

# Public Document Pack



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13 February 2024

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 22 February 2024 at 6.00 pm when the following business will be transacted.

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

Yours sincerely

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

Chief Executive

Planning Committee Membership:

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

AGENDA

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

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

4 **MINUTES**

To confirm the minutes of the meeting of the Committee held on 25 January 2024 (to follow).

5 **ITEMS DEFERRED** (Page 6)

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

**ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING**  
(Pages 7-11)

6 **APPLICATION NO DOV/23/01174 - THE 4 ACRES, ELMS VALE ROAD, HOUGHAM** (Pages 12-16)

**The stationing of 3 shipping containers and erection of associated structures including an external staircase and construction of a hard surface for use as stables, tack and storage (retrospective)**

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

7 **APPLICATION NO DOV/22/00717 - FALCONSVIEW MEADOWS, BARVILLE ROAD, WALDERSHARE** (Pages 17-26)

**Change of use of land to Gypsy/Travellers' site for 4 additional pitches, each containing 1 mobile home and 1 touring caravan, and erection of 2 amenity buildings, associated parking, hard surfacing and alterations to existing vehicular accesses**

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

8 **APPLICATION NO DOV/22/01207 - LAND AT ST ANDREW'S GARDENS, SHEPHERDSWELL** (Pages 27-64)

**Outline application for the erection of up to 39 dwellings (with all matters reserved)**

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

9 **APPLICATION NO DOV/23/01234 - 51 CHURCH PATH, DEAL** (Pages 65-78)

**Erection of a detached dwelling**

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

10 **APPLICATION NO DOV/23/01055 - SITE REAR OF 19 AND 21 BEWSBURY CRESCENT, WHITFIELD** (Pages 79-90)

**Erection of a dwelling with associated parking**

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

- 11 **APPLICATION NO DOV/23/00995 - LAND REAR OF 439 FOLKESTONE ROAD, DOVER** (Pages 91-104)

**Erection of two dwellings with associated parking (outbuildings to be demolished)**

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

- 12 **APPLICATION NO DOV/23/00521 - THE LARCH NURSERY, BEACON LANE, WOODNESBOROUGH** (Pages 105-121)

**Erection of 8 dwellings, associated landscaping and parking (existing buildings to be demolished)**

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

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

- 13 **APPEALS AND INFORMAL HEARINGS**

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

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

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

### **Access to Meetings and Information**

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

The meetings in which these cameras will be used include meetings of: (a) Council; (b) Cabinet; (c) General Purposes Committee; (d) Electoral Matters Committee; (e) Governance Committee; (f) Planning Committee; (g) General Purposes Committee and (h) Overview and Scrutiny Committee. Only agenda items open to the press and public to view will be broadcast.

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

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



**Declarations of Interest**

Disclosable Pecuniary Interest (DPI)

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

Other Significant Interest (OSI)

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

Voluntary Announcement of Other Interests (VAOI)

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

Note to the Code:

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

DOVER DISTRICT COUNCIL

REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

PLANNING COMMITTEE – 22 FEBRUARY 2024

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

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

**DOV/23/00679**

**Variation of Condition 2 (approved plans) for amendments to DOV/17/00246 relating to pedestrian access and creation of opening in listed wall (Section 73 application) – The Old Rectory, Church Hill, Eythorne (Agenda Item 10 of 25 January 2024)**

**Background Papers**

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

**SARAH PLATTS**

Head of Planning and Development

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

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

### The Reports

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

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

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

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

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

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

### Site Visits

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

The following criteria will be used to determine usefulness:

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

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

### Background Papers

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

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

## **IMPORTANT**

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

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

### **The Development Plan**

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

Dover District Core Strategy 2010  
Dover District Land Allocations Local Plan 2015  
Dover District Local Plan 2002 (saved policies)  
Worth Neighbourhood Plan (2015)  
The Adopted Minerals & Waste Local Plan (forming the Early Partial Review of 2020 and the Kent Mineral Sites Plan 2020)  
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

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

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

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23/01174  
The 4 Acres, Elms Vale Road, Hougham, CT15 7AW  
DOVER  
Scale: 1:1,250

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





- a) **DOV/23/01174 - The stationing of 3 shipping containers and erection of associated structures including an external staircase and construction of a hard surface for use as stables, tack and storage (retrospective) - The 4 Acres, Elms Vale Road, Hougham**

Reason for report – Number of contrary views (12)

- b) **Summary of Recommendation**

Planning permission be refused.

- c) **Planning Policy and Guidance**

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

Dover District Local Plan 2002: DD21

Draft Dover District Local Plan: The Submission Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. Proposed policy PM1 and the need for high quality design is relevant. Policy NE2 seeks to conserve or enhance landscape character. Policy CC6 relates to development within an area at risk of flooding.

National Planning Policy Framework (NPPF) (2023): Paragraphs 8, 135, 180 and 182.

Kent Downs AONB Landscape Character Assessment Review 2020

Kent Downs AONB Management Plan 2021-2026 – Policies SD1, SD2 and LLC1 apply

- d) **Relevant Planning History**

DOV/01/00925 – Granted for change of use of land for horse grazing. Condition 2 of that permission states that no buildings, structures, jumps, hurdles or field shelters shall be placed or erected on the land.

DOV/02/00110 - Refused for erection of a field shelter. The appeal was dismissed on the grounds that the building would be harmful to the AONB.

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

Kent Downs AONB Unit - The proposal fails to conserve or enhance the natural beauty of the AONB.

Town Council - Neutral response.

Third party Representations:

Three responses to the public consultation of the application have been received raising objections against the poor visual quality and use of materials for the buildings/structures, the harm to the AONB and the landscape, the incremental changes to the use and appearance of the land, the planting of inappropriate and non-native trees and precedent.

Twelve responses in support of the application have been received. These support the visual enhancement of the site that has taken place, the need for the facility, the well-maintained and cared for horses and land, the community benefits and the screening of the site.

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

- 1.1 The application site comprises a rectangular area of land that extends from its southern boundary adjacent to Elms Vale Road up the slope of the hill to the north. The land has been subdivided into 4 paddock areas for horses through the erection of timber post and rail fencing.
- 1.2 At the southern end of the site there are additional subdivisions of the land, providing smaller areas. These areas include outside storage, a timber close boarded fence wrapping around a touring caravan, a horse box, solar panels, and the proposed three containers – the subject of this application.
- 1.3 The containers have been placed in a horse shoe shape with an additional timber roof cover and hardstanding in front. Some timber cladding has been placed around some of the sides of the containers. Other paraphernalia around the containers include a flag, a set of stairs leading to a platform and the roof of the containers, traffic cones and a short section of newly planted leylandii trees along the western boundary of the front the site. The stairs are shown on the submitted drawings.
- 1.4 The application site forms part of a wider open area of countryside to the west, east and north.
- 1.5 The site is in full view from Elms Vale Road.
- 1.6 The application site is within and forms part of the Kent Downs Area of Outstanding Natural Beauty (now called Kent Downs National Landscape). The importance of the landscape and its beauty along this section derives from its distinctive dry valley. Dry valleys of the Kent Downs, along with the escarpment of the North Downs, being the main target for the designation of the Kent Downs AONB. The pattern of ridges and dry valleys gives the landscape a rolling rhythmic feel. The application site extends from the lower section of the valley to the north where the land rises to its peak beyond the application site. Beyond the paddocks the land has a natural undeveloped unspoilt appearance character and quality, with a scattering of low level trees and shrubs, and a visually and physically tranquil and strong rural character.
- 1.7 Planning permission exists for the grazing of horses on the land, which is an agricultural use, but no planning permission exists for keeping hoses on the land nor the provision of buildings or structures to be sited on the land.
- 1.8 The current proposal is mostly retrospective and is described above.

2. **Main Issues**

2.1 The main issues for consideration are:

- The principle of the development
- Impact on landscape character and appearance of the countryside
- Impact upon residential amenity

**Assessment**

Principle of Development

- 2.2 The proposed development is within the countryside. Under Policy DM1, the proposal should functionally require such a (countryside) location, or it should be ancillary to existing development or uses.
- 2.3 The lawful use of the land is for the grazing of horses. Ordinarily, by definition (s336 of the Act), the grazing of horses is not the same in planning terms as the keeping of horses and therefore there should not be a need for a stable building for the horses (normally enables the keeping of horses) to be able to continue grazing the land.
- 2.4 In addition, the additional elements to the proposed stables, including the associated paraphernalia of open storage, stairs, flagpoles, sitting out platform, solar panels etc are not necessary or functionally related to stable buildings or the need to graze horses. Neither is the caravan and other paraphernalia located at the southern end of the site which are not the subject of the development applied for here.
- 2.5 In the absence of any information to support the proposal, and following on from what is visible on site, the proposed building would be in conflict with Policy DM1.

#### Impact on Landscape Character and Appearance of the Countryside

- 2.6 When planning permission was originally granted for the change of use, and condition 2 was imposed which stated that no buildings, structures, jumps, hurdles or field shelters shall be placed or erected on the land, the sensitivity of the site and surrounding land was a matter of concern, and the condition was deemed necessary. This sensitivity was re-enforced by the Appeal Inspector in 2002, when a modest scaled field shelter was dismissed as having an intrusive and harmful impact upon the AONB.
- 2.7 The Landscape Character Assessment identifies the pressure/sensitivity to change from equine development that can change/affect the landscape character of an area. This is considered a potential 'threat' to the landscape.
- 2.8 The application proposal and the current visual and alterations and additions to the physical condition of the land around it have a seriously adverse impact upon the Landscape. The clad containers and the staircase and associated paraphernalia are prominent and appear conspicuous, incongruous and intrusive. They represent obvious, alien features within the landscape, exacerbated by the chosen use of materials for the structures/containers.
- 2.9 The timber cladding fails to assimilate into the natural surroundings. The conifer planting is a non-native species, and its function encloses land – this appears unnatural, incongruous and runs against the natural open appearance and quality of the surrounding countryside.
- 2.10 The proposals, along with the unlawful caravan development, enclosures and subdivision of the land (which have not been applied for) have resulted in an intrusive and harmful sprawl of development along this part of the valley floor and fail to meet the key test of conserving and enhancing the National Landscape (AONB). As a result of the siting of the structures on the lower valley side, being remote from any other building, and in view of its unconventional form, poor design, appearance and use of materials it presents an unattractive, unsuitable form of development in the location which is given the highest level of protection by NPPF. The other elements that have been added to the containers – the open storage, solar panels, timber cladding, conifer hedge planting, flag pole and stairs with a platform exacerbate the serious harm to the Landscape.

- 2.11 As such, the proposal is poorly designed and conflicts with Policy DD21 of the Saved Policies of the Local Plan 2022, Policies DM15 and DM16 of the Core Strategy, Policy NE2 of the Draft Local Plan and Paragraphs 135, 180 and 182 of the NPPF. It also runs counter to the principles of the AONB Management Plan.

#### Impact on Residential Amenity

- 2.12 The proposed building is suitably separate from the nearest residential properties to avoid causing any harm.

### **3. Conclusion**

- 3.1 The application submission suggests that the proposal is necessary for the keeping and well-being of the horses on the field. However, the conditional grant of planning permission and the appeal decision in 2002 give a clear indication around the sensitivity of the location of the site.
- 3.2 The proposed development, for the above reasons, fails to conserve or enhance the natural beauty and unspoilt quality of the National Landscape and the level of harm arising from the proposal and its associated paraphernalia outweighs a 'notional' need set out in the application submission. In addition, the presence of the other paraphernalia – the solar panels, the flag, the stairs to provide seating on the roof of the containers and how the land is subdivided and used for storage are all 'not necessary' to meet the 'notional' need for the horses.

### **g) Recommendation**

I PERMISSION BE REFUSED for the following reasons:

- 1) Insufficient information has been submitted to demonstrate that the proposed development is necessary, functionally required on the land, or is ancillary to the existing lawful use of the land for horse grazing. The proposed development by reason of its location, design, appearance and use of materials is incongruous, alien and poorly related to the open and visual context of the land, unsympathetic with the surrounding open countryside and fails to conserve or enhance the natural beauty and quality of this nationally designated and protected landscape (AONB). As such, the proposed development is in conflict with Policy DD21 of the Local Plan, Policies DM1, DM15 and DM16 of the Dover District Core Strategy; Policies PM1 and NE2 of the Draft Local Plan; it is contrary to the aims and objectives of the Kent Downs AONB Management Plan 2021-2026 at paras SD1, SD2 and LLC1, and comprises an unsustainable form of development in conflict with Paragraph 8 and the aims and objectives of Paragraphs 135, 180 and 182 of the National Planning Policy Framework.

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

N



22/00717

Falconsview Meadows, Barville Road, Waldershare, CT15 5BQ

EYTHORNE

Scale: 1:1,250

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



- a) **DOV/22/00717 - Change of use of land to Gypsy/Travellers' site for 4 additional pitches, each containing 1 mobile home and 1 touring caravan, and erection of 2 amenity buildings, associated parking, hard surfacing and alterations to existing vehicular access - Falconsview Meadows, Barville Road, Waldershare**

Reason for report – Number of contrary views (6)

- b) **Summary of Recommendation**

Planning permission be granted.

- 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) (2023): 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 (2023) (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 alternative 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/21/00769 (adjoining blue land) - Removal of Conditions 1 and 2 of planning permission DOV/07/00315 (siting of one mobile home and one touring caravan and ancillary facilities) to withdraw restriction on residential use by named occupiers and allow unrestricted gypsy residential use/occupancy (application under Section 73) - Granted planning permission

DOV/07/00315 - Retrospective application for change to residential use for Gypsy family of one mobile home and one touring caravan together with the ancillary use of day room/store, generating store, water tanks, and septic tank - Planning Appeal Allowed.

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

This application has had two rounds of public consultation, as the drawings were amended, and further details were submitted. The responses to these consultations can be found in full in the online planning file. A summary is provided below.

Initially submitted drawings:

Eythorne Parish Council: Strongly objects to the application on the grounds of harm to highway safety and harm to the character and appearance of the countryside.

Environment Agency: No comments to make.

Kent Archaeological Unit: Requested an archaeological desk-based assessment and a field evaluation survey.

KCC Strategic Unit: As the site was over 0.5 hectares, requested financial contributions towards youth services, library services, social care and waste services.

Kent Highways: Requested a visibility site plan or the submission of speed surveys.

Tilmanstone Parish Council: Considered the site falls within an unsustainable and poorly accessible location, would harm visual amenity and would lead to harm to highway safety.

Southern Water: Advised that there are no public foul and surface water sewers in the area to serve this development and that the Environment Agency be contacted with regard to the use of a private wastewater treatment works drainage.

Third party responses: Four responses were received following the first consultation of the planning application which raised objections against harm to highway safety, the loss of the open space and grazing on the site, harm to the landscape and visual amenity, fly-tipping, impact on the adjacent PROW and lack of need.

Amended drawings and additional information:

Environment Agency: No comments

Kent Highways: Raises no objections on highway safety but requests an on-site tracking plan for refuse vehicles and a drawing showing the location of refuse storage.

Southern Water: No further comments to make.

Eythorne Parish Council: Maintains the previous objections and also states that there is no overriding need, the proposal does not have sewerage infrastructure or fresh water supply which is harmful to health and the environment.

Tilmanstone Parish Council: Maintains the previous objections and also states that there is no overriding need, and the proposal is in conflict with the previous appeal decision.

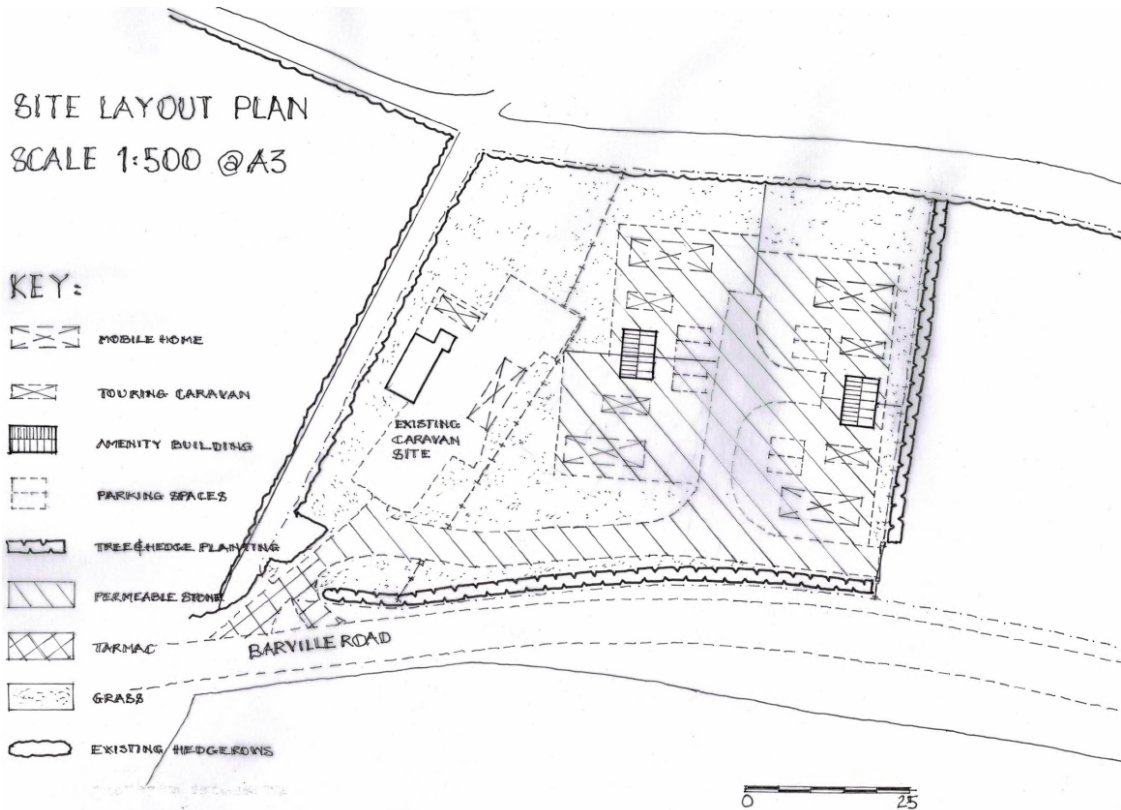
Third party responses: One response has been received objecting to the proposal and raising similar issues as set out above with regard to highway safety, harm to visual amenity and landscape, the use of the PROW, the lack of overriding need and the request for a 2m high fence along the boundary with the PROW, should permission be granted.

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

- 1.1 The application site comprises a mostly square parcel of land, but forms part of a larger holding which extends eastwards, from an existing access, to the head of the field at a point further east along Barville Road. The wider site is currently occupied by four static caravans, tourers and domestic paraphernalia and accommodates four pitches. At the time of writing this report, there are four static caravans on the wider site. These are not in the location shown on the proposed Site Layout Plan, as amended. One is sited within the proposed paddock and across the location of the eastern hedgerow, as shown on the layout plan, orientated north-south. Access to the site is from the southwestern part of the site, which is already in situ as it serves an existing gypsy pitch to the west of the application site.
- 1.2 The land had previously been used as a paddock. The site is located on the upper reaches of a gentle sloping, northern-facing tip of a ridge, that extends north-north-east from Shepherdswell to Tilmanstone. This ridge is part of a series of parallel ridges which form the rolling chalk landscape of this area of East Kent. The topography of the land rises from the valley bottom to the west of the site to a localised peak/ridge and then falls eastward towards a further valley bottom along Barville Road. The site occupies a section of the side of the hill, the ridge and the fall on eastern side. A bund is located along a short section of the southern edge of the site, and there is also a highway verge which rises above the level of the road. These assist in limiting views into the site. However, the site remains visible from Barville Road, seen through gaps in vegetation. There is a PROW that runs east-west to the rear (north) of the site. This PROW extends the length of the site and paddock area. Again, the site is visible from some sections of the PROW, but views are hindered by existing vegetation. The topography of the PROW falls with the contours of the surrounding land.
- 1.3 To the west of the application site, and sharing the same access, is the gypsy pitch granted in 2007. This is occupied by a static, tourers and an amenity building.
- 1.4 The application has been made by a gypsy family. One member of the family is already known by the planning case officer, and information has been provided to demonstrate that the applicant and her family meet the definition of having gypsy status. All those occupying the site are relatives. The pre-existing site adjoining has been occupied by the current applicant.
- 1.5 The proposal has been amended from its initial submission and reduces the area of land proposed to be occupied by the proposed pitches.
- 1.6 The siting of the static caravans will be on the western part of the field, behind and close to the access. These would be located in part on an extended hardstanding area, orientated north-south. Caravans currently on the land would be relocated in



accordance with the amended site layout plan if planning permission is granted. Parking is shown to be provided on the hardstanding area, along with a space for a tourer caravan. Two shared amenity buildings are also proposed which will be located between the pitches. The buildings have a rectangular form with a pitched roof. On the eastern edge of the site and in part along the southern edge of the hard surfaced area, adjacent to the road, new landscaping is proposed. A paddock area will be retained on the eastern part of the site. Planning conditions can be imposed to contain the pitches and domestic paraphernalia within the amended smaller site area.



**Figure 1 – Site Layout Plan**

## **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 Whilst Policies DM1 is out of date and DM11 is afforded reduced weight due to their level of consistency with the wording of the NPPF, restricting development principally to the settlement confines, 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.

- 2.3 However, the most important policy in the Core Strategy, with regard to the principle of development for accommodation for gypsy/travellers, is Policy DM7. This Policy does not require such accommodation to be provided within settlements.
- 2.4 Paragraph 109 of the NPPF identifies that different conditions can apply between rural and urban locations in how 'genuine choice' for travel should be measured. Paragraph 109 of the Framework requires the active management of patterns of growth to ensure that new development is well located to allow a genuine choice.
- 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.
- 2.6 It is considered that the total number of pitches (4 plus the existing) would not amount to a scale of development that would dominate the nearest settled communities of Eythorne or Tilmanstone, nor would it place undue pressure on the local infrastructure. Furthermore, whilst the site is outside the nearest settlements, the distance to these settlements is not significant and access to them by road does not require the use of rural lanes. Barville Road is used to access the nearby large industrial/employment site at Tilmanstone and Eythorne Village. Access to Eastry is some 5 minute drive along the A256. Therefore, the distance to nearby facilities and amenities and their accessibility do not make the site unsustainable when factoring in that a countryside location for gypsies and travellers is not considered unacceptable in principle.
- 2.7 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.
- 2.8 The previous appeal decision granted planning permission on part of the land that adjoins the current application site, allowing the use of the site by one caravan for a gypsy family. The use of the same access is proposed. There were locational and other matters considered by the then Inspector which will be set out further in this report.
- 2.9 In conclusion, whilst there is some conflict with DM1 and DM11 of the Core Strategy, the proposal is not in conflict, in principle, with policy criterion i) of DM7, the PPTS or Paragraph 109 of the NPPF and should be supported as being in a suitably sustainable location.

#### Effect on Character and Appearance of the Area

- 2.10 The application proposal has been amended. This amendment reduces the area of land proposed to be set aside for the siting of the caravans and the residential activity associated with their occupation. The remaining land is proposed to be used and retained as paddocks. The uses of the land and area covered by the uses can be secured through a planning condition.
- 2.11 The site is visible from Barville Road and the adjacent and nearby road and PROWs to the north, west and south – but views into the site are tempered mostly by hedgerow

planting. The access is fully visible from Barville Road; however, this is already in use to serve the approved gypsy pitch. The land rises from the point of access, with bunding along the southern boundary such that the visibility of the caravans, in the location shown on the submitted drawing, would be limited. Further hedgerow planting and screening has been discussed with the applicant and these can be secured through a planning condition.

- 2.12 The site is also visible within the context of the large area of land to the south in use for the keeping of horses (Barville Farm). This land is subdivided by fencing and there are stable buildings, horse boxes and 'caravans' located on the land. This use of land and the equine paraphernalia on it has been taking place for a long time. The appearance of the land provides a visual context when seen from the site and along Barville Road to the east. The location of the proposed caravans and paddock would not appear in visual isolation, although they would be on the opposite side of the road.
- 2.13 The proposed layout provides for a static, tourer and amenity room, parking and some space for amenity per pitch. The statics are proposed away from the northern and southern boundaries of the site. It is considered that the scale and extent of development is not excessive and there are adequate levels of space around the pitches to provide amenity and play space for children.
- 2.14 In conclusion, there is no doubt that the use of the site for the 4 additional pitches will be visible from views from public vantage points, but it is considered that these views are tempered by existing vegetation and can be more so through additional landscaping. In context however, with the approved gypsy pitch and those structures and uses of land opposite, it is not considered that the proposed development would appear out of context, incongruous or conspicuous to cause undue harm to the rural character and appearance of the countryside.
- 2.15 With regard to the policy criteria iii) in DM7, the proposal is partly screened, with the potential for improved screening, by vegetation and hedgerow planting.
- 2.16 On balance therefore, with conditions to mitigate the degree of visual impact and harm, the proposal would not be unduly incongruous within the rural landscape or appearance of the countryside. It would satisfy the requirements of Policies DM7, DM15 and DM16 and Paragraph 180 of the NPPF.

#### Effect on Residential Amenity

- 2.17 The application site is suitably separate from the nearest residential properties to avoid having any material impact upon them.
- 2.18 The proposal would not lead to the reduction of the residential amenities of the occupants of any nearby dwellings and satisfies the requirements of criterion iv) of Policy DM7

#### Highways

- 2.19 Kent Highways do not raise objections to the application. Although the responses to the consultation of the application raise highway safety as a valid cause for concern, 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.

- 2.20 As such, it is considered that subject to the implementation of the visibility sightlines and alterations to the access as proposed, it is considered that highway safety would not be unduly harmed.

