

# Public Document Pack



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3 April 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 11 April 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 "N. Nee", written over a white background.

Chief Executive

Planning Committee Membership:

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

AGENDA

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

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

4 **MINUTES**

To confirm the minutes of the meeting of the Committee held on 7 March 2024 (to follow).

**ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING**

(Pages 6-10)

5 **APPLICATION NO DOV/23/01282 - 26-27 TOWER HAMLETS STREET, DOVER**  
(Pages 11-19)

**Change of use to a larger House in Multiple Occupation; insertion of 2 rooflights, bin/cycle stores and associated alterations to elevations**

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

6 **APPLICATION NO DOV/23/00222 - WARREN HOUSE, BUCKLAND LANE, STAPLE** (Pages 20-31)

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

7 **APPLICATION NO DOV/23/01324 - 20 GRANVILLE ROAD, WALMER** (Pages 32-44)

**Erection of a dwelling with associated parking**

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

8 **APPLICATION NO DOV/23/00974 - EUROPA NURSERY, HILLS COURT ROAD, ASH** (Pages 45-66)

**Erection of a controlled environment agricultural (CEA) facility to include a solar panel array, associated infrastructure and landscaping**

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

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

9 **APPEALS AND INFORMAL HEARINGS**

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

10 **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.

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- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is step free access via the Council Chamber entrance and an accessible toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
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- In order to facilitate the broadcast of meetings there have been cameras set up in the Council Chamber that communicate with Microsoft Teams Live. This enables meetings held in the Council Chamber to be broadcast for public viewing through the Council's website.

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

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

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- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website [www.dover.gov.uk](http://www.dover.gov.uk). Minutes will be published on our website as soon as practicable possible after each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting.
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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.

## **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



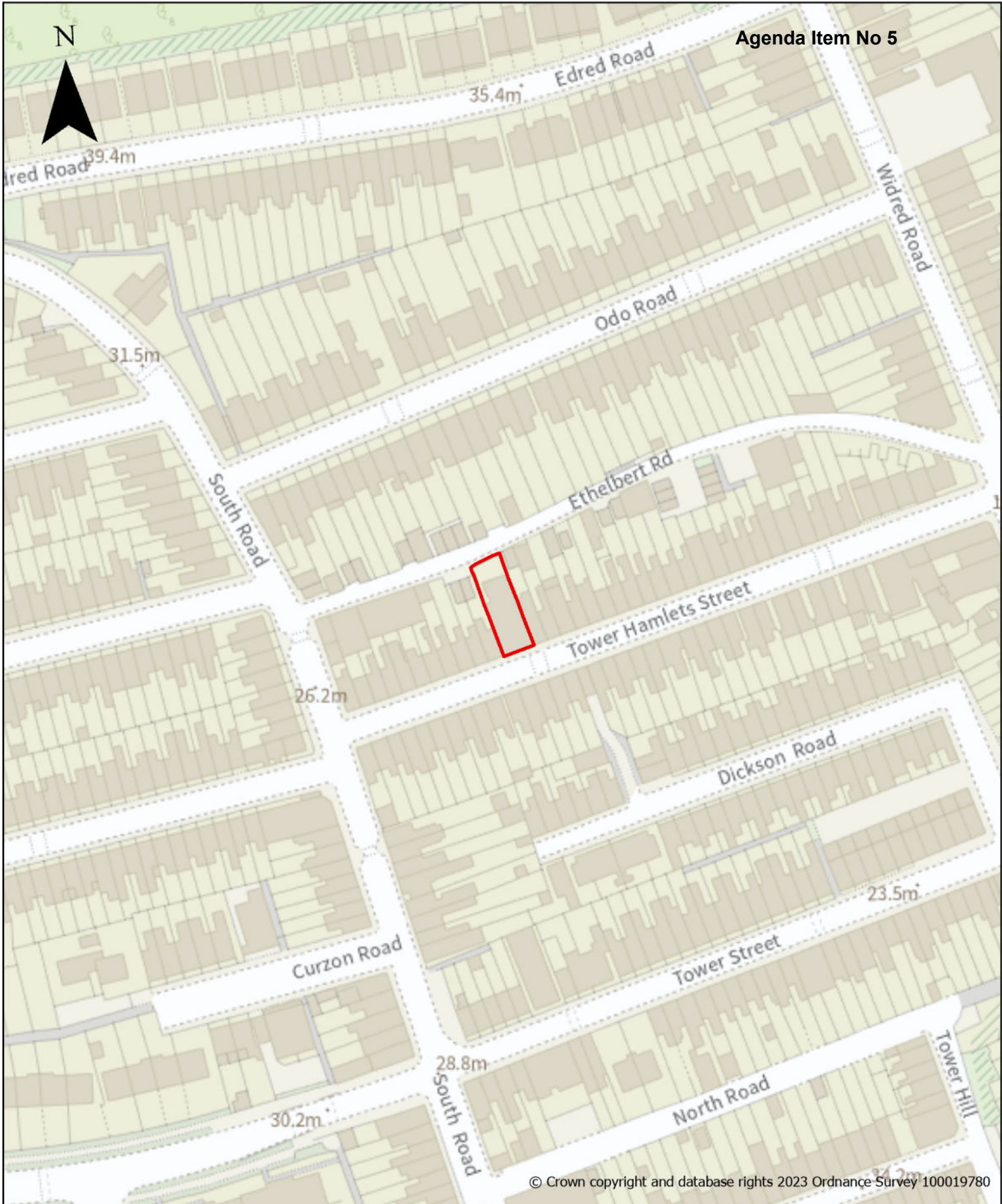
## PUBLIC SPEAKING AT PLANNING COMMITTEE

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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.

N



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23/01282  
 26-27 Tower Hamlets Street, Dover, CT17 0DY  
 DOVER

Scale: 1:1,250

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



- a) **DOV/23/01282 – Change of use to a larger House in Multiple Occupation; insertion of 2 rooflights, bin/cycle stores and associated alterations to elevations – 26-27 Tower Hamlets Street, Dover**

Reason for report – Number of contrary views (28)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, 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. The relevant policies are: PM1, PM2, PM6, SP2, SP4, TII, TI3 and H7.

National Planning Policy Framework (NPPF) (2023): Paragraphs 7, 8, 11, 47, 112-115, 135

- d) **Relevant Planning History**

DOV/02/00228 - Formation of flat roofed covered way to gentleman's toilets. - Granted

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

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

Dover Town Council – Object - over intensification of the area, when combined with other HMOs within the local area, which has a detrimental impact on the town.

DDC Environmental Health – No observations

Kent Highways –Following the parking survey provided by the applicant, Kent Highways raise no objection. In order to support sustainable links, a condition has been recommended for cycle parking facilities.

Crime Prevention Officer – No comments received

Private Sector Housing – No comments received

Third party Representations: 29 objections have been received and are summarised below:

- Insufficient parking
- Too many rooms for size of property
- Concerns relating to noise and disturbance during construction
- Loss of privacy to neighbouring properties
- Comments relating to status of potential occupants
- Loss of property value
- Risk to safety of neighbouring residents

- Inappropriate use of the site

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

1.1 The application site relates to a two-storey terraced property set to the northwest of Tower Hamlets Street, set within the settlement confines of Dover. The property is currently a Public House (pub) but has ceased trading. The property is not listed, is not within a Conservation Area, nor is it within the setting of these constraints and is not within a Flood Zone. In addition, the pub is not listed as an asset of community value. The existing block plan of the site is shown below in Figure 1.



**Figure 1: Existing Block Plan**

1.2 The proposal is for the change of use from Public House (Sui Generis) to Home in Multiple Occupancy (HMO) (Sui Generis) with 12 beds. Following amendments to the internal layout of the proposal, and the removal of the rear dormer, this has reduced the number of bedrooms from 14 to 12. The proposal includes the insertion of 2 no. dormer windows within the roof, and other minor alterations to windows and doors to enable means of escape, and adequate natural light to every bedroom. The proposed block plan of the property is shown below in Figure 2.



**Figure 2: Proposed Block Plan**

## **2. Main Issues**

2.1 The main issues for consideration are:

- Principle of the development
- Impact on the character and appearance
- Impact on residential amenity
- Impact on highways
- 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 The application site falls within the urban area of Dover. As such, under policy DM1, the change of use of the building is acceptable in principle.
- 2.4 The Core Strategy does not have a development plan policy that seeks to regulate or limit the number of HMOs in any specific area. As such, under the adopted development plan, each case needs to be determined on its own merits. It should be noted there is support in the NPPF to significantly boost the supply of homes where it is needed and that the needs of groups with specific housing requirements should be addressed.
- 2.5 In terms of the draft Local Plan, policy H7 is afforded moderate weight, and there is support for proposals for Houses in Multiple Occupation (HMOs) where the application site itself, or in combination with existing HMOs within the vicinity, would not result in:

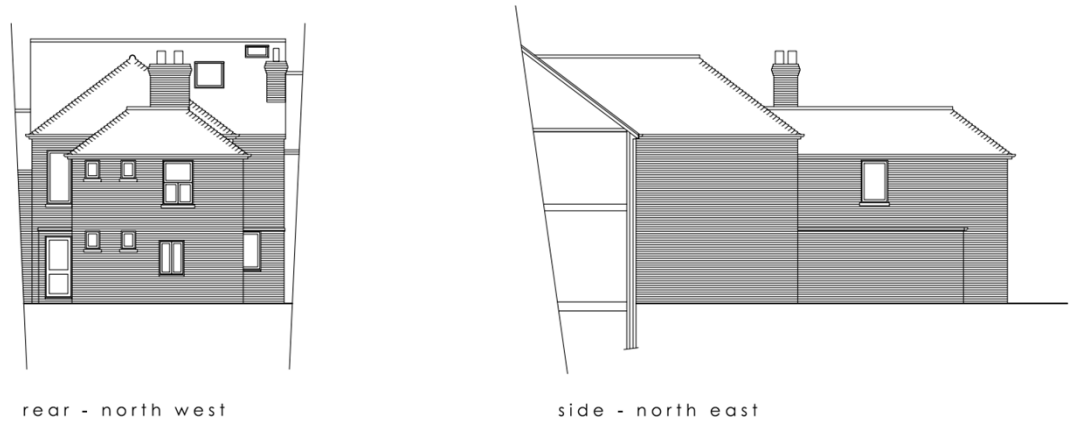
A) an adverse impact to living conditions of adjoining residents

- B) unacceptable impacts to highway safety, caused by insufficient on-site parking provision thereby resulting in an unacceptable increase in on street parking
  - C) An adverse impact to visual amenity and character of the area, including that from inappropriate or insufficient arrangements for refuse and cycle storage.
- 2.6 In terms of the impacts of the proposal in combination with other HMOs, it should be noted that the nearest registered HMO to the application site is on Tower Hamlets Road, with 2 other HMO registered within Tower Hamlets. The potential impact of the proposal will be discussed later in the report, with consideration for the cumulative impact of the HMOs within the area.
- 2.7 In terms of the loss of the community facility (public house), paragraph 97 of the NPPF states that decisions should “*plan positively for the provision and use of shared spaces, community facilities ... and other local services to enhance the sustainability of communities and residential environments*”, “*guard against the unnecessary loss of valued facilities and services...*”.
- 2.8 In addition, draft Local Plan policy PM6 sets out criteria where in exceptional circumstances, permission will be granted for proposals involving the loss or change of use of community services or facilities. The draft policy states that permission will only be granted for proposals involving the loss or change of use of community services or facilities where there is alternative provision, or where there is no longer a demand for the facility. Consequently, it is considered the draft policy would attract moderate weight in the planning balance.
- 2.9 Within a short walk of the application site, there are three Public Houses, and further drinking establishments in close proximity. Given the number of alternative facilities in the area, as well as those slightly further away in the town centre, it is considered that the proposals would accord with part a) of the draft policy. It is important to note that there is only a requirement under the stated policy for one of the criteria to be met.
- 2.10 In addition, Draft Local Plan policy SP4 sets out the appropriate locations for new windfall residential development. The draft policy seeks to deliver new housing in a range of accessible and sustainable locations in the district. SP4 is considered to attract moderate weight in the planning balance. The site is located within the settlement confines for the urban area and would therefore accord with the objectives of the policy, subject to the criteria within the policy being met.
- 2.11 Therefore, in relation to the determination of this application, the principle of the change of use is acceptable and the details and impact of the proposal are assessed in more detail below.

#### Impact on Character and Appearance

- 2.12 The NPPF states that planning decisions should ensure that developments ‘will function well and add to the overall quality of the area’, be ‘visually attractive as a result of good architecture, layout and appropriate and effective landscaping’, be ‘sympathetic to local character and history’ and ‘establish or maintain a strong sense of place’ (paragraph 135).
- 2.13 Draft Local Plan policy PM1 sets out that all development must achieve a high quality of design that promotes sustainability, and fosters a positive sense of place, by responding to the following principles in an integrated and coherent way.
- 2.14 Following revisions to the proposal, the proposed rear dormer has been removed, resulting in a reduction in the number of bedrooms within the roof from two to one. In terms of amenity, this bedroom would be served by two new rooflights on the

rear elevation and two existing rooflights on the front elevation. This amendment has reduced the visual change of the proposal when viewed from Ethelbert Road to the rear significantly and is considered to be acceptable.



**Figure 3: Proposed Rear Elevation**



**Figure 4: Proposed Front Elevation**

2.15 The other changes are considered to be minor and include the removal of the covered walkway to access the toilets, replacing the rear door with a window, and an additional door to the side entrance of the rear elevation. The other additions to the property include cycle storage and bin storage facilities to the rear of the property. These will not detract from the street scene or visual amenity of the area.

