

# Public Document Pack



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23 May 2023

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 1 June 2023 at 6.00 pm when the following business will be transacted.

Members of the public who require further information are asked to contact Democratic Services on (01304) 872303 or by e-mail at [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk).

Yours sincerely

A handwritten signature in dark ink, appearing to be "N. Nee", written over a horizontal line.

Chief Executive

Planning Committee Membership:

M J Nee (Chairman)  
D G Cronk (Vice-Chairman)  
J S Back  
D G Beaney  
E A Biggs  
N S Kenton  
R M Knight  
J P Loffman  
S M S Mamjan  
H M Williams

AGENDA

1 **ELECTION OF CHAIRMAN**

In the absence of the Chairman and Vice-Chairman, to elect a chairman to preside over the meeting.

2 **APOLOGIES**

To receive any apologies for absence.

3 **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointments of Substitute Members.

4      **DECLARATIONS OF INTEREST** (Page 6)

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

5      **MINUTES**

To confirm the minutes of the meeting of the Committee held on 13 April 2023 (to follow).

6      **ITEMS DEFERRED** (Page 7)

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

**ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING**  
(Pages 8-12)

7      **APPLICATION NO DOV/22/01617 - 37 THE MARINA, DEAL** (Pages 13-19)

**Construction of a balcony to front elevation with two windows replaced with French doors to first floor**

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

8      **APPLICATION NO DOV/22/01601 - 233 FOLKESTONE ROAD, DOVER** (Pages 20-26)

**Change of use from residential to guest house (Use Class C1)**

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

9      **APPLICATION NO DOV/22/01345 - 12 KING STREET, DEAL** (Pages 27-53)

**Erection of a four-storey building incorporating three retail units (Use Class E) and sixteen self-contained flats (existing building to be demolished)**

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

10     **APPLICATION NO DOV/23/00124 - SOUTHBANK, NEWCASTLE LANE, EWELL MINNIS** (Pages 54-66)

**Erection of a dwelling, car port and access**

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

11     **APPLICATION NO DOV/22/01642 - 22 THE STREET, WEST HOUGHAM** (Pages 67-77)

**Erection of two detached dwellings with cycle and refuse stores, parking and replacement car parking for No 22**

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

- 12     **APPLICATION NO DOV/23/00086 - CROFTERS LODGE, DURLOCK ROAD, STAPLE** (Pages 78-89)

**Outline planning permission for the erection of six self and custom-build houses with associated access, car parking, amenity space and landscaping (all matters reserved)**

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

- 13     **APPLICATION NO DOV/23/00119 - 8 THE STREET, ASH** (Pages 90-102)

**Erection of seven dwellings including the demolition and rebuilding of existing dwelling**

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

- 14     **APPLICATION NO DOV/22/00043 - LAND BETWEEN NOS 107 AND 127 CAPEL STREET, CAPEL-LE-FERNE**

**Reserved matters application for approval of landscaping, layout, scale and appearance pursuant to outline application DOV/19/00669 for 34 dwellings**

To consider the report of the Head of Planning and Development (to follow).

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

- 15     **APPEALS AND INFORMAL HEARINGS**

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

- 16     **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.
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- 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) Electoral Matters Committee; (e) Governance Committee; (f) Planning Committee; (g) General Purposes Committee and (h) Overview and Scrutiny Committee. Only agenda items open to the press and public to view will be broadcast.

These recordings will be retained for 30 days from the date of the meeting. The recordings will be uploaded to YouTube as soon as practicable after the day of the meeting. In normal circumstances this would be within 2 working days of the meeting. However, there may be circumstances where it will take longer. The recordings can be viewed on the Council's YouTube Channel - [Council meetings - YouTube \(@doverdc\)](#)

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- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website [www.dover.gov.uk](http://www.dover.gov.uk). Minutes will be published on our website as soon as practicable 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 Democratic Services, [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk), telephone: (01304) 872303 or email: [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk) for details.



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

**Declarations of Interest****Disclosable Pecuniary Interest (DPI)**

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

**Other Significant Interest (OSI)**

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

**Voluntary Announcement of Other Interests (VAOI)**

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

**Note to the Code:**

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

DOVER DISTRICT COUNCIL

REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

PLANNING COMMITTEE – 1 JUNE 2023

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

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

<b>DOV/21/01615</b>	<b>Erection of 29 dwellings with associated access, parking and landscaping (existing industrial buildings to be demolished) – The Old Malthouse, Easole Street, Nonington (Agenda Item 7 of 23 February 2023)</b>
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Background Papers:

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

**SARAH PLATTS**

Head of Planning and Development

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

## **APPLICATIONS WHICH MAY BE SUBJECT TO PUBLIC SPEAKING**

### **The Reports**

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

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

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

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

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

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

### **Site Visits**

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

The following criteria will be used to determine usefulness:

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

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

### **Background Papers**

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

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

## **IMPORTANT**

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

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

### **The Development Plan**

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

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

## Human Rights Act 1998

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

The key articles are:-

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

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

Account may also be taken of:-

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

Article 10 - Right to free expression.

Article 14 - Prohibition of discrimination.

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

(PTS/PLAN/GEN) HUMANRI

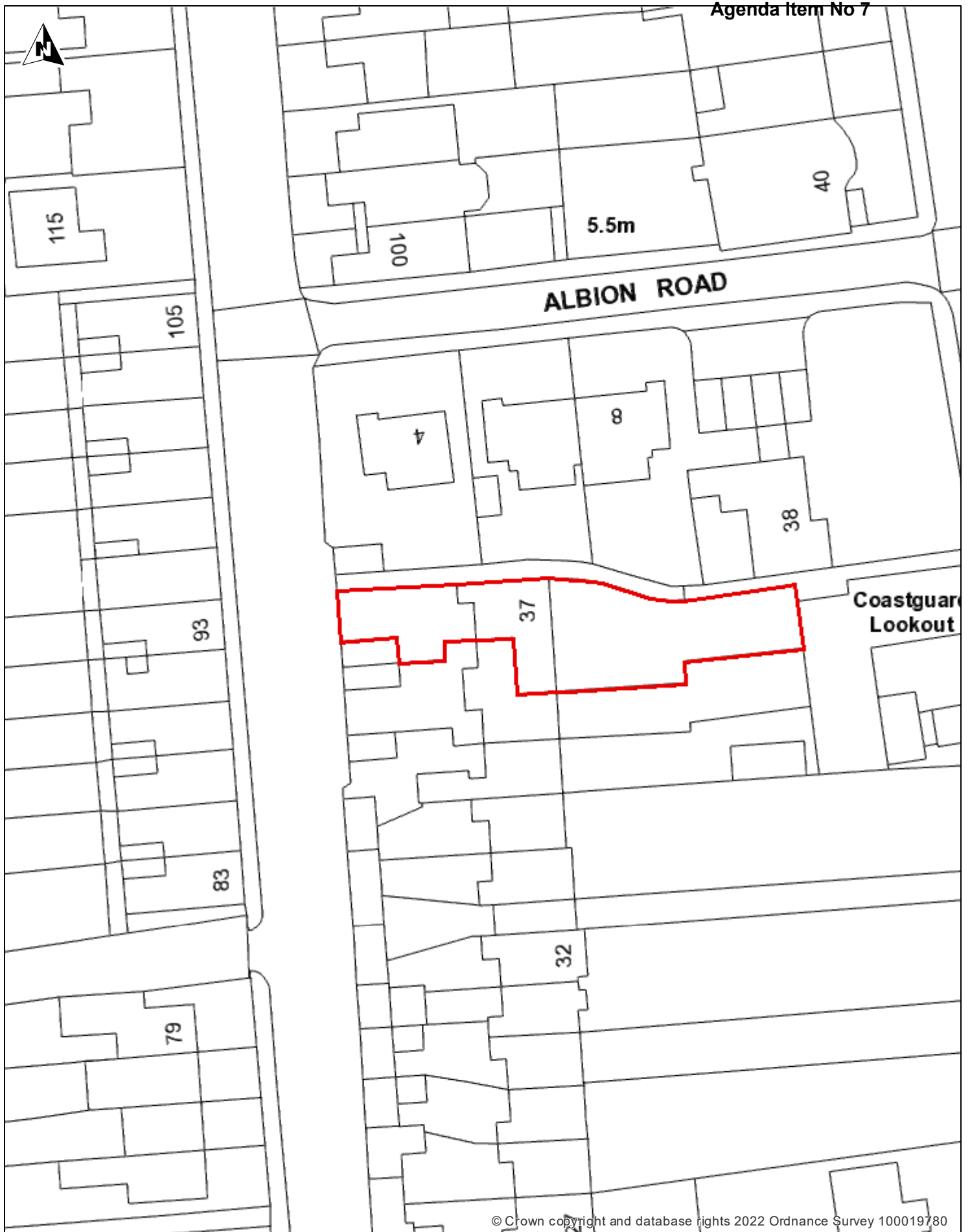
## **PUBLIC SPEAKING AT PLANNING COMMITTEE**

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

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





22/01617  
37 The Marina  
Deal  
CT14 6NH

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/22/01617 - Construction of a balcony to front elevation with two windows replaced with French doors to first floor - 37 The Marina, Deal**

Reason for report – Number of contrary views (8)

- b) **Summary of Recommendation**

Planning permission be granted

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1

Local Plan (2002) Saved policies

Draft Dover District Local Plan (March 2023) - The Submission Draft Dover District Local Plan is a material planning consideration in the determination of applications. At submission stage the policies of the draft plan can be afforded some weight, depending on the nature of objections and consistency with the NPPF.

The relevant policies are:

PM1 – Achieving High Quality Design

H6 – Residential extensions and annexes

HE1 – Designated and Non-designated Heritage Assets

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

- d) **Relevant Planning History**

22/00820 - Erection of front and rear dormer roof extensions, front balconies to first and second floors, replacement windows and installation of glazing to gable end – Refused

22/01619 - Certificate of Lawfulness (proposed) for hip to gable roof, rear dormer window, front rooflights to facilitate a loft conversion and 2 no Juliette balconies to front first floor - Granted

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

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

Deal Town Council – Objection. Due to balcony not in keeping with architectural integrity and heritage of this historic terrace. Impedes users Right of Way across the front of the building and is detriment to those people using mobility aids.

Heritage – While the offending dormer extension has been removed, which is a significant positive... the balcony and French doors would cause disruption to the simple character of the building; as noted previously, this end of the terrace has not been altered to any significant degree and therefore retains its historic character to a much greater extent than the other end of the terrace which has become cluttered and disharmonious with the consistent character of the terrace heavily eroded. The balcony at least is light in construction and will hopefully not be too visually intrusive.

Third party Representations:

8 representations of objection have been received and are summarised below:

- Loss of privacy caused by balcony
- Overlooking to private garden space at 38 The Marina
- Detrimental to historic character of cottages
- Right of way compromised by legs of balcony
- Noise and disruption during construction

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

- Isn't highly visible
- Balcony won't set a precedent
- Similar proposals nearby
- The cottages have evolved over time due to other alterations
- Good design
- Sympathetic to area and building

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

- 1.1 The application site relates to a two storey dwellinghouse located at the northern end of a row of terraced properties, previously known as the Coastguard cottages. The front of the property faces out to Deal beach, with the rear gardens extending to Sandown Road. The property is bounded by 36 The Marina to the south, as shown on Figure 1.



Figure 1: Block plan

- 1.2 This application seeks permission for the construction of a balcony to the front (east) elevation with 2no. windows replaced with French doors at first floor.

## **2. Main Issues**

- 2.1 The main issues for consideration are:

- The principle of the development
- The impact on visual amenity
- The impact on residential amenity

### **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 CP1 states that the location and scale of development in the district must comply with the Settlement Hierarchy which informs the distribution of development in the Core Strategy.
- 2.4 Policy DM1 seeks to ensure that new development is located within the urban boundaries and rural settlement confines unless ancillary to existing development or uses. As the proposals are ancillary to the residential use of the property and located within the settlement boundary of Deal, the proposals would accord with DM1.

#### Visual Amenity

- 2.5 The application site sits at the end of a row of houses, which are similarly designed. The properties have an uninterrupted roofslope, with variations including balconies set to the front elevation facing towards Deal beach.
- 2.6 From The Marina, views of the northern end of the terrace are partially obscured from wider viewpoints by the coastguard building which abuts the highway.

- 2.7 The proposed balcony as shown on Figures 2 and 3, would be at first floor level, together with the change to the fenestration to support the balcony. The size and scale of the proposed balcony would be similar to others present within the row of properties. The design is light in construction and would not be visually intrusive to property. The balcony is considered to acceptable and would not create an unacceptable change to the front elevation.



Figure 2 – Proposed Front elevation

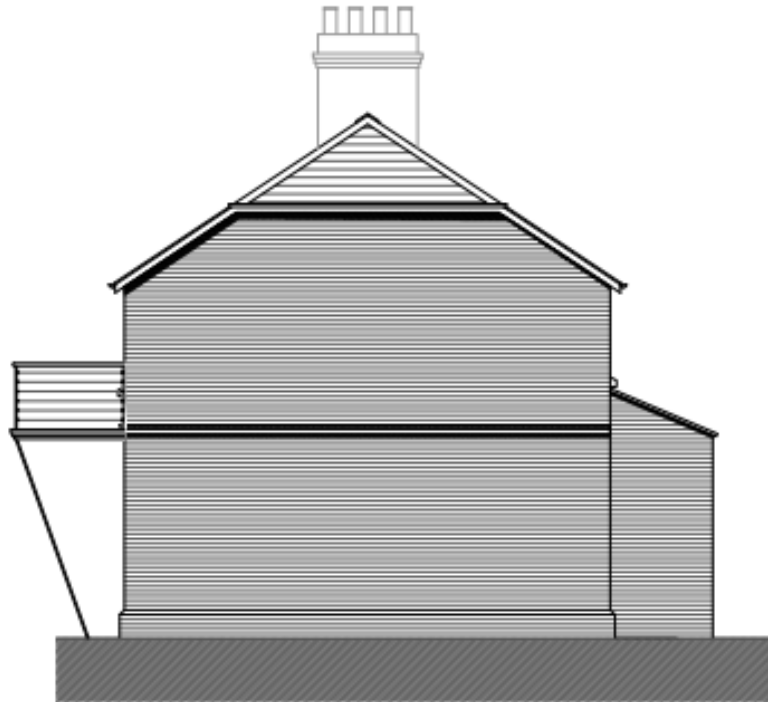


Figure 3 – Proposed side (north) elevation

- 2.8 The proposed French doors would be a minor change to the front elevation. A number of other properties within the terrace have French doors to facilitate the use of their balconies. The addition of French doors within this elevation is not considered to be detrimental to the property and are considered to be acceptable
- 2.9 For the reasons above, the works are considered to be acceptable, resulting in no harm to the street scene, in accordance with Paragraph 130 of the NPPF (2021).

#### Residential Amenity

- 2.10 Due to the nature of the proposals, it is not considered that there would be any overbearing impact or overshadowing to neighbouring properties.
- 2.11 Concerns were raised regarding loss of privacy to neighbouring properties, as a result of the introduction of a balcony. The balcony would be located on an elevation which already has first floor windows, which could overlook private garden areas of neighbouring properties. It is therefore considered that the proposals would not result in an unacceptable loss of privacy to neighbouring properties.

#### Other Matters

- 2.12 A number of objections have raised concerns regarding the obstruction of an historic Public Right of Way. There is no existing Public Right of Way which would be affected by the development and it is not considered that the possible presence of a footpath which has now ceased to exist is material to the determination of this application.

- 2.13 Some objections raised concerns with the proposals being detrimental to the historic character of the properties. DDC Heritage were consulted on the application and raised concerns regarding the French doors, and the visual disruption within the end of the terrace. While it is accepted that this end of the Coastguard cottages is largely unaltered, the proposal would be a lightweight and visually permeable addition to the frontage, would be partially screened in views from the road and would be seen in the context of other similar additions to the frontage. Whilst it is acknowledged that the frontage would be altered by the proposal, on balance, it is not considered that the development would cause such harm so as to warrant refusal.

### **3. Conclusion**

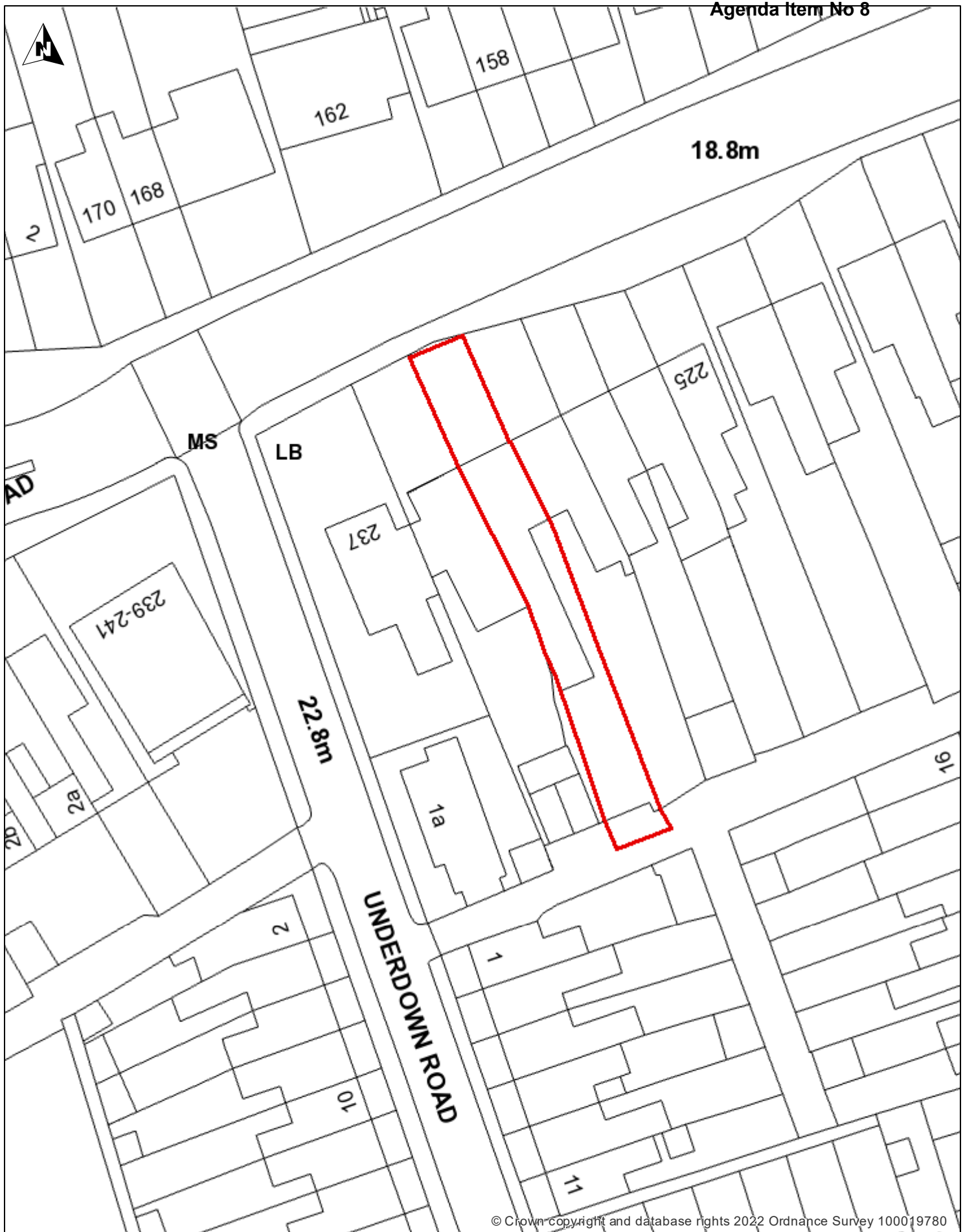
- 3.1 The proposed balcony, together with the alterations to fenestration, are considered to be acceptable. Due to their siting, scale and design, the proposals would not significantly negatively impact the character and appearance of the street scene or the row of cottages. For this reason, it is recommended that permission be granted.

### **g) Recommendation**

- I PLANNING PERMISSION BE GRANTED, subject to the following conditions:
- 1) Standard time condition
  - 2) In accordance with the approved plans
- II Powers to be delegated to the Head of Planning 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

Amber Tonkin



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22/01601  
233 Folkestone Road  
Dover  
CT17 9SL

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/22/01601 – Change of use from residential to guest house (Use Class C1) - 233 Folkestone Road, Dover**

Reason for report – Number of contrary views (11)

b) **Summary of Recommendation**

Planning permission be granted

c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM13

Draft Dover District Local Plan (March 2023)

The Submission Draft Dover District Local Plan is a material planning consideration in the determination of applications. At submission stage the policies of the draft plan can be afforded some weight, depending on the nature of objections and consistency with the NPPF. The relevant policies are: E4

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

d) **Planning History**

DOV/06/00778 – Change of use to single residential dwelling. Granted.

DOV/06/00094 – Retrospective application for the change of use to a House of Multiple Occupation. Withdrawn.

DOV/01/00676 – Single storey rear extension. Granted.

DOV/ 00/01032 – Construction of first floor extension. Granted.

DOV/97/00469 – Change of use of room numbers 1 and 7 to letting rooms. Granted.

DOV/90/01408 – Change of use from 3 bedroom guest house to 5 bedroom guest house. Granted.

DOV/90/01242 – Provision of a double sided internally illuminated post mounted sign. Granted.

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

Representations can be found in the online planning file, a summary is provided:

Dover Town Council – Object as parking is inadequate, facilities are insufficient and bathrooms are not on all the floors.

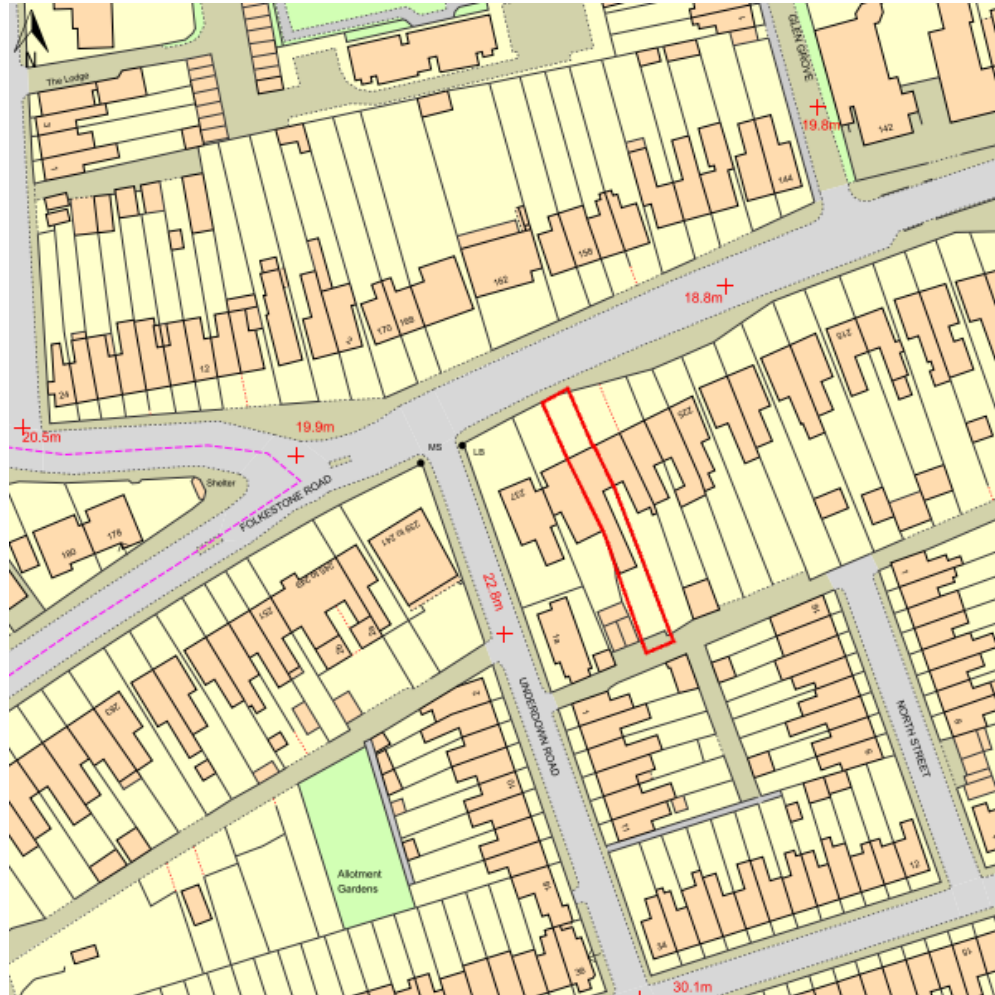
Third party Representations: 10 objections have been received and summarised below:

- Concern over anti-social behaviour
- Increase in rubbish
- Too many houses with too many people on this road
- Looks like a HMO not a guest house with residents sharing a lounge, kitchen and for some a bathroom and a toilet.
- Inadequate parking.

- Increased noise.