### 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.
- 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. Should the Planning Committee resolve to grant this application, a financial contribution would be sought from the applicant to mitigate the harm and 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 layout of the site does not appear to require the loss of any hedgerows and only the loss of pasture. The site already accommodates some landscaping along boundaries and on part of the site where the pitches are not proposed. There would appear to be opportunities for improving the vegetation along boundaries, through new hedgerow planting. As such, the proposal could help meet the objectives of Policy NE1 of the Draft Local Plan.

### Planning Policy for Traveller Sites

- 2.26 The PPTS advises that relevant matters to take into account when considering planning applications include the existing level of local provision and need for sites, the availability of alternative accommodation for the applicants and the personal circumstances of the applicant.
- 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. Although the achievement of the 5-year supply of gypsy pitches is met, this figure is not a 'ceiling' that means other sites should not come forward. The 5-year supply is

the 'expected' level of supply to meet needs. However, the achievement of the 5-year supply means that full weight can be attributed to Policy DM7 of the Core Strategy and other policies that are important for the determination of the application. The PPTS is important for the determination of this application and post-dates the Core Strategy.

- 2.28 With regard to the availability of alternative accommodation, officers are aware that there are vacant pitches within the district that could be considered to represent alternative locations. However, it is not known whether a family group, such as this, could be accommodated on one site. The Planning Committee can be updated on this matter.
- 2.29 With regard to personal circumstances and what is known as "the best interests of the child" the applicant has submitted information to officers around the schooling and health of the children on the site. This information is protected from the public, but could be shared with the Planning Committee as an exempt item on the Agenda. Notwithstanding, officers consider that there is a case for retaining the children on site and providing them with a settled base.

### **3. Conclusion**

- 3.1 The proposal seeks to accommodate 4 additional gypsy pitches on the site. The scheme has been amended to reduce the land-take for the change of use and the extent of the domestic paraphernalia associated with it.
- 3.2 Whilst there would be a limited degree of visual harm to the rural landscape and beauty of the countryside, it is considered that this does not outweigh the general need for the pitches, the limited availability for suitable alternative accommodation for the applicant and the personal circumstances of the applicant and the family group.
- 3.3 The request for financial contributions from Kent County Council was received following the first consultation of the application. The application site has now been reduced in area and only four pitches are proposed. It is not considered that the financial contributions sought can be justified to meet the tests set out in the NPPF.
- 3.4 With regard to archaeology, the KCC Archaeology has been approached by officers on a number of occasions to consider the Written Scheme of Investigation (WSI) submitted by the applicant to address the officer's comments. They have not replied. Notwithstanding, the degree of excavation anticipated is limited to mostly 'scraping' of the land to provide bases for the static caravans and a hardsurfaced topping for the site, the erection of the amenity buildings and any intrusive drainage works. In the light of the WSI, it is not considered necessary for the decision to be held up for further submissions to be made. The submitted WSI sets out the aims and objectives behind the geophysical survey and assessment of the findings, which would also include mitigation measures if these were deemed necessary. This should ensure that suitable protection to historic and archaeological findings can be safeguarded, if a suitably worded planning condition is imposed.
- 3.5 Biodiversity net gain could be achieved through further planting and other measures, and a planning condition is suggested. A financial contribution to mitigate the impact upon the conservation status and habitats of the Sandwich Special Protection Area is required.

### **g) Recommendation**

- I PERMISSION BE resolved to be GRANTED subject to the completion of a unilateral undertaking to secure financial payments towards mitigating the impact of the development on the Thanet Coast & Sandwich Bay SPA and subject to the following conditions:
- 1) Limit occupation to Gypsies and Travellers
  - 2) Approved plans
  - 3) No more than four gypsy pitches on the site, and no more than two caravans on each pitch. Only the static caravan on each pitch shall be occupied for a primary residential use.
  - 4) Use to cease: if details of siting of static and touring caravans, foul and surface water, refuse storage, parking and turning areas, visibility splays, site access, boundary treatments, soft landscaping, biodiversity measures and an implementation timetable are not provided within 3 months of the decision; if such details are refused or not determined within 11 months and no valid appeal is made; if such an appeal is not allowed; or if the approved details are not completed in accordance with the approved timetable.
  - 5) Geophysical survey prior to the erection of amenity buildings
  - 6) No commercial activity, including storage
  - 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site
  - 8) No external lighting, other than that which is approved
- II Powers to be delegated to the Head of Planning and Development to settle any necessary conditions and legal agreement in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Vic Hester

N



22/01207

Land At St Andrew's Gardens, Shepherdsweil, CT15 7LP  
SHEPHERDSWELL WITH COLDRED

Scale: 1:1,500

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



- a) **DOV/22/01207- Outline application for the erection of up to 39 dwellings (with all matters reserved) – Land at St Andrews Gardens, Shepherdswell**

Reason for report – Number of contrary views (130)

- b) **Summary of Recommendation**

Planning permission be granted subject to conditions and completion of a s.106 agreement to secure planning obligations.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, CP4, CP5, CP6, CP7, DM1, DM2, DM5, DM11, DM13, DM15, DM16

Local Plan (2002) Saved policies: Policy CO8 Development affecting hedgerows.

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

Draft policies SP1, SP2, SP3, SP5, SP11, SP13, SP14, SP15, SAP36, CC1, CC2, CC4, CC6, CC8, PM1, PM2, PM3, PM4, H1, TI1, TI2, TI3, NE1, NE2, HE1 and HE3 are considered most relevant to this application.

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 12, 47, 48, 49, 50, 60, 82, 96, 104, 108, 114, 115, 116, 117, 123, 124, 128, 135, 136, 137, 138, 139, 157, 159, 162, 180, 186, 189, 190, 200, 201, 205

National Design Guide & National Model Design Code (2021)

- d) **Relevant Planning History**

87/01493 - 37 low cost dwellings - Refuse Planning Permission

89/00525 - The erection of 25 dwellings with ancillary access road - Refuse Planning Permission

89/01485 – Residential development- Refuse Planning Permission

90/00592 - Outline proposed residential development - Refuse Planning Permission

91/00308 -Proposed residential development- Appeal dismissed

Article 4 Land– 3/ 1978/ Land between Mill Lane St Andrews Gardens Eythorne Road Bernard Gardens Shepherdswell



Adjacent site - Land Adjacent To Mill House Mill Lane Shepherdswell CT15 7LR

23/00235- Erection of 10 dwellings with associated access, parking, landscaping and ancillary works -under consideration

**Consultee and Third Party Representations**

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

National Highways – Recommend that conditions requiring a travel plan and construction management plan are attached to any planning application that may be granted.

Shepherdswell Parish Council – Object. Loss of environmental protection, and that some of the houses are appearing to be closer to the boundary of St Andrews Gardens properties than previously. The transportation statement has not been amended to reflect the cessation of the bus services within Shepherdswell. The issues raised by the other consultees should be addressed, regarding sewage, vehicle access, sight lines, archaeology, number of vehicle movements, water pressure and gas pressure.

KCC Economic development- No objection, subject to contributions being secured.

KCC Highways- No objection to the principal of the proposal. Further information was initially requested to establish the exact parameters of the proposed access. While the site is not intended to be offered for adoption, KCC Highways suggest all accesses provide 2 metres pedestrian visibility on either side of crossovers. A Construction Management Plan (CMP) to be secured by way of a suitable condition.

The details in relation to the existing highway boundary have not been submitted. However, pedestrian routing and proposed tactile crossings have been submitted. This is acceptable with the schemes being subject to a Section 278 Agreement with KCC Highways. This will form a separate agreement and require a Stage 1 Road Safety Audit which will form part of the submission of the agreement. KCC Highways suggest the works are secured by way of a suitable condition, to be completed prior to first occupation, should planning permission be granted.

Without the required highway definitions plans it is uncertain as to the exact parameters of the access. Should the LPA be minded to approve the application, KCC Highways suggest that this is subject to the submission and approval of the highway definition plans. The access currently proposed for the western site is steep and the gradient is approximately 1:9 for the initial access. KCC Highways note that the site is not intended to be offered for adoption. KCC Highways would generally accept a gradient of 1:16.7 as a maximum, and 1:12.5 if unavoidable (which is DDA compliant). To enable the access to be achieved, there would need to be raising of the levels and a form of retaining structures, thus moving the access road away from the boundary to avoid impact on neighbouring properties. The proposed sections and site levels should be secured by a pre-commencement Condition, and it may be considered appropriate to deal with the details of this at reserved matters stage given that the current application is outline. KCC Highways raise no objection to the

principle of the proposal subject to a number of requirements are secured by condition or planning obligation.

In their most recent consultation response, KCC raised a holding objection, due to lack of emergency access or a looped arrangement. Comments were previously submitted in relation to the highway definitions plans and the gradient of the western parcel. KCC Highways can confirm that the cumulative impact of the proposed development would require an emergency access. The parcel to the south on Mill Lane is currently subject to a planning application for 10 dwellings (LPA reference: DOV/23/00235) which formed TC4S02 within the emerging Local Plan. As per Policy SAP36, emergency access to this site should have come forward via the southern parcel of TC4S02, with a direct connection onto Mill Lane to form a loop road (for emergency vehicles), with the cul-de-sac connection off St Andrews Gardens. The western parcel would not benefit from the emergency access, although the number of dwellings served from the single point of access would be limited and less than the 50 units detailed in Kent Design Guide. As previously outlined, KCC have outstanding issues in relation to the highway boundary and gradient of the western parcel. While not being offered for adoption, the access would require significant realignment to safeguard the neighbouring properties.

KCC PROW- No objection.

KCC Archaeology -Have requested further archaeological evaluation, including that trial trenching takes place. This is because the upper (east site) has a high likelihood of containing important archaeological remains and that associated remains could extend into the lower (west site) also. Have suggested condition wording if officers are minded to grant outline permission, without evaluation works taking place prior to determination.

After further consultation KCC Archaeology stated that if officers are minded to determine the application without seeking field evaluation in advance then we suggest that provision (conditions) should be made 1) any evaluation to be carried out prior to submission of any reserved matters application; 2) to secure any subsequent safeguarding measures [albeit we judge opportunity for safeguarding is very limited] and/or investigation and recording of archaeological remains; and 3) for post-excavation assessment, analysis and reporting of the archaeological findings. This could perhaps be wrapped up in a single staged condition (see wording at the end of this message) but my advice would be that such an approach is risky (as there seems no opportunity to respond to the results of the evaluation if preservation in situ is identified as the required outcome) and does not fully accord with the provisions of the NPPF.

National Grid – No response

Southern Gas Networks – No response

NHS Kent and Medway - has assessed the implications of this proposal on delivery of general practice services and is of the opinion that it will have a direct impact which will require mitigation through the payment of an appropriate financial contribution. **£33,528** is requested towards refurbishment, reconfiguration and/or extension of Lydden Surgery

and/or Aylesham Medical Practice and/or Canterbury Medical Practice and/or White Cliffs Medical Centre and/or towards new general practice premises development in the area.

DDC Ecology –are satisfied that the Addendum to the preliminary ecological assessment, and the assessment itself, adequately considers the potential ecological interest of this area. Has recommended a biodiversity method statement, and biodiversity enhancements are secured by condition, if planning permission is granted.

DDC Tree officer- No objections to the proposed development provided that the tree protection measures, the arboricultural method statement and the recommendations set out in the Pre-development Tree Survey/Report dated 30/3/2022 are adhered to.

DDC Housing manager- There is a need for affordable housing across the District, and particularly in our rural settlements. A recent Housing Needs Survey for Shepherdswell identified a need for family accommodation for local people with a connection to this village. This application proposes 30% affordable housing, which is policy compliant and can be supported, and identifies a Registered Provider who will be purchasing the affordable housing. The application proposes all 2 bedroom houses for affordable housing, but there is a need for 3 bedroom houses for affordable rent, so a mix of property sizes in the final split would be welcomed.

Kent Police- Have made comments in relation to boundary treatments, parking, trees, lighting, doorsets, windows, ground/ wall anchors for cycle storage, site security during construction. Kent Police would welcome discussions with applicant.

Kent Fire and Rescue- The Kent Design Guide provides guidance for alternative emergency access routes for developments in excess of 50 dwellings with one main access road. The proposal will significantly increase the size of the existing estate served by one access route. Where possible, please consider alternative emergency access, which could also serve as a pedestrian or cycle route.

Applicants should be aware that in the event of planning permission being granted the Fire and Rescue Service would require emergency access, as required under the Building Regulations 2010, to be established. Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.

Southern Water- requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. The submitted drainage details indicate SuDS to be maintained within private ownership and maintenance. We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water

Affinity Water- No response

Environment Agency- No comments

Natural England– Made comments in relation to the east kent Special Protection Area(s) and Ramsar Site(s), Kent Downs AONB and Sites of Special Scientific Interest Impact Risk Zones.

KCC Lead Local Flood Authority- No objection subject to planning conditions being imposed. Initially made comments in relation to proposed infiltration rates and type of infiltration, and asked for further information.

DDC Environmental protection- Request a construction management plan is imposed by condition.

DDC Waste – No response

Kent Wildlife Trust- No response

Stagecoach- No response

CPRE Kent - Objects to this planning application on the following grounds, lack of secondary/emergency access, impact of development on the character and appearance of the locality – with specific reference to the chalk grassland valley to the north and north west and the enjoyment of this part of the 156 mile national trail along the North Downs Way, and impact on local wildlife.

Third party Representations:

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

- Does not comply with adopted development plan
- Development is too large for the size of the village
- Detrimental impact on character of village
- Strain on services such as the school, which is oversubscribed, and GP, already under pressure
- Detrimental impact on local shop caused by increase in people using it, and traffic congestion
- Highway network would not be able to support increased flow of traffic after and during construction
- Narrowness of existing highway including roads accessing village being single track and the width of highway on St. Andrews gardens
- Concerns over access for emergency vehicles
- Drainage infrastructure would not be able to support new development
- Existing insufficient water pressure
- Electrical outages happening
- Poor surface water drainage in locality

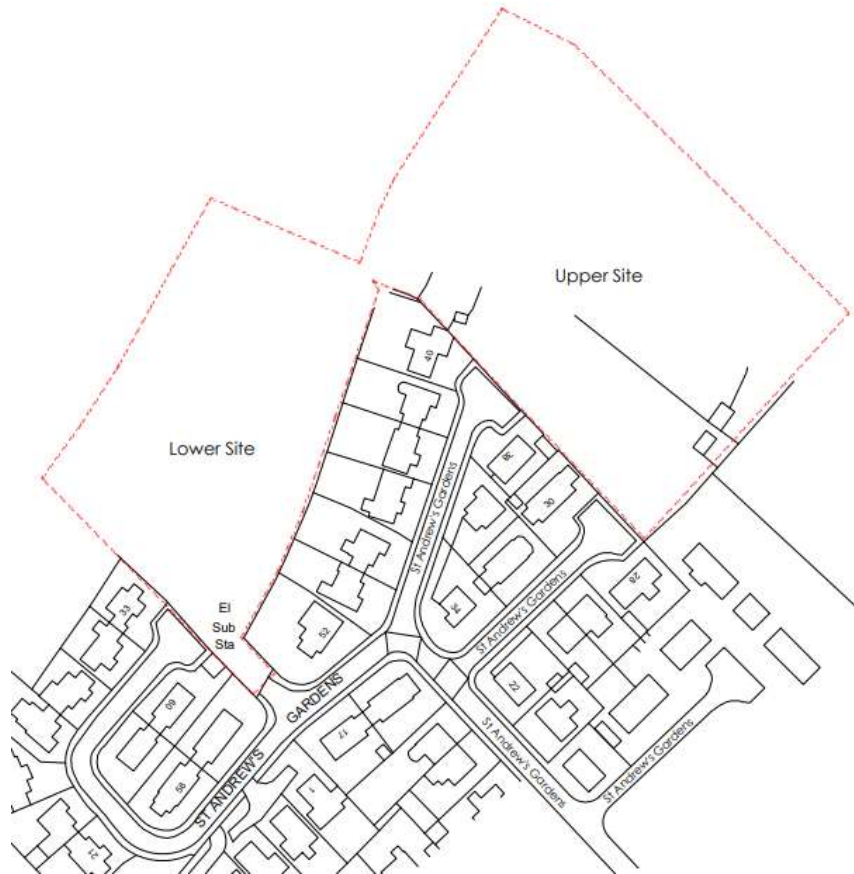
- Section 106 agreement with a minimum contribution of £3.5M for the community should be secured
- Bus routes have been stopped
- Church Hill is already congested at times, which makes it dangerous for pedestrians including those walking to the school
- main road into and out of village, Coxhill has no footway, extra traffic is an accident waiting to happen
- Disruption during construction
- Green land associated with the North Downs Way / Via Francigena should be protected. This route has religious and historic significance.
- Loss of the countryside and green land
- Land marked for development in and around other villages nearby (eg Aylesham) has not been developed
- There is brownfield land nearby which has not been fully developed.
- Insufficient consultation with village residents
- Impact on wildlife and habitats
- Impact on landscape
- Detrimental impact on green area which is a much used amenity.
- Detrimental impact on development of green tourism in the District.
- Poor design
- No sustainable measures incorporated in scheme
- Air pollution
- Small gardens proposed
- Steep gradient of access to western site
- The additional access point on the plan does not match any plan submitted by Woodchurch property developments. Until a plan is submitted and access is available to a road at this point it cannot be assumed that it will ever be made available for use.
- This additional access will produce additional traffic from existing residents of St Andrews gardens as a short cut in the Eythorne direction. It will also produce additional traffic to the junction at Mill Lane by the surgery.
- No collaboration between developers

No representations in support have been received.

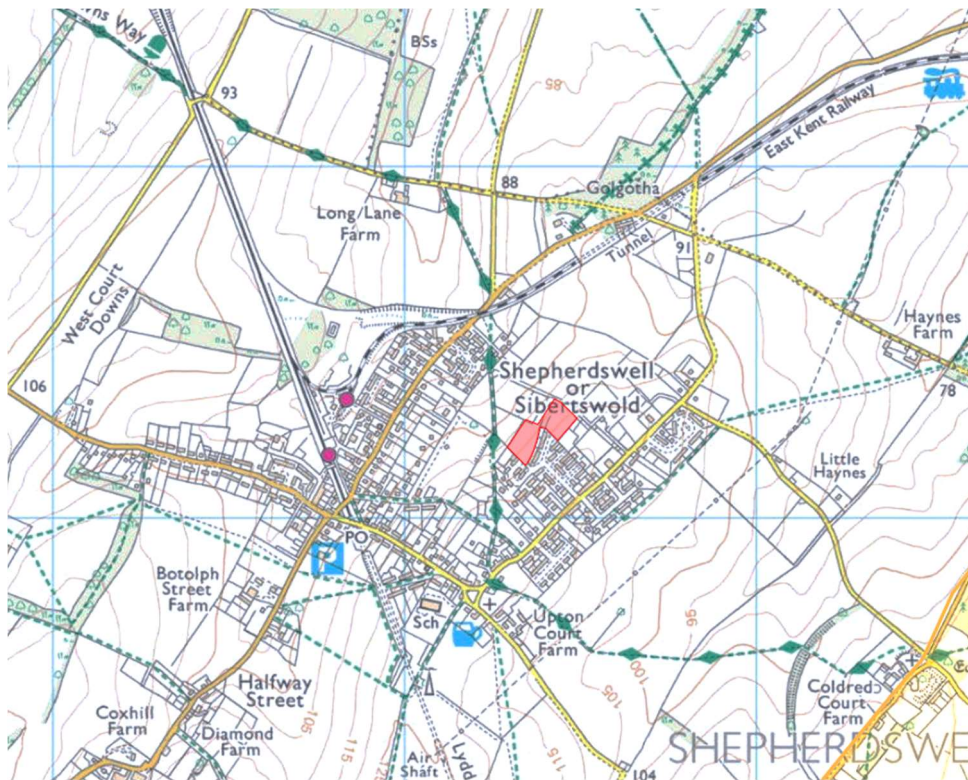
e) **1. The Site and the Proposal**

- 1.1 The site is located to the eastern side of Shepherdswell and extends across an area of 1.73 hectares. The site is formed of two separate parcels, and levels fall across the site to the northwest.
- 1.2 The site is composed of two pastures currently used for horse grazing. The two pastures are separated by an open field that does not form part of the application. There are two small, dilapidated stables and a more modern shiplap stable on the site currently. The fields also contain water butts, electric fencing and storage relating to the current use. Both fields are overlooked by dwellings on St. Andrews Gardens.

- 1.3 To the south of the site is St. Andrews Gardens, a residential area which consists of single storey large detached and semi-detached bungalows. There is a doctor's surgery to the south of the site along Mill Lane. There are open fields to the north and east, with further dwellings beyond approximately 180m away to the northwest at Bernard's Gardens. Overhead electricity cables pass over both sites.
- 1.4 The western parcel comprises a rectangular-shaped parcel of land, approximately 100m in length and 60m wide. The western parcel is open to the countryside along the northern and western boundaries, with the northern boundary marked by a temporary post and wire fence. The eastern boundary is formed by the rear garden fencing of dwellings on St Andrew's Gardens. The southern boundary is abutted by gardens of properties along St Andrew's Gardens and a vehicle turning head serving the small adjacent cul-de-sac. The topography of the Lower Site falls gently to the north-west at a gradient of approximately 1 in 10, with a high-point at the south-western corner near the proposed access, and a low-point at the north-eastern corner.
- 1.5 The eastern site is rectangular-shaped parcel of land, approximately 85m in length and 125m in width. It is open to the countryside along the northern, eastern and western boundaries, with all three boundaries containing vegetation. The southern boundary is abuts gardens of properties on St Andrew's Gardens, with two vehicle turning heads serving two small adjacent cul-de-sacs. Mill House, a residential property, lies near to the eastern corner. The topography of the Upper Site falls gently from the southern-western corner to the north-eastern corner at an approximate gradient of 1 in 15, however the gradient increases along the western boundary. St. Andrews Gardens to the north-east.
- 1.6 The site is within an area of Archaeological Potential. The site is not within a conservation area or contains any designated heritage asset. It is outside of the Kent Downs AONB and is located within flood zone 1 (land at least risk of flooding).
- 1.7 The proposal is an outline application for the erection of up to 39 dwellings, with all detailed matters reserved.
- 1.8 It should be noted that a significant number of letters of objection have been received to the application and the issues raised have been assessed in the report.
- 1.9 The description has been amended during the course of the application, and the proposals, including to show the provision of emergency access only via the adjacent application site at Land Adjacent To Mill House Mill Lane CT15 7LR (current planning application under consideration DOV/23/00235).



**Figure 1: Site location plan (not to scale)**



**Figure 2: Application site in red overlain on Ordnance Survey map, taken from the submitted Landscape and visual appraisal (not to scale)**





**Figure 3: Application site in red overlain on aerial photograph, taken from the submitted Landscape and visual appraisal**



**Figure 4- View taken from western parcel looking south towards St. Andrew's Gardens**





**Figure 5- View taken from western parcel looking southwest**



**Figure 6- View taken from eastern parcel looking south towards St. Andrew's Gardens**





**Figure 7- View looking east towards the site from the North Downs Way National Trail**



**Figure 8- Proposed access point to the site (western parcel) located between 52 and 54 St. Andrew’s Gardens (Taken from Google maps)**



**Figure 9- Proposed access point to the site (eastern parcel) located between 38 and 40 St. Andrew’s Gardens (Taken from Google maps)**



**Figure 10: Indicative site plan (not to scale)**

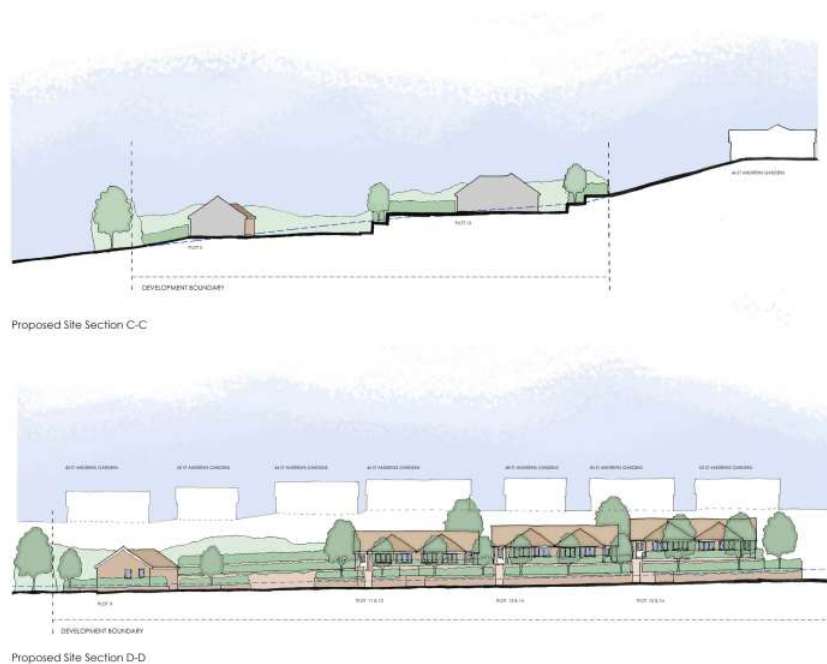


Proposed Site Section A-A



Proposed Site Section B-B

**Figure 11: Indicative site sections/ elevations plan (not to scale)**



**Figure 12: Indicative site sections/ elevations plan (not to scale)**

## 2. **Main Issues**

### 2.1 The main issues for consideration are:

- The principle of development
- Design
- Heritage Impact
- Landscape Impact
- Impact on living conditions
- Housing mix and affordable housing
- Highways, parking and sustainable transport
- Ecology and trees
- Flood risk and drainage
- Archaeology
- Contamination
- Infrastructure and Developer contributions

## **Assessment**

### **Principle of Development**

- 2.1 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework are a significant material consideration in this regard.



