

Public Document Pack



Democratic Services
White Cliffs Business Park
Dover
Kent CT16 3PJ

Telephone: (01304) 821199
Fax: (01304) 872452
DX: 6312
Minicom: (01304) 820115
Website: www.dover.gov.uk
e-mail: democraticservices@dover.gov.uk

3 August 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 11 August 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.

Yours sincerely

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

Chief Executive

Planning Committee Membership:

J S Back (Chairman)
R S Walkden (Vice-Chairman)
M Bates
D G Beaney
E A Biggs
T A Bond
D G Cronk
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 5)

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

4 **MINUTES**

To confirm the Minutes of the meeting of the Committee held on 14 July 2022 (to follow).

ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING
(Pages 6 - 10)

5 **APPLICATION NO DOV22/00751 - THE WHITE CLIFF HOTEL, ST MARGARET'S-AT-CLIFFE** (Pages 11 - 19)

Removal of condition 15 of planning permission DOV/19/01112 (application under section 73): Erection of 2no. Dwellings with associated parking, change of use and conversion of 2no. Annexe buildings to 2no. Dwellings with replacement door to window on front elevation of unit 5 and creation of gated entrance (amended scheme reducing the number of new-build dwellings from 3 to 2)

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

6 **APPLICATION NO DOV22/00262 - FOREST SCHOOL ACTIVITIES AND EDUCATION CENTRE WOODPECKER COURT 45 WIGMORE LANE EYTHORNE CT15 4BF** (Pages 20 - 31)

Erection of 2no. Buildings for use as catering unit and classroom, formation of car parking and turning area, installation of solar panels to existing store building, relocation of bin store, use of site for up to 60 students at any one time and occasional community use.

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

7 **APPLICATION NO DOV21/00391 - LAND ADJACENT TO 95 THE STREET ASH KENT CT3 2AD** (Pages 32 - 42)

Erection of detached dwelling with associated parking.

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

8 **APPLICATION NO DOV20/01569 - LONGSHIPS, CAULDHAM LANE, CAPEL LE FERNE** (Pages 43 - 70)

The erection of a two storey building incorporating 15 apartments (independent living accommodation), communal social areas and associated parking and landscaping

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

9 **APPLICATION NO DOV21/00208 - UNIT G, SANDWICH INDUSTRIAL ESTATE,**

RAMSGATE ROAD, SANDWICH, KENT, CT13 9LY (Pages 71 - 82)

Change of use from salvage yard to B8 scaffolding yard, erection of scaffolding structures and associated hard standing (retrospective)

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

10 **APPLICATION NO DOV21/01811 - 2 JOHNS GREEN, SANDWICH** (Pages 83 - 91)

Erection of a detached bungalow, cycle shed, recycle store, associated parking and turning area

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

ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING

11 **APPEALS AND INFORMAL HEARINGS**

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

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

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

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is step free access via the Council Chamber entrance and an accessible toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- In order to facilitate the broadcast of meetings there have been cameras set up in the Council Chamber that communicate with Microsoft Teams Live. This enables meetings held in the Council Chamber to be broadcast for public viewing through the Council's website.

The meetings in which these cameras will be used include meetings of: (a) Council; (b) Cabinet; (c) General Purposes Committee; (d) Governance Committee; (e) Planning Committee; and (f) Overview and Scrutiny Committee.

- When you register to speak at a meeting of the Council, you will be asked whether you want your personal data (name, voice and image) and comments broadcasted

on our website as part of the meeting. We will be relying on your consent for this processing; if you do not consent this will not affect your right to speak at a Council meeting. If you do not consent the microphone and camera in the Chamber will be temporarily switched off when you speak.

- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes will be published on our website as soon as practicably possible after each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting.
- Members of the Committee may receive confidential information relating to personal data as part of an item of an exempt or confidential business on the agenda. It is each Member's responsibility to ensure that this information is handled securely and confidentially as required under data protection legislation. This information must only be retained for as long as necessary and when no longer required disposed of via a shredder or the Council's secure disposal arrangements.

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- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Kate Batty-Smith, Democratic Services Officer, democraticservices@dover.gov.uk, telephone: (01304) 872303 or email: democraticservices@dover.gov.uk for details.

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

Declarations of Interest

Disclosable Pecuniary Interest (DPI)

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

Other Significant Interest (OSI)

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

Voluntary Announcement of Other Interests (VAOI)

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

Note to the Code:

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

APPLICATIONS WHICH MAY BE SUBJECT TO PUBLIC SPEAKING

The Reports

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

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

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

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

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

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

Site Visits

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

The following criteria will be used to determine usefulness:

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

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

Background Papers

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

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

IMPORTANT

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

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

The Development Plan

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

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

Human Rights Act 1998

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

The key articles are:-

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

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

Account may also be taken of:-

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

Article 10 - Right to free expression.

Article 14 - Prohibition of discrimination.

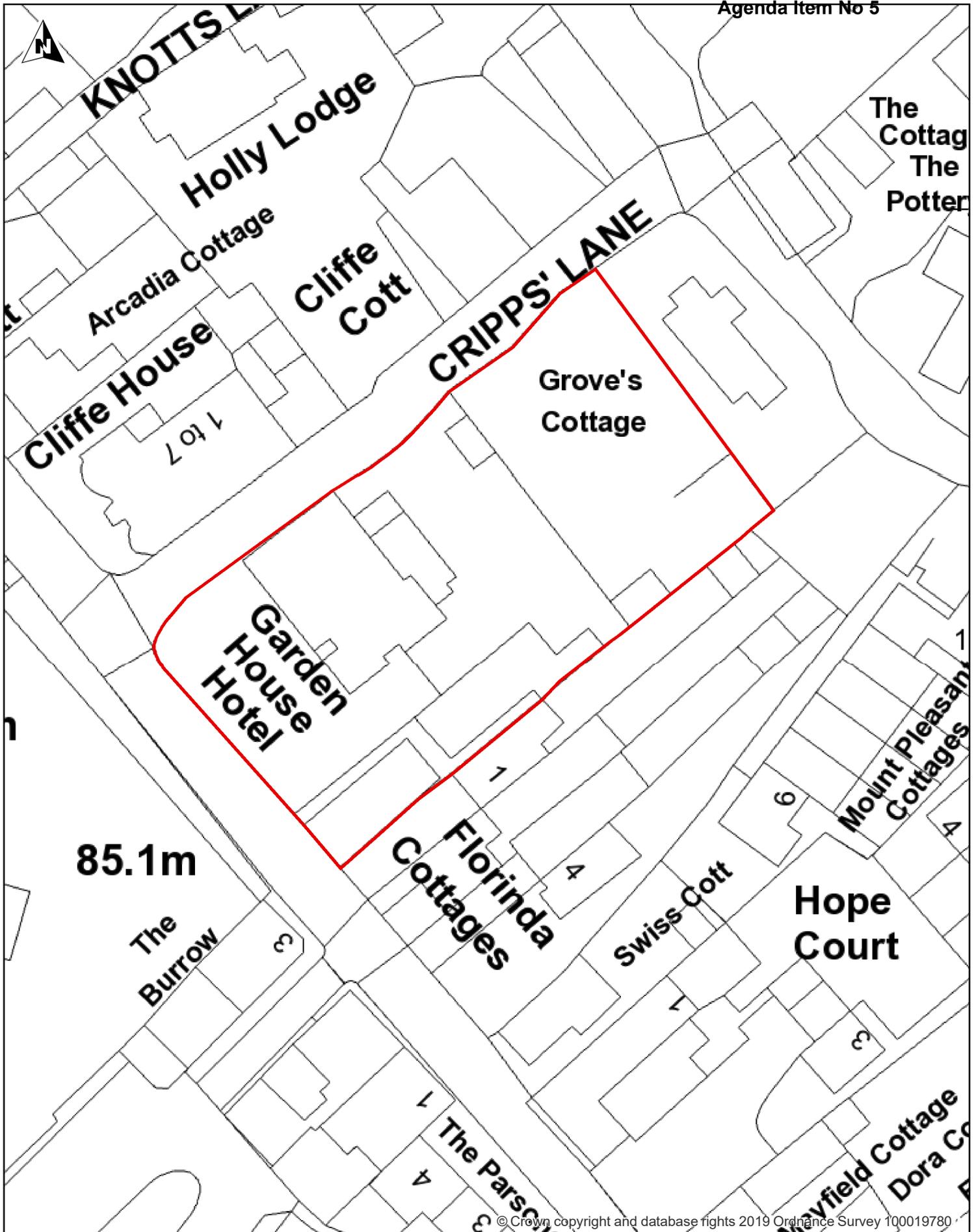
The Committee needs to bear in mind that its decision may interfere with the rights of particular parties, particularly under Article 8 and Article 1 of the First Protocol. The decision should be a balanced one and taken in the wider public interest, as reflected also in planning policies and other material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

(PTS/PLAN/GEN) HUMANRI

PUBLIC SPEAKING AT PLANNING COMMITTEE

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

11. The Chairman may, in exceptional circumstances, alter or amend this procedure as deemed necessary.



DOV/22/00751
The White Cliffs Hotel
High Street, St Margaret's At Cliffe
CT15 6AT

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/22/00751 - DESCRIPTION OF DEVELOPMENT: REMOVAL OF CONDITION 15 OF PLANNING PERMISSION DOV/19/01112 (APPLICATION UNDER SECTION 73): ERECTION OF 2NO. DWELLINGS WITH ASSOCIATED PARKING, CHANGE OF USE AND CONVERSION OF 2NO. ANNEXE BUILDINGS TO 2NO. DWELLINGS WITH REPLACEMENT DOOR TO WINDOW ON FRONT ELEVATION OF UNIT 5 AND CREATION OF GATED ENTRANCE (AMENDED SCHEME REDUCING THE NUMBER OF NEW-BUILD DWELLINGS FROM 3 TO 2)**

SITE ADDRESS: The White Cliffs Hotel High Street St Margaret's at Cliffe

Reason for report: The planning committee considered the previous applications and at the discretion of the Head of Planning, Regeneration and Development, the application has been referred to planning committee.

- b) **Summary of Recommendation**

That Condition 15 of planning permission DOV/19/01112 be removed.

- c) **Planning Policy and Guidance**

Development Plan

The statutory development plan comprises:

- Core Strategy (2010) ("the Core Strategy")
- Land Allocations Local Plan (2015) ("the LALP")
- Saved Policies of the Local Plan (2002)

Relevant policies of the Core Strategy include:

- CP1: Location and Scale of Development
- CP2: Provision for Jobs and Homes
- CP4: Housing Quality, Mix, Density and Design
- CP5: Sustainable Construction Standards
- CP6: Infrastructure
- DM4: Re Use or Conversion of Rural Buildings
- DM11: Location of Development and Managing Travel Demand
- DM13: Parking Provision
- DM24: Retention of Rural Shops and Pubs

As is the case with the development plan, where existing policies were adopted prior to the publication of the National Planning Policy Framework (July 2021) ("**the Framework**"), the weight to be given to them depends on their degree of consistency with the policies of the Framework (paragraph 219).

Other Material Considerations

The Framework sets out the Government's planning policies for England and how these are expected to be applied. It is therefore a material consideration, to which significant weight should be attached in determining the application.

Sections of the Framework are referred to, as relevant, in the assessment section of this report below.

Draft Dover District Local Plan:

The draft Dover District Local Plan sets out planning policies and proposals for new development in the District over the period from 2020 to 2040 and when adopted will replace the existing development plan. But it is still at an early stage in its preparation, with the Regulation 18 consultation closing in March 2021. In accordance with paragraph 48 of the Framework, whilst the draft Dover District Local Plan is a material consideration, only limited weight should be afforded to it at this time

Legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, where regard is to be had to the statutory development plan in determining an application for planning permission, the determination shall be made in accordance with the development plan unless material considerations indicate otherwise.

This planning application is under s.73 of the Town and Country Planning Act 1990 (as amended) ("the TCPA"), relating to development of land without complying with conditions subject to which a previous planning application was granted.

For such an application, the local planning authority shall consider only the question of the conditions subject to which planning permission was granted, as to whether or not planning permission should now be granted subject to conditions differing from those originally imposed.

d) **Relevant Planning History**

02/01101 & 02/01102 – Erection of single storey kitchen extension to inn; external alterations to ancillary buildings; extension/alterations to ancillary building to create two self-catering units; and revisions to forecourt layout. Planning permission and listed building consent granted (02/12/02).

04/00805 – Erection of building [to the side of the main hotel building] to form two units of self-contained holiday accommodation. Planning permission granted (14/09/04) and implemented.

04/00875 – Raise height of existing boundary wall, rebuild south west and south east facing elevations, replacement windows, insertion of rooflights, external and internal alterations. Listed building consent granted (06/09/04).

07/00466 – Erection of detached dwelling [on land to the rear of the main hotel building]. Planning permission granted (19/10/07).

10/00131 – Renewal of planning permission 07/0466 for erection of detached dwelling [on land to the rear of the main hotel building]. Planning permission granted (04/05/10).

19/01112 – Erection of two dwellings with associated parking [on land to the rear of the main hotel building]; and change of use and conversion of annexe buildings to two dwellings [to the side of the main hotel building]. Planning permission granted (27/03/20) and implemented.

19/01113 – Conversion of two annexe buildings from self-catering accommodation to residential units; internal alterations to remove & insert new partitions, infill & insert new openings to form ground floor living accommodation; replace front elevation door with window. Internal alterations to remove & insert new partitions to form ground floor wc & first floor ensuite, bathroom & bedroom. Insert access gate with new piers to boundary wall. Listed building consent granted (27/03/20) and implemented.

21/01249 – Erection of a detached dwelling with driveway, associated parking, cycle shed, and recycle store [on land to the rear of the main hotel building]. Under consideration.

20/01566 – Change of use to and conversion into 3 dwelling-houses with associated parking; first-floor extension to one side with double-hipped roof and associated external/internal alterations. Resolution to grant planning permission (24/03/22).

20/01567 – Alterations to listed building facilitate conversion to 3 residential units. Resolution to grant listed building consent (24/03/22).

e) **Consultee and Third Party Representations**

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

St Margaret's at Cliffe Parish Council –

First response

Condition 15 of planning permission 19/01112 requires the bar and restaurant facilities in the hotel to cease to offer facilities to non-residents and only be available for the use of resident guests of the hotel. The reason for the condition was to ensure adequate car parking facilities for the proposed residential dwellings. Condition 15 should be removed because:

- it was not suggested or considered necessary by KCC Highway;
- it is not necessary to restrict car parking as there is a public car park opposite the hotel;
- a 'residents parking notice' would have been more reasonable, without restricting the use of the bar / restaurant;

- the limitation on the bar / restaurant use would blight the commercial viability of the hotel, contrary to Local Plan Policy DM24;
- it would affect the amenity for the local community and tourism; and
- the consequences of its inclusion materially changed the development without further consultation with the local community.

Further comments

Further comments from the Parish Council have been received in response to other representations:

- the loss of the White Cliffs bar/restaurant effectively reduces the choice of pubs in St Margaret's at Cliffe to one;
- the hotel/pub has been operating for circa 140 years
- the loss of public use of the bar/restaurant is a material change in the use of the building.

KCC Highways

This development proposal does not meet the criteria to warrant involvement from the Highway Authority. 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.

Third Party Representations:

The owners of The White Cliffs Hotel have submitted representations:

- the submitted redline is incorrect [*officer comment: the redline of the s.73 application is consistent with 19/01112*];
- there are a large number of places to eat and drink in the village, St Margaret's Bay and within 1 mile of the site;
- there would be no change of use of the property, as the bar/restaurant facilities are part of the hotel;
- development carried out under 19/01112 has been carried out and completed. Sale of units are agreed on the basis of the current planning application;
- there would be late night noise from non residents leading the bar/restaurant;
- there would be disturbance from servicing/deliveries to the bar/restaurant.

Eight representations of support have been received, which make the following comments:

- there is only one eatery in the village;
- this has been a place for villagers to use and enjoy;
- it was a going concern;
- should be designated an asset of community value;
- the village attracts thousands of visitors each year;
- the Smugglers pub/restaurant is extremely popular, with no car parking.

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

- 1.1 The site comprises The White Cliffs Hotel, located on the corner of High Street and Cripps Lane in the centre of St Margaret's at Cliff.
- 1.2 The hotel building is Grade II listed; and the site is within the St Margaret's at Cliffe Conservation Area.
- 1.3 The application site comprises the hotel building described above, along with a gravel forecourt (served by an existing vehicular access from the south western end of Cripps Lane) and garden to the rear.

Surrounding Area

- 1.4 Centrally located in the village, the site is within walking distance of local amenities including convenience shop, pub, primary school and public car park.
- 1.5 Opposite the site is the Church of St Margaret (Grade I listed), but generally screened from High Street by a treed hedge; to the rear beyond the former hotel car park is a single storey cottage; to the north west is the more imposing (three storey) building of Cliffe House (Grade II listed); and to the south east, beyond the former hotel annex buildings, is a row of terraced houses.

Proposal

- 1.6 Planning permission under s.73 of the TCPA is sought to remove Condition 15 from planning permission 19/01112.

Condition 15 states:

Upon the first use of either unit 4 or 5 as an independent self-contained dwelling, or the first occupation of either unit 1 or 2, whichever of these events occurs first, the bar and restaurant facilities within the hotel/bunkhouse shall cease to offer facilities to non-residents and shall thereafter only be available for the use of resident guests of the hotel.

Reason: To ensure that adequate car parking facilities are available to serve the proposed residential dwellings, in the interests of highway safety

2. Assessment

Background

- 2.1 Planning permission reference 19/01112 was granted in March 2020 for development at The White Cliffs Hotel comprising (i) the erection of two dwellings on land to the rear of the main hotel building; and (ii) the change of use and conversion of annexe buildings (to the side of the main hotel building) from hotel to dwellinghouse use.

- 2.2 Condition 15 was imposed on planning permission 19/01112 for reasons relating to car parking – to ensure that the new dwellings within the converted annexe building and retained hotel would have adequate car parking.
- 2.3 19/01112 has been implemented through the conversion of the annexe buildings.
- 2.4 This current s.73 application is submitted to seek to allow the bar/restaurant facilities within the hotel, as retained by the 19/01112 development scheme, to remain open to non-residents should the owners of the hotel wish to do so.
- 2.5 In the consideration of this application, it is of note that (i) if Condition 15 is removed, this does not *require* the bar/restaurant facilities to be open to the public; and (ii) the existing planning permission 19/01112 (and the development it has approved) remains in place regardless of whether or not this s.73 application is approved.
- 2.6 Whilst the applicant of this current s.73 application is a third party to the site and different from that who made application 19/01112, that does not have a material bearing on matters. Rather the current application must be considered on its planning merits.

Consideration of Application 19/01112

- 2.7 The Committee Report for application 19/01112 includes matters relating to the loss of the bar/restaurant as a public facility. This identified relevant local and national planning policy that seeks to guard against the unnecessary loss of valued facilities and services; then as a matter of planning judgement considered that the number of other premises offering food and drink in the village would still provide a sufficient range and choice without overriding harm to the amenities of the area.
- 2.8 No in principle reason was identified in the Committee Report for 19/01112 to resist the loss of the bar/restaurant as a public facility.
- 2.9 With regard to car parking, the Committee Report for 19/01112 concludes that there would be an under provision of car parking (as reinforced by public consultation comments). However as this under provision was likely to be less than previously on the site (i.e. a betterment), the Committee Report considered there was no reason to refuse that application on such car parking grounds.

Consideration of Condition 15

- 2.10 Government guidance relating to planning conditions requires that each must satisfy relevant tests of necessity, relevance, enforceability, precision and reasonableness in all other respects.
- 2.11 Various arguments made by the Parish Council (as applicant) are noted. That considered most relevant to this s.73 application relates to the contribution and

negative impact the public closure of the bar/restaurant facility has had to the financial viability of the hotel.