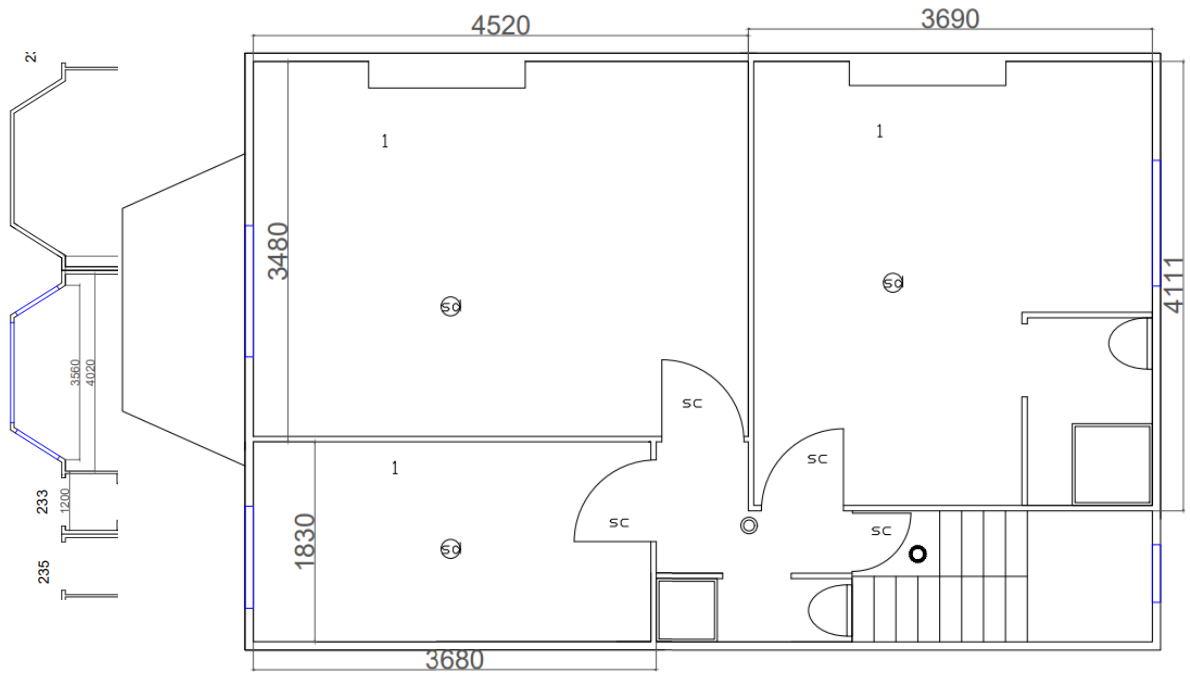
**f) 1. The Site and Proposal**

- 1.1 The application site comprises a terraced three storey dwelling on the southeast side of Folkestone Road, which lies within the urban boundary of Dover. The dwelling is finished in brick, with white uPVC windows and a tiled roof. The street comprises of a mixture of detached, semi-detached and terraced dwellings.

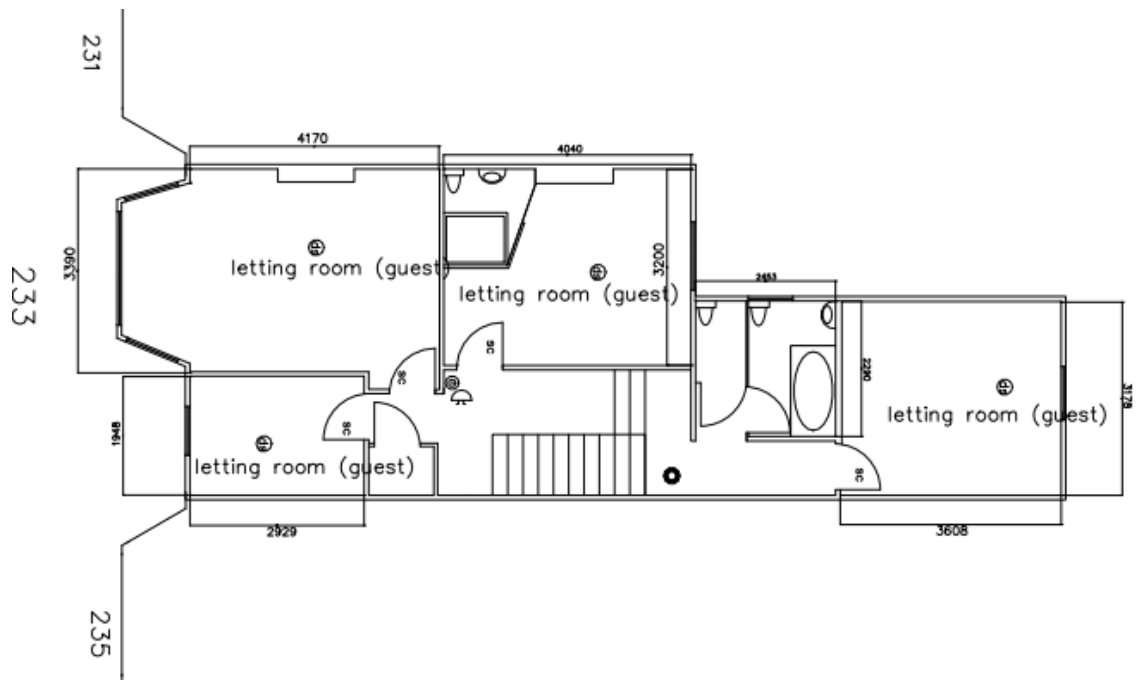


**Figure 1 – Site Location Plan**

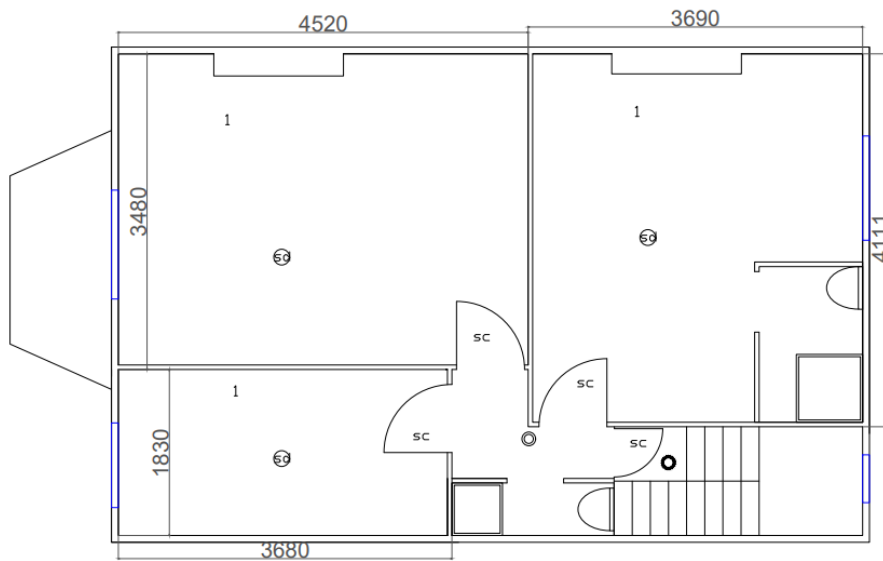
- 1.2 The site slopes slightly upwards from the front to the rear boundary. The dwellinghouse is bounded by 231 Folkestone Road to the northeast, and 235 Folkestone Road to the southwest. The application is for the change of use from residential to guest house (Use Class C1). The guest house would include 1 letting room on the ground floor as well as a reception room, kitchen, lounge and bedroom. The first floor would include four letting rooms and a bathroom and the second floor would include three letting rooms, one of which would have an en-suite toilet.



**Figure 2 - Proposed ground floor plan**

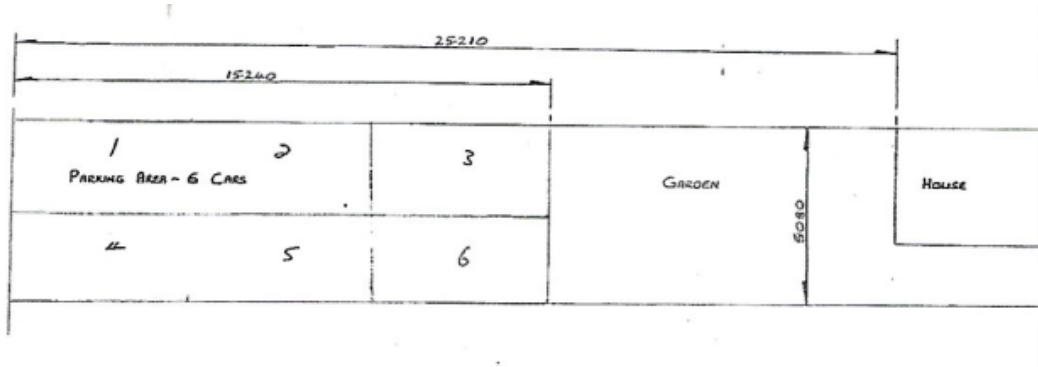


**Figure 3 – Proposed first floor plan**



**Figure 4 – Proposed second floor plan**

- 1.3 Parking for up to 6 cars is proposed to be provided to the rear of the dwelling on hardstanding which is already in situ.



**Figure 5 – Proposed car parking layout**

## **2. Main Issues**

- 2.1 The main issues for consideration are:

- Principle of the development
- Residential amenity
- Parking

### **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 proposed development is within the urban boundary of Dover. As such it is acceptable in principle, having regard to policy DM1, subject to its details and any material considerations.
- 2.4 Due to the location and nature of the proposals it is considered that the guest house would be suitable for use by tourists to the Dover area. Policy E4 of the draft Dover District Local Plan covers the provision of new accommodation in the district. It is considered that the guest house is appropriate for this location in accordance with this policy. Tourism facilities such as guest houses enable the growth of tourism and the visitor economy sector and encourages more visits to, and long stays in, the District. Further to this, section 6 of the NPPF, 'Building a strong, competitive economy', further supports the addition of businesses which in turn would support economic growth and productivity.
- 2.5 No changes will be made to the external appearance of the building and therefore there would be no impact on visual amenity as a result of the proposals.

#### Residential Amenity

- 2.6 The application site is within a built-up residential area which is located a short distance from the town centre. Within close proximity there are already many other guest houses. Objections have raised concern over an increase in anti-social behaviour, noise and rubbish in the area. Some of these concerns not considered to be material to this application; however, noise and impacts on the character to the area are material planning considerations which could be through the submission of a Management Plan.
- 2.7 It is intended for a manager to occupy the guest house on the ground floor which would help control the behaviour of paying guests. In addition, a condition has been included which requires the submission in advance of the use commencing to set out how the site would be managed and further details of the booking criteria, management of car parking and refuse on the site. On this basis it is not considered that noise, anti-social behaviour would be increased to an unacceptable degree, such that a refusal could be justified.
- 2.8 The standard of accommodation, whilst suitable for shorter term guest house accommodation, would not be suitable for long term accommodation. The application has been submitted on the basis of this shorter term use, which would be acceptable, however it is considered that it would be reasonable to control the length of stays by condition.

#### Parking

- 2.9 Parking for up to 6 cars would be provided to the rear of the guest house on a concrete hard standing which is already in situ. This would be in the form of tandem parking. Whilst tandem parking is not the preferred form of parking, in this case it is considered acceptable due to the nature of the proposals and the fact that parking for 6 cars would keep people from parking along an already busy stretch of road. However, how this is managed and controlled would need to be addressed in the submitted Management Plan.
- 2.10 The application site is located within close proximity to bus stops and also within walking distance to Dover Priory train station, making the site highly accessible via public transport which would lessen the need for the use of cars. Whilst we don't

support the use of tandem parking for a guest house, parking is not necessarily needed due to its central location near the town centre and public transport. Policy E4 of the draft Dover Local Plan states that serviced visitor accommodation will be supported within confines if there is appropriate provision for parking and access. There are also several other guest houses in close proximity to this site. For the reasons described above it is considered that the parking and access arrangements are appropriate for the guest house's central location and therefore meets the requirements of policy E4.

### **3. Conclusion**

- 3.1 For the reasons outlined above, the proposals are considered unlikely to result in undue harm to the residential amenities of surrounding occupants. Further to this, due to the location of the guest house and its probable use as tourist accommodation it is considered that the parking provided would be acceptable as many tourists would be likely to access the guest house via public transport, therefore lessening the need for parking spaces on site. Consequently, the proposals accord with the aims and objectives of the NPPF.

#### **g) Recommendation**

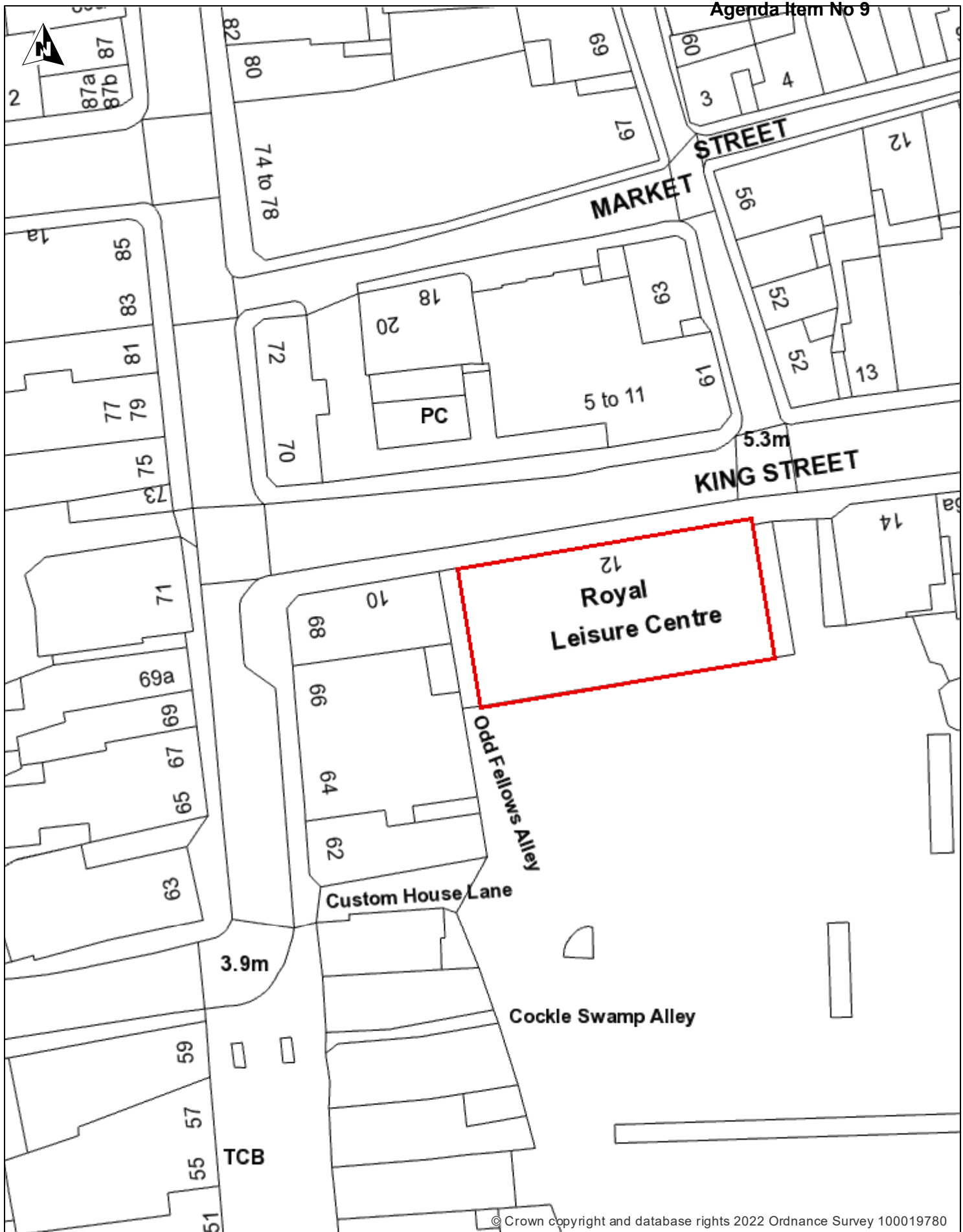
I PLANNING PERMISSION BE GRANTED, subject to the following conditions:

1. Time Limit
2. Approved plans
3. Management plan
4. Occupancy restrictions

II Powers to be delegated to the Head of Planning 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

Alice Pitts



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22/01345  
12 King Street  
Deal  
CT14 6HX

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/22/01345 - Erection of a four-storey building incorporating three retail units (Use Class E) and sixteen self-contained flats (existing building to be demolished) - 12 King Street, Deal**

Reason for report – Number of contrary views (29)

- b) **Summary of Recommendation**

Grant planning permission

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, CP4, DM1, DM5, DM7, DM11, DM13, DM17, DM20, DM22

Draft Dover District Local Plan (March 2023) –

The Submission Draft Dover District Local Plan is a material planning consideration in the determination of applications. At submission stage the policies of the draft plan can be afforded some weight, depending on the nature of objections and consistency with the NPPF.

Draft policies SP1, SP2, SP4, SP5, SP6, SP7, SP9, SP11, SP13, SP14, SP15, CC1, CC2, CC5, CC6, PM1, PM2, PM3, PM4, PM6, H1, R4, TI1, TI3, NE1, NE3, NE5, HE1, HE2 and HE3.

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 60, 63, 64, 86, 92, 93, 98, 100, 104, 105, 110, 111, 112, 113, 119, 120, 124, 126, 130, 131, 132, 134, 152, 154, 157, 159, 174, 180, 183, 185, 187, 194, 195, 197, 199, 205

National Design Guide & National Model Design Code (2021)

- d) **Relevant Planning History**

DOV/18/01169 - Erection of a building incorporating 3 no retail units (Use Class A1) and 16 no self-contained flats (existing building to be demolished) – Granted

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

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

Deal Town Council – Initial response: Objects to the application for the following reasons:

- No demolition of existing building unless a condition for complete photographic record of art deco interior is applied.
- Design of building not appropriate within the conservation area.

*Second response*: Objection due to the removal of affordable housing and limited parking, also this is part of a number of applications that will have a detrimental effect on Deal Town Centre, therefore a proper design study of the cumulative impact of this development and others in the vicinity is needed as required by the draft local plan as this and other developments will have an impact on the viability of the town and amenity of the middle street conservation area.



Deal Town Council also object unless a condition for complete photographic record of the art deco interior is applied. The Committee also agrees with the concerns about the preservation of a Right of Way adjacent to the proposed development.

Environment Agency - No comments

Natural England - Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).

Southern Water –The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water, before the layout of the proposed development is finalised. - The water distribution mains requires a clearance of 6 metres on either side of the water distribution mains to protect it from construction works and to allow for future access for maintenance. - No excavation, mounding or tree planting should be carried out within 6 metres of the external edge of the public water distribution mains without consent from Southern Water. - No new soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public water distribution mains. - All existing infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works.

We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

KCC Economic Development- Have requested development contributions including the following:

- **Community Learning £16.42 x 16 = £262.72** Towards additional equipment, services, and resources for the new learners at Deal Adult Education Centre
- **Youth Service £65.50 x 16 = £1,048.00** Towards additional equipment and resources for the Dover Youth Hub – Linwood, Deal
- **Library Service £55.45 x 16 = £887.20** Towards additional services, resources, and stock (including digital infrastructure and resources) to be made available at Deal Library
- **Social Care £146.88 x 16= £2,350.08** Towards Specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting Community facilities, sensory facilities, and Changing Places within the District
- All Homes built as **Wheelchair Accessible & Adaptable Dwellings** in accordance with Building Regs Part M 4 (2)
- **Waste £54.47 x 16= £871.52** Towards works at Dover HWRC to increase capacity
- **Broadband:** Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and gigabit-capable (minimal internal speed of 1000mbps) connections to multi-point destinations and all buildings including residential, commercial and community. The infrastructure shall be installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details. The development should comply

with any statutory or non-statutory guidance extant at the time a decision on the application for planning permission is made. Reason: To provide future-proof digital infrastructure in new developments as required by National Planning Policy Framework (NPPF) paragraph 114

KCC PROW– Any amendments to the surface of ED15 must be agreed with PROW prior to any disturbance. Please also refer to my previous response attached regarding any closure required to necessitate works to commence.

KCC LLFA- Require conditions relating to a detailed sustainable surface water drainage scheme and a verification report.

KCC Highways – No objections in respect of highway matters subject to the following being secured by condition:

- Submission of a Demolition and Construction Management Plan before the commencement of any development on site to include the following: (a) Routing of demolition/construction and delivery vehicles to / from site (b) Parking/turning areas and access/egress points for construction/demolition and delivery vehicles and site personnel (c) Timing of HGV movements (d) Provision of wheel washing facilities (e) Temporary traffic management / signage
- Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.

Kent Police- We request a condition for this site to follow SBD Homes 2019 and SBD Commercial 2015 guidance to address designing out crime to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety.

Made comments in relation boundary treatments, lighting, doorsets, AV door entry systems, windows, cycle storage, CCTV, alarms and mail delivery.

DDC Environmental Health - There are no known contaminated land or air quality issues with this application.

No details of sound insulation between the commercial and residential part of the development. Sound insulation between residential/residential premises is normally dealt with by the Council's Building Control Department under Approved Document E of the current Building Regulations.

However, there is no standard governing the sound insulation properties of partitions between residential/commercial properties. Commercial uses generally create more noise than residential premises. We would therefore require the sound insulation between commercial/residential to be of a higher standard than specified in Approved Document E. As a guide, we would expect the level of sound insulation provided by the wall partition to be in the order of Rw [1] 60dB. It is recommended that the a condition be placed on the application.

It is also recommended that a suitable condition is included to incorporate a Construction Management Plan to provide control to dust/noise emissions during the construction process.

DDC Housing- First Response: There is a need and a demand for affordable housing across the district, including this location. It is not clear in the application whether the s106 and the viability appraisal are applicable for the latest application, or whether this will be reviewed as part of the current application. As this is a new application, arguably the current planning policy in relation to affordable housing should be applied to this application, and viability should be reassessed on the basis of the new policy.

*Second response:* The provision of three homes for affordable rent would be acceptable.

DDC Planning policy Team- Have requested the following contributions for off-site provision:

Open Space

- Accessible Greenspace £1,010.90
- Children's Equipped Play Space £3,640.63
- Allotments/Community Gardens £17.00

Sports facilities and playing pitches

As made clear in Policy PM4, the Sports Facilities calculations below are taken from the Sports England Calculators and are a starting point for the assessment of Sports Provision to meet the needs of the development, and include Playing pitches, indoor Bowls, Sports Halls and Swimming as recommended by the current evidence base (see Playing Pitch strategy and Indoor Sport Facilities Strategy).

Playing Pitches (taken from Sport England Playing Pitch calculator):

	<b>Capital Cost</b>	<b>Lifecycle cost (per annum)</b>	<b>Changing rooms (capital cost)</b>
<b>Natural Grass Pitches</b>	£4,113	£857	£8,465
<b>Artificial Grass Pitches</b>	£1,710	£53	£560

Sports Facilities (taken from Sport England Sport Facility calculator):

<b>Indoor Bowls</b>	£339
<b>Sports Halls</b>	£7,863
<b>Swimming Pools</b>	£8,646

As set out in the Infrastructure Delivery Plan/Infrastructure Delivery Schedule the projects that are recommended that these contributions to go towards would be:

- Victoria Park for Open Space
- Drill Field for Outdoor Sports
- Tides leisure Centre replacement facility for indoor sports

The Theatres Trust- Have commented that the proposal would represent the loss of a social and community use and the loss of a non-designated heritage asset, with the building being seen to make a positive contribution to the townscape. However, given the previous permission, they raise no objection subject to a condition being imposed requiring a photographic and written report of the building prior to demolition. They also commented that demolition and new construction would be a less sustainable option than re-use and adaption.

Third party Representations:

29 letters of objection have been received as below:

- Poor and unimaginative design

- Lack of reference to historic context
- Negative impact on character and appearance of area
- Negative impact on conservation area
- Existing building is part of the history of the town and should be listed
- Conversion of the existing building should be proposed, rather than demolition.
- Loss of place of entertainment
- Deal needs a cinema, rather than more retail
- Increased pressure on parking and traffic
- Lack of access for heavy/ large vehicles
- No affordable homes proposed
- Existing anti-social behaviour at night time in this area
- Noise and dust pollution at construction stage
- Highways disruption during construction stage
- Access to seafront for residents and visitors would be impeded by construction stage, with adverse effect for community and local economy
- Affects Public Right of Way ED15, Odd Fellows Alley, provision must be made protect this and keep it open during development
- Detrimental effect on surface water run-off
- Detrimental effect on public sewer system
- Use of brickwork on elevations will result in spalling, and erode the soft brick and mortar allowing rain water to penetrate.
- White render will become unsightly with algae growth

46 letters of support have been received as below:

- Existing building is an eyesore. Existing façades to car park and Oddfellows Alley are blank and of no value.
- Existing building is in poor condition
- Commercial opportunity and economic benefits
- Would provide needed homes in sustainable location
- Energy efficient homes
- Building not viable, and construction difficult to convert
- Commercial premises would provide link from the High Street to the sea front of Beach Street in a much better way than the existing building does.
- Scheme would fit in well with surrounding character, with appropriate scale and materials
- new build has less maintenance issues.
- enhancement of cycling infrastructure should be secured through permission

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

1. 1 The application site comprises the former Royal Leisure Centre which is located on the south side of King Street and backs onto the Middle Street Car Park. Adjacent to the west is Odd Fellows Alley which backs on to commercial premises fronting the High Street, whilst to the east is a pedestrianised access leading from King Street to the car park.
1. 2 The building has white rendered elevations fronting King Street and the car park, with a plinth, pilasters and an entablature. The roof is pitched with a parapet. It is unlisted but lies within the Middle Street Conservation Area. The nearest listed buildings are approximately 30m on Beach Street, facing the seafront.

