

**a) DOV/15/01100 – Erection of 15 care units (Use Class C2), comprising of 9 terraced houses and 6 apartments; conversion and extension of Goose Barn to provide communal facilities to include manager's office, guest suite and activities room; provision of vehicular and cycle parking together with internal access arrangement works and junction improvements; and associated landscape and tree works - Land to the South of Hawarden Place, Canterbury Road, Wingham**

1. This application was considered by the Committee at its meeting of 25 August 2016 when Committee resolved to defer the application for a site visit before returning to the Committee meeting of 22 September 2016.
2. The applicant's agent (Tetlow King) has submitted a letter dated 24 August which was circulated to Committee members prior to the August Committee meeting. This includes a number of comments on the August Committee report. The letter is at Appendix 1. This supplementary report seeks to address the points raised in the agent's letter.
3. It should be noted that further advice has been sought from the Principal Heritage Officer, Principal Infrastructure Delivery Officer and Senior Planning Policy Officer in preparing this supplementary report.
4. This supplementary report should be read together with the original Committee report which is at Appendix 3 and which outlines the full range of policy considerations together with details of third party and consultee responses.
5. Extracts from the letter are set out below (the headings are as set out in that letter), following which is an officer comment.

**Analysis of Agent's Letter**

**Open Space**

6. "I note and welcome the acceptance that the revisions to the site layout have overcome the previous concerns raised with regards the loss of open space originally identified. However, the final section of this paragraph causes some concern due to the lack of certainty on the matter. The report states that the plans *'do not indicate that this space would be publicly accessible.'* When reading the paragraph in more detail it states that the site was identified as open space in the core strategy *'due to its potential value as publicly accessible open space and/or its current amenity value.'* The land is not publicly accessible in its present state as it is privately owned and there is no indication that it would have ever been made publicly accessible.

It is presently only accessible via Hawarden Place due to the lack of connection from School Lane (a point that is addressed below in regards to the proposal), it is therefore hard to imagine how this space would ever become publicly accessible at any time in the future. It is therefore only reasonable to conclude that it was identified due to its amenity value. Assuming that to be the case its retention within the revised scheme as an orchard cannot be contrary to the aims of policy DM25 and the lack of public accessibility cannot be an issue.

Again, this matter has not been concluded in the report and it means that your members might indeed raise concerns over the lack of public access within my clients' proposals despite their being no requirement to do so and no conflict as such with the policy."

### Officer Response:

7. Clarification from the Council's Principal Infrastructure and Delivery Officer confirms that the main purpose of the designation of this space is to preserve the setting of the heritage assets. Therefore the open space should be maintained in its current form.
8. The Council's Principal Infrastructure Officer has also outlined that the need for open space arising from new developments is calculated according to the formula set out within DM27 however the wording of this policy means it is only applicable to dwellings (C3). As the proposed development has been deemed to be C2 residential institution it is not possible to apply the open space formulae to the proposal. She has stressed that, if the application were deemed to fall within the C3 use class then a contribution towards open space would be sought.

### Agent's Letter

#### **Highways**

9. "I note (and indeed the second reason of refusal) that an objection has been raised on the basis that the pedestrian connection to School Lane has been removed. The intention of the scheme was to provide a pedestrian connection to School Lane to the north of plot 15 on the layout. What is at issue here though is the comments from the Heritage Officer and those based on the revised layout that I received via email from the case officer on 9th August. These comments state (red being the additional comments received after the revised scheme was considered [in underline here]):  
*'There was only one section of the curtilage listed wall that I was content with breaking through, but further interventions particularly to School Lane will be harmful by eroding the sense of enclosure. The site location plan received 10/06/2016 is not completely clear but despite the annotation it appears that there remains an opening proposed in the wall to School Lane; this is an issue.'*

Clearly your conservation officer considered, as was intended, that the layout plan does indeed retain the proposed opening in the wall to provide a pedestrian connection. I do note that in the summary of the Heritage Officer's comments on page 15 there is no mention of the above comments at all. This in itself is misleading as it seeks to remove from a public document issues that the Heritage Officer raised and must be considered. Members need to be aware as part of the balancing exercise (which I will discuss in more detail later) whether the harm to the wall by creating a pedestrian access is outweighed by the benefits of creating a pedestrian connection to School Lane.