- 2.12 This viability impact is evidenced with regard to the financial report (November 2021) submitted in relation to planning application 20/01566 for the change of use and conversion of The White Cliffs Hotel to three dwellinghouses. The financial viability report concludes that "*The White Cliffs Hotel has no long term viability for use as a hotel, bar and restaurant.*"
- 2.13 In light of this greater understanding (of the contribution the public closure of the bar/restaurant facility makes to the financial viability of the hotel, to a position where the owners of The White Cliffs Hotel consider the business to be no longer financially viable), it is considered that removing condition 15 and imposing a new condition, requiring a 'car parking, servicing and delivery management plan' in respect of the bar/restaurant (to be submitted to and approved by the local planning authority) would be a proportionate response to the application and would achieve the legitimate planning objective of condition 15 (ensuring adequate car parking facilities for the proposed residential dwellings) in a manner which would have a lesser impact on the financial viability of the business.
- 2.14 The management plan could refer to available car parking in the public car park opposite, include details of 'residents only' signage in the hotel car park, and should consider the best way to manage servicing/deliveries to the site.
- 2.15 Whilst walking between the public car park and the site would be via narrow footways or on the carriageway, this arrangement is not uncommon within the village. Both pedestrians and motorists are aware of this. From experiencing transport conditions in the centre of the village, vehicle speeds are generally low and pedestrians behave with awareness of the narrow footways. KCC Highways confirm it had no comments to the original scheme (19/01112) or to this current application.
- 2.16 The Parish Council presents other arguments that the limitations of Condition 15 has effectively resulted in the material change of use the bar/restaurant facility, which went beyond the scope of the development proposed and advertised under application 19/01112. However, given the position on Condition 15 reached above, and that 19/01112 remains an extant and unchallenged planning permission in any event, this matter has not been considered further.
- 2.17 Representations from the owners of The White Cliffs Hotel that public use of the bar/restaurant facility, as well as from servicing/deliveries, would lead to noise and disturbance are noted. But houses close to eating / drinking establishments in a village centre are a normal / established part of such character; and management of servicing/deliveries would be covered by the management plan referred to above.

3. Conclusion

- 3.1 Overall, as the objectives of Condition 15 of 19/01112 may be achieved in a manner which has a lesser impact on the financial viability of the business by imposing a new condition as described above, planning permission should be granted for development as first approved under application 19/01112 but with Condition 15 removed.
- 3.2 A new condition to secure a parking, servicing and delivery management plan in respect of the bar/restaurant facilities is recommended.

4. Recommendation

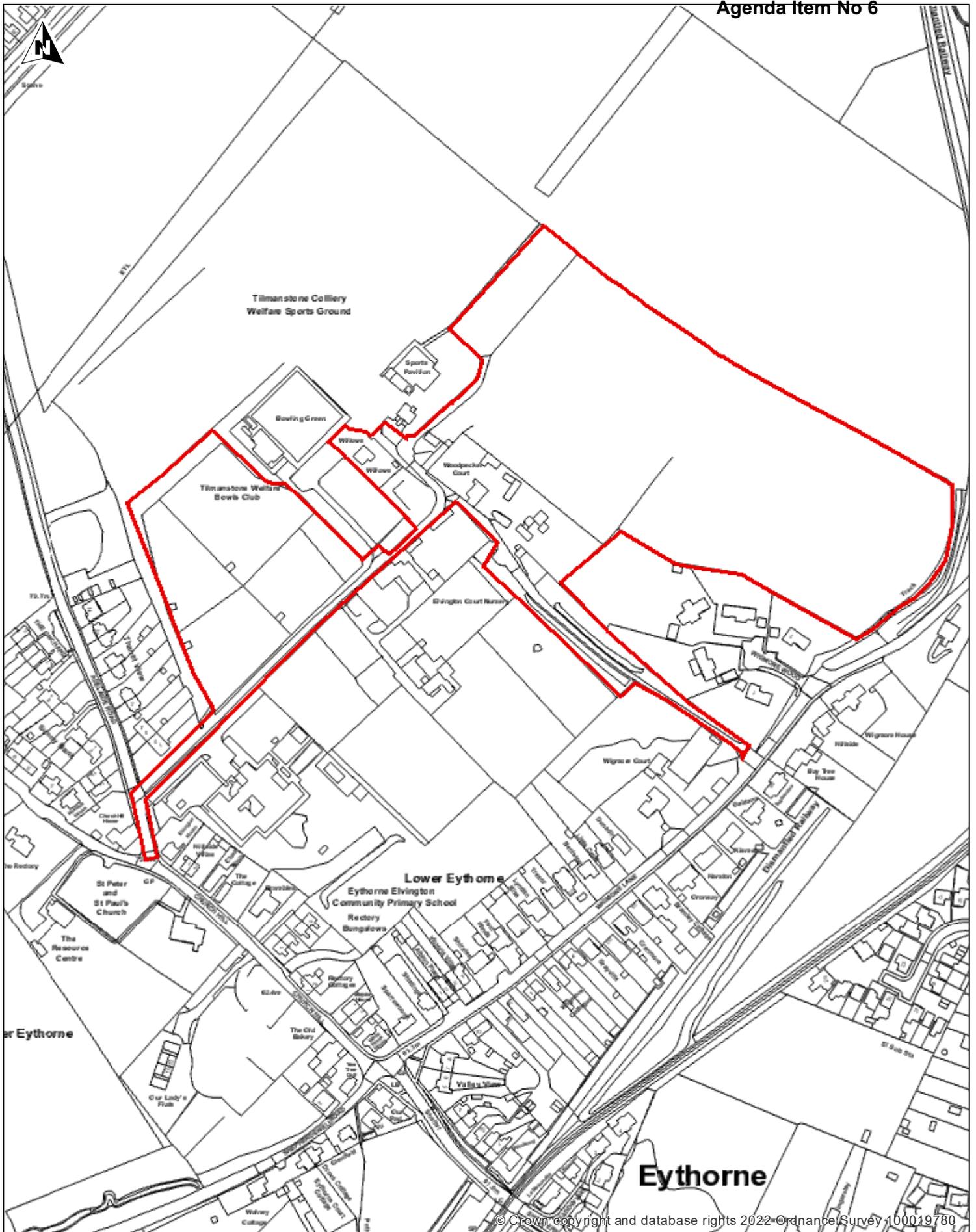
I PERMISSION BE GRANTED subject to conditions:

- 1) Time limit to commence development (three years from 27/03/20)
- 2) Plans
- 3) Material samples – external surfaces
- 4) Material samples – enclosures and hard surfacing
- 5) External joinery details
- 6) Landscaping scheme
- 7) Construction management plan
- 8) Surface water drainage details
- 9) Provision of parking
- 10) Restriction of PD rights
- 11) Unforeseen contamination
- 12) Refuse/recycling storage details
- 13) Roof light details
- 14) Protection of trees
- 16) Cycle storage facilities
- 17) EV charging
- 18) Parking, servicing and delivery management plan to include signage

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:

Andrew Somerville



22/00262

Forest School Activities And Education Centre
Woodpecker Court,45 Wigmore Lane
Eythorne, CT15 4BF

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/22/00262 – ERECTION OF 2NO. BUILDINGS FOR USE AS CATERING UNIT AND CLASSROOM, FORMATION OF CAR PARKING AND TURNING AREA, INSTALLATION OF SOLAR PANELS TO EXISTING STORE BUILDING, RELOCATION OF BIN STORE, USE OF SITE FOR UP TO 60 STUDENTS AT ANY ONE TIME AND OCCASIONAL COMMUNITY USE.**

Forest School Activities And Education Centre Woodpecker Court 45 Wigmore Lane Eythorne CT15 4BF

Reason for report: Number of contrary views (34), and Member call-in.

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policies and Guidance**

Core Strategy (CS) Policies

- DM1, DM11, DM15

Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) - Section 66 of the above Act requires the decision maker to pay due regard to the desirability of preserving the setting of a listed building.

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 93, 95, 130 and 174.

The Kent Design Guide (KDG) (2005)

National Design Guide (2019) & National Model Design Code (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 have little weight and are not considered to materially affect the assessment of this application. The Draft has completed the first public consultation exercise, which expired in March and at this stage only minimum weight can be afforded to the policies of the Plan.

- d) **Relevant Planning History**

19/01241 – Granted, for “Retrospective application for the change of use of land and the erection of 5no. buildings for use as 2no. classrooms, tool and machine storage, toilet block, including change of use of adjacent land for educational use and erection of a woodland classroom.”

Condition 4 of this planning permission states:

“The educational facility hereby permitted shall not be used for the education, training or schooling of more than 40 students/young people at any one time.

Reason: In the interests of highway safety.”

Condition 5 of this planning permission states:

“No teaching, training or other types of schooling of the students/young people shall take place outside the hours of 0900 hours to 1500 hours on Mondays to Fridays. The use of the site hereby permitted shall not take place on Saturdays, Sundays or Public Holidays, with the exception of those occasions set out in the Schedule of Events within the Planning Statement dated 30 October 2019 - which are designated as a presentation event, 3 parents' open days and an annual open event for the local community.”

Reason: To conserve the character and appearance of the countryside.

21/01098 – Consent granted, for “Felling and remedial works comprising of; deadwooding, crown reductions, pollarding, coppicing, limb removal and creation of monoliths”.

e) Consultee and Third Party Representations

The proposal has been amended from its initial submission and three rounds of consultation have taken place. Some comments are no longer relevant due to the change in the proposal, but are included for completeness.

Eythorne Parish Council: In their initial response, the PC provided a neutral response and sought a site visit from the Planning Committee. In their most recent response, the PC do not raise objections on highway grounds subject to the imposition of two conditions (provision and retention of the parking spaces and a limit on the numbers of pupils), but concludes that “increasing student numbers & allowing use outside of normal school hours can no longer be supported.”

Environmental Protection Officer: Initially raised no comments, but sought further information on the increase on the ‘community based events’. Raises no objections subject to a condition limiting the hours of opening for these events from 0900 hours to 20 hours.

Officer Comments: This information has been provided to the Officer and a response is awaited.

Tree Officer: No objections are raised.

Heritage Officer: It is not considered that this application requires specialist input in respect of the built historic environment.

KCC Highways: The existing access via Adelaide Road is suitable with good visibility in both directions and is wide enough to allow 2 vehicles to pass along its entirety, but the access and parking spaces would need to be retained in perpetuity.

KCC PROW Officer: Does not wish to make comments.

Kent Fire & Rescue Service: Commented on the initial submission that there lacked emergency access to the proposed units.

Officer Comments: The comment is not in a form of a planning objection, but rather highlights that this is a building control matter that would need to be addressed.

Public Representations: At the time of writing this report, there have been 196 representations received from the public consultations of the application. Of these, 34 are objections and 161 are in support. One neutrally worded response (with regard to reflection from the solar panels) has been received. A summary of the objections raised is as follows:

- The location is unsuitable
- Impact upon air quality, the woodland and natural environments and habitats
- Loss of privacy, increase in noise and general disturbance and harm to living conditions
- Fire hazard
- Increase in traffic, harm to highway and pedestrian safety
- Harm to the visual amenity and countryside character
- Harm to the listed building and its setting
- The café is inappropriate
- Harm to welfare of animals
- There are breaches of planning control
- The bungalow is not surplus to use

A summary of the supporting comments is as follows:

- Supports the local community
- Meets an educational need
- The work being done with the pupils is supported.
- Raises the profile of the area
- There is sufficient separation to nearby properties
- The proposal is sustainable

The KCC Interim Area Education Officer states that there has been a significant increase in the numbers of children and young people with Education Health and Care Plans and an increased demand for places in schools (such as Woodpecker Court) offering bespoke learning environments.

The Head teacher at the Eythorne Elvington Community Primary School states that the school uses the grounds and benefits from the staff delivering sessions, there is a desire to increase and improve links and the school does not have any issues with the operations of Woodpecker Court.

Astor School supports the application, the bespoke curriculum and the way the facility is operated.

The Vicar of the Bewsborough Parish (6 local parishes including Eythorne & Elvington) supports the school and the support it provides to the children and local community.

- f)
1. **The Site and the Proposal**
 - 1.1 The application site comprises a 2-storey, Grade II listed, detached dwelling (the applicant's house), a converted garage building, in use for ancillary residential accommodation (a relative of the applicant), a former coach house building, in use as a classroom, and 6 single storey outbuildings to the side and rear of the detached dwelling, within its 'garden'. Three of these outbuildings have recently been erected and are in use as a classroom, toilet block and a tool/machine storage building. They are of timber construction - some of which are located on pre-existing concrete slabs.
 - 1.2 Within this 'garden' area are open/grassed areas, a pet/animal enclosure, a relaxation area, a parking area, a small 'assault course' – which leads from the garden along a narrow strip of land towards the access to the site from Wigmore Lane and a small 'range' on the other (south eastern) side of the parking area, along a short, narrow strip of land.
 - 1.3 Not including the house and its ancillary residential accommodation, the use of the remaining land and buildings provide an alternative/additional means of education for young people.
 - 1.4 The detached dwelling is the former Manor house (Woodpecker Court) and was constructed in the early 18th Century. It is finished in red brickwork under a plain tiled roof.
 - 1.5 The application site also comprises an area of land in front of (west of) Woodpecker Court, which contains a further timber building in use as a classroom and a shed. Adjoining the classroom is a small enclosure, housing animals (located to the north east of the building).
 - 1.6 To the north of the 'garden' area is an area of woodland, which is protected by a Tree Preservation Order. Only part of the woodland is in 'use' by the applicant for teaching outdoor/woodland skills to the young people, the remaining parts have been made available for the public/community groups to use. Within the woodland, a 'dead wood wildlife' fence is erected, which is about 1m-1.5m high and made up of fallen branches and dead wood, and which forms a 'green' barrier to the area of land that the applicant wishes to separate between public and educational use. The fence comprises branches entwined and stacked together to form a physical barrier. Within the area to be retained for educational use only, and with access from the garden of the main site, a further timber (mobile) building for use as a woodland classroom has been recently stationed.
 - 1.7 The application site also covers land that is owned by the Tilmanstone Welfare Club. This includes a small square parcel of land located opposite the front garden of Woodpecker Court, located amongst trees, and is used to accommodate a field shelter and grazing for goats. To the west of this there is a further large field that has been sub divided into 4 paddocks and used to accommodate 4 field shelters and additional animals including alpacas, goats and sheep. This land is close to Elvington Court Nursery (containing a dwelling and outbuildings) and the

residential properties along Thanet View (Adelaide Road). The land now has the appearance of being in agricultural use.

- 1.8 The Tilmanstone Welfare Bowls Club and Pavilion, the Willows (bungalow) and car parking are located mostly to the west of Woodpecker Court.
- 1.9 The access to the rear 'garden' of the site is from Wigmore Lane along a narrow private drive to a small parking area within the 'garden' area. An additional access to Woodpecker Court is via a lane accessed from Adelaide Road. In addition to Woodpecker Court, the lane serves Elvington Court Nursery, the Tilmanstone Welfare Bowls Club and Sports Pavilion, Willows bungalow as well as the paddocks, pens and classroom used by the School.
- 1.10 Public Right of Way EE354 runs along this lane from Adelaide Road.
- 1.11 The proposal seeks to erect two buildings on the site, within the main 'garden' area, close to existing buildings. The first would be used as a classroom, it would be of similar design and appearance as the other classroom buildings. The second building is proposed to be used as a catering building, to replace a 'mobile' catering unit in the same location. The mobile building would be moved to another location within the site, further north within the woodland, and close to the 'dead wood' fence.
- 1.12 A new bin enclosure building is proposed to the west of the site and would be adjacent to an existing classroom building.
- 1.13 Solar panels are proposed on the roof of an existing tool and equipment building, which is among the existing buildings and classrooms in the centre of the site.
- 1.14 The proposal also seeks to vary the limitation of children approved under the previous planning permission. This seeks to increase the number of students/school children on the site at any time from 40 to 60. The increase in the number of children comes from an increase in demand for such a facility and educational service. Secondly, the proposal seeks to increase the number of 'events' on the site available to the public and community groups from 1 to 6 (1 per term).
- 1.15 Whilst the access from Wigmore Lane remains, providing access to a small car parking area in the site, the proposal includes the provision of a turning area, drop off and pick up area and further parking spaces for staff on the western part of the site, accessed from the lane front Adelaide Road. The use of this access was highlighted to be available to the school under the previous application, but the proposal seeks to change the degree to which this access is used through the turning, pick up and staff parking areas proposed.

2. Main Issues

- 2.1 The main issues are:
 - Principle of development

- Impact on visual amenity and the character and appearance of the countryside
- Impact upon the setting of the designated heritage asset
- Impact on residential amenity
- Highway Safety
- Planning balance

Principle of Development

- 2.2 In respect of Policy DM1, the proposal is considered to be ancillary to an existing development and use and therefore it would be in conformity with this policy and acceptable in principle.
- 2.3 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The confines of the village extend to the houses opposite the access to the application site along Wigmore Lane (but do not take in the access to the site) and cross the access to the lane leading to the paddocks, the 'Willows', the Bowls Club land, Elvington Court Nursery and Woodpecker Court from Adelaide Road.
- 2.4 Whilst the proposed development and increase in the number of pupils and staff attending the school and activities will increase the demand for travel outside the village confines, it is considered that the application site is not so materially removed from the village confines so as to be remote from it and; as such, there will be travel to and from the site that would cross into/overlap with the village confines.
- 2.5 Policy DM11 is worded to allow development outside the settlement confines if justified by other development plan policies. As the proposal is considered to be in conformity with Policy DM1, it is considered that the proposal is only partly and in moderate conflict with the aims of Policy DM11 to reduce travel outside the settlements and the objectives behind Paragraph 105 of the NPPF to actively manage patterns of growth.
- 2.6 For the purposes of applying the appropriate weight to the Development Plan and those policies important for the determination of the application, it is accepted that some of the detailed policies applicable to the assessment of this particular application (including Policies DM1 and DM11) are to various degrees, now considered inconsistent with aspects of the NPPF and as such are out-of-date. That does not mean however that these policies automatically have no or limited weight. They remain part of the Development Plan and must therefore be the starting point for the determination of the application. Furthermore, while the overall objective of a policy might be held out-of-date, greater weight can nevertheless still be applied to it depending on the nature/location of the proposal in question and the degree to which the policy (in that limited context) adheres to and is consistent with the policy approach in the NPPF.
- 2.7 As the policies are out of date with the NPPF, what is known as the 'tilted balance' applies, as set out in Paragraph 11 of the NPPF, where there is a presumption in favour of planning permission for sustainable

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

- 2.8 In conclusion, whilst there is moderate conflict with the aims of Policy DM11 and Paragraph 105 of the NPPF, there is an NPPF requirement under Paragraph 95 that decisions should give “great weight” to the needs of schools. As such, and weighing these in the balance, it is considered that the principle of the proposal is acceptable in this location.

Impact on Visual Amenity and Character and Appearance

- 2.9 The impact of the proposal on visual amenity and the character and appearance of the countryside needs to be considered against the use of the land and the existing development.
- 2.10 The main educational function takes place within the rear garden area of Woodpecker Court – the main building on the land. The garden land is well defined and physically contained by boundary enclosures. The proposed buildings are contained within this garden area and form part of a consolidation of buildings on the site. They are sympathetic with the existing form, design and appearance of other nearby buildings and would not stand out on their own and would not encroach into the open countryside. The garden is not overtly visible from public vantage points and as such its use and the proposed buildings will have a minimal impact upon visual amenity and the character and appearance of the area.
- 2.11 The proposed bin store is modest in scale and would be located against an existing classroom. It is well designed and would not encroach into the more open countryside and surrounding area. As such, the bin enclosure is considered to meet the requirements for good design within the NPPF.
- 2.12 The proposed solar panels would be on a roof slope of an existing building in the centre of the site and would not be visible from public vantage points. As such, these are considered acceptable.
- 2.13 The proposed turning, drop off and car parking areas would be visible from public vantage points within the open countryside. The car parking would take place on an existing area that is grassed. Both the parking area and turning area would be seen within the context of an existing access/private way leading to the existing pavilion and hard surfaced car parking area. The turning area and car parking area would not take up a significant amount of the existing land – some of this land is already in use as one of the animal enclosures (pig pens). With suitable hardsurfacing or even cellular matting, these areas would not appear untoward, intrusive within this context or significantly harmful to warrant a refusal of planning permission.
- 2.14 The additional numbers would appear to be able to be suitably accommodated on the site, as the amount and extent of development on the site is consolidated and not significant, and there appears to be sizeable areas of open land for the pupils’ recreation and leisure.

- 2.15 The increased use would extend into the woodland area. There has been some removal of trees and other works of management - which appear to be covered by the consent granted in 2021 (set out above). With this exception, there appears to be no other material increase or noticeable visual impact or change in the prevailing character and appearance of the woodland since the previous permission was granted in 2020. The intention behind the education in this area is to teach forest school/tree management skills within the woodland which should not have any material bearing upon its appearance. The applicants own the woodland and allow the public and community groups access to it
- 2.16 It is considered therefore that on the whole, having taken into account the increased areas of hardstanding for the parking and turning areas, the proposal meets the requirements of Policy DM15 and paragraph 174 of the NPPF.