- 2.2 Notwithstanding the primacy of the development plan, Paragraph 11d of the NPPF states that “where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date” permission should be granted unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (7); or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.
- 2.3 The Council are currently able to demonstrate a five-year housing land supply and have not failed the housing delivery test.
- 2.4 The policies most important in determination of the application are considered to be CP1, DM1, DM11 and DM15.
- 2.5 Policy CP1 of the Core Strategy seeks that the location and scale of development in the district complies with the Settlement Hierarchy. Shepherdswell is identified as a local centre, a settlement suitable for a scale of development that would reinforce its role as a provider of services to its home and adjacent communities.
- 2.6 Policy DM1 sets out that ‘Development will not be permitted on land outside the urban boundaries and rural settlement confines shown on the proposals map unless specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses’. Policy DM1 accords with the strategic aim of the NPPF to promote sustainable development. However, it is considered that Policy DM1 is in tension with the NPPF as it is more restrictive, and that limited weight should therefore be afforded to this policy. Given the degree of conflict between this policy and the NPPF, it is considered that this policy is out-of-date.
- 2.7 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. Whilst there is some tension, this policy broadly accords with the NPPF’s aim to actively manage patterns of growth to support the promotion of sustainable transport and is therefore not considered to be out-of-date, however the weight is reduced.
- 2.8 Policy DM15 seeks to resist development that would result in the loss of, or adversely affect the character or appearance of the countryside. The ‘blanket’ protection of the countryside advocated by the first sentence of DM15 is more stringent than the NPPF. However, this policy is considered broadly consistent with the aims of the NPPF including the need to recognise the intrinsic character and beauty of the countryside (Paragraph 174 of the NPPF). It is not therefore out-of-date and continue to attract significant weight.

- 2.9 Given the location of the proposed development outside of the village confines and within the countryside, the proposal would be contrary to Policies DM1, DM11 and DM15, with no Local Plan Policies indicating that permission should be granted.
- 2.10 Consideration must be had for whether the “tilted balance” would be engaged were an application submitted, having regard for Paragraph 11 of the NPPF. Some of the adopted policies relevant for determining the application are considered to be out of date to varying degrees, with Policy DM1, which is particularly crucial in assessing the principle of the development, being particularly so. Giving weight to policy DM1, it is therefore concluded that the ‘basket’ of local policies is out of date.
- 2.11 Consequently, it is considered that the ‘tilted balance’ would be engaged, and that paragraph 11 the NPPF would be relevant in the assessment of any forthcoming application. Sub-paragraph (ii) would be relevant, and in order to grant planning permission, it should be demonstrated at planning stage that any adverse impacts of doing so would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 2.12 The Submission Draft Local Plan was submitted for examination in March 2023. The Plan is at an advanced stage and is considered to be an important material consideration in the determination of the application. In relation to the Draft Local Plan, policies SP1, SP2, SAP36 and TI1 are considered most relevant to the principle of development.
- 2.13 The national planning policy framework at paragraph 48 states that weight may be given to relevant policies in emerging plans according to:
- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
  - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
  - c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)
- 2.14 The NPPF at paragraph 49, states that in the context of the presumption in favour of sustainable development, it is unlikely that a refusal of planning permission would be justified on grounds of the application being made in advance of the local plan being adopted. This is other than in the circumstances where the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan, and that the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.
- 2.15 Draft policy SP1 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.

2.16 Draft Policy SAP36 allocates the application site, together with the neighbouring site adjacent to Mill House, for an estimated number of 50 homes. The draft policy includes the following criteria:

- a) The existing trees along the southern border of the site are to be maintained and enhanced with new screening to be provided to north west and western boundaries to mitigate the impact of development on the countryside, and provide opportunities for biodiversity habitat creation and enhancement;*
- b) Trees which need to be removed to enable an access to be provided to the site, shall be kept to the minimum needed to provide necessary visibility, and will be required to be replaced on-site;*
- c) Primary vehicular, pedestrian and cycle access to the whole site shall be provided from St. Andrews Gardens, and therefore development of site SHE004 must provide vehicle access and servicing up the boundary with TC4S082 to enable a main access road to be created through the whole development. An additional, secondary emergency access onto Mill Lane may be achievable from TC4S082 and should be explored, along with a speed survey to clarify and address visibility restrictions;*
- d) Provide off-site pedestrian improvements (pram crossings) at road junctions within the St. Andrews Garden Estate;*
- e) Provide pedestrian crossing improvements on Mill Lane;*
- f) In accordance with Policy SP13, a wintering bird survey must be undertaken in advance of a planning application on the site. If the bird survey identifies that the development will exceed the threshold of significance, mitigation will be required. A suitable scheme of mitigation will need to be submitted with the planning application for the site;*
- g) Ensure appropriate species and habitat surveys are carried out prior to determination. Survey results will inform layout and design to avoid ecological impacts in accordance with the mitigation hierarchy and to inform on site ecological mitigation, compensation and enhancement measures and proposals for effective implementation, management and monitoring of all such measures;*
- h) A site-specific Flood Risk Assessment is required to address the issue of surface water flooding and consider the impacts of climate change over the lifetime of the development;*
- i) An Archaeological Assessment for the site must be carried out in accordance with Policy HE3 Archaeology, the results of which should inform the layout and design of the development which is necessary to avoid harm to any archaeological assets identified through the assessment;*
- j) An assessment of land contamination for the site shall be carried out and submitted as part of the planning application and appropriate mitigation measures must be implemented prior to development commencing;*
- k) Layout is planned to ensure future access to existing wastewater infrastructure for maintenance and upsizing purposes; and*

*l) Open space requirements in accordance with Policy PM3 shall be provided. However, due to the location nearby to existing open space infrastructure, off-site contributions to upgrade or enhance nearby facilities may be sought rather than on-site provision.*

The schedule of additional modifications submission document (March 2023), makes some changes to the wording of the draft policy, including removal of the requirement for a wintering bird survey. Text has been added requiring improvements to the Public Right of Way network to increase connectivity in the area and connection to North Downs Way should be provided, where possible.

At the time of writing, proposed amendments were being prepared to issue to the Local Plan Inspector. These amendments include:

a) The existing trees along the southern boundary ~~border~~ of the site are to be ~~maintained~~ retained and enhanced....

c) Primary vehicular, pedestrian and cycle access ~~to the whole site shall be provided~~ is available from St. Andrews Gardens and Mill Lane. An internal gateway shall be provided to enable a link for emergency access between the 2 parts of the site to be established, ~~and therefore development of site SHE004 must provide vehicle access and servicing up the boundary with TC4S082 to enable a main access road to be created through the whole development. An additional, secondary emergency access onto Mill Lane may be achievable from TC4S082 and should be explored,~~ along with a speed survey to clarify and address visibility restrictions;

d) Provide off-site pedestrian ~~improvements (pram crossings)~~ dropped curbs with tactile surfacing at road junctions within the St. Andrews Garden Estate;

g) Ensure appropriate species and habitat surveys are carried out prior to application submission. ~~determination.~~

2.17 To conclude, the draft policy is considered to be in line with the sustainable development objectives of the NPPF. As per Paragraph 48 of the NPPF it is considered that the policy can attract weight in the planning balance.

2.18 The proposal is considered to address all policy criteria listed in SAP36 with the exception of an access road being created through the whole site (criterion e), and an assessment of land contamination (criterion j). These were not considered a necessary requirement at this stage and will be discussed in the report further in more detail. Apart from the above, it is considered that the proposal would accord with the draft policy.

### Design

2.19 Paragraph 152 of the NPPF states that the planning system should support the transition to a low carbon future. It should help to shape places in ways that contribute



to radical reductions in greenhouse gas emissions, and encourage the reuse of existing resources, including the conversion of existing buildings.

- 2.20 Draft policy SP1 seeks to ensure that all new built development contributes to the mitigation of, and adaptation to climate change. This is echoed in draft policy CC2 which provides details of Sustainable Design and Construction including life cycle and adaptation of buildings and minimisation of waste.
- 2.21 Draft policy SP2 seeks that new developments are designed to be safe and accessible, to minimise the threat of crime and promote social interaction and inclusion through the provision of high-quality people focussed spaces. All new development should achieve a high standard of design internally and externally, and should have accessible, high-quality greenspaces, and spaces for play and recreation.
- 2.22 Draft policy PM1 requires that development achieves a high quality of design, promotes sustainability, and fosters a positive sense of place. It also states development should respect and enhance character to create locally distinctive design or create character where none exists. Appropriate provision for service areas, refuse storage (including waste and recycling bins), and collection areas should be made in accordance with the nature of the development.
- 2.23 Draft policy SAP36 states that Primary vehicular, pedestrian and cycle access to the whole site shall be provided from St. Andrews Gardens, and therefore development of site SHE004 must provide vehicle access and servicing up the boundary with TC4S082 to enable a main access road to be created through the whole development. An additional, secondary emergency access onto Mill Lane may be achievable from TC4S082 and should be explored, along with a speed survey to clarify and address visibility restrictions.
- 2.24 Draft policy SAP36 also states that the existing trees along the southern border of the site are to be maintained and enhanced with new screening to be provided to north west and western boundaries to mitigate the impact of development on the countryside, and provide opportunities for biodiversity habitat creation and enhancement.



**Figures 13 and 14: Indicative images of the proposed development**

- 2.25 An illustrative site plan (Figure 10) has been submitted which shows how 39 dwellings could be accommodated within the development.
- 2.26 The site is formed of two separate parcels, with vehicle, cycle and pedestrian access from St. Andrew’s gardens into each of the parcels. The first access would be between 52 and 54 St. Andrew’s Garden’s where there is an existing turning head. The second would be between 38 and 40, where there is an existing turning head (figure 10). The indicative site plan shows 16 homes in the western parcel and 23 in the eastern parcel.
- 2.27 The submitted documents state that the western land parcel falls steeply from west to east from 117.5m AOD to 108.0m AOD (approx. 1:13 gradient), with the eastern land parcel falling east to west from 111.0m AOD to 104.5m AOD (approx. 1:10 gradient).

- 2.28 The prevailing character of the immediate area is low density and suburban in nature. St. Andrew's gardens, with c. 60 dwellings, was built in the 1960s on greenfield land as a significant extension to the village. It contains detached and semi-detached bungalows. St. Andrew's gardens stretches from a high point on Mill Lane, down the side of the dry valley towards the western portion of the village.
- 2.29 The illustrative site plan shows how the development would be built as an extension to St. Andrew's gardens, with detached and semi-detached bungalows and chalets in cul-de-sac arrangements, which would be in keeping with the existing pattern of development.
- 2.30 The submitted information indicates that the dwellings will be designed in a traditional architectural style, being one or one and a half stories high, with pitched roof forms and gables, and using materials including brickwork and timber weatherboarding. However, both scale and appearance would be considered at reserved matters stage.
- 2.31 The site falls steeply towards the northwest. The site currently forms part of the undeveloped land, which acts as a wedge of open space between the northwestern and southeastern parts of the village. This area of open contributes to the character of the village.
- 2.32 A landscape buffer is indicated to the west and northern boundaries, which will mitigate visual impact on views of the site from the surrounding landscape including the North Downs Way. It is considered that the scale of development, including height and the landscape buffer proposed, will ensure that the visual impact on the open space to the north would be of an acceptable level and the character of the wider area would not be unacceptably degraded.
- 2.33 Details of landscaping including securing the use of native plant species would be considered at reserved matters stage. The indicative site plan shows the existing hedgerows and trees to the southern boundaries being retained.
- 2.34 The DAS states that the proposed dwellings will be designed and constructed using energy efficient construction techniques and methods. The proposed is considered to represent efficient use of land and appropriate for the surrounding context. The illustrative layout indicates that there are opportunities to use landscaping and orientation to provide shading from trees and the design of the buildings including external features such as shading to windows.
- 2.35 The illustrative site plan and accompanying information indicate that some of the principles of crime prevention, such as active frontages and natural surveillance opportunities could be provided. Kent Police have requested the development to be designed in accordance with the principles of designing out crime. Opportunities for designing out crime would be secured at reserved matters stage.
- 2.36 Given the above it is not considered that the proposals, at outline stage, would not cause any significant visual harm either to the streetscene or the character of the area. It is considered that 39 dwellings would sit comfortably within the site. It is

considered that the development proposed would form a compatible and suitable expansion of the village, provided the detailed design and landscaping is sensitively considered. Officers are of the view that the design overall is acceptable and complies with adopted and draft local policy and the aims of the NPPF.

#### Impact on Heritage assets

- 2.37 The NPPF requires the local planning authority, when assessing an application to identify and assess the particular significance of any heritage asset that may be affected by the proposal. Draft policies HE1 and HE2 relate to protection of heritage assets and conservation areas.
- 2.38 The site is located approximately 280m from Shepherdswell Conservation Area and a number of listed buildings, the nearest also being approximately 280m. Given the distance retained between the site and these heritage assets and the intervening built form that already exists, it is not considered that there would be any unacceptable impacts, having had regard for the Planning (Listed Building and Conservation Areas) Act 1990.

#### Landscape and Visual impact

- 2.39 Paragraph 174 of the NPPF states that development should contribute to and enhance natural and local environment by protecting and enhancing the intrinsic character and beauty of the countryside.
- 2.40 Policy DM16 relates to landscape character and seeks to avoid development that would result in harm to the character of the landscape unless it is in accordance with allocations made in the development plan, or it can be sited to avoid or reduce harm and/or incorporate design measures to mitigate impacts to an acceptable level.
- 2.41 Draft policy NE2 states that proposals should demonstrate regard to the Landscape Character Area, as defined by the Dover District Landscape Character Assessment 2020, in which they are located.
- 2.42 The site falls steeply towards the northwest. The site currently forms part of an area of undeveloped land, which acts as a wedge of open space between the northwestern and southeastern parts of the village. The site and existing development along St. Andrew's Gardens are visible from public rights of way including the North Downs Way National Trail (Public footpath ER78) to the north of the site. At the closest point the North Downs Way is approximately 45m from the site boundary.
- 2.43 The site is located in an elevated position on top of a hill with long northern and north-eastern views out to the neighbouring countryside. Given the height and the topography of the site in relation to the surrounding landscape, the site is considered visually prominent. The development would extend the built confines of Shepherdswell and as such would have potential to increase the visual prominence of built form when viewed from surrounding countryside including public rights of way.

- 2.44 The site is located within local character area Shepherdswell Aylesham parklands, as identified in the Dover District Landscape Character assessment 2020. Key characteristics and values are undulating topography of distinct gentle ridges and valleys, blocks of deciduous woodland, many of ancient origin, well-connected PRow network enabling access into the landscape, including the North Downs Way and a rural and tranquil landscape.
- 2.45 Development management guidance promotes the use of in-keeping materials such as flint, redbrick and Kent peg tiles for any new development, protecting the valued recreation use of the landscape, seeking opportunities to further enhance opportunities for access and enjoyment of the Rights of Way network, and considering impacts of large-scale development associated with existing settlements with the wider rural setting and provide appropriate mitigation.
- 2.46 A Landscape and Visual Appraisal (LVA) has been undertaken and submitted, which seeks to assess the landscape and visual impacts of the development at one year and 15 years after completion of the development.
- 2.47 The LVA concludes that by year 15 the understorey planting will have reached approximately 5-6m in height and canopy trees approximately 8-10m. It is anticipated that a robust physical, visual and perceptual separation of the site from The North Downs Way and wider landscape will have been established by this point. In relation to landscape impact the LVA concludes that the Year 15 magnitude of effect is considered to be Low Adverse which, when considered with a Medium Low landscape sensitivity, gives rise to a Slight Adverse importance of effect.
- 2.48 The LVA sets out 9 no. visual receptors and assesses impact on these receptors at one year and 15 years after completion. The LVA assesses and concludes that at year 15, there would be a moderate adverse effect at viewpoint 9, which is close to the site on The North Downs Way, approximately 95m from the site. At year 15 there would be a slight to moderate adverse effect at viewpoint 3 located on Barfrestone Road, approximately 800m to the north of site. At year 15 there would be a slight adverse effect at other viewpoints on the North Downs Way, Long Lane and Mill Lane. At all other visual receptors a minimal adverse impact is concluded.
- 2.49 The Kent Downs area of outstanding natural beauty (AONB) approximately 1.5km to west at it's nearest point. Given the location of the site and the distance from the AONB it is not considered that there would be any unacceptable harm caused to the AONB.
- 2.50 It is acknowledged that the area in which the site is located provides a strong sense of openness, and that this contributes to the character of the village. There are long distance views to the north and east from PROWS close to the site.
- 2.51 To conclude, the development would have some impact on the character of the area and the landscape. However, it is considered that this impact could be adequately mitigated by both the height of development and the use of planting as a landscape

buffer, to result in a scheme which is considered to have an acceptable visual and landscape impact.

Impact on Residential Amenity and future living conditions

- 2.52 Draft policy PM2 relates to quality of residential accommodation and requires that all new residential development, must be compatible with neighbouring buildings and spaces and not lead to unacceptable living conditions for neighbouring properties through overlooking, noise or vibration, odour, light pollution, overshadowing, loss of natural light or sense of enclosure. Development should be of an appropriate layout with sufficient usable space and contain windows in all habitable rooms to facilitate comfortable living conditions with natural light and ventilation. Whilst the Nationally Described Space Standards are yet to be formally adopted, they are referenced in the emerging plan in respect of internal accommodation. Well-designed private or shared external amenity space should be provided on-site, that is of appropriate size and fit for purpose. It also states that all new build development is to be built in compliance with building regulation part M4(2).
- 2.53 The submitted information states that the proposed dwellings will meet the standards set out in Nationally Described Space Standards. In addition, the homes would have good sized gardens.
- 2.54 KCC have requested that all homes are designed to meet Building Regulations M4(2) (Adaptable and accessible dwellings standard) and this can be secured though a condition. In addition, the agent has confirmed that some of the unit types (4 no. homes) could meet Building Regulation M4(3) requirements equating to approximately 10% of the overall development and therefore according with draft policy requirements.
- 2.55 It is considered that the proposed indicative layout would ensure sufficient privacy, outlook and daylight for future residents of the proposed development.
- 2.56 The illustrative site plan indicates that in the western portion of the site, the proposed dwellings would be a minimum of approximately 20m from existing properties on St. Andrew's gardens. For the eastern portion of the site, the proposed dwellings are shown at approximately 4m from the nearest existing dwellings on the indicative site plan (plot 17). The proposed dwellings are indicated with their flank (side) elevations adjacent to the flank elevations of existing properties. However, it is considered that a greater distance should be provided than is currently indicated and that this can be secured at reserved matters stage. It is considered that the layout is such that there would be opportunities to provide this at reserved matters stage.
- 2.57 DDC Environmental Protection have been consulted and raise comments over possible disturbance during the clearance of the land and the construction phase on surrounding dwellings, and therefore request that the approval of a Construction Management Plan (CMP) is secured by condition. They have asked that the CMP shall include (but not limited to) details of noise, vibration, and dust control measures, times of site operations where noise is audible beyond the boundary of the site,

community complaints process, parking provision for site operatives, site material and waste delivery and removal times and processes including routes and turning areas. Insofar as these requests relate to areas within the site, this can be secured by condition.

- 2.58 Overall, at outline stage, and with safeguarding conditions imposed, it is considered that the proposals would be acceptable in relation to living conditions of future residents and impacts on neighbouring residential amenity.

#### Housing Mix and Affordable Housing

- 2.59 Core Strategy Policy DM5 and draft Local Plan Policy SP5 require 30% affordable housing for schemes of this size. Draft policy SP5 states that affordable housing shall be provided with a tenure split of 55% affordable/social rent, 25% First Homes (at 30% discount rate) and 20% other affordable home ownership products.
- 2.60 Core Strategy Policy CP4 and Policy H1 of the draft Local Plan require the mix of major residential development to reflect the Council's latest evidence of housing need and market demand. This latest evidence is the Council's Strategic Housing Market Assessment – Partial Part 2 Update, December 2019 ("the SHMA").
- 2.61 The scheme proposed the following mix for the market and affordable homes, 0 no. 1 bedroom, 18 no. 2 bedroom, 21 no. 3 bedroom and 0 no. 4+ bedroom homes. To better reflect the need and demand identified in the SHMA, it is considered some one and four+ bedroom homes should ideally be provided. However, it is noted that due to the context of the site, bungalows and chalet homes have been proposed which lend themselves to smaller sized dwellings.
- 2.62 The scheme proposes 30% affordable homes which would be policy compliant. The exact tenure and mix of the affordable homes would be sought through the provision of an affordable home scheme through the s106 agreement.

#### Highways, parking and sustainable transport

- 2.63 Paragraph 110 of the NPPF states that in assessing applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
  - b) safe and suitable access to the site can be achieved for all users;
  - c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and
  - d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

- 2.64 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 2.65 Paragraph 112 of the NPPF states that within this context, applications for development should:
- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
  - b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
  - c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
  - d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
  - e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 2.66 Draft policy SP12 sets out that the Council will work with Kent County Council, National Highways and other transport providers to deliver strategic transport improvements to mitigate and address the impact of development or remove impediment to future growth. Key strategic highways schemes include A2 Dover Access, and Strategic Highway Improvements / Mitigation at A2 junctions, including at Whitfield Roundabout and the Duke of York Roundabout A257/A2.
- 2.67 Proportionate developer contributions will be sought from new development to support these strategic schemes, to be secured by a S106 agreement. Additionally, more localised highway improvement works will be secured by condition.
- 2.68 Draft policy TI1 states that development should, in so far as its size, characteristic and location, be readily accessible by sustainable transport modes through the provision of high quality, engineered, safe and direct walking and cycling routes within a permeable site layout, contribute to sustainable transport proposals including off-site improvements to cycling and walking routes and public transport facilities, and make provision for secure cycle parking and storage in accordance with the Parking Standards. It states that the Council will safeguard the Public Rights of Way network, and other existing cycle and walking routes, from development that would compromise their use and will encourage their enhancement and extension.
- 2.69 Draft policy TI3 requires proposals to meet the requirements of Kent Design Guide Review: Interim Guidance Note 3 in relation to vehicle parking. Policy DM13 sets requirements for parking provision in compliance with SPG4 which sets out standards for the maximum number of parking spaces.

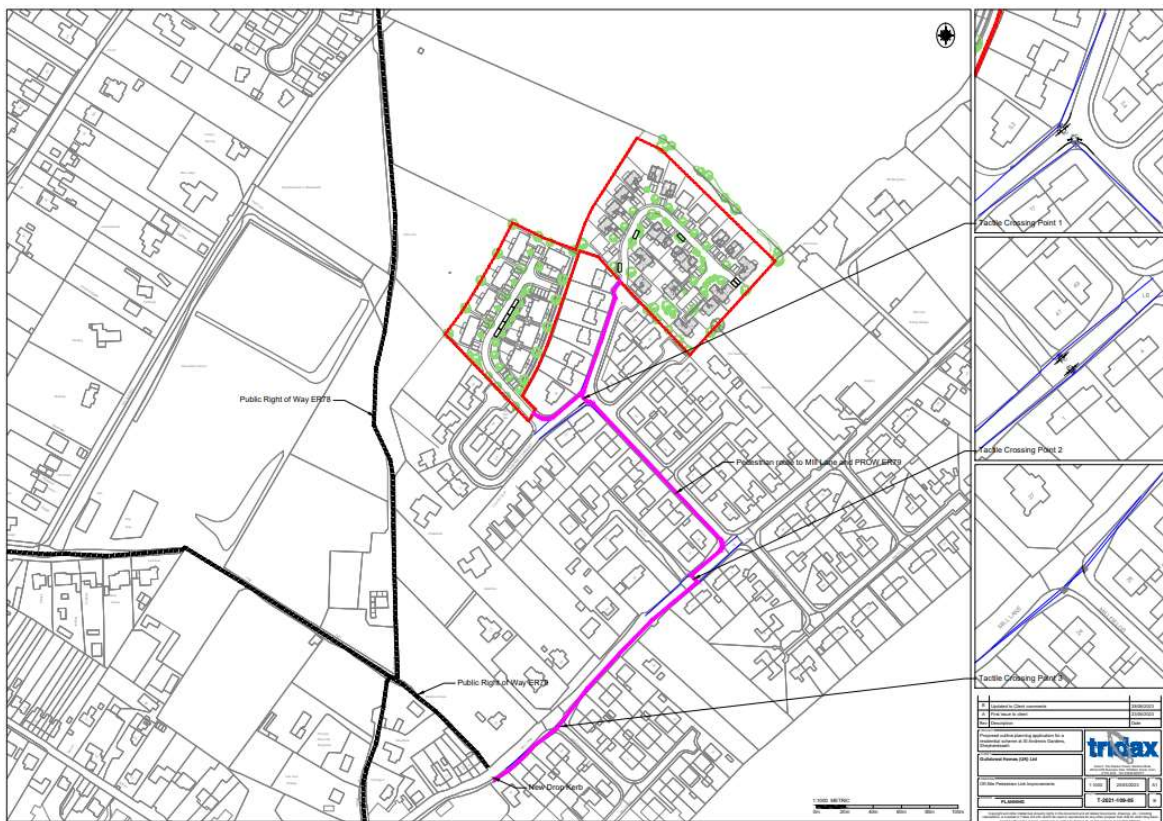


- 2.70 Draft policy SAP36 requires that primary vehicular, pedestrian and cycle access to the whole site shall be provided from St. Andrews Gardens, and therefore development of site SHE004 must provide vehicle access and servicing up the boundary with TC4S082 to enable a main access road to be created through the whole development. An additional, secondary emergency access onto Mill Lane may be achievable from TC4S082 and should be explored, along with a speed survey to clarify and address visibility restrictions.
- 2.71 Draft policy SAP36 also requires provision of off-site pedestrian improvements (pram crossings) at road junctions within the St. Andrews Garden Estate, and pedestrian crossing improvements on Mill Lane.
- 2.72 The schedule of additional modifications submission document (March 2023), makes some changes to the wording of the draft policy, including requiring improvements to the Public Right of Way network to increase connectivity in the area and connection to North Downs Way should be provided, where possible.
- 2.73 The main section of St Andrews Gardens, linking to Mill Lane to the south, has footways either side. Most of the dwellings are bungalows with large plots and good off-street car parking provision. There is very little on-street parking.
- 2.74 Footpath ER79 is located approximately 230m to the southwest of the junction of Mill Lane and St. Andrew's gardens. Footpath ER79 provides a paved pedestrian route between the northwest of the village (with services including the railway station, convenience retail and village hall) and the southeast of the village where the site is located.
- 2.75 Services, including the primary school, GP surgery and public house, are located in the southeastern portion of the village. Church hill which links the two sections of the village does not have a continuous footway.
- 2.76 To the north of the site is footpath ER78, the North Downs Way National Trail.
- 2.77 There are bus stops on Mill Lane, from which the 88, 88A, 92, and 92A routes ran, which linked Shepherdswell to Dover; however all of these services have now been discontinued. This is considered to have a detrimental impact on sustainable travel and reduce the overall sustainability of Shepherdswell as a settlement for new development. However, given the presence of essential services within the village, which can be accessed by foot from the site, and by the village being served by a railway station linking the village to Canterbury and Dover, the site is still considered in a sustainable location for development.
- 2.78 A Transport Statement (highways statement) has been submitted as part of the application.
- 2.79 The scheme proposes vehicle access to the eastern parcel from the turning head at the end of the cul-de-sac between 38 and 40 St Andrews Gardens. The western land

parcel would be accessed from the short 'T' junction formed between 52 and 54 St Andrews Gardens.