2.16 It is considered therefore that the proposal would assimilate within its immediate context and subject to suitable planning conditions, the use would not lead to a material deterioration in the visual quality or residential character and appearance of the area. The proposal would comply with Paragraphs 135 of the NPPF (2023) and policies PM1 and H7 of the Draft Local Plan.

Impact on Residential Amenity

2.17 As noted above, the proposals include minor external alterations, including the insertion of 2 rooflights on the rear elevation. These additional openings will provide long range views to the rear of properties on Odo Road, which are



approximately 30 metres away. However, due to the separation distance, it is not considered that the proposal would result in significant additional loss of privacy to these properties. The two rooflights on the front elevation are existing and are to be retained. Other new openings are proposed on the ground floor and are not considered to result in a significant loss of amenity.

- 2.18 As such, the proposal would not result in significant additional harm to existing residential amenities from what is already experienced in terms of overlooking, interlooming, loss of light, loss of outlook or loss of privacy to any residential neighbour.
- 2.19 Up until recently the property was a functioning Public House and had been for a number of years. It is not considered that the change of use to an HMO would result in a significant change to noise within the property and have a significant impact on neighbouring properties, nor will it give rise to a materially greater degree of comings and goings that would be noticeable within the immediate area.
- 2.20 Furthermore, Environmental Health have raised no concerns regarding the proposal. It is therefore considered that the proposal would accord with policy H7a in this regard.



**Figure 5: Proposed Ground and First Floor Plan**

Regarding future occupiers of the HMO, the rooms exceed the minimum standards, set out within the Council's HMO Standards document (2019) with future residents also benefiting from a shared kitchen and living area. The rooms have their own shower and WC either within the room or immediately adjacent. The proposed occupants would have a good level of amenity, and the proposals would comply with paragraph 135(f) of the NPPF and policies PM2 and H7 of the Draft Local Plan

## Highways

- 2.21 The site is located in a residential area, where the majority of dwellings are terraced houses with no-off road parking. Some on street parking is available outside the property and in surrounding roads. The property would have no off-road parking.
- 2.22 Paragraph 115 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.*”
- 2.23 As set out above, draft Local Plan policy H7 sets out that HMO proposals will be supported where they do not result in an unacceptable impact on highway safety, caused by insufficient on-site parking provision thereby resulting in an unacceptable increase in on street parking.
- 2.24 A parking survey was conducted in the area surrounding the application site, which concluded that “*the proposals on street parking impact is minimal/ likely to be insignificant.*” KCC Highways did not raise any objections to the scheme due to parking capacity within 200 metres of the scheme. As such, the development is considered unlikely to result in a significant increase in parking pressure or undue harm to highways safety by itself or in combination with existing HMOs.
- 2.25 The proposed cycle storage is welcome as an alternative means of providing travel to and from the site. In addition, the town centre is within a reasonable walking distance from the application property – thereby providing suitable and convenient access to goods and services for the occupiers of the premises. The application site is on the edge of Dover town centre, with a regular bus route and approximately 10 minutes’ walk from Dover Priory Station. The proposals are therefore considered to accord with draft policy T13 and in turn draft policy H7b.

## Other Matters

- 2.26 As set out above, draft policy H7 requires sufficient cycle and bin storage be provided that does not adversely impact on the visual amenity and the character of the area. The proposal includes provision for the storage of bicycles and refuse storage to the rear of the property, accessed from Ethelbert Road. Ethelbert Road is a road for rear access to dwellings on Odo Road and Tower Hamlets Street, with mainly rear gardens and garages. The storage facilities will be located behind a 2-metre-high close board fence, with a secure lockable gate. This would provide acceptable screening of refuse and cycle storage in accordance with draft policy H7c.

## **3. Conclusion**

- 3.1 There is a need to accommodate tenants in shared accommodation. It is not considered that this proposal would materially affect the character and appearance of the area or the current living conditions of the occupiers of nearby properties. While it is accepted that there may be a minor increase to parking pressure, this is not significant to warrant refusal of the application.
- 3.2 The proposal is considered to be a sustainable form of development in a suitably sustainable location in accordance with the NPPF, Core Strategy and Draft Local Plan.

**g) Recommendation**

I PLANNING PERMISSION BE GRANTED, subject to conditions:

1. Time Limit
2. Approved plans
3. Restriction of number of residents to 16
4. Boundary treatment
5. Bike storage
6. Bin storage

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

Case Officer

Amber Tonkin



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23/00222  
 Warren House, Buckland Lane, Staple, CT3 1JY  
 STAPLE  
 Scale: 1:1,250

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



a) **DOV/23/00222 – Erection of 4 dwellinghouses, garages, cycle stores and widening of access road – Warren House, Buckland Lane, Staple**

Reason for report – Number of contrary views (13)

b) **Summary of Recommendation**

Planning permission be refused.

c) **Planning Policy and Guidance**

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

Draft Dover District Local Plan (March 2023) - The Submission Draft Dover District Local Plan is a material planning consideration in the determination of applications. At submission stage the policies of the draft plan can be afforded some weight, depending on the nature of objections and consistency with the NPPF. The relevant policies are: SP1, SP4, SP15, CC2, H2, PM1, PM2, TI1, TI3 and HE1

National Planning Policy Framework (NPPF) (2023): Paragraphs 7, 8, 11, 83, 84, 128, 135, 180, 195-214

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

d) **Relevant Planning History**

18/00110 - Outline application for the erection of four dwellings (appearance, landscaping, layout and scale to be reserved) – Refused for the following reason:

- *In the absence of information to demonstrate otherwise, the proposed development, if permitted, by virtue of its siting, would result in an incongruous, intrusive, and unsustainable form of development, bringing about significant harm to the character and appearance of the countryside. The proposal would be highly visible within its rural setting. The proposal is therefore contrary to Policies CP1, DM1, DM11, DM15 and DM16 of the Dover Core Strategy and NPPF paragraph 79.*

The decision was upheld on appeal under reference APP/X2220/W/18/3215593. The inspector concluded that the proposal would be harmful to the character and appearance of the surrounding area, and would materially conflict with the aims and requirements of CS policies CP1, DM1, DM11, DM15 and DM16

In dismissing the appeal, the inspector concluded the following:

- The application site is not isolated therefore paragraph 79 (now paragraph 84) does not apply.
- The elevation of the site would result in dwellings which are visible from beyond the site and would likely result in a detrimental impact on the character of both the open countryside and the landscape beyond.
- The quantum of development is at odds with DM11.

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

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

Staple Parish Council – Supports the application but gave no comments.

KCC Highways – Doesn't warrant involvement from the highways authority

Southern Water – Advice provided for the applicant

Senior Natural Environment Officer – Require clarification of proposed hedge removal due to inconsistency with documentation. Agreed with the conclusions provided within the Preliminary Ecological Appraisal.

DDC Heritage – Raises concern with the development due to the density and location of the development and potential impact on the adjacent listed building.

Third party Representations: 8 objections have been received and are summarised below:

- Impact on highway safety from additional cars
- Overdevelopment of the area
- Poor visibility from the access/ exit of the site
- Precedent of building on garden land will be set
- Design of houses is not in keeping with the village
- No footpaths so all travel will be by car
- Impact on nearby listed building

In addition, 13 comments in support of the proposal have been received, and are summarised below:

- Design of the houses compliments other local houses
- Site is secluded and bounded by trees and hedging
- Provide much needed housing in the village
- More houses may result in the buses being reinstated

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

The Site

- 1.1 The application site comprises approximately 0.4 hectares of garden land on elevated ground approximately 1.5 metres above road level. The is located to the west of Buckland Lane. The application site is located outside of the settlement confines of Staple, which runs along the western boundary of the application site.
- 1.2 The northern side of the site is bounded by close board fencing, the eastern and southern boundaries have native boundary hedging. Warren House is opposite a property called Mount Pleasant to the north. To the eastern end is Animal Farm, the Bassetts and a Grade II Thatched listed building – Reed Cottage. To the south is open farmland and Buckland Road which leads to Aylesham. The properties within the immediate area are predominately two storeys detached and semi-detached dwellings that follow a linear building line, with road fronting development and large rear gardens.

The Proposal

- 1.3 The application is a full application for four, 4no. bedroom two storey detached dwellings. Each property would benefit from 2 off road parking spaces with proportionately sized rear gardens.

1.4 The layout of the properties would be as shown on Figure 1, with Figure 2 showing the proposed elevations from The Street, and Figure 3 showing the proposed elevations from Buckland Lane.

1.5 In terms of materials, this would consist of red bricks, tiled roofs, black weatherboarding and grey coloured fenestration. The hedge and trees around the site boundaries are not protected but are proposed to be retained as part of the proposal (as shown in figure 1 below). The design and layout of the scheme will be discussed in more detail in the assessment below.



**Figure 1: Proposed Block Plan**



**Figure 2: Proposed elevations from The Street**



**Figure 3: Proposed elevations from Buckland Lane**

## **2. Main Issues**

2.1 The main issues for consideration are:

- Principle of the development
- Impact on visual amenity and the countryside
- Impact on Heritage assets
- Impact on residential amenity
- Impact on highways and travel
- Impact on Ecology

### **Assessment**

#### Principle of Development

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.3 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), however, 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.
- 2.4 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.
- 2.5 Policy DM11 seeks to manage travel and states that development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. 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. However, the



blanket approach to restrict travel generating development outside of settlement confines is inconsistent with the NPPF. This policy is not considered to be out-of-date, but the blanket restriction within the policy does attract reduced weight.

- 2.6 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*

- 2.7 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.

- 2.8 As set out above, the tilted balance would, ordinarily, be engaged due to the most important policies being out of date. However, paragraph 11 (i) states that the tilted balance is disengaged where "the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area". Footnote 7 confirms that this includes instances where the development would be contrary to policies in the framework relating to designated heritage assets. As set out later in the report, it is concluded that the development would result in harm to the significance of designated heritage assets.

- 2.9 It must also be noted that the tilted balance is not engaged by reason of the council's housing land supply or housing delivery positions. The council is able to demonstrate a housing land supply in excess of four years' worth of housing supply and the council's Housing Delivery Test measurement is currently 88%.

#### *Draft Local Plan*

- 2.10 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 policies do carry some weight at this stage. The most relevant draft policies are listed below.

- 2.11 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.

- 2.12 Draft policy SP4 applies to proposals for residential development on unallocated sites and sites outside settlement confines. The policy is regarded as being consistent with the NPPF and moderate weight can be given, as a material planning consideration. The draft policy sets out the appropriate locations for new windfall residential development. The policy is underpinned by an up-to-date

analysis of services and amenities at existing settlements, taking into account the availability of public transport, retail, community, education and medical facilities. Using this information and current housing requirements, the policy seeks to deliver a sustainable pattern of development, including within the rural area where opportunities for growth at villages (in line with Paragraph 83 of the NPPF) are confirmed.

- 2.13 The village of Staple has limited services and is listed under criterion 2 of draft policy SP4, which sets out that minor residential development or infilling of a scale that is commensurate with that of the existing settlement will be permitted within the settlement boundaries, as shown on the Policies Map. The site is adjoining, but outside of the settlement boundaries (as shown below), and it is not in accordance with the criteria set out within criterion 2, nor is it in accordance with criterion 3 of the draft policy, which sets out exceptions for isolated and non-isolated dwellings. The development of this site for residential is therefore not supported by Draft Local Plan policy SP4.



**Figure 4: Draft Local Plan Settlement Confines for Staple**

- 2.14 Therefore, the proposed development is considered to be contrary to policies DM1 and DM11 of the Core Strategy 2010, and draft policies SP1 and SP4. of the emerging Local Plan.

Impact on Visual Amenity and Countryside

- 2.15 The NPPF in paragraph 131 places great importance on the design of new development, stating that “the creation of high-quality buildings and places is fundamental to what the planning 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 in communities.”

- 2.16 The NPPF also states that planning decisions should ensure that developments ‘will function well and add to the overall quality of the area’, be ‘visually attractive as a result of good architecture, layout and appropriate and effective landscaping’, be ‘sympathetic to local character and history’ and ‘establish or maintain a strong sense of place’ (paragraph 135).
- 2.17 This NPPF further states “*decisions should contribute to and enhance the natural and local environment by... recognising the intrinsic character and beauty of the countryside*” (Paragraph 180).
- 2.18 The site is located outside of the settlement confines identified in Policy DM1 and is therefore considered to be within the countryside. As such, Policies DM15 and DM16 are engaged. These policies seek to prevent development which would result in the loss of, or adversely affect the character and appearance of the countryside and wider landscape area.
- 2.19 The application site lies immediately adjacent to area D3 of the Dover District Landscape Character Assessment (2020): Staple Farmlands. The key characteristics of the area are identified as follows:
- Gently undulating land
  - Long open views
  - Little tree cover and open arable land
  - A limited settlement pattern of isolated historic farmsteads
  - Narrow rural lanes
  - Native hedgerows
  - Mixed buildings; minor roads; footpath network
  - A distinctive vernacular of redbrick, flint and render
- 2.20 Policy DM15 seeks to protect the countryside. Development will only be permitted if it is in accordance with allocations made in the development plan, is justified by the needs of agriculture, or justified by a need to sustain the rural economy or a rural community. In addition, it must be shown that development cannot be accommodated elsewhere and does not result in the loss of ecological habitats. This application is not submitted on the basis of agricultural need; it is not in accordance with any allocations and is not required to sustain a rural economy or rural community. Therefore, the proposal is considered not to be in accordance with policy DM15. Whilst not considered to be out of date, policy DM15 is considered to carry reduced weight.
- 2.21 DM16 states that development that would harm the character of the landscape will only be permitted if it is in accordance with allocations made in the development plan, incorporating any necessary mitigation; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate impacts to an acceptable level.
- 2.22 The Landscape Impact assessment, outlined above, recognises the open character of the area. In terms of management policies within the Dover District Landscape Character Assessment (2020), the document sets out that proposals should conserve and respect the character and pattern of historic built form and conserve the open landscape and avoid the introduction of large scale or incongruous elements.

