

Public Document Pack



Democratic Services
White Cliffs Business Park
Dover
Kent CT16 3PJ

Telephone: (01304) 821199
Website: www.dover.gov.uk
e-mail: democraticservices@dover.gov.uk

1 November 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 9 November 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.

Yours sincerely

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

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 **APOLOGIES**
To receive any apologies for absence.
- 2 **APPOINTMENT OF SUBSTITUTE MEMBERS**
To note appointments of Substitute Members.
- 3 **DECLARATIONS OF INTEREST** (Page 5)

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

4 **MINUTES** (Pages 6-14)

To confirm the attached minutes of the meeting of the Committee held on 12 October 2023.

ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING

(Pages 15-19)

5 **APPLICATION NO DOV/22/01210 - HOLLYOAK, MARSHBOROUGH ROAD, MARSHBOROUGH** (Pages 20-30)

Change of use of land to mixed use for the keeping of horses; residential caravan site for 4 gypsy families; stationing of 5 caravans including no more than 4 static caravans/mobile homes, with hardstanding, car parking and erection of communal dayroom

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

6 **APPLICATION NO DOV/22/00471 - 3 MIDDLE DEAL ROAD, DEAL** (Pages 31-40)

Erection of 4 attached dwellings with undercroft parking and bin stores (existing buildings to be demolished)

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

7 **APPLICATION NO DOV/23/00546 - LAND EAST SIDE OF SHORT LANE, ALKHAM** (Pages 41-61)

Erection of 8 dwellings with associated access and landscaping

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

8 **APPLICATION NO DOV/21/01237 - PHASE II, LAND SOUTH OF MILL FIELD, ASH** (Pages 62-78)

Erection of 9 dwellings, new vehicle access, associated parking and landscaping

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

ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING

9 **PLANNING FEES AND CHARGES 2024/25**

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

10 **APPEALS AND INFORMAL HEARINGS**

To receive information relating to Appeals and Informal Hearings, and appoint

Members as appropriate.

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

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

Access to Meetings and Information

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

The meetings in which these cameras will be used include meetings of: (a) Council; (b) Cabinet; (c) General Purposes Committee; (d) 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 \(@doverdc\)](#)

- The broadcasts and recordings are the copyright of the Council and may not be copied, displayed or published to the public, adapted or dealt with in any other way restricted by the Copyright, Designs and Patents Act 1988.
- The Council will not make available copies of the recordings either in whole or in part other than in compliance with a legal requirement arising under The Freedom of Information Act 2000, UK GDPR, The Data Protection Act 2018 or some other enactment, rule of law or direction of a court or tribunal which is binding on it.
- When you register to speak at a meeting of the Council, you will be asked whether you want your personal data (name, voice and image) and comments broadcasted on our website as part of the meeting. We will be relying on your consent for this processing; if you do not consent this will not affect your right to speak at a Council meeting. If you do not consent the microphone and camera in the Chamber will be temporarily switched off when you speak.

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

For further information about how this information should be processed, please view the Council's Data Protection Policy and Appropriate Policy Document at www.dover.gov.uk/Corporate-Information/PDF/Data-Protection-Policy.pdf

- 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, telephone: (01304) 872303 or email: democraticservices@dover.gov.uk for details.

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

Declarations of Interest

Disclosable Pecuniary Interest (DPI)

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

Other Significant Interest (OSI)

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

Voluntary Announcement of Other Interests (VAOI)

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

Note to the Code:

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

Minutes of the meeting of the **PLANNING COMMITTEE** held at the Council Offices, Whitfield on Thursday, 12 October 2023 at 6.00 pm.

Present:

Chairman: Councillor M J Nee

Councillors: D G Cronk
J S Back
M Bates
N S Kenton
R M Knight
J P Loffman
S M S Mamjan
H M Williams
C F Woodgate

Officers: Team Leader (Development Management) - South Team
Principal Planner
Principal Planner
Senior Planner
Planning Officer
Principal Planning Solicitor
Property/Planning Lawyer
Democratic Services Officer

The following persons were also present and spoke in connection with the applications indicated:

<u>Application No</u>	<u>For</u>	<u>Against</u>
DOV/22/01643	Mr Alistair McPherson	Ms Christine Peel
DOV/23/00892	Councillor Trevor Bartlett	-----
DOV/23/00553	-----	Ms Sal Higgins Councillor Chris Vinson
DOV/22/01577	Mr Ross Elliston	Mrs Basma Gale Councillor Trevor Bartlett
DOV/19/01025	-----	Mr Michael Parkinson

54 APOLOGIES

It was noted that apologies for absence had been received from Councillors D G Beaney and E A Biggs.

55 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors M Bates and C F Woodgate had been appointed as substitute members for Councillors D G Beaney and E A Biggs respectively.

56 DECLARATIONS OF INTEREST

There were no declarations of interest.

57 MINUTES

The minutes of the meeting held on 14 September 2023 were approved as a correct record and signed by the Chairman.

58 APPLICATION NO DOV/22/01643 - LAND ADJACENT TO 22 THE STREET, WEST HOUGHAM

The Committee was shown an aerial view and photographs of the application site. The Principal Planner advised that planning permission was sought for the erection of a dwelling with car parking. As updates to the report, she advised that the Council's Environmental Protection team had visited the site and confirmed the presence of Japanese knotweed. An additional condition requiring its removal and control was therefore recommended. The neighbouring property, The Malthouse, had windows on the ground floor flank elevation serving rooms to a converted garage. Whilst not included in the report in error, the impact on the residential amenity of this dwelling was considered acceptable, in line with the previous planning permission granted in 2020.

In response to the Chairman, the Principal Planner explained that this site was to the south-west of no. 22, whilst a site to the north-east of no. 22 had been granted planning permission for two new houses. Councillor M Bates raised concerns regarding the proposed dwelling's accessibility for the fire and rescue service and suggested the addition of a condition for sprinklers. He referred to Policy SP4 of the draft Local Plan which required that proposals should conserve and enhance the landscape where they were situated next to or surrounding an Area of Outstanding Natural Beauty (AONB). He queried whether Officers had taken into account all the sub-paragraphs of Policy SP4, particularly (a) which dealt with cumulative impact. He argued that the existing house, along with the proposed dwelling and two others to the north-east that had already been granted planning permission, would have a cumulative and significant impact on the AONB. He pointed out that there had been a significant change in circumstances since the garage conversion had been permitted in 2020. In his view, the proposal would neither conserve nor enhance the AONB and he could not support it.

The Principal Planner reminded Members that there was extant planning permission on the site for the conversion of the garage which was a material consideration in determining the application and carried significant weight. She confirmed that the application fulfilled all the criteria of SP4. Whilst the site was within the AONB, there was already a strong line of development fronting the AONB. The proposal was for one dwelling only which would be in keeping with the character of the village. With suitable landscaping conditions, she suggested that the scheme could, in fact, enhance the AONB.

In response to Councillor H M Williams, the Team Leader Development Management (TLDM) reassured Members that when details of landscaping were submitted, Officers would ensure that a suitable scheme for boundary treatment and landscaping was proposed. Councillor J S Back stated that the application site was within the confines and the principle of the development had already been established.

RESOLVED: (a) That Application No DOV/22/01643 be APPROVED subject to the following conditions:

- (i) Time limit;

- (ii) Plans;
- (iii) Materials;
- (iv) Submission of details of enclosure/landscaping;
- (v) Provision of parking;
- (vi) Provision of cycle storage;
- (vii) Provision of refuse/recycling store;
- (viii) Removal of permitted development rights for additions to roof;
- (ix) Details of angled windows with screened glazing to first-floor front elevation;
- (x) Mitigation plan for Japanese knotweed.

(b) That powers 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.

59 APPLICATION NO DOV/23/00892 - THE COACH HOUSE, HIGH STREET, WINGHAM

Members were shown an aerial view, a plan and photographs of the application site. The Planning Officer advised that planning permission was sought for the erection of a dwelling with an attached garage. As updates to the report, she advised that condition 4 which required details of surface water drainage to be submitted was no longer considered necessary. Representations had also been received in respect of the garden at 53 High Street.

RESOLVED: (a) That Application No DOV/23/00892 be APPROVED subject to the following conditions:

- (i) Three-year time limit;
- (ii) Approved plans;
- (iii) Joinery details;
- (iv) Construction Management Plan;
- (v) Provision and retention of car parking and garages;
- (vi) Provision and retention of cycle storage and refuse/recycling store/collection;
- (vii) Gates to open away from highway and set back by 5 metres from edge;

- (viii) Bound surface for first 5 metres;
- (ix) Archaeological works;
- (x) Existing boundary landscaping retained.

(b) That powers be delegated to the Head of Planning and Development to settle any necessary issues in line with the matters set out in the recommendation and as resolved by the Planning Committee.

60 APPLICATION NO DOV/23/00553 - 17 CHURCH STREET, WALMER

The Committee viewed an aerial view, a plan and photographs of the application site. The Planning Officer advised that the application sought planning permission for the erection of a detached dwelling and associated parking. As an update to the report, she advised that it was necessary to add three conditions, namely samples of materials, removal of permitted development rights and provision and retention of parking on site prior to first occupation.

Following a query from the Chairman, the TLDM clarified that a construction management plan (CMP) had been attached to the previous planning permission. However, although she acknowledged that the road network around the site was rather restricted, it was not considered appropriate to add a CMP to a small-scale development like this. CMPs were designed to address large volumes of construction traffic and were essentially a Kent County Council (KCC) Highways matter. A CMP for this site would be difficult to enforce and was not recommended. If Members were so minded, a foul drainage condition could be attached, but this was not strictly a planning consideration and could be considered disproportionate. That said, she recognised that there were drainage issues that Southern Water needed to address.

Councillor J P Loffman spoke in favour of a foul drainage condition which, although apparently disproportionate, would be helpful for local residents. Councillor Bates supported the addition of conditions for foul drainage and construction management traffic, arguing that the latter would give guidance to builders. Councillor D G Cronk proposed that the application should be approved, subject to the addition of the three conditions outlined earlier by the Planning Officer, together with conditions for foul drainage, landscaping and a CMP. The Planning Officer confirmed that a condition for a landscaping scheme could be added if Members wished.

Councillor N S Kenton referred to the principle of development on the site having been established. In his view the imposition of a CMP would be unenforceable and, therefore, unreasonable. As some Members were probably aware, subcontractors were not obliged to adhere to CMPs so imposing one on a single dwelling development was likely to prove futile. The Chairman remarked that if construction traffic started causing a nuisance, residents could complain to the Council as the Local Planning Authority.

It was moved by Councillor D G Cronk and duly seconded that Application No DOV/23/00553 be APPROVED as per the report recommendation, with the following conditions added: (a) Samples of materials; (b) Removal of permitted development rights; (c) Provision and retention of on-site parking; (d) Foul drainage details and (e) Construction Management Plan.

On being put to the vote, the motion FAILED.

It was moved by Councillor J S Back and duly seconded that Application No DOV/23/00553 be APPROVED as per the report recommendation, with the additional conditions outlined earlier save for the construction management plan.

On being put to the vote, the motion was CARRIED.

RESOLVED: (a) That, subject to the completion of a Unilateral Undertaking for the Strategic Access Mitigation and Monitoring Strategy, Application No DOV/23/00553 be APPROVED subject to the following conditions:

- (i) Three-year time limit;
- (ii) Approved plans;
- (iii) Materials samples;
- (iv) Details of joinery;
- (v) Cycle and bin storage;
- (vi) Retention of hedgerow;
- (vii) Protection of yew tree;
- (viii) Landscaping details;
- (ix) Provision and retention of parking on site;
- (x) Foul drainage details;
- (xi) Removal of permitted development rights.

(b) That powers be delegated to the Head of Planning and Development to settle any necessary issues in line with the matters set out in the recommendation and as resolved by the Planning Committee.

61 APPLICATION NO DOV/22/01577 - HORSESHOE BUNGALOW, MILL LANE, PRESTON

Members viewed a plan and photographs of the application site. The Principal Planner advised that planning permission was sought for the erection of a detached two-storey dwelling, two detached garages and a rear extension to an existing dwelling, with an existing garage to be demolished. As updates to the report, she clarified that there was no requirement for the unilateral undertaking referred to in the report. An updated plan had been received which showed that the access gates onto the main road were to be removed. Finally, a representation had been received regarding land ownership.

Councillor Back stated that the development was within the settlement confines, and he could see no planning reasons to refuse it. In response to Councillor Bates, the Principal Planner advised that the nearest point of the proposed development to the

boundary with Pickle Cottage on the western side of the plot would be approximately 9 metres. Moreover, the new dwelling would be set back and not directly in line with Pickle Cottage. Councillor C F Woodgate referred to a number of reasons put forward by objectors for refusing the application and queried whether these were valid. He was personally opposed to back garden developments but recognised that this reason alone did not justify refusal.

Councillor Loffman and the Chairman stated that the road was a busy one with a significant amount of traffic. Councillor Kenton commented that one dwelling would not have an impact on the highway network nor an adverse impact on the conservation area.

RESOLVED: (a) That Application No DOV/22/01577 be APPROVED subject to the following conditions:

- (i) Time limit;
- (ii) Approved plans;
- (iii) External materials;
- (iv) Joinery details;
- (v) Boundary treatment;
- (vi) Bound surface 5 metres;
- (vii) Southern Water sewer pipe details;
- (viii) Landscaping details and tree plan;
- (ix) Works to trees and recommendations of report;
- (x) Ecological mitigation and biodiversity scheme;
- (xi) Permitted development rights removed (new buildings and roof);
- (xii) Parking retained;
- (xiii) Removal of gate entrance;
- (xiv) Provision of cycle and refuse storage and refuse collection point.

(b) That powers 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.

62 APPLICATION NO DOV/19/01025 - LAND ADJACENT TO 74 STANHOPE ROAD, DOVER

The Committee was shown plans and photographs of the application site. The Senior Planner advised that planning permission was sought for the erection of 32

dwellings, the formation of new vehicle and pedestrian accesses and parking. As an update to the report, she advised that 22 additional letters of objection had been received, reiterating concerns that had been addressed in the original and current committee reports. Two new issues had been raised, namely the removal of affordable housing and insufficient public amenity, which were addressed in the addendum.

The Senior Planner advised that the application had previously been to the Planning Committee in September 2020 when it had been approved, subject to the completion of a legal agreement and the imposition of various conditions. Subsequently, a number of third-party representations had been received raising concerns about the potential of the site to provide habitat for protected species and providing evidence which had not previously been available. Officers had concluded that this new information required further assessment. In this regard, the presence of slow-worms and common lizards on the site had been confirmed, and it was proposed that the creatures would be translocated to a reptile receptor site, secured by a Section 106 agreement. In addition, when assessed against the new policies of the draft Local Plan, the provision of affordable housing had gone as a result of there no longer being a requirement to provide affordable housing in developments in the Dover Urban Area due to difficulties with site viability.

Councillor Back referred to the removal of affordable housing which was no longer viable in Dover. He commented that Stanhope Road residents had been offered five parking spaces within the site and noted that the reptiles would be translocated elsewhere. He proposed that the application should be approved. In response to Councillor Williams, the Senior Planner advised that a noise impact assessment had been carried out and a condition was included to secure the recommended mitigation measures. The Chairman commented that the loss of affordable housing was regrettable but linked to policies in the new Local Plan which now carried significant weight.

RESOLVED: (a) That Application No DOV/19/01025 be APPROVED subject to the following conditions:

- (i) Time limit;
- (ii) Approved plans;
- (iii) Construction Environmental Management Plan;
- (iv) Specialist UXO risk assessment;
- (v) Construction Management Plan;
- (vi) Completion of the highway alterations in Stanhope Road shown on plan number 13859/H-01 Rev. P2 prior to commencing (TRO);
- (vii) Contamination safeguarding;
- (viii) Measures to prevent discharge of water onto highway;
- (ix) Bound surface treatment for first 5 metres;
- (x) Retention of car parking;

- (xi) Cycle parking;
- (xii) Completion of access;
- (xiii) Completion of internal access roads and footways;
- (xiv) Provision and retention of visibility splays;
- (xv) Surface water drainage with no infiltration other than approved;
- (xvi) Details of foul water drainage infrastructure and verification;
- (xvii) Details of external lighting;
- (xviii) Details of amenity greenspace and LAP provided and maintained;
- (xix) Provision of refuse and recycling;
- (xx) Scheme for secured by design;
- (xxi) Samples of materials, bricks, roof tiles, metal and timber cladding;
- (xxii) Sectional eaves details;
- (xxiii) Hard and soft landscaping which shall include planting/details of fences;
- (xxiv) Windows to be set in reveals;
- (xxv) Removal of permitted development rights for porches/roof extensions;
- (xxvi) Ecological mitigation and enhancements;
- (xxvii) Broadband provision;
- (xxviii) Noise impact mitigation measures.

(b) That powers be delegated to the Head of Planning and Development to determine if any additional representations received raise new and/or substantive material planning considerations that require the case to be reported back to Planning Committee for further consideration, and to settle any necessary planning conditions, obligations and reasons in line with the issues set out in the recommendation and as resolved by the Planning Committee.

63 APPEALS AND INFORMAL HEARINGS

The Committee noted that there was no information to receive regarding appeals.

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

The Committee noted that no action had been taken.

The meeting ended at 7.25 pm.

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 Plan (2015)
Kent Minerals and Waste Local Plan 2016
Ash Neighbourhood Plan (2021)

Human Rights Act 1998

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

The key articles are:-

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

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

Account may also be taken of:-

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

Article 10 - Right to free expression.

Article 14 - Prohibition of discrimination.