Impact upon Designated Heritage Asset

- 2.17 The listed building is the main, detached two storey dwelling at the front of the site, with an access from the drive leading from Adelaide Road. It also has an access from Wigmore Lane, via a private lane, which serves the educational facility. The occupier of the house operates the educational facility, and is the principal applicant.
- 2.18 The proposed development only affects the parts of the site that are some distance (to the west and east) from the main house and the ancillary residential accommodation (in the converted garage) – with intervening development/structures between them. As such, it is considered that the proposed development would not affect the setting of Woodpecker Court. Having considered the duty under Section 66 of the Principal Act, it is considered that the new buildings, uses and other development do not materially affect the setting of the designated heritage asset, and have a neutral impact.

Impact on Residential Amenity

- 2.19 There is a close boarded timber fence some 2.5m high along the boundary with Elvington Court Nursery. Along the boundary with the residential properties in Wigmore Road, to the east, there are rows of landscaping that form a dense planting screen within the application site and within the garden of the adjacent residential property. There are only glimpsed views of parts of the rear garden area of the adjacent property from the application site. It is considered therefore that the neighbouring residential properties are suitably safeguarded from overlooking and loss of privacy.
- 2.20 As the educational use of the land only takes place within normal school days and hours, it is considered that noise and disturbance arising from the additional development and numbers of pupils will take place during less sensitive times and days of the week – which would allow the residents of nearby properties to continue to enjoy a reasonable degree of peace and quiet at weekends and during the evenings.

- 2.21 With regard to the additional community events proposed, one per term, it is not considered that this increase is material enough to cause undue harm to the living conditions of the occupiers of nearby properties.

Highway Safety

- 2.22 The increase in the number of pupils attending the school (from 40 to 60) and increase in staff numbers from 10 to 20 will increase the vehicular movements to and from the site and the levels of activity on the site. Condition 4 (restricting the number of pupils) was imposed on the previous planning permission, to safeguard highway safety. On advice from Kent Highways, the condition was imposed and its effect aimed at the use of the access to the site from Wigmore Road.
- 2.23 In KCC's response, at that time, there was a preference for drop off and pick-ups to use the access and lane from Adelaide Road as a more appropriate solution than vehicles using the access from Wigmore Lane.
- 2.24 Under this current application, there are no objections from KCC Highways to the use of the access from Adelaide Road, parking and turning areas, providing that the parking and turning areas are retained for these purposes.
- 2.25 The 2019 planning permission for the change of use of the land with the conditions attached did not prevent or limit the use of the access from Adelaide Road. As such, there are no current planning controls over the number of vehicles using the access for the purposes of dropping off and picking up children.
- 2.26 As such, it is considered that as there is the ability for vehicles to turn on site and leave the access onto Adelaide Road in a forward gear, the increase in the number of pupils and staff is not likely to give rise to a significant increase in harm to highway or pedestrian safety.
- 2.27 The context of the use of the land and access from Adelaide Road, and the comments from Kent Highways, do not negate the views of local people that the increased use of the access and parking area are a cause for concern; however, the proposal is not considered to directly or automatically give rise to conditions that would unduly harm pedestrian and highway safety.

Other Matters

- 2.28 The final consultation of this application expires on 12 August 2022. The reason for this consultation was due to the proposed increase in community events from 1 to 6 and to clarify the de. Should any new information/responses be submitted following the Planning Committee decision and prior to the expiration of the consultation period, and this information is considered by the Head of Planning and Development to be material to the decision that has been made, the application will be reported back to the next available Planning Committee.

Planning Balance

- 2.29 The proposal would not be in conflict with policy DM1 and is only in moderate conflict with policy DM11 and policy DM15. The conflict with DM15 could be mitigated through a condition on how the additional areas of land take would be treated.
- 2.30 The requirements of Paragraph 95 of the NPPF are to give “great weight” to the needs of schools. As such, it is considered that for this application to be unacceptable any harm identified would have to overcome the great weight in favour of extending the school and improving its provision and service. As there is only limited harm identified it is considered that the planning balance is strongly in favour of granting planning permission.

Conclusion

- 2.31 The proposal is for the erection of two buildings, the relocation of a bin enclosure building, solar panels, increased areas of hard surfacing for turning and parking, an increase in the number of pupils on the site at any time from 40 to 60 and an increase in open/community events from 1 per year to 6 per year.
- 2.32 It is considered that the proposal is acceptable in principle and there is only a limited degree of conflict with planning policy and harm arising from the proposal. Given the weight to be afforded to the need for the school to expand and improve their facilities, it is considered that the proposal should be supported.

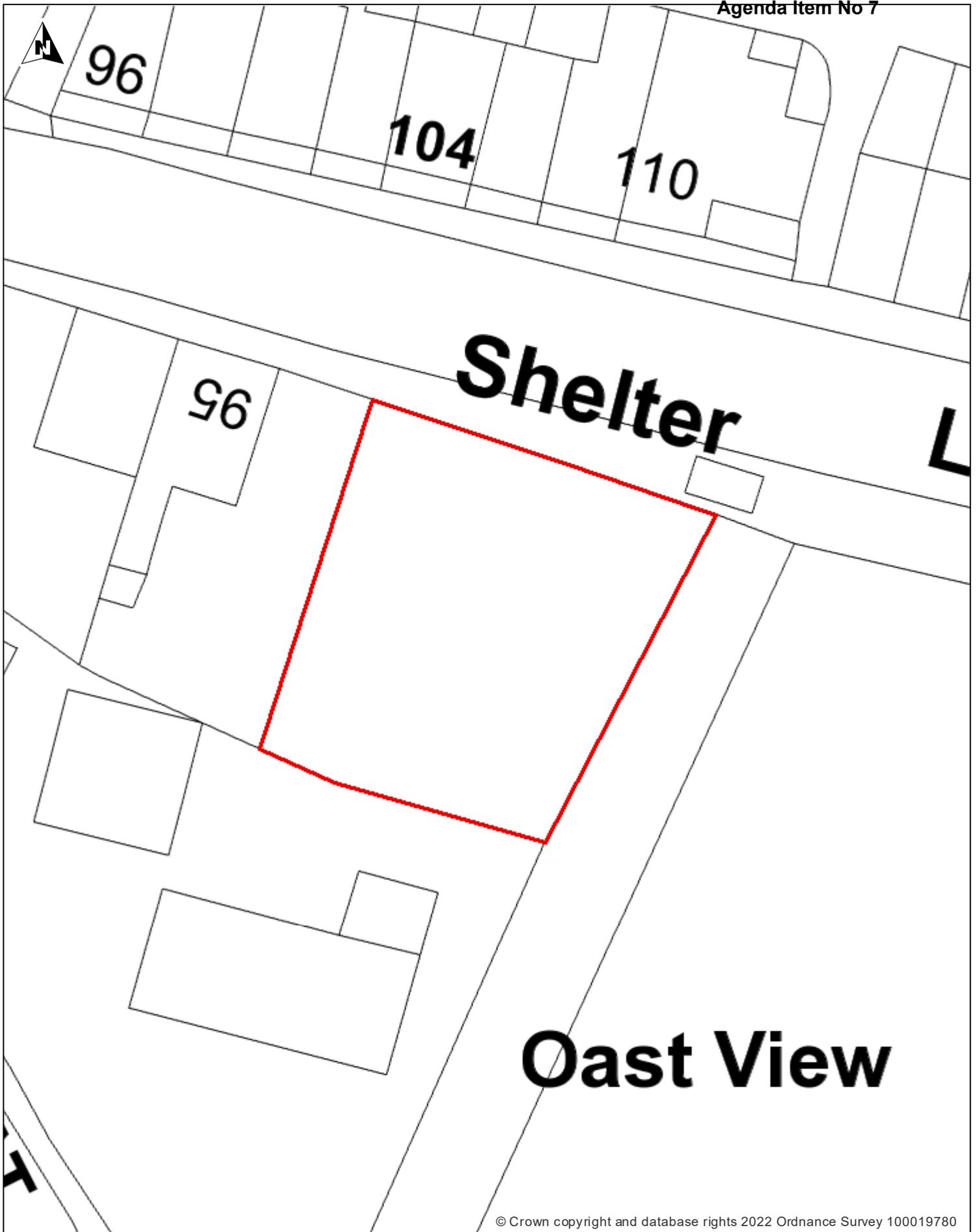
g)

Recommendation

- I Planning permission be GRANTED with the imposition of the following conditions:
- i. Permission to be implemented within 3 years.
 - ii. Development should be in accordance with the layout plan and drawings
 - iii. Materials of the buildings to be as those submitted with the application
 - iv. Materials of the new hard surfacing areas to be submitted for approval.
 - v. Retention of the parking and turning areas for the duration of the school use of the site.
 - vi. Only 60 pupils to be allowed on the application site at any one time.
 - vii. To limit the hours of opening for the public/community events from 0900 hours to 2000 hours.
 - viii. The previous condition 5 (imposed on 19/01241) on the hours and days of the operation of the use to be re-imposed with the increase from 1 open community event to 6 per school year.
- 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, and to determine whether any new information/responses received before the expiration of the

consultation period (12 August 2022) are material to the Planning Committee's decision so as to require the application to be held in abeyance and reported back to the Planning Committee.

Case Officer: Vic Hester



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21/00391

Land Adjacent To 95 The Street

Ash

CT3 2AD

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/21/00391 – ERECTION OF DETACHED DWELLING WITH ASSOCIATED PARKING.**

Land Adjacent To 95 The Street Ash Kent CT3 2AD

Reason for report: Number of contrary views (36).

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policies and Guidance**

Core Strategy (CS) Policies: CP1, DM1, DM11

Ash Neighbourhood Plan (ANP) Policies: ANP4, ANP5, ANP6n

National Planning Policy Framework 2021 (NPPF): Section 5, Section 9, Section 12

Designated Heritage Assets

The application site falls within the Ash Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

The Kent Design Guide (KDG) (2005)

National Design Guide (2019)

Regulation 18 Consultation on the Draft Local Plan

The Draft Local Plan has undergone 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**

07/01404 – Refused, for the erection of a pair of semi-detached dwellings by reason of design and appearance and overlooking towards the side of No.95.

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

The proposal has been amended from its initial submission and two consultations of the application have taken place.

Ash Parish Council: To the originally submitted scheme the Parish Council raised objections on the basis of..." overdevelopment of the site, not in character with the street scene and the Ash Conservation area; loss of visual amenity, over-looking of adjacent properties and possible flooding due to surface water run-off."

For the amended scheme the Parish Council did not raise objections to the development, but wished consideration to be given to the potential surface

water run off beyond the eastern boundary of the site. Should permission be granted, the Parish Council has requested a number of conditions be imposed.

KCC PROW Officer: Does not wish to make comments.

Southern Water: Requires a formal application to connect to the public sewer that crosses the access to the site. Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer.

Heritage Officer: Sought improvements in the design and use of finishes. These were undertaken and have been submitted under amended drawings.

Kent Highways: No objections are raised subject to the imposition of conditions.

Senior Environment Officer: No objections subject to the proposal meeting the requirements of Natural England I respect of achieving nutrient neutrality.

Tree Officer: Raises no objections as the trees to be removed are of low quality and value. However, seeks a condition to protect the other trees shown to be retained during the construction period.

Public Representations: From the two consultation periods, there have been 37 representations received (32 for the first proposal and 5 for the amended proposal) from the public consultation. Of these, 36 responses raise objections, and 1 response supports the application. The objections can be summarised as follows:

- Out of character and scale
- Overbearing, intrusive, inappropriate use of materials
- Harm to the conservation area and views of the listed Ash Church
- Overlooking/loss of privacy, loss of light, loss of amenity
- Loss of trees, wildlife and impact upon habitats
- Harm to highway and pedestrian safety
- Impact upon drainage
- Inconvenience and disturbance during construction
- The proposal is worse than the application refused in 2007
- Incorrect/inconsistent information with the submission

One respondent supports the design and appearance of the proposal, and makes suggestions for some alterations to be made.

f)

1. **The Site and the Proposal**

1.1 The application site is a square parcel of land adjacent to (to the east of) No.95 the Street. It appears to have formally been part of the side garden of No.95. The site has the remnants of a garage building, which faces toward No.95, and is otherwise mostly covered in vegetation, with leylandii trees along its eastern boundary and other trees within the plot. The front boundary comprises a 1.8m high timber fence that has been overgrown by ivy and other vegetation. The topography of the land falls from front to back.

- 1.2 No.95 is a two storey, semi-detached Victorian house. It has a rectangular form, with a pitched roof. It is finished in white painted brickwork under a slate roof. The front elevation contains a ground window and a first floor window above. The entrance to the building is from the side. There are windows in the side elevation facing the application site. Adjacent to the building is an area for a parking space, with access from The Street. There is a timber shed and a fence at the rear of the parking space.
- 1.3 The eastern boundary of the site is the extent of the settlement boundary, at this point of the village. To the east of the boundary is an area of open green space.
- 1.4 Opposite, there is a terrace of two storey Victorian residential properties. These have front doors, with a ground window and first floor window above. These buildings have rendered elevations, slate roofs and chimneys.
- 1.5 The site falls within the Ash Conservation Area. The character of this part of the conservation area is mainly derived by a variety of Victorian buildings that are constructed close to the back edge of the highway. The buildings at the back edge of the highway, and the narrowness of the road, provide a tight knit urban form in this part of the street scene, with long views created by the location and proximity of the buildings, to the west and east. There are some buildings set further back from the highway (Nos. 92 and 94) and there is the open space to the east of the plot, which provide a visual loosening of the built form and change to the linear pattern of residential development along the street. In combination, the design and appearance of the buildings along this stretch of the road, and their location and proximity to each other make a positive contribution to the special character of the area.
- 1.6 The application is supported by an Arboricultural Report, a Preliminary Ecological Appraisal and an Arboricultural Report, Heritage Statement and a Provisional Certificate from Natural England with regard to great Crested Newts.
- 1.7 The proposal has been amended from its first submission. More recently, it has been amended to take into account the comments from the Heritage officer with regard to the design and finer detailing of the scheme.
- 1.8 The application proposal is for the erection of a detached, two storey house with space on the building's western side for two parking spaces, with access from The Street. In addition, cycle and refuse storage areas are proposed along the eastern boundary of the site.
- 1.9 The building will have a square form with a pitched roof, with gabled ends. The building will be double fronted, with a centrally located entrance door and windows on either side and above. The entrance door will have a storm porch above, the windows will have 12 panes (box) with brick arches.
- 1.10 A garden room is proposed on the western side of the building, set back behind the front elevation. This will be rectangular in form with a sloping,

pitched roof. On the roof, solar panels are proposed. The garden room will be constructed so that it is set into the falling levels of the land - its rear section will be lower than its front section. The rear elevation of the main building will contain a large, rectangular bay window, with a flat roof and roof lantern.

1.11 The leylandii trees along the eastern boundary of the site and some self-seeded oak trees on the site will be lost. One maple tree on the site will be retained and a group of trees beyond the eastern boundary of the site will be protected during construction. Trees can be planted on the site, as part replacement.

1.12 The submitted preliminary ecological appraisal does not identify any protected species or habitats on the site, but suggests that ecological enhancements should be made as part of the proposal.

2. Main Issues

2.1 The main issues are:

- The principle of the development
- Design and the impact on designated heritage assets
- The impact on residential amenity
- The impact on highway safety
- Conservation of Habitats and Species Regulations
- Other Considerations
- Conclusions

Principle of Development

2.2 The application site falls within the village confines of Ash. As such, under Policies CP1 and DM1, the erection of a dwelling within the settlement boundary is acceptable in principle.

2.3 In March 2017, DDC Cabinet agreed to commence the review of the Core Strategy (CS) and Land Allocation Action Plan (LALP) through the preparation of a single local plan. The decision to review the CS and LALP is an acknowledgement that in some cases the evidence base is out of date. It is also recognised that some of the detailed policies applicable to the assessment of this particular application (including Policies CP1 and DM1) are to various degrees, now considered inconsistent with aspects of the NPPF and as such are out-of-date. That does not mean however that these policies automatically have no or limited weight. They remain part of the Development Plan and must therefore be the starting point for the determination of the application. Furthermore, while the overall objective of a policy might be held out-of-date, greater weight can nevertheless still be applied to it depending on the nature/location of the proposal in question and the degree to which the policy (in that limited context) adheres to and is consistent with the policy approach in the NPPF.

2.4 With regard to this particular application, the focus of the NPPF is to locate new housing development within suitably sustainable locations. Supporting the principle of new housing within the village confines would

be consistent with Paragraph 79 of the NPPF, which seeks to locate housing where it will enhance or maintain the vitality of rural communities and to avoid the development of isolated homes in the countryside.

- 2.5 There are no in principle objections arising from the policies in the Ash Neighbourhood Plan.
- 2.6 As such, the principle of allowing housing development in this location is compatible with the objectives of the Development Plan and the requirements of the NPPF.

Design and Impact upon the Designated Heritage Assets

- 2.7 The proposal has been amended from its original submission and is a clear improvement in the form, design and appearance of the building and its configuration on the plot.
- 2.8 The street elevation of the building is a Victorian styled composition. It has a simple, unfussy design and uses appropriate door and window proportions. It is two storeys in scale and is located close to the back edge of the highway. As such, it will align with the linear pattern of development along this part of the street. The use of yellow stock facing brickwork, timber fenestration and slate roofs are traditional materials and would suit this style of building and design. The building would visually relate well to the surrounding buildings and would be sympathetic with its visual quality and the prevailing character and appearance of the conservation area. Care will need to be had for the choice of materials and the detailing of the building, which can be secured by condition.
- 2.9 The parking spaces, cycle and refuse storage areas could be appropriately designed with details to be required by planning conditions. The building allows sufficient garden space to the rear, and replacement hedgerow and tree planting would provide an appropriate setting for the development and help to assimilate it with the surrounding area – in particular with the open land to the east. This would in part also off-set the loss of vegetation and tress from the site, although these currently have low amenity value.
- 2.10 One of the responses received from the consultation of the application makes reference to the likely harm to the views of St Nicholas's Church. In this respect the statutory duties of paying special regard to preserving the setting of the listed building apply, and that this must be given considerable importance and weight. St Nicholas's Church building in Ash, is located further west of the application site, on raised land levels, above the level of the highway. It is a Grade I listed building and originates from the 12th Century.
- 2.11 The proposed two storey scale of the proposed building, its proximity to No.95, its location along the linear pattern of development on the Street and the intervening buildings between the application site and the Church building will mean that the views to and from the Church building would not be impeded or otherwise affected by the proposal.

- 2.12 Subject to the imposition of planning conditions, the proposed development is well designed and will preserve the prevailing character and appearance of the conservation area and the setting of the listed Church building.

Impact on Residential Amenity

- 2.13 The location of the proposed dwelling would face some of the Victorian buildings opposite, on the other side of the street. The building would come no closer to this terrace than other existing buildings adjacent. There is also an existing level of visibility into windows by the public at street level. In view of the existing circumstances and level of visibility and intervisibility it is not considered that the proposal would make this materially worse. As such, the proposal would not give rise to undue levels of overlooking and loss of privacy for those occupiers living opposite.
- 2.14 With regard to the impact on No.95 The Street, only one first floor side window is proposed in the new building that will face the side elevation of No.95. This window will serve a stairwell. As the window will not serve a habitable room, it is unlikely that the occupiers of the new house will be using this window for outlook. In conclusion, the living conditions of the occupiers of No.95 will be safeguarded.
- 2.15 There is residential development to the rear of the plot, Oast View, with access from Moat Lane. Again, due to the location of the proposed house and its separation from Oast View, it is not considered that there will be a material increase in overlooking from what is already experienced from the existing windows in No.95, to the extent that this would lead to an adverse loss of privacy and undue harm to the living conditions of the occupiers of those properties.
- 2.16 It is concluded therefore, that the proposed house would not give rise to undue levels of impact upon the living conditions of the occupiers of adjacent properties, or those opposite.

Impact on Highway Safety

- 2.17 Kent Highways has advised that subject to the imposition of conditions, the proposal is acceptable on highway safety grounds. It is considered that drivers approaching from the east would be able to clearly see a vehicle waiting to emerge at the access from further away, and the access will only have limited use. An objection on highway safety grounds is therefore unlikely to be upheld on appeal. This does not negate the view of local people that the increased use of the access and parking area is a cause for concern; however, the proposal is not considered to directly or automatically give rise to conditions that would harm pedestrian and highway safety.

Conservation of Habitats and Species Regulations 2017

Thanet Coast/Sandwich Bay SPA:

- 2.18 The site is located within the area where the development is likely to have a significant effect on the Thanet Coast and Sandwich Bay Special

Protection Area (SPA). Applying a pre-cautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within the district, to have an adverse effect on the integrity of the protected SPA and Ramsar sites. Following consultation with Natural England, the identified pathway for such an adverse effect is an increase in recreational activity which causes disturbance, pre-dominantly by dog-walking, to the species which led to the designation of the sites and the integrity of the sites themselves.

