it is suggested a condition is imposed requiring a sprinkler system to be installed within the proposed bungalow.

### **3. Conclusion**

- 3.1 The application site is located within the settlement confines and the proposed erection of a detached dwelling, driveway with associated parking, alterations to the existing driveway and blocking up of the window to the side elevation of No. 21 Bewsbury Crescent is considered acceptable in principle in this location. Having regard to the recently approved backland development to the north east section of Bewsbury Crescent, and to the appeal decisions for backland development along this southern section of Bewsbury Crescent, it is considered the principle of tandem development can be considered acceptable. Due to the design, siting and scale of the proposals, it is considered the development would preserve the varied character and appearance of the street scene. Whilst the proposed driveway would result in some noise and disturbance, for the reasons discussed in this report and subject to the suggested conditions, on balance, this is not considered to result in unacceptable harm to residential amenity. Furthermore, the development is considered unlikely to result in unacceptable harm in respect of overbearing, overshadowing or harm to the privacy of nearby residents. Having regard to the tilted balance engaged by Paragraph 11 of the NPPF, for the reasons outlined above, whilst finely balanced, it is considered that the disbenefits of the application do not significantly and demonstrably outweigh the benefits of the development. Subject to the conditions suggested below, it is considered that, on balance, the

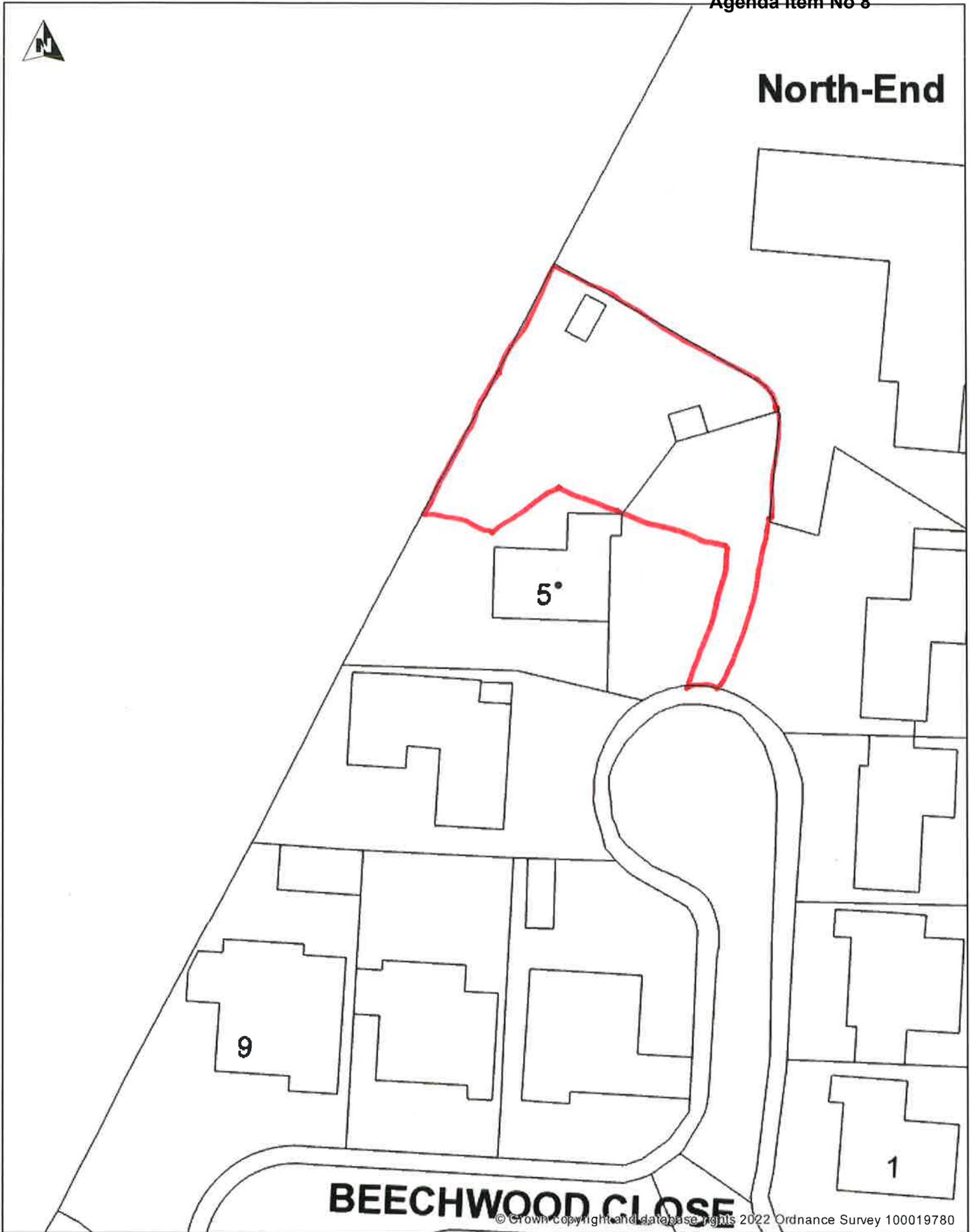
proposed development would accord with the aims and objectives of the NPPF.