- 1.3 The building was originally constructed in 1890 as the Oddfellows Hall. It was converted to a theatre in 1892 and then was converted to a cinema around 1934. Following eventual closure of that in 1981, it was converted into an amusement arcade on the ground floor with a snooker club at first floor. The building is now vacant.
- 1.4 The proposal is for demolition of the existing building and erection of a new building on the existing site footprint, with a total of 16 apartments on upper floors and 3 commercial units on the ground floor. The mix would be 9 x 1 bed, 3 x 2 bed and 4 x studio homes, with the commercial units having floorspace between 60 sq m and 85 sq m.
- 1.5 The building would be 4 storeys in height although the 3rd storey would have a reduced floorspace area. The 3 retail units would front onto King Street with each being self-contained.
- 1.6 No parking spaces are proposed within the development, although there is provision for cycles and mobility scooters at ground floor. Separate refuse and recycling stores are also provided for the residential and commercial elements of the scheme, with external access via the car park. A basement is proposed providing additional residential and commercial storage.
- 1.7 A similar scheme was granted permission on 1<sup>st</sup> August 2019, under reference DOV/18/01169. That applicant has submitted a statement which explains that due to the Covid-19 pandemic lockdown, and the construction market suffering from material shortages and rising costs, the project was unable to be moved forward.
- 1.8 The permission has expired and therefore the applicant has reapplied for planning permission. The scheme has been altered during the life of the application in relation to appearance, materials and provision of affordable housing.





Figures 1-3: Photographs of the site taken from the submitted heritage statement.

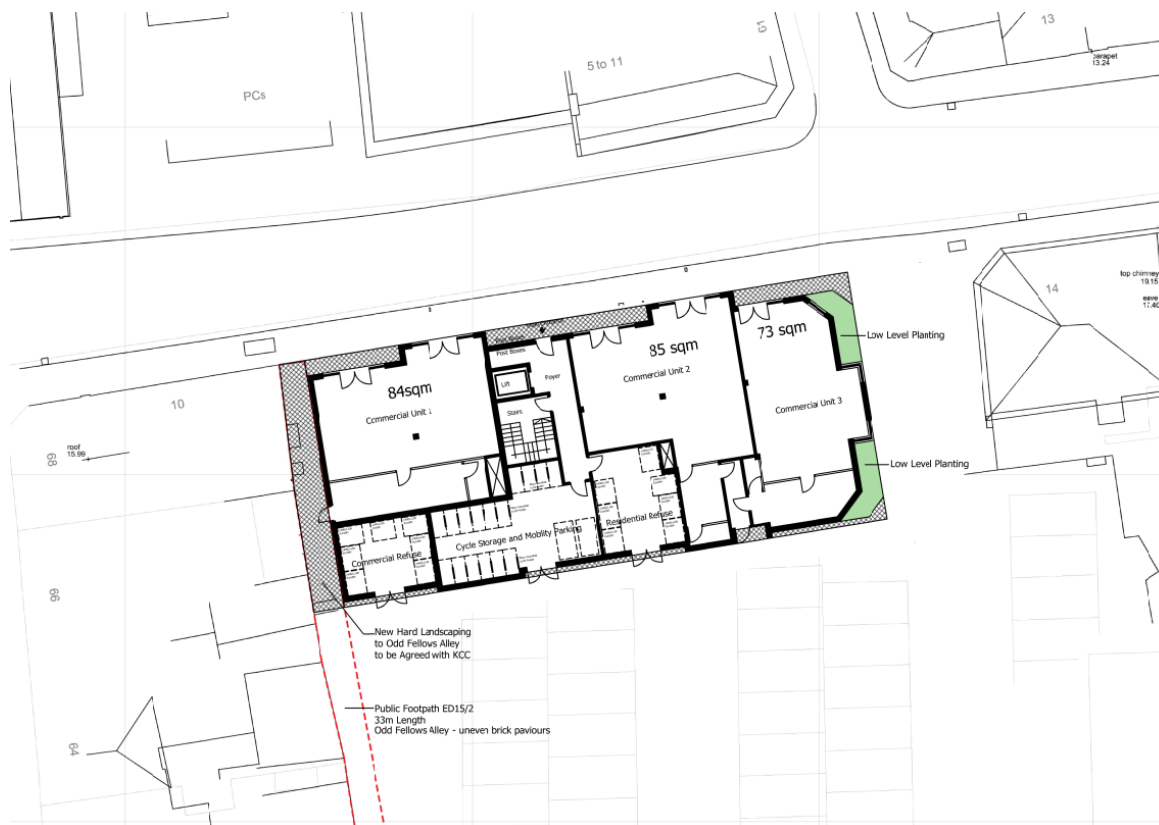
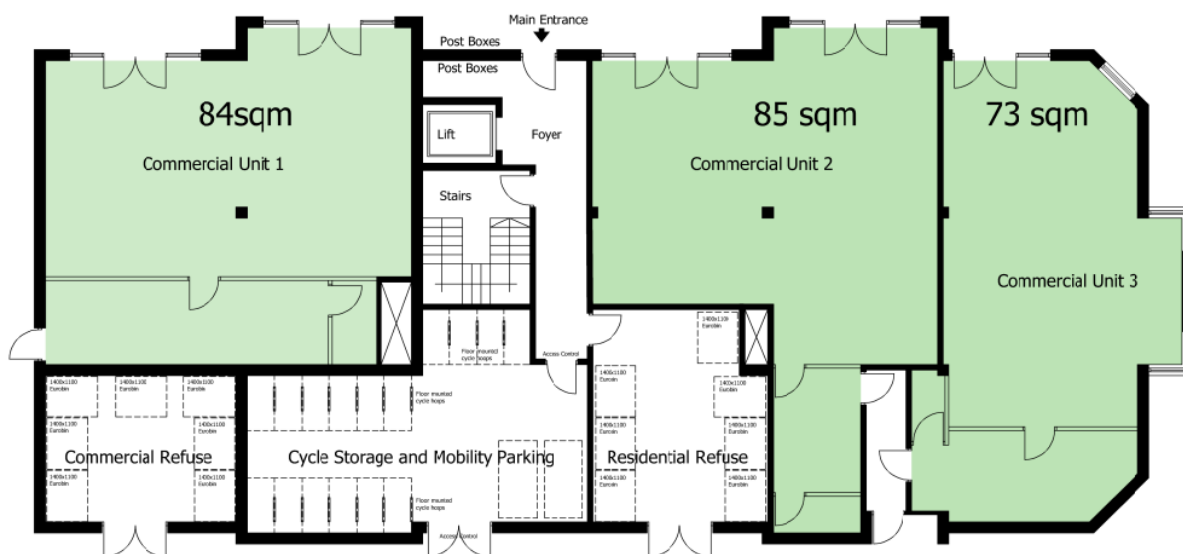


Figure 4: Proposed site plan (not to scale)

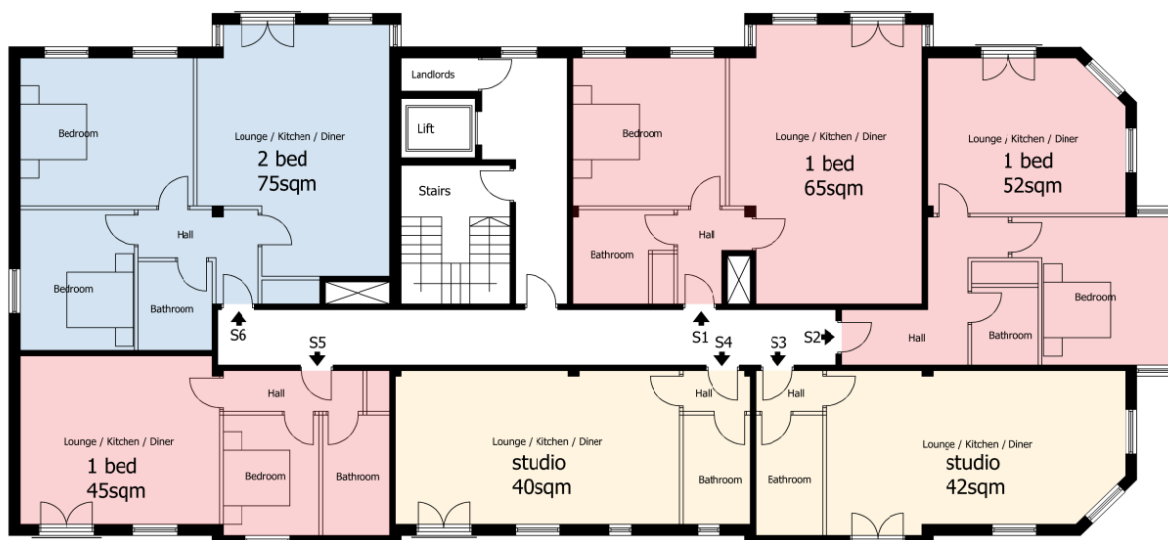


**Figure 5: Proposed ground floor plan (not to scale)**



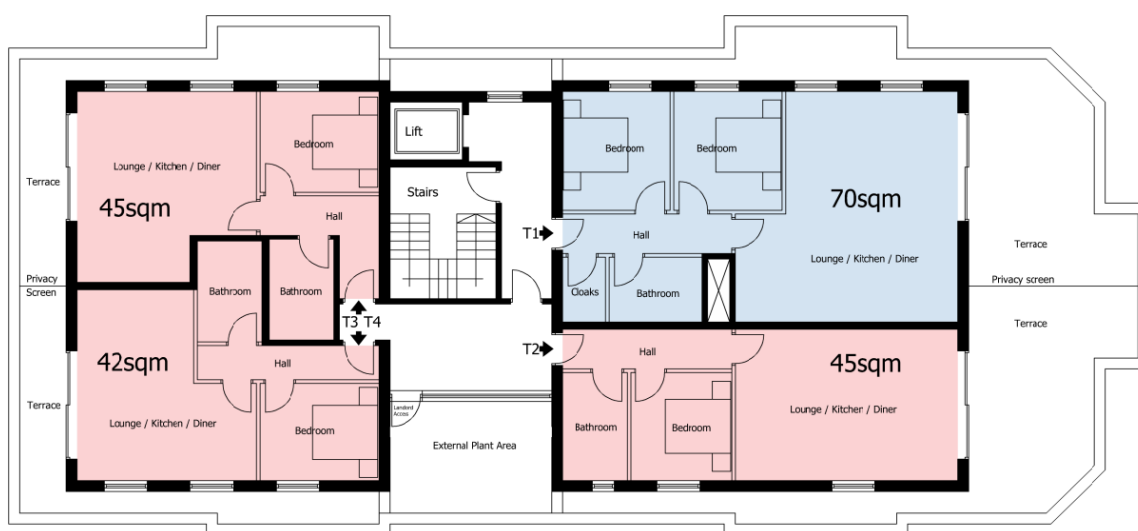
**Figure 6: Proposed first floor plan (not to scale)**





Note: All apartments have a secure store located in the Basement  
Minimum 5sqm allocated to each flat

**Figure 7: Proposed second floor plan (not to scale)**



Note: All apartments have a secure store located in the Basement  
Minimum 5sqm allocated to each flat

**Figure 8: Proposed third floor plan (not to scale)**



Proposed North Elevation  
elevation facing King Street

**Figure 9: Proposed north (King Street) elevation (not to scale)**



Proposed South Elevation  
elevation facing car park

**Figure 10: Proposed south (Car Park) elevation (not to scale)**

## 2. Main Issues

2.1 The main issues for consideration are:

- The principle of development

- Design
- Impact on heritage assets
- Impact on living conditions
- Housing mix and affordable housing
- Highway issues
- Ecology
- Flood risk and drainage
- Archaeology
- Contamination
- Infrastructure and Developer contributions

f) **Assessment**

Principle of Development

*Mixed-use development (Residential and commercial)*

- 2.2 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework are a significant material consideration in this regard.
- 2.3 It is considered that the policies most important in determining this case are DM1 and DM11. Policies DM1 and DM11 accord with the strategic aim of the NPPF to promote sustainable development. However, it is considered that both adopted policies are in tension with the NPPF as they are considered more restrictive than the NPPF (with DM1 being considered more so), and that limited weight should therefore be afforded to these policies. Given the degree of conflict between these policies and the NPPF, it is considered that policies DM1 and DM11 are out-of-date and are given reduced weight.
- 2.4 Notwithstanding the primacy of the development plan, Paragraph 11d of the NPPF states that "where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date" permission should be granted unless:
- "i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (7); or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole".
- 2.5 The Council are currently able to demonstrate a five-year housing land supply and have not failed the housing delivery test. Consideration must be had for whether the "tilted balance" is engaged, having regard for Paragraph 11 of the NPPF. It is considered that some of the adopted policies relevant for determining the application are out of date to varying degrees, with Policy DM1, which is particularly relevant in assessing the principle of the development, being particularly so. It is therefore concluded that the 'basket' of local policies is out of date and the 'tilted balance' should be engaged, having regard for paragraph 11 of the NPPF. Sub-paragraph (ii) states that permission should be granted unless it is demonstrated that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

- 2.6 Draft policy SP4 supports residential development within the settlement of Deal. Draft policy SP7 states that proposals which diversify the provision of facilities in district and local/village centres will be supported where they are of an appropriate scale in relation to the role of the centre. Draft policy SP9 states that in the wider Deal town centre area (beyond the primary shopping area) proposals for a broad range of uses will be supported including commercial, business and service uses, main town centre uses, residential, and community.
- 2.7 The proposed development is within the settlement boundary of Deal and within Deal Town Centre. It is not within the primary shopping area. The proposal for residential and commercial mixed-use development is considered to accord with policy DM1 and DM11 and draft policies SP4, SP7 and SP9.

*Loss of community facility*

- 2.8 The NPPF (Paragraph 93) states that decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.
- 2.9 Draft policy SP2 supports the creation of healthy, inclusive and safe communities by protecting against the loss of existing community facilities, allowing for the expansion or enhancement of existing community facilities and promoting the dual use and co-location of services in accessible places.
- 2.10 Draft policy PM6 seeks to prevent the loss of existing community facilities and services that makes a positive contribution to the social or cultural life of a community, unless suitable alternative provision already exists, new provision is provided or the need for the provision is demonstrated to be obsolete.
- 2.11 It states that planning permission will only be granted for proposals involving the loss or change of use of community services or facilities where one of a list of certain criteria are met, this includes where alternative provision of the same or similar service or facility is already available in the local area, and accessible to residents in that catchment area.
- 2.12 The amusement arcade closed in December 2017 and the snooker hall above closed in March 2018. The building has been vacant since. The applicant has submitted the supporting financial statement and local community facilities audit. The financial statement explains that demand for both most recent uses has fallen. The financial statement indicates that both the amusement arcade and the snooker hall business were in decline. Detailed financial accounts for both uses show the extent of losses which have occurred year on year. The amusement arcade was impacted by a downward trend and decline in popularity of amusement arcades generally in seaside towns across UK. Similarly, the snooker hall was also impacted by a decline in the interest in snooker as a pastime and sport across the UK. The snooker hall, before closing, was considered to be in an unsustainable situation with membership at an all-time low and low footfall. The community facilities audit sets out the background to the decline in the UK snooker and amusement arcade markets.
- 2.13 In terms of suitable alternative provision for the most recent uses, the community facilities audit notes that there are other leisure uses and community facilities in Deal. There are two alternative amusement arcades nearby within the town and there are a number of licenced premises with pool tables near to the site. With regard to reinstating the former cinema use, it is noted current Deal does not have a cinema,

however the Astor Community Theatre shows films, albeit it would not be reasonable or practicable to require the building to revert to a former use from over 40 years ago.

- 2.14 Given the above, officers are satisfied that the case that suitable alternative provision already exists nearby for its most recent leisure uses. As such the proposal is considered to accord with draft policies SP2 and PM6.

#### Design

- 2.15 Paragraph 152 of the NPPF states that the planning system should support the transition to a low carbon future. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, and encourage the reuse of existing resources, including the conversion of existing buildings.
- 2.16 Draft policy SP1 seeks to ensure that all new built development contributes to the mitigation of, and adaptation to climate change. This is echoed in draft policy CC2 which provides details of Sustainable Design and Construction including life cycle and adaption of buildings and minimisation of waste. The accompanying text for CC2 states that it should also be recognised that demolition and rebuild is not always appropriate, and that structurally sound buildings should be reused in preference to demolition.
- 2.17 Policy SP1 also states development should contribute to climate change mitigation through use of low carbon design to reduce energy consumption in buildings, sustainable construction techniques, water, energy and resource efficiency, renewable and low carbon technologies, maximisation of green infrastructure, reduction of the need to travel and provision of sustainable transport options.
- 2.18 Draft policy SP2 requires that new developments are designed to be safe and accessible, to minimise the threat of crime and promote social interaction and inclusion through the provision of high-quality people focussed spaces. All new development should achieve a high standard of design internally and externally, and should have accessible, high-quality greenspaces, and spaces for play and recreation.
- 2.19 Draft policy PM1 requires that development achieves a high quality of design, promotes sustainability, and fosters a positive sense of place. It also states development should respect and enhance character to create locally distinctive design or create character where none exists. Appropriate provision for service areas, refuse storage (including waste and recycling bins), and collection areas should be made in accordance with the nature of the development.
- 2.20 The submitted community facilities audit sets out that the building owing to its age and former use, is likely to contain Asbestos containing materials (ACMs). It states that the cost of safe removal will exuberate refurbishment costs. The application includes an accompanying report from a firm of quantity surveyors. This explains the difficulties of converting the building, in that all that would remain once the internal first floor is removed, would be the external walls and roof structure. The walls are uninsulated and out of plumb. With the added cost of forming additional window openings and removing the likely asbestos in the building, the cost would be prohibitive.
- 2.21 The proposal is for 16 no. dwellings at upper floors and 3 no. retail units at ground floor. Access into the building would be via King Street, with a centrally located residential access core with stairs and a lift. The three commercial units would have

their own entrances onto King Street. There would be access at the rear of the building to the cycle and refuse stores. Separate commercial and residential recycling and refuse stores have been provided at ground level. A cycle and mobility scooter store is to be provided at ground floor. Individual storerooms for residents are proposed at basement level.

- 2.22 The proposed net density is approximately 300dph which is considered to represent efficient use of land and appropriate for the town centre location and surrounding context. A height of four storeys is proposed, which is considered in keeping with the existing surrounding character. Active frontages and natural surveillance opportunities have been provided, with windows to all elevations.
- 2.23 The proposed building would have a contemporary aesthetic, but which relates to the historic context of the site, with overall height and proportions relating to surrounding buildings and the streetscape as a whole. The building would be broken up vertically, including by use of projecting elements and location of rainwater downpipes, with proportions which replicate the widths of existing buildings within the street.
- 2.24 There are a variety of different architectural styles and storey heights within King Street at present. Whilst the overall footprint of the building would be similar to the existing, the massing would be broken up by projections within the elevations at intervals, in order to respond to general plot widths and rhythm of existing buildings in King Street. The set back of the fourth floor would also assist in reducing the visual impact of the building, particularly when viewed from Kings Street.
- 2.25 The proposal includes generously sized windows with Juliet balconies, areas of brickwork detailing, and dummy recessed panels to the elevations. Surrounds are proposed to some of the windows. A plinth level is proposed at ground floor elevations, with banding within the brickwork. The building steps back at third floor level, with the third-floor elevations clad in grey metal standing seam cladding and a flat roof.
- 2.26 Brickwork is proposed for the main material, with a principal facing brick and also a secondary facing brick. Windows and rainwater goods would be powder-coated aluminium. Standing seam metal cladding is proposed to the third floor. Copper cladding is proposed to the circulation core elevations at fourth floor and for the canopy to the residential entrance on King Street.
- 2.27 The proposed development would be required to meet current building regulations in terms of energy and water efficiency. On-site energy generation has been proposed, with two photovoltaic arrays proposed on the flat roof.
- 2.28 10 of the 16 apartments would be dual aspect. Although not all the apartments would be dual aspect, generous sized windows have been proposed to all homes and windows to the southern elevation would be provided with solar shading elements above windows. The third-floor apartments have private amenity space. The first and second floor apartments would have Juliet balconies.
- 2.29 The proposals have addressed some of the issues relating to crime prevention highlighted by Kent Police, whilst more detailed matters such as controlled entry and window security will be addressed at Building Regulation stage.
- 2.30 In summary, officers are of the view that the proposal would provide a well-designed building would respond to the character, scale and grain of the surrounding townscape. Overall, it is considered that the design, character and appearance of the

development overall is acceptable and complies with adopted and draft local policy and the aims of the NPPF.

#### Impact on Heritage Assets

- 2.31 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision makers, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 2.32 The NPPF requires the local planning authority, when assessing an application to identify and assess the particular significance of any heritage asset that may be affected by the proposal.
- 2.33 Draft policies HE1 and HE2 relate to protection of heritage assets and conservation areas.
- 2.34 The site is located within the Middle Street conservation area. The nearest listed buildings are approximately 30m to the east of the site fronting the sea, at Beach Street. Due to the size and scale of the existing and proposed buildings considered the site lies within the setting of the grade II listed building on the corner of King Street and Beach Street, No. 69 Beach Street. A heritage assessment has been submitted.
- 2.35 The existing building has brickwork walls to the north and east elevations, rendered white with some details painted red. The elevations have a plinth, pilasters and an entablature. There is a shopfront to the north elevation. There are some windows to the east elevation but none to the north. The roof is pitched with concrete tiles behind a parapet.
- 2.36 The east elevation has a broken-pediment to the gable. There is a centrally located door and a symmetrical window arrangement on the upper floors. The windows comprise mid-20th century Crittal windows. The west and south elevations are faced in yellow stock brickwork. There are a number of blocked window openings to the west elevation. There are also some windows to the south elevation.
- 2.37 The existing building itself is of interest due to its character and its historical uses. From the form and appearance of the building, it can be understood that the function would be that of a place of assembly or leisure. The building does have a somewhat monolithic presence within King Street because of its massing and lack of window openings. This contrasts with the urban grain and narrow plot widths of other buildings within King Street. The same massing and monolithic appearance present itself to the Middle Street car park.
- 2.38 The successive phases of remodelling of the hall, including the insertion of the intermediate floor and removal of many original fittings and features have resulted in the loss of some of the building's character, plan form and historic fabric. However, the building is still considered to represent a locally interesting example of civic architecture of the late 19th century, as such and due to the social history associated with the building, it is considered to be a non-designated heritage asset.
- 2.39 As per the NPPF, the level of protection afforded to a heritage asset should be proportionate to its significance. This is an unlisted building that is not locally listed, although it is considered to be of local interest.

- 2.40 The proposed design is of a similar footprint and scale to the existing building. The King Street and car park elevations however have been designed with proportions which seek to replicate the rhythm of other buildings in the street. This includes storey heights, window sizes and positions and projections within the elevation. A step back is proposed at third storey to reduce the bulk at the higher level.
- 2.41 The principal material proposed is brickwork. Metal standing seam cladding is proposed to the elevations at third storey where the building steps back. Copper cladding is proposed to the circulation core elevations at third floor and the canopy to the residential entrance on King Street. The elevations include a plinth level with brickwork banding, window surrounds and recessed brickwork panels, in addition to the Juliet balconies, these details add articulation and interest to the elevational treatment.
- 2.42 Given the proposed form, scale, appearance and materials proposed, it is considered that demolition of the existing building and replacement with a new building would be acceptable, given that the proposed design would preserve the character and appearance of the Conservation Area and would conserve the setting of nearby listed buildings.
- 2.43 It is considered that would be some less than substantial harm caused by loss of this building itself as a non-designated heritage asset. However, taking into the significance of the building, this harm is considered to be at the lower end of less-than-substantial, as such limited weight can be afforded to its protection. The NPPF requires that, where a development would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal (paragraph 202). In this case the harm is considered to be at the lower end of less than substantial, whilst the development would result in the provision of 16 dwellings, including affordable housing, and 3 retail units in a sustainable location within Deal. Having regard to conclusions relating to the visual impact of the proposal, it is considered that the public benefits outweigh the level of harm.