- 2.19 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites. For proposed housing developments in excess of 14 dwellings the SPA requires the applicant to contribute to the Strategy in accordance with a published schedule. This mitigation comprises several elements, including monitoring and wardening.
- 2.20 Having regard to the proposed mitigation measures and the level of contribution currently acquired from larger developments, it is considered that the proposal would not have an adverse effect on the integrity of the SPA and Ramsar sites. The mitigation measures will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

Stodmarsh Lakes Nature Reserve SPA/SAC:

- 2.21 Members may be aware of press reports relating to concerns about raised nutrient levels affecting Stodmarsh Lakes and the delays in housing schemes coming forward as a result. This has affected the districts of Canterbury and Ashford, as well as part of Dover District. Essentially the concerns have been raised following studies by NE that increases in wastewater from new developments coming forward have resulted in increased nutrient levels in Stodmarsh Lakes and which are causing water quality issues as a result. The lakes have high international ecological value for wetland habitats and the rare and special wildlife they support. They are protected through a combination of designations including A Special Area of Conservation, A Special Protection Area, A Ramsar site, A site of Special Scientific Interest and a National Nature Reserve. As such they are protected under the Habitat Regulations which requires an Appropriate Assessment to be carried out to show there would be no adverse effect of a proposal on the integrity of the site. Until that can be demonstrated NE will raise an objection to any development proposal resulting in an increase of wastewater.
- 2.22 As far as Dover District is concerned, the areas affected are those which discharge to the Dambridge wastewater treatment works in Wingham. In common with other treatment works, the Wingham site discharges treated effluent which eventually enters the Little Stour and then the Great Stour Rivers. Whilst Stodmarsh is upstream from the nutrient discharge location, because the river is tidal, there is potential for upstream movement during incoming tides.

- 2.23 Because of the above, officers commissioned consultants to carry out a study to undertake an investigation into potential connectivity between the Dambridge works and water bodies at Stodmarsh. This involved extensive collation and analysis of hydrological data in order to construct applicable modelling profiles. Two scenarios were considered; a worst case when Great Stour discharge was very low; and a realistic flow pattern based on actual recorded flows for the period of 2016-2019. The modelling was conservative in its approach, for example ignoring the potential for any contaminants to decay or otherwise be removed before they might arrive at Stodmarsh lakes which is likely in all probability. The results were that under a worst case scenario there might be a concentration of 0.002 mg/l at the lakes whilst under a more realistic scenario the increase in concentration might be 0.00012 mg/l. Even allowing for any lack of decay in the contaminants, such levels are below the limits of detection of the methods used for water quality.
- 2.24 The above results were presented to NE in mid-2021. Notwithstanding the extremely low probability of any connection with Stodmarsh lakes, NE was reluctant to rule out the possibility of ANY contaminants entering the lakes and therefore was not at that stage prepared to remove its standing objection.
- 2.25 During discussions however, it also emerged that the presence of a sluice gate downstream of Stodmarsh lakes might effectively prevent any upstream flow and therefore contaminants, from entering the lakes. The consultants were therefore asked to rework their modelling taking that factor into account. The results of this have been presented to NE who have to date, maintained their position. We remain in discussion with NE and are considering all options.
- 2.26 The current application, along with many other [housing] proposals in this part of the district, has now been on hold for over a year pending the resolution of this issue. This is a major concern to the Council and developers alike given the need to meet housing targets, in particular. Given the delays caused by this issue and the progress made so far with the advice provided by our consultants and discussions with NE ongoing, officers consider that a recommendation to grant subject to the issue being satisfactorily resolved, will at least establish the principle of the proposal and give the applicant some comfort. The recommendation is framed in recognition that the application can only be approved on the basis of there being no likely significant effect on the integrity of the Stodmarsh SAC, SPA and Ramsar site or alternatively, that satisfactory mitigation can be achieved

Other Considerations

- 2.27 A number of matters have been raised as a result of the consultation of the application. Many of these are considered to have been addressed through the amended proposal, and other issues can be addressed through the imposition of planning conditions.
- 2.28 With reference to the Provisional Certificate issued by Natural England, this, in effect, enables the applicant to demonstrate early engagement with Natural England and that in issuing the Certificate Natural England

does not have in principle objections to the compensation (mitigation) proposed to the likely impacts on great crested newts.

- 2.29 With reference to the bus shelter, the development and the proposed access do not directly require its relocation. Kent Highways have considered that the access is suitably safe and have not raised the relocation of the bus shelter as necessary for the development to proceed. The location of bus shelters is not a planning matter, but rather a highway matter and so unless required to make the development acceptable, a condition for its removal and relocation would not be necessary and would therefore not meet the tests for planning conditions as set out in the NPPF.

Conclusions

- 2.30 The proposal seeks to erect a two storey house within the former garden of No.95 The Street. It is considered to be well designed and would be sympathetic with the visual quality of the street scene and the character and appearance of the conservation area.
- 2.31 It is considered that the proposal would not give rise to undue harm to residential amenity, or highway safety.
- 2.32 Due to the ongoing issue with nutrient neutrality and the need to avoid any significant effect on the protected habitats and species at the Stodmarsh Lakes Nature Reserve, it is not considered that planning permission should not be granted at this stage, but Members give their approval in principle for the proposed development, subject to the nutrient neutrality matter being addressed in the near future.
- 2.33 It is considered that the proposal meets the requirements of the Development Plan and NPPF
- 2.34 Conditions are recommended to be imposed on the resolution to grant planning permission.
- 2.35 Subject to the need to address any likely significant effect on the designated Stodmarsh Lakes and for an Appropriate Assessment to take place in the future, the application is supported by the officers.

g)

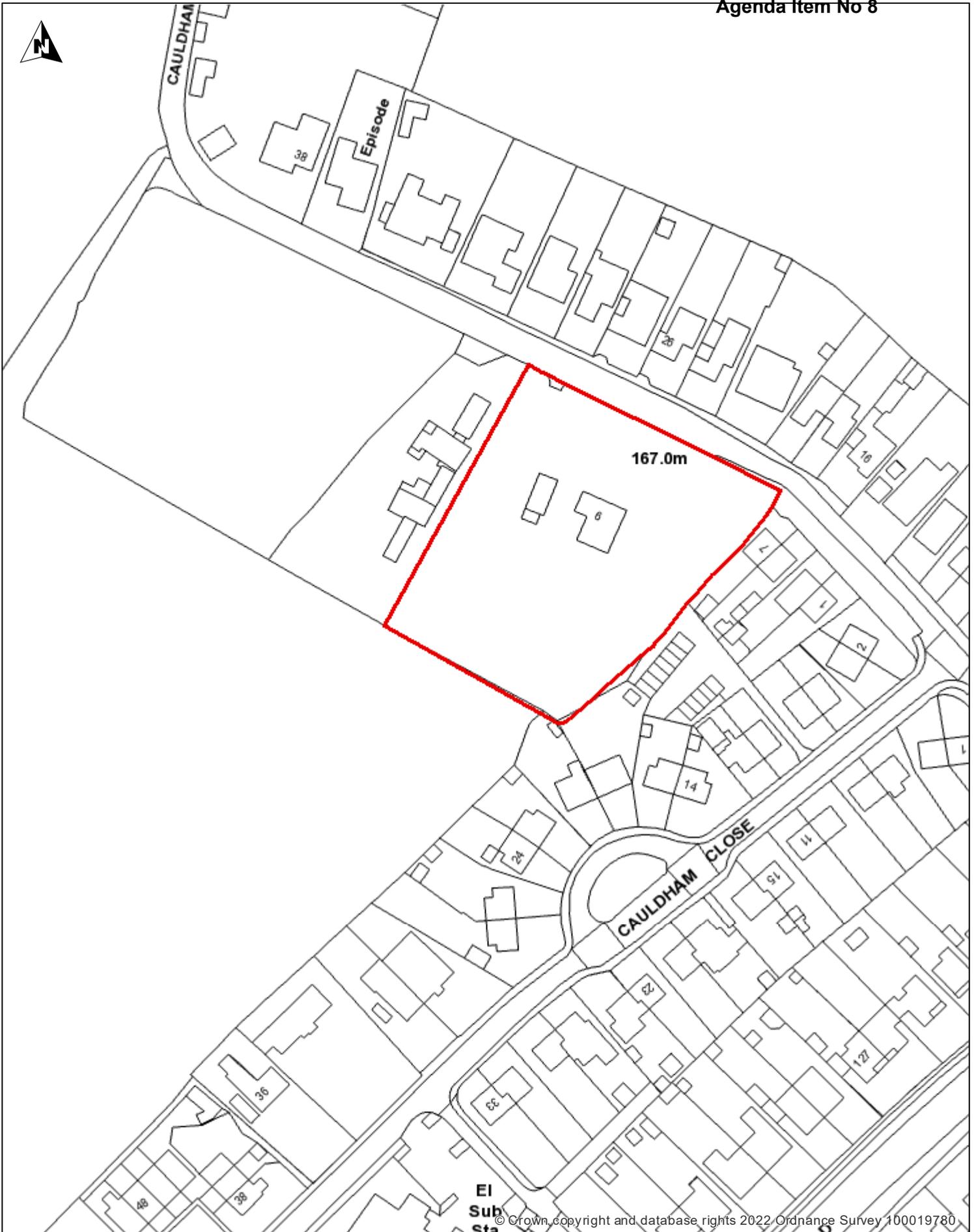
Recommendation

- I SUBJECT TO the local planning authority, as the 'competent authority' for the purposes of the Habitat Regulations, being satisfied (in consultation with Natural England as/if necessary), that discharges of wastewater from Dambridge wastewater treatment works would not have a likely significant effect on the integrity of the Stodmarsh SAC, SPA and Ramsar site, or alternatively that satisfactory mitigation can be achieved, PERMISSION BE GRANTED subject to the following conditions:
1. Standard 3 year implementation period
 2. Development in accordance with the approved plans.

3. Samples of the bricks and slates and details of materials proposed for the external finishes of the building shall be submitted for approval before the construction of the development takes place above ground level
4. Details of construction of eaves and rafter ends, verges, barge boards, joinery of doors & windows and their positioning in the masonry to be submitted for approval
5. Details/position of vents to be submitted for approval
6. Sample panel of brickwork to show brick bond and mortar joints.
7. Site levels to be submitted for approval.
8. Details of the means to dispose of surface water and foul water drainage from the site shall be submitted for approval prior to works commencing.
9. Details of native planting species, enclosures and landscaping to be submitted for approval before the construction of the development exceeds ground level
10. Recommendations within the Ecological Appraisal for enhancing biodiversity during development and increasing biodiversity post construction to be implemented
11. The tree protection measures identified in the Arboricultural Report shall be fully implemented during the construction of the development
12. A Construction Management Plan to be submitted for approval
13. No development shall take place on the site until details are submitted to and approved in writing by the local planning authority of measures to demonstrate that the proposal is taking a proactive approach to mitigating and adapting to climate change and minimising energy consumption. This shall include the provision of an electric vehicle charging point.
14. Parking spaces as shown on the approved plans shall be provided before first use and retained thereafter
15. Provision and maintenance of 1 metre x 1 metre pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level, prior to the use of the site commencing
16. Provision of bonded surface for the first 5m of the depth of the parking spaces
17. Completion of the vehicular crossing prior to use of access
18. Cycle, refuse and recycling facilities to be provided before the first use of the development and retained thereafter
19. Removal of PD rights – Under Class A of the GPDO to cover extensions, extensions and alterations to the roof and outbuildings

II Powers to be delegated to the Planning and Development Manager to resolve details of any necessary planning conditions and/or legal agreements and matters covered in recommendation I above relating to any impacts on the protected Stodmarsh sites in accordance with the issues set out in the report and as resolved by Planning Committee

Case Officer: Vic Hester



20/01569
Longships
Cauldham Lane, Capel Le Ferne
CT18 7HG

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



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

- a) **DOV/20/01569 - THE ERECTION OF A TWO STOREY BUILDING INCORPORATING 15 APARTMENTS (INDEPENDENT LIVING ACCOMMODATION), COMMUNAL SOCIAL AREAS AND ASSOCIATED PARKING AND LANDSCAPING**

Longships, Cauldham Lane, Capel Le Ferne

Reason for report – Number of contrary views (36 Public Representations & Parish Council)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM11, DM15, DM16

Land Allocations Local Plan (2015): DM27

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 have little weight and are not considered to materially affect the assessment of this application. The Draft has completed the first public consultation exercise, which expired in March and at this stage only minimum weight can be afforded to the policies of the Plan.

Kent Downs Area of Outstanding Natural Beauty Management Plan 2021- 2026

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 38, 47, 48, 60 – 62, 86, 79, 110 - 112, 120, 123, 130 - 135, 167, 168, 174, 176, 180

National Design Guide & National Model Design Code (2021)

Wildlife and Countryside Act 1981

Countryside and Rights of Way Act 2000

- d) **Relevant Planning History**

Various applications including:

CH/6/63/0051 – the erection of dwellings - Refused

CH/6/63/0198 – outline – demolition of “Longships”, and construction of cul-de-sac with 10 building plots - Refused

CH/6/66/0263 – erection of a garage - Granted

DO/74/0454 – residential development - Refused

DO/78/1175 – Erection of bungalows or houses on all or part of site – Refused, Appeal Dismissed

DOV/93/00929 – Two storey side extension - Granted

DOV/13/00302 – Outline application (with all matters reserved) for the erection of eight dwellings (existing dwelling to be demolished) – Refused

e) **Consultee and Third Party Representations**

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

Capel Parish Council – Initially advised they were in agreement of the concept for small retirement units within the village however did not support the application as the location proposed is deemed totally inadequate for this scale of development. They considered the proposal was not in keeping with the current street scene or rural characteristics of the village; that the site would need significant screening to mitigate the impact on AONB and bridleways; that the scale is inappropriate; and impact on properties in Cauldham Close. In addition, the access statement indicates these 2-bedroom residential units are designed to accommodate a live-in person who can act as a companion or take on community duties. With 15 units of two bedrooms and to include all visitor provisions, the parking area seems inadequate when considering residents, visitors, staff deliveries etc. Cauldham Lane is a single-track lane, has no pavement or no passing places, is regularly blocked for deliveries and heavy vehicles accessing local farm, the Industrial units further down Cauldham Lane and access for emptying the bins is from the lane, that would cause considerable congestion on bin days. Significant issues previously raised by DDC regarding the junction of Cauldham Lane / Capel Street / New Dover Road. Historically, there have been a number of road traffic accidents exacerbated by the blind entrance / exit to the B2011 often in foggy weather times. This is the main access route to the local Primary School, so will add further pressure at certain times of the day. Parking and movement of persons from the site with network providers (NHS etc), third party organisations, friends and family, make movements to and from the site a significant issue. Difficult to see how pedestrian walkway on Cauldham Lane would be achieved as the lane is narrow and although land could be purchased from properties along the lane, this may be difficult to achieve. This lane is regularly used by many of our parishioners including dog walkers, ramblers, school children, elderly residents, families and horse riders. Any increase to traffic will have wider health, safety & social impacts to the village. A previous application for this site DOV/13/00302 dated 13th June 2013 was refused and many of the reasons made why this was declined, are still very valid. This site is not currently within the approved Local Development Plan and sits on the edge of our settlement. Leaving the site generally to decline should not be a reason to promote development. Impacts to utility service provisions, for example many residents are believed to have issues with low water pressure. Traffic: Construction movements will have lasting impacts to the village, AONB and Bridleways. The proposal, as submitted, has a gross external floor area of 2,015 m² as identified on DRG P-004 REV and the Parish Council believe, the construction cost to build alone could be in excess of £5m. With a probable construction period of up to 2 years and likelihood of mobile cranes, this would have a significant impact to the local parishioners' wellbeing. Fail to see how this proposal has a positive impact of the NPPF and believe DDC already have a 5-year housing land supply. A development of 15 no 2-bedroom independent living apartments, over a GEA of 2,015 m² with its associated impacts to the environment

and local community make this application inappropriate and should be refused planning permission.

In response to revised plans, advised they still objected. Although the plans now show the building to be further away from Cauldham Close/Lane, which was a concern of the Parish Council as indicated in our previous statement, the Proposal will still impact on neighbouring properties in Cauldham Close/Lane, with the issues of parking on site. The achievement of the proposed footpath and the dangers of the Cauldham Lane/Capel Street junction still exist. Although changes have been made to the access/egress arrangements, it has not been demonstrated how service and emergency vehicles would be able to turn round if all parking spaces on site were occupied. It is also noted, that the Road Safety Audit was carried between 17.00hrs and 18.00hrs, not a time to get an accurate impression of Cauldham Lane traffic activity. Whilst the Road Safety Audit recognises the dangers associated with the Cauldham Lane/Capel Street junction, they appear to indicate that cutting back vegetation at the junction will resolve safety concerns, but the Parish Council consider this is not enough to deal with this exceptionally dangerous junction and narrow access with no footpaths to Cauldham Lane/Close. Dover District Council Draft Local Plan (HELAAP/LALP) states 10 units restriction only. Subject to all the above comments, we continue to have concerns and issues with this application, and request ours and any neighbours comments and/or reactions are seriously considered accordingly.

Further commented:

We have carefully considered all comments made to Dover District Council since we drafted our response back in January 2021. In our last submission we questioned the space in the car park for delivery and emergency vehicles to turn round if all parking bays are used, we think this point is still valid. The emergency vehicle turning space has not been addressed to date.

Although we fully support the concept for small retirement units for our parishioners based upon the survey we undertook a number of years ago, we are still not convinced this is the correct site for this in its current format put forward, with the erection of two storey building incorporating 15 apartments (flats), communal social areas and associated parking and landscaping. It is too large and will have a significant impact to the surrounding area and street scene for Cauldham Lane and Cauldham Close.

It is disappointing to read a statement in the revised Design Access Statement submitted: "we find it important to underline the note from the viability report's comment that a smaller scheme would run a larger deficit as the land value used is already conservative and the GDV of a smaller scheme would make the scheme much less viable", bearing in mind the site is well documented by Dover District Council positively for 10 units. A smaller scheme may well be able to be incorporated with less impact. We believe the scheme is too large and will have a significant impact to the surrounding area.

It is very clear that a significant amount of effort and alteration has been made to this application since early 2021, but it is also very clear the majority of comments made by the residents and wider parishioners do not support this application. Objections include impact to neighbouring properties, negative impact of wildlife, access and

movement along Cauldham Lane, safety grounds (Cauldham is a single-track Lane), pure scale of the development is not in keeping with the area and issues with drainage and water raised by local residents.

The proposal now shows Cauldham Lane being widened to 4.8m adjacent to the frontage of Longship, which could mean the removal of mature trees. The road widening adjacent to No: 2A Cauldham Lane, seems totally unnecessary.

A revised highway scheme has been put forward however, we still have significant concerns with the junction of Capel Street, New Dover Road and Cauldham Lane. Capel Street is used as a short cut to Dover and this Council have worked hard over the years to try and educate and limit the significant speeding that occurs on a daily basis.

Vehicles joining Capel Street from New Dover Road constantly cut across the bend at the top of Capel Street at the point of the proposed crossing, which in our view could lead to a significant risk of a serious or fatal accident. This point is also raised in the Waterman Revised Stage 1 Audit.

There are a number of valid issues raised by the Waterman Revised Stage 1 Audit, the most worrying is related to the proposal for a pedestrian crossing point at the top of Capel Street. In our view, the position of a crossing point in this location is extremely dangerous as many vehicles leave the B2011 (New Dover Road) at speed and straight line onto Capel Street, as highlighted in point 7.3 of the Audit. Point 7.5 of the Audit highlights the problems of vehicles queuing to leave Capel Street in the vicinity of the proposed crossing, again resulting in a possible accident waiting to happen.

The upheaval this development would cause to our Parishioners in Cauldham Lane by road widening and installation of a footpath is unacceptable and is going to be horrendous, while the road widening and the footpath installation take place and this is without the added traffic, caused by the construction site.

For the above reasons, we are not in favour of the current application.

We may be in favour of this type of accommodation at the old petrol station site on New Dover Road, as this in our opinion is an ideal site for this type of accommodation, with easy ingress / egress.

Waste Officer - have now looked at the site plan and if the measurements are correct for width of entrance and exit I do not see any issues for the vehicles visited the site to collect the waste. It looked on the plan like the vehicle could drive in and collect the waste. If not then there would be a delay caused by collections. But if there is no bin store then the waste will need to be stored at the boundary on collection day. It is collected from the roadside at other sites so should not be an issue.

Tree and Horticulture Officer - The recommendations made in the report look to be appropriate and whilst tree removal is shown within the site, the amenity value provided by the boundary planted looks to be largely retained. The protection measures set out within the Tree Constraints Plan are considered suitable provided they are

implemented in conjunction with the recommendations made in the Method Statement. The securing of a landscaping scheme through condition or otherwise will be important to ensure the strengthening of the retained boundary planting.