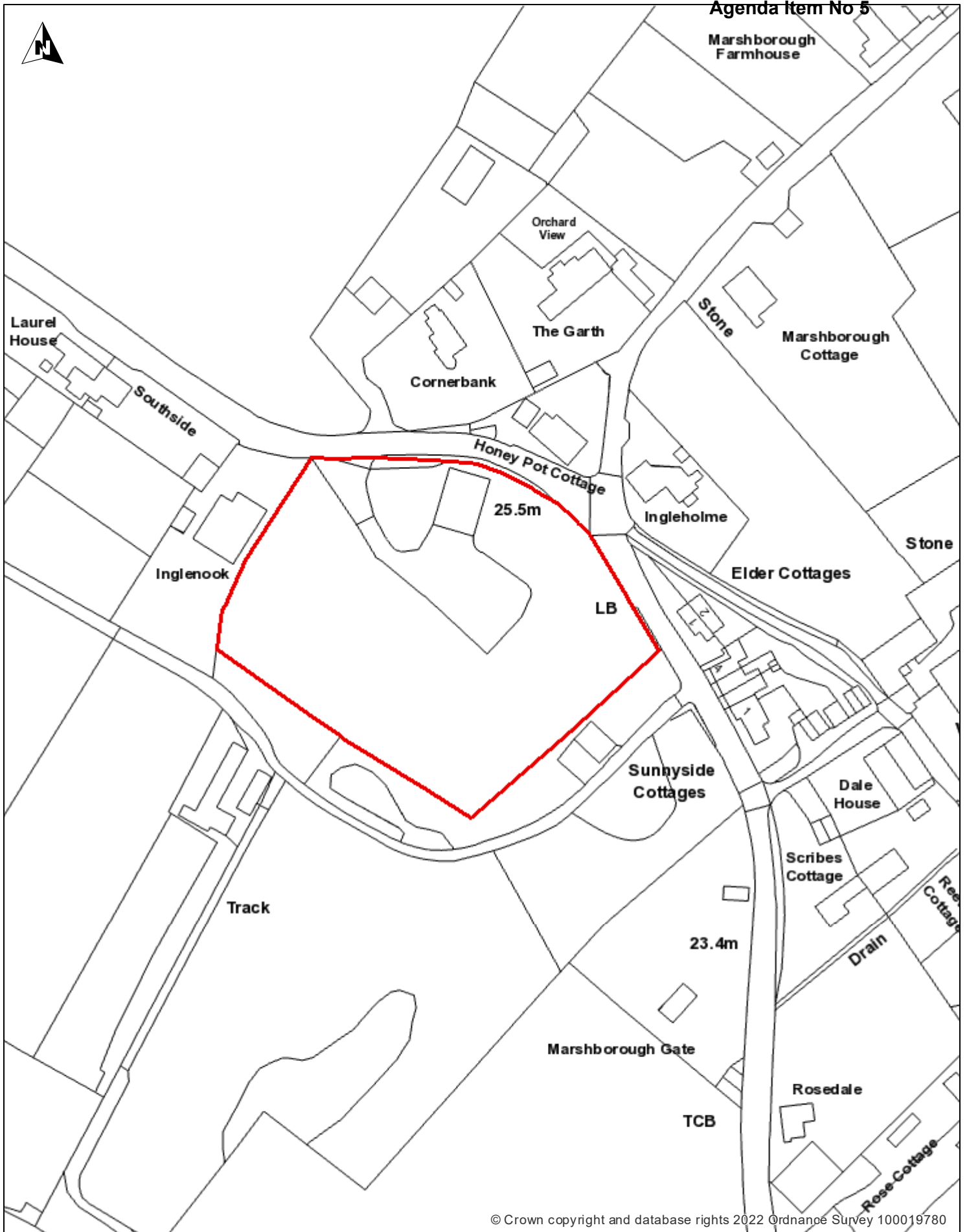
The Committee needs to bear in mind that its decision may interfere with the rights of particular parties, particularly under Article 8 and Article 1 of the First Protocol. The decision should be a balanced one and taken in the wider public interest, as reflected also in planning policies and other material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

(PTS/PLAN/GEN) HUMANRI

PUBLIC SPEAKING AT PLANNING COMMITTEE

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

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



22/01210

Hollyoak, Marshborough Road
Marshborough
CT13 0PQ

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/22/01210 - Change of use of land to mixed use for the keeping of horses; residential caravan site for 4 gypsy families; stationing of 5 caravans including no more than 4 static caravans/mobile homes, with hardstanding, car parking, and erection of communal dayroom - Hollyoak, Marshborough Road, Marshborough**

Reason for report – Number of contrary views (17)

- b) **Summary of Recommendation**

Planning permission be refused.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM7, DM11, DM15 and DM16

Draft Dover District Local Plan: 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, H4, NE1 and NE3.

National Planning Policy Framework (NPPF) (2021): Paragraphs 8, 11, and Sections 5, 9, 12 and 15.

Dover Landscape Character Assessment (2020)

5 Year Supply of Gypsy/Traveller Sites

The LPA's position is that there is a current 9-year supply of gypsy/traveller pitches. There are 9 vacant/available pitches. This follows a May 2023 survey of sites. Cultural need and Gypsy/traveller need have been included in the supply.

Planning Policy for Traveller Sites (2015) (PPTS):

The PPTS is a material consideration. It seeks to ensure that the needs of travellers (including gypsies) are identified and assessed to gather robust evidence to plan positively and manage development. Policy B states that LPAs should identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. Policy H provides guidance on determining planning applications for traveller sites and considers the following issues to be assessed amongst other relevant matters when considering planning applications for traveller sites:

- The existing level of local provision and need for sites.
- The availability (or lack) of alternate accommodation for the applicants.
- Other personal circumstances of the applicant
- That the locally specific criteria used to guide the allocations of sites in plans, or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites.
- The decision-maker (sic) should determine applications for sites from any travellers and not just those with local connections.

Gypsy and Traveller Accommodation Assessment (GTAA) 2018 (updated 2020):

The latest evidence of the local planning authority as set out in the GTAA is that for the plan period 2020 to 2040 there is a cultural need for 26 pitches and a PPTS need for 16 pitches.

d) **Relevant Planning History**

DOV/17/001208 – Change of use of land to a mixed use as a caravan site, for the siting of one caravan for residential occupation and one touring caravan and for the keeping of horses, the construction of a driveway and hardstanding and installation of septic tank. Refused planning permission. The Planning Appeal was withdrawn after a lengthy process and corresponded with an Enforcement Notice being quashed on Appeal at the same time.

DOV/11/00484 – Stationing of a mobile home (15m by 7.5m) for permanent residential use, together with change of use of part of the land to residential garden, installation of a septic tank and creation of a driveway and parking area, together with the retention of part of the land for the keeping of horses and storage of caravan. Refused planning permission but allowed on appeal.

DOV/10/00078 - Part retrospective application for the change of use of land for the keeping of horses, erection of stables and associated hardstanding, creation of new access, closure of existing access and landscaping. Granted planning permission.

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

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

Woodnesborough Parish Council – Strongly objects against the application on the basis of the application site being Grade 1 agricultural land, the proposal being large and inappropriate, the site being in an unsustainable location, there would be harm to highway safety and there are sufficient gypsy and traveller sites within the district.

Environment Agency – There is a low environmental risk.

Kent PROW – No comments to make on the application.

Southern Water – Advise that the applicant should make contact with the Environment Agency regarding the use of a private wastewater treatment works and the Council's Building Control officers should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

KCC Highways: No objections are raised.

Third party Representations:

47 representations have been received following the consultation of the planning application. 30 raise objections against and 17 support the application. A summary of the objections raised is as follows:

- There are already a sufficient number of gypsy/traveller sites in the district
- The proposal would cause harm to highway safety

- The proposal would increase the scale of the development on site and would amount to overdevelopment and an over intensive use, it would imbalance the local population, it would be out of keeping with the hamlet and would harm the open countryside
- The location of the site is not sustainable to accommodate the proposed development and there is a lack of infrastructure
- There would be an increase in harm to residential amenity and local wildlife
- Precedent is being set
- There is a breach of planning taking place on the land
- There is insufficient space for horses on the site
- The application lacks sufficient detail in how the land is being used

The representations in support of the application are summarised as follows:

- The applicant and his family have a right to live and be together on the site
- There would be no harm to highway safety
- There would be no harm to residential amenity
- The site is effectively screened and there would be no adverse impact
- The site appears in good condition

(Officer Comment – A reported breach of planning control was received in January 2023 alleging the siting of 2 caravans on the land and the storage of a shipping container. This will be subject of further investigation following the outcome of this application).

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

1.1 The application site is an irregularly shaped 0.6 hectare plot bound by Marshborough Road to the north, with gardens of residential properties to the west and east. It has an access from Marshborough Road which rises to a field gate and open fencing set back some 6m from the access. The majority of the site is on 'plateau-ed' land raised above the level of the highway. Along the northern boundary of the site is a dense hedgerow and vegetative area, which provides an effective screen to the site from the highway. As such, the site is mostly visible from public vantage points in front of and to the west of the site access and two PROWs (EE213 and EE215) opposite the site access that extend from Marshborough Road to the north, across agricultural fields. The application site is particularly visible from EE213.

1.2 The application proposal seeks to increase the number of static caravans on the site from 1 to 4, the provision of hardstanding and the erection of a day room building for shared use. The caravan site would be occupied by the applicant and his extended family. The applicant has gypsy/traveller status, and this has been accepted previously by the Council. The additional (5th) caravan is shown on the submitted plan to be a tourer caravan.

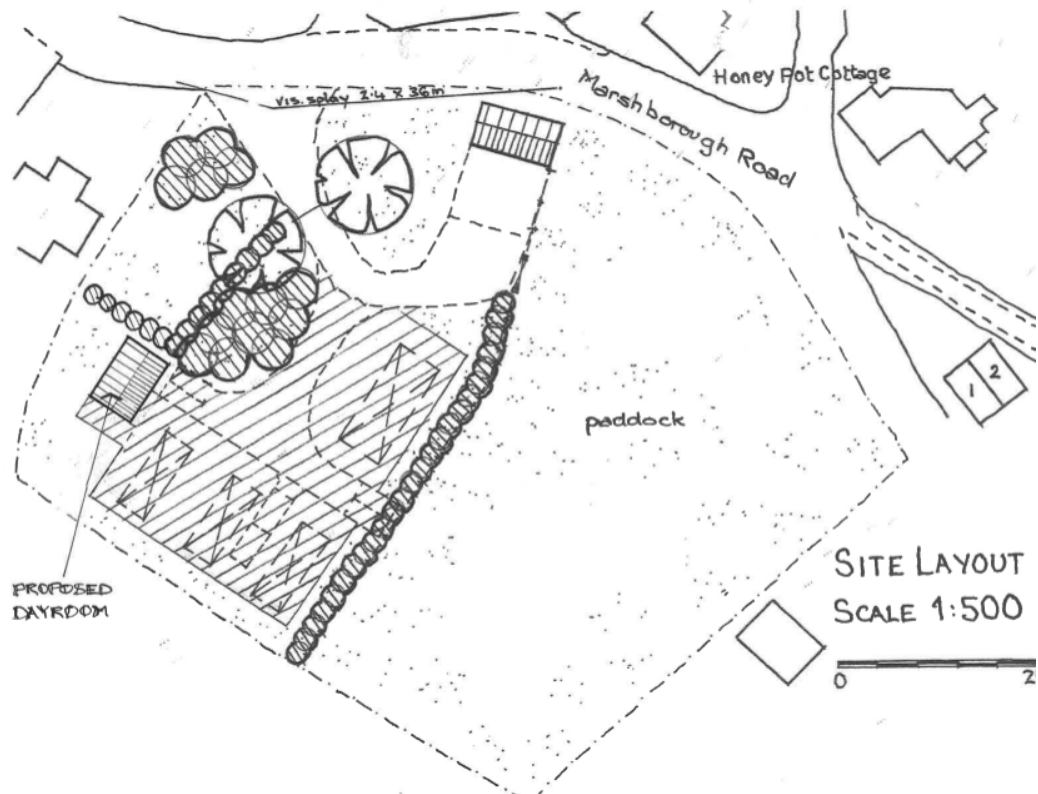


Figure 1: Block Plan

- 1.3 The siting of the static caravans will be on the western part of the site, behind and close to the access. These would be located in part on an extended hardstanding area, orientated north-south. Parking is shown to be provided on the hardstanding area, along with a space for a tourer caravan. A day room building is proposed on the western edge of this hardstanding area. This building has a rectangular form with a pitched roof. On the eastern edge of the hard surfaced area and in part along the western edge of the hard surfaced area, new hedgerow and tree planting is proposed. A paddock area will be retained on the eastern part of the site.



Figure 2: Plan and Elevation

1.4 At the time of writing this report, there are two static caravans on the site, but these are not in the location shown on the proposed Site Layout Plan. They are sited partly across the location of the eastern hedgerow, as shown on the layout plan, orientated east-west. It is assumed these two would be re-positioned should permission be granted.

2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development
- Impact on the character and appearance of the countryside
- Impact on residential amenity
- Impact on highway safety
- Impact on ecology/biodiversity
- Other matters

Assessment

Principle of Development

2.2 The Core Strategy policies DM1, DM7, DM11, DM15 and DM16 apply. Whilst Policies DM1 and DM11 are out of date/balance with the wording of the NPPF, they should still be considered relevant and carrying some weight in the outcome of the decision, as achieving a sustainable pattern and form of development is one of the central aims of the policies which, in substance, would meet the requirements set out in the NPPF. As such, significant weight but not full weight can be afforded to these. However, Policy DM7 does not require such accommodation to be provided within settlements.

- 2.3 Paragraph 105 of the NPPF identifies that different conditions can apply between rural and urban locations in how 'genuine choice' for travel should be measured. Policy DM11 and Paragraph 105 of the Framework require the active management of patterns of growth to ensure that new development (in this case housing) is well located to allow a genuine choice.
- 2.4 Policies DM15 and DM16, in substance, meet the policy requirements of the NPPF and are capable of being given full weight in the decision.
- 2.5 Paragraphs 14 and 25 of the PPTS implicitly accept that sites may be located in rural areas but that their scale should not dominate the nearest settled community and should avoid placing undue pressure on infrastructure. Development in open countryside away from existing settlements or outside areas allocated in the development plan should be very strictly limited. It is considered that the total number of pitches (4) would not amount to a scale of development that would dominate the nearest settled community of Marshborough, which is understood to contain around 35 residences, nor would it place undue pressure on the local infrastructure.
- 2.6 Having less weight in the consideration of this application are the policy provisions in the Submission Draft Local Plan. Proposed Policy H4 seeks to provide the LPA's policy provision in respect of applications for gypsy and traveller windfall sites, such as this. Amongst other matters, the Policy seeks to conserve and enhance landscape character and biodiversity.
- 2.7 The previous appeal decisions have allowed the principle of the site to accommodate one caravan for a gypsy family. The development on the site has been considered within reasonable proximity of Woodnesborough and Ash, forming part of Marshborough, and has not been considered to be isolated from a rural community.
- 2.8 In conclusion, whilst there is some conflict with DM1 and DM11 of the Core Strategy, the proposal is not in conflict, in principle, with DM7, the PPTS or Paragraph 105 of the NPPF and should be supported as being in a suitably sustainable location.

Impact on Character and Appearance of Countryside

- 2.9 The 2012 Appeal decision to allow the siting of a caravan on the site, with associated garden and domestic paraphernalia is a material planning consideration in the determination of the current application, which carries significant weight. The process of the recent 2021 appeals was lengthy and it has a degree of complication and detail. In essence, the S78 Planning Appeal was withdrawn for the following reasons:
 - The Council (LPA) accepted during the appeal process that there was a valid planning permission for the siting of one caravan on the land behind the hedgerow screen which runs along the northern boundary of the site.
 - The appellant/applicant acknowledged the LPA's position that he could site one caravan on the land in that location and withdrew his appeal because the siting of the caravan proposed in the Appeal (and application) was in the more 'open' part of the site visible from the highway - against which the LPA had raised objections.

- 2.10 In the 2012 Appeal decision, although the Inspector allowed the siting of one caravan on the land, he considered the proposed siting of the caravan, in the more 'open' part of the site visible from the highway, as being harmful to the rural character and appearance of the area. In his decision he imposed Condition 8 which required details of the location of the siting of the caravan to be subsequently submitted and approved by the LPA. These details were subsequently submitted and approved by the LPA. The proposed location being the area of the site just behind the hedgerow planting that runs along the northern boundary of the site.
- 2.11 The siting of the proposed caravans under this current application comprises caravans and domestic paraphernalia on the part of the site that has been previously considered unacceptable due to its visibility from public vantage points.
- 2.12 Both the previous Inspector and the LPA have considered the proposed location of the caravans to be unacceptable. They would appear conspicuous on the land and an alien form of development within the visual context of the site and the surrounding area. Their elevated position above the highway would exacerbate their prominence within the landscape and cause harm to the rural character and appearance of the street scene and the prevailing character and appearance of the area.
- 2.13 The change from one, more discreetly located and better related pitch to its immediate built and natural context, to four pitches with their incursion into the more exposed and visible part of the land would cause harm to the existing character and beauty of the countryside. The pitches would also be facilitated by extensive areas of hardsurfacing and a building which would exacerbate the alien visual impact of the proposal, along with residential activity and other domestic paraphernalia. The more discreetly located part of the site, the eastern part, is proposed for the keeping of horses. The keeping of horses was granted permission under the 2010 application, mentioned above.
- 2.14 Consideration is given to whether landscaping could provide an effective screen for the development. Firstly, through previous attempts at planting around the access and gates, following the 2012 decision, the laurel 'whips' that were planted did not take and failed to provide an effective screen/softening of the site's context. Secondly, the location of the caravans and the associated development are visible directly behind the open part of the site which comprises the access and the field gate. Landscaping could not be provided in front of the gate as it would hinder the use of the access. As such, the proposed development would retain its incongruous visibility from public vantage points.
- 2.15 Since the 2017 application and decision, the Council has adopted the Landscape Character Assessment in 2020 (LCA), which represents a new material consideration around the issue of landscape impact. The application site falls within the "Ash Settled Horticultural Belt" landscape character area, set out within the LCA. The document highlights the characteristics and sensitivities of the area and includes reference to the openness of the landscape and long views which are vulnerable to change, the need to improve boundary treatments with native hedgerow planting to help filter views and the need to maintain the identifies of the settlements and to avoid linear development consolidation/infilling along the connecting roads.

- 2.16 The prominence, extent and visual context of the proposed development would be harmful to the rural character and appearance of the area. The proposal would therefore be in conflict with Policies DM7, DM15 and DM16 of the Core Strategy, Paragraph 26 of the PPTS, Paragraphs 130 and 174 of the NPPF and Policy H4 of the Submission Draft Local Plan.