Given that, as it stands, the second reason for refusal states that the scheme would fail to *'maximise walking, cycling and the use of public transport'* and Highways object to the scheme (if it does not indeed contain the pedestrian link) on the basis of it failing to provide a *'pedestrian route to the wider footway network and bus stop/services/amenities'* I can only surmise that officers have already made the judgement that the public benefits of a link do outweigh any harm to the heritage asset.

This is certainly a matter that needs addressing in order that members are aware of the issues. For clarification in case of continued confusion I can confirm that there is a gate at the end of the wall next to unit 15. Contrary to the view that this location

results in an opening in the wall this location on site is actually part of an existing fence as the wall ends approximately in line with the Orchard. As such the highways objection should not stand due to the inclusion of the access and neither should the heritage concerns due to it not relating to the boundary wall. I therefore consider that the second reason for refusal should be withdrawn as it is no longer defensible.”

#### Officer Response

10. A small gated entrance is proposed onto School Lane near unit 15 with a further narrow opening proposed to the north east of the site, adjacent to the boules/petanque court. However no hard surface is proposed to provide a link from the units or the entrance square to these accesses and onto School Lane and residents would have to walk over areas of lawn to reach the accesses. Therefore the openings do not appear to be an obvious link for pedestrians or cyclists to access the village, or to serve as paths that would be used frequently by residents. KCC Highways suggest a properly surfaced path within the site, serving the gated entrance near unit 15 would address their objection – this forming the basis of ground (ii) of the recommendation. It is acknowledged that such a practicable link for pedestrians and cyclists could be shown through a revised landscaping scheme however in its current form the scheme is not considered to take on opportunities to maximise walking, cycling or links to public transport and therefore the second recommended reason for refusal is considered to remain appropriate.
11. The Council’s Principal Heritage Officer has clarified that the opening next to unit 15 is not a cause for concern. She has provided a plan highlighting the gaps which are considered to cause a heritage concern which are to the north east of the site and to the north of the proposed guest room. Appendix 2 shows the location of these gaps for the avoidance of doubt.

#### Agent’s Letter

#### **Quantum of Development**

12. “The report seeks to summarise at paragraph 2.10 discussions that were held with the case officer as to why the scheme could not be reduced in size, a matter which the heritage officer brought up in their comments. Whilst the report seeks to provide an explanation as to why the scheme cannot be reduced in scale it lacks the context and implications of such a request.

As a matter of principal the report does not seek to set out in any detail the housing position within the district relative to meeting the needs of older people. The adopted Core Strategy is the starting point for considering need and thus quantum. It is noted that paragraph 2.31 of the strategy reflects the increase in the over 65 population within the district, going on to recognise at 2.38 that “the stock is not sufficiently suited or adaptable to the needs of the elderly and those with health problems.” Of final relevance is paragraph 3.77 which states that “the Strategy looks to the rural area to accommodate a significant amount of development consistent with the Settlement hierarchy and to help widen housing choice and meet local needs.” It is clear therefore from the core strategy that there is a recognition to make the most efficient use of land within sustainable locations, and with a specific recognition of an expanding ageing population with insufficient stock provision.

When considering the proposed scheme, the implications of the request for revisions to the scheme so that it is based upon ‘a small number of units hugging the back edge of the site (adjacent to the school) and retaining a large open space

to School Lane and within the site would be more characteristic' need to be considered. Although the number of units that should be considered is not outlined in the heritage officer's comments our subsequent discussions with the case officer via an email of 11 June states that they would be looking for a reduction "by at least 6-7 units meaning that the scheme would only retain 8-9 units. On the basis that the scheme is designed around the core principles of care, a point which the Council accept given the C2 use, this would mean that the scheme would still need to retain the proposed communal facilities and the minimum provision of care to residents at a higher cost per resident. This would make the scheme unviable and therefore no longer able to proceed for the provision of housing with care.