Environment Agency - Do not object to the proposal in principle subject to the imposition of conditions requiring a remediation strategy to be submitted should contamination not previously identified be found present at the site during construction and that no infiltration of surface water into the ground is permitted other than with the written consent of the local planning authority. An informative relating to contamination is also suggested and they advise that non-planning consents may be required (also to be included as an informative should permission be granted).

NHS – No response received.

Senior Natural Environment Officer - I have reviewed the ecological reports submitted in support of this application and accept the findings and recommendations. Suggestions for enhancements include:

- bat boxes eg Schwegler 2F and 1FF
- bird boxes on the newly erected building or retained trees such as Sparrow Terrace Schwegler 1SP and general purpose boxes - Schwegler 1B
- landscaping using native species precautionary measures for demolishing the building and to mitigate impacts upon foraging bats are recommended, which include:
 - Demolition should include hand removal of roof tiles. If at any point bats or evidence of bats (droppings) are discovered works should stop and an ecologist called for advice;
 - To compensate for foraging habitat loss, all trees proposed for removal should be replaced on a one-for-one basis. New trees should be broad-leaved native species;
 - Any new proposed external lighting should be minimised as far as safely possible with the use of warm white LED and PIR sensors to reduce the extent of light on the site;
 - Any required lighting for carparking areas should be LED bollard lights with directional hoods pointing downward.

Further advised: The 2017 ecological assessment recorded bat droppings within the building proposed for demolition. It is then concluded in the 2017 report that the building has high potential for roosting bats, for which 3 emergence / dawn return surveys are needed to confirm the status of the roost. No internal survey of the building was carried out in respect of the 2020 bat surveys, but three dusk emergence or dawn return surveys were carried out, during which no bats were recorded emerging from the building. Neither of the reports includes any discussion about how the bat droppings came to be within the building without the building being a bat roost. Neither report includes detailed information regarding the locations of potential roosting features (beyond the photographs of the loose tiles in the Biodiversity Assessment). Given that two years have passed since the bat emergence / dawn return surveys, I advise that updated surveys are required prior to commencement of development (if

planning permission is granted), to ensure that all necessary mitigation and compensation measures for any potential impacts to bats can be implemented. Suggested condition wording is provided below. If bats are recorded it may be necessary for the applicant to secure a European protected species mitigation licence (EPSML) prior to any works taking place. Low numbers of bat droppings were recorded in 2017 and no bats were recorded emerging during 2020 and I advise that, if bats are present, it is likely that there will be mitigation and compensation measures available and achievable within the proposed development, such that the favourable conservation status of the local bat population could be maintained. The submitted reports provide little information regarding other potential biodiversity interest on the site and I consider there to be potential for reptiles and hedgehogs to use the site. As the site is in active use as residential garden, the opportunities for reptiles and hedgehogs are not likely to be significant, but I advise that precautionary measures during site clearance are secured within the biodiversity method statement. In addition to any necessary mitigation and compensation measures, in accordance with the NPPF, "opportunities to improve biodiversity in and around developments should be integrated as part of their design". I therefore advise that the implementation of biodiversity enhancements is secured within the planning permission, if granted. The wording of conditions for biodiversity method statement, biodiversity enhancements and bat-sensitive lighting strategy are suggested.

KCC Economic Development - Initially requested financial contributions towards secondary education extension, community learning, youth service, library bookstock, social care and waste. Upon receipt of further information that the development would be restricted to occupants aged 55 to 60 years of age, and subject to a binding legal restriction upon occupancy age to over 55s in perpetuity, advised they would not seek education or youth contributions. The following contributions for the development were sought: Community Learning - £246.30

Library Bookstock - £831.75

Social Care - £2,203.20 (and all homes built as wheelchair accessible and adaptable dwellings in accordance with building regs part M 4 (2))

Waste - £817.05

Broadband – suggest imposition of a condition requiring details of high speed fibre optic installation.

Kent Fire and Rescue Service - I can confirm that on this occasion it is my opinion that the emergency access requirements for the Fire and Rescue Service under the above Act have been met. 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.

Environmental Health - Have no objections, but recommend conditions should be imposed requiring an investigation, risk assessment and remediation scheme to be submitted should contamination be found during the course of the development that

was not previously identified, for a construction management plan (including hours of operation, dust mitigation, the control of noise and vibration, the prevention of mud being carried onto the highway, that during demolition and construction no noisy activity shall take place outside 0800 to 1800 hours Monday to Friday, 0800 to 1300 hours Saturday and no noisy activity taking place on Sundays or Bank Holidays). Upon receipt of revised plans, requested an additional condition for details of any external lighting (including fittings, illumination levels and spread of light) to be submitted prior to installation.

KCC County Archaeology – The site lies within an area of multi-period archaeological potential. The application has been submitted with a useful Archaeological Appraisal (KAP, 2020) which sets out the present understanding of the archaeological potential of the site. On the basis of our present understanding, it is possible that the groundworks associated with the proposed development works may impact upon buried archaeological remains. A condition is suggested for a programme of archaeological works to be submitted and approved by the local planning authority.

KCC Highways and Transportation – Initially advised:

1. Visibility splays of 43 metres x 2.4 metres x 43 metres are required at the proposed exit point unless measured speeds indicate a lesser requirement. These splays appear to be achievable within land controlled by the applicant and/or the highway authority and should therefore be shown on the plans.
2. The proposals show new footways along the site frontage and between the site and Cauldham Close. Further details of the proposed width and edge restraint of these footways should be provided, as they will be adopted by the highway authority.
3. It appears unnecessary to have a separate entry and exit point, particularly as most (if not all) trips associated with the site are likely to be to/from the east. A single site access at the location of the current exit point would suffice and should be of suitable size to accommodate a 10 metre rigid delivery/removal vehicle pulling up in Cauldham Lane and reversing into the site (swept paths should be submitted to demonstrate this).
4. The refuse collection proposals are noted but they require minor widening of the carriageway in Cauldham Lane to provide a minimum 4.8 metres width, to allow a car to pass whilst the refuse vehicle is stationary and collecting the refuse. Details of this widening should therefore be submitted.
5. I suggest the views of the Fire and Rescue Service are sought on the acceptability of access for a fire appliance. The amendments suggested in item 3 above should assist in this respect.
6. I note that a contribution is suggested towards highway improvements between Cauldham Close and Capel Street to accommodate this proposal and possible development on the adjacent site to the west, however no information is provided on the improvements proposed and costs of the same. Improvements will be

required to provide a suitable footway and passing places for vehicles and these will need to be in place prior to occupation of either site. Details of the proposed improvements should therefore be submitted, including a safety audit and designer's response to any issue raised, and I suggest the applicant may therefore wish to discuss the same with the developer of the adjacent site.

I wish to place a holding objection until the above matters have been satisfactorily resolved.

I would add that the amount of car and cycle parking proposed is acceptable, however I would prefer to see a bound surface rather than the grass-crete indicated. In any case the first 5 metres of the access from the edge of the highway will need to have a bound surface to prevent loose material being moved onto the highway.

Subsequently advised:

Initially advised further details regarding footways should be provided, visibility splays appear to be achievable and should be shown on the plans, a separate entry and exit point appear unnecessary and a single access at the current exit point would suffice and should be of suitable size to accommodate a 10m rigid delivery/removal vehicle pulling up in Cauldham Lane and reversing into the site (swept paths should demonstrate this), refuse collection proposals require minor widening of the carriageway in Cauldham Lane to provided minimum 4.8m width to allow a car to pass, views of Fire and Rescue Service should be sought, note that a contribution is suggested towards highway improvements between Cauldham Close and Capel Street to accommodate this proposal and possible development on the adjacent site to the west, however no information is provided on the improvements proposed and costs of the same. Improvements will be required to provide a suitable footway and passing places for vehicles and these will need to be in place prior to occupation of either site. Details of the proposed improvements should therefore be submitted, including a safety audit and designer's response to any issue raised, and I suggest the applicant may therefore wish to discuss the same with the developer of the adjacent site. Place a holding objection until the above matters have been satisfactorily resolved. The amount of car and cycle parking proposed is acceptable, however would prefer to see a bound surface rather than the grass-crete indicated. In any case the first 5 metres of the access from the edge of the highway will need to have a bound surface to prevent loose material being moved onto the highway.

Subsequently advised:

Following previous correspondence dated 21 January 2021, a number of amendments have been outlined. A Stage 1 Safety Audit has been conducted during the hours of 17:00-18:00, which may be considered as not appropriate to assess peak vehicle movements. A number of items were raised by the RSA, which have been given a designer response accordingly.

1. Southern side footway at Cauldham Land / Cauldham Close junction. Pinch points will be created due to utility poles. The exact location of any relocation of utilities will need to be agreed with the relevant providers in advance of detailed design

stage. If no alternative locations are viable, this will make the footway unviable for all users.

2. Proposed access on Cauldham Lane – vegetation needs to cut back and maintained to a height of 1.05 metres within the visibility splays.
3. Dropped kerbs at private dwellings – dropped kerbs are to be provided at all private dwellings, to enable pedestrian access and to prevent vehicles striking full height kerbs. Full details to be supplied.
4. Tactile paving is proposed at the junction of Cauldham Lane / Cauldham Close. However, this is may need to be moved slightly further into Cauldham Close to ensure confusion as to the routing for visually impaired users.
5. Proposed tactile crossing at Capel Street – suitable pedestrian visibility splays need to be demonstrated, with no obstruction above 0.6 metres within the splays.
6. The land to widen the highway and create a footway is required to be adopted highway or land within the applicants ownership. Confirmation of the highway boundary is required. (An informative was also suggested – to be included on the decision notice should permission be granted)

Upon receipt of additional information, advised:

Following previous correspondence dated 28 October 2021, I note that a number of amendments have been outlined and a second Safety Audit has also been conducted between 7.30am-9.30am and 14.30pm-17.00pm which meets requirements. I therefore have the following comment to make:

- The exact location of any relocation of utilities still need to be agreed with the relevant providers in advance of detailed design stage, this is to ensure the proposed locations are acceptable and will need to be submitted on a plan. I can confirm the tactile paving proposed at the junction of Cauldham Lane / Cauldham Close have been checked with the 278 Agreements Engineer who confirms these are sufficiently relocated as per auditors response.

Following further informal correspondence, advised that “If a Grampian condition can be agreed I would be more than happy to deal with this as part of the 278 agreements. As I said, the agreements engineer has looked at the proposals and is happy, but this is all under the basis the utilities can be diverted.”

Southern Water (SW) – Provided an extract map from their records (available to view in the online file). Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development. 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. (information to be included as an informative should permission be granted)

Affinity Water - It has been identified that the site is within a natural high point in the network. Should customers have any issues relating to water pressure, it is encouraged that they contact Affinity Water directly.

Third party Representations:

36 Representations of objection have been received and are summarised below:

- Impact on highway, in particular additional traffic, parking, passing places, safety and access (including concerns regarding proposed highway works)
- Design is out of keeping, over intensive development, inappropriate for location. Concerns regarding siting, impact on visual amenity, character of area and elements of the proposals, particularly the Kent oast house, spiral staircases (safety concerns in inclement weather, risk of falling, evacuation of residents with mobility problems and in respect of crime) and location and distance of refuse storage. Amendments to plans have not overcome previous concerns.
- Impact on AONB
- Light pollution due to amount of glazing, roof and vehicle movements
- Impact on residential amenity, particularly privacy and overlooking, smell and noise pollution and disturbance.
- Capacity of utilities and services, particularly electrical, water supply and sewers. Concerns also in respect of surface water and run-off to the lane.
- Loss of green space and trees and associated impact on rural character
- Impact on wildlife, including bats
- Concerns in respect of amenities within Capel-Le-Ferne, limited economic benefit
- Contrary to planning policy (particularly DM4, DM5 and DM6) and concerns in respect of status of emerging local plan. No affordable housing is proposed. Previous unsuccessful attempts to develop the site, with reasons for refusal still valid. Does not meet objectives of sustainable development.
- Concerns regarding need and type of housing – need for housing of this type in the area, however preference for sheltered accommodation with warden presence. Need for affordable housing for rent or sale
- Concerns regarding advertisement of application by site notice, lack of access to internet and awareness/discussion of application due to Covid restrictions

5 representations in support of the proposals have been received and are summarised below:

- Concept/type of housing is more appropriate to long term sustainability of the village
- Would provide homes for older people, noting increasing ageing population, encouraging downsizing and freeing up larger properties reducing the need to build new homes

- Widening the lane and provision of pavement would improve safety overall. Demographic of residents, likelihood of them being 2 car households and using the lane during rush hours is small.

Councillor Peter Jull:

- Support is conditional on proposed pavement in front of nos 1-7 Cauldham Lane being set back adjacent to front hedges or as far back as is highways land to allow for widening of Cauldham Lane carriageway in connection with Local Plan land allocations further down the road
- Frontage and pavement of the application site should be set back in line with the revised pavement to allow Cauldham Lane to be widened across the application site frontage.
- Alignment should allow for the pavement and widening to continue to the north west along the frontage of the proposed adjacent housing land allocation
- Developer contributions should be required towards costs of widening up to the junction with Capel Street in conjunction with other development sites in the Local Plan.

Councillor Cherry Leppard:

- A lot of people in Capel who have houses and bungalows with gardens would like somewhere like this to live now. They would not want to leave Capel
- Would let up houses and bungalows for younger people.
- Road and footpath could be altered without too much trauma
- Bus stop very close and a shop so maybe people wouldn't want to use their car so much

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

- 1.1 The site relates to a detached two storey dwelling on the southwest side of Cauldham Lane. The site is mostly outside of, but directly adjacent to the settlement confines of Capel-Le-Ferne. It is bounded by paddocks to the northwest, agricultural land to the southwest, No. 7 Cauldham Lane, a block of garages, and the garden of Nos. 18 and 20 Cauldham Close to the southeast. Land further to the southwest of the site is within the Kent Downs Area of Outstanding Natural Beauty (AONB).
- 1.2 This application seeks permission to demolish the existing dwelling and buildings on site and to erect a two storey detached building containing 15 apartments for independent living accommodation. During the course of the application, the design of the proposals was amended to change the parking and access arrangements, remove a Kent oast gazebo, include a translucent glazed window panel within one of the units and move the building further northeast; the application was re-advertised accordingly. Each apartment would contain two bedrooms, with at least one of the occupiers being age 55+, enabling the second bedroom to be occupied by a carer if required (although no care is to be provided as part of the development). The ground floor units would have patios and the first floor units would have balconies. Centrally within the building would be an internal atrium with social areas and a lift. The building would be finished in red brick cladding, with sections of white render, red clay roof tiles, glass balconies

and metal framed double glazed windows. Part of the roof would be glazed with solar panels and there would also be solar panels on the centrally facing roof slopes.

- 1.3 The existing vehicular access to the eastern half of the site (on Cauldham Lane) would be widened to enable vehicles to enter and exit at the same time and a car park would be created, finished in permeable paving. This would provide 17 residents and visitors car parking spaces with EV charging points and a bicycle rack. There would be a communal garden to the southeast, southwest and northwest sides of the building and a number of trees and hedgerow would be planted as part of the proposed landscaping.

2. Main Issues

- 2.1 The main issues for consideration are:

- The principle of the development
- The impact on the character and appearance
- The impact on residential amenity
- Impacts on the highway
- Contributions and viability

Assessment

Principle of Development

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.3 Policy 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 adjacent to, but 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 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. The site is located outside of the settlement confines (albeit it is directly adjacent to the confines of Capel-Le-Ferne). As part of the proposals, a section 278 agreement would be made with KCC Highways to provide a pedestrian footway with crossing points between the site and Capel Street. The existing highway is also intermittently lit. As a result, it is considered that occupants of the development would be able to travel to the small range of services within the village, and the regular bus services to other nearby settlements, on foot, and would not be reliant on the use of a car to travel in order to reach all of the necessary day to day facilities and services. Notwithstanding this, the

development is not justified by other development plan policies and as such, is considered to be contrary to Policy 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 not result in the loss of countryside; the land currently being occupied by a dwelling and associated garden. However, it is considered the development would result in a limited adverse impact on the countryside (as detailed further in the report). The development would not meet 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 8 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 (as assessed by the Housing Delivery Test). Footnote 7 sets out policies within the framework which provide a clear reason for refusing development which would disengage the tilted balance. The impact of the development on the adjacent AONB is discussed further in this report, however is not considered to provide a reason to refuse the development and the tilted balance is therefore engaged.
- 2.9 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.

- 2.10 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 number of dwellings per annum the council must now deliver has increased. 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, being adjacent to the confines and proposing a number of highways works which would provide pavement and crossing points connecting the site and intervening part of Cauldham Lane to the existing pavement on Capel Street, it is not 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. Notwithstanding this, the application site has been identified as a suitable residential development site within the draft plan (site reference CAP009), for development of 10 dwellings (SA Policy 1 Housing Allocations). The adjacent plot of land to the northwest has also been identified (CAP013) as being suitable for residential development of 15 dwellings and a further site to the rear of dwellings on the northeast side of Cauldham Lane (CAP006) is identified as being suitable for development of 50 dwellings.
- 2.15 It is considered that policies DM1, DM11, DM15 and DM16 are to a greater and lesser extent in tension with the NPPF, although for the reasons given above some weight can still be applied to specific issues they seek to address, having regard to the particular circumstances of the application and the degree of compliance with 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, and as such, the tilted balance approach of Paragraph 11 of the NPPF is engaged.

Impact on the Character and Appearance

- 2.16 The site is located outside of, but adjacent to the settlement confines identified in Policy DM1 and is therefore considered to be within the Countryside, subject to Policies DM15 and DM16. These policies seek to prevent development which would result in the loss of, or adversely affect the character and appearance of the countryside and wider landscape area. Furthermore, the NPPF identifies that "decisions should contribute to and enhance the natural and local environment

by... recognising the intrinsic character and beauty of the countryside” (Paragraph 174). The site is also located to the northwest of the Kent Downs AONB and the NPPF (Paragraph 176) states that “Great weight should be given to conserving and enhancing landscape and scenic beauty in... Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues”. Moreover, Section 85 of the Countryside and Rights of Way Act 2000 places a duty on Local Planning Authorities to ‘have regard’ to the ‘purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

- 2.17 The proposals would result in the demolition of the existing two storey dwelling and outbuildings, and erection of a detached two storey building comprising 15 independent living units. The building would be positioned further southwest than the existing dwelling, and would be finished in red brick cladding, with recessed elements centrally on each elevation finished in white render with glazed balconies. There would be curved feature fire escape staircases from the first floor balconies to the garden level below. The pitched roof would be finished in red clay tiles with projecting gables, which would prevent views of the solar panels on the inner roof slope and the central glazed roof and solar panels. The scale of the building is larger than other buildings in the area, which are predominantly single dwelling houses, although the height of the building is not out of character. Whilst the footprint is larger, the building sits within a generous plot with plenty of open space around it, providing an appropriate context to the building. Architecturally, the building is somewhat different to its neighbours. However, it would not be so different to appear out of place, particularly as there is no strong unified character to the buildings in this part of Capel-le-Ferne. In the interests of visual amenity, a condition is suggested for samples of external materials to be submitted and for details of external lighting to be provided (discussed further at paragraph 2.37). Subject to this, the design is considered to be acceptable having had regard to NPPF Paragraph 130.
- 2.18 The development would be largely screened from views from the public highway, other than when viewed from the vehicular access, by the existing trees and additional planting proposed. New hedgerow would be planted along the southwest boundary such that together with the existing trees, views of the proposals from the adjacent countryside and nearby AONB would be limited. Where the proposal would be visible, it is considered the development would be seen within the context of the existing development in Capel-Le-Ferne and would preserve and conserve the intrinsic character and scenic beauty of the countryside and Kent Downs AONB. For the same reasons, it is also considered unlikely that the development would result in undue harm to the character and appearance of the wider landscape area. Having had regard to the Kent Downs AONB Management Plan and Countryside and Rights of Way Act, it is considered the proposals would accord with the objectives of NPPF Paragraphs 174 and 176 and Policies DM15 and DM16.