Impact on Residential Amenity

- 2.17 Under the 2017 planning application, the impact of one single caravan on the land, in the location behind the gated access (as shown currently as the location of the proposed 4 caravans) was considered to cause harm to residential amenity. It was initially considered that this impact would mostly be upon the nearest property to the west – Inglenook. However, during the appeal process, it became evident that an objection against the impact of the development on the living conditions of the occupiers of Inglenook could not be reasonably defended as there could be mitigation put in place. In any event, the current proposal seeks to plant a hedgerow along the western part of the proposed hardsurfacing area and in front of the proposed dayroom. This again would limit the degree of impact upon the living conditions of the occupiers of Inglenook. A condition could be imposed requiring enhanced landscaping along the western boundary of the site to safeguard against overlooking from the general garden/amenity area of the site towards the adjacent property – Inglenook.
- 2.18 The proposed use of land is for residential purposes only. In essence therefore, a residential use of land would be compatible with surrounding residential uses of land, despite there being a perceived difference in some of the representations submitted in how the land would be occupied. It is not considered that the proposed occupation of the land for residential purposes would cause harm to existing residential amenity. Furthermore, the increase in the intensity of the use of the land (from 1 to 4 caravans/families) is not considered to have an 'overwhelming' impact upon the existing settled community. Neither can it be reasonably demonstrated that the increased intensity of the use of the land would cause harm to the living conditions of occupiers of nearby properties.

Impact on Highway Safety

- 2.19 The use of the access to the site and the harm to highway safety was a matter raised in the 2012 Appeal and the 2021 Appeal. The 2012 Appeal Inspector did not consider there to be harm to highway safety. During the process of the 2021 Appeal, further survey evidence and work carried out on behalf of the LPA demonstrated that the use of the access would not be unsafe or prejudicial to the conditions of highway safety, even though at the time there was hearsay and local evidence from local residents of how dangerous the existing road conditions were.
- 2.20 Kent Highways do not raise objections. There are no technical objections or other evidence that has been submitted to demonstrate that the use of the access to the site would be prejudicial to highway safety.

Ecology/Biodiversity

Habitats Regulations (2017) Regulation 63: Appropriate Assessment

- 2.21 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.

- 2.22 Detailed surveys at Sandwich Bay and Pegwell Bay have been carried out. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within the district, when considered in-combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.23 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves. The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.24 Policy NE3 of the Submission Draft Local Plan requires that within 9km of the SPA, all new 'relevant' developments will be required to contribute towards mitigation. Whilst the policy is within an unadopted plan, the evidence base is up to date and must be taken into account. A financial contribution towards mitigating the impact of the proposed additional pitches would be required through a legal agreement to mitigate the harm to the SPA. In the absence of which, the proposal is in conflict with Policy NE3 of the Draft Local Plan.

Biodiversity Net Gain

- 2.25 The proposal does not seek to provide any ecological assessment of the site nor is there any assessment of impact upon the natural environment or biodiversity net gain. The site appears to be able to accommodate some landscaping along boundaries and on part of the site where the pitches are not proposed. As it stands, however, and in view of the loss of open land across the majority of the site, the proposal would be in conflict with Policy NE1 of the Draft Local Plan.

Other Matters

Personal Circumstances and Unmet Need

- 2.26 Little detail has been submitted with regard to the personal circumstances of the occupants of the site; health, education or other 'best interests of child'. As such, these are not given any specific weight in the assessment of the application.
- 2.27 The Council can currently identify a 5 year supply of gypsy pitches within the district and provision for meeting the identified need up to 2040 is set out in the Draft Local Plan.
- 2.28 Consideration is given to whether a temporary planning permission would be appropriate. The LPA does not have a deficit of gypsy pitches across the district and there have been no personal circumstances submitted that might be considered to justify a temporary planning permission being granted. In view of the degree of harm identified, a temporary planning permission would not be appropriate in this instance.

3. Conclusion

- 3.1 The proposal seeks to relocate an existing gypsy pitch and to provide three additional pitches on land mostly in the centre of the site. The location of the additional caravans and the dayroom in this location would result in an incongruous visual incursion into the open countryside that would cause harm to the character, beauty and appearance of the area. This has been a consideration consistent with the Appeal Inspector in 2012 and the more recent determination of the 2017 application and the recent appeal process. The applicant has known that the location of caravans in the more open part of the site has been and is considered unacceptable for the reasons stated. Mitigation in the form of landscaping could not address the degree of harm and unacceptable visual impact of the proposal.
- 3.2 The LPA can demonstrate a healthy supply of gypsy pitches to meet its currently recognised need. There are no overriding personal circumstances to outweigh the level of harm that has been identified.
- 3.3 Other elements of the scheme do not address the requirement to achieve biodiversity net gain and to mitigate the impact upon the conservation status and habitats of the Sandwich Special Protection Area.

4. Recommendation

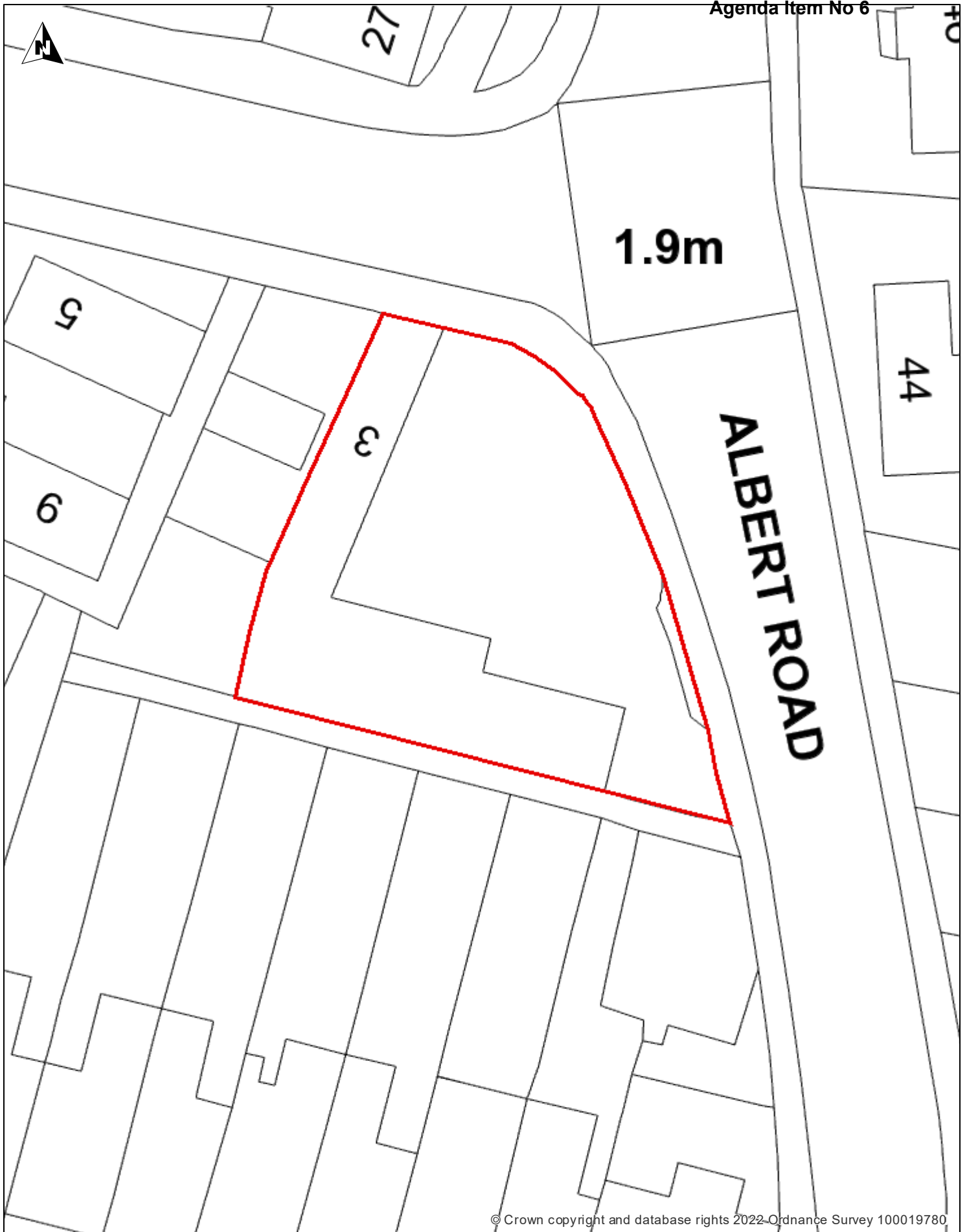
I PERMISSION BE REFUSED for the following reasons:

- 1) The proposed development would by reason of its location, scale of development and levels of associated activity result in an incongruous visual and conspicuous incursion into the countryside that would be poorly related to and fail to contribute to and enhance the natural and local environment, causing harm to the intrinsic character and beauty of the countryside is contrary to Policies DM7, DM15 and DM16 of the Core Strategy, Policy H4 of the Draft Local Plan, Paragraph 26 of the Planning Policy for Traveller Sites and Paragraphs 130 and 174 of the National Planning Policy Framework.
- 2) In the absence of information to suggest to the contrary, the application fails to demonstrate that the proposal would minimise the impact on and provide net gains for biodiversity and the natural environment, contrary to Policy NE1 of the Draft District Local Plan and Paragraph 174 of the National Planning Policy Framework.
- 3) In the absence of securing the necessary planning obligation in respect of the Thanet Coast and Sandwich Bay SPA Mitigation and Monitoring Strategy, the proposed development is unacceptable by virtue of failing to mitigate its impact. The proposal is therefore contrary to Policy NE3 of the Submission Draft Dover District Local Plan and Paragraphs 179-180 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

Vic Hester



© Crown copyright and database rights 2022-Ordnance Survey 100019780

22/00471
3 Middle Deal Road
Deal
CT14 9RF

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/22/00471 - Erection of 4 attached dwellings with undercroft parking and bin stores (existing buildings to be demolished) - 3 Middle Deal Road, Deal**

Reason for report – Number of contrary views (6)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy (2010): CP1, DM1

Draft Dover District Local Plan: 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, SP11, CC2, PM1, PM2, E2, TI13, NE3

National Planning Policy Framework (2021): Paragraphs 7, 8, 11, 60, 130.

National Design Guide & National Model Design Code (2021)

- d) **Relevant Planning History**

19/01339 - Erection of 4no. attached dwellings with undercroft parking and bin stores (existing buildings to be demolished). Refused and dismissed on appeal. In summary, the Appeal Inspector objected to the excessive scale of the building (3 storeys), the bulky roof, the uncharacteristic mansard roof design and the location of the development at the back edge of the footpath. With regard to the impact upon neighbouring buildings, the Appeal Inspector considered that the proposal would not harm the living conditions of No.5.

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

Current Submission

The application proposal has been amended following negotiations with the applicant to reduce the scale and massing of the development and a further round of public consultation has taken place. Against this second round of consultation, the following responses have been received:

Kent Highways: "...this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements..."

Third Party Representations:

Four Representations have been received. Two raise objections, one provides support and the other provides a neutral comment. The objections are summarised below:

- Out of keeping
- Overlooking
- Loss of light

The representation in support of the proposal welcomes the proposed design and positive impact the development would have on the area.

Original Submission

Under the original submission, the following representations were submitted:

Kent Highways: "...this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements..."

Southern Water: Requires an application for a formal connection to the sewer...

Third Party Representations: There were 9 responses in support of the proposal and 4 responses opposing the development.

Deal Town Council: Objected on the grounds of road safety, out of character, over development, lack of green space, height of building, overlooking and impact on infrastructure and flooding risk.

Environment Agency: The response will be reported verbally to the Planning Committee.

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

1.1 The application site relates to a yard and offices occupied by a paving/hard landscaping company situated at the junction of Middle Deal Road and Albert Road. It comprises an existing L-shaped single storey building, and an area of hardstanding used for the storage of vehicles and materials. The surrounding area is predominantly residential, consisting mostly of two-storey properties and characterised by simple terraced housing, with shallow front gardens and ground floor bay windows. There are some semi-detached properties directly to the east of the site featuring deeper front driveways and finished with brick or white render and a bungalow on Albert Road, in close proximity to the site.

1.2 The proposal has been amended from its original submission to take into account the comments of the Officers and their interpretation of the Appeal Inspector's concerns. In addition, the amended scheme introduces habitable accommodation on the ground floor of the properties, which means that the Flood Risk Assessment has also been amended and re-submitted.

1.3 The proposal seeks to erect a two-storey building with a pitched roof. It will be laid out to follow the highway boundary as it turns the corner of Middle Deal Road and Albert Road. The building will accommodate 4 houses, with an under-croft vehicular access at ground floor level - between the ground floor elevations with the upper floors of the building above it. Three of the houses will accommodate up to 2 bedrooms (the floor plans show one bedroom and a home study room per house) and the end house will accommodate 1 bedroom. The two-bedroom houses will have a short rear courtyard garden, with access to a parking space to the rear. All the properties will have cycle and refuge storage facilities.



2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development
- Impact on the character and appearance of the surrounding area
- Impact on residential amenity
- Impact on highway safety
- Impact on flooding
- Impact on ecology/habitats/biodiversity
- Sustainable design

Assessment

Principle of Development

- 2.2 The location of the application site falls within the urban area of Deal and on a previously developed site. As such, the principle of allowing residential development on the site is acceptable and in accordance with the development plan, policy SP4 of the emerging Local Plan. The loss of a broadly interpreted 'employment generating' use of the site would be in conflict with Policy DM2 of the Core Strategy, but this policy is considered to be out of date now and would carry little weight. Similarly, emerging Policy E2 seeks to protect existing sites that are used for employment purposes. Under the previous application the loss of the land as mainly a yard with ancillary offices for residential purposes was not a main issue to address and was considered acceptable in principle.

Impact on Character and Appearance of the Area

- 2.3 The scheme, as amended, has sought to respond to the Appeal Inspector's concerns and reasons for dismissing the previous scheme. The proposal reduces the scale to a two-storey development, with limited accommodation within the roof space, the roof form is a more traditional and less bulky mono-pitched roof (with rooflights in the front roof slope and dormer windows in the rear roof slope), and the building is set back from the back edge of the footpath and with a reduction in overall height.
- 2.4 The scheme is more in keeping with its visual context. The overall scale of the development has been reduced, the roof design is now characteristic of the roof forms and designs of surrounding buildings, and the changes to the scheme reduce the bulky appearance of the previous scheme. Whilst the building is proposed close to, but set back from the footpath, the reduction in height of the building and its less bulky roof form, enable the building to appear as a two-storey development, albeit slightly higher than the development adjacent and opposite, more in keeping with the prevailing visual quality of the street scene.
- 2.5 The proposed materials and architectural articulation would be sympathetic with other nearby buildings.
- 2.6 It is considered therefore that the proposal meets the requirements for high quality design aspired to in the NPPF and Development Plan policies, and it would be compatible with surrounding development and would preserve the visual quality of the street scene. The proposal would meet the requirements of paragraph 130 of the NPPF and policies PM2 and SP4 of the emerging Local Plan.

Impact on Residential Amenity

Existing Occupiers

- 2.7 The Appeal Inspector did not consider that the proposed development caused undue harm to the living conditions of the occupiers of No.5 Middle Deal Road, or occupiers of other nearby properties. Taking into consideration the Inspector's comments, and in view of the scheme's reduction in scale, the proposed scheme, as amended, is suitably separate from the nearest adjacent properties not to

have an overbearing or materially intrusive impact on the degree of light to or outlook from windows in these properties.

- 2.8 The proposed windows in the first-floor rear elevation and the dormer windows in the rear roof slope of the building provide the potential for the occupiers of the proposed dwellings to be able to see into the gardens and windows of nearby, adjacent properties. Whilst there are some windows that are obscure glazed, there are also some that serve bedrooms. The submitted drawings show that the back-to-back distance between these windows and the properties beyond the rear boundary exceed 21m. It also shows that there are angled distances to adjacent properties (including to those to the west), providing acute views from windows to adjacent properties of at least 20/21m. It is considered therefore that the proposal would not result in undue levels of overlooking and loss of privacy for those occupiers of adjacent properties.
- 2.9 The proposal would therefore safeguard the living conditions of the occupiers of adjacent properties, in accordance with paragraph 130 of the NPPF.

Future Occupiers

- 2.10 The future occupiers of these dwellings would benefit from clear glazed windows serving habitable rooms. These would be able to provide a degree of outlook, light and ventilation. The three larger dwellings, which have a bedroom and a home study room, would benefit from a short, private courtyard garden at ground level, with their own car parking space. The smallest property is a one-bedroom dwelling, without a private garden area. Cycle parking spaces are proposed for each dwelling. A separate bin storage area is also provided for the occupiers of the dwellings.
- 2.11 It is considered that in view of the location of the site and its accessibility to the town centre, the proposal is suitably sustainable and should enable the occupiers of the dwellings to have reasonable travel choices.
- 2.12 The proposal meets the technical standards for the size of dwellings and their layouts.
- 2.13 As such, it is considered that the proposed development would be able to provide reasonable living conditions for their future occupiers, in accordance with paragraph 130 of the NPPF and policy PM2 and SP4 of the emerging Local Plan.

Impact on Flooding

- 2.14 Part of the application site lies within the outline of the 0.5% (Flood Zone 3) chance of flooding from the sea in any given year, while the rest lies within the outline of the 0.1% (Flood Zone 2) chance of flooding from the sea in any given year. The application includes the submission of a Flood Risk Assessment. There have been exchanges of correspondence with the Environment Agency, officers and the applicant with regard to the risks and residue risks from flooding. It is now agreed between parties that the location of the site and the proposed development on it meet the requirements of the 'sequential test' for new development within an area at risk of flooding. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. In view of the location of the site in the central part of Deal and the visual benefit of redeveloping the site, the proposal helps achieve wider sustainability benefits.

- 2.15 If it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The aim of the exception test should be to demonstrate that the development would provide wider sustainability benefits that outweigh the flood risk, and the development will be safe for its lifetime taking account of the vulnerability of the occupiers of the development, without increasing flood risk elsewhere and, where possible, reducing flood risk overall. There has been a difference of opinion between the Environment Agency and the applicant over meeting the 'exception' test. Further comments from the Environment Agency are anticipated ahead of the Planning Committee meeting and Members will be updated with the detail and outcome of this response.