#### Impact on Residential Amenity

- 2.44 Draft policy PM2 relates to quality of residential accommodation and requires that all new residential development, must be compatible with neighbouring buildings and spaces and not lead to unacceptable living conditions for neighbouring properties through overlooking, noise or vibration, odour, light pollution, overshadowing, loss of natural light or sense of enclosure. Development should be of an appropriate layout with sufficient usable space and contain windows in all habitable rooms to facilitate comfortable living conditions with natural light and ventilation. Whilst the Nationally Described Space Standards are yet to be formally adopted, they are referenced in the emerging plan in respect of internal accommodation. Well-designed private or shared external amenity space should be provided on-site, that is of appropriate size and fit for purpose. It also states that all new build development is to be built in compliance with building regulation part M4(2).
- 2.45 Although not all the proposed dwellings meet the Nationally Described Space Standards, the proposal provides an acceptable standard of residential accommodation. KCC have requested that all homes are designed to meet Building Regulations M4(2) (Adaptable and accessible dwellings standard) and this will be secured through the s106 agreement or a condition.
- 2.46 10 of the 16 apartments would be dual aspect. Although not all the apartments would be dual aspect, generous sized windows have been proposed to all homes to allow



internal daylighting. The third-floor apartments have private amenity space in the form of roof terraces. The first and second floor apartments would have Juliet balconies. It is considered that the proposed layout would ensure sufficient privacy, outlook and daylight for future residents.

- 2.47 Due to the location of the commercial units at ground floor, Dover District Council Environmental Protection team have requested that a condition that requires a scheme for sound insulation between the commercial and residential parts of the development shall be submitted to and approved. DDC Environmental Protection have commented that they would require the sound insulation between commercial/residential to be of a higher standard than specified in Building Regulations Approved Document E. The level of sound insulation provided should provide a weighted sound reduction index of at least 60dB.
- 2.48 DDC Environmental health have also recommended that a suitable condition is included to incorporate a Construction Management Plan to provide control to dust/noise emissions during the construction process.
- 2.49 There is upper floor residential accommodation elsewhere in King Street. Given the former uses of the building and the scope for late night activity, it is considered that the potential impact of the proposed development on residential amenity would be less than previous.
- 2.50 To the west, the proposed building would be close to the rear of properties backing on to Odd Fellows alley which have rear windows in upper floors. However, that is already the case and the building would have no greater physical impact in that respect. The same is considered for existing neighbouring properties to the north and east.
- 2.51 To the north of the site are located residential properties at upper floors within windows at a distance of approximately 10m separation distance from the proposed building. To the east is residential accommodation at 14A King Street, with a window approximately 7m from the proposed building.
- 2.52 To west is located 68 High Street Deal, with two apartments at upper floors, it is understood that the east facing windows serve corridors and bathrooms only, which can be offered limited protection.
- 2.53 Also to the west is 64-66 High Street. Planning permission was granted in 2019 for conversion of the upper floors into residential accommodation under DOV/19/00591. It is not known if these works have taken place. DOV/19/00591 proposes habitable rooms with windows facing onto Old Fellows Alley. There would be two living rooms, one at first and one at second floor with windows approximately 2m from the proposed building. There would be a bedroom with a window approximately 12m from the proposed. These windows would be staggered and set apart from the bedroom windows serving the proposed building at the application site. However, it is considered that there may be some loss of privacy to the rear windows of 64-66 High Street from the third-floor roof terraces proposed, and as such a condition should be applied requiring details of measures to ensure privacy should be imposed.
- 2.54 Given all of the above, and taking into consideration the town centre location, with many properties in close proximity, it is not considered that there would be any unacceptable loss of privacy or overlooking. Overall, therefore, it is considered that the proposals would be acceptable in relation to living conditions of future residents and impacts on neighbouring residential amenity.

### Impact on Highways and Public Rights of Way

- 2.55 Draft policy TI1 states that development should, in so far as its size, characteristic and location, be readily accessible by sustainable transport modes through the provision of high quality, engineered, safe and direct walking and cycling routes within a permeable site layout, contribute to sustainable transport proposals including off-site improvements to cycling and walking routes and public transport facilities, and make provision for secure cycle parking and storage in accordance with the Parking Standards. It states that the Council will safeguard the Public Rights of Way network, and other existing cycle and walking routes, from development that would compromise their use and will encourage their enhancement and extension. Draft policy TI3 requires proposals to meet the requirements of Kent Design Guide Review: Interim Guidance Note 3 in relation to vehicle parking.
- 2.56 Policy DM13 sets requirements for parking provision in compliance with SPG4 which sets out standards for the maximum number of parking spaces.
- 2.57 The site is adjacent to PROW ED15, which is located directly to the west of the site. Public Right of Way ED15 would be directly affected by the proposals. KCC PROW initially objected to the proposal as the PROW was not indicated on the proposals. The applicant has submitted an amended application which reflects the existence of the right of way and indicating that there would be new hard standing provided to the PROW adjacent to the site and that the details of which would be agreed with KCC. KCC PROW have also stated that in order to ensure public safety during development, the temporary closure of the route will be necessary.
- 2.58 A Transport Statement has been submitted as part of the application. No car parking is proposed. Cycle parking is provided at ground floor in a communal cycle store, with space for at least two cycles for the one- and two-bedroom apartments and one cycle for the studio apartments. Space for two mobility scooters in total is also proposed.
- 2.59 KCC Highways and transportation have commented that the vehicular trip attraction of the proposals is unlikely to be material compared to the existing permitted uses. The site is also readily accessible by alternative modes of transport to the car. Public car parks are available nearby as well as some on-street parking. On-street parking controls are also in place in this location.
- 2.60 Provision of the development with no parking is considered acceptable for the town centre location of the development and accords with Policy DM13 and emerging policy TI3. It should be noted that the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. No such harm would be caused in this instance.
- 2.61 The Transport Statement indicates that servicing and refuse collection would take place from the Middle Street car park immediately to the rear of the site. This will need to be agreed with Dover District Council as operator of the car park.
- 2.62 KCC Highways have advised that should any alterations to the existing highway footways be proposed, the applicant should be advised that separate approval will be required from the highway authority for any such alterations. KCC Highways have also advised that demolition and construction management will need to be carefully considered and may require temporary closure of parts of the existing highway and public car park.

- 2.63 KCC Highways have no objections in respect of highway matters subject to conditions be secured for a construction management plan and provision and retention of cycle parking. Notwithstanding agreement that this condition should be secured, it is not considered that the requests relating to vehicle routing or wheel washing would meet the tests for conditions, either being unenforceable or unreasonable given the size of the site.
- 2.64 Given all of the above, it is considered that the proposals meet the requirements of policy DM13 and draft policy TI3 in relation to parking.

#### Housing Mix and Affordable Housing

- 2.65 Paragraph 64 of the NPPF states that to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.
- 2.66 Planning Practice Guidance sets out that national policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.
- 2.67 Core Strategy Policy DM5 and draft Local Plan Policy SP5 require 30% affordable housing for schemes of this size. Draft policy SP5 states that affordable housing shall be provided with a tenure split of 55% affordable/social rent, 25% First Homes (at 30% discount rate) and 20% other affordable home ownership products.
- 2.68 Core Strategy Policy CP4 and Policy H1 of the draft Local Plan require the mix of major residential development to reflect the Council's latest evidence of housing need and market demand. This latest evidence is the Council's Strategic Housing Market Assessment – Partial Part 2 Update, December 2019 ("the SHMA").
- 2.69 A viability assessment and an affordable housing statement were submitted during the course of the application. The viability assessment concludes that it would not be viable to provide affordable homes or an alternative payment. However, since these documents were received the applicant has notified the case officer that he wishes to provide affordable housing in line with policy requirements.
- 2.70 It is considered that the Vacant Buildings Credit, outlined in the NPPF would apply. The existing gross internal floor area is given on the application from as 700m<sup>2</sup>. A gross internal area of approximately 1300m<sup>2</sup> is proposed as residential, this includes corridors and circulation space, communal refuse storage and cycle storage and residential storage in the basement.
- 2.71 Under guidance given in the NPPF and associated Planning Practice Guidance, only the increase in residential floor area should be subject to affordable housing contributions. The proposed gross residential floor area is approximately 1300m<sup>2</sup>, this is approximately an increase of 46% above the existing gross internal floor area of 700 m<sup>2</sup>. This would result in a reduction in the normal 30% affordable homes sought by 46%. In the case of 16 dwellings, 30% would be 5 no. affordable homes. A 46% reduction would equate to 3 no. affordable homes.

- 2.72 DDC Strategic Housing Manager has commented that provision of 3 no. homes for social rent in this location would address local housing need. DDC Housing would be willing to acquire the properties if there is no interest from other Registered Providers. Given the small number of affordable home proposed, it is not considered practical to follow the policy requirement of a tenure split of 55% affordable/social rent, 25% First Homes and 20% other affordable home ownership products.
- 2.73 The housing mix overall proposes 3 no. 2 bedroom properties, 9 no. 1 bedroom properties and 4 studio apartments. The mix does not meet the need identified in the Council's Strategic Housing Market Assessment – Partial Part 2 Update, December 2019, specifically that no 3 or 4+ bedroom properties are proposed. However, the small number proposed overall, and the fact that the properties are all apartments is noted and on this basis it not considered that it would be reasonable to refuse the application on this basis, particularly given the other benefits of the development.

### Ecology

- 2.74 Paragraph 180 requires that when determining planning applications, local planning authorities should refuse planning permission if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or compensated for. It also states that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.
- 2.75 Draft Policy SP14 echoes this requiring that every development connects to and improves the wider ecological networks in which it is located, providing on-site green infrastructure that connects to off-site networks. Proposals must safeguard features of nature conservation interest, and retain, conserve and enhance habitats. Draft Local Plan Policies SP14 and NE3 work together to ensure that the green infrastructure and biodiversity of the district are conserved and enhanced and seek biodiversity net gain of 10%. Draft Policy SP13 relates to protecting the districts hierarchy of designated environmental sites and biodiversity assets.
- 2.76 It is considered that there may be potential for the site to support protected or notable species. A survey of bat roosting potential was conducted. There were no signs of bats or birds on the building or roof exterior, as well as the interior of the roof void, or potential features that could provide access points. The survey report concluded that this building currently has no associated protected species interests.
- 2.77 Ecological enhancements have been proposed including bat and bird boxes. It is considered that the details of these, including exact locations, should be conditioned. It is not considered that the netting proposed for the flat roof areas should be included in the proposed ecological enhancements, as birds can become trapped in this.
- 2.78 The Environment Act 2021 set out a mandatory requirement for new development to provide a minimum of 10% biodiversity net gains; however, this requirement does not come into force until November 2023. The NPPF does, currently, seek developments to secure measurable net gains for biodiversity where possible, but does not set minimum requirements. The emerging plan, at policy NE1, will seek to achieve the nationally prescribed minimum of 10% Biodiversity Net Gain, which should be secured for 30 years. The proposal does not include BNG of 10%. However full weight cannot be given at this stage to draft policy NE1 and given the enhancements proposed is considered to meet current policy requirements.

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

### *Appropriate Assessment*

- 2.79 It necessary to consider any likely significant effects of the proposed development in respect of disturbance of birds due to increased recreational activity on the Thanet Coast and Sandwich Bay SPA (as a designated European Site).
- 2.80 It is not possible to discount the potential for housing development within Dover district, when considered in-combination with all other housing development, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA.
- 2.81 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 site and the integrity of the site itself.
- 2.82 A Strategic Access Mitigation and Monitoring Strategy (SAMM) has been prepared and adopted by the Council in order to monitor potential impacts on the qualifying bird species for the SPA arising from development in the district and to provide appropriate mitigation through a range of management and engagement methods. This is set out at Policy NE3 of the draft Local Plan, which provides the most up to date scientific knowledge of the issue. The site lies within the 9km Zone of Influence, within which mitigation will be required.
- 2.83 This mitigation comprises several elements, including the monitoring of residential visitor numbers and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education).
- 2.84 Having had regard to the proposed mitigation measures (to manage recreational activities from existing and new residents), it is considered that the proposed development would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA where it would make a contribution towards implementation of the SAMM.

### Flood Risk and Drainage

- 2.85 Draft policy SP1 seeks to mitigate and adapt to climate change by ensuring development does not increase flood risk, including by taking a sequential approach to location of development. Draft policy CC5 states that development on sites at risk of flooding will only be permitted where it is demonstrated by a site-specific flood risk assessment that the development would not result in an unacceptable risk on flooding on the site or elsewhere. NPPF paragraph 167 states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
- 2.86 The site is located within Flood Risk Zone 1, which has the lowest risk of flooding from rivers or from the sea. A detailed flood risk assessment was submitted with the application. The FRA concludes that the risk of flooding to the development from all sources is low, and that the development will not increase the risk of flooding elsewhere.
- 2.87 A surface water management strategy has been put forward within the FRA. The strategy includes the use of a surface water storage tank within the basement, the run-off to the public sewer would be controlled by a hydro-brake. The FRA states that the proposal would reduce the run-off rate by 50% of the existing site discharge rate. The scheme proposes to connect to the public sewer for foul drainage. Details of both

surface and foul drainage will be secured by condition, including requirements to ensure that the timing of delivery coincides with appropriate network connection.

#### Archaeology

- 2.88 Draft policy HE3 relates to archaeology. The site lies within an area of archaeological importance. Although there is little documentary evidence of archaeology on the site, in view of the demolition of the existing building, there is the possibility of archaeological remains being present following excavation for new foundations. Such a possibility could be controlled through an appropriate watching brief condition.

#### Contamination

- 2.89 The NPPF states (Paragraph 93) that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.
- 2.90 The building has an oil storage tank in the basement and is suspected to contain asbestos. DDC Environmental health have been consulted and recommend that an asbestos survey and action plan is secured by condition. It is considered that a condition should be imposed which deals with previously unidentified contamination.

#### Infrastructure and Developer Contributions

- 2.91 Policy CP6 of the Core Strategy emphasises that development that generates demand for infrastructure will only be permitted if the necessary infrastructure to support it is either already in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.
- 2.92 Draft Local Plan Policy SP11 retains this approach, to ensure infrastructure is delivered at the right time in the right place to meet the growing needs of the district.
- 2.93 KCC have requested that, in order to meet the needs generated by the development, contributions would be required to deliver community learning, youth service, library services, social care and waste services. They have demonstrated that there is currently insufficient capacity to meet the needs generated by the development and that the contributions requested would allow for the infrastructure upon which the development would rely to be provided.
- 2.94 As set out earlier in the report, emerging policy NE3 requires that developments within a 9km zone of influence around Thanet Coast and Sandwich Bay are required to provide contributions towards mitigating impacts on the SPA, in accordance with table 11.2 within the regulation 19 stage draft Local Plan (as amended).
- 2.95 Draft policy PM4 requires that sports facilities are provided. The Sport England Sport Facility Calculator has been used to assess the needs arising from the development. The projects identified for this contribution, which would amount £31,696 in total based on 16 dwellings being delivered. As set out in the Infrastructure Delivery Plan/Infrastructure Delivery Schedule these contributions would go towards Drill Field and Tides leisure Centre.
- 2.96 Draft policy PM3 requires that residential development of ten or more dwellings will be required to provide or contribute towards the provision of Open Space that meets the needs of that development, in addition to appropriate maintenance costs. Contributions are sought towards other Open Space, including accessible green

space, children's equipped play space and allotments/ community gardens. The projects that the contributions will go towards are at Victoria Park.

- 2.97 As set out previously in the report, the development would deliver affordable housing, with the vacant buildings credit applied this would equate to a total of three affordable properties.
- 2.98 In light of the consultation responses received and planning assessment above, the following obligations (which are considered to accord with the tests for requesting contributions) would be required to be secured through a S106 agreement if planning permission was to be granted:

Matter	Contribution
Community Learning	<b>£262.72</b> Towards additional equipment, services, and resources for the new learners at Deal Adult Education Centre
Youth service	<b>£1,048.00</b> Towards additional equipment and resources for the Dover Youth Hub – Linwood, Deal
Library book stock	<b>£887.20</b> Towards additional services, resources, and stock (including digital infrastructure and resources) to be made available at Deal Library
Social care	<b>£2,350.08</b> Towards Specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting Community facilities, sensory facilities, and Changing Places within the District
Waste	<b>£871.52</b> Towards works at Dover HWRC to increase capacity.
Thanet Coast and Sandwich Bay Special Protection Area SAMM	<b>£2,128</b>
Sports facilities/ playing pitches	<b>£31,696</b>
Open space	Accessible Greenspace <b>£1,010.90</b> Children's Equipped Play Space <b>£3,640.63</b> Allotments/Community Gardens <b>£17.00</b>
Affordable housing	Provision of 3 no. 1 bedroom apartments for affordable rent.

### 3. Conclusion

- 3.1 Paragraph 11 of the NPPF sets out that when the local policies are considered out of date that any decision should rest on the tilted balance so that development should be granted unless "any adverse impacts of doing so would significantly and

demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.” As the most important policies in determining this application are considered out of date, paragraph 11 of the NPPF is relevant.

- 3.2 The proposal would provide 16 homes a sustainable town centre location. 3 of these would be for social rent, addressing a local need for small homes, within the urban area of Deal. The proposal accords with draft policy SP4 to which moderate weight can be given. The proposal would provide 3 flexible commercial units and would accord with draft policy SP7 and SP9. The provision of a mixed-use scheme in this location would contribute to the vitality of the town centre. The design approach is considered to be appropriate and overall would conserve the character and appearance of the Conservation Area and the settings of nearby listed buildings.
- 3.3 The previous permission granted for a similar scheme under DOV/18/01169 is a material consideration in the decision-making process, which carries weight in favour of the scheme. The above factors taken as a whole are considered to provide significant weight in favour of the proposal, with significant socio-economic benefits being provided by the development.
- 3.4 It is considered that the adverse impacts of the scheme relate to the loss of the building itself, as a non-designated heritage asset, and to the principle of demolition rather than adaption and conversion of the existing building. However, it is noted that it has been set out in the submission that conversion would be unviable.
- 3.5 Given the above, it is considered that the adverse impacts of scheme would not significantly and demonstrably outweigh the benefits. Accordingly, the proposal would comprise sustainable development and in light of the above it is recommended that planning permission is granted subject to development contributions being secured through a S106 Agreement and the conditions set out below.

**g) Recommendation**

- I Subject to completion of S106 Agreement in relation to Development Contributions as set out in the report above, **PERMISSION BE GRANTED** subject to the following conditions:
  - 1) Time limit
  - 2) Approved plans
  - 3) Samples of materials
  - 4) Details of windows (including the depth of reveals), doors, balconies, canopies, external services, meter cupboards and security shutters
  - 5) Details of privacy measures to west elevation
  - 6) Sound insulation scheme
  - 7) Provision of refuse/recycling storage
  - 8) Provision of bicycle storage
  - 9) Details of surface water management including basement tank
  - 10) Details of foul drainage
  - 11) Construction management plan
  - 12) Archaeological watching brief
  - 13) Internal and external photographic record
  - 14) Details and provision of ecological enhancements
  - 15) Affordable housing provision
  - 16) Housing to meet Building Regulations M4(2) standard
  - 17) Asbestos containing materials (ACM) survey and action plan
  - 18) Previously unidentified contamination

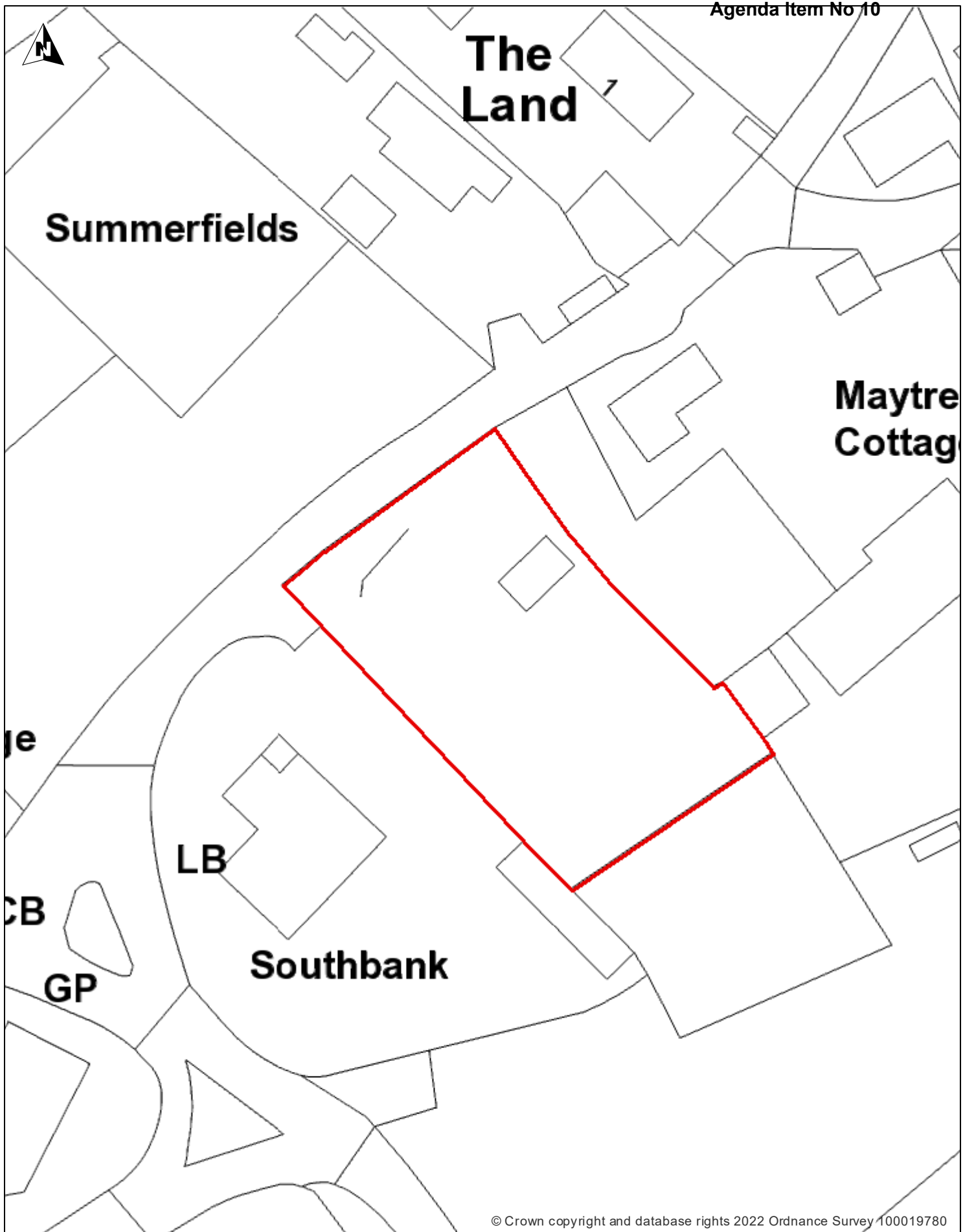


- 19) Provision of broadband
- 20) Details of works to adjacent PROW

- II Powers to be delegated to the Head of Planning 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

Nicola Kingsford



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23/00124

Southbank  
Newcastle Lane, Ewell Minnis  
CT15 7DY

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/23/00124 – Erection of a dwelling, car port and access - Southbank, Newcastle Lane, Ewell Minnis**

Reason for report – Number of contrary views (13)

- b) **Summary of Recommendation**

Planning permission be refused.

- c) **Planning Policy and Guidance**

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

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) (NPPF), the weight to be given to them depends on their degree of consistency with the policies of the Framework (paragraph 219).

Draft Dover District Local Plan to 2040 (March 2023)

The Submission Draft Dover District Local Plan is a material planning consideration in the determination of applications. At submission stage the policies of the draft plan can be afforded some weight, depending on the nature of objections and consistency with the NPPF. The relevant policies are: SP1, SP2, SP3, PM1, PM2, TI1, TI3, NE1, NE2

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

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 126, 130, 174, 176, 180

National Design Guide & National Model Design Code (2021)

- d) **Planning History (most recent)**

DOV/20/00092 Erection of single storey side/rear extensions, porch to north east elevation and alterations to windows and doors (existing conservatory to be demolished) - Granted

Site address described as land adjacent to Maytree Cottage for the following applications:

DOV/04/01340 Outline application for the erection of a dwelling - Refused for the following reasons:

- 1. The proposed development is located outside the confines of any built up area and would constitute undesirable sporadic development in the countryside which is within the designated Kent Downs Area of Outstanding Natural Beauty and North Downs Special Landscape Area. As such the proposed development is contrary to Kent Structure Plan policies HS1, CO1, CO2, CO3 and DD1.*
- 2. The narrow and undulating nature of the approach roads leading to the site are unsuitable for serving the increase in both vehicular and pedestrian traffic likely to be generated by the proposed development.*
- 3. The proposed development would be contrary to Dover District Local Plan policies TR1 and TR2 which seek to restrict new development to defined urban area and village confines to reduce the need to travel in the interests of securing sustainable development.*

## Appeal Dismissed

DOV/00/01267 Outline application for Residential dwelling-Refused for the following reasons:

1. *"The proposed development is located outside the confines of any built-up area and would constitute undesirable sporadic development in the countryside which is within the designated Kent Downs Area of Outstanding Natural Beauty and the North Downs Special Landscape Area contrary to the provisions of the development plan, in particular Policies RS1, RS5, ENV1, ENV3 and ENV4 of the Kent Structure Plan 1996, the Dover and Western Parishes Local Plan policies HO2, NE1 and NE2, and the Dover District Local Plan policies CO1, CO2, CO3 and HS1."*
2. *In the opinion of the District Planning Authority the narrow winding and undulating nature of the approach roads leading to the site are unsuitable for serving the increase in both vehicular and pedestrian traffic likely to be generated by the proposed development.*
3. *The proposal if permitted would be contrary to policies TR1 and TR2 of the Dover District Local Plan which seek to restrict new development to within urban boundaries and village confines to reduce the need for travel in the interests of sustainability."*

Appeal Dismissed.