This is a significant implication of the suggestion to reduce the scale of the scheme to one that does not seem to have been given sufficient consideration in the report or indeed the assessment of the scheme generally (again, discussed in more detail below)."

#### Officer Response

13. There is a need for housing for older people and this is clearly set out in the report and reflects NPPF aims and objectives. To clarify the East Kent Strategic Housing Market Assessment predicts a population increase of 42.2% of age 65-84 and a population increase of 49.1% in the 85+ age group. The Council is currently updating its Strategic Housing Market Assessment but is yet to be finalised.
14. The National Planning Policy Guidance refers to housing for older people as being housing for over 65s rather than over 55s and the NPPF defines housing for older people as housing for people of retirement age.
15. To clarify a further point, the NPPG identifies that local planning authorities should count housing provided for older people, including residential institutions in use class C2 against their housing requirement. The Council cannot currently demonstrate a 5 year housing land supply and the proposal would make a modest contribution to rectifying this.
16. The applicant's agent has stated that the number of units could not be reduced. He has outlined that the cost per resident to retain the communal facilities and element of care would be increased, making the scheme unviable. This assertion is a material consideration, although in the absence of detailed financial evidence to support this claim (in a form that could be open to expert review), it should not be afforded undue weight.

#### Agent's Letter

#### **Heritage Impacts**

17. "I note in the report that issue of heritage impacts is the most significant element and forms the principal reason for refusal. The first point to note in this section of the report is the comment at paragraph 2.13 that "*Weatherboarding is not commonly found in the village.*" As a first point it should be noted that weatherboarding is indeed evident within the village, most notably within Hawarden Place immediately to the north of the application site. Secondly, the NPPF is clear at paragraph 60 that:

*'Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through*

*unsubstantiated requirements to conform to certain development forms or styles. It is, however proper to seek to promote or reinforce local distinctiveness.'*

As discussed with your officers, there is no conservation area appraisal for Wingham to date and therefore no reference point for what provides the distinctiveness of the area worthy of its preservation and enhancement. As stated, there are examples of the use of weatherboarding in the immediate locality of the application site and without a conservation area appraisal to provide the context of the local vernacular and distinctiveness the consideration of materials remains a personal matter and must be considered on the basis of whether the proposal fails to preserve or enhance the character and appearance. This is not stated in the report or the comments of the heritage officer and cannot therefore be considered to be harmful by the omission of this assessment.

The issue of greatest concern in the heritage assessment is that set out in paragraphs 2.16 and more importantly 2.17. Paragraph 2.17 open with the sentence, "*The lack of sufficient analysis of the significance of the designated heritage assets ...*" in order to suggest that the scheme has not been appropriately designed to reflect its local context. This fails to consider that a detailed Heritage Statement was submitted in support of the application. This report has an entire section in it relating to 'Assessment of Significance' and includes the following sub-headings:

- \_Historic background;
- \_Scheduled Monuments;
- \_Listed Buildings;
- \_Conservation Areas;
- \_Archaeology; and
- \_Non-designated heritage assets

Moreover, having considered the significance of the heritage assets the report proceeded in the following chapters to assess the effects of the proposed development on the assets both directly and indirectly, and provide an assessment of mitigation measures to be incorporated.

On the basis of the information submitted with the application it is disingenuous to suggest that the application lacks sufficient analysis. Indeed, were one to be critical at all of the application it would be reasonable to state that it is the council who have lack sufficient analysis of the designated assets for failing to have in place a conservation area appraisal of Wingham to set out what its principle characteristics are and those elements that need protecting and those that need enhancing.