- 2.80 The transport statement sets out that the access roads will be designed to Kent Design Guide standard for "minor access ways", and that a turning head is to be provided at the end of the access to allow for a large refuse freighter to enter and exit the site in a forward gear, drawings have been submitted to indicate this.
- 2.81 The existing gradient of the site in the location of the access and initial length of access road into to the western parcel is approximately 1:9/1:10.
- 2.82 Details in relation to the existing highway boundary have not been submitted. KCC Highways have advised that without the required highway definitions plans it is uncertain as to the exact parameters of the access. Although the roads within the site are not intended to be offered for adoption, the access to the site should provide a safe and accessible route and gradient for pedestrians, cycles and vehicles.
- 2.83 KCC Highways generally require a gradient of 1:16.7 as a maximum, and 1:12.5 if unavoidable. To enable these gradients to be achieved for the access road, it appears that ground levels would need to be raised in some locations and alignment of the access road would need to be such as to avoid unacceptable impact on amenity of neighbouring residents, which may occur otherwise due to raised levels.
- 2.84 KCC Highways previously suggested that if planning officers recommend grant of permission, this should be subject to the submission and approval of the highway definition plans. It is considered that the proposed sections and site levels should be secured by a condition ensuring these details are submitted and approved at reserved matters stage.
- 2.85 KCC later submitted a holding objection on the grounds that no separate emergency access has been provided. They have stated that the cumulative impact of the proposed development would require an emergency access, or a looped road arrangement through TC4S02, with a connection onto Mill Lane.
- 2.86 During the course of the application, following the holding objection from KCC Highways and transportation, the site plan has been amended to indicate an emergency access via the adjacent site at Land Adjacent To Mill House Mill Lane CT15 7LR (current planning application under consideration DOV/23/00235). Officers are also in receipt of drawings from the applicant of DOV/23/00235 which propose emergency access through this site. The proposed emergency access route proposed within the submitted plans for this site and the adjacent site correlate, and are consistent, with each other.
- 2.87 This is considered to adequately address concerns over emergency access previously raised by KCC Highways. It is considered reasonable to require a condition that details of the emergency access are provided prior to determination of any reserved matters applications for layout and provided prior to the occupation of the eastern parcel.

- 2.88 75 no. resident vehicle parking spaces and 8 no. visitor vehicle spaces are proposed across the site. This amount of parking is in line with policy requirements for the sizes of homes proposed in a village location. The submitted information states that cycle storage provision would be provided for each property within garden sheds. Provision and details of secure and covered cycle storage for each property will be secured by condition.
- 2.89 Off-site improvements to pedestrian routing and proposed tactile crossings have been proposed, as shown in figure 15. These works include a tactile crossing point to the east of 52 St Andrews Gardens, a tactile crossing point to the west of 47 Mill Lane, a tactile crossing point at Millfields and a dropped kerb at 16 Mill Lane providing access to Public Right of Way ER79.



**Figure 15: Location of proposed dropped kerbs (not to scale)**

- 2.90 KCC Highways have commented that these off-site proposals are acceptable with the schemes being subject to a Section 278 Agreement with KCC Highways. This will form a separate agreement and require a Stage 1 Road Safety Audit which will form part of the submission of the agreement. The works will be secured though a condition, to be completed prior to first occupation.
- 2.91 In relation to trip generation as a result of the development, the submitted transport statement sets out that Trip Rate Information Computer System (TRICS) has been interrogated to establish trip rates for the proposed development. For 39 dwellings,

this would see 17 two-way trips in the AM peak hour and 18 two-way trips in the PM peak hour. These trips will be between the two sites. The transport statement states that although all trips would be utilising the St Andrews Gardens / Mill Lane junction, this equates to 1 vehicle every 4 minutes at the peak times. KCC Highways have commented that this is not considered severe an impact in line with the National Planning Policy Framework.

2.92 KCC PROW raise no objection to the proposals.

#### Impact on Ecology and trees

- 2.93 Paragraph 180 requires that when determining planning applications, local planning authorities should refuse planning permission if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or compensated for. It also states that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.
- 2.94 Draft policy SP14 echoes this requiring that every development connects to and improves the wider ecological networks in which it is located, providing on-site green infrastructure that connects to off-site networks. Proposals must safeguard features of nature conservation interest, and retain, conserve and enhance habitats. Draft policy SP13 relates to protecting the districts hierarchy of designated environmental sites and biodiversity assets.
- 2.95 Saved policy C08 states that development which would adversely affect a hedgerow will only be permitted if no practicable alternative exists and suitable native replacement planting is provided.
- 2.96 The Environment Act 2021 set out a mandatory requirement for new development to provide a minimum of 10% biodiversity net gains; however, this requirement had not come into force by the time that the application had been submitted. The NPPF does, currently, seek developments to secure measurable net gains for biodiversity where possible, but does not set minimum requirements.
- 2.97 The emerging plan, at policy NE1, will seek to achieve the nationally prescribed minimum of 10% Biodiversity Net Gain (BNG), which should be secured for 30 years. However full weight cannot be given at this stage to draft policy NE1, as such although the applicant seeks to make biodiversity enhancements through the scheme, 10% BNG is not sought through this application.
- 2.98 The application is accompanied by an Arboricultural Constraints survey and report, which considers that arboricultural impacts will be "low". The indicative layout of the development would result in the loss of some category 'C' trees but the retention of the majority of the other trees on the site. The proposals include a 5-metre tree and native species planting landscape buffer, which would seek to enhance boundary vegetation.

- 2.99 A preliminary ecological assessment has been submitted. The PEA did not consider the ecological interest of the area between the parcels of the proposed development site. An addendum to the Ecological Scoping Survey was then submitted, which considers the ecological interest of the area that was excluded from the original survey. The Addendum is considered to adequately assess the potential ecological interest of this area.
- 2.100 No detailed consideration of the habitat within the proposed site access to the 'Lower Site' has been provided. It is acknowledged in the ecological reports that there is potential for slow worms to be present in the gardens of the nearby houses, but the site itself does not provide suitable habitat. Given the ecological status of the site, it is not considered necessary for further information regarding the habitat within the proposed site access to be sought.
- 2.101 To ensure that any nesting birds, reptiles or hedgehogs present are adequately protected from harm, the removal of vegetation on and around the site must be carried out in accordance with a biodiversity method statement, which is considered necessary to secure by condition.
- 2.102 Recommendations for biodiversity enhancements are provided in the Ecological Scoping Survey report. The proposed layout incorporates green buffers around the boundaries of the site. It is stated in the Design and Access Statement that the buffers to the western and north-western boundaries will be 5 metres wide with a "smaller" buffer proposed for the northern and eastern boundaries. The width of this is not specified, but given the intention for the buffer to "enhance the ecological value of the site" in addition to providing landscape buffers, it is considered that the minimum width needs to be 2.5 metres and this should be secured by condition. It is considered that the detailed biodiversity enhancement specifications can be secured within the landscaping for the reserved matters application.
- 2.103 It is considered that as well as a biodiversity method statement, conditions requiring Landscaping and Biodiversity Design, including provision of landscape buffers, and a Landscape and Biodiversity Management Plan should be imposed.
- 2.104 The development site falls outside the identified 9km zone of influence for financial contributions for mitigation of impacts on the Thanet Coast and Sandwich Bay SPA.

#### Flood Risk and Drainage

- 2.105 NPPF paragraph 167 states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Draft policy SP1 seeks to mitigate and adapt to climate change by ensuring development does not increase flood risk, including by taking a sequential approach to location of development.
- 2.106 The site is located within flood zone 1. The site is more than one hectare in size and being in flood zone 1, a Flood Risk Assessment is required to support a planning

application. A drainage impact and flood risk assessment and drainage statement has been submitted.

2.107 The assessment states that:

*“The sewer records are sporadic in the area and are suspected as having previously been private but are being updated under the Flood & Water Management Act transfer of assets as Southern Water become aware of the assets. The records indicate a 150mm Ø Section 105 Public Foul Water sewer crossing the eastern land parcel site boundary. A copy of the sewer records are included within Appendix B provided as part of the sewer capacity enquiry to southern Water Services. There are no public surface water sewers in the vicinity of the site”.*

2.108 The scheme proposes to connect to the public sewer for foul drainage. A sewer capacity check has been issued to Southern Water Services by the applicant and adequate capacity in the local sewer network to receive the additional design flows has been confirmed. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

2.109 The statement sets out that the strategy at this would be to provide cellular soakaways for surface water drainage.

2.110 KCC LLFA have requested a condition requiring demonstration that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout. KCC LLFA have also requested a condition for a detailed sustainable surface water drainage scheme, and a condition requiring a verification report for the surface water drainage.

2.111 Details of both surface and foul drainage will be secured by condition, as requested by Southern Water and KCC LLFA.

### Archaeology

2.112 The National Planning Policy Framework, at paragraph 194, states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

2.113 Draft policy HE3 relates to archaeology. The site lies within an area of archaeological potential. The area is considered to have some palaeolithic potential, and furthermore, multi-period archaeological potential based on cropmark evidence including, ring ditches, field systems, enclosures, linear features and an Anglo Saxon Barrow Cemetery.

- 2.114 The application is accompanied by an Archaeological desk-based assessment. The assessment provides an account of the archaeological interest in the area of the proposed development and of the site's archaeological potential.
- 2.115 KCC Archaeology have been consulted and have remarked that the submitted assessment provides a good account of the proposed development site and the archaeological potential. Of particular significance is the presence of a substantial crop-mark complex over a large part of the upper (east site) development area. Although undated the enclosure is thought likely to be of later Prehistoric date and there is a possible entrance into the enclosure from the north-west, perhaps connecting with a trackway. Superimposed on the oval enclosure is a second, more rectangular enclosure that might be of later Prehistoric or perhaps Romano-British date.
- 2.116 The submitted archaeological assessment suggests a Bronze Age or Iron Age date for the enclosures (based on their form) and suggests they represent "an important archaeological site on this ridge-top location" (CAT 7.7.5). The submitted assessment goes on to say that the enclosures likely represent a settlement that "was perhaps in use over a considerable period of time with a high probability that other features, such as pits and post-holes relating to buildings occur within the enclosed area (8.2). The submitted assessment then states there is "also the high potential for the occurrence of ancillary features and structures beyond the main enclosure complex. This could include cemeteries, ditched field systems and trackways (8.3)".
- 2.117 It is possible therefore that the proposed development will impact buried archaeological remains. KCC Archaeology have recommended that further information in the form of a field evaluation (trial trenching) should be sought.
- 2.118 It is considered by DDC planning officers that this further assessment should be secured by a condition, required to be submitted and approved prior to the submission of a reserved matters application, as it may be likely that the findings and recommendations will impact the layout and detailed design of the scheme.
- 2.119 KCC Archaeology have recommended wording for a pre- reserved matters condition to secure a programme of archaeological works and safeguarding measures to ensure preservation in situ of important archaeological remains and/or the implementation of further archaeological investigation and recording.

#### Contamination

- 2.120 The NPPF states (Paragraph 93) that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.
- 2.121 Draft policy SAP36 states that an assessment of land contamination for the site shall be carried out and submitted as part of the planning application and appropriate mitigation measures must be implemented prior to development commencing.

- 2.122 There is identified contaminated land about 25 metres from the east of the site. The Environment Agency has been consulted and have no comments to make. DDC Environmental Protection have been consulted and raise no objection and have not asked for a condition relating to land contamination.
- 2.123 Given the above, the policy requirements and the proposal for residential use, it is considered it would be reasonable to impose a condition requiring reporting of unexpected contamination if found during development.

#### Infrastructure and Developer contributions

- 2.124 Policy CP6 of the Core Strategy emphasises that development which generates demand for infrastructure will only be permitted if the necessary infrastructure to support it is either already in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed. Draft Local Plan Policy SP11 retains this approach, to ensure infrastructure is delivered at the right time in the right place to meet the growing needs of the district.
- 2.125 Draft policy SAP36 states that “open space requirements in accordance with Policy PM3 shall be provided. However, due to the location nearby to existing open space infrastructure, off-site contributions to upgrade or enhance nearby facilities may be sought rather than on-site provision.”
- 2.126 KCC have requested that, in order to meet the needs generated by the development, contributions would be required to deliver secondary school places, Special Education Needs & Disabilities service, Community Learning and Skills, Integrated Children’s Services, Library, Registrations and Archives Service, Adult Social Care and waste services.
- 2.127 It is considered that they have demonstrated that there is currently insufficient capacity to meet the needs generated by the development and that the contributions requested would allow for the infrastructure upon which the development would rely to be provided.
- 2.128 Draft policy PM4 requires that sports facilities are provided. The Sport England Sport Facility Calculator has been used to assess the needs arising from the development. The contribution would amount to £18,677 for sports facilities and £34,033 for playing pitches based on 39 dwellings being delivered. As set out in the Infrastructure Delivery Plan/Infrastructure Delivery Schedule the projects that are recommended that these contributions go towards would include a district wide need for swimming facilities and facilities at Shepherdswell Recreation Ground.
- 2.129 Draft policy PM3 requires that residential development of ten or more dwellings will be required to provide or contribute towards the provision of open space that meets the needs of that development, in addition to appropriate maintenance costs. Contributions are sought towards open space, including accessible green space and



children's equipped play space. Contributions are sought towards improvements at Shepherdswell Recreation Ground.

2.130 As set out previously in the report, the development would deliver a policy compliant amount of affordable housing. An affordable housing scheme would be required through the S106, to be submitted and agreed before submission of first reserved matters application, based on percentage and tenure split agreed at this outline stage.

2.131 In light of the consultation responses received and planning assessment above, the following obligations (which are considered to accord with the tests for requesting contributions) would be required to be secured through a S106 agreement if planning permission was to be granted.

Matter	Contribution
Secondary Education Extension	£5,329.27 per applicable house. Total <b>£207,841.53</b> Towards the expansion of secondary schools in the Dover non-selective and Dover District selective planning groups.
Special Education Needs & Disabilities (SEND)	£559.83 per applicable house. Total <b>£21,833.37</b> Towards the provision of additional SEND places and/or SEND facilities within Dover District to serve the needs of the development.
Community Learning and Skills	£34.21 per dwelling. Total <b>£1,334.19</b> Towards additional equipment and resources for Adult Education Centres serving the development, including outreach provision.
Integrated Children's Services	£74.05 per dwelling. Total <b>£2,887.95</b> Towards additional equipment and resources for the Integrated Children's Services in Dover District including outreach provision.
Library, Registrations and Archives Service	£62.63 per dwelling. Total <b>£2,442.57</b> Towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development including Aylesham Library, Dover Library and the mobile library serving Shepherdswell.
Adult Social Care	£180.88 per dwelling. Total <b>£7,054.32</b> Towards Specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting community facilities, sensory facilities, and Changing Places within Dover District.
Waste	£52.00 per dwelling. Total <b>£2,028.00</b> Towards Dover HWRC to increase capacity.

NHS	<b>£33,528</b> is requested towards refurbishment, reconfiguration and/or extension of Lydden Surgery and/or Aylesham Medical Practice and/or Canterbury Medical Practice and/or White Cliffs Medical Centre and/or towards new general practice premises development in the area.
Strategic Highways Contribution	<b>£1,200 per dwelling</b>
Playing pitches	<p><u>Natural Grass Pitches</u>  Capital Cost £8,818  Lifecycle cost (per annum) £1,837  Changing rooms (capital cost) £18,193  Total = <b>£28, 848</b></p> <p><u>Artificial Grass Pitches</u>  Capital Cost £3,743  Lifecycle cost (per annum) £126  Changing rooms (capital cost) £1,316  Total = <b>£5,185</b></p>
Sports facilities	Swimming Pools £18,677 <b>Total= £18,677</b>
Open space	<p><u>Accessible green space (per dwelling)</u>  1 bed =£55.91  2 bed =£94.69  3 bed =£117.51  4 bed =£145.49</p> <p><u>Playspace (per dwelling)</u>  1 bed =£201.35  2 bed =£341.02  3 bed =£423.21  4 bed =£523.96</p>
Affordable housing	<p>30% affordable housing; split 55/25/20 affordable rent / first homes / shared ownership</p> <p>Affordable housing scheme to be submitted and agreed before submission of first reserved matters application, based on percentage and tenure split agreed at this outline stage, including provision of a minimum of 2 no. M4(3) homes.</p>

2.132 Concerns have been raised over water supply pressure. In order for building regulations consent to be gained, it would need to demonstrate that water pressure would allow for the sanitary fittings to work adequately. This is covered by separate legislation to the planning system.

### **3. Conclusion**

- 3.1 Paragraph 11 of the NPPF sets out that when the local policies are considered out of date that any decision should rest on the tilted balance so that development should be granted unless “any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.” As the most important policies in determining this application are considered out of date, paragraph 11 of the NPPF is relevant.
- 3.2 The proposal in accords with draft policy SAP36 which allocates the site for development, to which moderate weight can be given at this stage.
- 3.3 The social benefits of the proposal would comprise provision of 39 homes in a sustainable location, 30% of these would be affordable homes. The applicant has proposed to provide 4 of these homes (10%) as wheelchair user homes, to meet building regulations M4(3) standards (although 2 would be required by draft policy). The remainder of the homes would meet M4(2) standards for accessible and adaptable dwellings.
- 3.4 There would be economic benefits provided by the development at construction stage and when built, by providing new homes which in turn would provide support for village services.
- 3.5 There are some landscape and visual impacts that have been identified, however it is considered that these can be adequately mitigated as discussed earlier in the report.
- 3.6 The application has been amended during the course of the application, to indicate emergency access for emergency services vehicles only, via the neighbouring site at Adjacent site - Land Adjacent To Mill House, Mill Lane. A condition will be added to the permission if granted to require details of this emergency access to be approved prior to commencement and thereafter provided. Concerns have been raised from KCC Highways over the gradient of the access into the western parcel; however, details relating to alignment and gradient of access can be secured at reserved matters stage.
- 3.7 In relation to impact on buried archaeology, it considered that adequate safeguarding can be secured by a condition, requiring on site investigation to be carried out and approved prior to the submission of a reserved matters application.
- 3.8 Given the above, it is considered that the adverse impacts of the scheme would not significantly and demonstrably outweigh the benefits.
- 3.9 Accordingly, the proposal would comprise sustainable development and in light of the above it is recommended that planning permission is granted subject to development contributions being secured through a S106 Agreement and the conditions set out below.

#### 4. **Recommendation**

- I PERMISSION BE GRANTED, subject to s106 to secure financial contributions and provision of affordable housing, with the following conditions:
1. Reserved matters details, including existing and proposed site levels, site sections and building heights, and demonstration that requirements for surface water drainage can be met.
  2. Outline time limits
  3. Approved plans
  4. All homes built as Part M4(2) minimum
  5. Details for the provision of Part M4(3) homes
  6. Samples of materials
  7. Details of refuse and recycling facilities
  8. Programme of archaeological works to be submitted and determined prior to reserved matters submission for layout
  9. Biodiversity Method Statement
  10. Landscaping and Biodiversity Design, including provision of Landscape buffers
  11. Landscape and Biodiversity Management Plan
  12. Construction Management Plan
  13. Vehicle parking
  14. Bicycle parking
  15. Details for the gradient of the access
  16. Submission and approval of highway definitions plans
  17. Details of the construction of roads
  18. Visibility splays
  19. Turning facilities
  20. Details of emergency access via Mill Lane site to be submitted at the same time as reserved matters submission for layout and thereafter provided prior to the occupation of the eastern parcel
  21. Details of off-site highway works- pedestrian crossing points
  22. Travel plan
  23. Protection of trees and hedges
  24. Unexpected contamination
  25. Full details of surface water drainage
  26. Verification report for surface water drainage
  27. Full details of foul drainage
- II Powers to be delegated to the Head of Planning and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer: Nicola Kingsford

N



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23/01234  
 51 Church Path, Deal, CT14 9TH  
 DEAL  
 Scale: 1:1,250

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



a) **DOV/23/01234 - Erection of a detached dwelling - 51 Church Path, Deal**

Reason for report – Number of objections.

b) **Summary of Recommendation**

Grant planning permission.

c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, CP7, DM1, DM11, DM13

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

Draft policies SP1, SP2, SP4, SP13, SP14, SP15, CC2, CC4, CC6, CC8, PM1, PM2, TI1, TI3, NE1, HE1, HE3

National Planning Policy Framework (NPPF) (2023): Paragraphs 7, 8, 11, 12, 47, 48, 60, 96, 108, 114, 115, 123, 124, 128, 135, 136, 139, 180, 186, 189, 190, 191, 200, 201, 203

National Design Guide & National Model Design Code (2021)

d) **Relevant Planning History**

19/01165 - Variation of Condition 2 (approved plans) to allow the relocation of the log cabin of planning permission DOV/18/00954 (application under Section 73) - Granted Permission

18/00954 - Erection of a log cabin in rear garden for the use as a holiday let (existing wooden pigeon loft to be demolished) - Granted Permission

17/00302 - Certificate of Lawfulness (proposed) for the erection of a log cabin - Granted Permission

16/01499 - Certificate of Lawfulness (Proposed) for the erection of a log cabin - Refuse Planning Permission

13/00114 - Erection of a single storey side extension - Granted Permission

Adjacent/ nearby sites

53 Church Path 13/00951 -Erection of a detached dwelling- Approved

55 Church Path 15/00730 - Erection of a detached dwelling- Allowed at Appeal

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

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

Deal Town Council- No objection

Southern Water - Existing public sewers should be protected. An application to connect to the public sewer would need to be made by the developer.

Kent Fire and Rescue - No response received.

KCC Archaeology - No response received.

KCC PROW - No comments

Third party Representations:

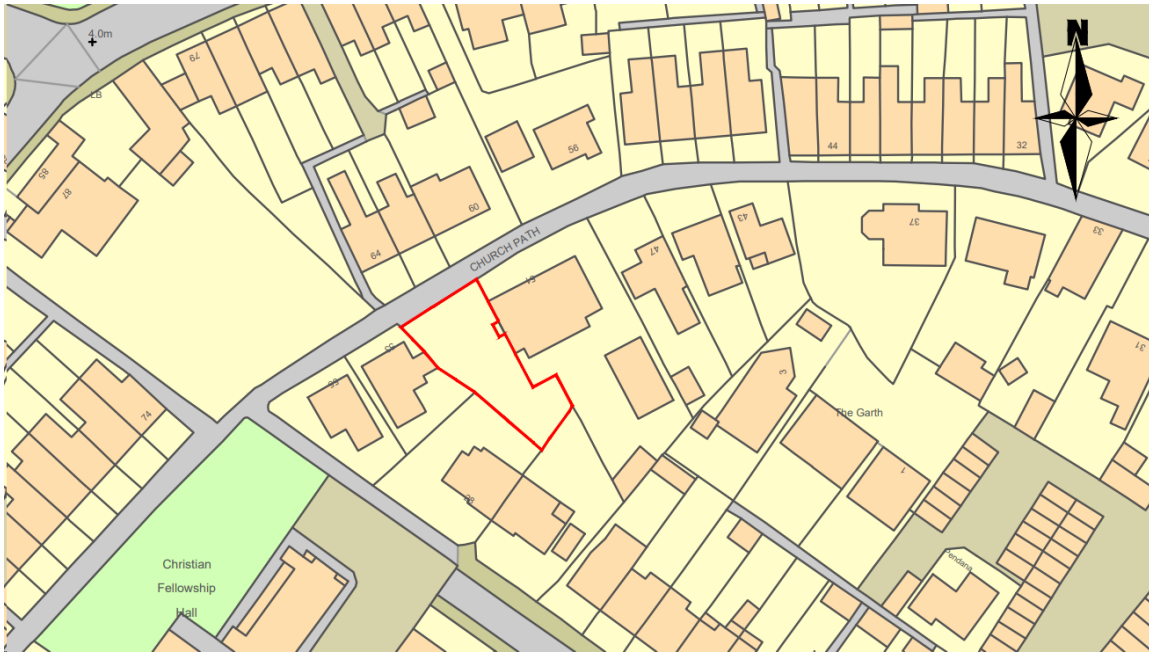
18 letters of objection have been received as summarised below:

- Insufficient parking in surrounding areas.
- Residents of Sutherland Road have been promised residents parking with marked bays and yellow lines and nothing has been forthcoming.
- Difficulty for residents of Sutherland Road to access driveways, due to narrowness of road and amount of parking.
- Difficulty in accessing the site at construction stage. When 53 and 55 were built supplies were craned in.
- Disruption and noise at construction stage.
- Impacts on neighbours existing health issues from dust and noise
- Development will add to the density of housing in the area.
- Too close to neighbouring properties.
- Lack of access for emergency and service vehicles.
- Congestion.
- Church path and adjacent footpath to Sutherland Road will be closed/ less accessible for pedestrians and residents during construction stage.
- Closure of Church path is not acceptable and will affect neighbours and residents will mobility issues.
- Pedestrians will have to take less safe routes.
- Parking on nearby roads in including Sutherland Road causing pedestrian accessibility and safety issues.
- Points affecting results of parking survey- one sample was during the school run and would expect to be more parking available. The nighttime sample does not account for night shift workers.
- Cars park on the pavement at the entrance to Sutherland Road, forcing disabled vehicles and families with parms/ buggies/ children to pass in the road at a dangerous junction (London Road /Albert Road /Sutherland Road and this will further exacerbate this issue.