DOV/97/00508 One residential dwelling - Refused

DOV/91/00697 Bungalow & Garage - Refused and appeal dismissed.

DOV/88/00166 One bungalow with garage - Refused and appeal dismissed.

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

Representations can be found in the online planning file, a summary is provided below:

Parish Council – raise following concerns:

- History of refusals at the site
- Is an infill appropriate in this rural location?
- Row of laurels they consider to be a hedge

Third party Representations: 1 objection has been received and is summarised below:

- Increased traffic would present a danger to those walking in the area in the narrow roads
- Impact on AONB
- Could set a precedent for other parcels of land

1 representation neither supporting nor objecting notes:

- Planning Statement says there is no Planning History for the site which is untrue as various applications have been refused at the site in the past.

13 representations in support of the proposal have been received, some from those not living locally and summarised below:

- Site is ideal for development and the proposal is considered to represent a suitable addition that would enhance the area

- Proposal does not cause any concerns with regard to parking
- Proposal would not affect the privacy of others
- Proposal would generate additional financial contributions
- Unable to understand why the proposal could not go ahead

#### Southern Water

The applicant has not stated details of means of disposal of foul drainage from the site. Southern Water requires a formal application for a connection to the public foul sewer to be made. The Council's Building Control officers or technical staff would need to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

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

- 1.1 Southbank is a detached bungalow set on a large plot on the south eastern side of the junction of Newcastle Lane with Wolverton Hill. To the front of the site is a detached garage with driveway parking space for several cars. The site slopes down slightly from front to rear and lies within the Area of Outstanding Natural Beauty (AONB) and outside of any settlement confines.
- 1.2 The application relates to an area of grassed land with detached outbuilding, situated between Southbank and the adjoining property to the north east. This dwelling is known as Maytree Cottage, a two storey house with a detached pitched roof garage on the southern side. The application site measures approximately 69m in depth by 41m in width. It is understood the land has been associated with Southbank for approximately the last three years and that prior to this the land was associated with Maytree Cottage.
- 1.3 There is an established hedge along the boundary with Southbank incorporating several mature trees, whilst the rear boundary comprises a hedge with a smaller piece of land beyond. Along the site frontage is a lower evergreen hedge, whilst the boundary with Maytree Cottage comprises a beech hedge approximately 2.5-3m in height.
- 1.4 Full planning permission is sought to erect a three bedroom chalet bungalow on the land, to be reached via a new access from Newcastle Lane. The proposed dwelling would be constructed of face brickwork, with render and clay tiles and is shown sited in the rear half of the land. A detached double car port with pitched roof is shown sited to the front of the dwelling, adjacent to the boundary with Southbank.
- 1.5 Little supporting information relating to the planning background for the site has been provided. The application form states that there are no trees or hedges at the site and that there is no likelihood of the proposal affecting biodiversity features or habitats. The application was submitted in the absence of tree or ecological surveys.

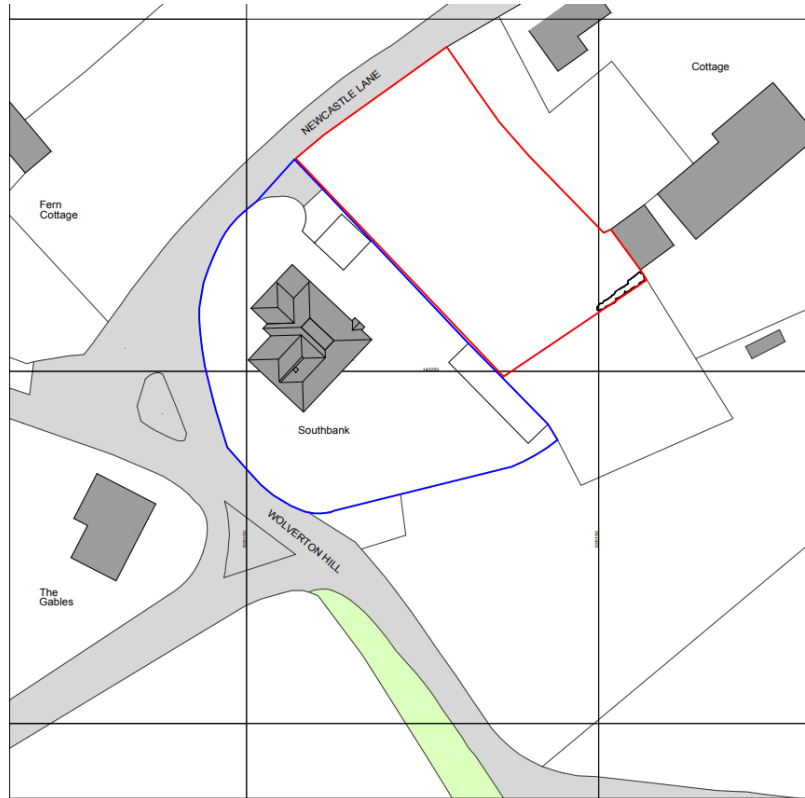


Figure 1 Site location plan

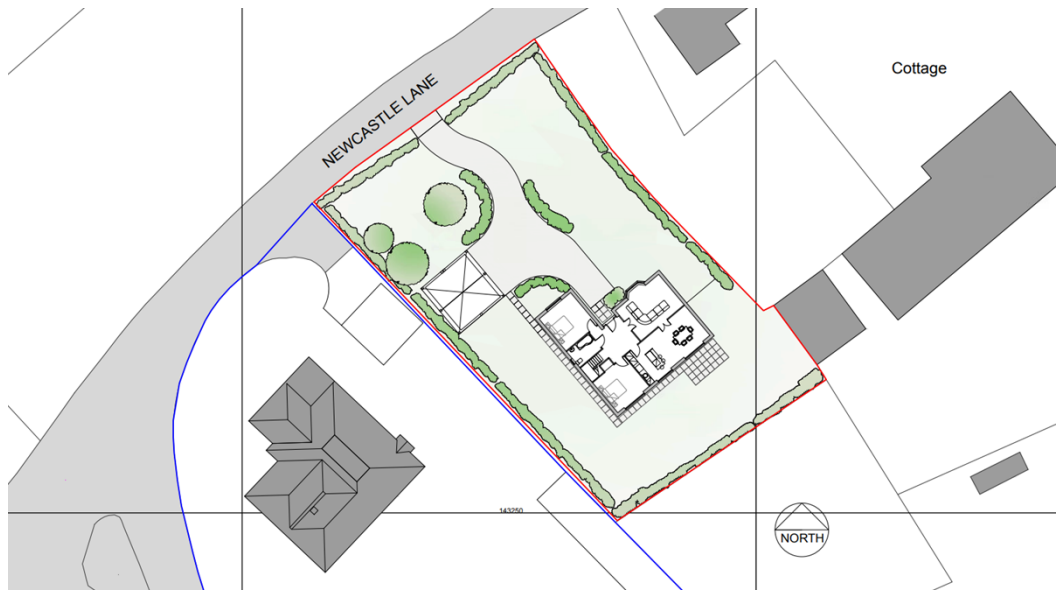


Figure 2 Proposed Block Plan

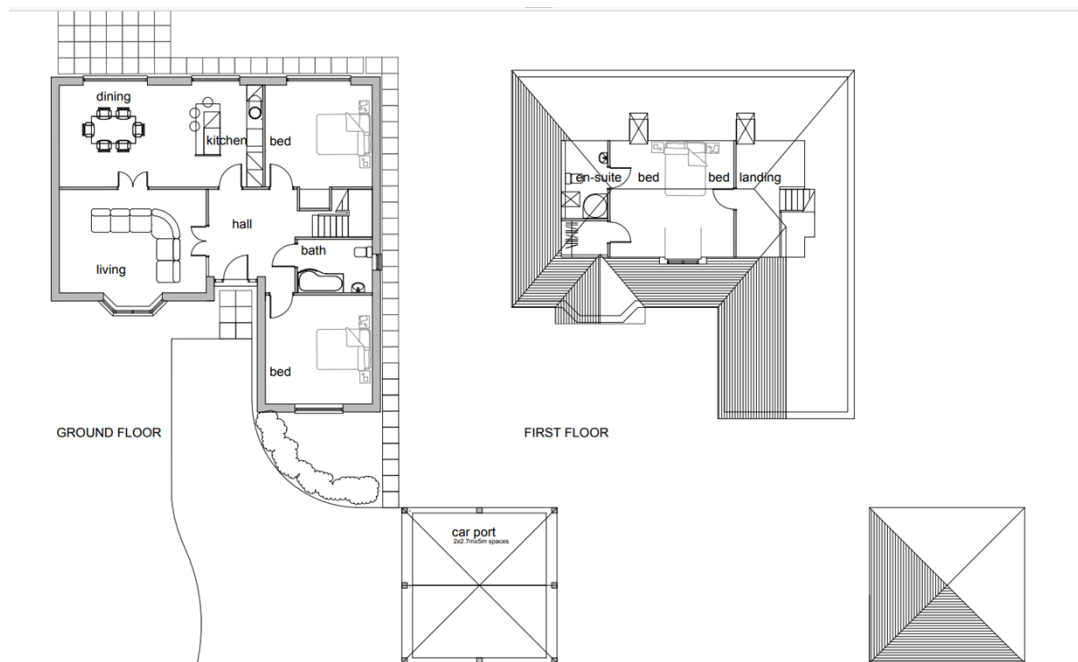


Figure 3 Floor layouts

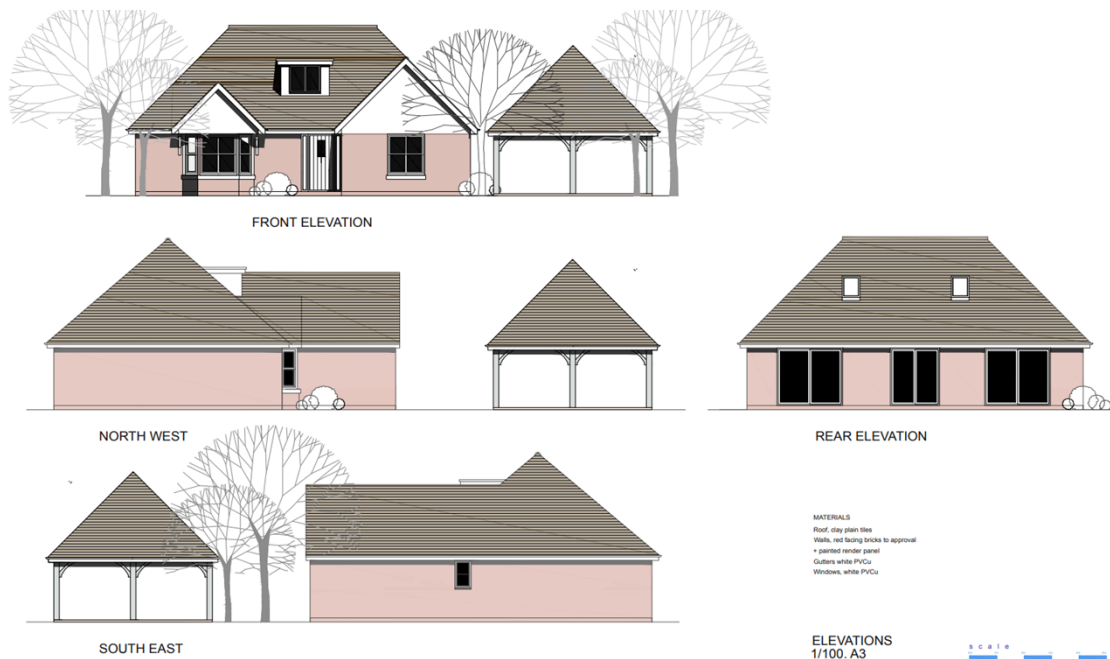


Figure 4 Elevations

## 2. Main Issues

2.1 The main issues for consideration are:

- Planning history & principle of the development

- Impact on the character and appearance of the area and AONB
- Impact on residential amenity
- Highway & Parking matters
- Impact on Trees & Ecology

## **Assessment**

### Planning History

- 2.2 It is necessary to have regard to the lengthy planning history associated with this piece of land, that is relevant to the determination of the current application. In summary, the planning records indicate that the principle of residential development on this land has consistently been resisted over the years as it has been found to be contrary to the national and local planning policies in place when the various applications were received. Whilst adopted local and national planning policies have evolved over time, the reasons for refusal in the cases outlined above have related to the following three main areas:- a) The site lies outside settlement confines and represents an undesirable form of development in the countryside, b) the narrow approach roads would be unacceptable for increased vehicle traffic generated by the proposal and c) the development would be contrary to the interests of sustainability. Several appeals were submitted following these refusals, all of which were dismissed. The appeal Inspectors have identified that the main issues were the effect of the proposal on the character and appearance of the area, the impact on local highway conditions and the aim to reduce the need to travel in the interests of sustainable development.
- 2.3 It was noted that Ewell Minnis forms a loose cluster of dwellings around a crossroads in a predominantly rural area. Inspectors noted that the site falls within the countryside and whilst there are dwellings on either side of the application site, they do not form a substantially built up road frontage and that it would not be appropriate to treat the site as an infill. It was considered that the erection of a new dwelling at the site would consolidate a loose cluster of dwellings in an area of the countryside that has special landscape quality. Such development was considered harmful by the Inspectors, having regard to the rural character and appearance of the area, detracting from its natural beauty and in conflict with development plan policies for the protection of the countryside and AONB.
- 2.4 In addition to visual harm to the character of the area the Inspector noted that the application site was served by narrow rural lanes, generally single track in width and often with reduced visibility. One additional dwelling was considered to have a harmful effect on local highway conditions by generating more traffic on these lanes. The Inspector also concluded that development that would generate travel would not generally be permitted outside of settlement confines. At appeal the conclusion has consistently been that the erection of a permanent dwelling would be in conflict with the adopted policies of their time and all appeals were dismissed.

### Principle of Development

- 2.5 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.
- 2.6 Ewell Minnis is a hamlet as identified in policy CP1 without defined settlement confines and therefore for the purposes of planning falls within the countryside. Policy DM1 of the Core Strategy seeks to control development outside of the



settlements unless justified by other planning policies, it functionally requires such a location or it is ancillary to existing development. No information has been provided in connection with the application to support these exceptions.

- 2.7 The proposed development involves the introduction of a stand alone new dwelling into the countryside, outside of any settlement confines that does not functionally require a rural location. There do not appear to be any compelling reasons for introducing a dwelling to this location and the proposal would represent a departure from policy DM1. It is noted that policy DM1 is in some tension with the aims of the NPPF and as a result should hold less weight, whilst having regard to all other material considerations, as outlined below.
- 2.8 It is recognised that draft policy SP3 aims to provide for housing growth but that this will be met through a combination of committed or allocated sites and suitable windfall proposals. Draft policy SP4 concerning residential windfall sites is not considered to provide any support for this proposal as the site does not lie adjacent to any settlement confines identified under this policy.
- 2.9 The introduction of a dwelling onto this land would make a minor contribution towards housing provision in the district. The Council however currently has a housing land supply of 6.03 years and therefore there is no justification in terms of housing provision policies to support the application. The proposal is therefore not in accordance with the aims of either policy DM1 or draft policies SP3 or SP4 and the principle of residential development is unacceptable having regard to the current policy context.

#### Character and Appearance (including AONB)

- 2.10 The statutory duty prescribed by Section 85 of the Countryside and Rights of Way Act 2000 needs to be fully recognised. This requires that in exercising or performing any functions in relation to, or so as to affect, land in an AONB, a relevant authority shall have regard to the purpose of conserving or enhancing the natural beauty of the AONB. The NPPF states that planning decisions should ensure that developments 'will function well and add to the overall quality of the area', be 'visually attractive as a result of good architecture, layout and appropriate and effective landscaping', be 'sympathetic to local character and history' and 'establish or maintain a strong sense of place' (paragraph 130). Paragraph 174 of the NPPF requires that planning decisions should contribute to and enhance the natural and local environment by (inter alia) protecting and enhancing valued landscapes.
- 2.11 In this case, the application site is located within the Kent Downs AONB, which the NPPF (para 176) identifies as having the highest status of protection with 'great weight' required to be given to conserving and enhancing the landscape and scenic beauty of these areas. The application is also considered in relation to policies DM15, DM16 and draft policy NE2.
- 2.12 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. These include being in accordance with Development Plan Documents, justified by the needs of agriculture, to sustain the rural economy or community, it cannot be accommodated elsewhere and does not result in the loss of ecological habitats. 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:

- i) It is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or
- ii) It can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level.

Draft policy NE2 states that proposals within the AONB must have regard to the purpose of conserving and enhancing the natural beauty of the Kent Downs AONB.

- 2.13 With the above in mind and the previously identified concerns about developing this site for residential purposes it is necessary to consider whether there remain concerns about the visual impact of the current proposal on the character of the AONB.
- 2.14 The drawings show a dwelling of reasonable overall design in terms of its architectural style and proportions, but it is also necessary to consider the impact of the proposal in the context of the site rather than as a stand alone feature. The introduction of built form comprising a chalet property and detached double car port building together with the formation of a new vehicle access and associated hard surfacing for vehicle turning space would undoubtedly have an impact through the domestication of the site. The rural character of the site which provides an open break between houses would be lost and the special landscape qualities of the AONB would be eroded, to the detriment of the visual amenities of the locality and contrary to draft policy NE2 and relevant paragraphs of the NPPF. The proposals may also lead to pressure for the removal of mature trees at the site, although it has not been possible to make an accurate assessment of this matter in the absence of a tree survey.
- 2.15 The clearing of this rural site to create a residential plot would mean that harm to the landscape character could not be avoided. There would be some erosion of the visual qualities of this location due to the introduction of a three bedroomed home, garage and domestication of the site with the laying of hard surfacing and removal of part of the frontage to create a vehicle access with satisfactory visibility splays. It is considered that the development would not meet the exceptions listed in Policy DM15 and would result in some erosion of the countryside. Together the combination of the works are considered to be harmful to the landscape character and contrary to policy DM16.
- 2.16 All of the identified works would combine to significantly alter the form of the site and would erode the rural unharmed character of the land, harmful to the open and undeveloped qualities of the landscape in this locality in the AONB. The associated activities, garden paraphernalia and vehicle movements that would result from constructing a home in this location would also alter the rural character and appearance of the site, contrary to policy SD 8 of the Kent Down's AONB Management Plan (Second Revision). The proposal would not maintain the areas prevailing character and setting and would be contrary to paragraphs 174 and 176 of the NPPF.

#### Residential Amenity

- 2.17 Paragraph 130 (f) of the NPPF sets out planning decisions should ensure that developments create places with a high standard of amenity for existing and future users. The proposed dwelling would be situated a satisfactory distance away from the neighbouring properties and would only incorporate clear glazed windows in the front and rear elevations. As a result, the proposal should not result in unacceptable

loss of light, sense of enclosure or overlooking as to justify a reason for refusal. Impacts on residential amenity did not give rise to the refusal of previous applications.

### Highways

- 2.18 The application has been considered in relation to policies DM11, DM13 and draft policies TI1 and TI3. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 2.19 Ewell Minnis is a small hamlet without key local facilities or services, is accessible only via narrow rural lanes which lack footpaths and is located away from any bus routes. This site in the countryside is not considered to be as sustainable as those within or adjacent to the confines of existing settlements, where there is access to public transport and local facilities. The site is a significant distance away from the nearest settlements offering day to day facilities and services, would not be served by regular public transport services and is not well serviced by hard surfaced footpaths or cycle paths. Whilst there are some streetlights, the routes to and from services are not fully lit such that walking or cycling would be the supported. The occupants of a dwelling in this location would most likely be dependent on a car to get around and reach shops and services in larger settlements as there are no nearby amenities. As outlined above and in terms of policy DM11 and draft policy TI1, this location is considered to be unsustainable for a new dwelling.
- 2.20 The submitted drawing shows sufficient parking and manoeuvring space within the site for vehicles to enter and leave in a forward direction. Visibility splays have not been highlighted but would need to be to acceptable standards, possibly involving some removal of the front hedge that currently exists at the site. In general, the proposal appears in accordance with policy DM13 and draft policy TI3 with regard to off street parking provision.

### Impact on Trees and Ecology

- 2.21 Under the Natural Environment and Rural Communities Act (2006), "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity". In order to comply with this 'Biodiversity Duty', planning decisions must ensure that they adequately consider the potential ecological impacts of a proposed development.
- 2.22 The Framework states that "the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible." Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision."
- 2.23 The application was submitted without a tree or preliminary ecology survey both of which are considered necessary given that this is an undeveloped site in the countryside and may contain certain habitats or species of note. These surveys

were requested from the applicants' agent but have not come forward and as a result it has not been possible to make a full assessment of the proposal on these aspects. In particular there is concern about the impact of the siting of the proposed garage on mature trees that are established along the boundary with Southbank.

- 2.24 In the absence of a preliminary ecological appraisal, the application has failed to demonstrate whether protected species are likely present or absent. Planning Practice Guidance states "An ecological survey will be necessary in advance of a planning application if the type and location of development could have a significant impact on biodiversity and existing information is lacking or inadequate". In the absence of a survey, it cannot be established whether the development would have an impact on protected species or their habitats (and consequently whether significant harm can be avoided, mitigated or compensated for), contrary to the Wildlife and Countryside Act 1981, as amended, and paragraphs 174 and 180.
- 2.25 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. The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as set out in the emerging Local Plan, sets out the best current scientific evidence for impacts and how these impacts can be avoided or mitigated. The strategy requires that developments within 9km of the SPA could have an impact on the area and will need to mitigate their impacts. This site lies outside of the 9km Zone of Influence and would not, therefore, have a likely significant effect on SPA.

#### Tilted Balance

- 2.26 For the above reasons the development is contrary to policies DM1, DM11, DM15 and DM16 of the Core Strategy. Whilst the development is contrary to these policies and notwithstanding the primacy of the development plan, paragraph 11 of the NPPF states that where the policies which are most important for determining the application are out of date (including where the LPA cannot demonstrate a five year housing land supply) permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole (known as the 'tilted balance') or where specific policies in the NPPF indicate that development should be restricted. However, the 'tilted balance' is specifically disapplied where a developments impact on the AONB would warrant refusal (paragraph 11 (d) (ii)). Consequently, in this case, a traditional or flat balance should be applied in this instance and not the 'tilted balance'.
- 2.27 Having regard to the most recent Annual Monitoring Report the Council are currently able to demonstrate a 6.03 years of housing land supply and has not failed the housing delivery test by more than 25% (achieving a score of 88%). It is, however, necessary to consider whether the "most important policies for determining the application" outlined above are out of date. As a matter of judgement it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result should carry only limited weight.
- 2.28 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The blanket approach to resist development which is outside of the settlement confines does not reflect the NPPF, albeit the NPPF aims to actively manage patterns of growth to support the promotion of sustainable transport. Given the particular characteristics of this application and this site, it is considered that the

use of the site as proposed would weigh against the sustainable travel objectives of the NPPF. Whilst the blanket restriction of DM11 renders the policy out-of-date it can be afforded some weight, having regard to the degree of compliance with NPPF objectives in the circumstances presented by this application. It is also noted that the topics of sustainable transport and travel are continued in draft policy TI1 which now holds some weight.

- 2.29 The aims of policy DM15 to resist the loss of the countryside or development that would harm the countryside is more stringent than the NPPF which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development. There is some tension between this policy and the NPPF. In this instance the sites appearance within the countryside does afford a contribution to the character of the landscape. Consequently, it is concluded that policy DM15 should attract moderate weight. The significance of conserving or enhancing the natural beauty of the AONB landscape is recognised in draft policy NE2 and now holds some weight.
- 2.30 Consequently, whilst the most important policies are 'out of date', the 'tilted balance' is not applicable in this instance due to the developments conflict with the need to conserve and enhance the landscape and scenic beauty within the AONB.