The issue of the impacts on Goose Barn (set out in paragraph 2.18) also need to be addressed. The original comments from the heritage officer stated that this building was curtilage listed, however the most recent comments state that "*The barn (Goose Barn) is likely to be curtilage listed grade II* [noting here that the heritage officer states Grade II and not Grade II\* as referred to in the committee report]." This is in contradiction to the assessment set out in the supporting heritage statement with the application which considers at paragraph 5.7.1 that Goose Barn is a non-designated heritage asset and is of low significance. Since the initial comments were received in March 2016 from the heritage officer we have not been provided with any evidence to demonstrate that the barn is indeed a curtilage listed building as considered by the heritage officer.

When considering the harm arising from the scheme in the heritage officers' original comments they failed to state whether it would result in substantial or less than

substantial harm, a point which was only clarified when pressed on the matter. I note that the report sets out at paragraph 2.19 that it is agreed that less than substantial harm arises from the scheme. In this paragraph the report states that *'The public benefits of the scheme are not considered to outweigh the harm to the designated heritage assets'*, which appears to mirror the comments from the heritage officer who stated *'The proposal has not provided any justification that this harm is outweighed by the public benefits of the scheme.'* Whilst the planning submission set out the significant public benefits of the proposed development (listed in detail at paragraphs 5.34 to 5.36 of the statement) and indeed the acknowledged need for this form of specialised housing both nationally and locally (paragraphs 5.9 to 5.21) there is no such assessment within the committee report or indeed ever provided to us during the course of the consideration of the application. The only consideration within the committee report is within the conclusion at paragraph 3.1 where it states "There is a need for housing, particularly for older people." This is the only element of the entire report that seeks to address any planning benefit of the application.

What is particularly difficult to accept when considering the heritage impacts is the wording of part of the reason for refusal. The reason states:

*'The proposed development, by virtue of its scale, mass, layout, design and materials would if permitted result in a dominant, incongruous, unsympathetic and poorly related form of development, out of keeping with the prevailing form of surrounding development, harmful to the character and appearance of the surrounding area, street scene, the significance of listed buildings including the likelihood of obscuring views to the Grade I listed building and the character and appearance of the Wingham Conservation Area, contrary to National Planning Policy Framework Policies 60, 64, 128, 131, 132 and 134.'* [my emphasis added]

This wording is clearly imprecise when it comes to visual impact as it uses the phrase likelihood to define the impact. This implies that no full assessment has been considered to determine whether or not there is real harm to the views of the Church as a result of the proposed development. This is not in keeping with national guidance that requires clear reasons to be given when seeking to refuse an application. It is therefore stated that the Council should confirm that the development will either result in detrimental impacts on views of the Grade I listed church or withdraw that element from the reason for refusal. The council have not provided any information to demonstrate that the scheme will result in unacceptable impacts to the views, whilst we have provided views to show that the scheme will not be harmful to assessing the church against the backdrop of our proposed scheme."

#### Officer Comment

18. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the planning authority should pay special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses and Section 72 of the Section 72 of the Act 1990 requires that the planning authority should pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
19. As previously outlined, the Council's Principal Heritage Officer has clarified that concerns in the break in the existing boundary wall do not relate to the opening near to the proposed unit 15. A plan showing the locations of the breaks in the wall which have raised concerns is at Appendix 2 of this statement.