**4. Recommendation**

- I PERMISSION BE GRANTED subject to conditions:  
(1) Standard time condition, (2) list of approved plans (3) samples of materials (4) details of soft and hard landscaping (including elevations showing boundary treatments and driveway/hardstanding surfaces) and schedule of planting (with details of root protection measures for the proposed boundary hedgerow due to the proximity of proposed fencing) (5) provision and retention of the parking area with drainage measures installed and completion of the dropped kerb for the new access before first use (6) details of surface water disposal (7) window on west elevation of No. 21 Bewsbury Crescent to be blocked in prior to first occupation of the new bungalow (8) cables for EV charging points (9) details of secured cycle storage (10) provision of refuse and recycling storage shown on plan (11) removal of permitted development rights for Class B of Part 1, Schedule 2 of the GPDO in respect of proposed bungalow (12) details to be submitted of a sprinkler system to be installed in the new bungalow
- II Powers to be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer:

Rachel Morgan



22/00495

Land At 5 Beechwood Close  
Whitfield  
CT16 3JZ

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



- a) **DOV/22/00495 – Erection of a detached dwelling, associated parking, shed, bin store and landscaping**

**Land at 5 Beechwood Close, Whitfield, CT16 3JZ**

Reason for report – Number of objections (7No. third party and 1No. Whitfield Parish Council)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010)(CS)

CP1 – Settlement Hierarchy

DM1 – Settlement Boundaries

DM11 – Location of Development and Managing Travel Demand

DM13 – Parking Provision

National Planning Policy Framework (NPPF) (2021)

Paragraphs 2, 7, 8, 11, 110-112, 124, 130, 167, 174, 180

National Planning Practice Guidance

National Design Guide (2021)

National Model Design Code (2021)

Kent Design Guide (2005)

SPG4 Kent Vehicle Parking Standards

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.

- d) **Relevant Planning History**

N/A

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

Southern Water – Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

Whitfield Parish Council – This is a back garden development to which we are totally opposed. The additional traffic movement within this small cul-de-sac is also of some concern. Given the increasing number of new builds within the village of Whitfield, there is no necessity for additional dwellings to be erected in back gardens”.

Additional Comments: “Whitfield Parish Council object to this application on the grounds of overdevelopment and intensification of the existing village, which should be restricted, due to the Whitfield Urban Expansion development, resulting in new build on all the greenfield areas surrounding the village. Existing residents should be protected against increasing housing density within Whitfield, the loss of the semi-rural aspect to the village resulting from building over open areas and corresponding loss of vegetation and wildlife.

Although this application is for one new dwelling and a few extra vehicle movements, if all such infill and back garden developments are allowed the cumulative effects are unacceptable.

Back garden developments are contrary to the Parish Council Planning Policy and the Parish Council support neighbours objections on the grounds of it being a loss of their amenity and out of character to the area, overbearing and a loss of privacy.

#### Public Representations:

7no. members of the public have objected to the proposals and the material considerations are summarised below. Matters such as impact on an individuals' property value, financial intentions of the applicant etc. are non-material considerations and are not included below.

- The dwelling would look out of place in the close as all surrounding properties are bungalows and the dwelling is two storey.
- The proposed development would result in overlooking and a loss of privacy.
- Concern regarding disruption and traffic during construction works.
- Parking can be problematic in the close and the proposed dwelling would add to the problem.
- The proposed dwelling would need to utilise the privately owned driveway. Have access rights been granted? Proposal would be detrimental to the already poor condition of this driveway.
- There are a significant number of houses allocated in Whitfield, there is no need for this single dwelling.
- The proposed wind turbine would result in noise and disturbance.

15no. members of the public support the proposals and the material considerations are summarised below.

- See no reason not to allow the development.

- Proposal will have sufficient parking provision and would not adversely affect the public road.
- There is more than enough room for service/emergency vehicles.
- The proposal would be a discreet and appropriate infill.
- The proposal would constitute sustainable development.
- The proposal would support an existing elderly resident.
- In favour of the eco approach to development.
- The proposal is unobtrusive.
- Village already benefits from various types of properties
- Provide suitable living space without need for more building in the countryside

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

- 1.1 The application site forms part of the existing garden to 5 Beechwood Close and lies within the settlement confines of Whitfield. Existing residential development is located to the south and east, with Sandwich Road beyond to the east. The existing dwelling, 5 Beechwood Close, to the south is a single storey bungalow, forming part of a cul-de-sac of properties constructed at the same time, of regular forms and designs, in a light coloured brick. North End to the north east, in the ownership of the applicant, is a much larger single storey property of an alternative form and design to these regular bungalows, constructed of red brick, and extended over the years. The Whitfield Urban Expansion (WUE) Area (covered by Core Strategy Policy CP11) bounds the remainder of the site to the west, although this is not yet the subject of a detailed planning application and development may not take place on this land for a number of years.
- 1.2 The application proposes the erection of a single detached dwelling to the north of the existing dwelling and involves the subdivision of the existing plot into 2No. moderate plots. The proposed dwelling will be orientated at an angle, facing the access drive to this part of the cul-de-sac, with a large area of hardstanding to provide off-street parking to its frontage, adjoining and accessed via the existing drive to 5 Beechwood Close. The dwelling will be provided with a moderately sized side and rear garden containing a cycle shed, refuse storage and domestic wind turbine, predominantly laid to lawn with some soft landscaping. The existing dwelling will retain its rear garden and generous side/front garden.
- 1.3 The application originally proposed the erection of a 3 bed, 1.5 storey chalet style detached dwelling, set under a barn half hipped roof with rear dormers and rooflights to the front roofslope to serve the first-floor accommodation. Following concerns raised by officers about the scale and massing of the original dwelling and how this would fit within the context of the site, the application has been amended, now proposing the erection of a 2 bed single storey bungalow set under a shallow gabled pitched roof, to address officers concerns regarding the incompatibility of a two-storey dwelling within this cul-de-sac of bungalows. The amended bungalow incorporates a gabled porch canopy and 2No. bay windows to its front elevation, with a single storey lean to projection to its southwest side elevation and chimney to the northeast. Material palette would comprise brick elevations, grey slate roof and anthracite grey upvc windows and doors

- 1.4 In support of the application, the applicant says that the proposed development is necessary for the future. They are a local resident who has lived in the area for over 40 years and would like to continue to do so.