### **3. Conclusion**

- 3.1 The application proposes the introduction of a chalet property and carport building onto land that falls outside settlement confines and within the countryside. The principle of such development has been attempted several times over the years, each time resulting in applications being refused for the reasons outlined above. The principle of residential development at the site has been tested several times through the appeal process and has been supported by Planning Inspectors.
- 3.2 The current application has been considered in relation to the adopted Core Strategy, the draft Local Plan policies and the NPPF, whilst having regard to the planning history. Despite changes to adopted policy documents several Core Strategy policies continue to hold degrees of weight in the consideration and as supported by emerging policies.
- 3.3 The introduction of a dwelling in this location which is considered to be in the countryside for planning purposes, would be contrary to the objectives of policy DM1 which encourages development within the confines of settlements and policy DM11 which resists unsustainable forms of development. It would also be in conflict with the approach in the NPPF which seeks to locate development where it has access to and can support local services. The construction of a dwelling in this location would be detrimental to the rural character of Newcastle Lane at this point and the character of the landscape setting as part of the Kent Downs AONB, contrary to policy DM15 and draft Local Plan policy NE2 in addition to paragraphs 174 and 176 of the NPPF. Further reasons for refusal relate to the lack of necessary supporting assessments of the impact on trees and potential biodiversity matters at the site.
- 3.4 Overall, the proposal is not consistent with the aims and objectives of the above policy context and the NPPF. In reaching this conclusion, regard has been had to the purpose of conserving or enhancing the natural beauty of the AONB, which has been afforded great weight. Notwithstanding the application is a flat planning balance, the adverse impacts identified would significantly and demonstrably outweigh the benefits of one extra dwelling in the housing supply in the district.

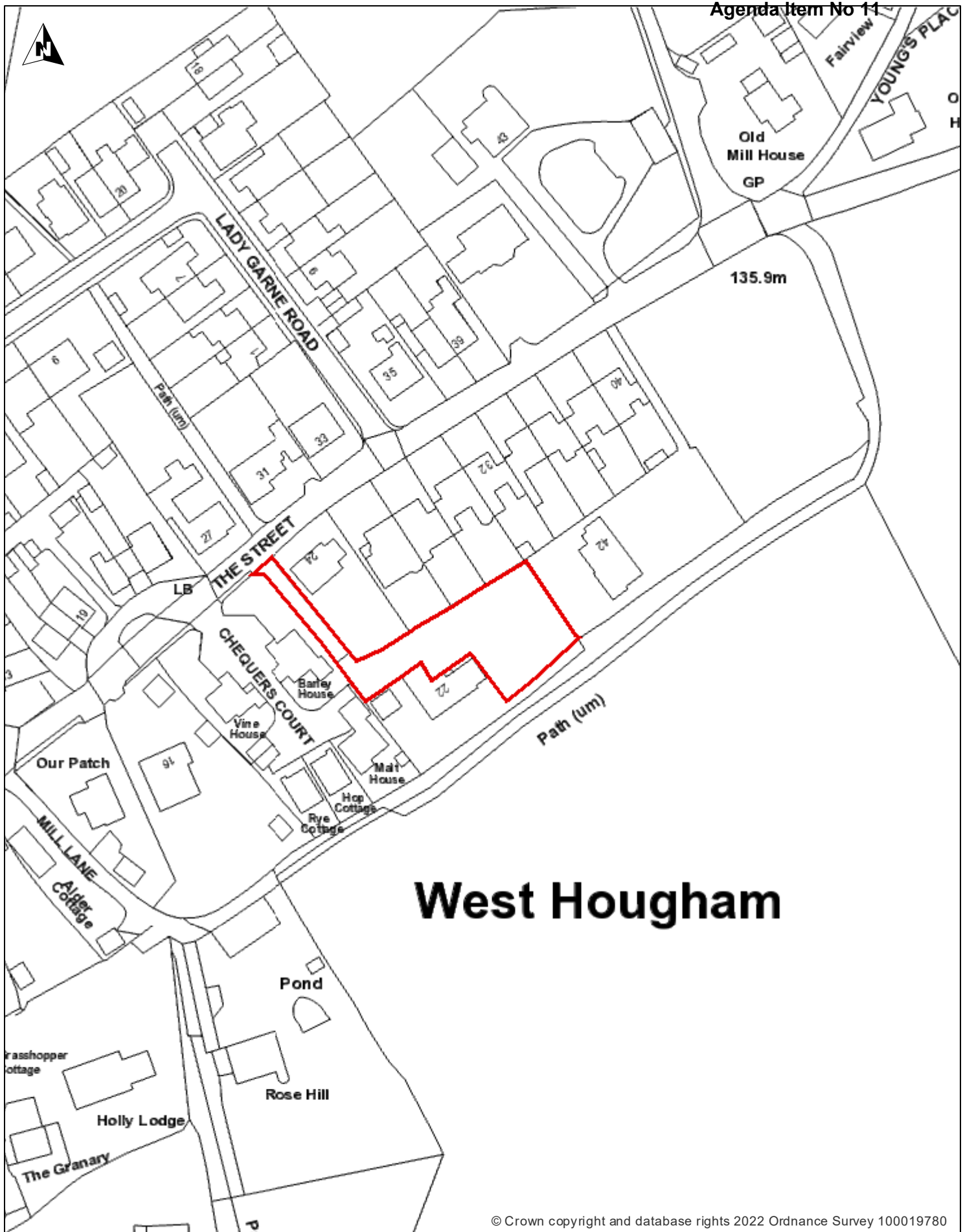
Accordingly, it is considered that this application is unacceptable, and as such it is recommended that planning permission be refused.

**g) Recommendation**

I PLANNING PERMISSION BE REFUSED, for the following reasons:

1. The proposed development, if permitted, would result in a dwellinghouse outside of any defined urban or village confines and in a location where travel for day-to-day needs would be reliant on the use of the car, the need for which has not been demonstrated sufficiently to override normal sustainability objectives. The proposal would result in an unsustainable and unjustified residential development in this rural location, which would be contrary to policies DM1 and DM11 of the Dover District Council Core Strategy and draft Dover District Local Plan policies SP3 and TI1 and paragraphs 7, 8, 11 and 80 of the National Planning Policy Framework.
  2. The introduction of a dwelling and associated works onto this undeveloped site would be out of keeping with the rural character of the area. The proposal would neither conserve nor enhance the landscape and scenic beauty of the Area of Outstanding Natural Beauty, contrary to Policies DM15 and DM16 of the Core Strategy, draft Dover District Local Plan policy NE2 and paragraphs 174 and 176 of the National Planning Policy Framework.
  3. The narrow and undulating nature of the approach roads leading to the site, which lack footpaths or consistent lighting, are unsuitable for serving the increase in vehicular, bicycle and pedestrian traffic likely to be generated by the proposed development which would be prejudicial to sustainable transport objectives and highway safety, contrary to Core Strategy policy DM11, draft Dover District Local Plan policy TI1 and paragraphs 104, 105, 110, 111 and 112 of the NPPF.
  4. The application has not been supported by a Preliminary Ecological Appraisal or species specific surveys to demonstrate whether protected species are present on the site. In the absence of evidence to the contrary, the proposal has failed to fully consider the impact of the proposal on protected species and demonstrate that this site would protect, enhance and minimise impacts to biodiversity contrary to paragraphs 174 and 180 of the National Planning Policy Framework (2021) and paragraph 99 of Circular 06/2005 Biodiversity and Geological Conservation - Statutory Obligations and their Impact within the Planning System.
  5. The application has not been supported by a Tree Survey. In the absence of evidence to the contrary, the proposal has failed to fully consider the impact of the proposal on trees present at the site and demonstrate that this site would protect, enhance and minimise impacts on trees, contrary to Core Strategy policies DM15 and DM16, draft Dover District Local Plan policy CC8 and paragraphs 113 and 174 of the NPPF.
- II Powers to be delegated to the Head of Planning and Development to settle any necessary reasons for refusal in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer  
Hilary Johnson



## West Hougham

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22/01642

Plot 1, Land Adjacent To 22 The Street  
West Hougham  
CT15 7BB

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/22/01642 - Erection of two detached dwellings with cycle and refuse stores, parking and replacement car parking for No 22 - Plot 1, Land Adjacent to 22 The Street, West Hougham**

Reason for report – Number of contrary views (11)

- b) **Summary of Recommendation**

Planning permission be granted subject to conditions.

- c) **Planning Policy and Guidance**

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

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) (NPPF), the weight to be given to them depends on their degree of consistency with the policies of the Framework (paragraph 219).

Draft Dover District Local Plan to 2040 (March 2023)

The Submission Draft Dover District Local Plan is a material planning consideration in the determination of applications. At submission stage the policies of the draft plan can be afforded some weight, depending on the nature of objections and consistency with the NPPF. Relevant policies include: SP1, SP2, SP3, SP13, SP14, PM1, PM2, TI1, T13, NE1, NE2

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

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 111, 126, 130, 174, 176, 180

National Design Guide & National Model Design Code (2021)

- d) **Relevant Planning History**

DOV/20/00524 - Erection of extensions to existing garage to facilitate conversion to a detached dwelling and creation of parking - Approved

DOV/20/01369 - Outline application for the erection of 2 x detached dwellings (with all matters reserved except access) - Approved

DOV/22/00921 - Reserved matters application for the details of layout, appearance, landscaping, and scale pursuant to outline planning permission DOV/20/01369 for the erection of 2no. detached dwellings - Refused for the following reasons:

*1. The proposal involves the introduction of two x two storey houses of a scale and design that would be unacceptable in this location, resulting in undue harm to the character of the area and residential amenities of the occupants of the adjacent properties. The scheme would be contrary to the requirements of condition 6 of outline planning permission DOV/20/01369 and paragraphs 124, 126 and 130 of the National Planning Policy Framework.*

*2. The application which is located in an Area of Outstanding Natural Beauty has been submitted in the absence of full parking and manoeuvring details, a tree survey, a landscaping scheme or an appropriate ecological assessment of the site. In the absence of these details a full assessment of the impact of the proposals has*



*not been possible and is contrary to paragraphs 174, 176 and 180 of the National Planning Policy Framework.*

DOV/22/01643 Erection of dwelling with carparking to west of number 22 - under consideration.

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

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

Parish Council

- Consider the proposal is overdevelopment of the site, having an overbearing impact on the village
- Concerns about width of drive, access for emergency vehicles and additional traffic causing highway concerns
- Loss of biodiversity at the site
- Negative impact on AONB and buildings in the village
- Concerns about drainage
- Concerns about infrastructure in the area
- Inaccuracies in planning submission
- Suggest planning committee should visit the site.

Third party Representations:

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

- Access only suitable for one household
- Inadequate parking facilities for occupants and visitors leading to on street parking in The Street which is already parked up
- Overdevelopment of site
- Backland development
- Design and height out of keeping with others nearby, leading to loss of light and overshadowing
- Noise nuisance and pollution for neighbours
- Sets a precedent for development in AONB
- Objection to removal of trees that have taken place at the site and destroying biodiversity
- Internet is not reliable enough to support more housing.
- Properties will be visible from adjacent footpath
- Non planning issues-loss of view, additional cars will further damage adjoining road network, disruption during the build process, monetary gain from the site, some of those supporting the proposal do not live in the village

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

- Additional properties will not ruin the village but will provide additional accommodation in a village location in accordance with government guidance
- Sympathetic and attractive design with sound insulation measures and no overlooking/loss of light
- Notes a cul de sac of new houses have been approved on the adjacent site, formerly occupied by a pub, now known as The Chequers
- No resulting loss of privacy

- Parking provision and access via private drive are adequate
- Trees previously removed were either small or diseased. New landscaping and bird boxes will encourage wildlife

KCC Highways: Notes that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. Recommend an Informative concerning the need for applicant to obtain any necessary highway approvals or consents.

KCC PROW: No objections raised.

Southern Water: There is an existing public foul sewer within the development site, the exact position must be established. The 150 mm diameter gravity sewer requires a clearance of 3 metres on either side (including trees) to protect it from construction works and to allow for future maintenance. There shall be no soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public or adoptable gravity sewers. All existing infrastructure should be protected during the course of construction works.

#### Kent Fire & Rescue

Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010, with domestic sprinkler systems if access cannot be achieved.

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



Figure 1 Site location plan

- 1.1 Number 22 is a detached two storey house situated on the south eastern side of The Street and set back from the frontage with the highway. It is reached via a private drive

situated between Barley House in Chequers Court and number 24 The Street. The property lies within the village confines as identified on the Local Plan map. The village of West Hougham including this site is situated within the Kent Downs Area of Outstanding Natural Beauty (AONB). The village comprises a mix of dwelling types, styles and plot sizes.

- 1.2 Number 22 previously benefited from a converted garage building on the western side and a single storey element comprising a utility room to the east. Both of these structures have now been removed.
- 1.3 Number 22 occupies a larger than average plot than others in the vicinity, which extends across the rear gardens of numbers 24, 26, 28 and 30 The Street on the north western side. To the north east the garden extends towards number 42 The Street, a chalet bungalow that occupies a back land situation also to the rear of properties in the Street. This property has a dormer in its rear elevation facing towards the garden of number 22.
- 1.4 Immediately to the south east of number 22 is a Public Right of Way (PROW) set at a lower level with largely open countryside beyond. To the south west of the application site is a more recent development of 5 x two storey houses on the site of the former Chequers public house. This scheme comprises three houses at the rear roughly in line with number 22 The Street and a further two houses along the site frontage. All five houses are reached via a centrally sited vehicle access.
- 1.5 Full planning permission is sought for the erection of two detached three-bedroom chalet properties with office, on the former garden area to the north east of number 22. The dwellings would be reached via the existing private driveway which serves number 22 and the former smaller dwelling that was created by the enlargement of the garage building to the west of number 22 (now demolished). Each new property and number 22 would have two parallel parking places in front with a small turning head provided between the units. The dwellings would be designed with a single pitched roof dormer to the rear with two rooflights and would be finished in red/brown facing brickwork with clay tiles and cladding to the rear dormers.



Figure 2 Proposed Block Plan



Figure 3 Proposed elevations and floor plans

- 1.6 In association with the proposals electric vehicle charging facilities would be provided together with a cycle shed in the rear garden. A 1.8m timber fence would be provided along the rear, south eastern boundary with other existing fencing to the north east shown as being retained.

## 2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development & planning history
- The impact on the character and appearance of the area and AONB
- The impact on residential amenity
- Highway, Parking & Fire & Rescue Matters
- 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 West Hougham is identified as a village under policy CP1 and the site lies within the settlement confines identified in policy DM1. The village is a tertiary focus for development in the rural area and the small scale of this proposal would make use of land that falls within the village confines. This location broadly accords with the objectives of the NPPF which seek to locate development where they have access to and can support local services. The development therefore accords with the development plan.

- 2.4 The planning history for this site is relevant to the determination of this application. Outline application DOV/20/01369, which was for two detached dwellings, was considered at a planning committee meeting in March 2021.
- 2.5 Members resolved to grant outline consent for the erection of two detached dwellings (with all matters reserved other than that of 'access') subject to various safeguarding conditions. In particular, conditions were attached stating that the dwellings should be either chalet bungalows or bungalows with slab levels to match that of number 22 and with an eaves height no greater than that of a single storey property. Neither of the properties were to incorporate dormer windows in the north western and northern elevations and no clear glazed windows were to be shown in the side elevations of the dwellings.
- 2.6 Various other safeguarding conditions were also attached stating that full parking and manoeuvring details, surface water drainage details, provision of a domestic sprinkler system to meet relevant fire/rescue requirements and EV charging facilities would be required.
- 2.7 The principle of residential development on this part of the site and access have already been established in recent times. Whilst the current scheme seeks full planning permission rather than reserved matters, the outline permission remains valid and relevant to the determination of the current application and the circumstances at the site have not significantly altered.

#### Impact on the Character and Appearance of the Area and AONB

- 2.8 The statutory duty prescribed by Section 85 of the Countryside and Rights of Way Act 2000 needs to be fully recognised. This requires that in exercising or performing any functions in relation to, or so as to affect, land in an AONB, a relevant authority shall have regard to the purpose of conserving or enhancing the natural beauty of the AONB. The NPPF states that planning decisions should ensure that developments 'will function well and add to the overall quality of the area', be 'visually attractive as a result of good architecture, layout and appropriate and effective landscaping', be 'sympathetic to local character and history' and 'establish or maintain a strong sense of place' (paragraph 130). Paragraph 174 of the NPPF requires that planning decisions should contribute to and enhance the natural and local environment by (inter alia) protecting and enhancing valued landscapes. In this case, the application site is located within the Kent Downs AONB, which the NPPF (para 176) identifies as having the highest status of protection with 'great weight' required to be given to conserving and enhancing the landscape and scenic beauty of these areas.
- 2.9 The two proposed dwellings would have a slab level to match that of number 22 with the eaves height of a single storey dwelling, which would accord with condition 6 of DOV/20/01369. The provision of single or chalet style dwellings would accord with the requirements of condition 6 of DOV/20/01369. Consequently, the scale and overall form of the development would adhere to those which have previously been found to be acceptable to the council.
- 2.10 The proposal will involve the provision of two dwellings with small garden space and adequate off road parking place in a village setting. The dwellings are considered to be of a suitable scale and proportions for the small sized plots that would be created adjacent to number 22. The design is simple but satisfactory for this location and would be in keeping when seen in context with the mixed local pattern of development. Whilst the plots are not spacious, they are adequate and as agreed under the outline application the proposal is not considered to represent overdevelopment.

- 2.11 The village of West Hougham falls within the Kent Downs AONB and around the edge of the settlement various dwellings can be seen to present a harder edge to the landscape. The proposed dwellings would be in line with number 22 The Street and the other recent development at The Chequers and would not project beyond the village confines further into the AONB. The proposed dwellings, as with others in the locality, would be partly visible from the adjacent footpath, although this would not represent a reason for withholding planning permission. The proposed units would present no greater visual harm to the qualities of the AONB than other properties around the edge of the village confines, but would instead be seen within a context of an existing village edge. Consequently, attributing great weight to the landscape and scenic beauty of the AONB, it is not considered that the development would cause any harm to the character or beauty of the landscape and would be compatible with the pattern and character of the development in the locality.

#### Impact on Residential Amenity

- 2.12 Paragraph 130 (f) of the NPPF sets out planning decisions should ensure that developments create places with a high standard of amenity for existing and future users. It is noted that the application site, formerly part of the garden area of number 22, lies to the rear of residential properties in The Street, which comprise bungalows and some chalet properties.
- 2.13 The siting of the proposed dwellings would ensure a satisfactory degree of separation from those dwellings fronting The Street, some of which incorporate rooms in the roof space. The properties would each incorporate a small dormer and two roof lights to the rear elevation avoiding overlooking towards the properties to the north west fronting The Street. The lack of dormers to the front elevation of the proposed units will ensure that overlooking is avoided and that privacy levels are maintained. Safeguarding conditions are recommended to ensure that no further openings are permitted in the roof slopes or side elevations of the properties.
- 2.14 It is recognised that the introduction of two dwellings in this location will create additional vehicle activity and general comings and goings as is the case with other properties in the village. It is considered that this would not be at such a significantly high level such as to cause a nuisance or justify withholding consent and this conclusion is in conformity with the conclusions of the planning committee in respect of the previous planning permission for the site.
- 2.15 Whilst there will be some change in outlook from the rear of properties in The Street, this would not cause such undue harm as to be detrimental to the level of amenities currently enjoyed by adjoining occupants.

#### Impact on Parking/Highways

- 2.16 Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 2.17 KCC Highways advised under the outline application that the proposal, due to its small scale did not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. They did note however that:

“The proposal was for two additional dwellings leading to an unclassified road, using an existing access. Although it will result in an increase in vehicles, this will be minimal. Driven speeds at this location are likely to be low and there are no

personal injury crashes recorded along this road, within the last 3 years. We wouldn't really have any highway grounds to object to this application."

- 2.18 Access to the site would be via the existing private driveway approximately 4m in width by 42m in length. Clearly the proposal will result in some intensification of the driveway with the two additional households as was recognised in the outline application. At that stage however the extra vehicle activity to and from the site was not considered to present significant highway concerns. As there have been no changes in the proposed number of units and general circumstances surrounding the site there are again no highway objections to this matter.
- 2.19 Two parking places would be provided for each of the proposed and the existing dwellings with a turning head available for use by all occupants so that cars can enter and leave in a forward direction. These arrangements will provide sufficient space for occupants although no facilities are available for visitors. Whilst this is not an ideal situation it is not unusual for visitors to a domestic property to have to park off site and it is not considered that the lack of visitor parking (the policy requirement being 0.4 visitor spaces) would cause a highway safety issue or amount to a severe cumulative impact on the highway.

#### Fire and Rescue

- 2.20 Under the outline application the Kent Fire & Rescue Service noted that there were no turning facilities for a fire engine but that the use of a sprinkler or mist system would enable fire appliances to be extended to a maximum of 90 metres from all points within the dwelling houses. The 90 metre distance would be achieved by the use of four lengths of 25 metre hose. The extra 10 metres would provide some safety margin to allow for the hose to be run around objects or obstructions between the appliance and the dwellings.
- 2.21 It is now stated that water mist systems are not currently considered acceptable. The matters of fire and rescue would need to be addressed under a Building Regulation submission.

#### Drainage

- 2.22 It was previously noted that a public sewer is located close to the proposed dwellings and the connection for foul water drainage would be subject to necessary permissions. Southern Water requires a formal application for any new connection to the public foul and surface water sewer to be made by the applicant or developer. This, together with means of surface water disposal from the proposed development, would be addressed through the Building Regulation process.

#### Ecology

- 2.23 There is 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. The emerging Local Plan requires that developments within 9km of the site would cause recreational impacts for which mitigation is required. As this site lies outside of the Zone of Influence, no mitigation is required.
- 2.24 The application relates to a residential garden area which has in recent times been the subject of tree removal. The trees at the site were not considered to be worthy of protection under a Tree Protection Order and the site owner was in this instance able to carry out this work without the need for permission from the local planning authority. The loss of trees from a site is often regrettable but new planting could be achieved under a landscaping scheme. It is stated that there are no protected or priority species at the site

or habitats of importance and a preliminary ecological assessment is not considered necessary in this instance.

#### Other Matters

- 2.25 The comments of the neighbours have again been given careful consideration and addressed above. It should be noted that each application is considered in its own merits and this scheme would not set a precedent for other schemes that may come forward in the village.
- 2.26 Internet reliability and any potential disruption during the construction process of an approved scheme are not reasons for withholding planning permission.
- 2.27 The map provided by Southern Water shows the foul sewer running towards the rear south-eastern boundary of the site. The matters raised by Southern Water would need to be addressed by the applicant under a Building Regulation application. An Informative can be added to the planning permission to cover this matter.
- 2.28 The issue of providing electric vehicle charging facilities would also be covered under a Building Regulation application.

### **3. Conclusion**

- 3.1 The application proposes the construction of two chalet bungalows on a site where outline permission was granted in 2021 for such units, subject to certain specifications. The proposed units are of an acceptable design in accordance with draft policies PM1 and PM2 and would be compatible with their surroundings. Each dwelling and number 22 would be provided with two off street parking spaces and satisfactory manoeuvring space in accordance with draft policy TI3. In terms of policies DM15, DM16 and draft policy NE2, the dwellings would have limited impact on the visual amenities of the locality and the AONB in general.
- 3.2 The proposal would make a minor contribution towards the housing stock in the district involving development within the settlement confines. The proposal would not lead to undue environmental harm and would provide an economic opportunity through the construction phase.
- 3.3 It is recognised that the introduction of dwellings in this location to the rear of existing properties in The Street will alter outlook for the occupants. There is however a sufficient degree of separation such as to maintain an acceptable level of residential amenity for existing residents.
- 3.4 In reaching this conclusion, regard has been had to the purpose of conserving or enhancing the natural beauty of the AONB, which has been afforded great weight. The proposal would not conflict with the overarching aims and objectives of the NPPF and it is recommended that planning permission should be approved.