20. With regard to the proposed use of weatherboarding, the Principal Heritage Officer (PHO) has reiterated that her comments outline that this is not a material which is “commonly” used within the conservation area, rather than being a material which is not used at all within the conservation area. The PHO states, “a scheme which eschews materials that are characteristic of, and contribute to, the special interest of a conservation area is unlikely to ‘promote or reinforce’ the established vernacular.’ The report identifies the dominant materials in the locality and therefore the assessment of the proposed materials in respect of their impact on the character and appearance of the conservation area is considered to be in accordance with para 131 of the NPPF which requires the LPA to take account of ‘new development making a positive contribution to local character and distinctiveness.’.
21. With regard to the agent’s point regarding the lack of analysis, the PHO maintains the view that the submitted Design Strategy fails to demonstrate the character of Wingham, and that the Heritage Statement contains only a limited assessment and suggestions based on provisional sketches, but it is considered has not been reflected within the Design Strategy.
22. The PHO confirms that there is a minor editing error in the heritage comments in that the Goose barn should read grade II\* not grade II and stresses that it is reasonable to consider the building as being curtilage listed.
23. Significant concerns have been raised with respect to the long section plan as it is clear that it does not show the setting of the church in the wider landscape. The long distance view from Adisham Road is a key view which contributes to the setting of the grade I listed church, and it is considered that the plan is insufficient to demonstrate that the setting of the church has been fully considered.
24. It is maintained that the site is distinct in character from the tightly developed linear built form on the High Street and relates to the grounds of Wingham Court and is characterized by open spaces. A key view of the tower and spire of the Grade I listed church is afforded from the B2046 being a significant contributor to the special interest of the church and the conservation area.
25. It is maintained that the proposed development would prove harmful to heritage as outlined within the August committee report. Furthermore the scheme fails to preserve or enhance the character or appearance of the Grade II\* listed Wingham Court, surrounding listed buildings and the conservation area. It is therefore considered that granting permission for the scheme would fail to accord with Section 66 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
26. As outlined within the officer’s report, discussions have taken place with the applicant’s agent to attempt to achieve an acceptable design, however the applicant has not altered the design or appearance of the scheme. In accordance with paragraph 134 of the NPPF this harm should be weighed against the public benefits of the proposal including securing its optimum viable use.
27. In this instance the benefits of the scheme are considered to be primarily limited to a modest contribution to address a specific housing need. The agent has only recently confirmed that the communal space would be available to the public. Given the modest scale of the communal facilities and limited public accessibility to the

site, the public benefits of this are considered to be limited. Therefore the scheme continues to be considered to be contrary to Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 131, 132 and 134 of the National Planning Policy Framework and therefore permission should be refused.

### Agent's Letter

#### **Balancing Exercise**

28. "The government is clear in setting out within the NPPF at paragraph 14 the "presumption in favour of sustainable development" and that this must consist of an assessment of the economic, social and environmental role (paragraph 7). The committee report clearly makes an assessment of the environmental role noting what is considered to be an unacceptable impact on the conservation area while an acceptable impact for ecology (noting that there is no assessment provided on the landscape impact of the scheme). However, the report is almost silent on the economic or social role that the development would play locally within Wingham and indeed within Dover as a whole. It is accepted that economically the development will not play a significant role per se with regards employment generation other than during the construction of the scheme. However, additional residents will support existing local businesses and it is accepted that the scheme is within the village confines and a sustainable location.

In respect of the social role, the report states at paragraph 3.1 that the community facilities "*appear to be only available to residents on the site the applicants have not indicated otherwise, so the wider public benefits is at best limited.*" As a starting point officers have not sought any clarification on this matter in the discussions that we have had with them since submitting the planning application in November. We have provided additional information in respect of what the care package for residents would entail, how the communal facilities would operate in regards to layout and functions and even what the role of the site manager would be however at no point was the question asked about whether or not the communal facilities would be accessible for residents of the village. My clients are happy to confirm that existing residents are able to join in with the proposed development and benefit from the facilities and services on site subject to paying for those on a similar basis to the residents of the scheme itself. As a further reflection of the need and support for this form of development, my clients have already been approached by residents within the village who are looking for the opportunity to 'rightsized' and move into accommodation that suits their future health needs and enable them to free up their larger, under-occupied family houses.

Of course there is the financial aspect to consider regarding the maintenance and running of the facilities as these are paid for through the annual service charge, however in principle the opening up of the facilities to residents of the village on an invitation basis is always something that is encouraged as it ensures that such schemes become part of the wider community. This is an important tenet of such developments to ensure that issues of isolation within the older people of a community are addressed. The conclusion of the report also overlooks the fact that through the delivery of care and support to residents within the proposed scheme there will be obvious implications for being able to deliver additional outreach care services to the existing residents of the village who would prefer to stay in their own home but still receive some care and support.