## **2. Main Issues**

- 2.1 The main issues for consideration are:
- The principle of the development
  - Impact on the Street Scene, Countryside and Landscape
  - Impact on Residential Amenity
  - Highway Safety

### **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 the plan, unless material considerations indicate otherwise.
- 2.3 The application site falls within the settlement confines of Whitfield and therefore under Policies CP1 and DM1, the erection of a dwelling within the settlement boundaries is acceptable in principle, subject to material considerations.
- 2.4 In March 2017 DDC Cabinet agreed to commence the review of the preparation of a single local plan. The decision to review is an acknowledgement that in some cases the evidence base is out of date. It is also recognised that some of the detailed policies applicable to the assessment of this particular application (including Policies CP1 and DM1) are to various degrees, now considered inconsistent with aspects of the NPPF, which has engaged the titled balance as set out in paragraph 11 of the NPPF. That does not mean however that these policies automatically have no or limited weight. They remain part of the Development Plan and must therefore be the starting point for the determination of the application. Furthermore, whilst the overall objective of a policy might be held out-of-date, greater weight can nevertheless still be applied to it depending on the nature/location of the proposal in question and the degree to which the policy adheres to and is consistent with the policy approach in the NPPF.
- 2.5 With regard to this particular application, the focus of the NPPF is to locate new housing development within suitably sustainable locations. The proposed development is within the defined settlement confines, and the occupants of the dwelling would be able to access most day to day services and facilities in Whitfield, many of which by more sustainable forms of transport, including walking and cycling. The site is also located in relative close proximity to several bus stops. As such, the proposed development is compatible with the

overall principles of the NPPF and accords with Policies CP1 and DM1 of the Core Strategy and would therefore be acceptable in principle, subject to the consideration of all other material planning considerations.

### Character and Appearance

- 2.6 The application site is located within the settlement boundary of Whitfield. Paragraph 130 (f) of the NPPF sets out that 'planning decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development' The NPPF continues at paragraph 130 (c) setting out that 'planning decisions should ensure that developments are sympathetic to local character, including the surrounding built environment, whilst not preventing or discouraging appropriate innovation or change'.
- 2.7 Beechwood Close is characterised by street frontage mid 20<sup>th</sup> century detached bungalows set under shallow gabled pitched roofs with a large degree of regularity to their form and designs, set within moderate, regular sized plots. The application site is located towards the end of the close and is accessed via what appears to be a private drive. To the north of the application site is a larger, detached bungalow, North End, which comprises an alternative design and form to the regular bungalows which make up the remainder of the close. This bungalow is bounded by a relatively high boundary wall and gates, in contrast to the open frontages of the remainder of the close.
- 2.8 The existing dwelling is sited on a larger plot than the majority of bungalows within this close, and the proposed subdivided plots would form 2No. moderate plots of a suitably comparable size and shape to the surrounding regular plots. The proposed dwelling is a comparable footprint to the surrounding regular bungalows and would be orientated to face the access road, which is considered to respond to the arrangement and orientation of the adjacent bungalows in this part of the close, maintaining a street frontage. Both dwellings would be provided with sufficient external amenity space, with the existing dwelling retaining its generous front and side garden, and a modest area of rear garden.
- 2.9 The proposed dwelling will be provided with a large frontage, which will contain small areas of landscaping and hardsurfacing to provide off street parking, and a moderately sized rear and side garden. Whilst a large degree of hardstanding is proposed, hardstanding is a common feature to frontages in the locality, and the proposed dwelling will be sited behind the soft landscaped frontage of 5 Beechwood Close, adjoining the existing driveway and access road which will limit the impact of this element and appear as an extension to the access road to a degree. The dwelling will be provided with an open front boundary, with a relatively low (1m high) boundary fence to the front portion of the eastern side boundary, extending to 1.8m high to the remaining boundaries until it terminates at the open frontage. Given the location of the proposed dwelling to the end of the close and the presence and siting of the boundary treatments to

North End and 5 Beechwood Close, this provision of boundary treatment would be suitably discreet and is not considered to be out of character with the locality. The proposed layout of the proposed and the existing dwelling and their associated plots are therefore considered to be comfortably accommodated within their context.

- 2.10 The proposed dwelling will reflect the general scale and form of the surrounding regular bungalows, comprising a moderate detached single storey bungalow set under a shallow pitched gabled roof. The dwelling has a simple, unassuming design, with sufficient features which provide visual interest, and is considered to suitably respond and relate to the design of the surrounding bungalows, whilst providing its own design, which would not be out of character given its proximity to the alternative dwelling, North End. The proposed material types are generally considered appropriate for the context of the site. However, it is considered necessary that the colour and finish of the brickwork sufficiently relates to the surrounding brickwork, and the roof tiles are light brown or light red to relate well to the surrounding roof tiles which are predominantly plain brown tiles, or of a warm finish. This can be secured through relevant conditions including the requirement for a sample of the proposed bricks and roof tiles to ensure these are appropriate, compatible with the surroundings and of sufficient quality. Overall, the proposal is considered to be suitably compatible with the surrounding built environment and would comply with paragraph 130 of the National Planning Policy Framework.