- 2.23 The pattern of nearby development is sporadic and of low density, with linear road fronting development and large rear gardens. This proposal would alter the grain of development at the edge of this village resulting in four large dwellings built across the entire site, including with driveways, parking, domestic paraphernalia, the proposal would fail to conserve and respect the open landscape and the pattern of development of the surrounding area.
- 2.24 In terms of visual harm, due to the elevated level of the application site, the proposal would be visible from the junction of Buckland Lane and The Street. Whilst there is currently boundary hedging around the site, this would need to be managed and will not in itself screen the development of the site proposed here.
- 2.25 Under the previous appeal, the inspector referenced the screening of the site and the elevated position of the land and concluded that the screening would not be sufficient to prevent “*a detrimental impact on the character of both the open countryside and land beyond.*”
- 2.26 While it is acknowledged that the previous application was for Outline Permission only, the conclusion of the appeal particularly noted the impact on the countryside and rural area: “*the proposal would be harmful to the character and appearance of the surrounding area, and would materially conflict with the aims and requirements of CS policies CP1, DM1, DM11, DM15 and DM16*”
- 2.27 Therefore, the proposed development, by virtue of creating a cluster of 4no dwellings, together with surfaced accesses, parking areas, enclosures and domestic paraphernalia, would introduce an urbanising development in this location. The development would erode the rural character and appearance of this location, contrary to the aims and objectives of the NPPF, the Core Strategy and the Draft Local Plan.

#### Impact on Heritage Assets

- 2.28 The application site is adjacent to Reed Cottage to the southeast, which is a Grade II listed building. Paragraph 200 of the NPPF (2023) requires an applicant to describe significance of any heritage assets affected by a proposal, including any contribution made by their setting. While a design and access statement has been submitted as part of the application, this does not describe, nor assess the potential impact of the development on the adjacent listed building.
- 2.29 Views of the listed building are prominent when travelling north along Buckland Lane which is a single-track lane, towards the application site. Due to the location of Reed Cottage sitting immediately adjacent to the roadside, there are intimate views of the cottage possible from within Buckland Lane.
- 2.30 The narrow lane, combined with the dense green vegetation allows Reed Cottage to be read in isolation and as a building with strong rural context. The application site in its current form contributes to the rural context of Reed Cottage due to its undeveloped nature and strong green boundary.
- 2.31 The density of the proposed development, and its location within the plot immediately adjacent to the corner closest to Reed Cottage will result in a visually dominant development due to the height difference, which will negatively impact upon the significance of the Grade II listed building. The harm to the listed building is considered to be less than substantial.

- 2.32 Paragraph 208 of the NPPF (2023) states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The land is currently vacant and contributes to the rural context of the listed building. The development of 4 no. dwellings would result in public benefit, in so far as it would provide 4 additional houses. This benefit is not considered significant so as to outweigh the harm to the setting of the listed building.
- 2.33 The proposal is therefore considered to be contrary to Paragraphs 135 and 208 of the NPPF (2023) and draft policy HE1.

#### Impact upon Residential Amenity

- 2.34 The application site sits to the southeast of the built development of Staple. Due to the location of the proposals and separation distance to existing residents, there would be no impact to neighbouring properties, preserving the existing level of residential amenity.
- 2.35 In respect of the residential amenity of the future occupiers of the properties, the proposed dwellings contain 4 bedrooms, with each property varying in the formation of living arrangements to the ground floor to include separate living and dining spaces, and a study. Each property has 2 allocated parking spaces, and large gardens.
- 2.36 It is therefore considered that the proposed occupiers would have a good standard of amenity in line with Paragraph 135 of the NPPF and PM2 of the Draft Local plan.

#### Highways and Travel Impact

- 2.37 Policy DM11 of the Dover Core Strategy sets out that development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. As outlined above, the proposal is not justified by other development plan policies. The proposals are therefore contrary to DM11.
- 2.38 For the purposes of NPPF Paragraph 84, the site is not considered to be isolated. However, paragraph 83 of the NPPF states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It is considered that the proposed site would be contrary to paragraph 83 due to the very limited range of facilities within Staple and the distance to nearest sustainable settlement at Ash, which is over 2km from the site (as the crow flies). Residents of Staple do not benefit from a regular bus service, therefore in order to reach day to day facilities such as schools, doctors and shops, future occupants of the site would require the use of a private car to travel to the nearest sustainable settlement.
- 2.39 Given the rural location and distance to the nearest sustainable settlement the proposals would be contrary to paragraph 83 of the NPPF as housing on this site would not enhance or maintain the vitality of the nearest settlement and would therefore constitute unsustainable development.
- 2.40 Sustainable transport is further supported within the draft local plan, with draft policy TI1. Most notably within this policy, development should “*Be designed so*

*that opportunities for sustainable transport modes are maximised and provided for and provide a variety of forms of transport as alternatives to travel by private motorised vehicle.”* The lack of public transport provision with the village as explained above, would result in a reliance on private cars. The development would therefore be contrary to draft policy T11, however it is noted this is only given moderate weight at this time.

#### Impact on Ecology

- 2.41 The site is a well-maintained garden and having regard to Natural England’s standing advice, is considered unlikely to provide suitable habitat for protected species. This is consistent with the findings of the previous application.

### **3. Conclusion**

- 3.1 The development would result in an unjustified development located in an unsustainable location beyond the settlement confines. In addition, the proposed development due to its siting, scale and density, would result in visual harm to the character of the area. The proposal would also result less than substantial harm to the significance of the Grade II Listed Reed Cottage which is not outweighed by the development. There are no other material considerations that would weigh in favour of the development. Consequently, the proposals would conflict with the overarching aims and objectives of Development Plan policies, the emerging Local Plan and the NPPF and it is recommended that planning permission should be refused. This harm identified above is considered to significantly and demonstrably outweigh the benefits deriving from the provision of four dwellings, when considered against development plan policies and the Framework when read as a whole. Whilst it is concluded that, were the paragraph 11 presumption in favour of sustainable development engaged, the harm would significantly and demonstrably outweigh the benefits, it is considered that the presumption is disengaged by virtue of paragraph 11 footnote 7 of the NPPF and consequently an equal balance should be applied.

### **g) Recommendation**

I PLANNING PERMISSION BE REFUSED, for the following reasons:

- 1) The development would result in an unjustified development located in an unsustainable location beyond the settlement confines, where occupants would be isolated from the facilities and services upon which they would rely. The development would represent encroachment of built form into the countryside and, by virtue of its location, scale and layout, would introduce an urbanising development that would detract from the open rural quality of the area. This would cause visual harm to the character and beauty of the countryside. Consequently, the development would be contrary to Core Strategy policies DM1, DM11, DM15 and DM16, paragraphs 83, 128, 135 and 180 of the NPPF and policies SP4, PM1 and NE2 of the draft Local Plan.
- 2) The proposal, by virtue of its location, scale and layout would cause a loss of openness to the site and a dominant relationship with the Grade II Listed Reed Cottage, resulting in less than substantial harm to the significance of the listed building, which is not outweighed by any public benefits of the development. As such the proposal is contrary to Policies HE1 of the draft Dover District Local Plan and paragraph 208 of the NPPF 2023.

Case Officer

Amber Tonkin

*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).*

N



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23/01324  
 20 Granville Road, Walmer, CT14 7LS  
 WALMER

Scale: 1:1,250

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





a) **DOV/23/01324 - Erection of a dwelling with associated parking - 20 Granville Road, Walmer**

Reason for report – Number of contrary views (9)

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, SP13, SP14, SP15, CC1, CC2, CC4, CC5, CC6, CC8, PM1, PM2, H1, H5, TI1, TI2, TI3, NE1, NE2, NE3, NE4, NE5, HE1, HE3, HE4

National Planning Policy Framework (NPPF) (2023): Paragraphs 2, 7, 8, 11, 38, 47, 48, 55, 57, 60 – 62, 77, 79, 84, 86, 88, 96-97, 112 - 115, 123 – 126, 128, 131 - 137, 165, 173, 174, 180, 186, 200- 213, 226

National Design Guide & National Model Design Code (2021)

Planning (Listed Buildings and Conservation Areas) Act 1990

Walmer Design Guide

d) **Relevant Planning History**

Various applications including:

DOV/18/01385 – Erection of a two storey rear extension with a first floor patio (existing extension and chimney to be demolished) – Granted

DOV/19/00774 – Erection of boundary wall to front and side elevations - Granted

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

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

Walmer Town Council – strongly objects due to severe overlooking from the wall sized windows and balcony which, combined with the proposed position of the new property close to the boundary of neighbouring property 64 Liverpool Road, together with height of the full length doors and flat roof which they open onto will remove all privacy from surrounding houses and gardens. Occupants of the new property will be automatically able to overlook the house and garden of No. 64 Liverpool Road and the house and garden of the existing No. 20 Granville Road. Note an earlier application for 20 Granville Road (19/00774) included requirement not to overlook property on the Granvill Road side of the property; a requirement should be imposed as a condition if permission is granted. Note the possibility the location may be under a Restrictive

Covenant along the Liverpool Road side of the property which may need to be looked into before a decision is made.

**(Officer Comment:** restrictive covenants are not a material planning consideration. In respect of the previous condition in relation to privacy, a condition restricting permitted development rights for windows or similar opening in the first floor of the west facing elevation of 20 Granville Road was imposed on application DOV/18/01385).

KCC Highways and Transportation – considering this site is accessed off of Liverpool Road which is unclassified, it would appear that the development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements (an informative is suggested).

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

### Third Party Representations

8 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 restrictive covenants are not material considerations.

- Residential amenity - overlooking/loss of privacy, loss of light, noise – concerns regarding noise from use of the balcony, security concerns
- Scale – too large for plot size and concerns regarding proximity of building to southern boundary and party wall
- Design – not in keeping with style of neighbouring properties on Liverpool Road and in terms of proximity to road, unsympathetically close to the road given relatively set-back nature of all neighbouring properties along this section of Liverpool Road. Out of character when viewed from Walmer Castle and promenade. This section of Liverpool Road should not look built upon the approach to/from Walmer Castle and promenade. Houses on this section of Liverpool Road have strict development criteria, with limitations in title deeds. Proposal is too large for the plot and close to neighbouring properties.
- Precedent – other properties on Liverpool Road have large front gardens and are set back from the road; allowing the proposal would set precedent for building modern properties in front of the older existing properties in the future and undermine existing restrictive covenants on this section of road.
- Address – proposal and access are on Liverpool Road rather than Granville Road
- Trees – concerns that if allowed, there would be a risk of 100+ year old trees on Walmer paddock at the corner of Granville Road and Liverpool Road being cut down, having unsuccessfully applied to have these cut down in the past
- Traffic/parking/highways safety – vehicles drive too fast down the narrow road, development on the junction will increase traffic dangers. 3 bed house will have parking for over 5 cars; less parking would reduce extra traffic coming into Liverpool Road at the busy junction.
- Not opposed in principle to a new property on the proposed site
- Flooding - Area is flood prone, could present a hygiene risk

3 Members of the Public have written in support of the proposals and their comments are summarised below:

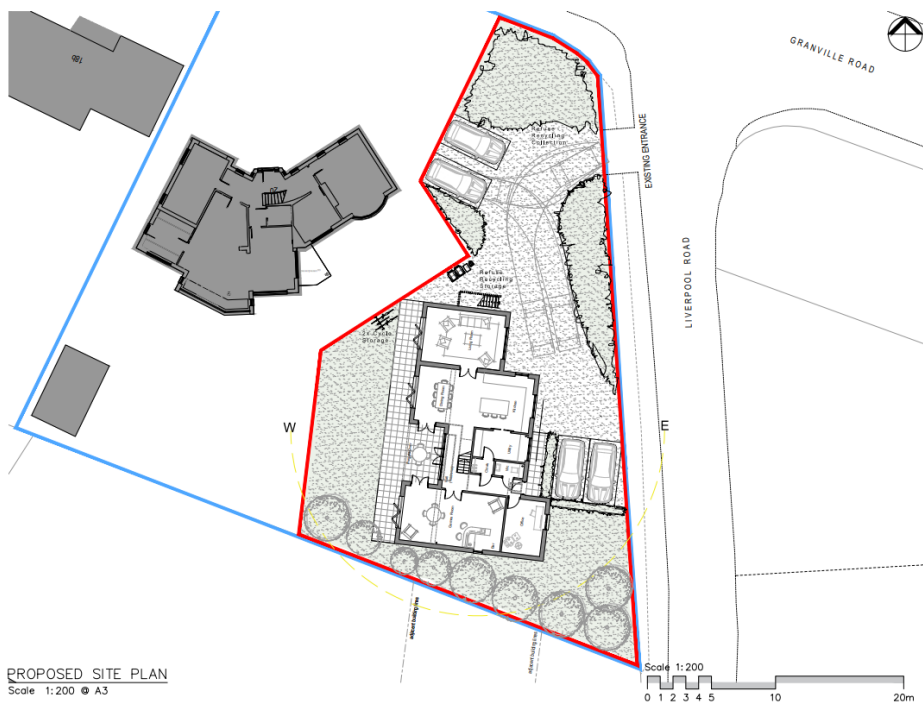
- Shortage of housing – with more medium-sized homes, one expects owners of smaller houses to upgrade to medium-sized houses, freeing up smaller more affordable houses for younger people to purchase as their first home who want to stay in the area but new houses are not affordable. Proposal to sub-divide a large existing plot with the intention of building a new home, seem sensible in the context of this housing shortage.
- Note concerns expressed by others about the proximity of the proposed building to a neighbouring home. Compared with numerous recent large-scale developments within Deal and Walmer in which new build houses are located extraordinarily close to the neighbouring houses in a compact site design, the proposal includes a good deal of space, retaining several mature existing trees.
- Sensible to build within brown spaces, gives more people the opportunity to live within this area and reduces building in green spaces. Better to build within the space available rather than large housing communities on the edge of town. Do not think this house would spoil the area.
- Reasonable changes have been made in response to objections.
- Includes generous parking taking cars off the road
- Privacy – balcony rear of 20 Granville Road already overlooks back garden, shrubs in place would negate concerns

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

- 1.1 The site relates to a two storey detached dwelling, located within the settlement confines of Walmer. The site is bounded by Granville Road to the north and Liverpool Road to the east and the existing dwelling, set back from the highway behind a gravelled driveway, is finished in red brick with a tiled hipped roof and grey framed windows.
- 1.2 The proposals are to erect a detached 1 ½ storey self build/custom build dwelling to the southeast of the existing property. The siting and design of the proposals has been amended during the course of the application and was duly re-advertised. The three bed dwelling, which would front Liverpool Road, would be set back behind a driveway utilising the existing Liverpool Road access, and would be constructed broadly in line with the front building line of the adjacent property to the south (64 Liverpool Road). It would be finished in white render with sections of grey cladding, a grey fibre cement slate roof and aluminium grey windows and doors and would have a garden to the rear (west) with four parking spaces to the front of the property. The existing 1.8m close boarded fence on the Liverpool Road boundary would be retained, as well as the existing 2m tall brick boundary with No. 68 Liverpool Road to the south.