It is our assessment that the overwhelming need for this form of development within



Dover and the associated benefits that such schemes deliver outweighs the harm to the heritage assets that the Council have identified, irrespective of the fact that we do not agree that such perceived harm is warranted in the first place.

## **Conclusion**

As outlined in some detail above, clearly we have significant reservations about the report in its current format and the lack of detailed assessment that would be required to make a balanced judgement by your members. This is more worrying given the amount of time that your officers have had the application for and the lack of detailed discussions with them despite constant chasing for updates and previously stating that we were happy to discuss and explain our proposals given the specialist nature of them.

It is perhaps also worth noting that even in the majority of letters opposing the development in its original form the issues relate to specific details as opposed to the principle of development per se. Many of the specific design concerns with the original scheme have been addressed within the revised scheme such as concerns with the relationship of the scheme and existing properties in respect of outlook and overlooking. The general principle and design approach was also accepted when the initial plans were presented to the South East Design Panel.”

## **Officer's Comments and Conclusions**

29. The concerns raised are noted. In the interests of clarity, a summary of the policy considerations pertinent to the assessment of this application are set out in the following paragraphs.
30. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that the planning application must be determined in accordance with the Development Plan unless material considerations indicate otherwise. A key material consideration in this case is the NPPF.
31. Under the Development Plan, the application site falls within the settlement confines of Wingham where the principle of new residential development is acceptable, subject to the consideration of site specific details and impacts. As stated above however, the Council is unable to demonstrate a five year housing land supply. Having regard to paragraph 49 of the NPPF, in these circumstances, the Council's housing policies can no longer be considered up-to-date. In such instances the presumption in favour of sustainable development (under paragraph 14 of the NPPF) will apply, meaning that unless material considerations indicate otherwise, permission should be granted for the development unless: Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole; or specific policies in the NPPF indicate that development should be restricted.
32. In assessing the overall application against the policies in the NPPF, the Committee must be satisfied that the proposal constitutes sustainable development, where in line with paragraph 8 of the NPPF, economic, social and environmental gains are achieved jointly and simultaneously through the planning system.
33. It is considered that the original report assessed the sustainability credentials of the development proposals. Regarding the social aspect of the scheme, it acknowledged that the proposal will make a modest contribution to the 5 year housing land supply and will provide additional accommodation of a type needed

within the district. Regarding other aspects, the applicants originally advised that the communal facilities were only to be available to residents on the site and not open to the wider public. It is interesting to note that the applicant is now advising that existing residents would be able to use the facilities subject to payment on a similar basis to the residents of the scheme. This is welcomed although clarification as to how wider public access would be managed in practice would have been beneficial. It is also noted that the development would provide outreach care, although to what extent this would supplement/add to existing services provided by established KCC Social Services and others is unclear.