### **g) Recommendation**

I PERMISSION BE GRANTED subject to conditions:

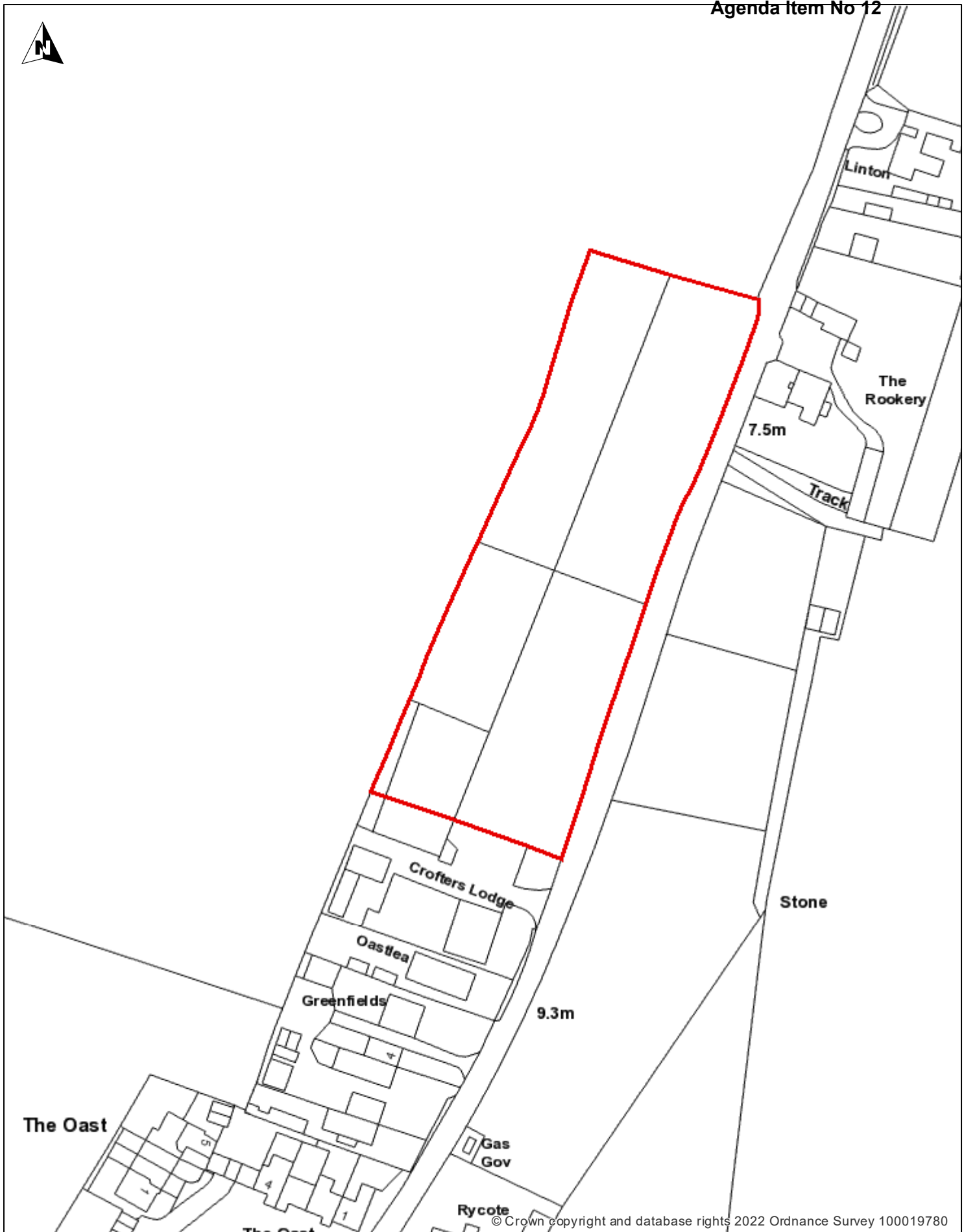
1. Time limit
2. Plans
3. Materials
4. Slab levels
5. Provision of parking
6. Cycle/refuse store



7. Means of enclosure
  8. No windows in roof
  9. No first floor windows
  10. Landscaping
- II Powers to be delegated to the Head of Planning 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

H Johnson



23/00086

Crofters Lodge  
Durlock Road, Staple  
CT3 1JX

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/23/00086 – Outline planning permission for the erection of six self and custom-build houses with associated access, car parking, amenity space and landscaping (all matters reserved) – Crofters Lodge, Durlock Road, Staple**

Reason for report – Call-in by Cllr Friend who considers that the location is suitable for development given its proximity to the village

- b) **Summary of Recommendation**

Planning permission be refused

- c) **Planning Policy and Guidance**

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

Draft Dover District Local Plan (March 2023) - The Submission Draft Dover District Local Plan is a material planning consideration in the determination of applications. At submission stage the policies of the draft plan can be afforded some weight, depending on the nature of objections and consistency with the NPPF. The relevant policies are: SP1, SP4, SP6, SP11, H5, TI1 AND TI13

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 38, 130-135, 174, 176 - 178, 180

National Design Guide & National Model Design Code (2021)

- d) **Relevant Planning History**

DOV/08/00730 – Change of use of strip of land to the north of Crofters Lodge to domestic land, erection of a single storey side and rear dormer extension and erection of replacement porch – Granted.

DOV/07/00678 – Retrospective application for the formation of sand school and erection of a hay store – Granted.

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

Representations can be found in the online planning file; a summary is provided below:

Staple Parish Council – Objects on the basis of there already being adequate housing and highways and infrastructure impacts.

Kent Country Council Lead Flood Authority – No objection to the principle but offered comments at reserved matters stage.

Southern Water - The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS). Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer.

Kent Highway Services – No objections subject to conditions to include detailed design for the vehicle access, visibility splays, bound surface.

Third party Representations: 7 objections have been received and are summarised below:

- Lack of amenities within the village
- Impact on the countryside
- No transport links.
- Lack of footpaths
- Inadequate roads
- Inadequate water pressure
- Wildlife corridor
- Lack of plans of design of dwellings
- Outside of the village settlement
- Traffic/parking/highways safety

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

- More need for family homes in the locality
- Landscaping would provide biodiversity.
- Would blend with the surrounding countryside.
- Self-build eco homes
- More houses needed in this locality.

It should be noted that whilst there are 6 letters of contrary representations which can refer the application to planning committee, in this instance only one letter of support was received within the period specified for the making of representations, as set out in the Dover District Councils Constitution.

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

## The Site

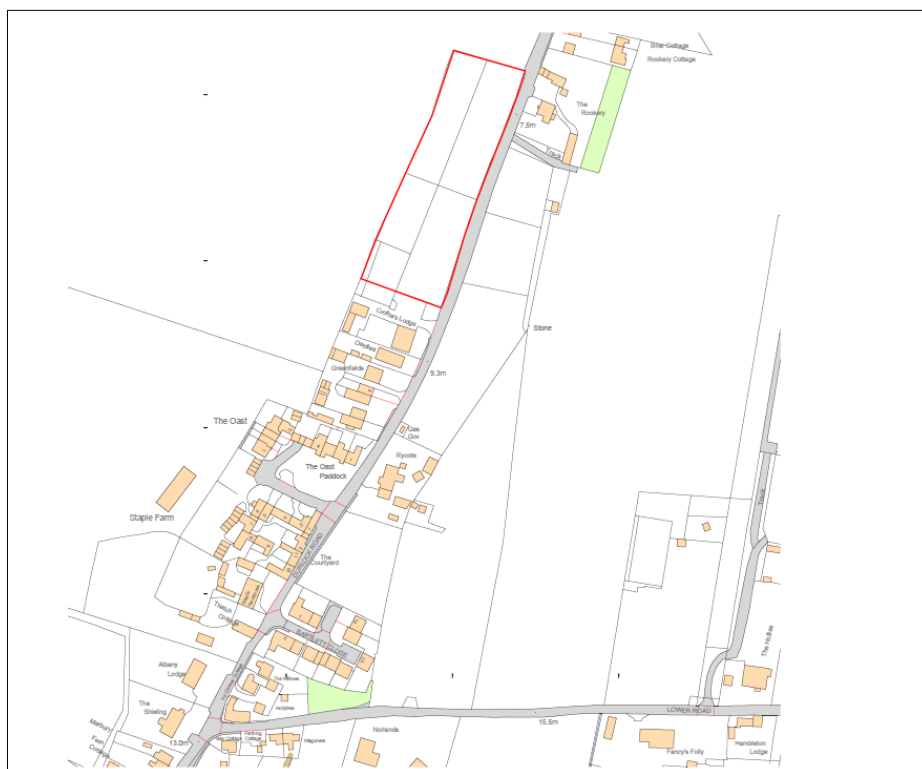


Figure 1: Site location plan

- 1.1 The application site is situated to the north of Staple and on the western side of Durlock Road adjacent to the settlement confines of Staple. The site lies approximately 190 metres north of 2no Grade II listed buildings, Staple Farmhouse and Thatch Cottage.
- 1.2 The site comprises of a rectangular piece of grass land measuring approximately 0.69 hectares with an existing sand school and is encompassed by post and rail fences, with open countryside and arable fields lying further west. To the north and west of the site lies open countryside with a number of public rights of ways surrounding the site. There is no public footpath along this part of Durlock Road leading into Ash.
- 1.3 Directly adjacent to the site is Crofters Lodge, a chalet bungalow with stables to the rear of the property. The access to this runs adjacent to the property. To the northeast is some sporadic development consisting of two properties.

#### The Proposal



Figure 2: Indicative block plan (all matters reserved)

- 1.4 This is an outline application for the erection of self and custom build houses with associated access, car parking, amenity space and landscaping (all matters reserved).



Figure 3: Indicative street scene

## 2. **Main Issues**

### 2.1 The main issues for consideration are:

- Principle of the development
- Visual impact on the countryside
- Impact on residential amenity
- Highways and Parking
- Flooding and Drainage
- Ecology
- Habitats Regulations

### **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 specifically justified by other development plan policies or it functionally requires such a location or is ancillary to existing development or uses”. The site is located outside of any settlement confines, the closest of which is the village of Staple, identified in Policy CP1 as being tertiary focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to essentially its home community. As such, the application is contrary to Policy DM1.
- 2.4 Policy DM11 seeks to resist development outside of the settlement confines where it would generate a need to travel, unless it is justified by other development plan policies. As stated above, the proposed site is located outside of the settlement confines and is not justified by other development plan policies. The site is located approximately 2.5km southwest of the village of Ash which would provide the facilities and services. There are no footpaths and limited street lighting, this is not deemed an appropriate access for pedestrians. It is therefore considered that occupants of

the proposed dwellings would not be able to reach these facilities by more sustainable forms of transport, including walking, therefore relying solely on a car for accessing local facilities and services, thus being 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 meet any of the exceptions listed in Policy DM15 and therefore would not comply with the aims and objectives of this policy. Furthermore, whilst the proposed development is for outline permission without all matters reserved, the impact on the character and appearance is discussed below.
- 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 result in visual harm to the countryside and would therefore be contrary to this policy.
- 2.7 Having regard for paragraph 11, it is necessary to consider whether the development plan is up-to-date and whether the policies which are most important for determining the application are out-of-date, permission should be granted unless policies in the NPPF for protected areas or assets provide a clear reasoning for refusing the development or where the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in NPPF as a whole. A footnote confirms that whether policies are out of date also include instances where the local planning authority cannot demonstrate a five-year housing land supply or where the delivery of housing falls below 75% of the housing requirement in the previous three years.
- 2.8 It is considered that policies CP1, DM1, DM11, DM13, DM15, DM16, are the most important policies for determining this application. For completeness, the tilted balance is not engaged for any other reason, as the council has a demonstrable five-year housing land supply (6.03 years' worth of supply) and has not failed to deliver 75% of the housing delivery test requirement (delivering 88%).
- 2.9 Having regard for the most recent Housing Technical Paper (2021), the Council are currently able to demonstrate a five-year supply. The council have delivered 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 council must now deliver 557 dwellings per annum. As a matter of judgement, it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result of this, should carry only limited weight.
- 2.11 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside

confines. The blanket approach to resist development which is outside of the settlement confines does not reflect the NPPF, albeit the NPPF, Paragraph 110 aims to actively manage patterns of growth to support the promotion of sustainable transport. The NPPF also looks to “create safe and suitable access to the site for all users.” Given the particular characteristics of this application and this site, it is considered that the use of the site as proposed would weigh against the sustainable travel objectives of the NPPF and would not provide safe and suitable access for pedestrians. Whilst the blanket restriction of DM11 is in tension with the NPPF, given that the policy otherwise reflects the intention 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 site’s appearance within the 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 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 the 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 Staple is classified as a tier 2 settlement within policy SP4 of the Dover District Draft Local Plan, which is suitable for minor residential development or infilling within the settlement confines of a scale that is commensurate with that of the existing settlement. The policy and the confines applicable to the settlements in question are considered to be in line with the sustainable development objectives of the NPPF. There are currently no unresolved objections to the policy. As such and in line with paragraph 48 of the NPPF it is considered that the policy can attract moderate weight in the planning balance. In this instance, the application site is not located within the settlement confines of Staple and is therefore contrary to policy SP4 of the Dover District Council Draft Local Plan.
- 2.15 Policy HE5 of the Dover District Local Plan sets out ‘the council will support self-build and custom house building schemes on housing sites allocated in the Local Plan and on non-allocated windfall development subject to compliance with the other Policies in the Local Plan and where overall this would result in an over-provision of this type of housebuilding when compared to the Councils supply/demand. Within the Dover



Districts Housing Topic Paper 2023, at paragraph 3.16 this sets out 23 plots have been granted planning permission and as such, the requirement has been met. The proposal does not comply with any other policies within the draft Local Plan and if granted, would result in an over-provision of this type of housing and is therefore contrary to policy H3.

- 2.16 In respect of Policy PM1 this aims to achieve high quality design and place making. Criteria's 2 and 3 a) both aim to integrate existing areas that are well connected with all transport modes and prioritises sustainable transport. Whilst promoting forms of development that are walkable and have access to local facilities. The applicant has acknowledged in the transport assessment that there are 'very few facilities in Staple and therefore very limited pedestrian movements are anticipated. Having regard to the position outside of village confines, the lack of public transport, lack of footpath and poor street lighting, the proposal would be contrary to this policy.
- 2.17 Therefore, while it is considered that policies DM1, DM11, DM15 and DM16 are to a greater and lesser extent in tension with the NPPF (2021), for the reasons above some weight can still be afforded to the specific issues they seek to address, having regard to the particular circumstances of the application and the degree of compliance with the NPPF objectives, in this context. Policy DM1 is particularly critical in determining whether the principle of the development is acceptable and is considered to be out-of-date. Having considered the Development Plan in the round, it is considered that the 'tilted' balance set out at Paragraph 11 of the NPPF (2021) should be engaged and applied.

#### Character and Appearance

- 2.18 The site is located outside of the settlement confines identified in Policy DM1 and is therefore considered to be within the countryside, subject to policies DM15 and DM16 of the Core Strategy and policy NE2 of the Regulation 19 of the draft Local Plan. 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).
- 2.19 In respect of the impact on the character and appearance of the street scene, the indicative plans submitted demonstrate that six dwellings could be accommodated on the site (whilst acknowledging that all detailed matters are reserved). Durlock Road is predominantly linear in appearance, consisting of two storey dwellings and chalet bungalows within the immediate vicinity. That said, approximately 90 metres away is a converted farmstead consisting of oast houses, it is on this basis the applicant has designed a farmstead arrangement which would not be entirely out of character with the local area.
- 2.20 Policy NE2 of the draft Local Plan sets out that particular regard to the landscape character area in which they are located and in particular to the following characteristics the pattern and composition of field boundaries. The application site is surrounded by fields along the western, northern boundaries with grazing land directly opposite. An important element to the character of the area are the undeveloped fields to the west of the application site and further north, which provides a visual reminder that the site is not located within the settlement confines.
- 2.21 Regard has also been had to whether landscaping could help mitigate the visual impact on the countryside. From the review of the proposed site plan (albeit indicative

only), it is understood that a landscape buffer would be provided on all sides of the application site. The proposed development would be two storeys in height with the suggested 'Oast' and 'Milking Shed' being indicated as higher, which would be highly visible and would detract from the undeveloped character of the site from the street scene and wider views, albeit it a landscape buffer is proposed.

- 2.22 Regard has also been given to the Landscape Visual Impact Assessment with the application. It is noted that various viewpoints have been considered and the varying degree ranging from medium to high pre-mitigation, medium to low post-mitigation impacts have been identified. Whilst the assessment of the harm identified from the views within the LVIA is considered fair, it does not offer a holistic view of the landscape harm caused, for the reasons set out above, and does conclude that the development would cause visual harm.
- 2.23 In conclusion, by virtue of the location providing a soft transition into the countryside, the proposed development would result in an unjustified form of development and intensify the built development along the edge of the countryside, hereby resulting in harm to the character and appearance of countryside contrary to policies DM15 and DM16 of the Core Strategy and NE2 of the draft Local plan

#### Residential Amenity

- 2.24 Whilst indicative plans and elevations have been submitted, this is an outline application with all matters reserved for consideration at a later stage. Notwithstanding this, based on the indicative plans submitted, it is considered that there is sufficient space within the site for up to 6 dwellings to be erected. Care would need to be taken with the siting, scale and detailed design of the dwellings (to be assessed at reserved matters stage) to ensure that the dwellings would not result in overlooking or loss of privacy of the neighbouring occupants or have an overbearing impact on neighbouring residential amenity. As set out above, the detailed design of the proposals would be considered at reserved matters stage. The design of the dwellings would need to provide occupants with a high standard of amenity (in line with NPPF Paragraph 130 and Regulation 19 draft Local Plan Policy PM2) and details of boundary treatments, landscaping, refuse and recycling storage should be submitted with any forthcoming application (as this information could otherwise be required by condition).

#### Highways

- 2.25 The relevant Core Strategy policies are DM11 and DM13. DM11 requires planning applications for development that increases travel demand be supported by an assessment to quantify the amount and type of travel likely to be generated and should include measures that satisfy demand to maximize walking, cycling and the use of public transport. Policy DM13 requires that development provides a level of car and cycle parking which balances the characteristics of the site, the locality, the nature of the proposed development and design objectives.
- 2.26 The means of access would involve a new entrance off of Durlock Road to serve the site and 14 car parking spaces are proposed throughout the development with 2 visitor parking spaces. From the view of 3rd party representations there is concern over the safety of the road. Having sought advice from KCC Highways and Transportation it is considered that the application has demonstrated that satisfactory visibility (visibility splays) and manoeuvring space (swept path analysis) could be provided without conflict to both enter and exit in forward gear and has no objections

subject to conditions being imposed on any grant of planning permission. The proposed development is therefore considered to comply with the aims and objectives of policies DM13 of the Core Strategy and T13 of the draft Dover District Local Plan.

- 2.27 Policy DM11 as set out above requires that increase in travel demand should be supported by an assessment, the applicant has submitted a Transport Assessment in this regard. However, policy DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel unless it is justified by other development plan policies. As set out in the principle section of this report, the development is located outside of the settlement confines and not justified by other development plan policies. The applicant has acknowledged that there are limited facilities in Staple and therefore the assumption would be the occupiers of the properties would use the facilities within Ash, which is located approximately 2.5km southwest of the village of Ash. In this part of Durlock Road there are no footpaths and limited street lighting, and the nearest bus stop is approximately 350 metres away. It is therefore considered that occupants of the proposed dwellings would not be able to reach these facilities by more sustainable forms of transport, including walking and cycling, and would therefore be reliant solely on a private car for accessing facilities and services. The development would not accord with Policy DM11, nor policy T11 of the draft Local Plan.

#### Flooding and Drainage

- 2.28 The applicant has provided as part of the application a Drainage and Flood Risk Assessment which sets out that the foul sewage would be disposed of to the mains sewer, whilst surface water would be drained via several soakaways. Kent County Council Lead Flood Authority have raised no objections to this proposal in principle but have requested conditions be imposed on any grant of planning permission.
- 2.29 Due to the size of the site (less than 1 hectare), a Flood Risk Assessment is not required. Furthermore, as the site is within Flood Zone 1, which has the lowest risk of flooding from rivers or from the sea, a Sequential Test is not required, and the proposal is considered acceptable in terms of flood risk.

#### Ecology

- 2.30 Consideration needs to be given to the potential for biodiversity. The proposed development is currently being used for grazing land as such it is considered the potential for biodiversity is considered to be limited. Policy NE1 of the draft Local Plan sets out the development proposals must provide a minimum of 10% biodiversity net gain above the ecological baseline and in accordance with the Biodiversity Net Gain SPD. It is accepted that this is an outline application and as such, this can be dealt with under the reserved matters application.

#### Habitats Regulations (2017) Regulation 63: Appropriate Assessment

- 2.31 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.
- 2.32 It necessary to consider any likely significant effects of the proposed development in respect of disturbance of birds due to increased recreational activity on the Thanet Coast and Sandwich Bay SPA (as a designated European Site).

- 2.33 It is not possible to discount the potential for housing development within Dover district, when considered in-combination with all other housing development, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA.
- 2.34 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the site and the integrity of the site itself.
- 2.35 A Strategic Access Mitigation and Monitoring Strategy (SAMM) has been prepared and adopted by the Council in order to monitor potential impacts on the qualifying bird species for the SPA arising from development in the district and to provide appropriate mitigation through a range of management and engagement methods. This is set out at Policy NE3 of the draft Local Plan, which provides the most up to date scientific knowledge of the issue. The site lies within the 9km Zone of Influence, within which mitigation will be required.
- 2.36 This mitigation comprises several elements, including the monitoring of residential visitor numbers and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education). Were the development to be recommended for approval, it would be necessary to secure contribution towards the mitigation, set out in Table 11.2 of the draft Local Plan (as amended).

### **3. Conclusion**

- 3.1 The application site lies outside of the settlement confines, where planning policy strictly controls new development. The proposal doesn't address any of the exceptions allowed for by policy and as such it is considered to be unacceptable in principle, contrary to Policy DM1 of the Core Strategy and SP4 of the draft Dover District Local Plan. By virtue of its location, the proposal would constitute an unsustainable form of development. The fact that the proposed dwellings would be self-build properties does not add meaningful weight in favour of development, given the council has met the required needs and is no reason to override the significant and demonstrable harm caused. Given that significant and demonstrable harm would be caused which outweighs the benefits, the proposal would not be supported by the provisions of paragraph 11 of the NPPF. Therefore, the proposal would be contrary to DM1, DM11 and DM15 of the Core Strategy, policies SP4, PM1 and TI1 of the draft local plan and paragraphs 110 and 174 of the NPPF and as such the proposal should be refused.

### **g) Recommendation**

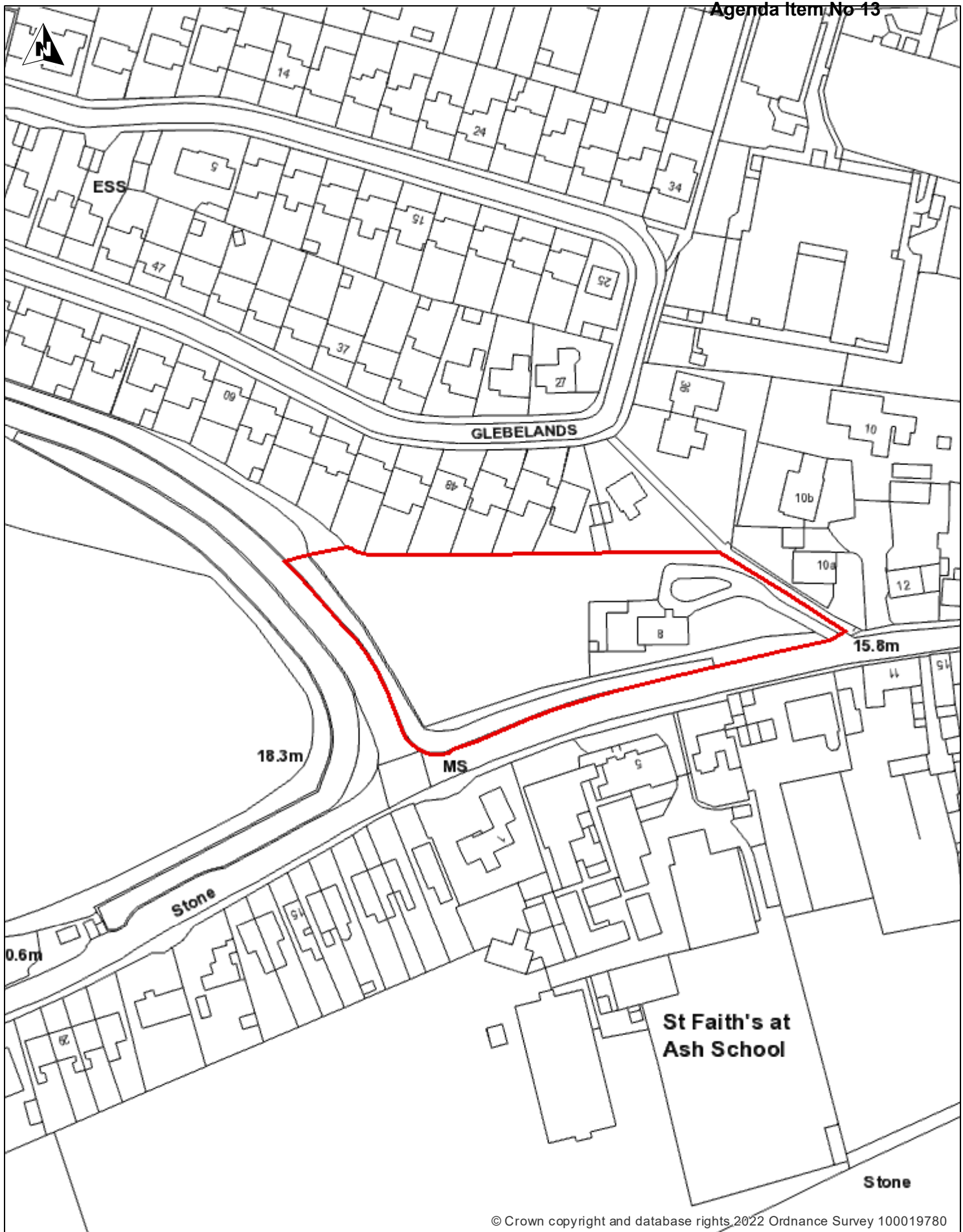
- I PLANNING PERMISSION BE REFUSED, for the following reason:

The proposal would constitute unsustainable and unjustified residential development in this rural location, resulting in additional vehicle movements and the need to travel by private car. It would result in the loss of an important gap separating the built environment and the countryside, detracting from and causing harm to the rural character and appearance of this part of the countryside contrary to policies DM1, DM11 and DM15 of the Core Strategy (2010), policies SP4, PM1, NE2 and TI1 of the draft local plan and paragraphs 110 and 174 of the National Planning Policy Framework (2021).