**Figure 1. Proposed Block Plan**



**Figure 2. Proposed Site Plan**



Front Elevation- A



Side Elevation- B

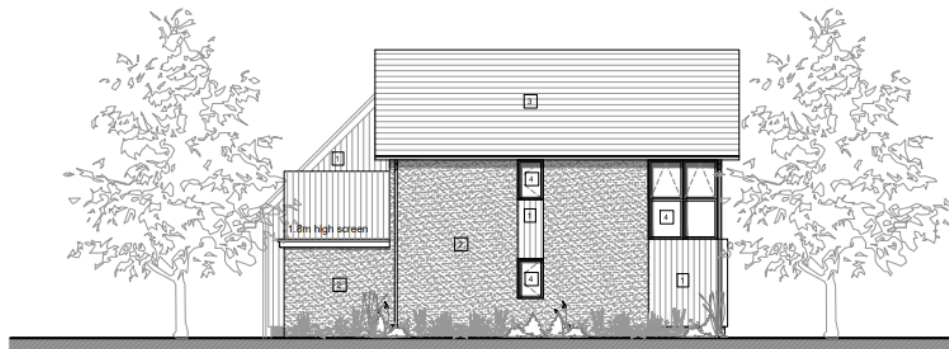
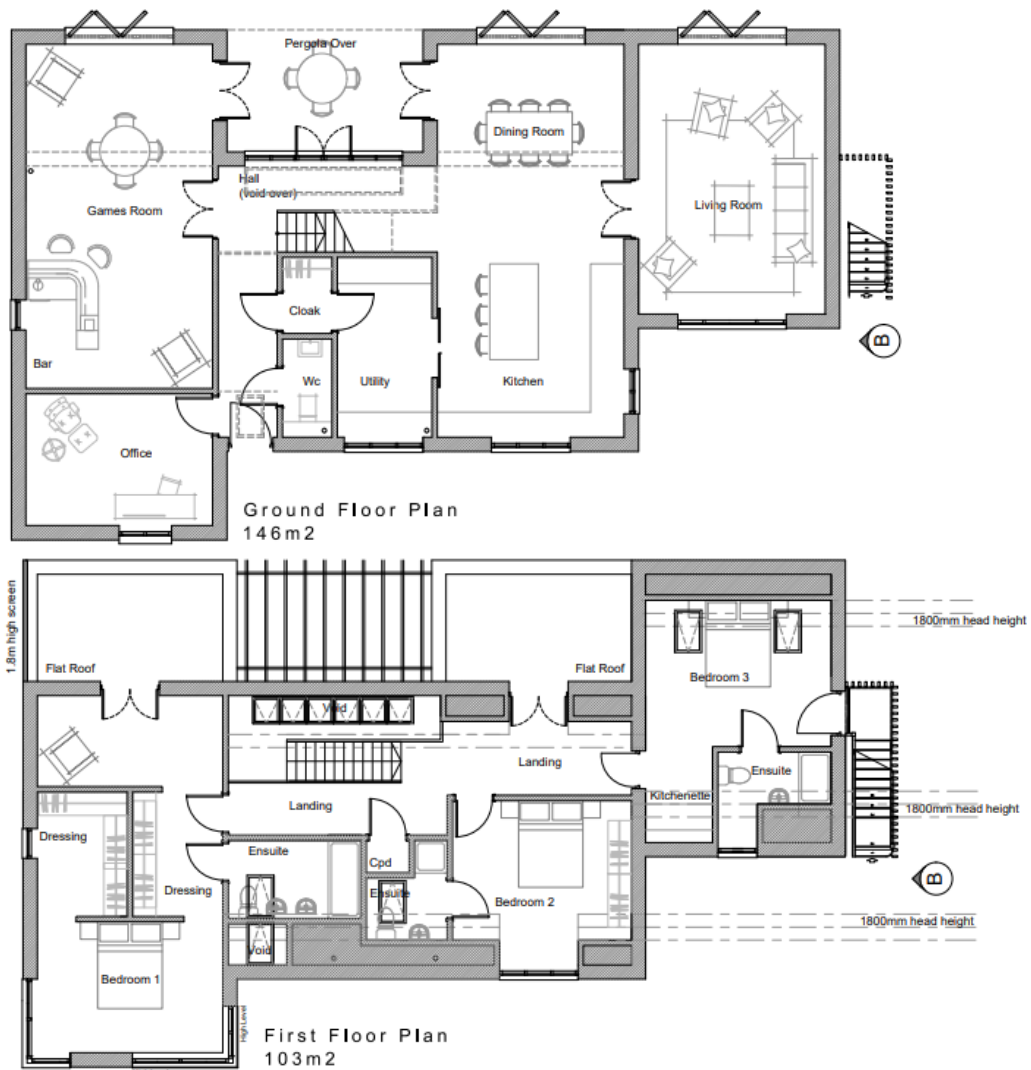


Figure 3. Proposed Elevations (Front, Rear, North, South)



**Figure 4. Proposed Ground and First Floor Plans**

## 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). Having regard to the most recent Housing Delivery Test, the Council are currently able to demonstrate a four-year housing land supply in accordance with the updated NPPF at paragraphs 77 and 226. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.
- 2.5 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver a greater number of dwellings per annum. As a matter of judgement, it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result of this, should carry only limited weight.
- 2.6 The Draft Local Plan was submitted for examination in March 2023 and its policies are considered to be material to the determination of applications, with the weight attributed to the policies dependant on their compliance with the NPPF. Draft Policy SP1 of the Submission Draft Dover District Local Plan seeks to ensure development mitigates climate change by reducing the need to travel and Draft Policy SP2 seeks to ensure new development is well served by facilities and services and create opportunities for active travel. Draft Policy TI1 requires opportunities for sustainable transport modes to be maximised and that development is readily accessible by sustainable transport modes. 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. Draft Policy H5 supports self-build and custom housebuilding on non-allocated windfall developments subject to compliance with other policies. The proposals would accord with the policy, which is considered to attract moderate weight being devised in line with the NPPF and current housing figures.

- 2.7 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

- 2.8 The area contains a range of 1 ½ storey and two storey dwellings, mostly detached and with a strong building line, being set back from the relatively straight Granville Road. The properties of Liverpool Road have a less uniform arrangement, due to the curve in the road and one of the properties being set much further back from the highway in larger grounds. The proposal, which would result in the subdivision of the garden of 20 Granville Road, with the erection of a dwelling fronting Liverpool Road, has been designed to continue the building line of 64 Liverpool Road immediately to the south, which is similar to the arrangement of dwellings on the northeast corner of the junction of Liverpool Road and Granville Road (57 Liverpool Road and Queen Mother Court).
- 2.9 The proposed dwelling would be two storeys, although would have a lower height than the neighbouring properties to the south, with the first floor being set into the eaves level. There is a wide variety of building styles in the area, particularly to the west of the site and a range of materials including brick, tile hanging and render. As such, it is considered the modern design and material palette would preserve the varied character and appearance of the street scene, with no harm to visual amenity. A condition can be imposed to seek the submission of samples for approval to ensure a high-quality finish to the development and it is also considered reasonable to impose a landscaping condition as the planting indicated would soften and further enhance the appearance of the development. Subject to this, it is considered the proposals would accord with the objectives of NPPF Paragraph 135 and draft Policy PM1.

#### Impact on Residential Amenity

- 2.10 As set out in paragraph 1.2 of this report, the design of the development has been amended from that originally submitted. The dwelling has been positioned approximately 2m further north, away from the boundary with 64 Liverpool Road, with a privacy screen added to the southern side of the first floor balcony closes



to 64 Liverpool Road and a first floor window on the southern elevation has been removed.

- 2.11 In the interests of the privacy of neighbouring occupants, it is considered appropriate to suggest a condition is imposed requiring the first floor level 'dressing room' window on the south elevation of the dwelling to be fitted with obscured glazing, sufficient to prevent through views. Were any windows to be installed in the future at first floor level, under permitted development rights they would be required to be obscured glazed and as such, it is not considered necessary to suggest a condition preventing the installation of further openings in this elevation. It is however considered appropriate to suggest a condition requiring the obscured glazed privacy screen to the balcony be installed prior to its first use. Concerns have also been raised by the public in respect of the impact on privacy from the floor to ceiling height windows, which wrap around the southeast corner of the building at first floor level. As mentioned above, one of these windows has been removed. Notwithstanding the concerns raised, it is considered that the main view from the window would be across the site itself, the highway beyond and the paddock opposite. Whilst there may be some views across part of the front garden of 64 Liverpool Road, this would be partly obscured by the existing trees which would be retained (with a landscaping scheme to be secured by condition which would require any trees/plants which die, are diseased or removed within 5 years of the completion of the development to be replaced) and on balance, subject to the suggested conditions, the development is not considered to result in significant harm to the privacy of these neighbouring occupants.
- 2.12 With regard to the privacy of other nearby residents, the development would feature openings and balconies at first floor level on the rear elevation, which would predominantly overlook the garden of the site. In relation to 20 Granville Road, views between the existing balcony and the closest proposed balcony would be partly obscured by the projection to the north of the proposed dwelling and on balance, are not considered to result in such significant harm to privacy to warrant a reason for refusal. Views towards other nearby properties would be more distant and partially screened by planting such that it is not considered the development would result in unacceptable harm to privacy. Furthermore, due to the design and appearance of the development, it is not considered the proposals would result in a significant overbearing impact. The dwelling would predominantly cast shadow across the application site and any shadow cast across the garden of 20 Granville Road would be limited by the eaves height of the northern projection of the proposed dwelling, such that it would not result in significant overshadowing or loss of light to this or other nearby properties.
- 2.13 In respect of the amenities of future occupiers of the development, the dwelling would contain well sized (having had regard to the nationally described space standards), naturally lit and ventilated rooms, with a rear and front garden with cycle storage space and further open space at the nearby beach and Marke Wood Recreation Ground. 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

- 2.14 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 (information to be included as an informative if permission is granted). The application form clarifies that surface water would be disposed of by soakaway 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.

#### Highways and Parking

- 2.15 The proposals would utilise the existing access to Liverpool Road. Whilst it is noted that several representations raise concerns in respect of traffic using the Liverpool Road junction, no concerns in respect of highways safety have been raised by KCC Highways and Transportation in their consultation response. Four parking spaces would be provided within the site, which would accord with the requirements set out in Policy DM13 and draft Policy TI3. Furthermore, the site is considered to be in a sustainable location, in close proximity to bus stops on Granville Road and Dover Road, as well as the cycle path along the promenade, such that occupants of the dwelling could reach the services and facilities within Walmer and Deal via sustainable methods of transportation.

#### Ecology and Trees

- 2.16 The site contains a number of trees and those adjacent to the southern boundary would be retained within the development. As discussed at paragraph 2.9, a condition for a landscaping scheme is suggested to ensure the provision and maintenance of the planting indicated on the plans, in the interests of visual amenity. The site is a well-maintained garden and having regard to Natural England's standing advice, is considered unlikely to provide suitable habitat for protected species.

#### Archaeology and Heritage

- 2.17 The site lies in an area of archaeological potential (medium palaeolithic potential and multi period archaeological potential on a spur of higher ground), however consultation with KCC Archaeology would not be required for development of this scale in this location. Having had regard to the NPPF and draft Policy HE3, no archaeology desk based assessment has been submitted. Notwithstanding this, it is considered appropriate and proportionate to suggest a condition is imposed (if permission is granted) dealing with archaeology, should any be found during the construction of the development.
- 2.18 It is noted the site is to the north west of Walmer Castle and Gardens (an ancient monument and Grade II Listed park and garden). Having had regard to the objectives of Chapter 16 of the NPPF, the Planning (Listed Buildings and Conservation Areas) Act 1990 and draft Policies SP15, HE1 and HE4, it is considered the proposals would be seen within the context of neighbouring residential development to the north and south and due to their siting, design and appearance and scale, would result in no harm, thereby preserving the significance of the setting of the scheduled monument and historic park and garden.