Impact on Highway Safety

- 2.16 Under the previous application, 19/01339 – highway safety was not raised as a reason for refusal. Neither did the Appeal Inspector identify it as a main issue to determine.
- 2.17 Under that previous scheme, 3 on-site parking spaces were proposed, with the same access location. Under the current application, 3 parking spaces on-site are also proposed, using the same access arrangements.
- 2.18 A vehicle tracking drawing has been submitted with this application, which demonstrates that the proposed 3 car parking spaces to be provided on the site could manoeuvre sufficiently so they could leave the site in a forward gear. This should reduce the overall impact of the scheme on highway safety. Within the town centre, 1 on-site parking space per 2-bedroom house and no parking spaces for a 1 bedroom house are considered to be adequate for this development as the site is in a sustainable location close to amenities and public transport.
- 2.19 Kent Highways do not consider that the proposal warrants their initial input/response.
- 2.20 On the basis that highway safety has not been previously raised as a main issue to determine and the current proposal does not deviate materially from the previous proposal, so as to raise any new highway issues, the proposal is considered to be able to provide a safe and suitable access in accordance with paragraph 110 of the NPPF.

Ecology/Habitats/Biodiversity

- 2.21 Under the previous application, ecology was not identified as a main issue by the Inspector. The existing site does not appear to provide any ecological benefits due to how the site is laid out and developed. As such, there would be no obvious loss in biodiversity, or existence of any protected species with the potential to be affected by the development, and as such the proposal would meet the requirements of paragraph 174 of the NPPF.
- 2.22 The impacts of the development have been considered and assessed. There is also a need to consider the likely significant effects on European Sites and the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.

- 2.23 Detailed surveys at Sandwich Bay and Pegwell Bay have been carried out. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within the district, when considered in-combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.24 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves. The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.25 Policy NE3 of the Submission Draft Local Plan requires that within 9km of the SPA, all new 'relevant' developments will be required to contribute towards mitigation. Whilst the policy is within an unadopted plan, the evidence base is up to date and must be taken into account. A financial contribution towards mitigating the impact of the proposed additional pitches would be required through a legal agreement to mitigate the harm to the SPA. The applicant has expressed willingness to complete a Unilateral Undertaking to provide a financial contribution.
- 2.26 The proposal does not seek to provide any biodiversity net gain on the site, as part of the proposal. However, and notwithstanding, the layout of the site offers the potential to provide soft landscaping which would provide an element of biodiversity net gain, or at least make the existing provision on the site no worse. As such, the proposal would meet the requirements of Paragraph 174 of the NPPF and Policy NE1 and NE3 of the emerging Local Plan.

Sustainable Design

- 2.27 The proposal includes the submission of an energy efficiency statement.
- 2.28 The statement describes how the proposed dwellings are designed to meet and exceed current building regulations energy efficiency targets and provide highly efficient low carbon dwellings. This is achieved by exceeding the required u-value targets and hence producing A rated dwellings under current SAP assessment regulations.
- 2.29 The materials chosen for the construction all meet or exceed the requirements of fabric standards within the SAP assessment as required by current building regulations.
- 2.30 The dwellings have been designed to allow sufficient natural daylighting, reducing the level of electric lighting required and without increasing glazing to the level where overheating could occur. All proposed lighting within the properties will be low energy lighting in accordance with current building regulations. No external lighting is proposed.

- 2.31 EV charging points are shown and will be installed to allow the use of electric vehicles by residents.
- 2.32 Heating is to be provided with the use of high efficiency gas boilers complying with current building regulations. There is an option to use air source heat pumps, which would meet the proposed changes to the building regulations due in 2025 which is to be fully investigated during detailed design stage.
- 2.33 Ventilation is to be natural ventilation, to meet current building regulations.
- 2.34 The submission demonstrates that the applicant has identified the need to incorporate sustainable design into the scheme. It is considered that the proposal meets the requirements of policy SP1 and CC2 of the emerging Local Plan.

3. Conclusion

- 3.1 The proposal seeks to address the concerns made by the Appeal Inspector. It is considered that the amended scheme addresses the previous concerns, it meets the requirements for making a more efficient use of urban land, and it achieves good place-making and design.
- 3.2 The proposal would safeguard the living conditions of the existing occupiers of adjacent properties and would provide a reasonable standard of accommodation for the future occupiers of the building.
- 3.3 Other elements of the scheme address the requirements for achieving biodiversity net gain, to mitigate the impact upon the conservation status and habitats of the Sandwich Special Protection Area and to meet the requirements for achieving sustainable design.
- 3.4 The location of the application site and the proposed development meet the sequential test for new development within the area at risk of flooding, and Members will be updated as to the final comments of the Environment Agency.

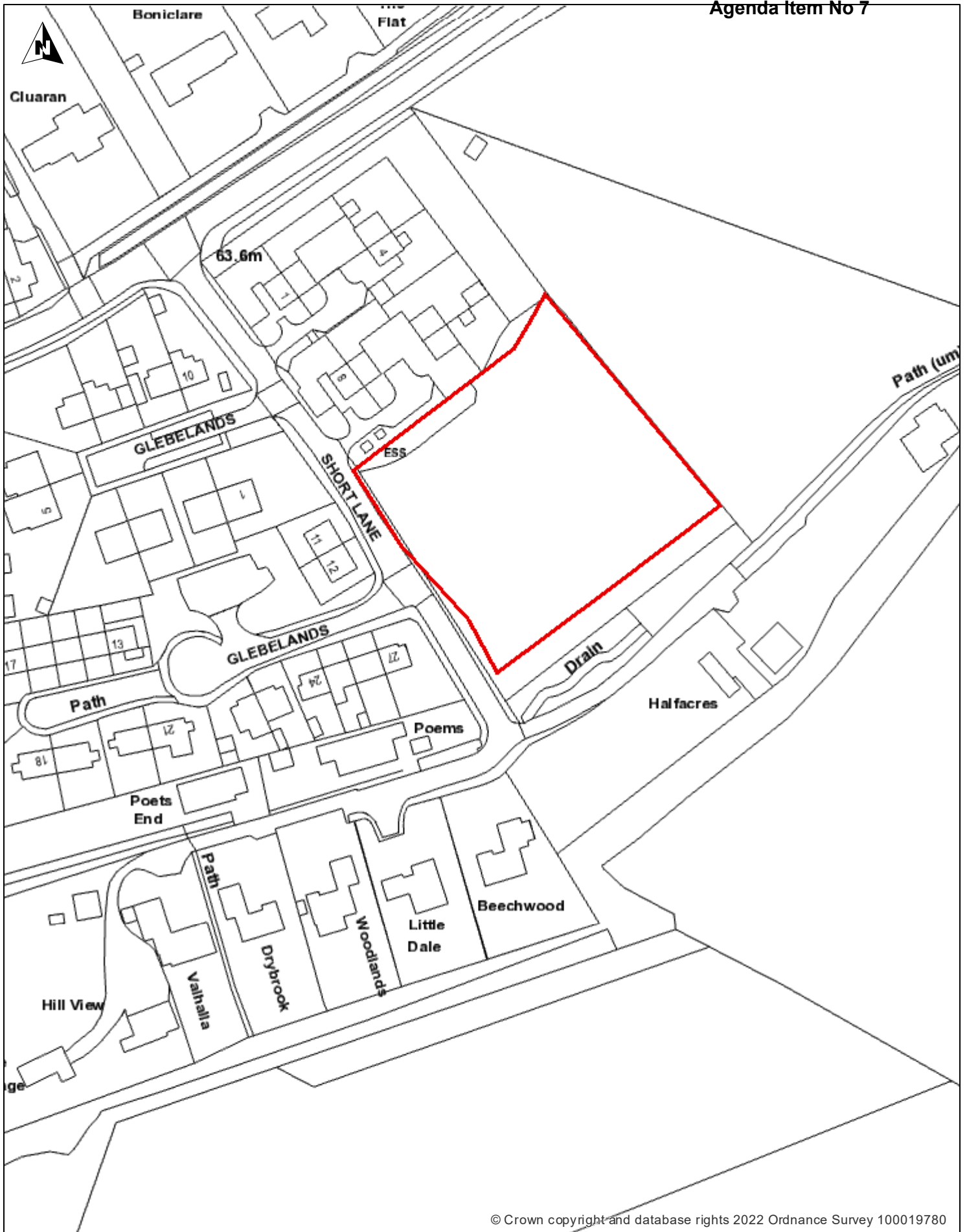
g) Recommendation

- I PERMISSION RESOLVED TO BE GRANTED subject to the completion of the Unilateral Undertaking and the imposition of the following conditions, provided in summary below:
 - i) Three year time period to implement planning permission
 - ii) Development to be carried out in accordance with the approved drawings
 - iii) Provision and approval of details to address Foul Drainage and Surface Water Run-off
 - iv) Provision and approval of materials for the external appearance of the building
 - v) Provision and retention of Car Parking spaces and Cycle Spaces on site
 - vi) Provision and retention of Refuse and Recycling Storage on site
 - vii) Submission and approval of a landscaping scheme and retention thereof.
 - viii) Provision of boundary treatments and retention thereof.
 - ix) Provision of flood resilience measures as identified in the FRA.
 - x) Removal of PD rights for extensions and roof alterations to the properties

- 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

Vic Hester



23/00546

Land East Side of Short Lane
Alkham
CT15 7BZ

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/23/00546 – Erection of 8 dwellings with associated access and landscaping – Land East Side of Short Lane, Alkham**

Reason for report – Number of contrary views (16)

b) **Summary of Recommendation**

Planning permission be granted.

c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM11, DM13, DM15, DM16, DM17

Land Allocations Local Plan (2015): DM27

Draft Dover District Local Plan to 2040

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process (Regulation 19) the policies of the draft can be afforded weight, but the level of weight depends on the nature of objections and consistency with the NPPF. Policies SP1, SP2, SP4, SAP43, CC2, CC5, CC6, CC8, PM1, PM2, PM3, PM4, TI1, TI3, NE1, NE2 are of relevance.

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 60, 79, 92, 98, 100, 104, 105, 110, 111, 112, 113, 119, 120, 124, 126, 130, 131, 132, 133, 134, 152, 154, 157, 174, 176, 177, 180, 183, 185

National Design Guide & National Model Design Code (2021)

d) **Relevant Planning History**

DOV/16/01216 - Outline application (all matters reserved) for the erection of six dwellings – Refused – Appeal Dismissed

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

Consultations and representations can be found in the online planning file, a summary is provided below:

AONB Unit – (Updated Comment in response to amended plans): The AONB Unit welcomes the clarification on the proposed materials and additional tree planting to the south which addresses the concerns raised in our previous response.

(Original Comment): We note that the site lies outside of the village confines, but immediately adjacent to it and that while it is a proposed allocation in the emerging Local Plan, this has yet to be tested at Examination. The principle of whether the site is acceptable for housing in advance of any allocation is for the Council to determine.

In terms of AONB impacts, we are aware of the previous refusal and dismissed appeal for residential development of the site. Nevertheless, the site would appear to be a natural and logical extension to the village and development here would be seen within the connect of the existing built form at Alkham. The site, in common with the rest of the village lies towards the bottom of the Alkham Valley, a dry valley that is wholly typical of the Kent Downs landscape and was one of the targets for its original designation as an AONB. The development would be visible from the public right of

way network that extends up either side of valleys sides. It is therefore imperative that any development is particularly sensitive to its location within a nationally protected landscape.

The proposed landscaping strategy appears appropriate although would potentially benefit from additional trees along the southern boundary to help filter views of the development from Public footpath ER165 and Restricted Byway ER177. The materials strategy will also be key, to ensure the built form appears recessive in views from the surrounding landscape; we would not wish to see pale colours such as white or cream render or weatherboarding and the proposed materials schedule comprising multi red brick, plain clay tiles and black weatherboarding is considered appropriate to the sites context.

DDC Planning Policy – Open space to meet the needs of the development should be provided on-site as per the quantum set out in PM3 of the Reg 19 Local Plan:

Where the thresholds in PM3(b) are not met or it is agreed that Open Space cannot be provided on site, PM3(d) seeks a financial contribution towards funding quantitative of qualitative improvements to existing, or the provision of new, public open space. If PM3(d) is engaged, suggested contributions sought are provided below:

Childrens equipped Play Space - £3,411.70

The Infrastructure Delivery Schedule identifies a project at Alkham Recreation ground where quality should be enhanced where possible, for example by improving the range/quality of play equipment. The contribution towards Childrens Equipped Play Space is therefore sought in this instance. There are no projects identified for allotments/community gardens or accessible greenspace in the area so those contributions are not sought in this instance.

DDC Natural Environment Officer - A suite of biodiversity enhancement measures is recommended in the PEA and some of these are presented in the submitted Landscape Strategy and Biodiversity Enhancement Plan. The measures in principle are acceptable, though some of the details require refinement: the hedgehog gaps proposed along the bases of close-board fencing need to be 13cm x 13cm, and the locations of the proposed bat and bird boxes, which need to be integrated features, need to be demonstrably in accordance with their installation guidance and optimally positioned (e.g. positioning an owl box on a tree that has not yet been planted is inappropriate, bird and bat boxes should be on the optimal elevations of buildings, above the minimum recommended height, and without features that would impede access or use.).

The inclusion of the area of land to the south of the built development area provides additional opportunities to enhance the biodiversity of the site. The detailed landscape and biodiversity enhancement strategy, incorporating planting specifications and the delivery of biodiversity net gains can be secured by condition, if planning permission is granted.

I advise that there will also be a need to secure the long-term management of the landscape buffer and the land to the south of the developed area which is now to be within the red-line boundary.

Recommend necessary safeguarding conditions are secured including: biodiversity method statement, badger survey, bat sensitive lighting, landscaping and ecological design, habitat management and monitoring plan

DDC Tree Officer – Raise no objections to the proposal, however would like to know how the trees/hedging on the northern boundary of the proposed development will be protected.

KCC Highways – The applicant has demonstrated that the new access can be created with sufficient visibility. It has also been made clear by the applicant that there is to be no footway at the front of the site, and instead the access will have grass verge on either side. Although this will remove the possibility for an uncontrolled crossing to link the site with the wider network it is also appreciated that such a crossing would require parking restrictions opposite. This displacement of cars would in turn cause increase demand for parking on Glebelands and as such the access as drawn is acceptable.

Provided applicable requirements are secured by condition (as recommended), no objection is raised by the local highway authority.

KCC PROW – No comment.

KCC Minerals and Waste – We have no land won minerals or waste management capacity safeguarding objections or comments on this case.

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

Alkham Parish Council – The amended application has not assuaged our concerns. Alkham Parish Council does not consider this a suitable site for a housing development. We wish to see the application refused. The planning history for this site is clear and must be a compelling reason for refusal. It was held at appeal that the harm to the character and appearance of the AONB would outweigh the developments social and economic benefits. The appeal set out that whilst the site possessed limited landscape quality, it forms an intrinsic part of the open fieldscape which characterises the AONB's wider landscape at this point.

A separate appeal decision relating to the creation of an area of hardstanding to store animal feed was refused and dismissed due to its urbanising impact. It stands to reason that 8 dwellings would have a materially more significant harmful urbanising impact. This history for refusal and appeal dismissal demonstrates that the proposal would not be acceptable.

DDC has identified the site as liable to flooding and requires a flood risk assessment. The constraints of the existing infrastructure about sewage and flooding are insufficient for a development of this site.

The Parish Council does not wish to see development outside the village envelope in the AONB.

Third party Representations: 16 letters of objections and 11 letters of support have been received.

The letters of objection are summarised below:

- The application site is within the AONB and the proposal will be detrimental to the visual amenity and landscape qualities of the AONB.
- The proposal would compromise the valley views in the AONB.
- No landscape visual impact assessment has been submitted.

- The design of the dwellings are not in keeping with the character and appearance of the area.
- The layout of the development is urbanising at this transitional site, where the land falls immediately into open countryside with little built form.
- The proposed houses are suburban in their form and appearance which is inappropriate for the sites sensitive location.
- The proposal will result in additional traffic and parking pressure in the locality.
- The Short Lane access onto Alkham Valley Road is dangerous and has been the location of numerous car accidents. Additional traffic associated with the proposal is likely to worsen this, resulting in increased highway safety concerns.
- The application site is on a flood plain which regularly floods during periods of heavy rain.
- The proposal will result in additional surface water run off which would exacerbate the current flooding issues at the bottom of Short Lane.
- The existing sewage system is not fit for purpose and cannot take the current housing. The proposal will put additional pressure on this system.
- The winter months the rising ground water table can result in issues with the existing foul waste backing up.
- Polluted surface water endangers the aquifer and local residents and needs to be addressed prior to any further development.
- The village is not a sustainable location for development. There is a limited bus service. There are limited amenities, with no schools, doctors or shops, with all requiring a 10-15 minute drive.
- The development would result in the loss of the undeveloped land and hedgerow which would be detrimental to the local wildlife.
- The proposal would overlook adjacent properties.
- The proposal will result in the loss of views from dwellings opposite.
- The current Local Plan does not allocated this site and the Council can currently demonstrate a 5 year housing land supply. There are no material considerations which indicate the proposal is required.
- Whilst there is a need for housing generally, the applicant has not adequately demonstrated that these homes should be located within this rural village location.
- The application has been submitted prematurely prior to the Draft Local Plan being adopted. The allocation of the site therefore remains as draft as has not yet been tested at examination.
- Unclear how the application for 8 dwellings can be made suitable given the extensive history of refusal and appeal dismissal, as there does not appear to be any material change in circumstance.
- Nothing has changed since the previous appeal decision 6 years ago. The development should be refused as it was previously.

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

- The proposal would provide much needed housing in the village.
- Alkham needs to grow to keep its bus service and public house.
- This is a suitable site to build houses in the village.
- Very much in favour of these smaller developments, which are well designed to fit in with the local surroundings than large developments.
- The design takes into consideration its natural surroundings by using compatible materials.