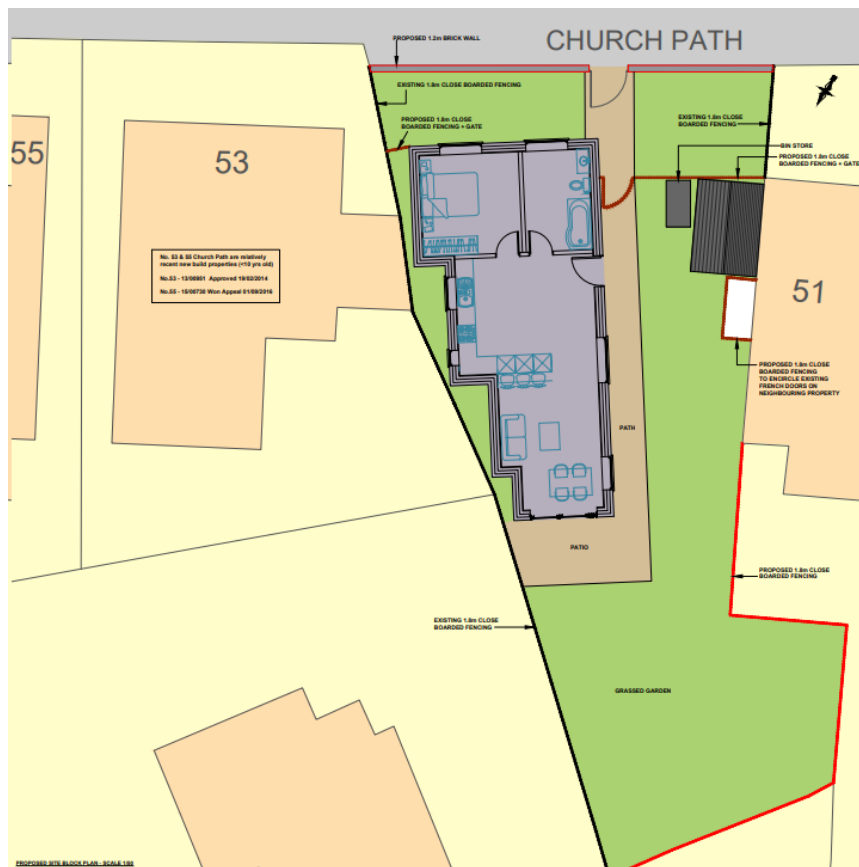
0 letters of support have been received.

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

- 1.1 The application site comprises part of the garden of 51 Church Path. The site is located on the southern side of Church Path. 51 Church path is located to the east of the site, a detached bungalow. 53 Church path is located to the west, a detached two-story house. To the south are located 26-28 a pair of semi-detached two storey houses.
- 1.2 The site is located approximately 300m from Deal Railway station and approximately 600m from the Town centre. The site is within an Coal Authority Development Low Risk Area and an Archaeological Notifications Areas.
- 1.3 The proposal is for the erection of a detached dwelling.

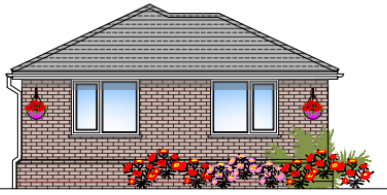


**Figure 1: Site location Plan (not to scale)**

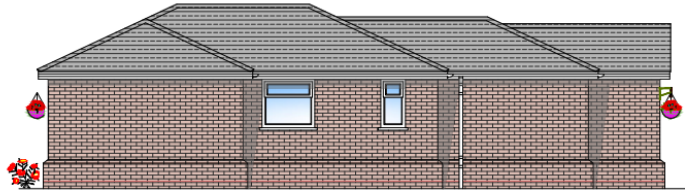


**Figure 2: Proposed site and floor plan (not to scale)**

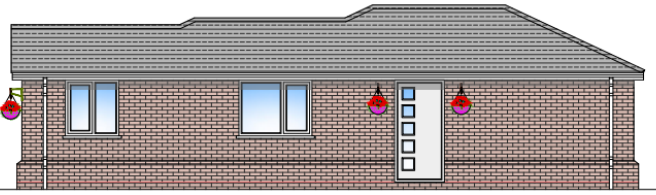




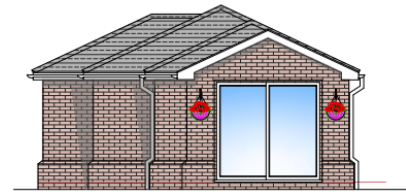
**PROPOSED FRONT ELEVATION**  
Scale 1/100



**PROPOSED SIDE ELEVATION - View B**  
Scale 1/100

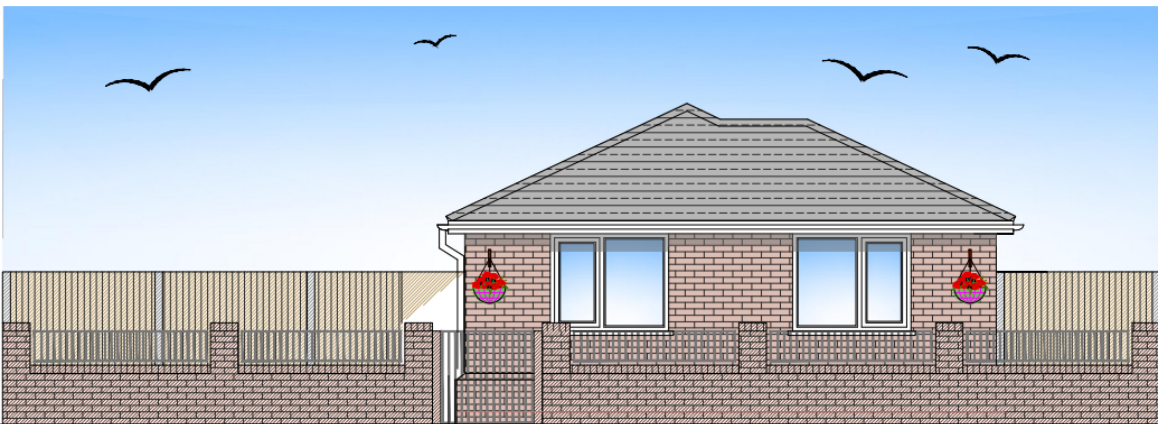


**PROPOSED SIDE ELEVATION - View A**  
Scale 1/100



**PROPOSED REAR ELEVATION**  
Scale 1/100

**Figure 3: Proposed elevations (not to scale)**



**Figure 4: Proposed north elevation facing Church Path (not to scale)**



**Figure 5: View looking southwest along Church Path, with No. 51 on left, site in middle, and No. 53 on right of photograph**



**Figure 6: View looking northeast along Church Path, with No. 51, site and No. 53 on right of photograph**





**Figure 7: View looking west from within the site, towards No. 53 Church Path on left and 64 Church path of right.**



**Figure 8: View looking west from within the site, towards No. 53 Church Path**



**Figure 9: View looking southwest from within the site, towards 26 and 28 Sutherland Road on left and No. 53 Church Path on right**

## **2. Main Issues**

2.1 The main issues for consideration are:

- The principle of development
- Character and appearance
- Heritage Impact
- Impact on living conditions
- Highway issues
- Ecology and trees
- Flood risk, drainage and contamination
- Archaeology

### **Assessment**

#### **Principle of Development**

2.2 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework are a significant material consideration in this regard.

2.3 The site is located within the settlement confines and the creation of residential accommodation in this location would accord with Policies CP1 and DM1. As such, the development is acceptable in principle, subject to impact on visual and residential amenity, and other material planning considerations.

### Character and Appearance

- 2.4 Policy SP1 states development should contribute to climate change mitigation through use of low carbon design to reduce energy consumption in buildings, sustainable construction techniques, water, energy and resource efficiency, and renewable and low carbon technologies. Draft policy SP2 seeks that new developments are designed to be safe and accessible, and to minimise the threat of crime. All new development should achieve a high standard of design internally and externally.
- 2.5 Draft policy PM1 requires that development achieves a high quality of design, promotes sustainability, and fosters a positive sense of place. It also states development should respect and enhance character to create locally distinctive design or create character where none exists. Appropriate provision for service areas, refuse storage (including waste and recycling bins), and collection areas should be made in accordance with the nature of the development.
- 2.6 The proposal is for a one storey detached dwelling. The proposed dwelling would be located at the northern end of the site fronting onto Church Lane.
- 2.7 The position of the dwelling on the site has been informed by the location of a public sewer within the site. This does result in a slightly skewed position in relation to the existing building line and the relationship with neighbouring properties. However, considering the siting of the proposal in terms of the wider area, the siting does appear consistent with the surrounding urban grain and pattern of development.
- 2.8 The proposed dwelling is of a traditional architectural style with a pitched roof, with hips and a gable end to the rear. Brickwork is proposed for the elevations and slate to the roof.
- 2.9 Given the context of the site, it is considered that a condition should be imposed to remove some permitted development rights related to extending the property.
- 2.10 To conclude, it is considered that the proposal could be assimilated into its surrounding context without causing undue harm to amenity or the visual quality of the street scene and would accord with relevant policies.

### Heritage Impact

- 2.11 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision makers, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 2.12 The NPPF requires the local planning authority, when assessing an application to identify and assess the particular significance of any heritage asset that may be affected by the proposal. Draft policies HE1 and HE3 relate to protection of heritage assets and listed buildings.
- 2.13 To the northwest of the site is a grade II listed building at 87 Middle Deal Road, approximately 45m from the site.
- 2.14 The immediate context is that of a built up urban area, with existing built form between the proposed dwellinghouse and the listed building. Due to the distance and the



relationship between the properties in this location, it is not considered that there would be any unacceptable impact on the setting of the listed building.

#### Impact on Residential Amenity

- 2.15 Draft policy PM2 relates to quality of residential accommodation and requires that all new residential development, must be compatible with neighbouring buildings and spaces and not lead to unacceptable living conditions for neighbouring properties through overlooking, noise or vibration, odour, light pollution, overshadowing, loss of natural light or sense of enclosure. Development should be of an appropriate layout with sufficient usable space and contain windows in all habitable rooms to facilitate comfortable living conditions with natural light and ventilation. Whilst the Nationally Described Space Standards are yet to be formally adopted, they are referenced in the emerging plan in respect of internal accommodation. Well-designed private or shared external amenity space should be provided on-site, that is of appropriate size and fit for purpose. It also states that all new build development is to be built in compliance with building regulation part M4(2).
- 2.16 The proposed dwelling would be located at the northern end of the site fronting onto Church Lane. The front of the dwelling would be located approx. 6.5m from 51 Church Lane, and the rear would be located approx. 4.3m from 51 Church lane. The proposed dwelling would be located approximately 2.2m from 53 Church Path.
- 2.17 The height of the proposed dwelling would be 3.9m at the highest point. Due to the height proposed and the distances retained from the boundaries, it is not considered that there would be any unacceptable loss of daylight/ sunlight, overbearing impact or overlooking into neighbouring properties.
- 2.18 The proposed dwelling would be provided with good sized internal accommodation and private external amenity space. It is therefore considered the proposals would provide a good standard of amenity for occupiers of the proposed dwelling, which would accord with Paragraph 127 of the NPPF and draft policy PM2.

#### Impact on Highways, Public Rights of Way and Parking Provision

- 2.19 NPPF Paragraph 110 states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:
- (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
  - (b) safe and suitable access to the site can be achieved for all users;
  - (c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code 46 ; and
  - (d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 2.20 NPPF Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 2.21 Draft policy TI1 states that development should, in so far as its size, characteristic and location, be readily accessible by sustainable transport modes and make provision for secure cycle parking and storage in accordance with the Parking Standards.
- 2.22 Policy DM13 sets requirements for parking provision in compliance with SPG4 which sets out standards for the maximum number of parking spaces.
- 2.23 Draft policy TI3 requires proposals to use the requirements of Kent Design Guide Review: Interim Guidance Note 3 as a starting point in relation to vehicle parking. The parking provision on residential development shall take account of local circumstances including the layout of the development, the mix of dwellings, the character of the local area and the proximity of public transport.
- 2.24 The policy states that residential development proposed with no parking provision will be supported where:
- a) it is located in easy walking distance of a range of services and facilities,
  - b) there is suitable access to non-car based modes of transport, and
  - c) it is demonstrated that the lack of provision will not be to the detriment of the surrounding area.

Where appropriate, the Council will consider the use of Controlled Parking Zones (CPZs) to support the wider strategy for the management of on-street parking, in line with the approach outlined in this policy.

- 2.25 The proposal does not include provision of any parking spaces, due to the site's location off Church Path. A parking survey has been submitted which indicates there is capacity within the existing on-street parking available nearby within walking distance of the site.
- 2.26 The site is in a highly sustainable location within easy walking distance of services and facilities, rail and bus links and it has been demonstrated that the lack of provision will not be to the detriment of the surrounding area.
- 2.27 A number of letters of objection have been received stating that the applicant will close the footpaths near the site, Church Path and the adjacent footpath connecting Church Path to Sutherland Road. The applicant has not stated on submitted information that they intend to do this. In any case Church Path is a confirmed highway and public right of way (ED24) and the footpath connecting Church Path to Sutherland Road is a confirmed highway. As such, agreement from Kent County Council would be needed to stop it up either of these routes, follow due process.
- 2.28 Therefore, given the above, it is considered that the development would accord with the requirements of Policy DM13 and draft policies TI1 and TI3.

#### Ecology and Trees

- 2.29 Paragraph 180 requires that when determining planning applications, local planning authorities should refuse planning permission if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or compensated for. It also states that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.

- 2.30 Draft policy SP14 echoes this requiring that every development connects to and improves the wider ecological networks in which it is located, providing on-site green infrastructure that connects to off-site networks. Proposals must safeguard features of nature conservation interest, and retain, conserve and enhance habitats.
- 2.31 Draft local plan policies SP14 and NE3 work together to ensure that the green infrastructure and biodiversity of the district are conserved and enhanced and seek biodiversity net gain.
- 2.32 Given the nature of the proposal and the site forming part of an existing garden curtilage, it is not considered that there would be any unacceptable ecological implications within or adjacent to the site.

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

- 2.33 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.
- 2.34 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.
- 2.35 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.
- 2.36 The site is located within the 9km of zone of influence for the Thanet Coast and Sandwich Bay SPA Mitigation and Monitoring Strategy. As such financial contributions will be sought towards monitoring and mitigation measures set out in the Thanet Coast and Sandwich Bay SAMM, in order to mitigate against the potential for in-combination effects of new development, through the pathway of recreational pressure, on the Thanet Coast and Sandwich Bay SPA. The tariff will be collected through a S106 undertaking.

Flood Risk, Drainage and Contamination

- 2.37 NPPF paragraph 173 states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
- 2.38 The NPPF states (Paragraph 189) that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.
- 2.39 Draft policy SP1 seeks to mitigate and adapt to climate change by ensuring development does not increase flood risk, including by taking a sequential approach to location of development. Draft policy CC5 states that development on sites at risk of flooding will only be permitted where it is demonstrated by a site-specific flood risk assessment that the development would not result in a unacceptable risk on flooding on the site or elsewhere.



2.40 The site is located within flood zone 1. The application form states that a soakaway will be used for surface water drainage and foul drainage will connect to the existing mains sewer.

2.41 There is no known contamination at this location. The site was previously part of the garden of 51 Church Path.

#### Archaeology

2.42 Draft policy HE3 relates to archaeology. The site is located within an area of medium palaeolithic potential and background archaeological potential. KCC have been consulted but have not responded.

2.43 Given the site's location it is considered reasonable to impose a condition requiring a watching brief.

### **3. Conclusion**

3.1 The proposal is located in a highly sustainable location close to the town centre and transport links. There would be some socio-economic benefits provided by the development at construction and operation stage, albeit minor.

3.2 It is not considered that proposal would cause any unacceptable impacts on the visual amenity, or residential amenity of the area, and would not cause a detrimental impact on the surrounding area through lack of parking provision. It is therefore considered that there are no reasons that the proposal should be prevented or refused on highways grounds.

3.3 To conclude, the proposed scheme is acceptable in principle, would preserve the character and appearance of the area, would not result in any unacceptable impacts on neighbour amenity and is considered to be acceptable in all other aspects. It is considered to accord with local plan policies and the aims of the NPPF.

3.4 Accordingly, in light of the above it is recommended that planning permission is granted subject to the conditions set out below.

#### **g) Recommendation**

I PLANNING PERMISSION BE GRANTED subject to s106 for SAMM payment and the following conditions:

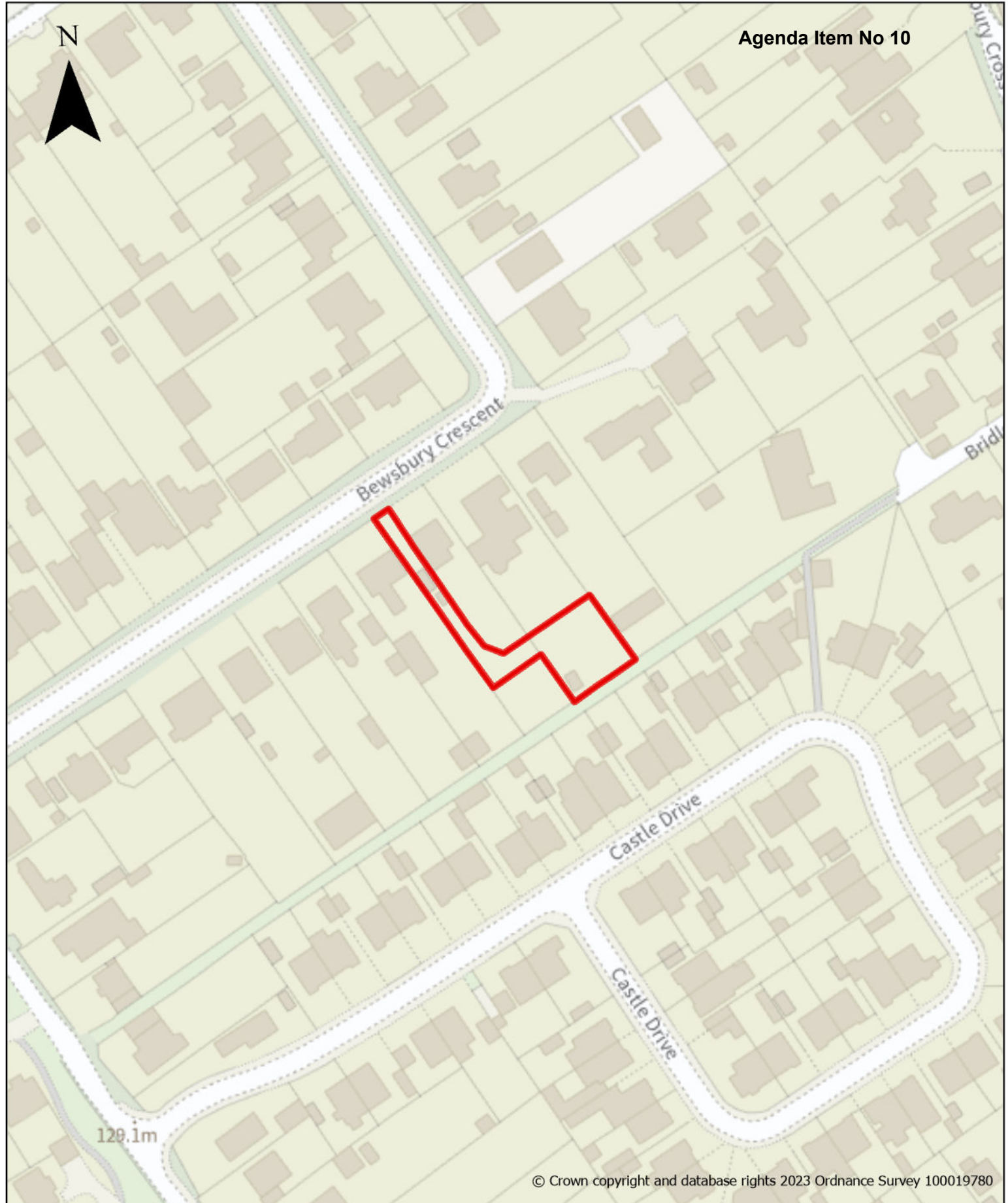
- 1) Date of approval
- 2) Approved plans
- 3) Samples of materials
- 4) Provision of bicycle storage facilities
- 5) Provision of refuse/recycling storage facilities
- 6) Removal of some permitted development rights
- 7) Archaeological watching brief
- 8) Reporting of unexpected contamination

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

Case Officer

Nicola Kingsford

*The Human Rights Act (1998) Human rights issues relevant to this application have been taken into account. The Assessment section above and the Recommendation represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).*



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23/01055  
Site Rear Of 19 And 21, Bewsbury Crescent, Whitfield, CT16 3EU  
WHITFIELD  
Scale: 1:1,250

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



a) **DOV/23/01055 - Erection of a dwelling with associated parking - Site Rear of 19 and 21 Bewsbury Crescent, Whitfield**

Reason for report – Number of contrary views (13 + Parish Council)

b) **Summary of Recommendation**

Planning permission be granted.

c) **Planning Policy and Guidance**

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

Land Allocations Local Plan (2015) & Local Plan (2002) Saved policies

Submission Draft Dover District Local Plan (2023): 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 the policies of the draft can be afforded some weight, but this depends on the nature of objections and consistency with the NPPF. Draft policies SP1, SP2, SP3, SP4, SP5, SP11, SP12, SP13, SP14, CC1, CC2, CC4, CC5, CC6, CC8, PM1, PM2, H1, TI1, TI2, TI3, NE1, NE3

National Planning Policy Framework (NPPF) (2023): Paragraphs 2, 7, 8, 11, 38, 47, 48, 60 – 63, 83, 114-116, 124, 135-140, 165, 173-174, 180, 186, 189

National Design Guide & National Model Design Code (2021)

Noise Policy Statement for England (2010)

d) **Relevant Planning History**

Various applications, including:

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

DOV/14/00726 – Outline application for the erection of two detached single storey dwellings, creation of parking and provision of replacement parking and new vehicular access for no.21, (existing garage to no.21 to be demolished) – Refused – Appeal Dismissed

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

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

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

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

DOV/22/01271 – Variation of Condition 2 (approved plans) of planning permission

DOV/21/01903 (Erection of detached dwelling, driveway with associated parking, alterations to existing driveway and blocking up of windows to side elevation of number 21 and erection of fencing) – Granted

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

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

Whitfield Parish Council – *Inevitably we have now received an application to squeeze a second property into this site. The original application for two properties was refused, so the applicant sought permission for one that was granted, a variation was then submitted to completely re-site this property (in order to fit in a second). There are some clear failings in the planning system that allow this to happen.*

*As with the application for both the two properties and the single property, Whitfield Parish Council strongly object to this new application for the erection of a dwelling. This site is surrounded on all sides by residential dwellings, with the driveway to access this dwelling in very close proximity to the property wall of No 23 Bewsbury Crescent. An additional property with two/three vehicles will greatly increase the vehicle movements and noise levels passing so close their home on a daily basis.*

*Whitfield Parish Council object to back garden developments; this application must certainly be regarded as an over intensification of a back garden. Whitfield has a high proportion of homes with large gardens that can accommodate such development and while individual applications may not cause problems, the cumulative effect of all these applications has an adverse effect to the parish.*

KCC Public Rights of Way and Access Service – Public footpath ER74 runs adjacent to the proposed development. KCC have no objection but suggest informatives (to be included if permission is granted).