#### Appropriate Assessment

- 2.19 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. Accordingly, it is noted the site is located within the Thanet Coast and Sandwich Bay SPA Zone Of Influence set out in draft Policy NE3.
- 2.20 Detailed surveys at Sandwich Bay and Pegwell Bay have been carried out and 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. A Strategic Access Mitigation and Monitoring Strategy (SAMM) has therefore been adopted by DDC in order to monitor potential impacts on qualifying bird species of the SPA arising from development in the District and to provide appropriate mitigation of the cumulative impact of additional housing development through a range of management and engagement methods. These methods and monitoring of their effectiveness are to be funded by financial contributions from new residential development coming forward within the 9km Zone Of Influence as set out in draft Policy NE3. Accordingly the agent has agreed that the required contribution would be secured via a legal agreement if permission is granted.
- 2.21 Subject to this contribution being secured by a legal agreement, the mitigation measures will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed in line with the objectives of draft Policy NE3.

#### Planning Balance

- 2.22 The proposals would provide the modest contribution of one dwelling 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 and would accord with draft Policy H5. These factors provide moderate weight in favour of the proposal.
- 2.23 Due to the design, siting and scale of the development, the proposal is 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, highways and parking, ecology and trees and archaeology and heritage, weighing in favour of the development.
- 2.24 Overall, having had regard to the objectives of NPPF Paragraph 11, it is considered that the benefits of the scheme outweigh the disbenefits, 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 a dwelling 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 PERMISSION BE Granted subject to the completion of a legal agreement to secure financial payments towards mitigating the impact of the development on the Thanet Coast & Sandwich Bay SPA and the following conditions:
- 1) Time condition
  - 2) List of approved plans
  - 3) Samples of external materials
  - 4) First floor dressing room window on the south elevation to be fitted with obscure glazing prior to first occupation
  - 5) 1.8m privacy screen to be installed prior to first use of the southernmost balcony (as shown on the plans)
  - 6) Hard and soft landscaping scheme and maintenance for 5 years following completion
  - 7) Unexpected archaeology
- 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



The Cottage

Brooke Street Drove

Brookestreet Farmhouse

The Oasthouse

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23/00974  
Europa Nursery, Hills Court Road, Ash, CT3 2AP  
ASH  
Scale: 1:3,500

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



- a) **DOV/23/00974 – Erection of a controlled environment agricultural (CEA) facility to include a solar panel array, associated infrastructure and landscaping - Europa Nursery, Hills Court Road, Ash**

Reason for report – Number of contrary views (13 objections)

- b) **Summary of Recommendation**

Planning permission be granted

- c) **Planning Policy and Guidance**

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

Land Allocations Local Plan (2015)

Local Plan (2002) Saved policies: C08

National Planning Policy Framework (NPPF) (2023): Paragraphs 2, 7, 8, 11, 12, 38, 47-48, 55-57, 85 – 89, 97, 104, 109, 114-117, 124, 127, 128, 132, 135 - 140, 157, 159 – 160, 162 – 163, 165, 167 - 175, 180, 186 - 188, 189 - 194, 200-213

Ash Parish Council Neighbourhood Development Plan 2018-2037 (2021): Policies ANP1, ANP4, ANP5, ANP6, ANP13, ANP15

National Planning Practice Guidance & Kent Design Guide

National Design Guide & National Model Design Code (2021)

Planning (Listed Buildings and Conservation Areas) Act 1990

SPG4 Kent Vehicle Parking Standards

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, SP6, SP11, SP12, SP13, SP14, SP15, CC1, CC2, CC3, CC4, CC5, CC6, CC8, PM1, PM2, E1, TI1, TI2, TI3, NE1, NE2, NE3, NE4, NE5, HE1, HE3

- d) **Relevant Planning History**

Various applications relating to the wider site, including:

DOV/90/00156 – demolition of existing greenhouses and boiler house and erection of new greenhouses and boiler house – Granted

DOV/90/00156/A – Revised details of boiler house/fertiliser store and details of chimneys, planting and parking – Granted

DOV/92/00802 – Single storey office building for office staff of four – permission not required

DOV/97/00614 – Extension to existing grading, cold store and distribution facilities. Construction of new access and relocation of car park – Granted

DOV/97/00614/E – Amendments to approved scheme – Refused

DOV/97/00614/F – Amendments to planning permission DOV/97/0614 to incorporate staff amenity area – Granted

DOV/00/00574 – Erection of combined heat and power unit including storage tanks and ancillary plant – Granted  
DOV/02/01491 - Removal of condition (iii) attached to planning permission CH/7/72/752 to enable occupation by persons other than those employed in agriculture – Granted  
DOV/07/01508 - Erection of 10.7ha of replacement glasshouse together with associated ancillary works, re-siting of mobile homes, construction of reservoir, infilling and extension of existing reservoirs and construction of service road – Granted  
DOV/08/00961 - Erection of 10.357ha of replacement glasshouses together with associated ancillary works, re-siting of mobile homes, construction of reservoirs, refurbishment of existing reservoirs and construction of service road – Granted  
DOV/11/00007 – Reconstruction of amenity block – Granted  
DOV/11/00989 - Renewal of planning permission DOV/08/961 for the erection of 10.357ha of replacement glasshouses together with associated ancillary works, re-siting of mobile homes, construction of reservoirs, refurbishment of existing reservoirs and construction of service road – Granted  
DOV/12/00419 – Erection of a plant room building, construction of heat recovery tanks and associated groundworks – Granted  
DOV/12/00693 - Variation of conditions 4, 5, 6, and 7 of planning permission DOV/12/419 to enable the phasing of development – Granted  
DOV/12/00694 - Variation of conditions of planning permission DOV/11/989 to enable the phasing of development – Granted  
DOV/13/00227 - Variation of condition 2 of planning permission DOV/11/00989 to substitute design drawing for alterations to Glasshouse 2 (lower site) – Granted

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

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

Ash Parish Council – Support. Noted there are provisions for water collection, however considered there needs to be a more substantial water management plan in relation to the staged water release into the surrounding area.

Natural England – No objection, the proposal will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes (further advice is provided on protected species and other natural environment issues). To meet the requirements of the Habitats Regulations, advised to record the decision that a likely significant effect can be ruled out.

Environment Agency (EA) – have assessed the application as having low environmental risk and have no comments to make. The applicant may be required to apply directly to the EA for other consents (contact information to be included as an informative if permission is granted).

Southern Water – advise the Environment Agency should be consulted regarding the use of a septic tank drainage which disposes of effluent to sub-soil irrigation and provided details of when sustainable drainage systems (SuDS) will be adopted and specifications (information to be included as an informative if permission is granted). Technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse. The rainwater harvesting system should be designed, installed and maintained to current British Standards to ensure measures are in place to protect the public water supply and avoid cross contamination. It is possible a sewer now deemed public could

be crossing the site so should any be found, an investigation will be required to ascertain its ownership.

KCC Flood and Water Management – advise additional ground investigation will be required to support the use of or ruling out infiltration and recommend soakage tests be compliant with BRE 365. Note the site (excluding the solar panels) will be discharging to ground and overland flows seem to indicate this would run-off overland in to the off-site ditches; further surveys to confirm connection of the existing ditch network downstream or demonstration of suitable capacity to attenuate flows from the site are recommended. It is essential that vegetated buffer strips and planting around the solar panels are proposed and maintained throughout the lifetime of its operation as future removal/lack of maintenance may result in increased runoff/erosion. A suitable maintenance regime is required. Specifications for the drainage system modelling at detailed design stage are suggested, as well as a water quality assessment and catchment diagram (information to be included as an informative if permission is granted). Conditions are suggested for the submission of a detailed sustainable surface water drainage scheme, a verification report pertaining to the surface water drainage scheme and for details to demonstrate that an effective outfall for surface water is provided for the development layout which may include details of surveys of watercourses and culverts and/or details of any works that may be necessary to deliver an effective outfall for surface water.

KCC County Archaeology – *The site is located within an area of archaeological potential associated with multi-period remains located on dry-land above the low-lying Goshall Valley and Ash Levels. Previous archaeological investigations adjacent and to the south (carried out in two phases as part of the redevelopment of Europa Nurseries) and included evidence for Mesolithic activity and various field-systems, paddocks and possible drove-ways of Middle Bronze Age and Late Iron Age to Romano-British date. Additionally, it is noted that the proposed development site lies on or close to the projected line of the main Roman road between Canterbury and the Roman port of Richborough.*

*The planning statement which accompanies this application notes that archaeological works were carried out in association with the earlier redevelopment of the Europa Nursery site. These included proposals for archaeological investigations within the red-line area of the present proposed development but (as the previous consent was only part implemented) detailed archaeological investigations were not carried out within the present application site. The planning statement suggests that the previous approach of watching briefs during construction could be adopted for the present site. I note however that the previous approach was not for watching briefs but for strip, map and sample archaeological excavation ahead of development. This would again seem appropriate and could be secured by a suitably worded planning condition requiring a programme of archaeological works. A condition for the submission of details of foundation design and any other proposals involving below ground excavation is also recommended.*

KCC Highways and Transportation – initially provided advice on the specifications required for parking spaces and cycle storage, noting the proposal seeks to erect a 10,320m<sup>2</sup> glasshouse creating employment for 25 persons, acknowledging that the parking provision is likely to be sufficient given the nature of the site and acknowledging this supersedes a larger site previously granted permission.

Subsequently raised no objection subject to the imposition of conditions/obligations to secure a construction management plan; measures to prevent discharge of surface water onto the highway; provision and retention of the vehicle and cycle parking spaces/facilities shown prior to the use commencing. An informative was also suggested.



Heritage Team – *The application submission does not describe the heritage assets as required by the NPPF; heritage assets that are potentially affected have been identified within the LVIA and a judgement has simply been made that there is no impact due to the existence of hedges or distance from the site. This assessment is not necessarily incorrect but the significance of the designated heritage assets and how their setting contributes to that has not been properly assessed. The issue with this is that in respect of farmhouses is that the landscape and its function (i.e. agricultural) is part of their historic significance, and so disconnecting the historic relationship of the farmhouse from the land can be harmful. The applicants should really be using the Historic England GPA3 to determine what the contribution of the setting is to the significance of the heritage assets before concluding that it is 'negligible'. There is also an issue using this word as it doesn't mean 'no harm'. The application should have a Heritage Statement; at present I can only advise that it appears that the submission does not demonstrate that heritage assets have been appropriately considered. In respect of the detail that has been submitted, a fuller assessment of The Manor House (grade II listed) is required. This building is physically closest to the site and while it's surrounded by trees so has potentially no intervisibility with the site, how that building relates to the land both today and historically needs assessment. The viewpoint map shows that they haven't viewed the site from the Manor House and I am unable to advise that adequate and appropriate level of assessment has been carried out for this particularly building such that we can be confident that there is no harm or that if there is any harm that it has been fully considered and/or mitigated where possible*

Environmental Protection – Note no details of lighting have been provided, suggesting the area will be a rural dark sky so any lighting of the area will be noticeable and may influence residential amenity, this could be clarified during consultation or a condition imposed. Note the submission of a noise assessment with mitigation measures (acoustic fencing) included and accept the report and its findings. Also note the direction on issues possibly caused by deliveries to the site and request conditions to control this (deliveries to and collections from the site by HGV during the hours of 07:00am to 18:00pm on any operational day; submission of a delivery management plan including access routes for deliveries, acceptable conduct objective of delivery drivers with content as outlined in the environmental noise impact assessment submitted, maximum site speeds of 15Kmph for HGV's, direction on HGV vehicles that they shall only use non-intrusive broadband noise type vehicle reversing alarms and/or reversing cameras and there shall be no use of pulsed and/or tonal reversing alarms for the protection of residential amenity). Given the rural location and proximity to residential properties, they are concerned by the effect of the demolition and construction phase on residential amenity and request a condition for a demolition and construction management plan. In relation to contamination, their consultant raised concerns in relation to the age of the report submitted, based on phase 3 of the nurseries development and superseding the previous permissions for greenhouses at the site, which discusses potential hydrocarbon contamination at the site and hardstanding remaining in situ. They recommend that any approval granted be subject to the standard (4 part) contaminated land condition and an appropriate contaminated land assessment be submitted relating directly to the proposed site and development. A condition dealing with any unexpected contamination found during construction is also suggested.

Tree and Horticulture Officer – is satisfied with the planting/landscaping scheme but would like to see a management plan to show how the trees/hedging will be planted and cared for until established as well as a condition requiring dead trees to be replaced within 3/5 years.

River Stour IDB – Although the majority of this site lies just outside of our IDB Drainage District, the surface water strategy submitted with this application states that the runoff will be discharged to a watercourse within our boundary; this watercourse has a direct connection with IDB185 - Cooper Street Lead Dyke and IDB171 - Gosshall Main Stream. If it can be initially demonstrated that infiltration is not feasible at this location and that water can be effectively conveyed from the point of discharge to a wider receiving network, the applicant will require our Land Drainage Consent for the construction of any new outfall to the receiving watercourse and will need approval in principle under our Byelaw 3, specifically with regard to the payment of a Surface Water Development Contribution for any increase in rates/volumes of discharge that may be directed into our District.