- A development of this size will have minimal impact on traffic levels passing through the village.

f) 1. The Site and Proposal

- 1.1 The application site comprises the majority of a field to the southeast of 1-8 Short Lane, Alkham and is located immediately adjacent to, but outside the defined settlement confines of Alkham. The site falls within the Kent Downs AONB which washes over Alkham and includes the surrounding landscape. The site is located towards the bottom of a valley, with the land level falling from the north west to the south east along Short Lane and has a high degree of intervisibility with the surrounding landscape. Part of the application site to the southeast, the remainder of the field and an area to the south east comprises a surface water flood risk area. The site is also located within Groundwater Protection Area 2.
- 1.2 The site is an open grazed field with limited features, with open countryside located beyond the site to the east. There is an established hedgerow to its western boundary adjacent to Short Lane. The remainder of the field outside the sites boundaries contains an agricultural access and a cluster of small trees. Beyond the field to the south east is a modest access road serving 2no. dwellings and their associated land. Beyond these buildings there is open countryside to the south east. Opposite the application site to west is single and two storey residential development of a suburban character and layout, which fall within the settlement confines of Alkham.
- 1.3 The site is allocated in the Regulation 19 Draft Local Plan under Policy SAP43 for 10 dwellings, subject to specific criteria. Previously, the site was subject to planning application reference DOV/16/01216 which sought outline consent for the erection of 6 dwellings which was refused and dismissed at appeal on the basis of the adverse impact caused to the character and appearance of the AONB, which was judged to outweigh the social and economic benefits of the development. The outcome of this decision and appeal is material for the consideration of this application.
- 1.4 This application is a full application for the erection of 8 two storey detached and semi-detached dwellings with associated access and landscaping. The proposal has been amended through the course of the application to address concerns relating to its impact upon the character and appearance of the area, the landscape of the AONB and in relation to parking provision. In response to this, the application site has been enlarged to include a greater portion of the field to the southeast of the development to provide a further landscape buffer to the south. This field/landscaped buffer to the south partially falls within the surface water flood risk area, however no built form is proposed within the flood risk area, and only a modest portion of the flood risk area to the corner of the garden of Unit 7 to the southeast falls within the curtilage of the dwellings proposed.
- 1.5 The proposal comprises a cul-de-sac residential development with a central access to Short Lane. The development includes 2no. detached and 6no. semi-detached two storey dwellings set within regular plots, with moderate rear gardens and 2no. allocated parking spaces per dwelling, together with 4no. visitor parking spaces. The proposal will incorporate an open landscaped amenity area and buffer to the south adjacent to the remainder of the field and adjacent access, and a denser landscape buffer to the east of the development, both of which will fall outside of the curtilage of the proposed dwellings. The proposal will involve the removal of the majority of the existing hedgerow to the north of the western side boundary, to

be replaced by soft landscaping and hedgerow/tree planting, set further back from the boundary to accommodate suitable visibility splays to the access. Landscaping and tree planting is proposed to be dispersed through the development. The dwellings are proposed to comprise a traditional form and design, which reflects the adjacent residential development to the north, set under gabled pitched roofs and finished in brick, black timber boarding to the first floor, and plain clay roof tiles. The layout of the scheme and surrounding site context is included at Figure 1 below.



Figure 1: Proposed Site Layout and Surrounding Context.

1.6 The application is supported by a landscape strategy, preliminary ecological appraisal, flood risk assessment, design and access and planning statement and minerals resource assessment, in addition to the standard required plans and information.

2. **Main Issues**

2.1 The main issues for consideration are:

- Principle of the development
- Impact on the character and appearance and landscape of the AONB
- Impact on residential amenity
- Impact on highways
- Impact on ecology/biodiversity

Assessment

Principle of Development

2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should

be taken in accordance with the policies in the plan unless material considerations indicate otherwise.

Core Strategy

- 2.3 The site is located outside the existing settlement boundary of Alkham and is considered to be within the countryside for the purposes of the policies within the Core Strategy. In such a location Core Strategy Policy DM1 (Settlement Boundaries) restricts development other than in specific and limited circumstances (justified by other development plan policies) or it functionally requires such a location. As the proposed development does not fall within any of these exceptions, it is contrary to Policy DM1.
- 2.4 Policy DM1 is considered to be partially consistent with the aims of the Framework (including prioritising previously developed land, avoiding the loss of BMV agricultural land, making better use of under-utilised land and buildings, and recognising the intrinsic character and beauty of the countryside), it is also identified that Policy DM1 is a product of the level of housing growth of the Core Strategy and is more restrictive than the NPPF which seeks to significantly boost the supply of homes.
- 2.5 The Core Strategy policies and the settlement confines referred to within those policies were devised with the purpose of delivering at least 505 dwellings per annum. In accordance with the Government's standard method for calculating local housing need, the Council must now deliver at least 611 dwellings per annum. Consequently, as a matter of judgement, the evidence base underlying Policy DM1 is considered out-of-date. As such, Policy DM1 should carry less than full weight.
- 2.6 Policy DM11 (Location of Development and Managing Travel Demand) seeks to restrict travel generating development to existing urban areas and rural settlement confines unless otherwise justified by development plan policies. In this regard the proposed development, being outside the settlement boundary, is also considered to conflict with Policy DM11.
- 2.7 The aim of Policy DM11 to manage patterns of development to prioritise more sustainable modes of transport broadly reflects the aims of the NPPF. However, the blanket restriction within Policy DM11 against development outside of the settlement confines is again significantly more restrictive than the NPPF which instead seeks to actively manage patterns of growth to support sustainable modes of transport (considering the location of development on its specific merits). Therefore, Policy DM11 in the context of the proposed development should be afforded less than full weight.
- 2.8 Policy DM15 seeks to resist the loss of countryside, which is more stringent than the NPPF, and development that would adversely affect the character or appearance of the countryside, which is broadly consistent with the NPPF. The first strand of this policy (resisting the loss of countryside) is another example of the blanket restriction against development outside of the confines; however, the second strand is more consistent with the NPPF, albeit the NPPF refers to character and beauty rather than the more generic character and appearance. Whilst not considered to be out of date, Policy DM15 is considered to carry reduced weight.

- 2.9 Given the importance of Policy DM1, the relationship between Policy DM1 and DM15, and the tension between Policy DM11 and the Framework, it is considered that the 'basket of policies' in the Core Strategy which are most important for determining applications are out-of-date and should be given less than full weight.

Titled Balance

- 2.10 Notwithstanding the primacy of the development plan, Framework paragraph 11(d) states that where the policies which are most important for determining the application are out of date permission should be granted unless (i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (known as the 'tilted balance') or (ii) specific policies in the Framework indicate that development should be restricted.
- 2.11 The titled balance would therefore be engaged on the basis that the most important policies for the assessment of this application are out of date. It must be noted, however, that the titled balance is not engaged by reason of the councils housing land supply or housing delivery positions. The council is able to demonstrate a housing land supply of 5.38 years and the council's Housing Delivery Test measurement is currently 88% and forecast to increase to 102% for the period 2019/20 – 2021/22.
- 2.12 Notwithstanding the above, footnote 7 of paragraph 11 states that if the policies of the framework that protect areas or assets of particular importance (such as AONB's) provide clear reasoning to refuse permission, the tilted balance should not be engaged. Paragraphs 174 and 176 of the NPPF are particularly relevant in determining whether or not the tilted balance applies.
- 2.13 The impact of the development upon the AONB will be assessed in the following sections and a judgement made as to whether the impact is considered to be acceptable, and the titled balance engaged. How this effects the recommendation of the proposal shall be considered further in the overall planning balance at the end of this report.

Draft Local Plan

- 2.14 Regard is had to the Draft Local Plan, which sets out the Council's vision, strategic objectives and development strategy for the growth of the district over the period until 2040. This includes planning for housing development based on a local housing need figure of 611 dwellings per annum (using the Government's standard method).
- 2.15 The Draft Local Plan under Policy SAP43 – Land at Short Lane, Alkham (ALK003) seeks to allocate the site for residential development. The policy advises that the site has an indicative capacity of 10 dwellings and that development proposals will need to meet particular criteria which includes site specific issues and requirements as follows:
- Existing trees and hedgerows should be retained and enhanced.
 - Designed to be appropriate to the sites sensitive location within the AONB in respect of scale, form, materials and colour palette.

- An appropriate tree buffer, comprising structural tree planting should be provided along the southern and eastern boundaries to mitigate the impact of the development on the AONB.
- The site is within Groundwater Source Protection Zone 2.
- Flood Risk Assessment is required as the site is shown to be at risk of flooding from surface water. As part of this the sequential approach should be applied to the layout of the site. SUDs should be provided.

This policy is considered to be in accordance with the sustainable development objectives of the NPPF. The draft policy is subject to outstanding objections from third parties, relating to highway, infrastructure, character and appearance and other matters, and so, despite the advanced stage of the draft Local Plan, Members should note that the weight that can be afforded to this policy is limited. The applicable criteria will be assessed later in this report, under the relevant headings as appropriate.

- 2.16 The Draft Local Plan overall currently carries moderate weight in decision making. However, in accordance with Framework paragraph 48, given there are objections to relevant spatial and housing allocation policies of the Draft Local Plan that are unresolved ahead of examination, full weight cannot yet be afforded to its overall strategy of meeting the district's housing needs. However, it is concluded that overall the Draft Policies carry moderate weight at this stage and the site specific policy can be afforded limited weight as explained above.
- 2.17 Weight is afforded to the emerging Local Plan policies as outlined above, which supports housing development in this location. Notwithstanding this position, this report will demonstrate below that the scheme is considered acceptable even when simply considering the proposal against the current policy context; applying the tilted balance.

Landscape, Character and Appearance

- 2.18 The application site is located within a sensitive location, forming part of the Kent Downs AONB. Paragraph 176 of the NPPF seeks to conserve and enhance landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues. Paragraph 174 of the NPPF seeks for development to contribute to and enhance the intrinsic character and beauty of the countryside. Section 85 of the Countryside and Rights of Way Act requires that in exercising or performing any functions in relation to, or so as to affect, land in an areas of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving or enhancing the natural beauty of the area of outstanding natural beauty.
- 2.19 Policy DM15 directs that development that adversely affects the character or appearance of the countryside should be refused, unless one of four criteria is met and the development does not result in the loss of ecological habitats. Regard must also be had for whether the development would harm the landscape character of the area, in accordance with Policy DM16. Similarly, Draft Policy NE2 sets out that proposals should have regard to their landscape character area. Draft Policy PM1 sets out that development must achieve a high quality of design, that respects and enhances character and incorporates understanding of the context of the area.

- 2.20 The application site lies within the Alkham Local Character Area of the AONB as identified in the Landscape Assessment of the Kent Downs AONB which comprises an undulating, largely open agricultural landscape interspersed with established woodlands. The application site consists of a field on the outskirts of the village of Alkham at the edge of open countryside to the east and is located towards the bottom of the valley. Open countryside and landscape rise above the site on both sides of the valley. There is an access road and limited built development immediately to the south of the site, and the west and north of the site comprises established residential development of a suburban character to the edge of the village.
- 2.21 The former 2016 appeal decision set out that the application site itself possessed limited landscape quality, but formed part of the open fieldscape which characterised the AONB's wider landscape at this point. The proposed development of this site was judged to be out of keeping with the essentially underdeveloped character and appearance of the countryside to the east of Short Lane. Accordingly, it was concluded that the proposal would neither conserve nor enhance the AONB's natural beauty and would be harmful to the character and appearance of the AONB.
- 2.22 There have been material changes in circumstance since the 2016 appeal decision, through updates to planning policy and particularly through the draft allocation of the application site through Draft Policy SAP43.
- 2.23 The Kent Downs AONB Unit have raised no objections to the draft allocation of the application site for housing and have set out in their comment to the allocation that the site is relatively well contained within the wider landscape and would relate well to the existing settlement. The proposed requirements of the draft policy to help manage the impact upon the AONB are supported by the AONB Unit. The consultation response from the AONB Unit reinforces this view and sets out that the site would appear as a natural and logical extension to the village, located towards the bottom of the valley which is consistent and typical of the Kent Downs Landscape. However, further landscape screening was requested to the southern boundary, and clarification of materials to ensure that the development is appropriate for its sensitive location within a nationally protected landscape.
- 2.24 The amended scheme incorporates additional landscaping through the enlargement of the site area to include a greater proportion of the field to the south, to provide a further landscaped buffer. This includes the provision of tree and shrub planting increasing in density towards the eastern boundary of the site. Robust tree and shrub planting of a greater density is also proposed to the eastern boundary, adjacent to the open countryside and landscape. These landscape buffer areas are located outside of the curtilage of the proposed dwellings and are detailed in the amended landscape strategy. The provision, size, location and planting proposed within these areas is considered to provide sufficient landscaping screening and buffer to mitigate the impact of the development on the adjacent open landscape to the east and the right of way and access to the south. This shall soften and reduce the prominence of the built development and aid its assimilation with its surrounding environment, thereby preventing undue harm to local and wider views from the surrounding landscape. The AONB Unit has confirmed that the revised landscape buffers would be acceptable for this purpose and have addressed their concern in this regard. The proposed landscape strategy is included at Figure 2 below.



Figure 2: Proposed Landscape Strategy

2.25 The proposed dwellings would be of comparable and proportionate scale, height and form to the adjacent development 1-8 Short Lane to the north. The development would reflect and relate well to this adjacent development, comprising a cul-de-sac layout which is characteristic of the immediate built environment. The development would largely follow the building line of the two rows of dwellings adjacent and continue the location of the rear boundaries of the dwellings, and location of the adjacent landscape buffer zone. The density of the development would be reflective of this adjacent development and the pattern of development opposite to the west. The proposal would form a comfortable continuation of the street scene to 1-8 Short Lane, with the built form stepping down in line with the falling ground level north to south, as demonstrated by the proposed street elevations. The proposed street scene to Short Lane is included in Figure 3 below.



Figure 3: Proposed Street Scene to Short Lane

2.26 The proposal is therefore considered to be compatible with its immediate residential environment and would be seen within the context of the adjacent development. Through this, the scheme is considered to form a comfortable extension to the village which respects the applicable parameters including the

existing pattern of development, landscape buffer and presence of the adjacent access road and built development to the south, and would not form an incursion into the open countryside to the east.

2.27 The dwellings are comprised of a traditional design, of a rural approach and materiality, which would be reflective of the design of the adjacent development to the north, whilst providing a level of individuality and cohesion of design to the development. Unit 1 will front and address Short Lane to the west, and Unit 8 will be provided with sufficient detailing and fenestration to provide a suitably active elevation in this important street frontage position. The dwellings will be finished in multi red brickwork to the ground floor, black timber cladding/clay tile hanging, or a combination of the two, to the first floor and set under a clay tiled roof. These materials are considered to be compatible with the surrounding built environment and would be appropriate for its rural position. The dark colour palette of the materials shall not be unduly prominent within the surrounding protected landscape, and the AONB Unit have confirmed that they are content with the proposed material finish. The front elevations of Units 1-2 and Unit 3-4 (which comprises the same design as Units 5-6) are included in Figures 4 and 5 for reference of the proposed design and materiality below.



Figure 4: Front Elevation of Units 1-2



Figure 5: Front Elevation of Units 3-4

2.28 The development will be meaningfully set back from Short Lane, forward of the adjacent building line to the development to the north, but reflective of the building line to the dwellings opposite on Short Lane to the west. The proposal would involve the removal and replacement the of a portion of the existing

hedgerow to the front of the proposed dwellings, with the hedgerow partially retained to north of the eastern boundary and adjacent to the landscaped buffer to the south, in order to provide sufficient visibility for the proposed access. The loss of this portion of hedgerow, which is requested to be retained through Policy SAP43, is regrettable, however this feature is proposed to be replaced by partial mixed native hedgerows to each side of the access, trees, lawn and mixed shrubs and bulbs and is required to facilitate the access. The replacement landscaping is considered to provide a sufficient and appropriate soft landscaped boundary which will relate well to the surrounding environment. The loss of the portion of the hedgerow is therefore not considered to be unacceptable within this context.

- 2.29 Landscaping will be dispersed throughout the communal areas within the site. The dwellings are provided with lawn and shrubs immediately to their frontage, together with tree and hedge planting, such as adjacent to the visitor parking spaces. This internal landscaping provision is considered to be appropriate and shall further soften the development within this sensitive landscape. The Tree Officer has raised no objections to the proposal but queried how the trees/hedges to the northern boundary will be protected. The proposed development is considered to be provided with sufficient separation to the vegetation and trees to the northern boundary of the site, and a condition will be included to require details of protection measures to these existing trees and landscaping during construction to be provided and approved.
- 2.30 There will be an alternative material finish to the access road, parking spaces and pathways which will break up the appearance of the hard surfacing. A range of boundary treatments are proposed. The western boundary to units 1 and 8 which address Short Lane is set in line with the western elevation of these dwellings in order to facilitate the meaningful and appropriate landscaped set back from Short Lane and will comprise a 1.8m high knapped flint and brick wall. This will provide an appropriate and quality boundary treatment to this prominent boundary. The remainder of the boundary treatments to the rear/side gardens of units shall comprise 1.5m high post and rail fencing with stock wire. The southern boundary of the developed area adjacent to the landscape buffer to the south will be bounded by a 1.2m high hit hurdle fencing and the boundaries of the landscape buffer to the east will be bounded by 1.5m post and stock wire fencing. These boundary treatments are considered to be appropriate for their rural location and position adjacent to landscaped areas. Overall, the proposed hard and soft landscaping and boundary treatments are considered to be respectful and compatible with the sensitive location of the site and shall provide a sufficient balance between hard and soft landscaping provision.
- 2.31 Overall, the proposal is considered to comprise a good quality development which is compatible with its surrounding built environment. The development would be contained and seen in the context of the adjacent development to the bottom of the valley and would not form an incursion into open and undeveloped landscape, such as to the east. Accordingly, the proposal is considered to form a comfortable and modest extension to the village of Alkham which is respectful of the built and landscaped parameters in the locality and would not constitute major development within the AONB.
- 2.32 The proposal will incorporate suitable landscape buffers to soften and mitigate impacts of the development on the landscape. Sufficient soft landscaping shall be interspersed throughout the development, together with the provision of

appropriate material finishes which will minimise the prominence of the development within the surrounding landscape. Through this, whilst the proposal would involve the development of existing countryside in a protected landscape which would result in associated visual impact, the proposal is not considered to unduly compromise or harm the special visual amenities and landscape qualities of the AONB, which is reflected by the fact the AONB Unit has not objected to the application. Accordingly, the proposal is considered to protect the character and appearance of the area, the AONB and landscape, in accordance with the applicable current and draft policies and the NPPF, including the applicable criteria within the draft allocation policy, Policy SAP43. As such, the proposal would be subject to the titled balance as described in the preceding 'principle' section which shall be considered further in the balance and conclusion sections of the report.