Kent Fire and Rescue Service – *Due to the length of the proposed access driveway, facilities should be provided to allow a fire appliance to turn in accordance with B5 of Approved Document B, Volume 1 2019. Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority.*

Third party Representations:

13 Members of the Public have written in objection to the proposals and representations are summarised below:

- Residential amenity, loss of privacy/overlooking, noise and disturbance
- Over intensification of the site
- Ecology/trees
- Inadequate access and parking provision, including turning areas and access for emergency vehicles
- Inaccurate plans - with the current layout (drive of 21 is now different to that shown in plans). Plans accepted for 21A were for 4 vehicles; now reduced to accommodate new plans
- The previous permission has not been fully implemented/conditions complied with
- Inaccuracies and misleading statements in application
- Increased risk of flooding to neighbouring properties and gardens
- Previous refusals over 9 year period

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

- no reasonable objection
- The development is in keeping with other properties in the area
- Traffic/parking/access is appropriate and impacts will be minimal
- There is a need for housing
- The development would not harm residential amenity
- Use of land for housing within the built up area is preferable
- Sympathetic to neighbouring properties and with use of hedging and suitable fencing the impact on such will be at a minimum

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

- 1.1 The application site relates to land to the rear of 19 and 21 Bewsbury Crescent, located within the settlement confines of Whitfield. The land is accessed via a driveway to the west side of 21 Bewsbury Crescent, which serves a dwelling currently under construction at the site (the subject of applications DOV/21/01903 and DOV/22/01271). The site is bounded by 17 Bewsbury Crescent to the east, which has a detached annexe within the rear garden of the property. To the west of the site is 23 Bewsbury Crescent; a detached single storey bungalow. Public bridleway ER74 runs adjacent to the south eastern site boundary and beyond this are the gardens of Nos. 17, 19, 21, 23 and 25 Castle Drive, which are chalet bungalows with dormer windows facing towards the site. Bewsbury Crescent contains a range of bungalows, chalet bungalows and two storey dwellings; the majority of which are detached and finished in brick and/or render with a range of roof types and orientations. All the dwellings are set back from the highway behind front gardens or driveways and there is a strong building line. Notwithstanding this, a number of dwellings have been constructed in the rear gardens of the properties, particularly in the eastern corner and along the north eastern side of Bewsbury Crescent. A bungalow has also been erected to the rear of 31 Bewsbury Crescent to the west of the site (and on the same side of the Crescent).
- 1.2 There is extensive planning history for this site, with previous applications for three detached dwellings, two detached single storey dwellings and two single storey bungalows having been refused and dismissed at appeal. DOV/14/00388 sought permission for three detached (two storey) dwellings, with the proposed access to the west side of 21 Bewsbury Crescent (as currently proposed). Application DOV/14/00726 sought outline permission (all matters reserved) for two detached bungalows with the same access location. Both were refused and dismissed, with the Inspector considering that the tandem form of development was acceptable, however raising concern that the traffic movements very close to the private area of 23, whilst limited in number, would result in increased noise and disturbance close to the sitting out area and the bedroom windows of 23 which would not result in a good standard of amenity for existing residents. Subsequent applications DOV/15/01065 and DOV/16/00909 (both for two detached dwellings) proposed a driveway between 19 and 21 were also dismissed at appeal in respect of the impact on the amenities of occupiers from the introduction of vehicle movements along the side and rear of properties 19 and 21 Bewsbury Crescent and associated activity and disturbance. As set out above, permission was granted under DOV/21/01903 (and DOV/22/01271) for the erection of a bungalow at this site, with the access being taken from the west of 21 Bewsbury Crescent. Conditions were imposed in relation to hard and soft landscaping to secure acoustic fencing either side of the access and use of a bound surface to reduce noise and disturbance, amongst other conditions.

- 1.3 The applicant seeks consent for the erection of a dwelling with associated parking. The three-bedroom single storey dwelling would contain an open-plan living/kitchen/dining room and would have access to garden to the south and east. It would have a fibre cement slate roof, anthracite powder coated aluminium framed windows and doors and the external walls would be finished in white 'monocouche' render, with sections of cedar cladding on gable ends.

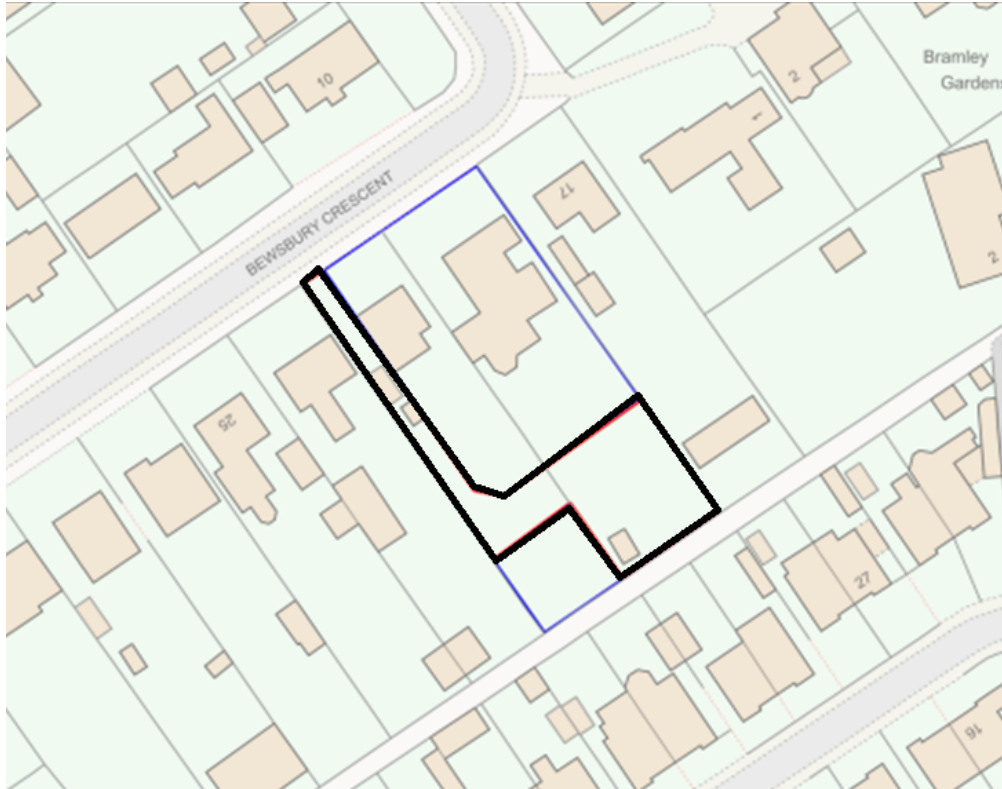


Figure 1. Site Location Plan



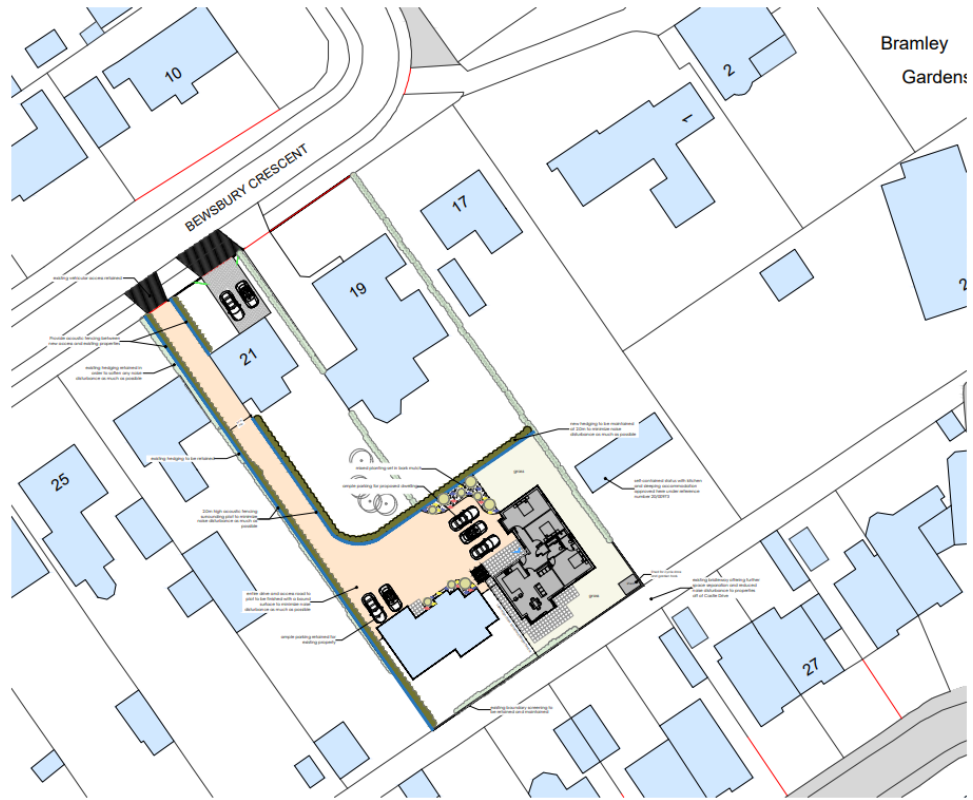


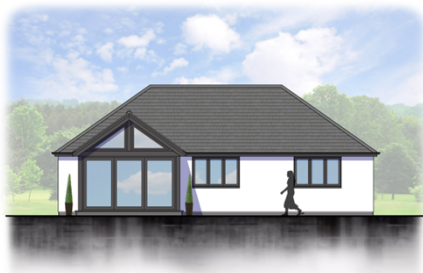
Figure 2. Proposed Block Plan



front - north west



side - south west



rear - south east



side - north east

Figure 3. Proposed Elevations



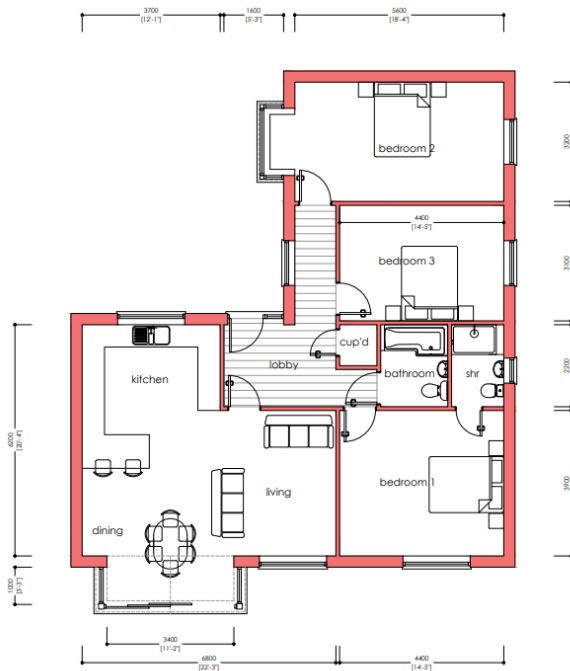


Figure 4. Proposed Floor Plans

## 2. Main Issues

2.1 The main issues for consideration are:

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

### Assessment

#### Principle of Development

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.3 Policy DM1 states that development will not be permitted outside of the settlement boundaries unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The site is located within the defined settlement confines and therefore accords with Policy DM1.
- 2.4 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel unless it is justified by other development plan policies. The occupants of the development would be able to access most day to day facilities and services within Whitfield and would be able to reach these facilities by more sustainable forms of transport, including walking and cycling or via nearby public

transport. Again, as the site is located within the settlement confines, the development accord with Policy DM11.

- 2.5 For the above reasons, the development accords with Policies DM1 and DM11 of the development plan. The NPPF advises, at paragraph 11, that proposals that accord with an up-to-date development plan should be approved without delay. An assessment of the most important policies for the determination of the application must be undertaken to establish whether the 'basket' of these policies is, as a matter of judgement, out-of-date. Additionally, criteria for assessing whether the development plan is out-of-date are explained at footnote 8. This definition includes: where the council are unable to demonstrate a five-year housing land supply (or a four year supply if applicable); or, where the council has delivered less than 75% of the housing requirement over the previous three years (as assessed by the Housing Delivery Test).
- 2.6 Having regard for the most recent Housing Delivery Test, the Council are currently able to demonstrate a five-year supply. The council have delivered 88% of the required housing as measured against the housing delivery target; above the 75% figure which would trigger the tilted balance to be applied. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date. 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.
- 2.7 Policy DM11 is consistent with the NPPF which seeks to focus development in locations which are or can be made sustainable, where there is access to a range of modes of transport (including walking and cycling) and where development will support existing facilities and services, and social integration. It is considered that the blanket restriction imposed under (1) of DM11 is contrary to the NPPF, albeit the remainder of the policy broadly accords with the NPPF. It is therefore considered that DM11 is not out-of-date and should continue to attract significant weight.
- 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 T11 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 appropriate locations for new windfall residential development. The draft Policy seeks to deliver a sustainable pattern of development, including within the rural areas where opportunities for growth at villages (in line with Paragraph 83 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 within the draft settlement confines (within the settlement of Dover which

includes Whitfield), such that the principle of residential development would accord with draft Policy SP4.

- 2.10 It is considered that policies DM1 and DM11 are, to varying extents, in tension with the NPPF, although for the reasons given above some weight can still be applied to specific issues these policies seek to address, having regard to the particular circumstances of the application and the degree of compliance with NPPF objectives in this context. The proposals would also accord with 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. 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, and as such, 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 The site is within a predominantly residential area and Bewsbury Crescent comprises a mix of dwellings of varying heights. Whilst there is a strong building line along Bewsbury Crescent, the character of the street scene is considered to be varied and several dwellings have been permitted and constructed within the rear gardens of dwellings, including this site, such that the principle of backland development has been established.
- 2.12 The proposals would result in the creation of a detached bungalow to the rear of 19 and 21; to the east of a bungalow currently under what appears to be the final stages of construction, which would utilise the same vehicular access to the west side of 21 Bewsbury Crescent. Due to its siting and the positioning of existing dwellings fronting the highway, there would be very limited, if any, views of the proposed bungalow from Bewsbury Crescent. There would be views of the roof of the bungalow from the public bridleway to the rear, however the design and materials of the proposed bungalow would be in keeping with that of the adjacent bungalow under construction. As such due to the scale and design of the proposal, it is considered the development would preserve the varied character and appearance of the area, in accordance with the objectives of NPPF Paragraph 135 and draft Policies SP4 and PM1.

#### Impact on Residential Amenity

- 2.13 The bungalow would be seen from a number of nearby properties (including those on Castle Drive and the annexe to the rear of 17 Bewsbury Crescent). Notwithstanding this, due to the scale and design of the proposed bungalow, it is not considered the development would result in an overbearing impact on the amenities of nearby residents. Due to the orientation of the site and direction of the sun path, the bungalow would cast shadow mostly across its own garden or parking area. Any further shadow would largely fall on the site boundaries and would be limited by the hipped roof of the bungalow, such that the development is not considered to result in significant overshadowing or loss of light to neighbouring residents.
- 2.14 In respect of privacy, the bungalow would feature windows at ground floor level only, which would overlook the proposed garden or parking area of the site, with wider

views restricted by boundary planting. In the interests of residential amenity, it is considered appropriate to suggest a condition is imposed to secure the provision of the boundary treatments indicated on the block plan. Subject to this, the development is considered to sufficiently preserve the privacy of neighbouring residents (and future residents of the adjacent bungalow under construction).

- 2.15 Concerns have been raised in public representations in respect of noise and disturbance from the use of the access (between 21 and 23 Bewsbury Crescent). Previous applications for the erection of 2-3 dwellings to the rear of 19 and 21 Bewsbury Crescent have been refused, with some dismissed at appeal. A Noise Impact Assessment has been submitted, however this considers the impact of one dwelling using the access and has not been updated to consider the cumulative impacts of the approved bungalow under construction and the proposals now submitted. Notwithstanding this, the development would not increase noise generated by each vehicle movement, rather it would increase the number of vehicle movements overall. The Noise Impact Assessment concludes that the noise impact of passing vehicles would be lower than background noise at the noise monitoring location. The previously approval also secured a 2m high acoustic fence (as opposed to the 1.8m high fence recommended by the Noise Impact Assessment) to further reduce the impact.
- 2.16 Condition 4 of DOV/22/01271 required the submission of a landscaping scheme (including boundary treatments); details of which have been approved. The condition requires the landscaping scheme (which proposed 2m high acoustic fence along the length of the boundary with 23 Bewsbury Crescent and the majority of the garden boundary with 21 Bewsbury Crescent and a tarmac surface to the driveway) to be carried out fully within 12 months of the completion of the development. Concerns have been raised in respect of this being provided and the quality of hedgerow currently along the boundary. Whilst the landscaping scheme is not currently in place, the development does not appear to have been completed yet. In order to ensure the hard and soft landscaping shown on the proposed plans is delivered, in the interests of residential amenity (given the boundary treatments are required to ensure suitable privacy between future and existing occupants and a bound driveway surface and acoustic fencing are needed to restrict noise and disturbance from the increased use of the access), it is considered appropriate to impose a condition to secure this. Notwithstanding the harm to residential amenity identified by Inspectors (summarised at paragraph 1.2), whilst balanced, it is considered the level of activity from the use of the access associated the proposals (and the recently constructed bungalow once occupied), is unlikely to result in such significant harm to the amenities of residents of 21 and 23 Bewsbury Crescent, particularly once the 2m acoustic fence has been erected, to warrant a recommendation for refusal, having had regard to the objectives of the NPPF (particularly paragraph 135), draft Policies PM1 and PM2 and the Noise Policy Statement for England.
- 2.17 In respect of the amenity of the proposed occupiers, the bungalow would contain three bedrooms and a large open-plan living/kitchen/dining room with access to a private garden. All habitable rooms would be naturally lit and refuse/recycling storage and secured bicycle storage has been shown on the proposed block plan, with a 1.8m high close-boarded fence being installed along the retained garden boundary of the adjacent bungalow ensuring sufficient privacy and amenity. Consequently, it is considered the proposals would provide a good standard of amenity, having had regard to the objectives of NPPF Paragraph 135 and draft Policy PM2.

### Parking and Highways

- 2.18 The proposed dwelling would contain three double-bedrooms and the block plan submitted shows that three parking spaces would be provided within the site, which would accord with the parking requirements of Policy DM13 and draft Policy TI3. Two parking spaces are also shown to serve the adjacent two bed bungalow, which is also considered to accord with the requirements of these policies. The drive and access road would be finished in a bound surface (to minimise noise disturbance), and it is considered there would be sufficient space for vehicles to turn within the site, as well as for some visitor parking if required (noting that some on-street parking is also available, albeit limited).
- 2.19 Concerns have been raised in respect of the width of the access, however Kent Fire and Rescue Service have advised that due to the length of the access driveway, facilities should be provided to allow a fire appliance to turn in accordance with Building Regulations. Given this matter can be addressed separately under building regulations, it is not considered necessary to require further information in this respect.

### Wildlife/Ecology/Trees

- 2.20 The site relates to garden land which appears reasonably well maintained (noting the adjacent bungalow is currently under construction resulting in disturbance to the site), is bounded by fences and, having regard to Natural England advice (and draft Policies SP13, is considered unlikely to provide a suitable habitat for European Protected Species. It is noted that draft Policy CC8 seeks a minimum of two new trees to be planted for each new dwelling, however at this stage, the draft policy is considered to attract limited weight, being more onerous than the NPPF.

### Flood Risk and Drainage

- 2.21 The site is located within flood zone 1, which has the lowest risk from flooding from rivers and the sea. For new residential development of this scale and within this flood zone, a site specific flood risk assessment, sequential test and exceptions test are not required. The application form sets out that surface water would be disposed to a soakaway and foul sewage would be disposed to the mains sewer. As these matters would be dealt with adequately under building regulations, it is not considered that further details are required.

### Planning Balance

- 2.22 The principle of the development accords with Policies CP1 and DM1 (and draft Policy 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.
- 2.23 Policies CP1 and DM1 carry limited weight, however draft Policy SP4 carries moderate weight in favour of the proposals. The impact on visual amenity, residential amenity and in respect of other material considerations has been discussed above and, on balance, is considered to be acceptable, weighing in favour of the proposals. 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 lies within the settlement confines identified in Policies CP1 and DM1, as well as the draft settlement confines identified in SP4 and is considered to be acceptable in principle. 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. The design of the proposals is considered to preserve the character and appearance of the area. The impact on residential amenity and other material considerations has been addressed and subject to the imposition of the suggested conditions, is considered to be acceptable, addressing the previous reasons for refusal of development at the site. In light of Paragraph 11 of the NPPF, and in taking into account other material considerations, 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 the following conditions:
- 1) Time
  - 2) Plans
  - 3) Samples of materials
  - 4) Parking and turning space provision
  - 5) Bicycle and refuse storage
  - 6) Landscaping provision (including boundary treatments)
- II Powers to be delegated to the Head of Planning and Development 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.

Case Officer

Rachel Morgan

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23/00995

Land To The Rear Of 439 Folkestone Road, Dover, CT17 9JX

DOVER

Scale: 1:1,250

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



a) **DOV/23/00995 - Erection of two dwellings with associated parking (outbuildings to be demolished) - Land to the Rear of 439 Folkestone Road, Dover**

Reason for report – Number of contrary views (7 Public Representations)

b) **Summary of Recommendation**

Planning permission be granted.

c) **Planning Policy and Guidance**

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

Land Allocations Local Plan (2015) & Local Plan (2002) Saved policies

Submission Draft Dover District Local Plan (2023): 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 the policies of the draft can be afforded some weight, but this depends on the nature of objections and consistency with the NPPF. Draft policies SP1, SP2, SP3, SP4, SP5, SP11, SP12, SP13, SP14, CC1, CC2, CC4, CC5, CC6, CC8, PM1, PM2, H1, TI1, TI2, TI3, NE1, NE2, NE3

National Planning Policy Framework (NPPF) (2023): Paragraphs 2, 7, 8, 11, 38, 47, 48, 60 – 65, 87, 114-116, 128, 132, 135 - 140, 173, 174, 180, 182, 186

National Design Guide & National Model Design Code (2021)

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

Countryside and Rights of Way Act 2000

d) **Relevant Planning History**

DOV/01/00576 – Change of use to private dwelling – Granted

DOV/07/00499 – Erection of first floor side extension. – Granted (439 Folkestone Road)

DOV/17/00516 – Creation of vehicular access and construction of hardstanding – Refused – Appeal Allowed with Conditions (Westbourne, 439 Folkestone Road)

DOV/17/01230 – Erection of a detached dwelling, formation of vehicle access and parking – Granted (Land Rear Of 117 Manor Road & Adjoining 437 Folkestone Road)

This permission has since lapsed

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

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

Dover Town Council – Support.

KCC Highways and Transportation – Initially sought corrections and further information, at one stage recommending refusal. However, following amendments, advised the applicant had confirmed the relocation of the parking serving 437 Folkestone Road to the rear of the site, widening the existing access to allow two way



movement (any dropped kerb not utilised for this should be reinstated to full height to avoid the retention of a parking space to the front). Recommended Fire and Rescue and waste (to ensure they are content with roadside collection) were reconsulted due to the access track being over 45m in length and less than 3.7m at a pinch point and as drag distances for operatives are greater than 30m. The access gradient is unclear however they could not recommend refusal on this basis but advised the applicant level the access as much as possible to an adoptable standard.

They raised no objection subject to the imposition of conditions for a construction management plan, measures to prevent the discharge of surface water onto the highway, provision and permanent retention of the vehicle parking spaces shown on the plans prior to the use of the site commencing, closure of the existing access not utilised for the widening of the access track, use of a bound surface for the first 5m of the access from the edge of the highway, gates to open away from the highway and be set back a minimum of 5m from the edge of the carriageway, provision and retention of secure covered cycle parking facilities, provision and maintenance of 2m x 2m pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level. Advice is also provided on EV charging standards and an informative is suggested.

Southern Water – requires a formal application for a connection to the public foul sewer to be made by the applicant/developer and if connection is to be made through land under the ownership of other Parties, then the Landowners consent would be required. Technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water. It is possible that a sewer now deemed to be public could be crossing the development site and should any be found during construction works, an investigation will be required to ascertain its ownership.

Kent Fire and Rescue Service – Applicants should be aware that in the event of permission being granted the Fire and Rescue Service would require emergency access, as required under the Building Regulations 2010, to be established. The access driveway which should be a minimum of 3.7 metres in width. Where there is a pinch point due to gates etc the width may be reduced to a minimum of 3.1 metres. The driveway is required to allow a fire engine to reach a location, a maximum of 45 metres from the furthest point within in the dwelling. The distance of 45 metres may be extended up to 90 metres for a house with no floor more than 4.5m above ground level or 75m for houses and flats having one floor more than 4.5m above ground level, on the provision of a domestic fire suppression system installed to the appropriate standard.

Stagecoach South East – initially objected to the application, noting the concerns of KCC Highways and that the proposals would require the provision of dropped kerb access which would interfere with the bus stop located at the boundary of 437/439 such that an alternative location for the bus stop (including provision of a raised kerb and revised road markings) would need to be agreed. However, upon receipt of amended plans, advised that what is now proposed widens the proposed access road, leaving the existing flight of steps in place and with no alterations to the footway or bus stop and on this basis, withdrew their objection.

#### Third party Representations:

7 Members of the Public have written in objection to the proposals and material considerations are summarised below. Matters such as loss of a view and impact on house prices are not material considerations.

- Highways safety – concerns regarding safety of the access lane and danger of vehicles ending up in gardens due to width and drop in ground levels and whether it would be resurfaced to ensure vehicles do not lose traction. Concerns regarding pedestrian safety, width of lane (and existing extension at 437), emergency access (e.g. for fire engines and refuse vehicles), visibility from access due to parked vehicles. Concerns whether lane is strong enough for HGVs, access and parking during construction and for deliveries and access for refuse collection vehicles, how refuse would be collected. No visitor parking proposed so they would have to park on the public highway. Additional housing will exacerbate and encourage more parking in the cycle lanes. Concerns that access was amended before planning was granted for one bed chalet bungalow rear of 117 Manor Road as single track was not suitable for vehicles and emergency services, right of access over track.
- Residential amenity – overlooking/privacy (planning has also been granted to 117 Manor Road using this was of access), encroaching on neighbours, gardens are not 10m deep as suggested in national space standards. Will impose a track with regular car use directly next to 437. Buildings should be single storey to avoid overlooking.
- Design/visual amenity - land is not large enough to support 2 dwellings and car parking, designs are too cramped for space without adequate access. Elevations lack detail on materials and finishes. Bin and bike stores not indicated on block plan. Drag distance for refuse is over recommended distance and uphill on very steep gradient. No proposed safe area for bins to be positioned for collection at the top of the road, restricting access to the bus stop, users and blocking view points (concerns for public safety). Impact on views of AONB.
- Wildlife/ecology – loss of trees that bats nest in, will remove habitats from the overgrown land where foxes reside
- Precedent – could lead to others building at the end of a garden  
(**Officer comment:** The Planning Committee is advised that the application before you should be assessed on its own merits and not whether it might lead to future development)
- Address of development – application states to rear of 439 Folkestone Road but development is also to rear of 437 Folkestone Road  
(**Officer comment:** Officers are satisfied that the address adequately identifies the site location)
- Utilities – request details of sewage plans, whether a sewage pump will need to be in place or a cess pit or if they would cut into an existing sewage line on Manor Road lower down. Would this cause extra noise, what would it run on, what if it fails? If a cess pit, where would it be sited, will it impact the load bearing of the ground above. Bin drag distance is over the recommended distance and uphill on very steep gradient, no safe area for bins to be positioned for collection at the top of the road and this could restrict access to the bus stop and block view points entering/exiting the lane
- Plans – red line does not extend to edge of highway meaning they have not consented to access the road and red line should be adjusted. No drawing submitted or part of DAS in regard to highway information, gradient of access and construction methodology/construction method statement, lack of vision splays to Folkestone Road which should be within red line, vehicle tracking, proposal prohibits 117 Manor Road access to consented rear garden building and parking space already approved and concerns regarding cumulative impact of 6 vehicles using access. Concerns that study would be marketed as bedroom and increased parking for a 3-bed house would otherwise be needed. Concerns that drawings do not consider extension to side of No. 439 and no measurement is shown at its narrowest point. Not wide enough for refuse and emergency

vehicles. Now proposed for up to 7 vehicles. Will the lane be properly resurfaced to ensure vehicles do not lose traction entering/exiting the lane, safety concerns that a vehicle with lost traction could veer and drop into neighbouring garden.