*Byelaw 3 states: 3. Control of Introduction of Water and Increase in Flow or Volume of Water No person shall as a result of development (within the meaning of section 55 of the Town and Country Planning Act 1990 as amended (the 1990 Act) (whether or not such development is authorised by the 1990 Act or any regulation or order whatsoever or none of them) for any purpose by means of any channel, siphon, pipeline or sluice or by any other means whatsoever introduce any water into any watercourse in the District so as to directly or indirectly increase the flow or volume of water in any watercourse in the District (without the previous consent of the Board). Any such contribution will be a one-off payment, and will serve to facilitate the management of the increased flows resulting from the development into our District.*

#### Third Party Representations:

13 letters of objection have been received and are summarised below:

- Visual impact – scale, height is considerably taller than existing greenhouses/approved greenhouse, insufficient details of planting to screen proposals, out of keeping with rural location/setting, industrialisation of the landscape, impact on footpaths surrounding site, some trees in the CGI images have been removed, green wall screening previously indicated has not materialised
- Residential amenity – would immediately adjoin a number of dwellings
- Heritage – proximity to grade II listed building and rural period houses
- Noise – concerns regarding 24/7 operation noise and HGVs
- Planting/landscaping – concerns it will not be established/be maintained
- Flooding/Drainage, low lying land, blocked swales
- Risk to traffic and pedestrian safety
- Ecology/wildlife – wild bird and animal habitat will be displaced to a destructive level
- References and concerns regarding ‘Little South Solar’ farm proposals nearby and that series of hamlets could be absorbed into industrial corridor, impact on Ash levels if both go ahead
- Precedent - if granted, could establish precedent for remaining site to be redeveloped similarly and other small farms to move to vertical farming
- Use – not an acceptable use of agricultural land, no difference between factory building producing salad leaves or car parts, cannot find examples of planning departments granting factory farming facilities in such a rural position, could be located elsewhere
- Should be restricted to brownfield or industrial zones as industrial farming does not require natural light unlike crops under glass, belongs in built up areas not countryside
- Reports are in the main biased, carried out by consultants with little/no local knowledge, omitting or dismissing valid issues, fail to suggest solutions

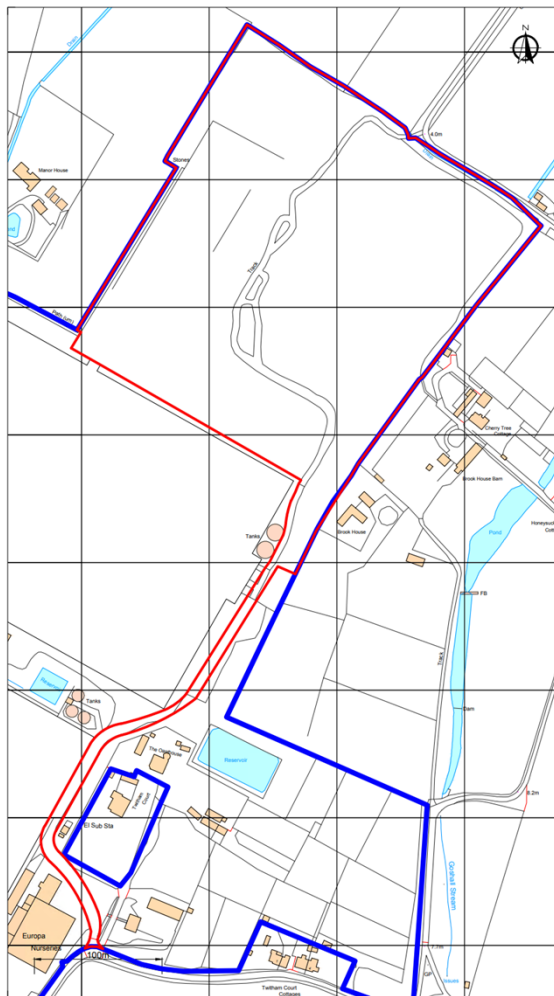
particularly regarding flood management. Numerous errors/inaccuracies and false assumptions in reports and planning statement.

1 letter in neither support nor objection to the proposals has been received and is summarised as follows:

- Consultation process by Perfectly Fresh held at Discovery Park and on site at Europa Nursery. Offer at consultation to enhance, maintain and provide safe access to lake adjacent to Brook Street
- Complex project of multiple parts (vertical farming factory and solar installation) on brown-field and green field land parts. Should be reviewed in isolation and in context of broader location developments/proposals
- Should be considered in context of major planning application for 180 solar farm across adjacent farmland creating an industrial zone connecting Sandwich and Richborough to Ash across Ash Levels.
- Not against solar projects as complimentary part of UK's sustainable future and energy supply, should not be on viable farmland, replace valuable countryside or have detrimental impact on local community or landscape.
- Whilst a small solar installation with proportionate and reasonable mitigations on visual or ecological impact, hope this application is used to clarify how solar proposals are viewed/determined in light of KCC and DDC policies around sustainability, visual impact, density and proximity (noting distance to proposed solar farm and existing solar farms near White Mill Roundabout and Richborough).
- Perfectly Fresh already owns and operates site, proposing to manage build and operation to have limited impact. Will not be removing valuable farmland, will contribute to local benefits. Creating local skilled employment
- Comments on visual, ecological, historical and community impact of 'Little South Solar' proposals.
- Impact on adjacent properties, including equine holdings, should be made to mitigate impact
- Main site should be no taller than existing greenhouses as seen from any aspect
- Mitigate short term visual impact; heighten peripheral site bunds, replace fallen trees on boundary, collaborate with community on building design
- Noise impact mitigation
- Maintenance of periphery trees and ensuring footpath is clear and accessible for walkers
- Light – no lighting to have impact to the environment and minimise impact from external lighting
- Water – no negative impact from runoff rainwater.

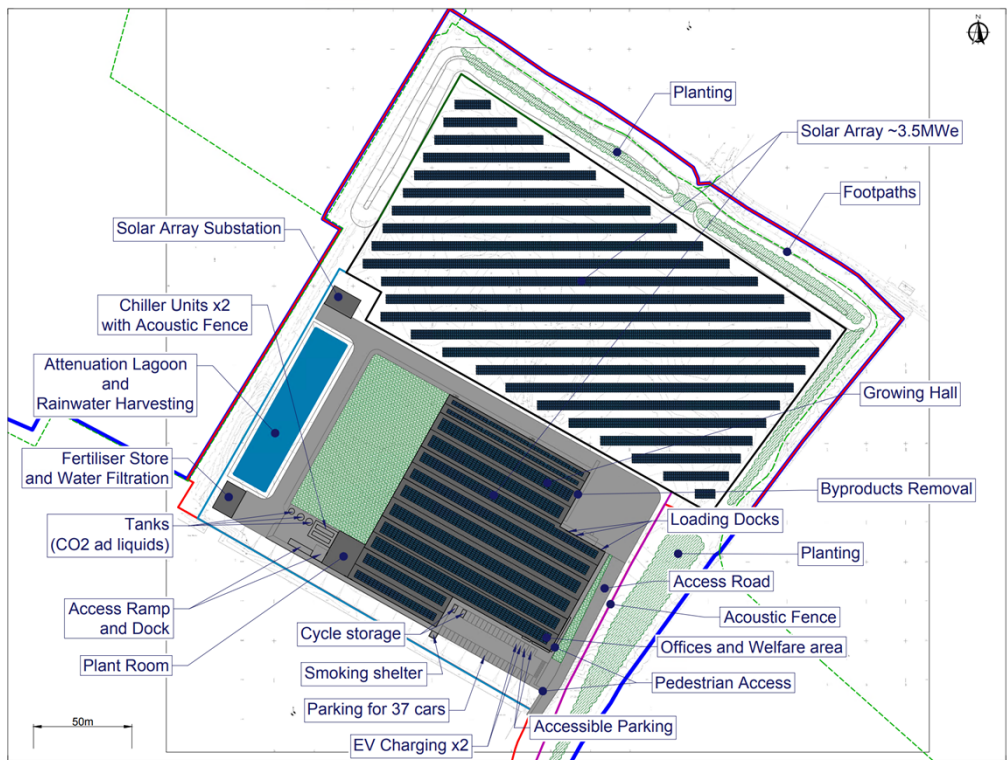
**f) 1. The Site and the Proposal**

1.1 The site relates to a plot of land (approximately 7.75 hectares) at Europa Nursery, to the northwest of Hills Court Road and immediately to the southwest of Cooper Street Drive. The parcel of land is currently vacant, however previously contained greenhouses and to the south of the site is Europa Nursery which contains greenhouses for the growing and distribution of tomatoes. Public rights of way run to the east, north and west of the site, and continue to the west of the greenhouses south of the site. There are a number of residential dwellings in proximity of the site, located predominantly to the east, with other dwellings, including a grade II listed building located west of the site.

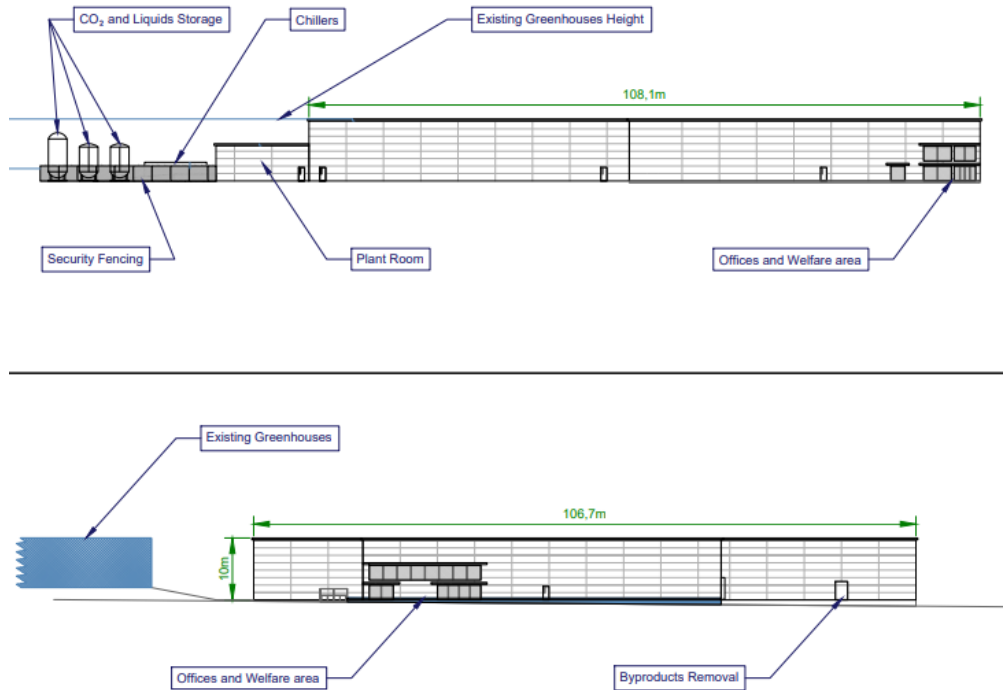


**Figure 1. Site Location Plan**

- 1.2 The proposals are to erect a controlled environment agricultural facility (CEAF) within the southwest half of the site. This would include a growing hall (with solar array roof) with loading area, offices and welfare area, and separate plant room, chiller room, liquid tanks, parking and cycle storage and associated works/infrastructure including access road and pedestrian access. To the northwest of this would be an attenuation lagoon and rainwater harvesting, with a fertilizer store and water filtration. Within the northeastern half of the site would be a ground based solar array with associated substation. This would serve the development and would not provide energy to the Grid). Landscaping is proposed across the site and access would be taken from Hills Court Road to the south, running along the southern side of the greenhouses at Europa Nursery.



**Figure 2. Site Layout Plan**



**Figure 3. Proposed South and East Elevations**

## 2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development

- Impact on the countryside and landscape
- Impact on Heritage Assets
- The impact on residential amenity
- Other material considerations

## **Assessment**

### **Principle of Development**

- 2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in the plan, unless material considerations indicate otherwise.
- 2.3 Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. As discussed further in the following paragraph, it is considered the proposals functionally require a rural location and are ancillary to existing development and uses (to the south of the site and utilising the same access), such that they would accord with the exceptions of this policy.
- 2.4 Policy DM3 permits commercial buildings in the rural area provided they are located at a rural service centre or local centre (which Ash is designated as under Policy CP1); are consistent with the scale and setting of the settlement or are at a village provided they would not generate significant travel demand and are in other respects consistent with the scale and setting of the settlement. In all cases, development should be within the rural confines unless it can be demonstrated no suitable site exists, in which event it should be located adjacent to the settlement unless there is a functional requirement for it to be located elsewhere. In this instance, the site is not within or adjacent to the DM1 settlement confines, however it is considered there is a functional requirement for the development to be located elsewhere due to its scale (not only the CEAF but also the solar array to provide energy to the development and the lagoon for rainwater harvesting). Whilst concerns have been raised that it should be located elsewhere (including at Discovery Park), it is considered that in this location, the proposal would be co-located with an agricultural business, being consistent with the scale of this and being considered acceptable in respect of travel (discussed further in this report). Consequently, it is considered the proposals would accord with the exceptions of this policy.
- 2.5 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. As set out above, the development would generate travel beyond the settlement confines, however would accord with the exceptions of Policies DM1 and DM3.
- 2.6 Policy DM15 requires that applications which result in the loss of countryside, or adversely affect the character or appearance of the countryside, will only be permitted if it meets one of the exceptions. Whilst it is considered that the development would have only a limited impact on the character and appearance of the countryside (discussed in detail later in the report), this alone would be sufficient for a proposal to be considered contrary to DM15.

- 2.7 Policy DM16 states that development that would harm the character of the landscape, as identified through the process of landscape character assessment will only be permitted if it is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level. It is considered (further in this report) that the development would have only a limited impact on the character of the countryside and no significant adverse impact on the landscape, incorporating measures such as landscaping to mitigate the impact. Consequently, the development would not conflict with DM16.
- 2.8 For the above reasons, the development is in accordance with the exceptions of policies DM1, DM3 and DM11, however would be contrary to DM15 of the Core Strategy, but would accord with the objectives of DM16. It is considered that these policies are also important policies for determining the application.
- 2.9 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 a four year supply if applicable); or, where the council has delivered less than 75% of the housing requirement over the previous three years (the Housing Delivery Test).
- 2.10 Having regard for the most recent Housing Delivery Test, and in accordance with the updated NPPF at paragraphs 77 and 226 the Council can demonstrate a four year housing land supply. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.
- 2.11 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.
- 2.12 Policy DM3 seeks to locate development within the settlement confines of rural service centres or local centres, or adjacent to the confines of villages. As with DM1, the confines were devised with the purpose of delivering a lower number of dwellings than are now required and the policy is considered to be more

restrictive than the NPPF, attracting reduced weight in the planning balance as a result.