Residential Amenity

- 2.33 Section (f) of Paragraph 130 of the NPPF requires development to provide a high standard of amenity for existing and future users. The proposed dwellings are a moderate scale and will be positioned and provided with sufficient separation distance to adjacent neighbouring properties to prevent adverse impacts to the residential amenities of neighbouring properties deriving from their built form.
- 2.34 In terms of overlooking, the dwellings will be primarily served by front and rear facing windows serving primary habitable rooms. The location of the proposed dwellings and the position of their windows relative to the surrounding adjacent dwellings and their private amenity space is not considered to result in harmful overlooking to adjacent neighbours. Unit 3 is located closest to an adjacent neighbours rear garden. This unit contains a first floor side window serving the landing which will be obscure glazed (which will be secured by condition), which will prevent harmful overlooking.
- 2.35 Each dwelling will be provided with a comfortable internal layout which exceeds the applicable Nationally Described Space Standards and all habitable rooms are provided with sufficient light, outlook and ventilation. The dwellings will be provided with moderate private rear/side gardens which will provide sufficient amenity space and accommodate refuse storage areas and cycle storage sheds which will provide suitable and discreetly located refuse and cycle storage.
- 2.36 The proposed development is therefore considered to result in an acceptable standard of residential amenity for adjacent neighbours and the future occupants of the proposed development, in accordance with Draft Policy PM2 of the Draft Local Plan and paragraph 130 of the NPPF.

Highways

- 2.37 Draft Policy TI1 seeks to secure sustainable transport and maximise sustainable transport modes. Policy DM13 relates to parking provision and sets out that provision for residential development should be informed by the applicable guidance within the table of residential parking. Draft Policy TI3 requires proposals to meet the requirements of Kent Design Guide Review: Interim Guidance Note 3.
- 2.38 The proposed development would involve the creation of a vehicular access from Short Lane to the centre of the developed area which will serve the proposed dwellings. This vehicular access is provided with sufficient visibility splays of

2.4m x 43m which KCC Highways have confirmed is satisfactory. The front of the site will comprise a grass verge and will not contain a pedestrian footpath. This arrangement is considered to be acceptable given the number of units served and the characteristics of the surrounding area, including that the provision of an uncontrolled crossing would result in parking restrictions opposite involving the displacement of parking. The proposed development, given the modest number of dwellings proposed, is not considered likely to generate significant additional vehicular movements, and would therefore not result in a detrimental impact upon the local highway network.

2.39 Tracking plans for a large refuse vehicle have been provided which demonstrate that sufficient turning space is provided to the access and internally within the cul-de-sac to allow the refuse vehicle to access and egress the development in a forward gear. No objections have been raised to this tracking by KCC Highways. The refuse plan demonstrates that bins can be independently transported to the highway for collection for each dwelling via their side accesses.

2.40 Each dwelling is provided with 2no. off street parking spaces, with 6 dwellings served by a tandem arrangement. In response to KCC Highways comments regarding the tandem parking, further visitor parking has been provided, and the scheme now incorporates 4no. independently accessible visitor parking spaces. The parking spaces proposed meet the applicable size standards. Given the provision of increased visitor parking spaces, the proposed parking provision is considered to be acceptable and no objections are raised in this regard by KCC Highways. In terms of cycle parking, each dwelling is provided with suitable secure and covered cycle storage within their rear garden which provides sufficient cycle storage to serve each dwelling. The proposed parking layout is included in Figure 6 below.

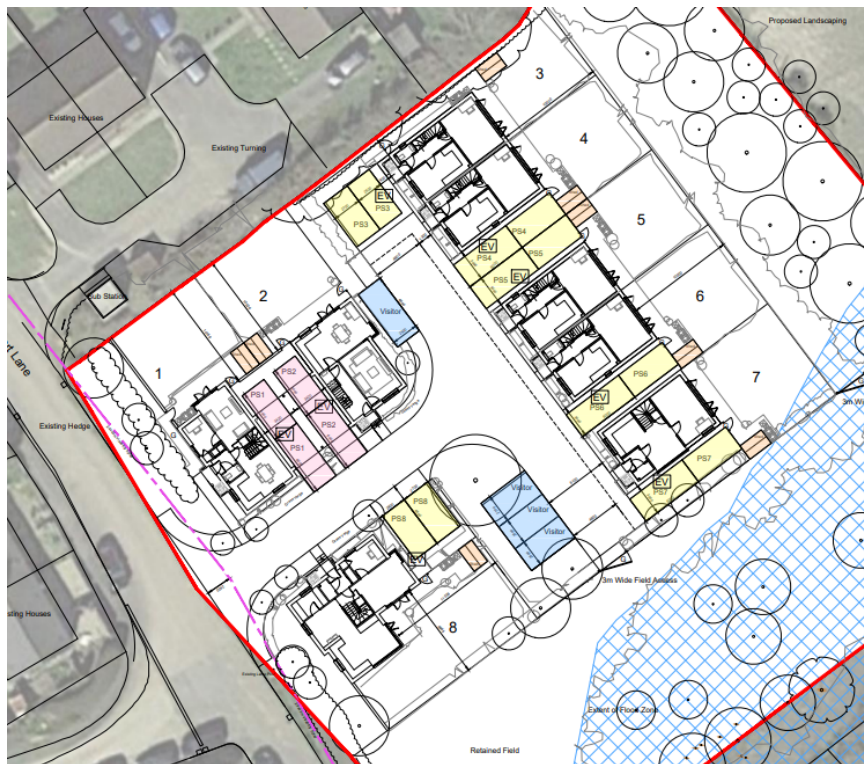


Figure 6: Proposed Parking Layout

- 2.41 KCC Highways have raised no objections to the revised scheme, subject to conditions, which will be secured. Overall, the proposed development is considered to provide a suitable access, turning, vehicle and cycle parking provision and would be acceptable in terms of highway safety and highway amenity, in accordance with the applicable and draft planning policies and the NPPF.

Ecology

- 2.42 Paragraph 174 of the NPPF requires proposals to protect and enhance sites of biodiversity or geological value, minimise impacts on and provide net gains for biodiversity. The application is supported by a Preliminary Ecological Appraisal and Biodiversity Enhancement Plan. The submitted PEA sets out that the site comprises horse grazed neutral grassland and contains a native hedgerow to its western boundary. The grassland is concluded to be of negligible importance, and the native hedgerow of local importance. No further surveys and assessments are recommended. The PEA recommends avoidance and mitigation measures to minimise impacts on hedgerows, reptiles, birds, bats, hedgehogs together with a range of enhancement measures, some of which are detailed in the Biodiversity Enhancement Plan.
- 2.43 The Natural Environment Officer has reviewed the proposal and advised that enough ecological survey work has been carried out to inform the determination of the application. The Natural Environment Officer concurs with the suggested avoidance and mitigation measures and requires these to be secured by appropriate conditions, which will be included in the recommendation. In terms of external lighting, the proposed lighting strategy is advised to be broadly acceptable, though part of the lighting provision is considered to be unnecessary. A condition to secure an amended bat sensitive lighting strategy is suggested, which will be included.
- 2.44 In terms of the biodiversity enhancement measures, a number of biodiversity enhancement measures are recommended in the PEA and some of these are presented in the submitted Landscape Strategy and Biodiversity Enhancement. The Natural Environment Officer advises that the measures are acceptable in principle, however some final details require refinement, such as the location of bat and bird boxes which need to be integrated features. The landscape buffers to the east and south provide further opportunities to enhance the biodiversity of the site and will aid habitat connectivity. It is therefore advised that a detailed landscape and enhancement strategy, which builds upon the submitted information, and incorporates planting specifications and details of biodiversity net gains is secured by condition. In addition, it will be necessary to secure the long term management of the landscape buffers outside of the curtilage of the dwellings, which will be secured by legal agreement.
- 2.45 It is therefore concluded that, subject to the recommended conditions and legal agreement to secure the management of the landscape buffers, the proposal would have an acceptable impact upon ecology and biodiversity.

Flooding and Drainage

- 2.46 The application site is located within Flood Zone 1. Part of the application site to the south falls within a surface water flood risk area. The site is also located within Groundwater Source Protection Zone 2. The location of the surface water flood risk area is included in Figure 7 below in the blue shaded area.



Figure 7: Location of Surface Water Flood Risk Area

- 2.47 Draft Policy CC5 sets out that development on sites at risk of flooding must comply with the NPPF and associated guidance and will only be permitted where it is demonstrated by a site-specific Flood Risk Assessment (FRA), carried out in accordance with applicable requirements, that development would not result in unacceptable risk of flooding on the site itself or elsewhere. Draft Policy CC6 relates to surface water management and sets out that all new development should replicate natural ground and surface water flows and decrease surface water run off through the use of Sustainable Drainage Systems (SuDS). In Groundwater Source Protection Zones 1 and 2 SuDS will only be permitted if adequate safeguards against possible contamination are provided or where it can be demonstrated that there will be no environmental risks to water quality, and adequate mitigation measures can be implemented.
- 2.48 The application is supported by a Flood Risk Assessment. This sets out that the application site constitutes 'more vulnerable' development within Flood Zone 1 and the risk of flooding should be considered from all sources. The report identifies that flooding from overland surface water is a risk on this site and investigates this further. The surface water flood risk area is located to the south of the site and flows from east to west in response to the topography of the land to the bottom of the valley. This surface water flood risk area is predominantly located within the southern landscape buffer zone within the application site, with a small portion falling within the south eastern corner of the garden of Unit 7. All proposed built development falls outside of the surface water flood risk area and predicted flood events. The FRA sets out that the maximum predicted flood level at the site is approximately 52.6m AODN. All proposed units are situated at a level above 52.6m AODN and would therefore remain dry. The FRA therefore concludes that the risk of surface water flooding to the proposed development is low. The FRA concludes that flooding from groundwater risk is low, and if groundwater was to emerge at or near the site it would follow the natural topography of the land and flow towards the drainage ditch to the south of the

site, away from the proposed development. All other flooding risks are concluded to be low. The FRA does not highlight any adverse offsite impacts arising from the proposal.

- 2.49 The FRA sets out recommends flood mitigation measures. This includes incorporating the local sequential approach to the location of the proposed units, which has been adopted by locating the proposed built development outside of the predicted flood events and through the internal layout of the proposed dwellings, with sleeping accommodation located to the first floor. The proposal accords with the EA's recommended minimum floor levels, with all dwellings internal floor level located above 300mm above the maximum predicted flood event and shall incorporate a minimum threshold of 150mm above ground level. The FRA recommends further flood resilience and resistance measures are considered. The proposal will be conditioned to secure the recommended mitigation measures and details to be approved relating to suggested flood resilience and resistance measures.
- 2.50 In terms of surface water management, the FRA sets out a range of SuDS features which would be suitable to be included within the proposed development, and it is recommended that these measures are provided to manage surface water runoff sustainably, in accordance with the approach of the NPPF. It is therefore recommended that a pre-commencement condition is included with the permission, which requires details of a sustainable surface water drainage system, which includes the measures recommended by the FRA and incorporates measures to prevent possible contamination of the groundwater source protection zone to be submitted and approved, and thereafter provided and maintained. The development proposes to dispose of foul sewage via the mains sewer and southern water have raised no objection to this, and provided a plan which demonstrates there are foul sewers in close proximity to the proposed development capable of serving the proposed development. As such, the proposed foul sewage drainage is considered to be acceptable and no concerns relating to groundwater source protection are raised in this regard.
- 2.51 Overall, the submitted FRA is considered to demonstrate that the risk of flooding to the proposed development is low from all sources, the scheme has been suitably designed to minimise flooding impacts and can suitably incorporate SuDS to prevent the development from increasing surface water flooding onsite or offside. Subject to the recommended flood mitigation measures and details of a SuDS scheme to be submitted and approved, which shall be secured by condition, the impact of the development upon flooding and drainage is considered to be acceptable.

Contributions/Heads of Terms

- 2.52 It is necessary for the development to deliver the infrastructure necessary to make the development acceptable in planning terms. In this case, given the number of units proposed, the development is subject to the applicable open space contribution. Policy DM27 requires residential development of 5 or more dwellings to provide or contribute towards provision of open space, such as a contribution towards quantitative or qualitative improvements to local facilities. Draft Policy PM3 continues this provision and requires applicable residential development to provide or contribute towards the provision of open space.

- 2.53 DDC Planning Policy have advised that the applicable financial contribution for this development would be the payment of £3,411.70 towards Childrens Equipped Play Space to improve the range and quality of play equipment at Alkham Recreational Ground. This contribution is required to be secured through a s106 agreement. The agent has confirmed their agreement to this contribution.
- 2.54 The proposed development includes two areas of soft landscaping and tree planting to the east and south of the developed area, outside of the curtilage of the proposed dwellings to provide landscape buffers in order to mitigate the impact of the development upon the AONB. These landscape buffer areas are required to make the development acceptable given the sites sensitive location within the AONB. As such, it is necessary to secure their provision and landscape management and maintenance through the s106 agreement or condition.

3. Conclusion

- 3.1 The application site is allocated for residential development in the Draft Local Plan through Policy SAP43 for an indicative 10no. dwellings, subject to applicable criteria. This application proposes the erection of 8no. dwellings and is considered to accord with the applicable criteria.
- 3.2 The Draft Local Plan overall currently carries moderate weight in decision making. However, in accordance with Framework paragraph 48, given there are objections to relevant spatial and housing allocation policies of the Draft Local Plan that are unresolved ahead of examination, full weight cannot yet be afforded to its overall strategy of meeting the district's housing needs. However, it is concluded that overall the Draft Policies carry moderate weight at this stage and the site specific policy can be afforded limited weight as explained above.
- 3.3 Weight is afforded to the emerging Local Plan policies as outlined above, which supports housing development in this location. Notwithstanding this position, the scheme is considered acceptable even when simply considering the proposal against the current policy context; applying the tilted balance.
- 3.4 The site is located within a sensitive location within the AONB and the impact of the proposal on this protected landscape has been thoroughly assessed. The proposed development is considered to form a comfortable and compatible modest extension to the village which is respectful of the local built and landscaped parameters and will be seen within the context of adjacent development to the bottom of the valley. As such, whilst the proposal involves the development of part of the AONB, the proposal is not considered to constitute major development in the AONB and would protect this valued landscape. The proposal is therefore considered to have overcome the former reason for refusal and dismissal of the former application at this site.
- 3.5 On the basis of the scheme being considered to protect the AONB landscape, the proposal is subject to the titled balance as set out in paragraph 11 of the NPPF, as the basket policies which are most important to the application are out of date. This requires planning permission should be granted unless the adverse impacts of granting planning permission would 'significantly and demonstrably' outweigh the benefits.
- 3.6 The application proposes a policy compliant development, which has an acceptable impact upon the character and appearance of the area and protects the landscape, the residential amenities of adjacent neighbours and future

occupants, the local highway network, ecology and biodiversity, drainage and flooding and would provide the required open space contribution and landscape mitigation.

- 3.7 It is therefore concluded that the harm of the development is significantly and demonstrably outweighed by the benefits. As such, it is recommended that planning permission is granted, subject to a s106 to secure the required children's equipped play space contribution and landscape provision, maintenance and management and relevant safeguarding conditions.

g) Recommendation

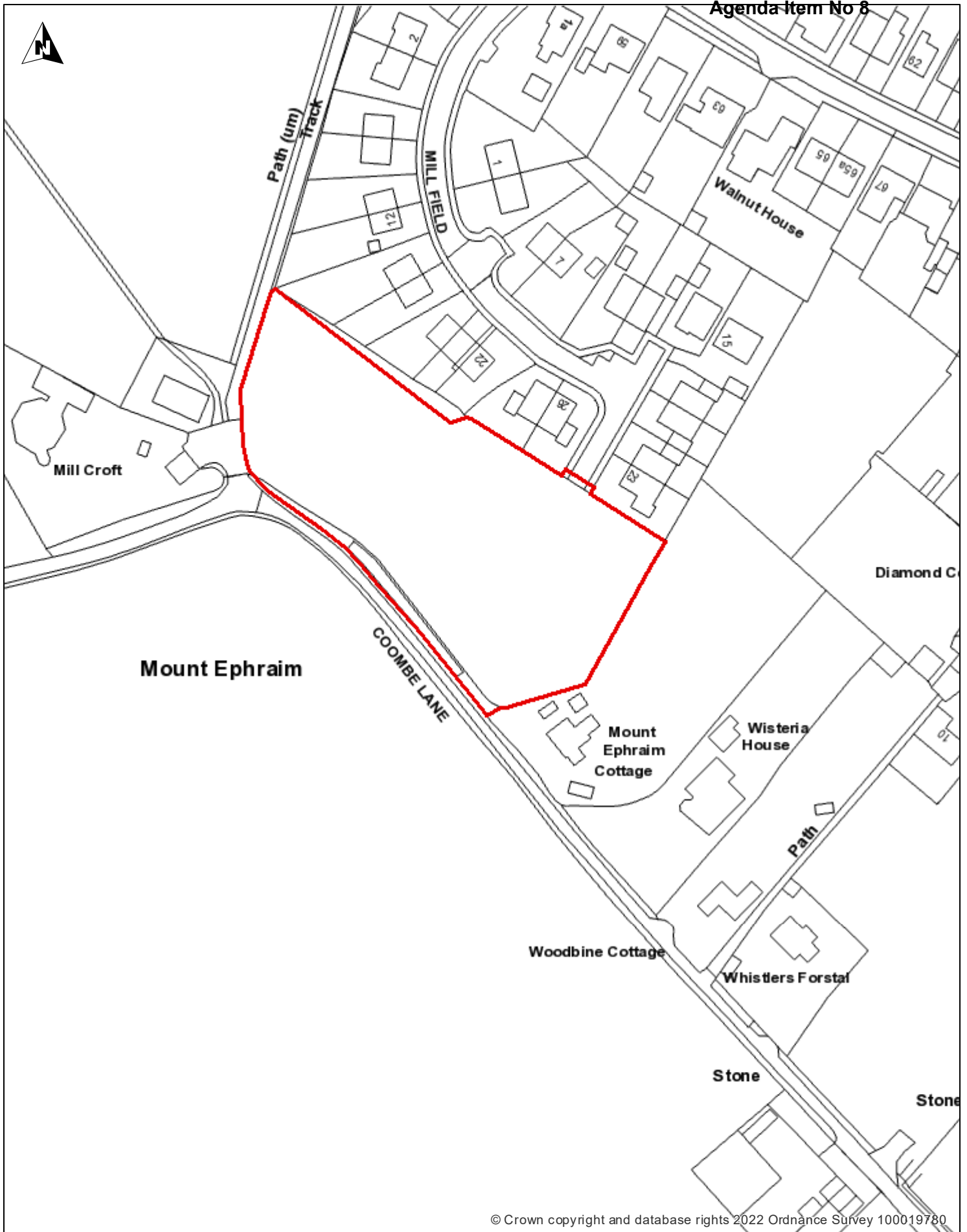
- I PLANNING PERMISSION BE GRANTED, subject to a s106 to secure the required children's equipped play space contribution and the provision, maintenance and management of the landscape buffers and relevant safeguarding conditions to include:

1. Time Limit
2. Approved plans
3. Samples of materials
4. Windows/doors set in reveals
5. Landscaping
6. Obscure glazing to first floor window to Unit 3
7. Tree protection measures to northern boundary
8. Refuse and cycle storage
9. Construction environmental management plan
10. Details and specifications of highway works
11. Provision and retention of parking
12. Visibility splays
13. Bound surface first 5m
14. Measures to prevent discharge of surface water to highway
15. Flood mitigation measures
16. Sustainable surface water drainage scheme
17. Verification report
18. Removal of some permitted development rights
19. Biodiversity method statement
20. Badger survey
21. Lighting design strategy for biodiversity
22. Landscaping and ecological design
23. Habitat management and monitoring plan

- 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

Jenny Suttle



21/01237

Phase II, Land South Of Mill Field
Ash
CT3 2DH

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



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

a) **DOV/21/01237 – Erection of 9 dwellings, new vehicle access, associated parking and landscaping – Phase II, Land South of Mill Field, Ash**

Reason for report – Number of contrary views (6 objections including the Parish Council)

b) **Summary of Recommendation**

Planning permission be granted

c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, CP3, CP4, CP5, CP6, DM1, DM5, DM11, DM12, DM13, DM15, DM16

National Planning Policy Framework (NPPF) (2023): Paragraphs 2, 7, 8, 11, 38, 80, 83, 110, 130 - 135, 159, 167, 174, 180, 181, 185

National Planning Practice Guidance & Kent Design Guide

National Design Guide & National Model Design Code (2021)

Planning (Listed Buildings and Conservation Areas) Act 1990

SPG4 Kent Vehicle Parking Standards

Countryside and Rights of Way Act 2000

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, SP2, SP3, SP4, SP5, SP11, SP12, SP13, SP14, SP15, CC1, CC2, CC4, CC5, CC6, CC8, PM1, PM2, PM3, PM4, H1, H2, TI1, TI3, TI5, NE1, NE2, NE3, NE4, NE5, HE1, HE3

Ash Parish Council Neighbourhood Development Plan 2018-2037 (2021): ANP1, ANP3, ANP4, ANP5, ANP6, ANP7c, ANP8, ANP9, ANP13, ANP14, ANP15, ANP16

d) **Relevant Planning History**

DOV/15/01225 – Erection of ten dwellings and associated garages, parking and vehicular access – Granted

DOV/18/00533 – Variation of Condition 2 of planning permission DOV/15/01225 to allow changes to approved drawings (application under Section 73) - Granted

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

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

Ash Parish Council – Initially in response to the original scheme proposed for 10 dwellings, objected to the following parts of the application and requested further

information and contributions. In response to the revised scheme for 9 dwellings, objected to parts of the proposals and requested further information and conditions. Objected to the absence of information on how there would be enhancement of existing vegetation, how it would be protected and managed once the development is completed; that the west, south and east boundaries are not 10m; that the site is not being connected to EE111. Requested further information on 10% biodiversity net gain; sustainable construction; nutrient neutrality; site levels. Requested conditions were imposed for details of the boundary treatment, management plan and depth of west, south and east boundaries and north buffer zone; installation of a kissing gate from the site to EE111 and ground support; lighting to not affect night time skies; Thanet Coast and Sandwich Bay SPA and SAC mitigation; conservation of protected species and additional features to support them as per recommendations of ecology report; electric vehicle charging points not less than 5 per unit and preferably one per unit; fibre to the premises; details of building materials; construction management plan. Request the following financial contributions: minimum of £423.21 per 3 bed dwelling and £523.96 per 4 bed dwelling towards Ash Recreation Ground Play facilities; Ash Sports Pavilion requests £413.28 per 3 bed dwelling and £511.68 per 4 bed dwelling towards Outdoor Sports facilities. Do not feel that the % of buildings matched up to the application and leaves a lack of 1 or 2 bed properties (30%). Request that any open and/or shared spaces be maintained by a management company established by the developer with ongoing maintenance responsibilities held by this company.

KCC Public Rights of Way and Access Service – Public footpath EE111 runs adjacent to the proposed development. They raise no objection and suggest four informatives (to be included on the decision notice if permission is granted).

KCC Flood and Water Management – Initially recommended a holding objection and requested the submission of further information. However upon receipt of further information, advised that they were satisfied for further infiltration testing to be submitted as part of the detailed design, with the hydraulic modelling updated accordingly. Soakage tests must be compliant with BRE 365 and should be undertaken at the location and depth of the proposed features. Detailed design should utilise a modified infiltrate rate and demonstrate that any soakaway will have an appropriate half drain time. The imposition of conditions was requested to address the following matters:

- Submission of a detailed sustainable surface water drainage scheme
- Submission of a verification report pertaining to the approved surface water drainage system
- That where infiltration is to be used to manage surface water from the development, it will only be allowed within the parts of the site where information is submitted to demonstrate there is no resultant unacceptable risk to controlled waters and/or ground stability

KCC County Archaeology – Note the application is accompanied by a report setting out the results of archaeological field evaluation works carried out in support of the application, identifying several archaeological features (including various ditches and pits, perhaps indicative of settlement activity) largely dating to the Early Iron Age with some more limited evidence also for Late Iron Age/Romano-British Activity. Recommend the imposition of a condition for a programme of archaeological work in accordance with a written specification and timetable to be submitted to and approved by the local planning authority (LPA).

Environmental Protection – have no objections, however recommend a condition requiring submission of a robust construction management plan.

Housing Development Manager – this is a development of 9 units in a rural settlement. 30% of the properties should be for affordable housing which ideally should be provided on site or an off-site payment needs to be agreed. No details of affordable housing contributions have been included within the application.

KCC Economic Development – Initially requested financial contributions and for all homes built as wheelchair accessible & adaptable dwellings in accordance with Building Regs Part M 4 (2) and imposition of a condition requiring the installation of fixed telecommunication infrastructure and high speed fibre optic. However, following revision of the number of dwellings proposed, withdrew their request for contributions on the basis of the new dwelling mix.

Natural England – initially advised that further information was required to determine impacts on designated site due to the potential for a likely significant effect on Stodmarsh Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar Site, Site of Special Scientific Interest (SSSI), National Nature Reserve (NNR) and the Thanet Coast and Sandwich Bay SPA and Ramsar. Upon consultation on the revised proposals, advised that their previous advice applied and the amendments are unlikely to have significantly different impacts on the natural environment than the original proposal.

Environment Agency – have assessed the application as having low environmental risk and have no comments to make. The applicant may be required to apply for non-planning consents directly from the Environment Agency (to be included as an informative).

Southern Water – requires a formal application for a connection to the public foul sewer to be made by the applicant/developer. Provided advice on sustainable drainage systems (SuDS) (to be included as an informative if permission is granted) and that the advice of technical staff should be sought on the adequacy of soakaways to dispose of surface water from the development. Requested an informative is attached requiring the submission of details of means of foul sewerage and surface water disposal prior to construction of the development. It is possible that a sewer now deemed to be public could be crossing the development site and should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Affinity Water – do not have any comments to make.

Senior Natural Environment Officer – is satisfied that the preliminary ecological appraisal (PEA) report submitted presents an appropriate level of ecological survey work to inform the determination of the application with regard to potential ecological impacts. A badger sett has been identified on the site and without the implementation of mitigation, there is potential for impacts and a risk of conflict between the badgers and future residents of the development. Mitigation proposals are included in the PEA; some can only be carried out under licence which must be sought from Natural England, to derogate from offences to badgers and their setts. A condition for the submission of details and implementation of mitigation measurements is suggested (to include provision of a corridor for badgers along the south and eastern boundaries outside of the gardens and reinforced with badger proof fencing – subsequently shown on the amended plans and considered acceptable subject to being secured

by condition, provision of badger proof fence within building foundations of specific plots (13, 14, 15 and 16) to prevent future badger sett digging resulting in subsidence, provision of galvanised chain link mech and membrane beneath the gardens of specific plots (13, 14, 15 and 16)). A condition for a scheme of biodiversity enhancement measures in line with the recommendations of the PEA was suggested.

Third Party Representations:

5 members of the public have written in objection and comments are summarised below. Matters such as loss of views and impact on property values are not material considerations and have not been included below.

- Residential amenity – land level is higher than current level of Mill Field, concerns regarding privacy (including during construction phase) and overlooking, concerns regarding noise and disturbance/mess during construction
- Visual amenity – height of houses will alter valued landscape views across from Staple to Ash
- Security/lighting – no street lighting installed in Phase 1. Concerns that without lighting there could be issues with security. Concerns whether road will be adopted and street lighting installed.
- Deliverability – concerns that development was submitted barely 1 year after neighbourhood development plan was published which envisaged 5-10 year deliverability
- Design – concerns that planting proposed for phase 1 of development was not provided and whether proposed planting would be. Concerns whether green buffer zone between development and existing houses at Mill Field will be provided and enforced. Suggestions that land level should be lowered and deeper buffer provided between development and existing properties
- Archaeology – survey was undertaken, has this been accounted for and will further study be done.
- Ecology/wildlife – development would remove habitat for foxes, protected birds and badgers, will this be taken into consideration. Natural England have suggested biodiversity enhancements. Development should include wetland/ponds
- Cumulative impacts of developments within the village – pressures on local health, social care, education facilities, utilities, roads/pavements and other services. Has consideration been given to enhancing health and social care facilities or how they will be impacted. Already overpopulated/overdeveloped.
- Parking/highways – busy, narrow main road through village, some does not have pavement on both sides, little public parking available. There is potential for 40 additional cars wanting to use the streets or gaining access via Mill Field, has this been taken into consideration.
- Drainage – remedial work has been carried out on Phase 1 and drainage in gardens is poor, leaving many waterlogged after even mild rainfall. Concerns regarding surface water seeping into existing houses and gardens.
- Have previous comments from consultees been considered – will Natural England's comments on Stodmarsh SSSI be considered and a Habitats Regulations (HRA) be carried out.
- None of the properties will be affordable homes or starter homes for young families. No 1 or 2 bed homes for single people.
- Concerns regarding adherence to neighbourhood development plan.

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

- 1.1 The application site relates to a plot of land to the south of Mill Field, and to the north of Coombe Lane. The site is currently agricultural land and is bounded by hedgerow to the northwest, southwest and southeast and the gardens and vehicular access from Mill Field (Phase I of the housing development) to the northeast. The dwellings of Mill Field are predominantly two storey detached or semi-detached dwellings, finished in either red or yellow brick with tiled barn hipped or hipped roofs, with gardens to the rear and driveways to the front.
- 1.2 The proposals are to erect 9 dwellings with associated parking and landscaping. The development would be accessed from Mill Field (Phase I) and the proposed dwellings would be two storeys in height, having brown and red tiled hipped roofs, finished in stock bricks with black stained feather edge boarding, flint panelling, stone cills and uPVC windows and doors. 10 dwellings were originally proposed, however the number was reduced to 9 during the course of the application and was duly re-advertised and subject to further consultation.



Figure 1: Proposed Block Plan

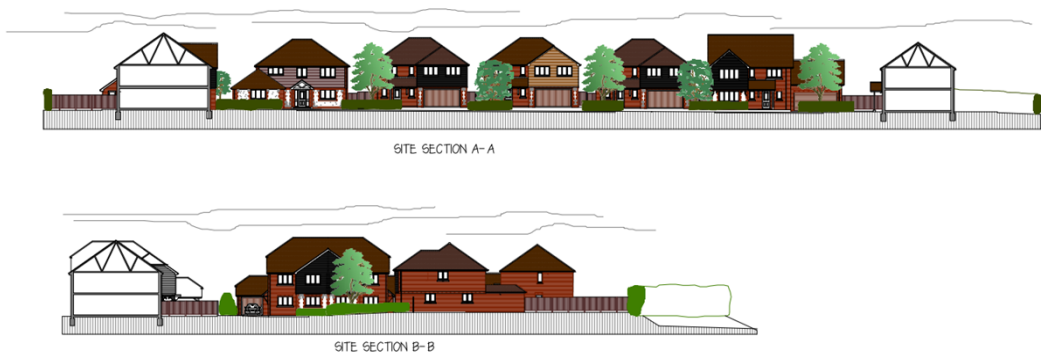


Figure 2: Proposed sections through site

2. **Main Issues**

2.1 The main issues for consideration are:

- The principle of the development
- Impact on visual amenity
- The impact on residential amenity
- Other material considerations

Assessment

Principle of Development

- 2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in the plan, unless material considerations indicate otherwise.
- 2.3 Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The site is located outside of, but in part adjoins the settlement confines identified in DM1. Notwithstanding this, the site is allocated for residential development (Policy ANP7c) within the Ash Parish Council Neighbourhood Development Plan 2018-2037 (September 2021). The proposals therefore accord with Policy DM1.
- 2.4 The NPPF advises, at paragraph 11, that proposals that accord with an up-to-date development plan should be approved without delay. An assessment of the most important policies for the determination of the application must be undertaken to establish whether the 'basket' of these policies is, as a matter of judgement, out-of-date. Additionally, criteria for assessing whether the development plan is out-of-date are explained at footnote 7 of the NPPF. This definition includes: where the council are unable to demonstrate a five-year housing land supply; or, where the council has delivered less than 75% of the housing requirement over the previous three years (the Housing Delivery Test). The Council are currently able to demonstrate a five-year supply and 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.
- 2.5 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 a greater number of 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.
- 2.6 Ash Parish Council Neighbourhood Development Plan (ANP) allocates the site for residential development with an estimated capacity of 9 dwellings (Policy ANP7c). NPPF Paragraph 14 sets out that "In situations where the presumption (at paragraph

11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply⁹: a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made; b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement; c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74); and d) the local planning authority's housing delivery was at least 45% of that required¹⁰ over the previous three years. The neighbourhood plan was adopted just over two years ago, such that development conflicting with the neighbourhood plan is not considered to disengage the presumption of NPPF Paragraph 11.

- 2.7 Policy ANP7c sets out that proposals which meet the following criteria will be supported:

7c.1 Any application of development is preceded by an archaeological assessment of the site and its submission to Kent County Council;

7c.2 The existing boundary hedgerows and veteran trees are retained and enhanced with native/indigenous species as part of the development boundary; new hedgerows of no less than 10 metres width should be established along the southern, western and eastern boundaries;

7c.3 A green buffer zone is provided between the development and the existing houses to the north side of the site; and

7c.4 Vehicular access to the site is from the existing road through Millfield.

As discussed further in this report, it is considered that the proposals accord with points 7c.1, 7c.3 and 7c.4, however conflict with point 7c.2 as whilst new hedgerows are proposed, they are less than 10m in width.

- 2.8 The Draft Local Plan was submitted for examination in March 2023 and its policies are considered to be material to the determination of applications, with the weight attributed to the policies dependant on their compliance with the NPPF. Draft Policy SP1 of the Submission Draft Dover District Local Plan seeks to ensure development mitigates climate change by reducing the need to travel and Draft Policy SP2 seeks to ensure new development is well served by facilities and services and create opportunities for active travel. Draft Policy TI1 requires opportunities for sustainable transport modes to be maximised and that development is readily accessible by sustainable transport modes.
- 2.9 Draft Local Plan Policy SP4 sets out the appropriate locations for new windfall residential development which seeks to deliver a sustainable pattern of development, including within the rural area where opportunities for growth at villages (in line with Paragraph 79 of the NPPF) are confirmed. The policy is underpinned by an up-to-date evidence base of services and amenities at existing settlements and takes account of the housing need across the district. The site is located outside of, but immediately adjoining the draft settlement boundaries (Ash being a tier 1 settlement for the purposes of SP4) and is considered to accord with draft Policy SP4.
- 2.10 It is considered that policy DM1 is in tension with the NPPF, although for the reasons given above some weight can still be applied to specific issues it seeks to address, having regard to the particular circumstances of the application and the degree of compliance with NPPF objectives, in this context. The development would also accord with the objectives of draft Policy SP4, which is considered to attract moderate weight in the planning balance, being devised on the basis of current housing targets

and the NPPF. The proposals do not fully accord with the requirements of Policy ANP7c, however as set out above, the conflict with the neighbourhood plan is not considered to disengage the tilted balance of NPPF Paragraph 11 and the policy is considered to attract substantial weight in the planning balance. Notwithstanding this, Policy DM1 is particularly critical in determining whether the principle of the development is acceptable and is considered to be out-of-date, such that the tilted balance approach of Paragraph 11 of the NPPF is engaged. An assessment as to whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits (and whether this represents a material consideration which indicates that permission should be granted) will be made at the end of this report.

Impact on Visual Amenity

- 2.11 As discussed above, the site is allocated for residential development in the Ash Neighbourhood Development Plan, which forms part of the Development Plan. Whilst the site is currently undeveloped, paragraph 1.49 of the Core Strategy (2010) sets out that for the purposes of Policy DM15, the definition of countryside is considered to exclude any land allocated for development in the Core Strategy or other local development framework documents. Notwithstanding this, Policies DM15 and DM16 are relevant in respect of the impact of the development on the wider landscape and countryside, together with Paragraph 174 of the NPPF and draft Policy NE2. The policies seek to protect the countryside and character of the landscape, setting out criteria by which development that would adversely affect or result in harm would be permitted. Paragraph 174 of the NPPF seeks to recognise the intrinsic character and beauty of the countryside.
- 2.12 The site is located immediately south of the residential street of Mill Field which contains predominantly two storey dwellings, with terraces to the western half and more recent detached and semi-detached dwellings to the eastern half. There are also detached dwellings, set within larger plots which are more rural in appearance, on either side of the site fronting Moat Lane and Coombe Lane (to the south of the site). Whilst there is open countryside further south of the site on the opposite side of the highway, it is considered that the proposed dwellings would be seen within the context of the existing residential development in Ash.
- 2.13 There is an existing hedge along the southern boundary of the site (adjacent to Coombe Lane) which is shown as being retained on the proposed site plan. As set out at paragraph 2.7, ANP7c seeks for the existing boundary hedgerows and veteran trees to be retained and enhanced with indigenous species as part of the development boundary. It sets out that new hedgerows of no less than 10m in width should be established along the southern, western and eastern boundaries. In accordance with the policy, the proposed site plan demonstrates that the existing boundary hedgerow to the east, south and west would be retained. There are no veteran trees within the site (confirmed in the tree report), however the existing plum tree would be retained. An additional conservation hedgerow is proposed to be planted within the site adjacent to the southern boundary, however this would be less than 10m in depth, contrary to the objectives of the policy. The design and access statement submitted with the application considers that the provision of a 10m buffer would constrain the site and that there is an inability of the site to accommodate such a wide tree/hedgerow buffer given the need to balance issues relating to design, layout, access construction and impacts upon existing neighbours. It is noted in the Parish Council's response that they would wish to see an alternative layout for 9 units. They consider that the "design of the dwellings would not necessarily need to change;

access construction is a short term factor and it is not clear how this would be affected by a change in layout”.