#### Impact on Residential Amenity

- 2.11 Section (f) of Paragraph 130 of the NPPF identifies that development should ensure a high standard of amenity for existing and future users. The proposed single storey detached dwelling is of a moderate scale and volume which is comparable to the surrounding bungalows and is set under a shallow pitched roof. The dwelling will be orientated at an angle to each of its adjacent neighbours and will be provided with meaningful separation distance to each adjacent neighbour. Given this scale, layout and relationship, the proposed development is not considered to result in harm to residential amenity deriving from the built form of the dwelling.
- 2.12 In terms of overlooking, no windows are proposed to the northeast side elevation facing the adjacent neighbour, North End. 1No. window serving a bathroom is proposed to the southwest side elevation. Given the ground floor location of this window, the provision of 1.8m high side boundary treatment and the use of the room this window serves, this window is not considered to result in harmful overlooking. The remaining windows are located to the front and rear elevation and face the access road and farmland beyond respectively and will not result in overlooking.
- 2.13 Concerns have been raised regarding disruption and noise and disturbance associated with the construction period. The proposal is for a moderate development of a single dwelling, and construction is temporary in nature. As

such, the impacts associated with construction of this development are not considered to be unacceptably harmful to the residential amenity of adjacent neighbours. Concerns have been raised regarding noise and disturbance associated with the domestic wind turbine. It is understood that the noise associated with the domestic wind turbine proposed is limited. Domestic wind turbines, provided they meet certain criteria, can be installed under permitted development rights. Whilst this is not applicable in this instance, given the nature of the proposed wind turbine, it is not considered to result in significant harm to residential amenity.

- 2.14 In terms of the living conditions of the future occupants, the proposed dwelling will exceed the applicable Nationally Described Space Standards for a 2 bedroom single storey dwelling. All primary habitable rooms will be served by front or rear facing windows which will provide sufficient light, outlook and ventilation. The application property includes a moderate rear garden which contains sufficient provision of cycle and refuse storage and provides suitable external amenity space. The proposed cycle and refuse storage provision will be secured by condition.
- 2.15 The proposed development is therefore considered to be acceptable in terms of the residential amenity of adjacent neighbours and the future occupants, in accordance with paragraph 130 of the NPPF.

#### Highways

- 2.16 The proposed dwelling is provided with a large area of hardstanding to the frontage which provides parking provision for at least 3No. vehicles, which is adequate to serve the proposed dwelling, in accordance with the relevant standards outlined in Policy DM13. The driveway is accessed via the adjacent driveway to 5 Beechwood Close, which in turn is accessed via the access road and is provided with a large open vehicular access which will provide sufficient visibility splays for the vehicular movements associated with the dwelling. The access road to this part of the close falls outside the red line plan for the application site, but falls within the blue line plan, indicating it is under the ownership of the applicant. It is therefore understood that there are sufficient access rights over this access to road to access the proposed dwelling. The dwelling is provided with a cycle storage shed which will provide sufficient provision of cycle storage to serve the dwelling.
- 2.17 The vehicular movements and parking demand associated with the provision of an additional single dwelling are not considered to materially increase those to the existing road and result in harm in this regard, and the dwelling is provided with sufficient parking provision to absorb the parking demand associated with the dwelling. The proposed development is therefore considered to be acceptable with regards to highway amenity and highway safety.

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

2.18 It is necessary to have regard to the likely significant effect of the proposed development on the SPA and the implications of The Conservation of Habitats and Species Regulations 2017, Regulation 63. 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 is not required as the costs of administration would negate the benefit of collecting a contribution. However, this proposed 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. 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 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.

#### Drainage

2.19 Southern Water was consulted on the application and advise that a formal application for a connection to the public foul sewer would need to be made by the applicant or developer. Should permission be granted, their consultation comments will be included on the decision notice as an informative. The application form states the disposal method for foul sewage is via the mains sewer and it is not considered necessary to request further details by way of condition.

### **3. Conclusion**

3.1 The proposed dwelling is acceptable in principle and is considered to be suitably compatible with the surrounding built environment and will be comfortably accommodated within its context. The dwelling will not result in harm to the residential amenity of adjacent neighbours, or highway safety and highway amenity and will provide adequate living conditions for the future occupants. Having regard to the tilted balance engaged by Paragraph 11 of the NPPF, for the reasons outlined above, it is considered that the disbenefits of the application do not significantly and demonstrably outweigh the benefits of the development. Overall, it is considered that the proposed development would comply with the aims and objectives of the NPPF and the CS.