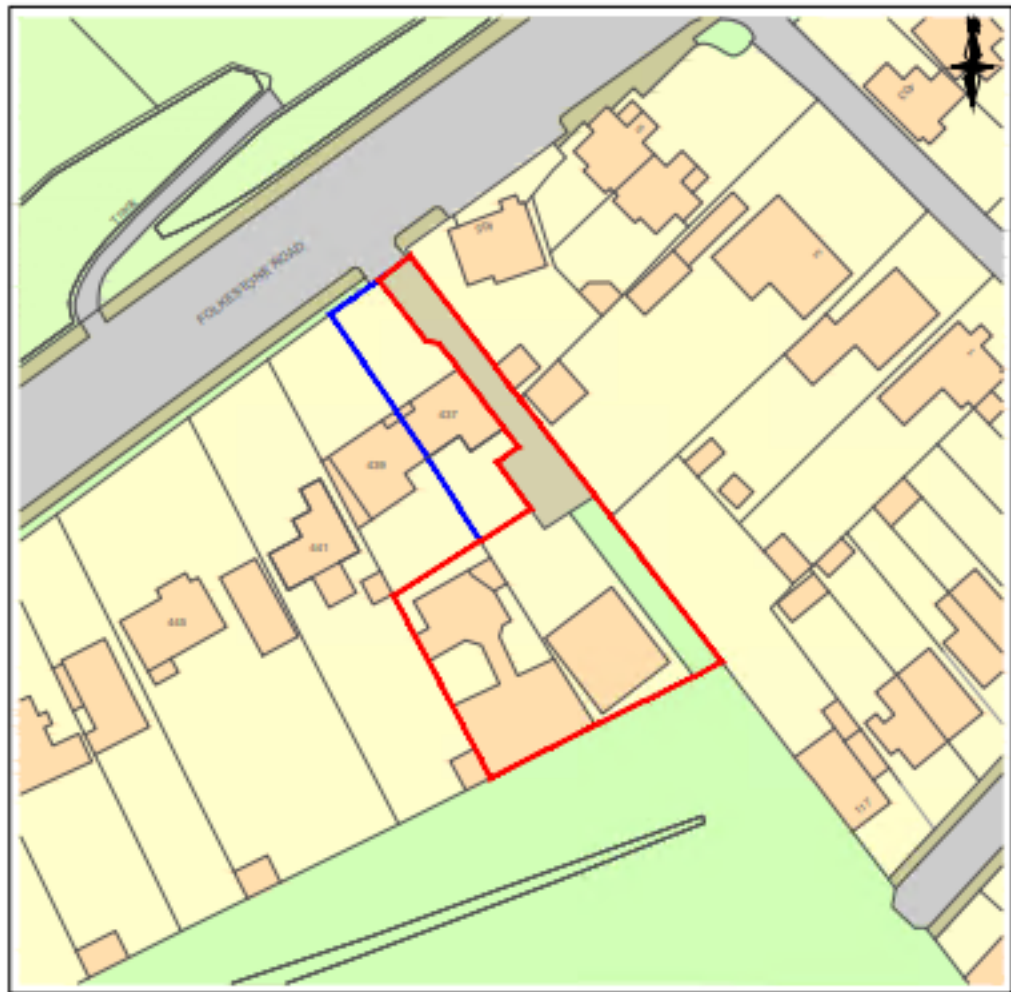
(**Officer comment:** it is considered that officers are satisfied that the information needed to make an informed assessment of the proposal has been submitted. Access to 117 Manor Road is a civil matter. Parking matters will be addressed in the assessment below.)

6 representations in support of the proposals have been received (including from The Dover Society) and are summarised below:

- Plenty of room for off-street parking
- Sympathetically designed to minimise impact on neighbouring properties
- Nice to see more new housing space in this area, positive use of brownfield site rather than using greenfield
- Hidden space for 2 private housing, will be discrete and inobtrusive, perfect opportunity for infill
- Beneficial to run down street for anything new to be added to this scrub land
- Represents a good standard of housing on an otherwise unused piece of land
- Note the views expressed by Kent Highways and Kent Fire & Rescue, but are happy to support the application subject to these concerns being addressed

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

1.1 The site relates to a plot of land to the rear (southeast) of 437 and 439 Folkestone Road (a pair of semi-detached dwellinghouses), within the settlement confines of Dover. The site is accessed via a driveway, to the east of 437 Folkestone Road, which slopes down steeply away from the highway. The site currently contains a number of garages and outbuildings and a parking area. The access is bounded by the gardens of 435 Folkestone Road to the northeast and 3 Rugby Road to the east and the development site itself is bounded by the gardens of 117 Manor Road to the southeast, a private playing field to the south (which lies within the Kent Downs Area of Outstanding Natural Beauty) and 441 Folkestone Road to the west.



**Figure 1. Site Location Plan**

- 1.2 The applicant seeks consent for the demolition of the existing buildings and the erection of two detached dwellings, as shown in Figures 2, 3 and 4 below. The two-bedroom dwellings, which would be positioned downhill of Folkestone Road (as shown in Figure 4), would have private gardens to the rear with secured cycle sheds and would each have two parking spaces. The dwellings would be finished in a slate type roof, brick elevations and white uPVC windows and the first-floor level accommodation would be served by rooflights to the southeastern roof slopes. The design of the access has been amended several times during the course of the application and is discussed further at paragraphs 2.13 to 2.15. Whilst the access has been amended since it was last advertised, the public is not considered to be prejudiced by this as the scale of works is reduced.

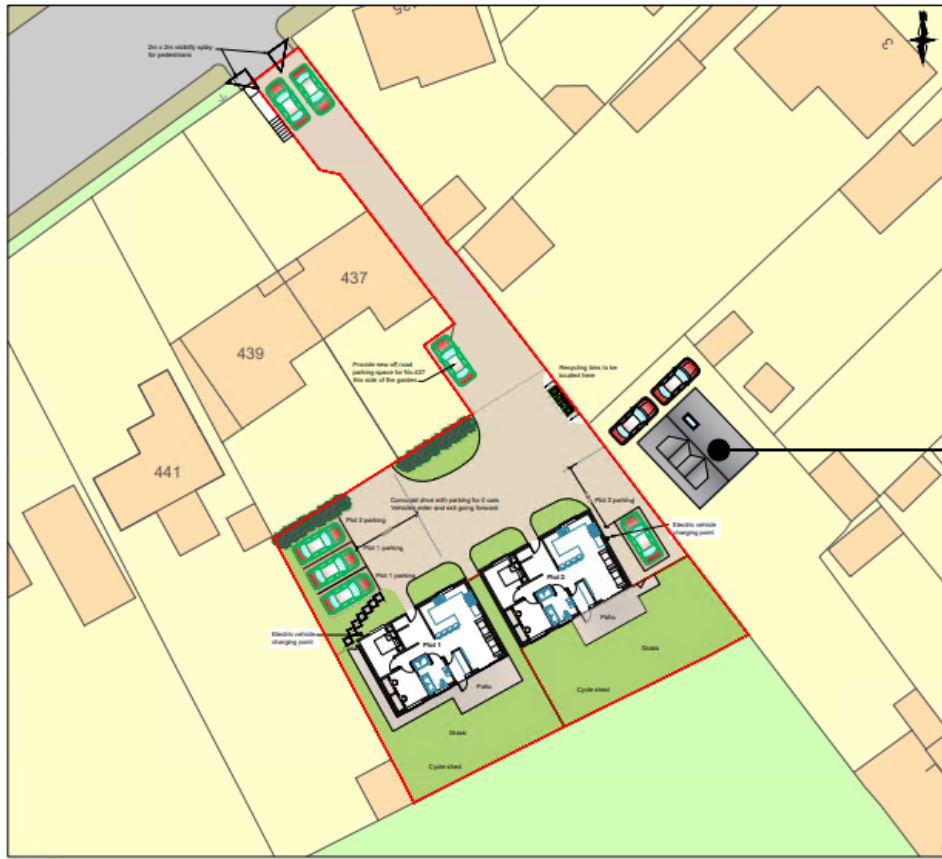


Figure 2. Proposed Block Plan

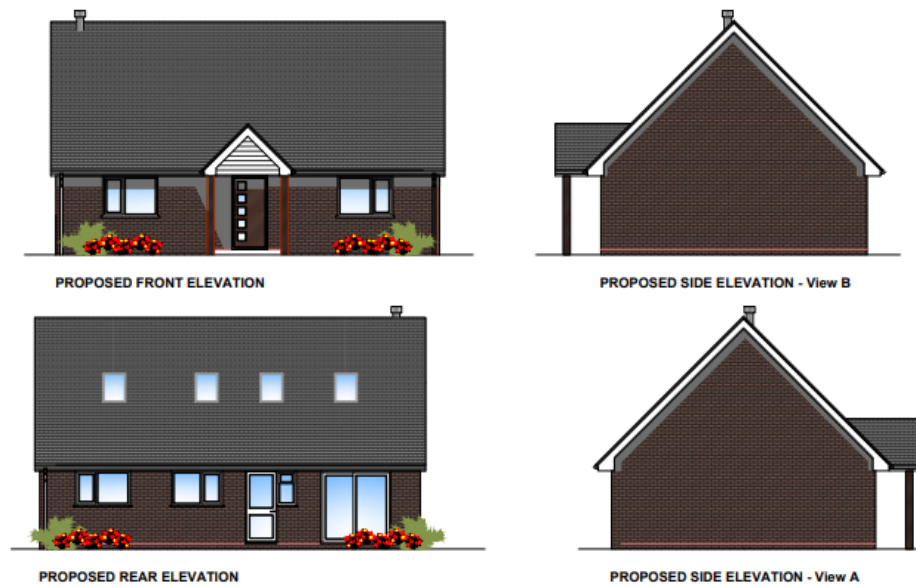
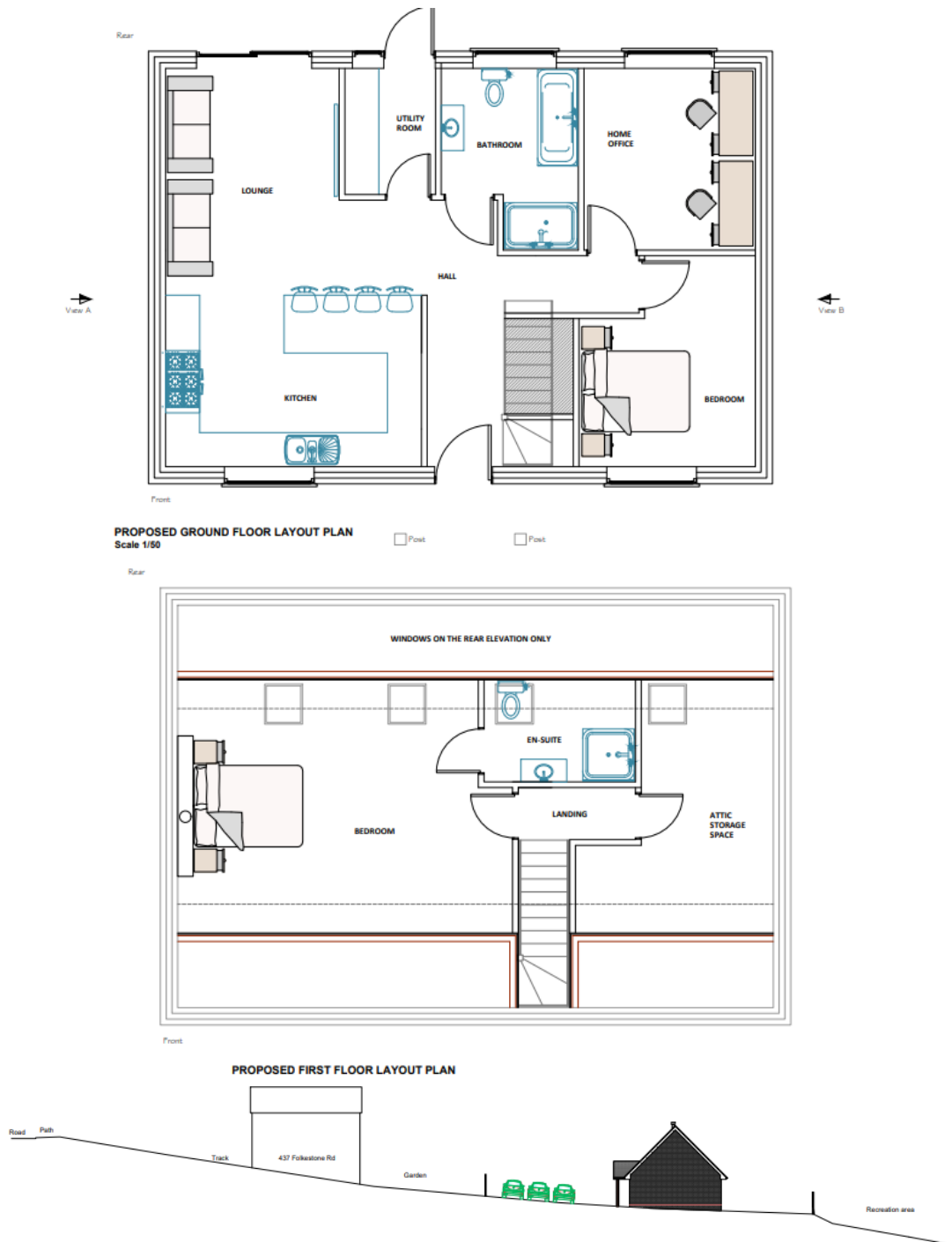


Figure 3. Proposed Elevations



**Figure 4. Proposed Floor Plans and Section**

## 2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development
- Impact on visual amenity
- Impact on residential amenity
- Other matters

## **Assessment**

### **Principle of Development**

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.3 Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The site is located within the settlement confines and the principle of residential development in this location would 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. Where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, permission should be granted unless the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (policies include those relating to habitats sites, SSSI, AONB, Heritage Coast, irreplaceable habitats, designated heritage assets and those of archaeological interest and areas at risk of flooding or coastal change), or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. An assessment of the most important policies for the determination of the application must be undertaken to establish whether the 'basket' of these policies is, as a matter of judgement, out-of-date. Additionally, criteria for assessing whether the development plan is out-of-date are explained at footnote 8 of the NPPF. This definition includes: where the council are unable to demonstrate a five-year housing land supply; or, where the council has delivered less than 75% of the housing requirement over the previous three years (the Housing Delivery Test).
- 2.5 Having regard for the most recent Housing Delivery Test, the Council are currently able to demonstrate a five-year supply. The council have delivered 88% of the required housing as measured against the housing delivery target; above the 75% figure which would trigger the tilted balance to be applied. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.
- 2.6 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.
- 2.7 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 creates 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. Draft Local Plan Policy SP4 sets out the appropriate locations for new windfall residential development. The draft Policy seeks to deliver a sustainable pattern of development including within the rural areas where opportunities for growth at villages (in line with Paragraph 83 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, such that it is considered to attract moderate weight in the planning balance. The site is located within the draft settlement confines and would therefore accord with the objectives of the policy.

- 2.8 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 the policy seeks to address, having regard to the particular circumstances of the application and the degree of compliance with NPPF objectives, in this context. The proposals 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. 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, and as such, 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

- 2.9 The proposed dwellings would be set back from the public highway, positioned behind and at a lower level than the semi-detached properties fronting Folkestone Road (437 and 439). There is adequate space within the site to accommodate 2 dwellings comfortably with a reasonable sized garden and parking area. The site section in Fig.4 shows that the land falls away and suggests that the intention is to very slightly make up the levels. Given the modest scale of the buildings and their positioning in relation to the main road then there should only be glimpses of the development from the wider area to the north. To address this, a levels condition could be imposed to ensure that there are no significant changes in levels during construction that might unduly increase the impact of the development upon the wider area. The pitched roof design and materials would not be out of character with the context of the site. The development would therefore sit comfortably within the street scene with no harm to visual amenity. In turn, a condition can be imposed to seek the submission of samples for approval to ensure a high-quality finish to the development. Whilst there may be some more distant views of the dwellings from the south (where there are public rights of way and the Kent Downs AONB), the proposals would nonetheless be seen within the context of existing residential development and, due to their design, siting and scale, are considered to preserve the character and appearance of the wider countryside and landscape area (including AONB) beyond, having had regard to the objectives of NPPF Paragraphs 180 and 182, Policies DM15 and DM16, draft Policy NE2 and SP4 and section 85 of the Countryside and Rights of Way Act 2000, which places a



duty on Local Planning Authorities to 'have regard' to the 'purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty'. It is considered the proposals would accord with the objectives of NPPF Paragraph 135 and draft Policy PM1.

#### Impact on Residential Amenity

- 2.10 The proposed dwellings would be positioned downhill from properties fronting Folkestone Road and whilst concerns have been raised in representations in respect of overlooking, the dwellings would feature openings at ground floor level which would overlook the car parking area of their respective gardens. At first floor level, there would be rooflights on the southeast roof slopes which would overlook the proposed gardens and playing fields beyond. As such, it is considered the privacy of surrounding residents would be adequately preserved and a condition is suggested preventing the installation of further openings in the roof of the dwellings. Due to the positioning of the dwellings, their height and design, it is considered the development would not result in an overbearing impact on nearby residential amenity. The majority of shadow cast by the development would fall to the north of the dwellings, across the parking and turning areas, such that the development is considered unlikely to result in significant overshadowing or loss of light to neighbouring properties.
- 2.11 In respect of the amenities of future occupiers of the development, the dwellings would have south facing gardens and all habitable rooms would be of a good size and would be naturally lit and ventilated. Whilst not yet adopted, it is noted that the development would meet the Nationally Described Space Standards. Secured cycle storage would be provided within the gardens of the properties and the plans indicate the dwellings would be fitted with fire sprinklers, which would be a matter for Building Regulations approval. Having had regard to the objectives of the NPPF (particularly Paragraph 135) and draft Policies PM1 and PM2, it is considered the proposals would have an acceptable impact on residential amenity.

#### Flood Risk and Drainage

- 2.12 The site is located within flood zone 1, which has the lowest risk from flooding from rivers and the sea and a site-specific flood risk assessment, sequential test and exceptions test are not required. Southern Water have been consulted on the proposals, advising that a formal application for a connection to the public foul sewer would be required and that should any sewer be found during construction works, an investigation would be required to ascertain its ownership before any further works commence on site. It is noted that one of the public representations queries how sewage from the development will be treated. The application form clarifies that surface water would be disposed of by soakaways and that foul sewage would be disposed to the mains sewer. As these matters would be dealt with under Building Regulations, it is not considered that further details would be required by condition.

#### Travel, Highways and Parking

- 2.13 Two parking spaces would be provided for each of the new dwellings within the development, which is considered to accord with the requirements of Policy DM13 and draft Policy TI3. To accommodate the widened access to the site, the existing parking space for 437 Folkestone Road would be relocated to the rear. Whilst the provision of one parking space to serve the existing dwelling likely falls

below the requirements of Policy DM13 and draft Policy TI3, this is not considered so significant to recommend refusal given some on-street parking is available in the area. Secured bicycle storage would also be provided within the garden of each property (suggested to be secured by condition) and there is a bus stop to the north of the site providing services towards Dover and Folkestone, where a range of facilities can be found. A representation has made reference to a potential 3<sup>rd</sup> bedroom on the plans, which is currently shown as a study, and potential implications for additional parking requirements. In the event that the dwellings were marketed with 3 bedrooms there would be no additional parking requirements for this suburban location.

- 2.14 It is noted that permission has previously been granted for the erection of a dwelling to the rear of 117 Manor Road (DOV/17/01230), which would have utilised the proposed access for this site (the track is now under the ownership of the applicant). At the site visit, development at the neighbouring site to the east did not appear to have been commenced and in any event this permission has since lapsed.
- 2.15 KCC Highways and Transportation initially raised concerns, recommending refusal on highways grounds due to the increased use of a substandard access and the gradient and width of the access increasing the likelihood of vehicles waiting on or reversing onto the highway when faced with opposing vehicles. However, the design of the access was amended during the course of the application. As set out above at paragraph 2.13; the existing parking space serving 437 Folkestone Road would be removed with the access widened to allow vehicles to enter and exit the site at the same time (utilising the existing dropped kerb) and the parking space would be relocated to the rear. They raise no objection subject to the imposition of conditions to secure a construction management plan, measures to prevent the discharge of surface water onto the highway, provision and retention of the vehicle parking spaces shown on the plans, closure of the existing access not used for the widening of the access track, use of a bound surface for the first 5m of the access from the edge of the highway, gates to open away from the highway and be set back a minimum of 5m from the edge of the carriageway (notwithstanding that none are shown on the proposed plans), provision and retention of secured cycle storage facilities, provision and maintenance of 2m x 2m pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level. They also suggest a condition for the provision of EV charging, however this matter is dealt with under Building Regulations. An informative is also suggested.
- 2.16 Concerns have been raised in public representations about the safety of the use of the access and risk of vehicles coming off the access into neighbouring gardens if they lose traction. The intention is for the access to be resurfaced and it is considered appropriate to require details of the proposed surface of the access to be submitted as part of a hard and soft landscaping condition (which would also include details of boundary treatments). Concerns have also been raised in public representations in relation to the location of refuse on collection days and whether this would obstruct the highway and bus stop or obscure visibility from the access. As such, a condition is suggested requiring the submission of refuse collection details and a separate condition is suggested requiring the provision and maintenance of pedestrian visibility splays (as detailed in the above paragraph). In respect of access for emergency vehicles such as fire engines, the location and block plan confirm that the dwellings will require fire sprinkler protection, to be dealt with under Building Regulations.

Subject to the above conditions, the development is considered to be acceptable in respect of highways safety.

- 2.17 Stagecoach South East initially objected on the basis that the proposals would interfere with the bus stop and an alternative location for the stop would be required. However, upon further clarification of the amended plans, which would result in no changes to the existing dropped kerb arrangements (and would therefore not require relocation of the bus stop), withdrew their objection.

#### Other Matters

- 2.18 The proposals would result in the demolition of the existing outbuildings at the site. Having had regard to Natural England's standing advice, the site is considered unlikely to provide suitable habitat for protected species. Notwithstanding this, were permission to be granted, an informative could be included providing information on the protection of bats.

#### Planning Balance

- 2.19 The proposals would contribute two dwellings towards the Council's 5-year housing land supply. The application site is located within the settlement confines identified in Policy DM1 and the principle of residential development in this sustainable location is considered acceptable. The site is also within the draft settlement confines associated with draft Policy SP4, attracting moderate weight in favour of the proposal.
- 2.20 Due to the design, siting and scale of the development, the proposals are considered to have an acceptable impact in respect of visual and residential amenity (subject to the imposition of conditions), as well as being acceptable in regard to flood risk, weighing in favour of the development.
- 2.21 Overall, having had regard to the objectives of NPPF Paragraph 11, it is considered that the disbenefits of the scheme do not outweigh the benefits, with material considerations indicating that permission should be granted.

### **3. Conclusion**

- 3.1 For the reasons set out above and having had regard to the tilted balance engaged under NPPF Paragraph 11, the proposed erection of two dwellings with associated parking is considered acceptable in principle and in respect of other material considerations, with the benefits of the development outweighing the disbenefits and it is recommended that permission be granted.

#### **g) Recommendation**

I PLANNING PERMISSION BE GRANTED subject to the following conditions:

- (1) time condition
- (2) plans
- (3) samples of materials
- (4) hard and soft landscaping scheme, including details of hard surfacing/driveway finish (with use of a bound surface for first 5m of the access from the edge of the highway and measures to prevent the discharge of surface water onto the highway) and boundary treatments and maintenance for 5 years following completion

- (5) construction management plan
- (6) provision and retention of the vehicle parking spaces
- (7) closure of the existing access not used for the widening of the access track
- (8) provision and permanent retention of secure covered cycle parking facilities
- (9) provision and maintenance of 2m x 2m pedestrian visibility splays behind the footway with no obstructions over 0.6m above footway level
- (10) gates to open away from the highway and be set back a minimum of 5m from the edge of the carriageway
- (11) no further openings in the roof of the dwellings
- (12) provision of refuse storage and details of collection arrangements/location
- (13) provision of secured cycle storage

II Powers to be delegated to the Head of Planning and Development 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.

Case Officer

Rachel Morgan

N



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23/00521  
 The Larch, Nursery, Beacon Lane, Woodnesborough, CT13 0PB  
 WOODNESBOROUGH

Scale: 1:1,250

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



- a) **DOV/23/00521 - Erection of 8 dwellings, associated landscaping and parking (existing buildings to be demolished) - The Larch Nursery, Beacon Lane, Woodnesborough**

Reason for report – Number of contrary views (6)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, CP3, CP4, CP6, DM1, DM5, DM11, DM13, DM15, DM16 and DM17.

Draft Dover District Local Plan: The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process (Regulation 19) the policies of the draft can be afforded some weight, but this depends on the nature of objections and consistency with the NPPF.