Impact on Residential Amenity

- 2.19 The site is located to the northwest of properties on Cauldham Close and to the west and southwest of dwellings on Cauldham Lane. The proposed building would be visible from a number of nearby properties and the impact is discussed below.
- 2.20 In respect of properties on Cauldham Lane, the proposals include a number of highways works (discussed further at paragraphs 2.26 onwards), as well as landscaping works. Discussed further at paragraph 2.38, a number of trees would be removed as part of the proposals, however additional trees and hedgerows would be planted as part of the works. Whilst there would be direct views of the proposals from the vehicle access on Cauldham Lane, the building would be set back from the highway behind a wooded area, which would restrict and soften views of the development. This, together with the proposed design and appearance of the building, is considered unlikely to result in an undue overbearing impact on residential amenity. For the same reasons, and due to the separation distance between the proposed building and properties on Cauldham Lane, the development is considered unlikely to result in significant harm to privacy or overlooking. Due to the siting of the proposals, direction of the sun path and separation distance from these properties to the northeast, the development is considered unlikely to result in overshadowing or loss of light to residential amenity.
- 2.21 To the southeast of the site are a number of garages accessed from Cauldham Close, as well as the rear gardens of Nos. 18 and 20 Cauldham Close. There would be a separation distance of approximately 23.65m between the rear elevation of No. 18 and the proposed development. One existing tree within the southwest corner of the site would be removed, however one new Beech tree would be planted which over time would likely fill this gap. In addition, the design of the proposals was amended during the course of the application to include sections of translucent glass panel (1.7m high) on the first floor south westernmost flat, to prevent overlooking whilst allowing diffuse light to enter the property (suggested to be secured by condition). Whilst the proposals would be visible from nearby properties to the south of the site on Cauldham Close, due to the separation distance, landscaping which would soften views of the proposals, and design of the development, the proposals are considered unlikely to result in unacceptable overlooking, harm to privacy or an overbearing or enclosing impact. The proposed building would be sited to the north of these dwellings and due to the orientation of the site and sun path, the development would be unlikely to result in overshadowing or loss of light to the amenities of nearby residents. Notwithstanding this, in order to ensure the development is constructed at appropriate ground levels in relation to surrounding properties, a condition is suggested requiring details of existing and proposed floor, eaves and ridge levels.
- 2.22 Concerns have been raised by the Public in respect of the impact of the proposed highways works, particularly the installation of a passing place on Cauldham Lane, on privacy. The proposed highways works (discussed further at Paragraph 2.27) would result in the creation of pavements and a passing place. Pedestrians

would walk in closer proximity to the front elevations of houses on Cauldham Lane than the existing scenario (walking on the road or on driveways to avoid traffic). In addition, a vehicle passing place would be provided. Whilst this may result in some noise and disturbance to nearby residents, it is likely that this would be limited to brief periods of time and is considered unlikely to result in such significant harm to warrant refusal.

- 2.23 On balance, for the reasons outlined above, it is therefore considered that the development would be unlikely to result in unacceptable harm to the amenities of nearby residents, having had regard to NPPF Paragraph 130.
- 2.24 In respect of the amenities of proposed occupants of the development, each of the units would contain well sized habitable rooms. The units would be well lit by natural light and would have access to communal social areas, as well as patios or balconies and communal gardens. Bicycle storage would be provided, and a refuse enclosure would be located to the front of the site, with a condition suggested requiring further details of these arrangements. As such, it is considered that occupants would enjoy a high standard of residential amenity in accordance with the aims of NPPF Paragraph 130(f).

Travel, Parking & Highways

- 2.25 Policy DM11 requires planning applications for development that would increase travel demand should be supported by a systematic assessment to quantify the amount and type of travel likely to be generated and include measures that satisfy demand to maximize walking, cycling and the use of public transport. Development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- 2.26 The site is outside of, although is adjacent to the settlement confines (to the southeast). Details of the proposed access to the site and off-site works have been provided. A road safety audit, highway response technical note, details of vehicle tracking and highways arrangements have been submitted.
- 2.27 A pedestrian footway and uncontrolled pedestrian crossings would be provided under a Section 278 agreement, enabling occupants of the development and of the other properties on Cauldham Lane to access the confines and facilities within the village, as well as bus services on New Dover Road. Whilst the development would be contrary to Policy DM11 by being located outside of the settlement confines, given the particular characteristics of the site and highway works proposed, it is considered that the location of the site, relatively close to a number of facilities and services (accessible by public transport providing connections to Dover, Folkestone and other settlements), could provide some assistance in providing further access to local services and the vitality of rural services (NPPF paragraph 79), both to the proposed development and existing

properties. Some weight should be provided in favour of the development in this respect which provides some counterbalance to the otherwise unsustainable nature of the site's location.

- 2.28 As part of the highways works, Cauldham Lane would be widened locally to 4.8m to the front (northeast) of the site to provide a passing opportunity for refuse collection, and would be widened to 4.8m at the proposed access location. To the southeast of the site, on the southwest side of Cauldham Lane, a 1.8m wide pedestrian footway would be provided, with full height kerbs and dropped kerbs installed in line with existing vehicle cross overs. Tactile crossing points would be provided and a 1.8m wide footway would be provided along the northern side and corner of Cauldham Lane by the junction with Capel Street. Cauldham Lane would be widened locally outside of No. 2A to provide a passing place. These works have been reviewed by KCC Highways.
- 2.29 As part of the works proposed, the access within the northwest part of the site onto Cauldham Lane would be widened to enable vehicles to enter and exit the site at the same time. The other existing access within the northern half of the site would no longer be used and additional planting would be installed in this location. Parking would be provided to the northeast of the proposed building, containing 2no. visitor parking spaces and 15no standard parking spaces which would accord with the parking provision for flats set out in Policy DM13.
- 2.30 As the site is located just outside of the settlement confines, and in order to provide sustainable transport in line with the objectives of Paragraph 112 of the NPPF, it is considered appropriate to suggest a condition is imposed requiring electric vehicle cable ducting to be laid to serve the parking spaces of the proposed development. A condition for a construction management plan to be submitted is also suggested by Environmental Health Officers.
- 2.31 Whilst concerns have been raised by local residents in respect of traffic, parking and the proposed highways works, additional information has been provided by the agent during the course of the application such that there are no objections from KCC Highways. Furthermore, Kent Fire and Rescue Service advise that they consider emergency access requirements have been met.

Flood Risk, Drainage & Contamination

- 2.32 A flood risk assessment and drainage strategy report have been submitted. These identify that the site is located within flood zone 1, which has the lowest risk from flooding. As such, the sequential test and exceptions test are not required. The drainage strategy proposes a new foul water drainage scheme to connect to the mains sewer and Southern Water advise a formal application for a connection will need to be made by the applicant or developer. In respect of surface water drainage, the proposed strategy is to infiltrate all collected rainwater into the ground by means of permeable paving and soakaways.

- 2.33 The Environment Agency have been consulted on the proposals and raise no objections, subject to the imposition of conditions requiring a remediation strategy to deal with any contamination not previously identified (should any be found during the course of the development), and for no infiltration of surface water drainage into the ground other than with the written consent of the local planning authority. These are considered reasonable in order to ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by unacceptable levels of water pollution in line with Paragraph 174 of the NPPF. Subject to this, the development is considered acceptable in this respect.

Archaeology

- 2.34 An archaeological appraisal has been submitted in support of the proposals and KCC Archaeology advise that it is possible the groundworks associated with the proposed development may impact upon buried archaeological remains. They recommend a pre-commencement condition is imposed to secure the implementation of a programme of archaeological work in accordance with a written specification and timetable, to be submitted for approval.

Ecology and Trees

- 2.35 In support of the application, a biodiversity assessment, bat survey report, arboricultural assessment and landscape specification (which includes details of ecological enhancements to be provided) have been submitted.
- 2.36 The 2017 ecological assessment recorded bat droppings within the building proposed for demolition and concluded that the building has high potential for roosting bats. In the 2020 bat survey, no internal survey was conducted, however three dusk emergence or dawn return surveys were carried out, during which no bats were recorded emerging from the building. The Senior Natural Environment Officer (SNEO) has reviewed the information submitted, noting that neither of the reports include discussion about how the bat droppings came to be within the building without the building being a bat roost and that neither report includes detailed information regarding the locations of potential roosting features beyond the photographs of loose tiles in the biodiversity assessment. Given that two years have passed since the bat emergence/dawn return surveys, they advise that updated surveys are required prior to the commencement of development (to be secured by way of a condition) to ensure all necessary mitigation and compensation measures for any potential impacts to bats can be implemented. If bats are recorded, it may be necessary for the applicant to secure a European protected species mitigation licence prior to any works taking place. Low numbers of bat droppings were recorded in 2017 and no bats were recorded emerging during 2020 and the SNEO advises that, if bats are present, it is likely that there will be mitigation and compensation measures available and achievable within the proposed development, such that the favourable

conservation status of the local bat population could be maintained.

- 2.37 The SNEO advises that the submitted reports provide little information regarding other potential biodiversity interest on the site and considers there to be potential for reptiles and hedgehogs to use the site. As the site is in active use as residential garden, the opportunities for reptiles and hedgehogs are not likely to be significant, but the SNEO advises that precautionary measures during site clearance are secured within the biodiversity method statement. In addition to any necessary mitigation and compensation measures, in accordance with the NPPF, “opportunities to improve biodiversity in and around developments should be integrated as part of their design”. They therefore advise that the implementation of biodiversity enhancements is secured within the planning permission, if granted. Accordingly, conditions have been suggested, should permission be granted, requiring the submission of a biodiversity method statement, details of biodiversity enhancements to be implemented and a bat sensitive lighting strategy.
- 2.38 In respect of the existing trees on site, these have been surveyed and an arboricultural assessment has been submitted. The proposals would result in the removal of a number of trees (8 category U trees; 10 category B trees; and 1 group of trees, 23 trees and 4 hedges of category C quality). Some of these warrant removal due to their condition (being dead, almost dead or likely to succumb to Dutch elm disease), to accommodate the proposed highway improvements to Cauldham Lane, are recommended to be removed for landscaping purposes, or require removal as a direct result of the development. The trees to be retained are proposed to be protected during the development and a landscaping scheme has been submitted setting out that 21 new trees would be provided, together with hedge plants and native bulbs.
- 2.39 The Tree Officer advises the recommendations of the arboricultural assessment look to be appropriate and whilst tree removal is shown within the site, the amenity value provided by the boundary planted looks to be largely retained. They consider the protection measures set out within the tree constraints plan are suitable provided they are implemented in conjunction with the recommendations made in the method statement and advise that the securing of a landscaping scheme through condition or otherwise will be important to ensure the strengthening of the retained boundary planting. A condition for the provision of the landscape specification submitted (including the imposition of the tree protection measures identified) is suggested accordingly.

Contributions

- 2.40 Core Strategy Policy DM5 requires that for schemes of more than 15 dwellings an on-site provision of affordable housing, amounting to 30% of the dwellings proposed, will be required. The policy also acknowledges that the exact amount of affordable housing, or financial contribution, to be delivered from any scheme will be determined by economic viability, having regard to individual site and market conditions.

- 2.41 Policy CP6 requires that development which generates demand for additional infrastructure will only be permitted if the necessary infrastructure is either in place or where it can be provided. Policy DM27 requires that developments contribute towards the provision of open space to meet the needs which will be generated by the development. However, no requests for contributions towards open space have been received. In this instance, the Agent has confirmed that the proposed accommodation is to be occupied by residents 55-60 years or older and the scale of contributions which would be applicable to residents of the development is reduced. Having regard to the shared amenity space which is to be provided for residents within the site, and existing open space available in the village, it is not considered necessary on this occasion to seek open space contributions. Notwithstanding this, it is considered appropriate to restrict the age of occupants within the development as part of the Section 106 agreement, as this affects the contributions sought and is considered appropriate given the communal living areas to be provided with the independent living accommodation.
- 2.42 A request has been received from KCC Economic Development Unit. £246.30 is sought for community learning, £831.75 is sought for library bookstock, £2203.20 is sought for social care (with all homes to be built as wheelchair accessible & adaptable dwellings in accordance with Building Regs Part M 4 (2)) and £817.05 is sought towards waste. A condition requiring details of fixed telecommunication infrastructure and high speed fibre optic connections is also requested by KCC and has been suggested accordingly to provide high quality digital infrastructure in new developments in line with NPPF Paragraph 112.
- 2.43 In addition, as set out further below, a contribution is required in respect of the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation strategy. The contributions sought are considered necessary and the agent has agreed to secure these via a Section 106 legal agreement should permission be granted.
- 2.44 The application has been supported by a viability statement which seeks to demonstrate that the development cannot support the provision of affordable housing or contributions, making a loss. In accordance with the Council's normal practice, and having regard for the Affordable Housing SPD, the council appointed an independent viability consultant to review the applicant's report.
- 2.45 The Council's viability consultant questioned the assumptions made within the submitted statement and sensitivity tested the applicant's viability appraisal. They have run a comparative appraisal which used the current BCIS build cost data for supported housing (£1,793 per m² rather than £1849 per m² used by the agent), a higher sales and marketing allowance (2.5% rather than 1.5%), higher sales legal fee (£750 per unit rather than £500 per unit), higher profit margin (17.5% instead of 15%) and legal acquisition fees at 0.75% of land value (which the agent had omitted). They agree the process the agent used to devise the benchmark land value is reasonable but applied a lower landowner premium of 20% to derive a benchmark land value of £480,000 (rather than £500,000).

identified by the agent). Based on this, the viability consultant's appraisal results in a residual land value of £320,483 (after allowing for the S106 contributions of £4,098). The land value is below their calculation of the benchmark land value by £159,517 and they consider there is therefore no surplus available to fund additional S106/affordable housing contributions.

- 2.46 They also ran a scenario test with increased sales prices which resulted in a residual land value of £580,850 (after allowing for S106 contributions of £4,098). The land value was above their calculation of the benchmark land value by £100,850 and therefore there is potential for surplus funding to provide additional S106/affordable housing contributions should the sales values rise to these levels in the future. On this basis, they suggest a viability review is carried out if the scheme has not been implemented to slab level within 2 years of consent being granted. Additionally, a late-stage review can be carried out when 75% (11 flats) flats have been sold and occupied.
- 2.47 In line with this, it is suggested that a review mechanism is incorporated into the S106 agreement so that, should the development become sufficiently viable such that it could support affordable housing contributions, a level of contributions could be secured.

Previous Application

- 2.48 Reference has been made in the public representations received to an outline planning application (with all matters reserved) for the erection of eight dwellings (existing dwelling to be demolished) at the site (DOV/13/00302). Permission was refused on 13/06/2013 on five grounds, including the absence of a bat and tree survey, no affordable housing provision, increased use of the single track lane with no pedestrian footway to the detriment of highway and pedestrian safety, impact on the countryside (by way of the number of dwellings, size and location of the site, which would be likely to erode the strong rural character and appearance of the area and would fail to reflect the surrounding spatial character of the surrounding built development, likely to result in a prominent and intrusive development within the surrounding countryside and without a tree survey, the proposal may also result in the loss of mature trees which would exacerbate the harsh visual impact of the development, failing to provide an environmental role and resulting in unsustainable development. In addition, the proposed scheme was considered to result in new residential development outside any settlement confines, which would fail to utilize brown-field land, would constitute an unsustainable form of development, which would be poorly connected to necessary services and facilities, creating travel demand particularly by the private car and failing to provide an economic role. The development was considered to be contrary to Policies DM1, DM4, DM5, DM11 and DM15 of the Core Strategy and the NPPF.
- 2.49 Since the determination of that application, the National Planning Policy Framework has been updated. Whilst the Core Strategy remains unchanged, as set out at Paragraph 2.8 onwards, the tilted balance of NPPF Paragraph 11 is

considered to be engaged as the policies most important in the determination of the application are considered to be out of date, in tension to varying extents with the NPPF and hold reduced weight in the planning balance. An assessment of this is set out from paragraph 2.55. In considering the current application, regard has been had for the information submitted with the application and the consultee comments received in relation to many of the issues which were considered in the assessment of the 2013 application. The conclusions reached have been set out in this report.

Habitats Regulations (2017) Regulation 63: Appropriate Assessment

- 2.50 The impacts of the development have been considered and assessed. There is also a need to consider the likely significant effects on European Sites and the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.51 Detailed surveys at Sandwich Bay and Pegwell Bay have been carried out. 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.
- 2.52 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves. The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.53 For proposed housing developments in excess of 14 dwellings the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy requires the applicant to contribute to the Strategy in accordance with a published schedule. This mitigation comprises several elements, including the monitoring of residential visitor number and behaviour to the Sandwich Bay, wardening and other mitigation. Natural England has been consulted on this appropriate assessment and concludes the assessment is sound. The agent has agreed to the funding of this mitigation, which will be secured by a S106.
- 2.54 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 will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

Planning Balance

- 2.55 The principle of the development is contrary to the development plan in respect of Policies DM1, DM11 and DM15 (although does not result in the loss of countryside). As discussed in the principle of development section of this report, it is acknowledged that some of the key policies in the determination of the application are out of date and hold reduced weight and as such, the tilted balance approach set out in Paragraph 11 of the NPPF is engaged. In such circumstances, permission must be granted unless material considerations indicate otherwise.
- 2.56 Policy DM1 carries limited weight, however Policy DM11 carries greater weight as it is considered to broadly be in accordance with the key sustainable development objective of the NPPF. As considered in the above report, the development would generate travel outside of the rural settlement confines contrary to Policy DM11. As part of the proposals, highways works which include the provision of a pedestrian footway would be secured (under a 278 agreement) which would enable access to the limited range of facilities within Capel-Le-Ferne, but also to public transport, allowing access to a full range of services and facilities in other nearby settlements. It is considered that this could provide some assistance in providing further custom to local services and the vitality of rural services in accordance with Paragraph 79 of the NPPF, which weighs in favour of the scheme.
- 2.57 For the reasons set out in the report, the proposals are considered to be acceptable in respect of design, impact on countryside, landscape character and the nearby AONB, residential amenity and other material considerations.
- 2.58 The proposals would not provide affordable housing, contrary to Policy DM5, however highways works to provide pedestrian footways, a passing place and uncontrolled crossing points would be provided and dealt with via a Section 278 agreement and KCC contributions and SPA mitigation contributions would be secured through a Section 106 agreement.
- 2.59 Overall, whilst this is a finely balanced assessment, it is considered that the disbenefits of the scheme do not outweigh the benefits, with material considerations indicating that permission should be granted subject to relevant conditions and a legal agreement.

3. Conclusion

- 3.1 As outlined above, the site lies adjacent to, but outside of the settlement confines and is therefore considered to be within the countryside. The tilted balance approach set out at Paragraph 11 of the NPPF is considered to be engaged as the Policies most important for determining the application are out-of-date and in conflict to a greater or lesser extent with the NPPF. Due to the design and appearance of the development, as well as the proposed landscaping, for the reasons outlined in the report, the development is considered to preserve the

character and appearance of the countryside and wider landscape area and is considered unlikely to result in unacceptable harm to residential amenity. The development would generate additional travel outside of the settlement confines contrary to Policy DM11, however highways works are proposed which would provide pedestrian footways, encouraging sustainable transport. In light of Paragraph 11 of the NPPF, and in taking into account other material considerations as discussed in the planning balance section of this report, it is considered that the benefits of the development outweigh the disbenefits and it is recommended that permission be granted.