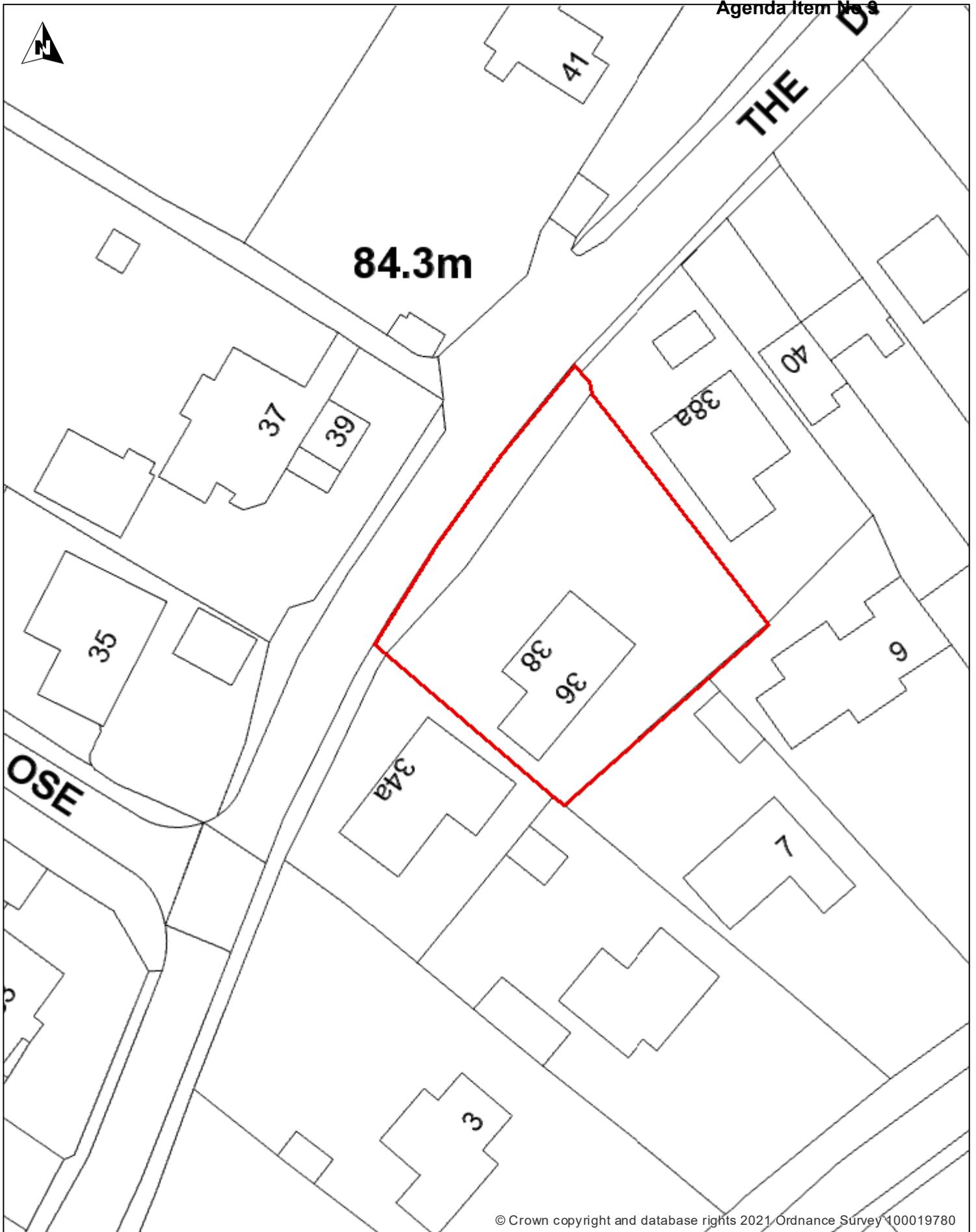
#### **g) Recommendation**

I PERMISSION BE GRANTED subject to the following conditions:

1) 3-year commencement; 2) In accordance with the approved plans, notwithstanding the material annotation in relation to the roof tiles; 3) Secure proposed external materials with the exception of the bricks and roof tiles; 4) Samples of bricks and roof tiles to be used; 5) Secure provision of proposed

refuse and cycle storage; 6) Secure provision of hard and soft landscaping as proposed; 7) provision and retention of the parking area with drainage measures installed; 8) cables for EV charging points

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



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21/01170  
Site At 36 And 38 The Drove Way  
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/21/01170 – Variation of Condition 1 of planning permission DOV/21/00284 (a variation of Condition 2 of DOV/17/01137) to incorporate design changes - in the form of windows in the front and rear elevations at top floor level, changes to rooflights, enlarged rear dormer windows at first floor level, elevational changes and increased depth of garages (retrospective & S73 application), and compliance with Conditions 4, 5, 7 & 10 and non-compliance with Condition 14 of DOV/21/00284.**

**36-38 The Droveaway, St Margaret’s Bay CT15 6BZ**

**Reason for report:** Number of contrary views

b) **Summary of Recommendation**

Planning permission be Granted

c) **Planning Policy and Guidance**

Dover District Core Strategy (2010)

Policies - CP1, DM1 & DM16

National Planning Policy Framework 2021 (NPPF)

Chapters 5 (housing), 12 (design) and 15 (natural environment). Paragraph 176 applies great weight to conserving and enhancing landscape and scenic beauty in an Area of Outstanding Natural Beauty.

The Kent Design Guide 2005

National Design Guide 2021

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

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

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

DOV/17/01137/B - Non-material amendment Application for a revision to roof fascia height. 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. Refused.

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

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 S73) (part-retrospective). Refused.

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 S73). Approved.

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 S73). Refused.

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

There have been five consultation exercises during the progress of the application. The responses reported below refer to the current iteration of the scheme and those previous iterations submitted under this application.

St Margaret's Parish Council: Object to any increase in height - Object to changes away from original permission - Object to increase in height of the garage buildings.

Third-party Representations: There have been 13 respondents raising objections to the iterations of the proposal and 1 respondent in support. The objections are summarised as follows:

- The proposal amounts to a three storey development
- The proposal has a dominant impact, it is more imposing than previous schemes, it has an increased massing and is overbearing
- The proposal results in overlooking, loss of privacy and harm to the living conditions of near neighbours
- The additional height of the garages and retaining wall compound the visual impact
- The air source heat pumps will give rise to noise nuisance
- The garages will give rise to harm to highway safety

- The previously approved grassed bank should be implemented
- The previously imposed planning conditions have not been adhered to and should be
- The proposal has been allowed to proceed without planning permission
- The proposal sets a precedent
- Enforcement action should proceed
- The drawings and information submitted with the application are incorrect.

One response in support of the application states that the proposal is in keeping with the area.