- 2.14 The following image (figure 3) shows the extent of a 10m buffer (outlined in red) based on the original layout of 10 dwellings at the site. In order to accommodate the buffer area, it is considered that the scale and layout of the development would need to be significantly reduced, to the extent that it may not be possible to accommodate the 9 dwellings now sought, with necessary road, parking turning space and gardens.



Extract from the proposed site plan 2021-09-01. The dotted red line shows the approximate extent of a 10m buffer zone of boundary screening as required by NDP Policy ANP7c

Figure 3. Plan showing the extent of a 10m buffer zone as outlined in red

- 2.15 In the interests of visual amenity, it is considered appropriate to impose a condition requiring further details of the proposed landscaping and it would be expected that the existing hedgerow would be enhanced. Whilst a 10m depth would not be achievable based on the current layout proposed, it is considered that enhanced planting with appropriate maintenance could effectively soften views of the development from the countryside to the south of the site (and the conflict with this part of the Policy is not considered to result in such significant harm to warrant refusal of the application).
- 2.16 Having had regard to paragraph 130 of the NPPF and draft policies PM1 and NE2, it is considered the scale of the dwellings would be compatible with existing development in the vicinity, that the materials proposed would be in keeping with the existing material palette and that the layout of the development would be appropriate

at the edge of the built settlement. Subject to the imposition of conditions requiring the submission of samples of the materials to be used in the construction of the dwellings, details of landscaping and levels (discussed further below), it is considered the development would preserve the character and appearance of the street scene, the wider countryside and landscape area, and would accord with the objectives of the NPPF, the Neighbourhood Plan and the Core Strategy (and draft local plan).

Impact on Residential Amenity

- 2.17 The land rises towards the southwest of the site and as the site is adjacent to the rear and side gardens of properties in Mill Field, there is the potential for the proposals to impact residential amenity.
- 2.18 A two storey semi-detached dwelling would be erected to the southwest of No. 23 Mill Field. The dwelling would be set away from this property, although an attached garage would be constructed adjacent to the boundary (separated in part by a hedge) and would project beyond the rear building line of the dwellings. Both this and the main roof of the proposed dwelling (plot 11 on drawing 2023-01-01) would have a barn hipped roof. Due to the orientation of the site and direction of the sun path, the proposed development would cast shadow towards No. 23 throughout the day. The approved plans for the property (DOV/18/00533) indicate that the majority of windows on the flank elevation of this dwelling serve non habitable rooms (WC, bathroom and landing) or would be a secondary window to a room served by larger openings on the southeast elevation (a lounge). As such, on balance, the proposals are considered unlikely to result in such significant harm to warrant refusal.
- 2.19 Whilst directly visible from No. 23 Mill Field, due to the siting and scale of the proposals, it is considered the development would be unlikely to result in an unacceptably overbearing or enclosing impact on neighbouring amenity. In respect of privacy, the closest proposed dwelling to No. 23 Mill Field (proposed plot 11) would feature windows on the front and rear elevations overlooking the parking area and garden respectively. There would be a window at ground floor level serving a WC and windows at first floor level serving a staircase and bathroom (with a distance of approximately 11m between the main flank elevations of the two dwellings (excluding the garages)). In the interests of privacy of the neighbouring occupiers, it is considered appropriate to impose a condition requiring these windows to be fitted with obscured glazing. Subject to this, the impact on the privacy of this neighbouring dwelling is considered to be acceptable.
- 2.20 A two storey detached dwelling is proposed in the northwestern corner of the site (plot 19), to the south of Nos. 14 and 16 Mill Field. There would be an attached garage constructed to the north side of the dwelling which would be approximately 5.5m from the boundary with the neighbouring gardens, however there would be a greater separation distance between the main flank elevation of the proposed dwelling and the garden boundaries to the north. Due to this and the design and appearance of the proposals, it is not considered that development would result in an unacceptably overbearing impact. There would be a high level window at first floor level on the flank (north) elevation of the dwelling which would face towards these neighbouring properties, however this would be a secondary window to a master bedroom which would also be served by a larger window on the rear elevation of the dwelling. As such, the proposals are considered unlikely to result in significant harm to neighbouring privacy. Whilst the proposed dwelling would cast shadow towards these neighbouring properties and their gardens throughout the day, the majority of shadow would fall across the site and garage and the development would not cause an unacceptable level of overshadowing or loss of light.

- 2.21 A number of other dwellings are located to the north of the site and the proposals would be directly visible from the windows and rear gardens of these properties. There would be a distance of approximately 25m between the existing dwellings and proposed dwellings (No. 24 Mill Field and Plot 16) and a distance of approximately 18.75m between plot 16 and the rear garden boundary of No. 24 Mill Field (with a greater separation distance of approximately 25m between the proposed dwellings and other dwellings within Mill Field). However, the proposed dwellings would be set further south of the existing Mill Field dwellings, separated by the proposed private access road, visitor parking and landscaping (including new mixed conservation hedge which would be planted). Concerns have been raised in respect of the difference in ground levels between the site and existing Mill Field dwellings and impact on privacy. Whilst levels have been indicated on the proposed site plan and cross sections of the site have been provided (although do not demonstrate the relationship to the existing dwellings at Mill Field), in order to ensure the development is constructed at appropriate ground levels, it is considered appropriate to impose a condition requiring details of floor, eaves and ridge levels for all new dwellings.
- 2.22 Mixed conservation hedgerow is proposed within the site which would provide some screening, as well as add to the visual amenity of the development. It is considered appropriate to suggest a condition is imposed requiring further landscaping details to be submitted to ensure the planting is provided and maintained. Environmental Protection have also reviewed the proposals and recommend the imposition of a condition for a construction environmental management plan, to demonstrate adoption and use of best practicable means to reduce the effects of noise, vibration, dust and site lighting. Subject to this, and due to the design, siting and appearance of the development, it is considered the proposals would be unlikely to result in a significant overbearing impact on residential amenity, overshadowing or to result in unacceptable harm to the privacy of occupants in the wider area (including Coombe Lane and Moat Lane), having had regard to the objectives of NPPF Paragraph 130 and draft Policy PM1.
- 2.23 In respect of the amenities of the proposed occupiers, the dwellings would be located in a predominantly residential area, within walking distance of the services and facilities available in Ash. The proposed dwellings would contain three or four bedrooms, with well-proportioned kitchen/dining rooms and living rooms and private gardens. The design and access statement sets out that, in relation to ANP7c, the majority of the proposed dwellings have been designed to consider 'design for life' principles (e.g. level thresholds, living space enabling wheelchair access) and level thresholds will be provided for all dwellings. Cycle storage would be provided within garages and refuse/recycling storage would be provided within the gardens. As such, it is considered that occupiers of the development would enjoy a high standard of residential amenity in accordance with NPPF Paragraph 130(f) and the broad objectives of draft policies PM1 and PM2.

Other Material Considerations

Archaeology

- 2.24 The site is located in an area of archaeological potential and in line with the requirements of policy ANP7c (as well as draft Policy HE3 and NPPF Paragraph 194), a report setting out the results of archaeological field evaluation works has been submitted. This has been reviewed by KCC County Archaeology, who recommend a condition is imposed for a programme of archaeological work. Subject to this, the development is considered to be acceptable in this respect.

Parking and Highways

- 2.25 Access to the site would be via the non-adopted section of Mill Field, in accordance with ANP7c. The agent has confirmed in the design and access statement that although the road has been designed and would be constructed to adoptable standards, it would remain a private highway. Each dwelling has been designed to accommodate three off-street parking spaces (some of which would include tandem parking), in addition to garages (which are not included in parking provision). Three visitor parking bays are also proposed adjacent to the northern site boundary. Having had regard to Policy DM13, ANP13 and draft Policy TI3, the resident and visitor parking proposed is considered to accord with the parking requirements.

Impact on Flood Risk/Drainage

- 2.26 The site lies within Flood Risk Zone 1 which has the lowest risk of flooding (and as such no sequential or exceptions test is required). Due to the scale of development proposed and in line with the NPPF, a Drainage Impact and Flood Risk Assessment (Tridax Ltd received 3rd August 2021) has been submitted. The report includes detailed design drawings showing that the surface water would be discharged via soakaways and the foul sewage would be disposed of to the mains sewer.
- 2.27 The Environment Agency has assessed the application as having a low environmental risk and have no comments to make, although advise that non-planning consents may be required (to be included as an informative if permission is granted). Affinity Water have no comments on the proposals and no objections are raised by Southern Water (although the advice and informative included in their response will be an informative on the decision notice). KCC Flood and Water Management have reviewed the application and following initial requests for further information, advised that they were satisfied for further infiltration testing to be submitted as part of the detailed design. They requested conditions are imposed for the submission of a detailed sustainable surface water drainage scheme, a verification report pertaining to the approved scheme (to demonstrate the drainage constructed is consistent with the approved scheme), and for infiltration to manage the surface water from the development to only be allowed in the parts of the site where information is submitted to demonstrate there is no resultant unacceptable risk to controlled waters and/or ground stability. Subject to the imposition of these conditions, the proposals are considered to be acceptable in this respect, having had regard to the objectives of the NPPF and Policy CC5.

Trees and Ecology

- 2.28 In accordance with the Habitats Directive 1992 (to ensure the precautionary principle is applied) and the Wildlife and Countryside Act 1981, it is necessary to ensure the application has no adverse impact. In furtherance, regard must be had for whether the development would cause any harm to habitats or species on or adjacent to the application site, in accordance with paragraphs 174 and 184 of the NPPF.
- 2.29 A preliminary ecological assessment (PEA) has been submitted as part of the application which records the findings of a site visit to search for protected and other species and suitable habitat. This found that there was no suitable habitat for common reptiles, no trees or buildings that might be used by bats, no ponds on site or within proximity suitable for great crested newts and negligible habitat for breeding birds (although care would need to be taken not to disturb the habitat in breeding season), however protected species were identified at the site. A number of recommendations are made in the report, which has been reviewed by the Senior

Natural Environment Officer who is satisfied that an appropriate level of ecological survey work to inform the determination of the application with regard to potential ecological impacts has been provided. They consider that without the implementation of mitigation, there is potential for impacts to these protected species and there is also a risk of conflict between future residents of the development and these species. Some of the mitigation measures proposed can only be carried out under licence from Natural England (and an informative will be included to this effect if permission is granted). In line with the objectives of the NPPF to improve biodiversity in and around developments, they recommend a condition is imposed requiring the submission of details and implementation of the biodiversity enhancement measures provided in the recommendations of the PEA, as well as a condition to provide mitigation measures for the protected species at the site to avoid conflicts with the future residents of the development if permission is granted.

- 2.30 Policy ANP4 states that developments should provide biodiversity net gains of not less than 10%. No assessment has been submitted with this application, however 10% biodiversity net gain is not yet a national requirement for minor developments. Notwithstanding this, additional native landscaping is proposed within the site.
- 2.31 As part of the application a tree constraints plan, tree protection plan and pre-development tree survey and report have been submitted. None of the trees within the site are subject to a TPO and all trees are proposed to be retained. The report includes details of a construction exclusion zone and recommendations and measures such as protective fencing that will be put in place to protect trees. Having had regard to NPPF Paragraph 174, ANP4, ANP7c, draft policies CC8, PM1, NE1 and NE2, it is considered appropriate to impose conditions requiring the development to be carried out in accordance with the submitted tree protection measures, and for a detailed landscaping scheme (including hard and soft landscaping, as well as planting schedules, species and numbers and details of boundary treatments) to be submitted.

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

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

- 2.35 It is noted that the Submission draft Local Plan (2023) contains Policy NE3 which requires development within a zone of influence of the SPA to provide a financial contribution towards monitoring and mitigation measures. This is also set out within Policy ANP4, point 4.2 of the Ash Neighbourhood Development Plan. However, this application was submitted prior to the publication of the Regulation 19 Policy and as such, notwithstanding the proposed creation of 9 new dwellings, on this occasion, it is not considered appropriate to require a contribution under the draft policy as the application was submitted in advance of the Regulation 19 plan when the impact of development of this scale (less than 14 dwellings) would have been mitigated by larger scale development.
- 2.36 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.
- 2.37 The site is within the Little Stour and Wingham Catchment and the foul sewage from the development would likely be connected to the mains drainage (due to the proximity to existing connections and in line with the hierarchy) which would be treated at Dambridge Waste Water Treatment Works. A connection between development in this location and the European Protected sites at Stodmarsh has been identified. It is noted that ANP4 seeks for development to achieve nutrient neutrality regarding the Stodmarsh SAC/SPA/Ramsar site. Notwithstanding this, further investigations have been undertaken in this regard to establish the extent of the connection between development within the relevant parts of the District and the Stodmarsh site. Subsequently the local planning authority, as the 'competent authority' is satisfied (following consultation with Natural England), that discharges of wastewater would not have a likely significant effect on the integrity of the Stodmarsh SAC, SPA and Ramsar site.

Other Matters

- 2.38 Contributions of a minimum of £423.21 per 3 bed dwelling and £523.96 per 4 bed dwelling towards the Ash Recreation Ground Play facilities have been requested by the Parish Council. The consultation response also states the Ash Sports Pavilion requests a minimum of £413.28 per 3 bed dwelling and £511.68 per 4 bed dwelling towards outdoor sports facilities. Policy ANP3 seeks for developments of 5 or more dwellings to provide appropriate green and open spaces, in accordance with the District Council's standards. Having had regard to Policy DM27, no open space is proposed within the development, however access to open space is available. A contribution towards improvements and maintenance of facilities at Ash Recreation Ground (towards the projects identified in the Infrastructure Delivery Schedule) has been requested by the Policy Team (£1,078.43 for accessible greenspace and £4,514.17 for children's equipped play space) and the agent has confirmed this can be secured via legal agreement if permission is granted.
- 2.39 Policy ANP1.6 seeks for developments to demonstrate how they will positively accommodate, divert or enhance paths and link networks. The Parish Council have requested a connection is provided between the site and the public right of way (EE111) to the west. The design and access statement sets out that a link to the public footpath has not been proposed in the interests of 'Designing out Crime'. Notwithstanding the objectives of Policy ANP1, it is considered that residents of the development would be able to reach the services and public transport available within the settlement via the existing footpaths within Mill Field.

- 2.40 The Strategic Housing Manager has been consulted on the application, which originally proposed 10 dwellings (constituting major development). The number of units was revised to 9 (no longer major development). The Strategic Housing Manager advises that 30% of the properties should be for affordable housing which ideally should be provided on site or an off site payment should be agreed. Policy DM5 states that developments between 5 and 14 homes are expected to make a contribution towards the provision of affordable housing. However, NPPF Paragraph 64 states that "Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer)". Draft Policy SP5 requires the provision of affordable housing on schemes of 10 dwellings or more (and on sites of 0.5 hectares or more). Whilst the site area is approximately 0.55 hectares, this is not a designated rural area. Policies DM5 and SP5 are considered to be more restrictive than the NPPF and as such, in this instance it is not considered appropriate to require a contribution towards off site affordable housing for the proposed development.

Planning Balance

- 2.41 The site is allocated for development within the Ash Neighbourhood Development Plan (Policy ANP7c) and therefore accords with Policy DM1. The site is outside of, but adjacent to the draft settlement confines associated with draft Policy SP4 and as Ash is a tier 1 settlement, development adjoining the settlement boundaries such as this is considered to accord with SP4. It is acknowledged that some of the key (adopted) policies in the determination of the application are out of date and hold reduced weight and as such, the tilted balance approach set out in Paragraph 11 of the NPPF is engaged. In such circumstances, permission must be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Policy DM1 carries limited weight, however Policy ANP7c is considered to attract significant weight and draft Policy SP4 is considered to attract moderate weight in the planning balance.
- 2.42 Due to the design, siting and scale of the development, and subject to the suggested conditions which include landscaping, the proposals are considered to have an acceptable impact on visual amenity and the character and appearance of the countryside and wider landscape area. Subject to the imposition of conditions relating to levels, landscaping and obscured glazing, the development is considered unlikely to result in significant harm to the amenities of nearby residents. The impact on archaeology, parking and highways, flood risk and drainage, ecology and trees has been considered above and found to be acceptable subject to the imposition of suggested conditions, weighing in favour of the scheme. Overall, it is considered that the disbenefits of the scheme do not significantly and demonstrably outweigh the benefits, with material considerations indicating that permission should be granted, subject to relevant conditions.

3. Conclusion

- 3.1 As outlined above, the site is allocated for residential development within the neighbourhood plan (Policy ANP7c) and is considered to accord with Policy DM1 and draft Policy SP4. The tilted balance approach set out at Paragraph 11 of the NPPF is considered to be engaged as the policies most important for determining the application are out-of-date and in conflict to a greater or lesser extent with the NPPF. In light of this and in taking into account other material considerations, for the reasons

set out above, it is considered that the benefits of the development outweigh the disbenefits and it is recommended that permission be granted.

g) Recommendation

I PLANNING PERMISSION BE GRANTED subject to a legal agreement to secure financial contributions towards open space and the following conditions:

- (1) standard time condition
- (2) list of the approved plans
- (3) samples of external materials
- (4) details of any external lighting
- (5) parking provision and retention
- (6) development to be carried out in accordance with tree survey and tree protection plan
- (7) details of biodiversity enhancements
- (8) implementation of measures to secure the protection of protected species
- (9) obscured glazing to northeast elevation of Plot 11
- (10) landscaping scheme
- (11) details of finished floor levels, eaves levels and ridge levels, shown on a cross section through the site
- (12) detailed surface water drainage scheme
- (13) verification report pertaining to the surface water drainage scheme
- (14) restricting infiltration of surface water within the site to parts where information is submitted to demonstrate there is no resultant unacceptable risk to controlled waters and/or ground stability
- (15) implementation of a programme of archaeological work in accordance with a written specification and timetable
- (16) construction environmental management plan
- (17) restriction of meter boxes, vents and flues

II Powers to be delegated to the Head of Planning and Development to settle any necessary planning conditions, legal agreements and reasons in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Rachel Morgan