- 2.13 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The blanket approach to resist development which is outside of the settlement confines does not reflect the NPPF, albeit the NPPF aims to actively manage patterns of growth to support the promotion of sustainable transport. Given the particular characteristics of this application and this site, it is considered that the use of the site as proposed would weigh against the sustainable travel objectives of the NPPF. Whilst the blanket restriction of DM11 is in tension with the NPPF, given that the policy otherwise reflects the intention of the NPPF to promote a sustainable pattern of development, on balance, it is not considered that DM11 is out-of-date. However, the weight to be afforded to the policy, having regard to the sites' co-location with similar business, is reduced.
- 2.14 Policy DM15 resists the loss of 'countryside' (i.e. the areas outside of the settlement confines) or development which would adversely affect the character or appearance of the countryside, unless one of four exceptions are met; it does not result in the loss of ecological habitats and provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character. Resisting the loss of countryside (another blanket approach) is more stringent than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development (Paragraph 180). There is some tension between this policy and the NPPF. In this instance, the sites appearance affords a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below.
- 2.15 Policy DM16 seeks to avoid development that would harm the character of the landscape, unless it is in accordance with allocations in the DPD and incorporates any necessary avoidance or mitigation measures; or it can be sited to avoid or reduce harm and/or incorporate design measures to mitigate the impacts to an acceptable level. As with Policy DM15, this policy is considered to be in some tension with the objectives of the NPPF (particularly Paragraph 180), by resisting development that would harm the character of the landscape, unless the impact can be otherwise mitigated or reduced. In this instance the sites appearance within wider landscape character does afford a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date, however should attract reduced weight for the reasons set out in the assessment section below.
- 2.16 The Ash Neighbourhood Development Plan (ANP) was adopted in 2021 and is a material consideration. Policy ANP1 sets out criteria for development in the countryside (the settlement confines referred to in the neighbourhood plan broadly align with those of Policy DM1). Proposals should comply with all relevant policies in the plan:
  - 1.1 Development in the countryside beyond the Ash village settlement boundary will only be supported where it provides for a local business or community need on a site that is adjacent to or beyond the existing village settlement area and is physically well related to the existing settlement boundaries. The use of previously developed land and sites that are



- physically well connected to the existing village settlement will be encouraged where suitable opportunities exist.
- 1.2 Development proposals must have regard to the purpose of conserving and improving the physical surroundings and the natural beauty by enhancing and expanding the trees and hedgerows, preferably native/indigenous, and landscape within the designated area.
  - 1.3 Developments should respect the natural environment within the designated site and adjacent land by enhancing and re-connecting the existing natural features such as veteran trees, hedges, protecting wildlife corridors/ watercourses.
  - 1.4 Developments would maintain the distinctive views and visual connectivity of the village with the surrounding countryside from public vantage points within, and adjacent to, the built-up area, in particular those defined on Map 6 (Key views in and around the village of Ash).
  - 1.5 In areas where there would be significant effect on Public Rights of Way, the network must also be included in the landscape planning of the infrastructure as a whole.
  - 1.6 Developments should demonstrate how they will positively accommodate, divert or enhance paths and link networks.
  - 1.7 Lighting should only be directed where necessary and there should be no loss of night-time dark skies due to light pollution.

In this instance, the site is separate from the settlement boundary, however would utilise previously developed land and would be co-located with similar agricultural businesses. The above points are discussed further in the report, however the proposals include additional trees and planting within a landscaping scheme, include ecological mitigation and enhancement measures and the application is supported by a landscape and visual assessment. For the reasons set out throughout the report and subject to the suggested conditions, it is considered the proposals comply with the broad objectives of the policy.

- 2.17 Policy ANP4 seeks for development to provide biodiversity net gains (BNG) of not less than 10% and for development to demonstrate it has followed the mitigation hierarchy. This application was submitted prior to the national requirement for development to demonstrate 10% BNG, however it is considered that with the proposed landscaping and ecology mitigation and enhancement measures (discussed further in the report and suggested to be secured by condition), there would likely be an overall gain. The policy seeks to maximise the benefits to biodiversity and ensure there is no detriment to European and protected sites, as well as to avoid harm and minimise any adverse impact upon local biodiversity, habitats and wildlife, demonstrating the conservation of protected and rare species, with compensatory provision elsewhere being a last resort and used only if the development demonstrates an overriding benefit to the local community. The policy supports development with an independent survey report which agrees a mitigation plan, amongst other criteria relating to European sites and nutrient neutrality. The relevant matters are discussed further throughout the report, however for the reasons set out, it is considered the proposals accord with the broad objectives of the policy.
- 2.18 Policy ANP5 relates to climate change and supports proposals which minimise vulnerability to the range of impacts from climate change by maximising energy efficiency, utilising low carbon energy and reduce greenhouse emissions; are resilient and adapt to climate change; incorporate low carbon technologies and seek to meet a number of other criteria. A climate change statement has been included in the planning statement (having regard to draft Policies SP1 and CC2

with which the proposals would accord) and it is considered the proposals would accord with the broad objectives of the policy.

- 2.19 The Draft Local Plan was submitted for examination in March 2023 and its policies are considered to be material to the determination of applications, with the weight attributed to the policies dependant on their compliance with the NPPF. Draft Policy SP1 of the Submission Draft Dover District Local Plan seeks to ensure development mitigates climate change by reducing the need to travel and Draft Policy SP2 seeks to ensure new development is well served by facilities and services and create opportunities for active travel. Draft Policy TI1 requires opportunities for sustainable transport modes to be maximised and that development is readily accessible by sustainable transport modes.
- 2.20 Draft Local Plan Policy SP6 seeks to support economic growth within the district, promoting rural employment opportunities in accordance with draft Policy E1. Policy E1 supports employment development in the countryside (beyond the settlements identified in draft Policy SP4) within or adjoining existing rural employment sites and to bring back into use previously developed land (amongst other criteria). As discussed further in the report, it is considered the scale and design of the proposal is compatible with the character, layout, density, fabric and appearance of the existing settlement, surrounding area and countryside, the level and type of activity the proposal would generate and the functional and visual relationship it has with adjoining uses would not result in harm to the character and appearance of the surrounding area and countryside, it would conserve and enhance landscape character (through the proposed landscaping scheme) and biodiversity and not result in unacceptable intrusion into open countryside, it would preserve the setting of heritage assets, it would not have a significant adverse impact on residential amenity, appropriate provision would be made for car parking and access and would be acceptable in respect of highways impact and would provide sustainable travel options to the site (with bicycle storage proposed), in accordance with the objectives of the draft Policies. The Policies are considered to attract moderate weight in the planning balance being devised in line with the NPPF and up to date housing figures to inform the settlement confines.
- 2.21 Draft Policy CC3 supports renewable and low carbon energy development subject to a number of criteria relating to impact on the landscape, heritage, habitats and biodiversity, residential amenity and other matters. The site is Grade 1 best and most versatile agricultural land, however it is considered the proposals would accord with the objectives of the other relevant criteria of the draft Policy and as the electricity generated would serve only the proposed development, there is a functional requirement for their location at the site. The policy is considered to attract moderate weight, being devised in line with the NPPF.
- 2.22 It is considered that policies DM1, DM11, DM15 and DM16 are to a greater and lesser extent in tension with the NPPF, although for the reasons given above some weight can still be applied to specific issues they seek to address, having regard to the particular circumstances of the application and the degree of compliance with NPPF objectives, in this context. The proposals would accord with Policies ANP1 and ANP4, as well as draft Policies SP6 and E1. 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. Regard has been had to NPPF Paragraph 14 and it is considered the

proposed development would not conflict with the Ash Neighbourhood Plan as a whole.

- 2.23 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 the Countryside and Landscape

- 2.24 The site is located outside the settlement confines of Policy DM1 and Policies DM15, DM16, draft Policy NE2 and Policy ANP1 are relevant, seeking to protect the character and appearance of the countryside and landscape character areas. NPPF Paragraph 180 is also relevant to the protection of the countryside. The application is supported by a Landscape and Visual Appraisal (LVA) which notes the site lies within the North Kent Plain National Character Area and local character areas, as well as illustrative montages which show existing and proposed views of the site from Cooper Street Drove (to the north of the site) and from the footpath (at the southeast corner of the site).
- 2.25 The proposed CEA facility would measure approximately 108.1m by 106.7m and would be approximately 10m high from ground level, comparable to the height of the glasshouses to the south of the site which are at a slightly higher ground level (shown indicatively in Figure 3). The buildings would be finished in a grey cladding/coating with glazed windows and doors. Parking and cycle storage would be located to the south of the site, with loading docks for lorries at the eastern part of the site. To the west of the site, an attenuation lagoon to manage surface water runoff and facilitate rainwater harvesting for the development is proposed. To the north of the CEAF, approximately 2.7ha of solar arrays would be sited, providing 3.5MW to serve the facility. The arrays would be ground mounted and angled towards the south, with a maximum height of 4m from ground level. The would be set a minimum of 10m from the footpath crossing through the site, with the proposed 2.4m green weldmesh security fencing surrounding the array being set at least 3m from the centre line of the footpath.
- 2.26 The LVA considers the impact of the proposal on both the natural and built landscape, including impacts on nearby heritage assets and public rights of way (PROW) (EE53 lies within the western site boundary and leads north towards Cooper Street and south towards Ash, connecting to other PROW to the east (EE91) and west of the site). Of the 17 viewpoints selected, all but two would result in negligible impacts. The two minor adverse impacts (relating to viewpoints 15 and 16; the footpath within the site boundary in the north and east respectively) are highly sensitive to change, with the PROW being used by pedestrians where enjoying a view is likely a key part of the recreational experience and the proposals would have a medium magnitude of change as the development would introduce prominent elements causing a loss of the open space within the site (this is not however designated open space). Notwithstanding this, planting is proposed alongside the edge of the development which would screen and soften views of the proposal and these are the closest viewpoints to the site. The LVA finds that there would be a minor beneficial residual effect on the existing landscape features within the site, the character of the site and local context, and the key characteristics of the wider landscape (as identified in the 'Preston Horticultural Belt' Landscape Character Area from the Dover District Landscape Character Assessment 2020).

- 2.27 Consequently, subject to the proposed landscaping being provided (a condition is suggested further in this report) and the submission of samples of external materials of the buildings (in the interests of visual amenity), it is considered the proposals would result in no significant harm and would preserve the character and appearance of the wider countryside and landscape area, in accordance with the objectives of NPPF Paragraphs 104, 135 and 180, Policies DM15, DM16, ANP1 and ANP6 and draft Policies PM1 and NE2.

#### Impact on Heritage Assets and Archaeology

- 2.28 There are a number of Listed Buildings within proximity of the site and the Planning Statement submitted identifies those within 1km of the site, considering the impacts on the setting of these, as well as the more distant Richborough Fort (a scheduled monument). Whilst the heritage team have raised concerns about the assessment of the impacts, a heritage statement has been submitted (having regard to NPPF paragraph 200). Chapter 16 of the NPPF and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out requirements relating to the assessment of the impact on listed buildings and special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 205 of the NPPF sets out that great weight should be given to the conservation of heritage assets, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 208 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In addition, draft Policy HE1 seeks to conserve or enhance heritage assets and sets out criteria by which development that would cause total loss or substantial harm may be accepted.
- 2.29 The Manor House is the closest listed building to the CEAF; located to the west of the site and separated by an intervening arable field and the tall trees forming the site boundary with the footpath beyond. It is Grade II Listed and described as

“ASH TR 25 NE WEDDINGTON 5/94 The Manor House 11.10.63 II. House. C16. Timber framed and clad with red brick and tile hanging. Plain tiled roof. Two storeys on plinth with hipped roof and clustered stacks to centre left. Three wooden casements on first floor and 4 on ground, that at end left in an outshot. Large half-dormers on return elevations. Rib and stud door at end right in C20 half-timbered porch”.

As discussed earlier in the report, the site was previously developed, such that the historic setting of the building within the landscape and farmland has been lost. The main appreciation of the listed building is in views from the south. Whilst the proposed CEAF and associated infrastructure may be visible in some views, it is considered that these would be limited by the tall planting to the west of the site and the development would be seen in the context of the glasshouses and development to the south. Consequently, it is considered the development would result in no harm, thereby preserving the significance of the setting of the listed building. In relation to other nearby listed buildings and the more distant scheduled monument, due to the existing and proposed landscaping at the site, and with the development being seen in the context of the existing buildings to

the south, it is considered the development would result in no harm, and would thereby preserve the significance of the setting of other heritage assets, in accordance with the objectives of draft Policies SP15 and HE1, NPPF paragraphs 200 - 213 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2.30 The site is in an area of archaeological potential and a report has been submitted in accordance with NPPF paragraph 200 and draft Policy HE3. The site is within an area of archaeological potential associated with multi period remains and KCC Archaeology have been consulted. Noting the approach to archaeology for previous development at the site, they recommend conditions are imposed for a programme of archaeological work and for details of foundation designs and any other proposals involving below ground excavation to be submitted. Subject to the imposition of these conditions and having had regard to the objectives of the NPPF and draft Policy HE3, the development is considered acceptable in this respect.