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

- 1.1 The application site is located within the village settlement of St Margaret's Bay. It was formerly occupied by one building used and split into two dwellings and is now occupied by two detached dwellings and garages. These have been substantially completed with internal fitting out now taking place and coming to completion with amendments that are the subject of this application.
- 1.2 The site is located along a residential street of an eclectic mix of building designs and types. The land is on a higher level (approximately 3-4m) than the highway and the two dwellings appear prominent within the street scene.
- 1.3 There are properties beyond the side and rear boundaries as well as a property located directly opposite. Neighbouring the site to the south-east are the rear gardens 7 and 9 Salisbury Road. No. 9 has been extended and is sited close to the dividing boundary. Neighbouring the site to the north-east is 38a The Droveaway, a recently constructed dwelling on land that previously formed the rear garden to 9 Salisbury Road. To the south-west is 34a The Droveaway, another recently constructed dwelling.
- 1.4 Due to the topography of the site and surrounding area, the property on the other side of The Droveaway is constructed at a lower ground level. Whilst the road runs in front of the application site, there is also a Public Right of Way (PRoW) almost opposite which leads in a north-west direction into the valley and up the other side, into the Area of Outstanding Natural Beauty (AONB). The PRoW also connects with other PRoWs in the area.
- 1.5 The proposal seeks a minor material amendment to the scheme approved under DOV/21/00284 and variation and approval of conditions imposed under that permission. This process is achieved through a Section 73 application. The details of the amendments are:
  - In the front and rear facing gables of the roof, windows are proposed. The rear facing windows will have obscure glazing and have mechanisms to restrict opening.
  - Dormer window extensions are proposed on the rear elevation of the dwellings, at first floor level. These include some obscure glazing and restricted opening mechanisms.

- A reduction in the number of roof lights per dwelling and the relocation of other rooflights are proposed. On Plot 1, there are fewer roof lights on the NE roof slope and SW roof slope (and one new rooflight in the SW roof slope). The proposed dormer window at first floor level removes a rooflight from the SE roof slope. On Plot 2, there is a reduction in the number of rooflights in the SW and NE roof slopes (one additional rooflight in the NE elevation) and the dormer window at first floor level removes a rooflight from the SE roof slope.
- A window is proposed in place of a door on the ground floor side elevation of the dwellings.
- The garage buildings located in front of the dwellings are proposed to conform with the previous approved height (2.625m) whilst the depth of the garage building has increased from 5.5m to 6m.
- With regards to the compliance with conditions:
  - Condition 4 relates to the approval of materials for the external surfaces of the development.
  - Condition 5 relates to the approval of details of windows including the use of obscure glazing and opening restrictors.
  - Condition 7 relates to the approval of details for refuse and recycling storage.
  - Condition 10 relates to the approval of details of provision of cycle storage (5 per unit).
  - Condition 14 relates to the approval of the details for earthworks, site levels and contours.

## 2. **Main Issues**

2.1 The main issues are:

- Procedure
- The principle of the development
- The impact upon the character and appearance of the area
- The impact upon residential amenity
- Other material considerations

### Procedure

2.2 A Section 73 (s73) planning application functions to allow minor material amendments to an existing planning permission where their scale and/or nature results in a development which is not substantially different from the one which has been approved. A s73 application can also be used to vary or remove conditions associated with a planning permission. In this case, condition 1 (list of approved plans) of the previous planning permission is sought to be varied as part of the current application proposal. Other conditions are also sought to be complied with, removed or varied under this application as set out above.

2.3 If this permission is granted, this new planning permission will sit alongside the 3 other planning permissions, which will remain intact and unamended, being DOV/17/01137, DOV/19/01130 & DOV/21/00284. In effect, these previous planning permissions can function as a fallback position, should permission not be granted for this application proposal. However, DOV/21/00284 is the most relevant permission as the applicant has confirmed that this has and is being

implemented on site. The decision on this current application is based upon the amendments being sought, as well as the approval of those conditions.

2.4 The applicant has confirmed that DOV/21/00284, is the scheme that is being implemented and against which variations to that permission are now being sought. As such, it is suggested to the Planning Committee that an appropriate assessment of the current proposal would be to compare it with the proposal granted, under DOV/ 21/00284:

- to understand the differences or changes between the proposals
- to assess whether the differences or changes are material to the extent that they cause harm to the visual quality of the street scene and character and appearance of the area, and whether they give rise to additional adverse impacts upon the living conditions of the occupiers of the adjacent properties.

2.5 These are the principal issues to assess, although there are other material planning considerations which are also raised through the responses to the consultation exercises.

Principle of Development

2.6 The application site falls within the village settlement of St Margaret’s Bay. As such, under policies CP1 and DM1, the proposed housing development and associated works are acceptable in principle in this location, subject to an assessment of other material considerations and impacts.

Impact upon Character and Appearance

2.7 It is important to assess the visual impact of the proposed changes to the scheme, from the approved DOV/21/00284 planning application. In the following Table, comparisons between the height, depth and width between the current scheme, the approved scheme and the refused scheme (for completeness) are set out. The ‘As Built’ measurements were undertaken at the time of writing this report. There are marginal differences in scale between the ‘as approved’ and the ‘as built’ (current proposal) development. These differences are considered to be immaterial in terms of how they might change the impact of the scheme on the character and appearance of the area and the living conditions of neighbouring occupiers.