- II Powers to be delegated to the Head of Planning and Development to settle any reasons for refusal in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Lucy Holloway



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23/00119  
8 The Street  
Ash  
CT3 2HJ

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/23/00119 – Erection of seven dwellings including the demolition and rebuilding of existing dwelling - 8 The Street, Ash**

Reason for report – Number of contrary views (18) and call-in by Cllr Conolly raising concerns regarding overdevelopment and overlooking.

b) **Summary of Recommendation**

Planning permission be granted

c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM13

Draft Dover District Local Plan (March 2023) - The Submission Draft Dover District Local Plan is a material planning consideration in the determination of applications. At submission stage the policies of the draft plan can be afforded some weight, depending on the nature of objections and consistency with the NPPF. The relevant policies are: SP1, SP4, CC5, CC6, PM1, PM2, T13, NE3, HE1, HE2 and HE3.

Ash Neighbourhood Plan (NP) - September 2021

ANP1, ANP3, ANP6

National Planning Policy Framework (NPPF) (2021): Paragraphs 8,11, 38, 92, 110, 111, 119, 122, 124, 126, 130, 131, 132, 134, 152, 180, & 182 and Chapter 16 (historic environment).

National Design Guide & National Model Design Code (2021)

Kent Design Guide

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

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

Section 66(1) of Planning (Listed Buildings and Conservation Area) Act 1990

Under the above there is a statutory duty to both preserve or enhance the character or appearance of a Conservation Area and have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest.

d) **Relevant Planning History**

TC/19/00075 - Fell four trees (T1 - yew. T2 - not known, T3 - not known, T4 - Sycamore). Approved.

DOV/20/00155 - Erection of 6 no. dwellings and works to the existing building to form 7th dwelling with associated parking and landscaping. Planning permission granted 23 September 2022.

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

Representations can be found in the online planning file, a summary is provided below:

KCC Highways – has sought clarification on the following:

- The need for double yellow lines for a length of 11m to be provided opposite the access, measured from the corner of No.11 The Street, to provide a passing place and remove the need for vehicles to override the footway mitigating this concern by way of a Traffic Regulation Order (TRO) subject to a separate consultation exercise and the provision of accessible parking spaces to be provided within the site access to offset the loss of spaces on The Street.
- An amendment to the plans to show that a fire tender can enter and exit the site without conflict.
- It is noted that the drag distance of refuse for residents is beyond the standard and as such it is advised that the Waste & Recycling Team at DDC are consulted. If they wish to enter the site then a swept path analysis demonstrating that an 11.4m long vehicle can enter, manoeuvre and exit the site in a forward gear should be submitted.
- It is noted that the intention is to retain the existing pedestrian gate leading onto the PROW, however, a path within the site connecting to this gate is not indicated on the plans. Such a path should be step free to ensure DDA compliance.

**(Officer comment:** Some of the above has been addressed on the submitted plans and is expanded upon in the highways section).

KCC PROW - PROW EE117 runs adjacent to the proposed development and raises no objections subject to reminding the applicant that there must be no disturbance of the path at any time.

**(Officer comment:** This can be imposed as an informative in the event that planning permission is granted)

Southern Water - Requires a formal connection to be made to the public sewer to be made by the developer or applicant. Raise no objections subject to an informative relating to the potential for a public sewer to be crossing the site.

Ash Parish Council –

- The PC is committed to providing new homes for residents and the housing need for the village has been addressed in the NP.
- The application for the removal and replanting of trees covered by TPOs (ref: 19/01474) has not been addressed.
- There is no affordable housing provision or specialist housing/bungalows to meet the needs of older residents.
- The design does not appear to respect the settings of listed buildings and buildings of note considered to be heritage assets that are adjacent to the site nor the integrity, character and appearance of the adjacent CA
- Parking – KCC minimum standards requires 16 spaces excluding garages. There is no provision for visitor parking.
- Overdevelopment - The density of the site does not reflect the constraints of the topography of the site
- Overlooking – The layout will lead to a loss of privacy for the properties in Glebelands. In particular Unit 8 is very close to the boundary.
- Access – The objection from KCC Highways states that it is not possible to provide the required splays and turning access from the Street. It is also noted that there are no details of how a pedestrian-access connection can be made. The suggested alternative access from Molland Lane would conflict with the delivery of the NP allocation. Road side refuse collection will increase congestion.



Third party Representations: 19 objections have been received and are summarised below:

- Overdevelopment of the site
- Contrary to the Ash Neighbourhood Plan for e.g. retaining a rural feel to the village.
- Not in keeping with the existing street scene
- Bungalows would be better and would meet the demand in the village.
- Given the levels difference there is clear potential for overlooking to the properties opposite
- Serious overlooking to properties to the north from Units 2 and 3.
- There are no details of street lighting in the development. Needs to be subject of a condition to avoid impact on neighbouring gardens
- Maintenance of the trees
- Removing trees
- Concern about new tree planting along the northern boundary and potential future overhanging and subsequent loss of light
- Parking problems in the village.
- The access is dangerous – relocate to Molland Lane
- The speed limit should be reduced
- Potential for additional congestion during construction phase.
- Impact on bats and other protected species
- The scheme ignores concerns of the local residents, consultees and other interested parties
- Concern regarding future development on the site
- Inadequate drainage
- Need for a condition for the developer to advise neighbours at the start of their activities and contact details of site manager
- Refuse collection arrangements

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

The Site

- 1.1 The application relates to a site along The Street in the settlement confines of the village of Ash. To the west is the centre of the village. The site is bound to the north by Glebelands, a 1960s development of chalet style bungalows, Molland Lane to the west and a public right of way EE120 (PROW) runs to the east in the direction of Glebelands. The western half of the site, (previously undeveloped), lies within the designated Ash Conservation Area (CA). 7 Yeomans Cottage, A Grade II listed building can be found across the road to the south of the site.



Figure 1 – Site location plan

- 1.2 The site originally comprised a 2-storey dwelling and ancillary buildings in large, landscaped grounds that over the past years has become overgrown and towards the end of last year the existing dwelling has been the subject of extensive fire damage and little of the original building can be salvaged.
- 1.3 There are trees within the site subject of a TPO, notably an individual horse chestnut to the NW corner (T11), a copper beech and a sycamore to the W boundary (T12 & T13) and a sycamore tree to the southern boundary (T14).
- 1.4 The site sits approximately 3.5m above street level and the land steeply rises from south to north.
- 1.5 Given the age, setting and architectural design of the former building, it had been considered to be a non-designated heritage asset.

## The Proposal

- 1.6 Planning permission is sought to erect 7 dwellings including the rebuilding of the fire damaged property. There is an extant planning permission granted 23 September 2022 to erect 6 dwellings and carry out works to the existing dwelling on the site to form a 7th dwelling. However, due to the fire and the subsequent damage to the building, this permission cannot be implemented, hence the need for a fresh planning application. However, for all intents and purposes what is proposed under this application is no different to the scheme approved by the Planning Committee last year. The proposal includes 2 4-bedroom dwellings (Units 1 & 7) and 5 3-bedroom dwellings (Units 2-6).



Figure 2 – Proposed plan

- 1.7 Units 1, 4 & 7 are detached and Units 2, 3, 5 & 6 are semi-detached units. The dwellings exhibit a contemporary style with a material palette comprising yellow brickwork, slate roof tiles and timber fenestration. The proposal seeks to utilise the existing access to the southeast of the site from The Street. Vegetation is to be removed to facilitate safe visibility splays. The access leads to a courtyard type parking area. The development would require the clearance of vegetation from the site but none have been identified as being protected or are of any merit. None of the TPO trees would be removed. Provision is made for a total of 21 open parking spaces resulting in an average of 3 parking spaces per unit.

## **2. Main Issues**

2.1 The main issues for consideration are:

- Principle of the development
- Impact on visual amenity and the character and appearance of the Ash Conservation Area (CA) and setting of heritage assets
- Impact on residential amenity
- Impact on highway safety
- Impact on ecology
- Other matters

**Assessment**

Principle of Development

- 2.2 The starting point for decision making is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which 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 Paragraph 11 of the NPPF states that development which accords with an up to date development plan should be approved without delay whilst, where there are no relevant development plan policies or where the most important policies are out of date, permission should be granted unless policies in the NPPF for protected areas or assets provide a clear reasoning for refusing the development or where the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in NPPF as a whole. A footnote confirms that whether policies are out of date also include instances where the local planning authority cannot demonstrate a five-year housing land supply or where the delivery of housing falls below 75% of the housing requirement in the previous three years. DDC can demonstrate 6.03 years of housing supply and have achieved 88% of the housing requirement.
- 2.4 It is considered that policy DM1 is the ‘most important’ policy for determining this application.
- 2.5 Policy DM1 places a blanket restriction on development which is located outside of settlement confines, which is significantly more restrictive than the NPPF. As a matter of judgement, it is considered that policy DM1 is out-of-date and, as a result, should carry reduced weight. As this is the ‘most significant policy’ it is concluded that the ‘tilted balance’ approach included at paragraph 11 would be engaged (save for the reasoning at paragraph 2.6 below). Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The site is located within the settlement confines and therefore accords with Policy DM1.
- 2.6 The Ash Neighbourhood Plan is a material planning consideration and carries significant weight in the decision-making process. There are no specific policies in the plan that relate to housing development within the village. However, policy ANP1 relates to development in the countryside saying that it will only be supported beyond the Ash village settlement boundary where it provides for a business or community need. However, policy ANP3 is concerned with green and open spaces in new developments and says that developments of 5 dwellings or more should provide

appropriate green and open spaces in accordance with the District Council Standards, for residents' health and well-being and recreational use. This can be achieved by way of access to these via green routes and access by foot or cycle to and around the village and public amenities. Policy ANP6 seeks a demonstration of a high standard of design which respects and reinforces the local distinctiveness of its location and respects and responds to the village setting. Paragraph 14 of the NPPF states that the paragraph 11 'tilted balance' is disengaged where there is an adopted Neighbourhood Plan which is less than 2 years old, as is the case in Ash. As such, this application must be assessed against the traditional or flat planning balance.

- 2.7 Policy SP4 of the Submission Draft Dover District Local Plan is relevant to this application as it relates to windfall development. It says that residential infilling of a scale that is commensurate with that of the existing settlement will be permitted within the settlement boundaries of named villages, of which Ash is one, subject to a number of criteria being met, those relevant including the development being compatible with the layout, density, fabric and appearance of the existing settlement, it would not result in the loss of a green space that would compromise landscape character, it would preserve or enhance any heritage assets within its setting, it would not harm residential amenity and traffic movements can be safely accommodated by the local road network. Given the stage of the Plan and its consistency with the NPPF then this policy can be apportioned moderate weight. These criteria will be discussed below.

#### Character, Appearance and Heritage

- 2.8 Regard has been had for the provisions of Section 66(1) and Section 72(1) of Planning (Listed Buildings and Conservation Area) Act 1990, which states that "special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses" and "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area". In these respects, it is noted that the site is opposite 7 Yeomans Cottage, The Street, which is Grade II Listed and is partially within The Street, Ash Conservation Area. The context of the site is that of development fronting onto The Street although there is no consistency in terms of overall scale and design. The development to the north at Glebelands is completely hidden from view from The Street and only becomes apparent upon approach from Molland Lane or on foot via the PROW. The immediate feature of the application site is of a very strong 'treescape' with mature trees extending up the bank and effectively screening what was the original dwelling and its ancillary structures from view. The layout of the proposed development is inward facing and given the retention of a large part of the perimeter screening then there will be glimpses only of the built development from the road and the Conservation Area to the west. However, even when the development will be more visible in the winter months given the spacious layout then it would not be out of character with the street scene.
- 2.9 Whilst the original dwelling is not salvageable and requires rebuilding, the intention is to replicate the original building together with an extension that was the subject of the previous planning permission. The visual impact of the development in total will therefore not change as a result of the development proposed.
- 2.10 Turning to the scale, design and form and materials of the proposed development. The proposal seeks to incorporate contemporary architectural features. The application explains how this design approach responds to the character of the area making reference to a collection of gable features that echo that found in the village, providing modest rural houses set amongst a large tree canopy. The pitched roofs

create a traditional roofscape offsetting the neighbouring dwellings to the north. The use of yellow brick and slate roofs is a simple material palette that reflects the dwelling that once stood at the front of the site. The window frames will match the slate in colour to give the building a complete composition which is coherent and clear. The use of high-quality brickwork with careful and precise detailing will give depth and texture to the exterior to create a modern building of its time and setting. It is described as having an “architectural language that reflects order and proportion with large windows forming a dignified composition within the site. This language is traditional in principle, but contemporary in detail”. In turn, the site would not be highly prominent in views from the street such that the character and appearance of the Conservation Area would be preserved. In reaching this view, regard has been had for the provisions of Section 72(1) of Planning (Listed Buildings and Conservation Area) Act 1990, which states that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.

- 2.11 It is regrettable that the original C19 dwelling is fire damaged and a structural report confirms that it is not salvageable. The intention is to rebuild the dwelling to replicate the previous permission which was to renovate the dwelling and extend to the rear in the area where there was previously a catslide addition with a 2-storey extension with a roof form sensitive to the original dwelling. All materials would be the same as before referencing the original dwelling using buff brick to the elevations, a slate roof and hardwood painted timber fully functioning sash windows.
- 2.12 In conclusion, it is therefore considered that the development would sit comfortably within the context of the site with no harm to visual amenity or the character and appearance of the Conservation Area nor the setting of the listed building to the south. It would therefore accord with paras. 189, 197 and 203 of the NPPF as well as policy ANP6 of the Ash Neighbourhood Plan and criteria b) and e) of Policy SP4 in the emerging Local Plan.

#### Residential Amenity

- 2.13 The neighbouring properties that have the potential to be affected by the proposed development are those in the housing estate of Glebelands located immediately to the north of the application site, and whose rear gardens back onto the site. They are nos. 40, 42, 44, 46, 48, 50. And 52
- 2.14 Nos. 40 and 52 are considered to be a comfortable separation distance from the proposed dwellings to the north of the application site, to not be adversely affected by the development.
- 2.15 Turning to the remaining nos. 44, 46, 48 and 50. Nos 48 and 50 back onto the site where Unit 7 would be located sideways on to the boundary. The plans annotate a separation distance of 5m to the boundary. There is then the length of the gardens. In terms of the built development, given this separation distance there would be no harmful overbearing development. There are no windows at first floor level in the side elevation facing the rear gardens of Glebelands so there would be no overlooking.
- 2.16 In respect of Nos. 42, 44 and 46. Their back gardens would face onto the front elevations of Units 2 and 3. At first floor level there are bedroom windows facing in the direction of the boundary of the site with Glebelands but these new dwellings are positioned some distance into the application site and in turn given the depth of the gardens in Glebelands there is a comfortable separation distance such there would be no harm to the residential amenity of the occupiers of the dwellings in Glebelands.

The proposals would therefore accord with paragraph 130 of the NPPF and criteria h) of Policy SP4 of the emerging Local Plan.

- 2.17 Representations have raised concerns about the nature of any new planting on the northern boundary with the properties in Glebelands. There is already mature screening on this boundary such that the new planting will not make a significant difference to any potential overshadowing of the rear gardens of Glebelands.

#### Highways

- 2.18 Policy DM1 of the Core Strategy suggests that a minimum of 2 independently accessible car parking spaces be provided per dwelling, together with an additional 0.2 spaces per dwelling for visitors, acknowledging that parking should be a designed process. The application proposes 21 off-street car parking spaces within the site, which includes 2 communal visitor spaces. Adequate provision is therefore made to meet the standards and the development therefore accords with policy DM13 of the Core Strategy. To encourage and to facilitate the use of this sustainable form of transport, cycle storage provision (one space per bedroom) will be secured by planning condition to meet the requirements of Kent Design Guide and the NPPF.
- 2.19 There is no change to the access arrangements from the previous planning permission where Kent Highways raised no objection to the visibility and manoeuvring room at the site access. In turn, it has been advised that the proposals are likely to generate 3-4 two-way vehicle trips during the network peak hours which is unlikely to have a severe impact on the capacity of the highway network. It is, however, acknowledged that there is a lack of passing places in this section of The Street due to the demand for on-street parking. This therefore leads to some east bound drivers overrunning the footway immediately to the east of the site to make way for west bound drivers. It is therefore proposed to provide an 11m length of double yellow lines opposite the access to provide a passing place and avoid the need for vehicles to overrun the footway. This will result in the loss of 2 existing on-street parking places, however, as a compensatory measure, 3 additional parking spaces are to be provided within the site. These works can all be secured by way of a planning condition. The plans also show that there is adequate space for delivery vehicles to enter the site, manoeuvre and exit in a forward gear. Whilst there is a refuse collection point shown on the site the dragging distance falls short of the required measurements but DDC Waste Management is satisfied that collection can take place on the side of the road. There is no footway the site and therefore a step-free connection is proposed to the existing PROW at the rear of the site, providing safe pedestrian access to the wider footway network and bus stops, school and other services/amenities in the village. This would comply with the requirements of policy ANP3 of the Ash Neighbourhood Plan.
- 2.20 Given the above the proposed development is considered to be acceptable in highway safety terms and would therefore be in accordance with paragraphs 110 and 111 of the NPPF, Policy DM13 of the Core Strategy and criteria j) of Policy SP4 of the Submission Draft Dover District Local Plan.
- 2.21 Residents have raised concerns about traffic disruption during the construction phase and that there should be a specified access to the site. A condition seeking the submission of a Construction Management Plan (CMP) is proposed. This will include on-site parking for construction workers, temporary access arrangements, measures to prevent dirt on the road. There is no control over the routing of construction vehicles to the site nor the actual access that is used. Conditions run with the land and can only be used where they would be enforceable. As such, it is not possible to

control movements of third party vehicles on the public highway network through the planning process.

### Ecology

- 2.22 The EU Habitats Directive 1992, requires that the precautionary principle is applied to all new projects, to ensure that they produce no adverse impacts on European Sites. Regard has been had to Natural England's Standing Advice which suggests that given the characteristics of the site being unmanaged vegetation surrounded by dense mature trees/hedges it could provide suitable habitat for protected species.
- 2.23 The results of a Preliminary Ecological Appraisal (PEA), concluded that there were no amphibians, badgers or dormice present on the site. It made recommendations for a list of ecological enhancements that can be the subject of a planning condition. The appraisal also states that a breeding bird survey was not deemed necessary, on the basis that the site contains suitable habitat for breeding birds, but that consideration must be given to the timing of the clearance works, if any are to take place. This can be subject of a planning condition.
- 2.24 Further survey work was recommended in respect of bats and reptiles. The bat survey concluded that one species of bat was using the house as a roost. Although no bats were seen emerging/entering the outbuilding from evidence it could be that the outbuilding is being used as an occasional day or night roost. To ensure that the local bat population stays at a favourable conservation status mitigation has been recommended in the form of the provision of a bat box on a tree and a bat loft incorporated into the roof of one of the dwellings. The reptile survey concluded that none were present.
- 2.25 On the basis of the above and in consultation with the Council's Ecology Officer, it is considered that the development is acceptable and would not conflict with paragraph 180 of the NPPF.

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

- 2.26 It necessary to consider any likely significant effects of the proposed development in respect of disturbance of birds due to increased recreational activity on the Thanet Coast and Sandwich Bay SPA (as a designated European Site).
- 2.27 It is not possible to discount the potential for housing development within Dover district, when considered in-combination with all other housing development, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA.
- 2.28 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 site and the integrity of the site itself.
- 2.29 A Strategic Access Mitigation and Monitoring Strategy (SAMM) has been prepared and adopted by the Council in order to monitor potential impacts on the qualifying bird species for the SPA arising from development in the district and to provide appropriate mitigation through a range of management and engagement methods. This is set out at Policy NE3 of the draft Local Plan, which provides the most up to date scientific knowledge of the issue. The site lies within the 9km Zone of Influence, within which mitigation will be required.



- 2.30 This mitigation comprises several elements, including the monitoring of residential visitor numbers and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education).
- 2.31 Having had regard to the proposed mitigation measures (to manage recreational activities from existing and new residents), it is considered that the proposed development would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA where it would make a contribution towards implementation of the SAMM. Having had regard to draft policy NE3, it is considered that the proposal would have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. A contribution payment of £6,654 is therefore required and this needs to be secured by way of Unilateral Undertaking. The mitigation measures will ensure that the harmful effects on the designated site, caused by recreational activities from new residents, will be effectively managed.

#### Flood Risk

- 2.32 The site lies within Flood Risk Zone 1, where there is the lowest risk of flooding. However, given the size of the site, it is appropriate to consider whether the development would be likely to lead to localised on- or off-site flooding. The NPPF, paragraph 163, states that local planning authorities should ensure that flooding is not increased on-site or elsewhere, and priority should be given to the use of sustainable drainage systems. Further to this, the Planning Practice Guidance states that sustainable drainage systems should be designed to control surface water run-off close to where it falls and replicate natural drainage as closely as possible.
- 2.33 Whilst Southern Water have raised no objection in this instance, it is considered reasonable to attach the pre-commencement conditions requiring the submission of detailed schemes for both foul water and surface water disposal.

#### Other Matters

- 2.34 A number of third-party representations have been received raising concerns regarding the loss of trees on the site. It is relevant to note whilst the proposed development would require clearance of the existing vegetation on the site.
- 2.35 To accommodate the proposed dwellings, it would not result in the loss of high amenity value trees. The tree survey and tree protection plan has been reviewed by the DDC's Tree Officer concluding that the proposal was deemed acceptable subject to a condition requiring execution of the tree protection plan during the construction period.
- 2.36 Concerns have also been raised about who is going to maintain the new tree planting and the potential for the new tree planting along the boundary to the north of the site with the rear gardens of Glebelands to become overgrown and overbearing over time. The plans show minor tree planting to the northern boundary in the form of approximately 5 specimens. The finer detail will form part of the details of a landscaping scheme. Notwithstanding this, there are already mature trees on this boundary which already create some overshadowing to these rear gardens. The maintenance of new tree planting can be included as part of any landscaping detail.

### **3. Conclusion**

- 3.1 The development has previously been considered acceptable under planning permission ref: DOV/20/00155 and a fresh planning application is only required due to the recent fire necessitating the rebuilding of the existing dwelling on the site. There are no changes to the nature of the proposed development.
- 3.2 Being located within the built confines of the village there is no policy objection to the principle of the development. There would be no harm to the visual amenity of the locality, the character and appearance of the adjacent Conservation Area and the setting of the listed building opposite would be preserved. There would be no harm to residential amenity, the development is acceptable in terms of highway safety, drainage, trees and ecology. The recommendation is therefore to grant planning permission.

**g) Recommendation**

- I PLANNING PERMISSION BE GRANTED, subject to the completion of a legal agreement to secure a payment towards the Thanet Coast and Sandwich Bay SPA and Ramsar sites mitigation strategy and the following conditions:
- 1) Time limit
  - 2) Approved plans
  - 3) Samples of materials
  - 4) Bicycle and bin storage
  - 5) Demolition and Construction Management Plan
  - 6) Provision of measures to prevent the discharge of surface water onto the highway.
  - 7) Vehicle parking
  - 8) Use of a bound surface for the first 5 metres of the access from the edge of the highway.
  - 9) Cycle parking
  - 10) Completion of the access and associated highway alterations (parking restrictions)
  - 11) Gradient of the access
  - 12) Visibility splays
  - 13) Completion of the step-free paved connection to public footpath EE117 at the rear of the site.
  - 15) Removal of PD rights (classes A, B, C, D and E)
  - 16) Removal of PD rights for insertion of window openings at first floor level
  - 17) Joinery details, eaves details, ridge details at 1:10 for the non-designated heritage asset.
  - 18) Tree protection measures, including hand digging
  - 19) Programme of archaeological works
  - 21) Ecological mitigation and enhancement
  - 22) Landscaping scheme
  - 23) Surface water drainage details
  - 24) Foul water drainage details
  - 25) Boundary treatment and hard surfacing
- II Powers to be delegated to the Head of Planning and Development to settle any necessary planning conditions and the S106 in line with the issues set out in the recommendation and as resolved by the Planning Committee.

**Case Officer**

Lucy Holloway