#### Impact on Residential Amenity

- 2.31 The site is in proximity to a number of residential dwellings, with those closest being located to the southeast and to the west. Acoustic fencing would be provided between the new access track and parking and the nearest residential property to the east. New planting would be provided to screen the facility, both in reinforced hedge planting and new areas to the east and north of the site to screen footpath users from the development. Whilst the proposals would be visible from these buildings, it is considered that views of the development would be softened by the existing and proposed landscaping. Furthermore, whilst the CEAF building would be approximately 10m tall, due to its muted colour scheme, and as it would be seen in the context of the glasshouses to the south, it is not considered the development would result in an unacceptably overbearing impact to the amenities of nearby residents. Furthermore, due to the design of the development and separation distance from nearby dwellings (as well as the proposed landscaping), the development is considered unlikely to result in significant harm to privacy or overshadowing of nearby residents.
- 2.32 Given the proximity to residential dwellings, Environmental Protection Officers have suggested a condition is imposed for a demolition and construction management plan to include (but not limited to) noise and vibration control, dust control and suppression, any piling works, parking for staff and contractors, hours of operation, deliveries to the site, storage and control of waste materials and a moratorium on burning of material at the site. This is considered reasonable in the interests of protecting residential amenity. Details of external lighting are also suggested and a condition is discussed further in the ecology section. Subject to the suggested conditions, the development is considered to have an acceptable impact on residential amenity, having had regard to the objectives of NPPF Paragraph 135 and draft Policies PM1, CC3 and E1 and ANP Policies.

#### Other Material Considerations

##### Impact on Highways

- 2.33 In respect of traffic to and from the site, the planning statement sets out that this would be of a similar type, but at a reduced level, to that associated with the existing Europa glasshouse business and what would be associated with the approved replacement glasshouses on the site where the proposal would sit

(approved under application reference DOV/11/00989 and subsequent application to amend plans under DOV/13/00227). The statement advises that movement of materials to the facility and export of products would take place between 07:00-18:00, with the intention to reduce this window further once operations are established post build. The plant would operate up to 24 hours per day and there would be no more than 2 articulated vehicles and no more than 3 HGV's visiting and leaving the site each day. 37 parking spaces (2 of which would be accessible bays) would be provided to the south of the building, as well as two covered cycle stores with 'Sheffield' type stands; although there would be a maximum of 25 staff vehicles.

- 2.34 KCC Highways have reviewed the proposals, noting the previous permission, the number of people that would be employed by the proposals and consider that whilst the provisions do not meet the Use Class requirements, this is likely to be sufficient due to the nature of the site. They raise no objection subject to the imposition of conditions to secure the provision of a construction management plan, to prevent the discharge of surface water onto the highway, and to secure the provision and retention of the vehicle parking and cycle parking facilities shown on the approved plans prior to the use of the site commencing. These conditions are considered reasonable to ensure the suitable provision of facilities and the development is therefore considered acceptable in this respect and having had regard to the objectives of NPPF Paragraphs 112-115 and Policies ANP13, ANP15, DM11, DM13 and the objectives of draft Policies T1, T2 and T3.

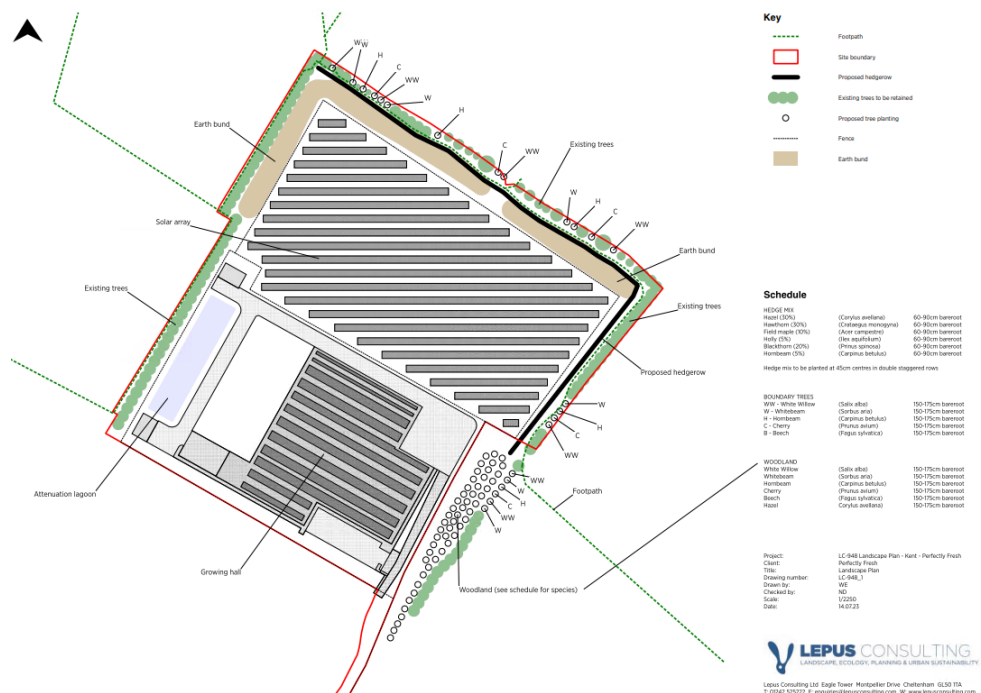
#### Impact on Flood Risk/Drainage

- 2.35 The site is located in flood zone 1 which has the lowest risk from flooding, however due to the size of the site, a flood risk assessment has been submitted which considers the potential for flooding from a range of sources, identifying no significant flood risks. Given this and the site's location within flood zone 1, it is not considered necessary to apply the sequential test and the development is considered to pass the exceptions test. The Environment Agency have assessed the application as having low environmental risk and have no comments. The River Stour Internal Drainage Board (IDB) note the submitted surface water strategy states runoff will be discharged to a watercourse within their boundary and that if infiltration is not possible and water can be effectively conveyed from the point of discharge to a wider receiving network, the applicant will require their land drainage consent for the construction of any new outfall to the receiving watercourse and will need their approval. A detailed drainage scheme is suggested to be secured by condition (discussed below), which would be subject to consultation with the River Stour IDB. KCC Flood and Water Management have reviewed the proposals, assessing the proposed drainage to attenuate flows in a balancing pond and providing detailed advice on specification of further testing and reports (to be included as an informative if permission is granted). They recommend conditions are imposed requiring the submission of a detailed sustainable surface water drainage scheme, a verification report in relation to that scheme and for no development to take place until details have been submitted that demonstrate that an effective outfall for surface water is provided for the development layout. The specific wording they suggest refers to reserved matters which is not relevant to this full application and as such, a suitably worded condition requiring these details would be imposed instead. They advise it is essential for the vegetated buffer strips and planting around the solar panels to be maintained throughout the lifetime of its operation as future removal or lack of maintenance could result in increased runoff or erosion. As such, a condition in relation to landscaping details is suggested.

2.36 In relation to contamination, Environmental Protection request the imposition of a four part condition (requiring the submission of a desk top study of previous uses, potential contaminants, sources, pathways and receptors; an investigation and risk assessment if the desktop study shows further investigation is necessary; a detailed remediation scheme if the investigation and risk assessment shows this is necessary; and a verification report demonstrating completion of the works in the remediation scheme if necessary). A condition is also suggested to deal with any contamination which may be found which has not been previously identified, which is considered appropriate.

### Trees and Ecology

2.37 In respect of trees and landscaping, the site layout plan shows the existing planting along the northwest, northeast and southeast boundaries of the site, with further planting proposed to the northeast and southeast of the solar panels (between the panels and the public footpaths, softening views) as well as an area of woodland planting to the southeast of the main CEA building (shown in Figure 4). A landscaping scheme has been submitted which sets out a planting strategy for the site boundaries (to fill spaces where there are existing gaps in the northern and eastern boundaries), woodland to screen views of the development from the dwellings to the east of the site and a mixed native hedgerow alongside the footpath that runs through the site (and regard has been had to Policy CO8 which seeks native hedgerow planting and its future maintenance and draft Policy CC8). The Tree and Horticulture Officer is satisfied with the planting/landscaping scheme but requests a management plan to demonstrate how the trees/hedging will be planted and cared for until established (to be secured by condition) and a condition requiring trees which die within 3/5 years to be replaced. It is considered appropriate to suggest a condition requiring the development to be carried out in accordance with the submitted landscaping scheme, with details of maintenance and management to be submitted (to also require the replacement of any trees/shrubs/plants which, within 5 years of their planting, become diseased, die or are removed).



#### Figure 4. Proposed landscaping scheme

- 2.38 In respect of ecology, a preliminary ecological appraisal (PEA), technical advice note, ecological impact assessment (EclA), great crested newt (GCN) certificate and reptile mitigation plan have been submitted and reviewed by the Senior Natural Environment Officer (SNEO). The development has the potential to result in impacts to a range of protected and priority species, including foraging and commuting bats, badgers, hedgehogs, nesting birds, reptiles and GCN and there is also potential for impacts to the Ash Levels and Richborough Pasture Local Wildlife Site which is immediately adjacent to the northern site boundary. The SNEO is satisfied that the EclA report has clear recommendations for the mitigation measures necessary to avoid/minimise harm to biodiversity. A condition for the implementation of precautionary measures during construction is recommended in relation to the Ash Levels and Richborough Pasture local wildlife site. Furthermore, conditions are suggested for a biodiversity method statement (to ensure the protection of badgers, hedgehogs, nesting birds and reptiles) with works to be carried out in accordance with the relevant sections of the EclA (and for a review and if necessary, update to the ecological measures if development does not commence within one year of the date of the assessment). A condition is suggested requiring the submission of a copy of a Great Crested Newt District Level Licence granted by Natural England prior to development (including site and vegetation clearance). Conditions are also recommended for the submission of a scheme of a bat-sensitive lighting scheme and details of measures to enhance biodiversity at the site (the details provided are sufficient to assure the SNEO that the areas of habitat that will be enhanced for reptiles are not suitable for turtle doves). In respect of reptiles, these cannot be retained within the site and as such, it is proposed these are translocated to an offsite receptor site, to be secured through a legal agreement (with measures to protect all protected/designated species to be secured in the suggested biodiversity method statement condition). Details of a site have been provided and subject to the outcomes of a reptile survey confirming its suitability, the proposed receptor site is acceptable. The reptile mitigation plan will need to be updated following reptile surveys to incorporate results. As such, the recommendation to Members is for the application to be approved subject to the submission of information demonstrating the suitability of a reptile receptor site and a legal agreement to secure the translocation and long term maintenance of the site. Subject to this and the suggested conditions, the development is considered acceptable having had regard to the NPPF and the objectives of draft Policies SP13 and SP14. Having regard to draft Policy NE1 and Policy ANP4, the application was submitted prior to the Government requirement to demonstrate a minimum 10% biodiversity net gain, such that the draft policy is considered to attract limited weight in this instance.
- 2.39 Natural England (NE) have been consulted, raising no objection and considering that the proposals will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. In respect of European Sites, and in meeting the requirements of the Habitats Regulations, a likely significant effect can be ruled out. Furthermore, NE considers the proposals will not have likely significant effects on Sites of Special Scientific Interest (SSSI).

#### Planning Balance

- 2.40 The principle of development is considered to accord with the exceptions of Policies DM1, DM3 and DM11, reusing a brownfield site and functionally requiring a rural location due to the scale of the development, as well as being



co-located with a similar agricultural business. Policy DM1 is considered to attract limited weight, however Policies DM3 and DM11 are considered to attract reduced weight, in favour of the development in the planning balance. The development is considered to be contrary to Policy DM15, which attracts moderate weight against the proposals, however would accord with Policy DM16 which attracts reduced weight in favour. In respect of ANP, the development is considered to accord with the objectives of Policies ANP1, ANP4 and ANP5 which are considered to attract full weight in favour of the development. The proposals would also accord with the objectives of draft Policies SP6 and E1, attracting moderate weight in favour of the development.

- 2.41 The development would create 25 full time jobs. The impact on visual amenity, heritage assets and residential amenity has been considered and subject to the imposition of the suggested conditions, is considered to be acceptable. The impacts on other material considerations, including highways, ecology, archaeology and flood risk have been considered and are acceptable subject to the imposition of conditions and a legal agreement being secured in relation to reptile translocation.
- 2.42 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 controlled environment agricultural (CEA) facility with solar panel array, associated infrastructure and landscaping 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 PERMISSION BE GRANTED subject to completion of a S106 legal agreement to secure reptile translocation and the following conditions:
- (1) time limit for commencement
  - (2) plans
  - (3) samples of external materials
  - (4) development in accordance with the soft landscaping scheme, with details of management and maintenance (including replacement of any trees/shrubs/planting which die, become diseased or are removed within 5 years)
  - (5) completion of access, turning and parking areas prior to first use
  - (6) programme of archaeological work
  - (7) details of foundation designs/proposals involving below ground investigation
  - (8) construction management plan (relating to highways)
  - (9) provision of measures to prevent the discharge of surface water onto the highway
  - (10) provision and permanent retention of the vehicle parking spaces and cycle parking facilities shown on the approved plans prior to the use of the site commencing
  - (11) detailed sustainable surface water drainage scheme
  - (12) verification report pertaining to the surface water drainage scheme
  - (13) details to demonstrate that an effective outfall for surface water is provided for the development

- (14) deliveries to and collection from the site by HGVs to be conducted during 07:00am to 18:00pm on any operational day
- (15) delivery management plan
- (16) demolition and construction management plan
- (17) 4 part contamination condition (requiring the submission of a desk top study of previous uses, potential contaminants, sources, pathways and receptors; an investigation and risk assessment if the desktop study shows further investigation is necessary; a detailed remediation scheme if the investigation and risk assessment shows this is necessary; and a verification report demonstrating completion of the works in the remediation scheme if necessary).
- (18) dealing with any unexpected contamination
- (19) construction environmental management plan (in relation to ecology and biodiversity)
- (20) biodiversity method statement (with update survey provision)
- (21) great crested newt district level licence
- (22) bat sensitive lighting
- (23) biodiversity enhancement measures

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

Case Officer

Rachel Morgan