SP1; SP2; SP3; SP5; SP11; SP13; SP14; SP15, SAP55; CC1; CC2; CC4; CC5; CC6; CC8; PM1; PM2; H1; TI1; TI2; TI3; NE1; NE2; NE3; NE4; HE1; HE2; HE3

National Planning Policy Framework (NPPF) (2023): Paragraphs 7, 8, 11, 12 and Chapters 5, 8, 9, 11, 12, 14 and 15

The Kent Design Guide and National Design Guide

These guides provide criteria and advice on providing well designed development.

- d) **Relevant Planning History**

DOV/88/00061 - Construction of houses – Refused

DOV/00/00335 – Erection of three bay multi-span polytunnel – Prior Approval Not Required

DOV/04/0007 - Erection of three bay multi-span polytunnel – Prior Approval Not Required

DOV/11/00284 - Erection of a 2-bay polytunnel – Prior Approval Not Required

DOV/17/01161 - Outline application with all matters reserved except for the means of access, for the erection of a funeral parlour and Chapel of Rest, garage building, creation of new access and car parking (existing nursery buildings to be demolished

DOV/18/00825 - Erection of an agricultural building – Approved

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

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

KCC PROW– No comment on this application.

KCC Highways – No objection, subject to conditions relating to parking provision and retention, cycling storage and parking and turning areas for delivery vehicles.

KCC Suds - Following the submission of further information, raise no objection subject to conditions to provide fine details of the SUDs scheme and its verification and infiltration.

Southern Water – Advise that a formal application for a connection to the public sewer is required by the developer.

DDC Environmental Protection – No objection, subject to conditions relating to potential contamination and for a Demolition Construction Management Plan (DCMP).

DDC Trees – Development proposes extensive landscaping, but detail has not been provided at this stage of the species. Request condition for replacement planting should any landscaping die or be removed within 5 years.

Environment Agency – No objection, subject to conditions relating to detail of foul drainage, contamination and SUDS details.

DDC Senior Natural Environment Officer – No objection, subject to the submission of a Biodiversity Method Statement for vegetation clearance and construction works and biodiversity enhancement measures .

Woodnesborough Parish Council – Do not object to the development here in principle, but have the following comments:

- Object to the style of this development
- Houses are too large and not suitable for this setting
- More affordable housing is required that fits in with the village
- No mention of solar panels
- Request the speed limit is reduced to 30mph

Third party Representations:

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

- Development is too dense and not in keeping with the surroundings
- Draft Local Plan allocates the site for 5 dwellings
- Not in keeping with the surrounding area
- Increased traffic generation
- Inaccuracies and discrepancies within the application documents relating to landscaping, contamination and viewpoints provided
- Contamination on site
- Impact on neighbouring properties, including local small holdings
- Loss of view
- Loss of countryside, along with other developments in the vicinity of the site
- Increase in noise pollution
- Impact on road safety
- Impact from the construction phase
- Highways safety impact

1 representation in support of the proposal has been received and is summarised below:

- Support the reuse of a redundant site
- Property sizes and amenity space look appropriate



- Housing mix is appropriate for the area
- Housing designs are appropriate for the rural area

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

The Site

- 1.1 The application site has an area of 0.49 hectares comprising of a former agricultural nursery. The proposal site is located outside of the settlement confines and for the purposes of planning policy, it is within the countryside. The surrounding area is predominantly in agricultural use, with farmsteads and small groups of buildings dotted across the landscape.
- 1.2 The more immediate area to the southwest of the proposal site comprises mostly of linear development of detached 2 storey dwellings within relatively large plots. To the north of the site there is a small group of two storey semi-detached dwellings. To the southeast of Beacon Lane, there is some sporadic residential development, but this area is predominantly open agricultural fields.
- 1.3 The site is bounded on the existing north, west and southern boundaries by existing landscape. On the eastern boundary of the site, the site is adjacent to Beacon Lane to which there is an existing access approved under application reference 17/00161 (listed above). A Public Right of Way (PROW EE198) is to the north west of the site and runs in north east to south west direction.
- 1.4 The site lies within Flood Zone (FZ) 1 and is therefore considered to be of low probability of flooding. The site lies within a Ground Water Source Protection Zone. There are no heritage assets on the site, or within the immediate vicinity of the site. The closest Listed Building is 280m south at Grade II\* Hawthorn Cottage and Fairview Cottage and 360 m to the west at Grade II listed Christian Court.



**Figure 1: Location Plan**

### The Proposal

- 1.5 The application is a full application for planning permission for the erection of 8 dwellings. One vehicular and pedestrian point to the site is proposed using the access, as approved by KCC Highways under application 17/01161.
- 1.6 The site is allocated within the Draft Local Plan (policy SAP55) for an indicative capacity of 5 dwellings, subject to a number of criteria relating to landscaping, archaeology, Flood Risk Assessment and Contamination Assessment.
- 1.7 In terms of the site layout, the proposal consists of 6 detached 4-bedroom units set back from the eastern frontage on Beacon Lane, with a pair of 3-bedroom semidetached units on the eastern boundary fronting on to Beacon Lane. Within the site, there is parking for each plot, a small central open space with SUDS area and landscaping. In terms of the site boundaries, with particular regard to the existing landscaping, this is proposed to be retained and enhanced. Materials would consist of brick, black and natural boarding, tiles and grey coloured windows and doors. The design and layout of the scheme will be discussed in more detail in the assessment below.



**Figure 2: Site layout Plan**

## **2. Main Issues**

2.1 The main issues for consideration are:

- The Principle of the Development
- Landscape and Visual Impact on the Countryside
- Design Quality & Landscaping
- Residential Amenity
- Highways
- Biodiversity
- Flood Risk and Drainage
- Affordable Housing, Infrastructure and Open Space, and Housing Mix
- Other Matters

### **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.

#### *Development Plan*

- 2.3 The site is located outside the existing settlement boundary of Woodnesborough 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.

*Tilted 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 consequence of engaging the tilted balance is considered further in the overall planning balance at the end of this report.
- 2.12 Whilst the tilted balance is engaged by reason of the most important policies for the site being out of date, it must be noted that the tilted 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 5.31 years’ worth of housing supply and the council’s Housing Delivery Test measurement is currently 88% and forecast to increase to 107% for the period 2020/21 – 2022/23.

#### *Draft Local Plan*

- 2.13 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), with a distribution of those homes focussed on Dover town and Whitfield; at Deal and Sandwich, to an extent that reflects their environmental and highway constraints; and at Aylesham through a strategic size extension to that settlement.
- 2.14 The Draft Local Plan under policy SAP 55 – Beacon Lane Nursery, Beacon Lane, Woodnesborough (WOO005) seeks to allocate the site for residential development. The policy advises that the site has an indicative capacity of 5 dwellings and that development proposals will need to meet a number of criteria (outlined above). These criteria will be assessed later in this report.
- 2.15 The Draft Local Plan currently carries some 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, full weight cannot yet be afforded to its overall strategy of meeting the district’s housing needs. However, it is concluded that the draft policy does carry moderate weight at this stage.
- 2.16 The principle of residential development on the site is therefore considered to be acceptable, subject to the detailed assessment below.

#### Landscape and Visual Impact on the Countryside

- 2.17 The NPPF states in paragraph 131 that ‘creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’.
- 2.18 The application site is a relatively large plot currently occupied by a number of polytunnels and a modern barn building. The site has existing vehicular access on

to Beacon Lane. The surrounding area to the north and south is a mix of properties of differing scale and age between the north and south. In terms of the layout of the surrounding area, this consists predominantly of linear development with long narrow rear gardens. To the west, the site is relatively well screened by an existing landscape buffer, but there are opportunities for this to be further enhanced through this application.

- 2.19 The introduction of development on the site will inevitably cause harm to the character and appearance of the local area contrary to policy DM15 of the Core Strategy but in view of the moderate weight given to the draft site allocation policy and it being a material consideration, this impact will be assessed in the context of this policy.
- 2.20 The draft site allocation policy is not accompanied by specific landscape impact evidence to define how the site should be developed and with regard to landscaping and design, the draft allocation states that: "Existing trees and hedgerows along the boundary of the site should be retained and enhanced to provide an appropriate landscape buffer".
- 2.21 In terms of the Council's Landscape Character Assessment (October 2020), the site forms part of D2 – Ash. This is an area described as a "gently sloping area of land, contrasting with adjacent low-lying marshes and part of their setting, and openness and long views which are vulnerable to changes. Relevant development Management 'Guidance' includes:
- using woodland creation opportunities to help integrate existing and new urban edges within the rural landscape setting;
  - seeking positive landscape management around the settlements and where development/extensions are proposed seek to create a well-structured landscape framework to define edges and integrate settlement within the wider landscape
  - Maintain separation and individual identity of the ridge settlements at Ash, Marshborough, Woodnesborough, avoiding further linear development, consolidation/infilling along the connecting roads.
- 2.22 The development will inevitably result in change to the character of the site and the local landscape both to Beacon Lane to the east and along PROW EE198 to the west of the site.
- 2.23 Therefore, through the pre application process and during the determination of the application, the three residential units on the western side of the site, have been moved further into the site from the existing boundary landscaping. This landscaping would be outside of the curtilage of the properties and to be managed by a management company for the development. This would ensure that the landscape is retained and continues to provide screening of the development when viewed from the PROW to the west. Whilst this landscaping is outside of the red line boundary, it is within the blue line (any other land owned by the applicant), and a Grampian condition will be used to ensure that the planting takes place, and the maintenance of the landscaping will be secured by the S106 legal agreement. It is considered that this set back, and the retained and enhanced landscape planting would suitably limit the visual impact of the development here in line with the draft policy criterion to retain and enhance this landscape boundary planting.

- 2.24 In terms of the visibility of the site from the east, the development would be clearly visible from Beacon Lane and PROW EE220A. Two units would front on to Beacon Lane and would follow the existing building line and house types that are adjacent to the site to the north. The two units would be set back from Beacon Lane, on the existing building line, and this allows space for landscaping to be provided to the frontage. In the intervening space between these units and the funeral home to the south, there are significant areas within the centre of the site, relative to the size of the site, to provide landscaping, SUDS ponds, and with the meander of the road and landscaping to be provided, this would sufficiently break up views of the site when viewed from the east.
- 2.25 In terms of the northern boundary, units 4 and 5 to the rear of the site, would be visible from EE198, which runs in a north east to south west direction. This boundary and the proposed development will be partially screened by retained and enhanced northern boundary landscaping and although set back from development fronting on Beacon Lane, it will be perceived as a natural extension of the existing development that will replace existing polytunnels that are currently on the site. It is considered that in the long term, the visual effects would be reduced as the landscaping becomes established.
- 2.26 Overall, the development will cause a degree of change and appearance of the local area and landscape from agricultural polytunnels to residential. However, in the context of the draft Local Plan allocation and the site criterion which require the retention and enhancement of landscape planting, the measures outlined above to limit this impact through setting development back from the site boundaries, with new planting on the boundaries of the site and within the site, these measures would serve to suitably minimise the impact. The Draft Local Plan has moderate weight, and the proposals align with the draft site policy in respect of the impact landscape retention and enhancement. Furthermore, the Draft Local Plan allocation as submitted made no specific reference to where new built development could be located so, given this context, it is considered that an acceptable scheme has been submitted in accordance with Draft Local Plan policy SAP55.

#### Design Quality and Landscaping

- 2.27 The NPPF has a chapter dedicated to design (12 - Achieving Well-designed Places) and there is specific reference to the design framework 'Building for Healthy Life'. This application has been assessed against this framework.

#### *Access and Connectivity, Walking and Cycling*

- 2.28 One access point would be provided using the existing access off of Beacon Lane. KCC Highways has raised no objections in terms of the suitability of the access, the visibility splays and also the internal layout in terms of access and manoeuvrability. KCC Highways has not requested that the speed limit be reduced as requested by the Parish Council. In terms of the site entrance, the meander within the road entrance as you enter the site will reinforce speed change as drivers enter the site. The applicant has provided vehicle tracking to show that fire and refuse vehicles are able to access the site.
- 2.29 In terms of pedestrian access, a footway is proposed along the access road, which would connect with Beacon Lane. Beacon Lane itself does not contain any footpaths within the vicinity of the site, or bus stops so the accessibility of the site to more sustainable modes of transport (bus, walking and cycling) counts against



the scheme, however as discussed above, the site is an allocation for residential development and this lack of access to sustainable modes of transport is not considered to be a ground for refusal for this application.

### *Layout and Building Designs*

- 2.30 The residential proposals are for a density of approximately 11.4 dwellings per hectare (dph). Policy CP4 sets out that residential development will be expected to exceed 40 dwellings net per hectare and will seldom be justified at less than 30 dwellings net per hectare. The proposals are therefore significantly lower than the policy requirement, however this is appropriate particularly bearing in mind rural area of the application and its lower density and the allocation policy requirement for an indicative capacity of 5 dwellings, to ensure a transition to the rural landscape and the need for the development be of an appearance sympathetic to the surrounding rural area. This is also borne out through the spacious nature of the development.
- 2.31 The units would be two storeys in height, in keeping with residential units in the surrounding area. Units 7-8 on Beacon Lane seek to fit in with the existing houses and are traditional in nature from the public facing elevations but blend into a more contemporary style to the rear extension elevations. Units 1 – 6 are set back from the road and relate closely to the surrounding countryside. These units have been designed to fit into their setting, drawing inspiration from traditional agricultural buildings. This approach manifests in the simple linear shapes of the buildings, which are generally rectangular in shape with tiled or natural slate pitched roofs.
- 2.32 Good detailing and interest are provided for all of the units and incorporate red brickwork, black and natural weatherboarding, natural slate, clay tile, vertical boarding and chimneys. The designs are of good quality and are appropriate for the rural location and high-quality materials will be secured by planning condition.



**Figure 3: Street Scenes**

- 2.33 Hard surface details within the site have not been provided at this stage, but high-quality materials and the use of block paving for the roads and parking areas will be secured by condition. Front boundaries are generally open with the use of three

rail chestnut cleft post and rail fencing used to the front of units as well as around the rear boundaries of private amenity areas.

- 2.34 Refuse storage details have been provided that would be in rear gardens. Cycle storage would be provided with sheds for each property. This provision will be secured by condition.
- 2.35 Overall, the building designs are of high quality with the use of appropriate materials and detailing in accordance with policy PM1 of the Draft Local Plan.

#### Landscaping

- 2.36 Indicative landscape details have been provided on the proposed site layout plan that shows trees and hedging to enhance the site boundaries, which is appropriate. Additional landscaping will be provided along the western boundary to further screen the development. Within the site, properties are generally bounded to the front with amenity grass, and with hedging on side boundaries. The amenity grass areas adjacent to plots (front gardens) should provide further areas for shrubs and this will be secured by condition to be provided as part of a detailed landscaping plan. Street trees are shown around the access road and around the central SUDS pond.
- 2.37 For the areas beyond the housing there would be two SUDS ponds within the site, one to be located within the centre of the site and with one adjacent to the eastern boundary of the site. There would be landscaping around the ponds, to provide year-round interest in these areas, which can be secured by condition. In addition, the basin would not be excessively large, deep, and would predominantly remain dry with a significant amount of planting around the basin so would be aesthetically acceptable. The enhanced boundary native planting along the north, west and eastern boundaries will be secured by condition as will the central areas landscaping within the site. Conditions will secure details of implementation and ongoing management.
- 2.38 As set out above, the application proposes to retain and enhance boundary landscaping and with a significant amount of landscaping within the site. Landscape planting will be outside of the ownership of future residents with details of the management of these areas to be provided. This will ensure that these areas remain attractive and well maintained.
- 2.39 Overall, it is considered the landscaping principles will provide a good quality environment and setting to the development. Conditions can guide the details to ensure a high-quality scheme is delivered in accordance with Draft Local Plan policy PM1. This would also comply with the landscape requirements of draft policy SAP55.

#### Residential Amenity

##### *Neighbouring Properties*

- 2.40 The main potential impacts will be upon existing dwellings adjacent to the east of the site at No's 1-2 Beacon Lane to the north and east of the site. Plots 6-8 are the closest residential properties to these existing properties. In terms of plots 7-8, these units have side elevations on to the side elevation of the neighbouring residential property. Due to this side orientation, low level windows only and separation distance, it is not considered that these units would result in

unacceptable residential harm, in terms of overlooking, loss of privacy or overshadowing.

- 2.41 In terms of plot 6, the front elevation of this dwelling would face on to the rear elevation of the existing residential property to the north. There is an acceptable separation distance between the elevations, whilst there will be opportunity for some mutual loss of amenity in terms of loss of privacy, this is not considered to be of significant harm to warrant refusal.

#### *Future Residents*

- 2.42 All of the proposed houses would have sufficiently sized rear gardens that would benefit from suitable outlook and privacy. The houses are designed to be compliant with Nationally Described Space Standards in accordance with Draft Local Plan policy PM2.
- 2.43 All residents would have access to open space areas within the site and private amenity space which provides future residents with sufficient outdoor amenity space.
- 2.44 Overall, it is considered the development would not result in an unacceptable impact upon privacy, light, or outlook of any neighbouring properties or result in excessive noise or disturbance in accordance with Draft Local Plan policy PM2 and NPPF paragraph 135.

#### Highways

- 2.45 NPPF Paragraph 115 sets out that “*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*”.
- 2.46 There are no definitive thresholds set out in national planning policy that dictate when a Transport Assessment or a Transport Statement report is required, as local factors will determine whether a Local Planning Authority considers a development will have a 'significant impact' on transport or not. However, in broad terms, a residential scheme of 10 or more dwellings will require a Transport Statement, and those of 100 dwellings or more will require a Transport Assessment (draft Local Plan policy T12).
- 2.47 Whilst the application is not supported by a Transport Assessment or Transport Statement, the applicant has submitted a comprehensive site plan showing that the 8 dwellings would use the existing access and that the site would have a sufficient number of independently accessible parking provisions with additional visitor bays to meet the requirements set out within Draft Local Plan policy T13. Additionally swept path analysis drawings demonstrate that vehicles can enter and exit the site in a forward gear.
- 2.48 KCC Highways has assessed the application and consider that subject to planning conditions, they have no objection to the application for 8 dwellings. Therefore, no objection is raised on highway grounds.

#### Biodiversity

##### *Protected Species*

- 2.49 Ecological surveys have been carried out and identify that there is potential impact on nesting birds and hedgehogs during construction, and the potential for impacts for foraging and commuting bats as a result of lighting of the proposed development once complete. The Senior Natural Environment Officer has advised that sufficient information has been submitted to determine the application.
- 2.50 Mitigation measures for impacts to nesting birds and hedgehogs are recommended in the Preliminary Ecological Assessment and these will be secured by condition. With respect to the external lighting proposals, the PEA recommends that guidance to minimise impacts to bats is followed and again this will be conditioned.
- 2.51 Biodiversity enhancement measures are recommended within the Preliminary Ecological Report, however the Council's Senior Natural Environment Officer has commented that further ecological enhancement measures should be provided, including bat bricks and bird nest boxes, hedgehog gaps and native species planting. These enhancements will be secured by planning condition.

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

- 2.52 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.
- 2.53 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.
- 2.54 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.
- 2.55 In terms of Draft Local Plan policy NE3 and the Thanet Coast and Sandwich Bay SPA Mitigation and Monitoring Strategy, the site is located within the 9km Zone of Influence radius of the SPA and therefore a total financial contribution is required of £8,054, to be secured by a Unilateral Undertaking.
- 2.56 It is considered that the proposal complies with Draft Local Plan policies SP13, SAP55, NE3 and NPPF Chapter 15.

Flood Risk and Drainage

- 2.57 The site lies within Flood Risk Zone 1, which has the lowest risk of flooding from rivers or from the sea. Consequently, it is not necessary to undertake the Sequential or Exceptions tests for flooding.
- 2.58 Surface water drainage would be dealt with through SuDS. KCC Flood and Water Management have reviewed the proposals and following clarification on matters, they raise no objections subject to conditions.

- 2.59 Foul drainage would be through sealed cess pits, and subject to conditions, the Environment Agency is satisfied that planning permission can be granted.
- 2.60 No objection is raised on flood risk or drainage grounds in accordance with Draft Local Plan policy CC6.

#### Affordable Housing, Infrastructure and Open Space, and Housing Mix

- 2.61 The number of units proposed is below 10 and the site area is under 0.5 hectares and therefore, as per NPPF Paragraph 65, Core Strategy policy DM5 and Draft Local Plan policies SP5 and SP11, no infrastructure contributions or affordable housing are sought from this proposal.

#### *Housing Mix*

- 2.62 Draft Local Plan policy H1 sets out the overall housing mix being sought through the draft Local Plan. However, as the number of units is below 10, the policy is not applicable to the consideration of this application.

#### Other Matters

#### Archaeology and Heritage

- 2.63 The draft allocation policy requires the submission of an Archaeological Assessment to support the application due to the site lying within an area of archaeological potential. However, notwithstanding this, there is already a considerable amount of development on site, in the form of the access, polytunnels and a barn, and it is considered that this matter can be dealt with by a suitably worded pre commencement condition.
- 2.64 In terms of heritage, due to the separation distance of the site from heritage assets (listed within the description of the site above), and the intervening development, it is not considered that the proposal would have any adverse effects on the significance of the listed buildings. There are no Conservation Areas within the vicinity of the site. The proposed development would therefore comply with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Draft Local Plan policies HE1 and HE2. The assessment fulfils the requirements of paragraph 200 of the NPPF. The tests of paragraph 207, 208 and 209 of the NPPF are not engaged.

#### *Contamination*

- 2.65 The application is supported by a Contamination Assessment, as required by the draft allocation policy for the site (SAP55). In respect of contamination, the assessment identifies that there is a moderate risk of contamination and further works are required. The Environmental Protection team has reviewed the submitted information and are satisfied that this can be dealt with by the Council's standard land contamination condition. In addition, due to the proximity of the site to other residential properties, the Council's Environmental Protection team has requested a condition for a demolition and construction management plan, which will also be secured by condition.
- 2.66 The site is located within a Source Protection Zone 1 for a groundwater abstraction utilised for human consumption and is therefore a highly sensitive area. The

Environment Agency has been consulted, and they have no objection subject to conditions relating to SUDS, foul drainage and contamination.

- 2.67 No objection is raised on the grounds of contamination and the proposal is in accordance with Core Strategy policy DM17 and Draft Local Plan policy SAP55.

#### *Agricultural Land*

- 2.68 The NPPF, at paragraph 180, advises that planning policies and decisions should recognise “the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland”. The site includes Best and Most Versatile (BMV) agricultural land and the loss of BMV agricultural land is a material consideration which weighs against the development. However, the loss of land would be relatively limited. Whilst the loss of BMV is material in the planning assessment, it is not considered that it is determinative given the circumstances of this case, in particular given that the site is proposed for allocation.

### **3. Conclusion**

- 3.1 The site has been proposed for allocation in the emerging Local Plan, being identified as a suitable location for additional housing to meet the needs of the district and a small site identified in Woodnesborough, being capable of delivering housing over the plan period (together with one other ‘smaller site’). The development would have an impact on the character of the area, however this impact is considered to have been limited and mitigated through the use of landscaping. Due to the small number of units proposed, no objection is raised on highway grounds and impacts on protected species are considered to be acceptable, subject to conditions.
- 3.2 The ‘basket’ of Core Strategy policies that are ‘most important’ for the determination of this application are out of date. Consequently, the application should be assessed having regard for the ‘presumption in favour of sustainable development’, or the ‘tilted balance’ as set out at paragraph 11d of the Framework. This requires that planning permission should be granted unless the adverse impacts of granting planning permission would ‘significantly and demonstrably’ outweigh the benefits.
- 3.3 The site is also included within the emerging local plan for residential development. Whilst the emerging policy allocating the site indicates a capacity for 5 dwellings (this application proposing 8 dwellings), it is considered that the development of the site for residential use is acceptable.

The development of the site would, necessarily, alter the character of the site in some views, especially short-range views from Beacon Lane and PROW EE198. Whilst this impact is considered to weigh against the scheme, it is concluded that the level of harm is limited. There would also be a loss of BMV agricultural land. Whilst this weighs against the development, this is not considered to weigh heavily in the planning balance.

- 3.4 Subject to conditions and a legal agreement, the development is considered to be acceptable in all other material respects.

- 3.5 It is therefore concluded that the harm of this development is significantly outweighed by the benefits (conversely, the test for refusal being that the harm must significantly and demonstrably outweigh the benefits). As such, it is recommended that planning permission be granted.

**g) Recommendation**

- I PERMISSION BE GRANTED subject to completion of a unilateral undertaking to secure financial payments towards mitigating the impact of the development on the Thanet Coast & Sandwich Bay SPA and the retention and maintenance of landscaping, and subject to the following conditions:
- (1) Time limits
  - (2) Approved plans
  - (3) Existing the proposed site levels and building heights
  - (4) Samples of materials
  - (5) Details of hard landscaping
  - (6) Full details of windows and doors, including the depth of reveals
  - (7) Biodiversity Method Statement
  - (8) Biodiversity Enhancement
  - (9) Lighting
  - (10) Soft landscaping plan
  - (11) Tree protection details
  - (12) Foul drainage
  - (13) No infiltration of surface water drainage
  - (14) Contamination
  - (15) Demolition and Construction Management Plan
  - (16) SUDS
  - (17) SUDS Verification
  - (18) Programme of archaeological works
  - (19) Refuse, recycling facilities and cycle storage to be provided in accordance with details submitted
  - (20) No flues, vents, grilles or meter boxes
  - (21) Boundary details/enclosures as per submitted plans
- II Powers to be delegated to the Head of Planning and Development to agree a contribution for off-site highway work, settle any necessary planning conditions and secure a legal agreement, in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Adam Reynolds

*The Human Rights Act (1998) Human rights issues relevant to this application have been taken into account. The Assessment section above and the Recommendation represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).*