Application	Height (M)	Width (M)	Depth (M)
DOV/21/00284 - Plot 1	8.57	10.66	12.11
DOV/21/00284 - Plot 2	8.57	10.65	12.09
DOV/21/01170 - Plot 1	8.55	10.66	12.09
DOV/21/01170 - Plot 2	8.57	10.65	12.11
<b>As Built – Plot 1</b>	<b>8.4</b>	<b>10.8</b>	<b>11.8</b>
<b>As Built – Plot 2</b>	<b>8.4</b>	<b>10.7</b>	<b>11.7</b>

2.8 The main differences between the approved drawings relate to the design of the dwellings. On the front elevation facing The Drove way, the proposal is to include a window in the gable of the roof, to facilitate the accommodation already constructed within the roof space. The window is designed to match those on the other parts of the dwellings. Its location within the existing gable is

proportionate with, and subordinate to, the height and depth of the windows on the first and ground floors.

- 2.9 Under previous s73 applications that have been refused, there were concerns expressed regarding the scale and design of the fenestration, along with the design of the projecting, gabled element of the dwellings as the proposals exacerbated the vertical emphasis of the dwellings, thus making them appear disproportionate and out of scale with the design and appearance of the dwellings and, in addition, the impact on the visual quality of the street scene. The current application being considered has scaled back the amount of fenestration within the gable, such that the resulting window design does not exacerbate the 'verticality' or vertical emphasis of each of the properties. The proposed change with the inclusion of this window is considered to be in keeping with the design of the dwellings and is now appropriate.
- 2.10 On the rear elevation, the window in the gable is also proposed (albeit with obscure glazing), along with an increase in the width of the first floor dormer windows. These windows serve a bedroom and ensuite. The end pane of glazing in the dormers is proposed to be obscure glazed, with restricted opening. An amendment to the wording of the existing condition 7 relating to obscure glazing can be imposed to address the concern with regard to the potential for additional overlooking from these end panes – as they are closer to the boundaries with the properties on either side.
- 2.11 An elevational change is proposed to the side elevations of both the dwellings that face towards the neighbouring properties, which involves the replacement of a door with a window. This amendment is not considered to give rise to any material increase in amenity impacts on the respective neighbouring properties.
- 2.12 There is an overall reduction in the number of roof lights. The roof lights will be retained at least a 1.7m in height from their cills to the internal floor of the room that they serve, thus ensuring that the potential for overlooking is limited.
- 2.13 The alterations to the side and rear elevations of the dwellings would not be prominent or otherwise overtly visible from the highway or other public vantage points and as such these would not have a material bearing on the visual quality of the street scene or the prevailing character and appearance of the area.
- 2.14 In conclusion the design changes proposed are sympathetic with the form, design and appearance of the dwellings, as constructed, and would not materially alter the visual impact of the development on the street scene or visual amenity of the area beyond the visual impact from the last approved planning application DOV/21/00284.
- 2.15 Although the dwellings would be visible from the AONB, (located to the north of the site), it is not considered that their impact would have any material bearing on the landscape or scenic beauty of the AONB. The buildings are already visible and are within the context of the setting of the existing built environment and they do not encroach into the protected landscape.

### Garages

- 2.16 The garages are located in front of the dwellings adjacent to the highway. Their location is not proposed to be amended; however, their 'as built' dimensions have changed. There has been an increase in their height from the approved

2.62m to 3.0m and an increase in their length from an approved 5.5m to 6m. Through the submission of amended drawings, it is now proposed to lower the height of the garages to their approved height of 2.625m. Their width and depth remain as 4.5m and 6m respectively.

- 2.17 The height of the garage buildings has previously been considered an important part of the overall design and appearance of the scheme, due to their prominent location adjacent to the highway. Under this application, the proposed height of the garages at 2.625m is the approved height, and a decrease from the 'as built' 3m. Condition 3 of DOV/21/00284 (which required the lowering of the heights of the garage buildings to 2.625m) was imposed out of concern that the garages would harm visual and residential amenity if they were not reduced in height, this concern remains. The additional length of the garages is not considered to be harmful to the prevailing character and appearance of the street scene, but for the purposes of securing good design the previous condition imposed to reduce the height of the garage buildings prior to the first occupation of the dwellings, is considered necessary and important to the design and impact of the scheme. As such, at 2.625m in height the proposed garage buildings are considered to be acceptable.

#### Conditions

- 2.18 The application also includes compliance with and non-compliance with conditions imposed on DOV/21/00284. Condition 4 relates to external materials. It is considered that the proposed facing brickwork (Safier Bespoke), stone cladding and slate roofs are acceptable materials for the buildings. Their use preserves the existing character and appearance of the area. These materials were previously approved under DOV/19/01130.
- 2.19 Condition 7 relates to details of the proposed refuse and recycling facilities. A location forward of the garage buildings was approved under an earlier permission DOV/17/01137. However, out of concern with their prominence, the applicant has relocated the storage areas to the side/rear gardens of the dwellings and out of view from the highway. As such, these details are considered acceptable and appropriate.
- 2.20 Condition 10 relates to details of cycle storage facilities. On the proposed plans, these cycle storage spaces are located within the garage buildings. Their location would not be visible from the highway and would be acceptable.
- 2.21 The proposal does not seek to comply with condition 14 of DOV/21/00284. This relates to details of earthworks, mounding, site levels etc. At the time of the imposition of this condition, there was a lack of clarity with the proposed earthworks, but now the dwellings have been substantially completed, the earthworks are visible from the street and can be assessed. It is considered that the landform around the buildings is visually acceptable, and with the proposed boundary enclosures, would not result in any undue levels of overlooking or loss of privacy for the occupiers of adjacent properties.
- 2.22 In conclusion around the issue of conditions, the Planning Committee can decide to either reimpose the same conditions as those set out under DOV/21/00284, vary their wording, or impose new conditions – providing they meet the relevant tests for conditions as set out in the NPPF. As such, if there is one part of the proposed application where a condition is considered necessary to avoid undue harm and should be repeated or varied, despite the proposed amendments set out in the application (to vary, comply or not comply

with a condition), the application could still be favorably determined, but with a condition re-imposed as originally worded.