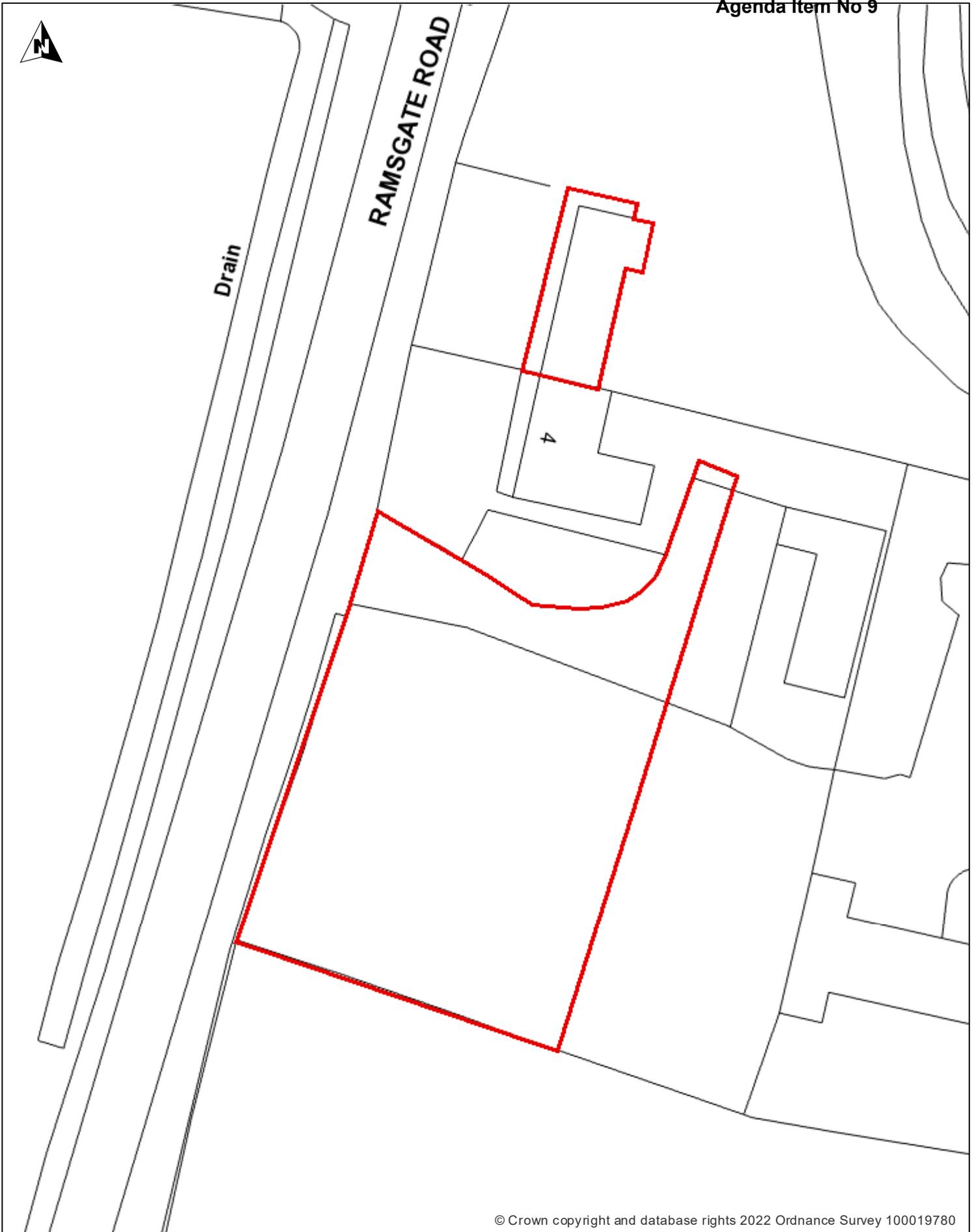
4. Recommendation

I PERMISSION BE GRANTED subject to a Section 106 agreement and conditions:

- 1) 3 year time limit for commencement of the development
- 2) List of approved plans
- 3) Samples/Details of external materials
- 4) Obscured glazing on first floor windows of southwest corner unit
- 5) Existing and proposed ground, eaves and ridge levels
- 6) Details of bat sensitive external lighting
- 7) Provision of refuse and recycling storage
- 8) Provision of bicycle storage
- 9) Removal of materials in relation to demolished dwelling prior to first occupation of development
- 10) Construction management plan
- 11) Dealing with unexpected contamination that may be found
- 12) Provision and maintenance of visibility splays prior to first use of the access
- 13) Details of cabling to be provided to enable installation of EV charging points
- 14) Completion of parking with drainage measures installed to prevent surface water run-off onto the highway prior to first occupation
- 15) Use of a bound surface for the first 5m of the access from the carriageway
- 16) Details/plan of any utilities along Cauldham Lane which require relocation to provide the footway and highways works which would be set out in the Section 278 agreement
- 17) Details of biodiversity enhancements
- 18) Biodiversity method statement in respect of bats
- 19) Development to be carried out in accordance with arboricultural report and imposition of tree protection measures
- 20) Provision of landscaping within first planting season following completion of the development and replacement of any tree/hedge removed, destroyed, damaged or diseased within 5 years of planting
- 21) No infiltration of surface water drainage to the ground
- 22) Programme of archaeological work
- 23) High speed fibre optic

- 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



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21/00208

Unit G Sandwich Industrial Estate
Ramsgate Road, Sandwich
CT13 9LY

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/21/00208 - CHANGE OF USE FROM SALVAGE YARD TO B8 SCAFFOLDING YARD, ERECTION OF SCAFFOLDING STRUCTURES AND ASSOCIATED HARD STANDING (RETROSPECTIVE)**

UNIT G, SANDWICH INDUSTRIAL ESTATE, RAMSGATE ROAD, SANDWICH, KENT, CT13 9LY

Reason for report – Number of contrary views (35)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM3, DM11, DM13, DM15, DM16

Land Allocations Local Plan (2015): N/A

Local Plan (2002) Saved policies: OS8 Development site for Sport & Recreation New development involving the Stonar Lake area, Sandwich

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 have little weight and are not considered to materially affect the assessment of this application. The Draft has completed the first public consultation exercise, which expired in March and at this stage only minimum weight can be afforded to the policies of the Plan.

Kent Downs Area of Outstanding Natural Beauty Management Plan 2021- 2026: N/A

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 38, 92, 110, 111, 119, 122, 124, 126, 130, 131, 132, 134, 152, 180, & 182.

National Design Guide & National Model Design Code (2021)

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

- d) **Relevant Planning History**

There is an extensive planning history on the wider Sandwich Industrial Estate. In relation to this site there is no recent planning history, but it is apparent that the site has been used for a range of storage, sale and distribution uses since at least 1990, through its use as a salvage yard.

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

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

Town/Parish Council – recommend planning permission be refused due to the following concerns:

- Significant disturbance to neighbouring properties caused by noise (clanking poles, bleeping machinery, loud radio music and shouting).

- Concern expressed that activity was reduced when the noise report took place.
- Inappropriate use next to residential homes.
- Scaffolding towers are excessively high – inappropriate materials and visual harm at the gateway of Sandwich. c.
- The hard surfacing put down is causing flooding in the gardens of properties at Stonar Close. The flooding is also undermining the roots of the trees in neighbouring gardens.
- Trees have been removed, appropriate tree planting needs to take place.

DDC Environmental Protection –

An EPO officer has visited the site and recorded noise levels. Initially concern was raised over the noise levels for the time of day by the officer. Subsequently a noise protocol has been submitted, which subject to compliance with, removes an objection on noise grounds. The protocol includes the provision of an acoustic barrier and amends start times. To date no complaints have been received by the EPO to noise generated from the site.

DDC Ecology – states no comments on the application

Kent Highways – Initially commented ‘no objections in principle in respect of highway matters, bearing in mind the historic and permitted uses of the site. However, a site layout plan is required demonstrating suitable parking and manoeuvring areas for the scaffold lorries and site personnel who will be parking at the site during the day. This is to ensure that the previous problems of vehicles parking on the highway or having to reverse on/off the highway, as identified in the Transport Statement, do not occur in the future.’

Final comments ‘I refer to the amended plans received for the above on 3 August and confirm the details are now acceptable. The proposals are unlikely to generate a residual level of traffic having a severe impact on the highway network, bearing in mind the historic and permitted uses of the site. Suitable parking and manoeuvring areas within the site are now shown on the latest plans.

I therefore now have no objections subject to the parking and manoeuvring areas shown on drawings numbers RG-M-01 Rev. G and 20-052-002 being provided and permanently retained.’

Environment Agency – states no objection and no comments to make

Third party Representations:

35 Representations of objection have been received and are summarised below:

- Impact on neighbours
- Lighting impact
- Noise and disturbance from early morning
- Traffic/parking/highways & pedestrian safety
- Blocking of national cycle route
- Drainage/flooding concerns arising from additional hard surfacing laid
- Visually harmful - an eyesore

- Trees removed when unauthorised access taken over Stonar Gardens Residents Company common land
- Impact on Heritage concerns (Medieval Port of Stonar)

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

- 1.1 The application site is approximately 0.16 hectares (ha) in size and is located on the eastern side of Ramsgate Road, approximately 0.5km to the north of Sandwich. The site currently contains scaffold towering, scaffold poles and ancillary buildings. There is extensive hardstanding through the site and a number of works vehicles park within the compound with staff vehicles outside. A footpath runs across the site frontage and extends into the entrance to the Sandwich Industrial Estate. There are double yellow lines on both sides of Ramsgate Road in this stretch of the highway network. A bus stop is also located outside the application site. Opposite the site is substantial tree planting along the highway boundary and beyond this are open fields. There is limited vegetation within the site. The closest dwellings are those situated in Stonar Gardens – some have gardens backing onto part of the site.
- 1.2 The site was previously used as a salvage yard for many years and now comprises a scaffold yard, containing scaffold structures, storage areas and associated parking. Unlike the rest of the units on Sandwich Industrial Estate, the site is accessed directly from Ramsgate Road via an existing gateway.
- 1.3 To the north-east of the site lies Stonar Lake, which extends northwards towards Discovery Park and part of which forms a Scheduled Monument. To the east lies Sandwich Industrial Estate, with residential properties to the south in Stonar Gardens. To the north-east of Stonar Lake lies the Thanet Coast and Sandwich Bay RAMSAR / Hacklinge Marshes SSSI, Special Protection Area and Special Area of Conservation. The site is located within an Area of Archaeological Potential (Ref: 229) which is defined as the environs surrounding the Medieval town of Sandwich and the Port of Stonar.
- 1.4 The Site is located within a Flood Zone 2 and 3, but within an area benefiting from flood Defences.
- 1.5 This application is retrospective and has arisen due to the applicant mistakenly believing that there was no change of use (in planning terms) between the former use of the site and their operation. The previous use on the site, as a reclamation yard, is considered to be *suis-generis*; the applicant's use is B8 and comprises a scaffold yard and associated activities/works.
- 1.6 The scaffold yard is set out with the following temporary structures within the compound:
- Board storage rack;
 - Board cutting shelter;
 - Double roof tube rack;
 - Fitting bins rack; and
 - Storage units
- 1.7 Plans have been provided showing the internal layout of the compound including staff car parking. Retrospective permission is also sought for the hardstanding

within the site – accounts of the extent of existing hard surfacing within the site have been provided by the applicant and residents have also commented on this.

- 1.8 In addition to the submitted plans, the application also includes, a planning statement; transport statement, Flood Risk assessment, noise assessment and Heritage Statement. Throughout the course of the planning application additional clarification has been sought in response to requests by statutory consultees for further and/or revised information.

2. Main Issues

- 2.1 The main issues for consideration are:

- The principle of the development
- The impact on the character and appearance
- The impact on residential amenity
- The impact on Heritage concerns
- The impact on the highway network
- Flooding and drainage
- The impact on ecology

Assessment

Principle of Development

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.3 Under Policy CP1 of the Core Strategy, Sandwich is identified as a Rural Service Centre. The function of such is stated as being the ‘Main focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to its home and adjacent communities’.
- 2.4 However, the site is located outside the settlement boundary of the defined settlement of Sandwich. Policy DM1 presumes against development in such a location (beyond settlement confines) unless justified by other development plan policies.
- 2.5 Policy DM3 considers the acceptability of commercial buildings in rural areas. The policy is hierarchal and directs development to fall within the rural settlement confines, adjacent to the confines or only if a functional requirement is proven then located elsewhere in the rural area. There is some tension between DM3 and the more recent advice of the NPPF which is explored further in this advice. Whilst alternative locations for the use have not been formally assessed, it is considered that the proposed use is more suited to outside of a settlement or would have some separation to neighbouring noise sensitive uses. The impact of noise from the site will be considered later. On this basis, it could be argued that there is a functional need for this use to be located outside of the settlement confines.

2.6 Policy DM11 seeks to manage travel demand and states that development that would generate travel will not be permitted outside rural settlement confines unless justified by development plan policies.

2.7 As set out above, the application site is located within the open countryside where the Core Strategy restricts development unless it falls within specific criteria. Policies DM15 and DM16 seek to protect the countryside and landscape character. Their objectives are broadly consistent with the NPPF and both these policies are applicable to the assessment of the application.

2.8 With specific regard to the rural businesses the NPPF states (para 83):

Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- b) the development and diversification of agricultural and other land-based rural businesses;*

2.9 Paragraph 84 builds on this advice further:

Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

2.10 It appears therefore that Policy DM3 takes a more rigid approach than paragraphs 83 & 84 of the NPPF. Whilst the development plan is the starting point for determining applications, the NPPF is a material consideration that offers support in broad principle for rural businesses and particularly on sites that are previously developed land.

2.11 The assessment below will consider the proposal against the policies set out above in more detail.

Impact on the Character and Appearance

2.12 As stated, the principle of the proposed re-use of a previously developed site is generally supported by national planning policy and guidance. It is the local impact that requires assessment.

2.13 The site is in the open countryside whereby policy DM16 seeks to resist development that would harm the character of the countryside. The site has been used for a great number of years as a salvage yard which would not have had a positive impact on the character of the countryside. The main difference in visual terms is how the site is organized and differences in the scale of structures on the site.

- 2.14 The former use (from historic photographs) was a cluttered, untidy site with storage at varying heights but clearly visible within the street scene. The site was cleared in its entirety but replaced with parking areas and structures in relation to the scaffold yard. The new use is less cluttered but more prominent due to the height of the scaffold towers. The assessment of this case is that the overall impact between the previous and existing use are not so dissimilar in that both are brownfield employment uses that ideally would not be in a rural location. However, the character of the rural location is very much of urban nature leading to the town boundary. This gateway to Sandwich is characterized by the presence of the Sandwich Industrial Estate and whilst many of the units are set back from the main road, the wide entrance affords views of the industrial estate and there is nothing to shield this. Both the old and new uses of the site cause some harm to the visual appearance of the locality, however the level of harm is limited and akin to what is an established industrial unit.
- 2.15 It is noted from photographs that have been sent to the planning department that the site was not covered in its entirety with hard surfacing from the previous use. In visual terms the extent of hard surfacing was not readily apparent when the site was occupied with the reclamation yard paraphernalia. Both uses were visually prominent from above ground level. It is not considered that the amount of hard surfacing across the site has a significant impact on the character and appearance of the area.
- 2.16 There is limited scope to soften the impact of the development with a robust landscaping scheme. When the new occupier established their business on the site, it has been stated that access was taken over land which forms part of the Stonar Gardens Residents common land. Having visited the site it appears that this access has been reinstated and new planting has been established along the boundary, I am led to believe, in consultation with the residents.
- 2.17 In conclusion, it is considered that the proposal does not cause harm to a level that would deem the proposal unacceptable in visual terms.

Impact on Residential Amenity

- 2.18 The closest residential dwellings are those within Stonar Gardens to the south/south east. There is a minimum distance of 37.5m from the boundary of the application site to the closest rear garden boundary. The nearest point is from the south-east corner of the application site. A number of the dwellings back on to the body spray workshop to the rear of the scaffold yard.
- 2.19 Representations have been received in relation to the noise impact from the site and site operatives. The DDC EPO initially raised concerns regarding the operating hours and impact on those residents. Having visited the site, undertaken noise readings and sought additional information on how the site will be managed, the EPO considered that subject to the imposition of enforceable planning conditions there was no longer an objection on noise grounds.
- 2.20 The additional information to inform the EPO's conclusion was the proposal for a noise protocol for the site operation borne about from the submitted noise assessment, this entails:
- Start time of no earlier than 7am;

- Loading of vehicles the day before to avoid loud noise in the mornings;
- Provision of acoustic barrier along southern boundary;
- Use of 'white noise' reverse bleeper on all forklift trucks;
- Turning off of reverse beepers on all lorries when in the yard;
- Any use of radios to be restricted to low levels;
- Shouting across the yard to be prohibited unless in an emergency situation;
and
- Dedicated site contact for local residents in case of complaints or concerns.

The submission provides clarification on working hours and acoustic measures to be put in place. A 2.5m high acoustic barrier is proposed along the southern boundary of the site with Stonar Gardens. The submitted noise assessment concludes that 'With the implementation of the recommended noise mitigation measures and an agreed noise management plan for the P&G scaffolding yard, it is considered that site activity noise at the nearest residential properties will be within acceptable levels. 'At the time of writing this report, the EPO has also confirmed that no complaints have been received regarding noise disturbance from the site. In light of the noise protocol and noise assessment conclusions, it is therefore considered that the site can operate in this location having had regard to the lawful use of the site, the proximity of Stonar Gardens and given that it forms part of the Sandwich Industrial Estate subject to a suitably worded planning condition.

- 2.21 Lighting has also been raised as a concern for residents. Having visited the site it was noted that there are 5 lights within the site. The lighting is either operated manually and turned on/off at the beginning/end of the working day or in the case of the two standard security lights by the site entrance and welfare/office unit these are operated by a sensor. The reactive lights are set lower and are away from the boundaries with Stonar Gardens and are deemed acceptable. The manual lights are inward facing in the site, set at an angle between 35- 50 degrees. The lights provide approximately 3000 lumens of brightness which is generally expected for lighting of outdoor spaces and security. Subject to a condition that the lights are turned off at the end of the working day, they are considered acceptable in terms of impact on visual and residential amenity.

Impact on Heritage Concerns

- 2.22 The application is not located within the Conservation Area, nor does it contain any listed buildings. However, it is an Area of Archaeological Potential that stems from the eastern part of the yard being part of the Scheduled Ancient Monument of the Medieval Port of Stonar.
- 2.23 Due to the need to consult Historic England on this application, the County Archaeologist has deferred to their view. The initial Heritage Statement was not sufficiently robust and after liaison between the applicant and Historic England, a suitably detailed report has been submitted.
- 2.24 It is conceivable that beneath the site, there could be some archaeology of interest. This being said, the development did not comprise significant excavation, rather placed temporary structures on the land that have required no

foundations to be provided. Hard surfacing has been overlain and most likely increased in area (from resident's photo's). The purpose of seeking a robust Heritage Statement was to ascertain the significance of the site and whether the works have an impact that needs to be safeguarded against in heritage terms.

2.25 The initial Heritage report was not sufficiently detailed, hence the delay in bringing this item to committee. A further report was then commissioned and undertaken by a professional, qualified archaeological firm and concludes as follows:

'The assessment provides a review of the site's below-ground archaeological potential and addresses the information requirements of national, regional and local planning policy.

- In terms of designated archaeological assets, no World Heritage Sites, Historic Wrecks or Historic Battlefields lie within the study site. The eastern part of the site does, however, lie within a Scheduled Ancient Monument (List entry 1003120), the extent of which is defined by the site of the Medieval port of Stonar.
- This assessment has identified that the study site has a moderate to high potential for Roman remains of low (local significance), and a high potential for Medieval remains of low (Local) to moderate (regional) significance. The potential for all other periods is regarded as low, and any remains surviving are likely to be of low (local significance).
- The development does not involve any below ground works and therefore there will be no impact on the scheduled monument or any other below ground archaeological assets.
- In light of the conclusion of this report it is unlikely that the Local Planning Authority will require any archaeological mitigation. However, given the presence of a scheduled monument on the eastern part of the site the Local Authority may require a retrospective application for scheduled ancient monument consent.'

2.26 Historic England have considered the findings of the report and confirmed (as set out in the consultee section of this report) that they do not consider harm to heritage assets will arise from the use of the site. They have also confirmed that Scheduled Ancient Monument Consent cannot be obtained retrospectively, but in any event it would not have been deemed necessary for the proposal. It is also understood from communication from the planning agent that discussions had taken place around the time of occupation of the site to ascertain whether scheduled ancient monument consent was required and the informal advice was that it was not.

2.27 The report has considered the historic evidence with regard to the previous and current level of hard surfacing within the site. The applicant has stated that the 'new' hard surfacing has consisted of the laying of new tarmac over old. Representations that have been submitted (with photo's) that have stated that the expanse of hard surfacing has increased since the previous use of the site. With regard to the Heritage Impact, it is considered that the fact that Historic England consider that above ground works would not 'impact on the scheduled monument or any other below ground archaeological assets' is sufficient to conclude that even with differences between the before and after area covered by hard surfacing, this is of minimal significance with regard to impact on designated heritage assets. Furthermore, due to the works being undertaken

and completed it would be inappropriate to seek removal of hard surfacing if this meant engineering works to remove the surface as this would risk causing more damage than leaving insitu.

- 2.28 The level of detail and assessment of the proposal on heritage assets is deemed in accordance with NPPF paragraph 194. KCC Archaeology have not provided formal comments on the application as they consider it more appropriate that Historic England are the higher authority in this instance. This being said they have received a copy of the Heritage report and the Historic England comments and are content with the findings. In light of the position of both Historic England KCC Archaeology, there is no objection to the retention of the use on the site in heritage terms.

Impact on Parking/ Highways

- 2.29 This is an existing brownfield site with an existing access. Kent Highways have accepted the principle of the change of use and sought clearer plans before submitting final comments. The main issues were in relation to ensuring adequate space within the site for parking and maneuvering of vehicles. Swept path analysis was requested and subject to conditions to retain the turning and visibility demonstrated, there is no objection on highway grounds.