- 2.23 It is considered that the scheme, as amended, meets the objectives of good design and the requirements of Paragraph 130 of the NPPF.

#### Impact upon Residential Amenity

- 2.24 This s73 application does not significantly change the form or appearance of the previously approved scheme to warrant any material changes in how the development would affect the living conditions of the occupiers of adjacent properties.
- 2.25 The proposal does, however, introduce additional windows which should be assessed on whether any additional overlooking and loss of privacy might occur. The additional window in the front elevation of the dwellings is set within the gabled roof. It does not come closer to either the highway, or those properties opposite than the existing or approved windows at ground and first floor on the front elevation. Although the plans do not show the layout of the rooms in the roof space, the assumption is that this would be a bedroom with an ensuite – a bedroom was shown within the roof space of the previous application, DOV/21/00284. A bedroom window facing the street has a limited impact compared to the existing bedroom windows on the first floor. As such, it is not considered that the introduction of this window would materially alter, or add to, the potential for overlooking and the levels of privacy enjoyed by the occupiers of the properties opposite the application site.
- 2.26 The additional window in the gable on the rear elevation is proposed to be top hung, opaque glazed with a restricted opening. This type of window and its opening mechanism has already been approved for other windows in the dwellings, where the potential for overlooking was assessed as requiring these type of windows. As such, once obscure glazed and restricted in their opening, these windows should not give rise to unacceptable levels of overlooking and loss of privacy to the occupiers of adjacent properties to the side and rear of the application site. This can be adequately controlled by re-wording condition 7 of DOV/21/00284.
- 2.27 The widening of the rear dormer window and inclusion of an additional bedroom window, would in a similar manner to the front window, not materially increase, or add to, the levels of overlooking that would already exist. There is already a bedroom window proposed in the rear elevation of the dwellings and gives rise to views towards the properties beyond the rear boundary, in Salisbury Road. The end window pane in the proposed dormer windows would be obscure glazed and fitted with a restricted opener, to ensure that undue levels of overlooking are not available for the new occupiers towards the gardens of the adjacent properties.
- 2.28 The roof lights are reduced in number and their cills are proposed at 1.7m above the threshold level of the rooms they serve. This would meet the Council's normal requirements for ensuring that views from such roof lights would be upward rather than downward, and would therefore avoid undue levels of overlooking or loss of privacy for the occupiers of adjacent properties. Roof lights sited 1.7m above internal floor levels are accepted as unlikely to cause harm to amenities and are acceptable in principle.

#### Other material considerations

- 2.29 In addition to those main issues set out above, other issues have been raised as part of the consultation process. Many of the issues raised do not go to the crux of the matter before this Planning Committee, which is the acceptability or otherwise of the current amendment proposal, regardless of how this application has progressed, been amended or sought to 'catch up' with the evolution of the construction of the proposed development – which is now substantially complete. Some of the other matters that have been raised were either addressed under previous applications, or otherwise are not material to the outcome of this application.
- 2.30 Planning application DOV/21/00284 assessed the impact of the two dwellings on the Thanet Coast/Sandwich Bay Special Protection Area (SPA). Whilst the current application is not to increase further the number of dwellings on the site, it would form a new permission, and regard should still be had to the likely significant effect of the proposed development on the SPA and the implications of The Conservation of Habitats and Species Regulations 2017, Regulation 63. 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 was not required as the costs of administration would negate the benefit of collecting a contribution. However, this proposed 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. 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 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.

### **3. Conclusion**

- 3.1 In effect, a new planning permission is being sought for the development of the site. This is an amendment (under s73) to the previous permission granted under DOV/21/00284. The focus of the assessment for this application is mainly on whether the amendments or differences from the approved permission are material and whether they should lead to a different outcome on their planning merits. In addition, the proposal seeks approval of details to comply with conditions and seeks to justify or show why other conditions should not be reimposed.
- 3.2 The manner about which the planning permission has been implemented on site has caused a lot of discontent and consternation among local residents, as can be seen from the submitted correspondence. However, this should not detract from the need to properly assess the scheme as proposed, on the basis of the development plan, as the starting point and then on other material planning considerations. To this end, it is considered that the alterations to the design are acceptable and should be granted. The submitted details to comply with conditions are acceptable.
- 3.3 In conclusion, the application is recommended for approval, with condition 3 retained, as currently worded, to ensure the garage buildings return and are constructed to their approved heights. Condition 7 should be amended to ensure that the obscure glazing is installed to avoid overlooking and loss of privacy.

### **g) Recommendation**

I PLANNING PERMISSION BE GRANTED with the conditions on planning permission DOV/21/00284 reimposed, removed or updated as such:

1. Approved plans
2. Provision of the grassed bank to replace visibility of the retaining wall
3. Lowering of height of garages (retained condition as originally worded) - prior to first occupation of the dwellings
4. Previously approved obscure glazed windows and the relevant new windows to be obscure glazed – prior to first occupation of the dwellings
5. Hard and Soft landscaping to be submitted for approval
6. Refuse and recycling to be provided in accordance with approved details
7. Provision of vehicle parking and retention thereof
8. No access to garage roofs except for maintenance or emergency
9. Bicycle parking to be provided in accordance with the approved details
10. Bound surface to be provided
11. No surface water on highway
12. Provision of a visibility splay
13. PD removal - for Classes A, B
14. Provision of infrastructure for electric car charging

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