Flooding and drainage

- 2.30 The site is located within Flood Zone 2 and 3, whereby the proposed use would be considered 'Less Vulnerable' under the Flood Risk Vulnerability Classification. A Flood Risk Assessment has been submitted with the application and the EA have raised no comment on the report.
- 2.31 Objections have been received in relation to the impact that resurfacing within the site has had on the effectiveness of drainage within the rear gardens of dwellings that back on to the site. Concerns expressed/supported by the Parish Council are to the effect that the drainage issues are undermining the roots of existing trees. It has been stated that the hard surfacing was laid substantially over an existing surface - arial records show the site largely covered in paraphernalia from the reclamation yard in previous years but there does appear to be more 'green' cover in patchy areas. It is not possible therefore to be exact over where an area of the site may have been more formally covered and therefore more impenetrable than from previous years, but there is no dispute over the brownfield nature of this site and its previous use as a salvage yard. It is not possible to attribute alleged drainage issues to the use of the site as the scaffold yard as the area is generally covered in hard surfacing save for the gardens and communal land of Stonar Gardens. A refusal based on the impact of some additional patchy areas of hard surfacing is not considered justifiable or defensible on a long established brownfield industrial site.

Ecology

- 2.32 Having regard for Natural England's Standing Advice and comments received from the DDC Ecological officer, it is not considered that the site includes any features likely to provide habitat for protected or notable species.

Other Matters

- 2.33 Concerns have been raised regarding the removal of vegetation when access was gained to the site when moving infrastructure on. Replacement planting can be seen and the former entry taken made good. This does not condone what took place, but the vegetation which was removed did not benefit from any protection (such as a tree preservation order) and, from a planning point of view, the amenity has been made good. There is limited scope to provide further planting on site, however the retention of existing vegetation is considered beneficial in mitigating the visual impact.
- 2.34 It has been stated that the existing unauthorised use has more impact both visually and intrusively than the previous sui generis lawful use. However, the fallback position for this site is it being lawfully taken over by another reclamation use – this would not offer any certainty over having less impact on residential amenity. In planning terms this is not only a brownfield site but forms part of an industrial estate. This is a material consideration. The fact that a retrospective planning application has been submitted, enables the Local Planning Authority to have control over the site by imposing conditions in relation to operating hours, noise protocol, lighting control – all aspects that were not previously regulated under the former use.
- 2.35 Regard must also be had for the benefits of the proposed use. The development supports a local business and employment, which are supported by Chapter 6 of the NPPF.

3. Conclusion

- 3.1 The proposals have been given very careful consideration and having regard to adopted local and national planning guidance. There is national and local policy support for rural businesses subject to the details of the scheme. It is concluded that no harm would arise in respect of the character and appearance of the locality when considered against the historic use of the site.
- 3.2 Subject to the mitigation measures set out in the acoustic report and adherence to the site operating guidelines, residential amenity would be safeguarded. The continued use of the site as a scaffold yard is considered acceptable in terms of highways impact and drainage. In this instance, due in large part to the accepted status of the site as an existing brownfield site within an established industrial estate, it is considered that there is no reasonable grounds to object to the continued use of the land.
- 3.3 Regard has been had to the site falling in part within the safeguarded area of a Schedule Ancient Monument, it is considered that in light of the submitted Heritage Statement and nature of works that this Heritage Asset has not been compromised.
- 3.4 Having regard for the above, it is recommended that the application be approved, subject to conditions.

4. Recommendation

- I PERMISSION BE GRANTED subject to conditions:
- 1) Plans
 - 2) Details of acoustic barrier and time frame to be implemented

3) Noise protocol to be formally submitted

4) Lighting

5) Operating hours

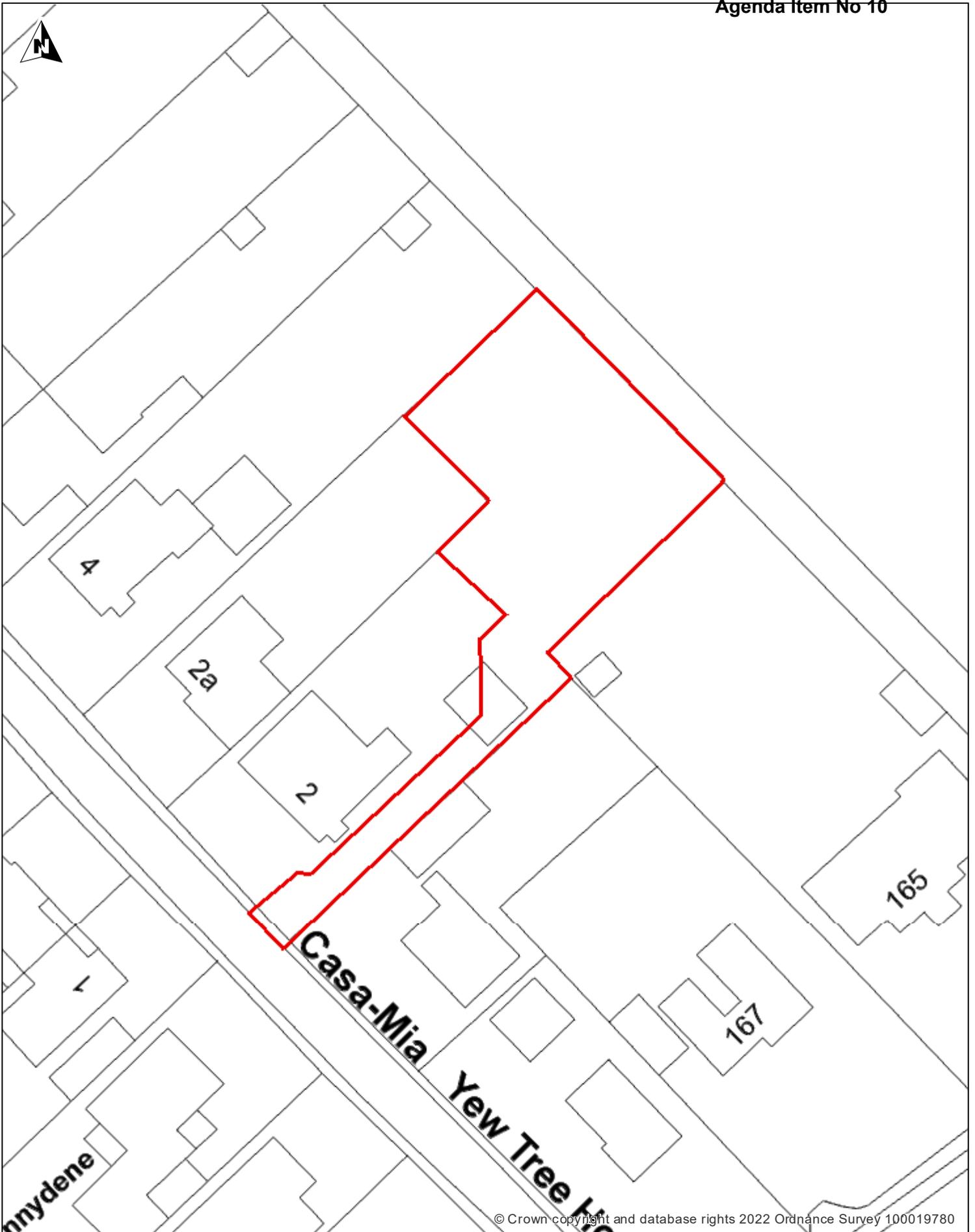
6) Site layout/parking

7) Landscaping retained

8) Maximum external storage height

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: Amanda Marks



21/01811

2 Johns Green
Sandwich
CT13 0DE

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/21/01811 - ERECTION OF A DETACHED BUNGALOW, CYCLE SHED, RECYCLE STORE, ASSOCIATED PARKING AND TURNING AREA**

2 JOHNS GREEN, SANDWICH

Reason for report – Number of contrary views (17)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM11

Land Allocations Local Plan (2015): N/A

Local Plan (2002) Saved policies: N/A

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 have little weight and are not considered to materially affect the assessment of this application. The Draft has completed the first public consultation exercise, which expired in March and at this stage only minimum weight can be afforded to the policies of the Plan.

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 130,

National Design Guide & National Model Design Code (2021)

- d) **Relevant Planning History**

PE/10/131 – Pre-application advice for erection of a dwelling

PE/15/141 – Pre-application advice for the erection of a dwelling

15/01108 – Erection of dwelling, detached garage and associated vehicular access – Refused for the following reasons:

- 1. The proposal, due to its height, scale and siting would result in a dwelling that would be poorly related to the edge of the settlement and its spatial character, within its open and prominent context on the edge of the settlement confines of Sandwich, which would be highly visible within the landscape over open countryside. As such, the proposal has not taken the opportunity to achieve a high quality form of development nor improve the visual character and appearance of the area, contrary to Paragraphs 17, 56-59 and 64 of the National Planning Policy Framework.*
- 2. The development, if permitted, due to the upper floor fenestration would enable elevated views into the gardens of numbers 165 Dover Road and 4 John's Green and in particular No.2 and no. 2a John's Green and would cause an unacceptable level of overlooking into private amenity space, detrimentally affecting the enjoyment of that property by its occupants, contrary to the aims and objectives of the NPPF, in particular paragraph 17.*

16/00092 Erection of a detached dwelling and associated vehicular access Refused for the following reason:

1. *The proposal, due to its height, scale and siting would result in a dwelling that would be poorly related to the edge of the settlement and its spatial character, within its open and prominent context on the edge of the settlement confines of Sandwich, which would be highly visible within the landscape over open countryside. As such, the proposal has not taken the opportunity to achieve a high quality form of development nor improve the visual character and appearance of the area, contrary to Paragraphs 17, 56-60 and 64 of the National Planning Policy Framework.*

APPEAL DISMISSED in dismissing the appeal, the Inspector found the proposal would be harmful to the character and appearance of the area.

e) **Consultee and Third Party Representations**

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

Sandwich Town Council – recommend refusal due to unnecessary backland development contrary to past planning policies, loss of natural wildlife and habitat.’

Kent Fire and Rescue -raise concerns over the ability of a fire appliance to access the driveway due to the restricted width, electric gates and limited turning area. It would mean the fire appliance would need to remain at the top of the driveway to 2 Johns Green and run a hose to the building. Under building regulations emergency access would be required. At full plans stage with building control the Fire and Rescue Service would need to be consulted again.

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

DDC Tree Officer – sought a Pre-development tree survey and report. Is happy with the recommendations set out in the report including the use of non-evasive pile foundation.

DDC Ecological Officer – sought a bat survey and potential roost assessment. Confirms that the reports adequately assess the potential of the site for use by bats. Acknowledges there is potential for the garage as a roost, however none were recorded. A condition and informative are suggested in relation to ecological enhancements and bat licence if necessary.

Third party Representations:

Representations of objection have been received and are summarised below:

- Impact on neighbours
- Contrary to DM16
- Loss of natural habitat
- Lack of justification – DDC has a 5 year housing supply
- Inappropriate development of gardens
- Does not maintain the prevailing character
- Discrepancies in the details on the application form
- Disagree with comments in the planning statement

- No engagement with neighbours
- No tree survey or root protection details for Chestnut tree
- Unnecessary backland development, over development
- Fire safety concerns
- 4th attempt at planning permission, already an annexe within the existing house
- Inadequate visibility
- Incongruous development where a linear pattern exists
- Overlooking no.2A & No.4
- Light pollution impact on bat population
- 3d image misleading
- Traffic/parking/highways safety

Representations in support of the proposals have been received and are summarised below:

- Much needed bungalow accommodation
- Good design
- Innovative, eco-friendly
- Positive impact on the environment

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

- 1.1 The application site falls within the settlement confines on the northern side of Johns Green towards the southern edge of Sandwich. The proposed plot is located in the rear garden of no. 2 Johns Green. The existing garden extends in an 'L' shape whereby the rearmost section wraps behind the rear garden of no. 2a.
- 1.2 The site is adjoined on either side by dwellings and to the rear is agricultural land. There is both close board fencing, trees and hedging around the perimeter of the site.
- 1.3 The area is typically characterised by detached and semi-detached two storey dwellings, although some bungalows can also be found.
- 1.4 The proposal is for a detached cedar clad dwelling with two parking spaces, garden area, recycle store and cycle shed. The dwelling would have a rectangular form, with a flat roof and 3 roof lights. The dimensions would be approximately 14.5m long x 7m wide x 3.3m high. The roof would be either metal or fibre glass. The accommodation would comprise 2 bedrooms, a study, bathroom, lounge/diner and a kitchen. The dwelling would be orientated with the rear elevation to the fields behind the site. Amenity/garden land would be on 3 sides of the plot with a block paved drive at the front. Details have also been provided of a cycle shed and recycling bin store.
- 1.5 Access to the site would be from John's Road through the existing access for no. 2. The existing garage on the site would be demolished. Parking for no.2 would be at the front of the dwelling as existing.

2. Main Issues

- 2.1 The main issues for consideration are:

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

Assessment

Principle of Development

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.3 The application site falls within the settlement confines of Sandwich. As such, under Policies CP1 and DM1, the erection of a dwelling within the settlement boundary is acceptable in principle.
- 2.4 In March 2017 DDC Cabinet agreed to commence the review of the Core Strategy (CS) and Land Allocation Action Plan (LALP) through the preparation of a single local plan. The decision to review the CS and LALP is an acknowledgement that in some cases the evidence base is out of date. It is also recognised that some of the detailed policies applicable to the assessment of this particular application (including Policies CP1 and DM1) are to various degrees, now considered inconsistent with aspects of the NPPF and as such are out-of-date. That does not mean however that these policies automatically have no or limited weight. They remain part of the Development Plan and must therefore be the starting point for the determination of the application. Furthermore, 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 (in that limited context) 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 dwellings within suitably sustainable locations. Supporting the principle of new housing within the settlement confines would be consistent with both the NPPF and the core strategy.
- 2.6 As such, the principle of allowing housing development in this location is compatible with the objectives of the Development Plan and the requirements of the NPPF.

Impact on the Character and Appearance

- 2.7 The proposed development has a simple rectangular form, which will be subservient to the form of the buildings on either side of the application site. The roof design being flat keeps the scale and mass of the building low. The design resembles what might typically be viewed as an outbuilding within a residential curtilage. The proposed use of materials (cedar cladding) would reflect a typical curtilage building.
- 2.8 It is noted that planning permission was refused on this site twice previously for a new dwelling in a similar location. The first refusal was for a 2 storey dwelling

and the second a bungalow. Part of the reason for the previous refusals related to the impact on the character and appearance of the locality. In the case of the previous schemes the proposals were significantly greater in scale and mass, the dwellings took the form of a traditional build and therefore led to them appearing out of kilter with the linear street scene. It is key that this proposal takes a simple form and does not compete with any of the nearby dwellings to resemble a presence in the locality. The low key 3.3m high structure would be read as an outbuilding/ancillary building from the street frontage with minimum views through to the rear of the site. Application 16/00092 was for a traditional bungalow with a pitched roof of 5.5m in height. The current scheme is more aligned to the pre-application advice that has previously been given on this site – that a smaller, single storey dwelling may be more appropriate, thereby reducing the impact to an acceptable level, as it would retain a graduation in development towards the countryside.

- 2.9 When viewed from Dover Road across the agricultural land, there are views of a pitched roofscape and an abundance of soft edged boundary treatment – albeit with gaps in places. The proposal is set in from the rear boundary by approximately 3.3m. A pre-development tree report has been submitted and the site assessed by the DDC tree officer. It is considered that the proposal can be accommodated without detriment to the existing tree line – conditions are suggested to ensure following the recommendations of the tree protection plan. A timber clad building will be glimpsed through the boundary treatment but will be low key on the landscape. The building will still allow views of the two storey pitched roofscape across the fields and not compromise the soft edge that currently exists.
- 2.10 It is also noted that no. 165 Dover Road is a substantial two storey dwelling that is significant in the landscape when viewed in the context of the application site. It is also not uncommon to see outbuildings in rear gardens from views such as this and it is not considered that the building will feature prominently in the landscape. Therefore, notwithstanding the previous decisions taken on this site, the current proposal is considered to have been designed around the site constraints and taken heed of the past conclusions to development on this site.
- 2.11 Views of the proposed building from Johns Green would be limited to oblique sitings down the access and from further afield mitigated by landscaping. It is concluded that the building has been well designed and is compatible with the site constraints and that the proposal would appear intrusive or unduly harmful to the prevailing visual quality of the street scene or the character and appearance of the area.
- 2.12 As such, it is considered that the design of the new house and its impact upon the immediate area would meet the requirements for good design as set on in the NPPF.

Impact on Residential Amenity

- 2.13 The proposed building is single storey only. The dwelling would be approx.3.3m from the rear boundary and 8.6m to the rear garden of no 2a (with a further 24m to the rear elevation of no.2a) and 20.1m to the rear garden of no 2. It would be approx. 9.4m to the side of the rear garden of no. 4 and 3.2m to the boundary with 165 Dover Road. The rear elevation of no.165 Dover Road is approximately 35m away.

- 2.14 Whilst there are principle windows that face back towards no 2/2a Johns Green these would not give rise to overlooking when considered against 2m high boundary treatment and a separation distance of approximately 32m. One of the reasons for refusal on the 2016 planning application was in relation to overlooking from first floor windows.
- 2.15 The proposed building is sufficiently separated from nearby dwellings not to give rise to any loss of light or overbearing impact. It is recognised that the use of the driveway will have some impact on the occupiers of the existing dwellings. Casa Mia is located to the east of the access drive and benefits from a detached elongated garage that acts as a buffer between the driveway no.2 and that property. Parking for no.2 will be at the front of the property so the access will provide the one new dwelling at the rear. There is the potential for a greater impact on the host dwelling at ground floor level, however there are no bedroom windows on the ground floor which would be of greater concern. Furthermore as the site is currently under one ownership the impact will be on the existing owner or a new owner who will be aware of the access arrangements. The existing arrangement already sees vehicular access to the rear of host dwelling, this proposal will make this more formal.
- 2.16 In conclusion, it is considered that overall, the living conditions of the occupiers of nearby dwellings would not be unduly harmed by the proposal.

Impact on Parking/ Highways

- 2.17 A number of objections have highlighted concerns regarding traffic and parking. The proposed development will accommodate two parking spaces on the application site. This provision of on-site parking is considered to be acceptable, according with the requirements of policy DM13.
- 2.18 The proposal uses an existing access and area for two parking spaces. The site would utilise an existing vehicular access off a residential cul-de-sac which is not considered to cause harm to the safe functioning of the highway network.
- 2.19 The NPPF advises that “development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”. It has been concluded that the development would not harm highway safety and it is considered that the proposal is acceptable, subject to suitably worded conditions to secure car parking, EV charging and cycle parking.

Ecology

- 2.20 The DDC Ecologist sought details in relation to a Bat survey to ensure that the garage to be demolished was not used as a roosting facility. A bat survey was undertaken and the garage was also assessed as a potential roost - no evidence was found of bat roosts. The survey did identify bat activity in the area, indicating that bats are flying over the site but no evidence was found of a roost in the garage. The development is unlikely to have a significant impact on this activity; however, it is recommended that conditions be attached to secure bat sensitive lighting and to secure ecological enhancements in the form of a bat box. Accordingly there is no objection on ecological grounds.
- 2.21 Habitats Regulations (2017) Regulation 63: Appropriate Assessment

- 2.22 The impacts of the development have been considered and assessed. There is also a need to consider the likely significant effects on European Sites and the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.23 Detailed surveys at Sandwich Bay and Pegwell Bay have been carried out. 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.
- 2.24 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves. The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.25 Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.

Other Matters

- 2.26 The fire officer raised the issue of access to the building. In light of this it is proposed to provide a domestic sprinkler system in the building. This matter can be regulated through building control.
- 2.27 The applicant's agent has submitted information regarding precedents for backland development in the district. This application has been considered on its own merits and not in comparison to other applications in the district.

3. Conclusion

- 3.1 By virtue of the relevant Development Plan policies not being up-to-date, it is considered that the 'tilted balance' (Paragraph 11, NPPF) must be applied. Relevant to the circumstances of this application, this indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies of the NPPF as a whole.
- 3.2 There is a need for new housing development that is in a sustainable location, with reasonable access to public facilities and amenities. The application site is located within the settlement confines within reasonable walking and cycling distances of the village's facilities and amenities. Its location would meet the requirements of the Development Plan and is supported by the NPPF.
- 3.3 With regard to the objective of achieving good design, it is considered on balance, that the proposed development would not have an unduly adverse

impact on either the character and appearance of the area or the living conditions of the occupiers of adjacent properties, to the extent that this would warrant a refusal of planning permission.

4. Recommendation

I PERMISSION BE GRANTED subject to conditions:

- 1) Time limit
- 2) Plans
- 3) Samples/Details
- 4) Boundary treatment
- 5) Drainage details
- 6) Landscaping/tree protection
- 7) PD rights removed
- 8) EVC point
- 9) Parking
- 10) Implementation of cycle storage/refuse storage
- 11) Bat sensitive lighting
- 12) Ecological enhancements

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: Amanda Marks