34. In terms of the economic impact, information provided with the application refers to the provision of 10 full time equivalent jobs (at the operational stage), although as now stated in the agents recent letter, the economic benefits of the proposal are not felt to be significant. Reference is made to employment during the construction phase and benefits associated with additional residents supporting local services.
35. With regard to the environmental impact, it is accepted that the principle of development within the settlement is acceptable, with the location providing opportunities for ease of access to services by means of travel other than the car. In this instance however, objections expressed through the views of KCC Highways highlight the shortcomings of the current proposal to provide adequate pedestrian access into the village. The means of remedying this are referred to earlier in this report, but as matters stand and on the basis of the current proposals, this issue forms part of the recommendation for refusal.
36. In respect of the impact of the development on the historic environment however the assessment undertaken in the August committee report concluded that the application would be contrary to the specific policies in the NPPF relating to conserving and enhancing the historic environment. In explanation, it was identified that the proposals would lead to "less than substantial harm" to the significance of heritage assets but that this harm would not be outweighed by any public benefits arising from the proposal. Following on from this, the report also concluded that the proposal would not satisfy the legislative requirements under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special regard to the desirability of preserving a listed building or its setting and the need to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area - The local planning authority has a statutory duty to apply this legislation when determining applications such as the one currently under consideration here.
37. Under Paragraph 14 of the NPPF, the requirement in this case is to grant planning permission, "unless specific policies in this Framework indicate development should be restricted" (such policies include those relating to designated heritage assets). The recommendation to refuse planning permission arises in large part from the failure of the proposal to address the requirements of NPPF policy relating to conserving and enhancing the historic environment.
38. In view of the harm arising from the impact of the development on the historic environment in particular, the proposals are not considered to achieve social, economic and environmental gains, jointly and simultaneously (paragraph 8 of the NPPF). They fail the policy assessment under Paragraph 14 and cannot therefore be considered to constitute sustainable development.
39. The failure to satisfactorily address these aspects of NPPF policy indicates that the development should be resisted. There is also a need however to consider whether

there are any other material considerations which should be taken into account and which might justify an alternative conclusion.

40. It is noted that the general principle and initial plans were “accepted” by the South East Design Panel. These however are not considered to overcome or outweigh the serious heritage concerns identified.

41. In conclusion, it is not considered that any other material considerations apply that would justify departing from the recommendation to refuse the current application for the reasons set out in the August committee report and restated here.

I. PLANNING PERMISSION BE REFUSED for the following reasons:-

(i) The proposed development, by virtue of its scale, mass, layout, design and materials would if permitted result in a dominant, incongruous, unsympathetic and poorly related form of development, out of keeping with the prevailing form of surrounding development, harmful to the character and appearance of the surrounding area, street scene, the significance of listed buildings including the likelihood of obscuring views to the Grade I listed building and the character and appearance of the Wingham Conservation Area, contrary to National Planning Policy Framework Policies 60, 64, 128, 131,132 and 134.

(ii) The development as proposed would fail to maximise walking, cycling and the use of public transport, contrary to paragraphs 49 of the National Planning Policy Framework and Policy DM11 of the Dover District Core Strategy.

Case Officer

Cheryl Macer

## Appendix 1: Letter from applicant's agent received 24 August 2016



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Date: 24 August 2016

Our Ref: M15.0907-05

Your Ref: 15/01100

By email only: [Lesley.jarvis@dover.gov.uk](mailto:Lesley.jarvis@dover.gov.uk)

Dear Lesley

RE: LAND TO THE SOUTH OF HAWARDEN PLACE (LADY HAWARDEN SITE),  
CANTERBURY ROAD, WINGHAM  
PROPOSED EXTRA CARE DEVELOPMENT

I am writing on behalf of my clients, Environ Communities Ltd and The Trustees of the Viscount Hayward Will Trust, in response to the committee report for the above application that was published this week and is to be reported to the council's planning committee on Wednesday 24<sup>th</sup>.

Having reviewed the report in full I feel the need to provide this detailed response to address what I and my clients believe are serious deficiencies in its content. I understand that matters submitted after the report has been published will be presented orally to the committee but I am happy that an abridged version of this is discussed with them instead of the full content.

On a positive note to start, I am pleased that after months of deliberations the Council have accepted that my clients' proposal is indeed a Class C2 use that is based around the principle of providing housing with care. As set out in great detail with the application the provision of care for future residents of this scheme is at the heart of the proposal and we are therefore glad that the council have finally managed to reach a point of agreement with us on that matter. That has therefore simplified the planning issues with regards to the matter of affordable housing as set out in paragraph 2.35 and we are grateful.

I now set out below the issues that we have with regards to the report and why we believe that the conclusions reached are unfounded.

### 1. Open Space

The report at 2.5 address the issue of the layout of the scheme and the open space that has been designated under Core Strategy Policy DM25. I note, and welcome, the acceptance that the revisions to the site layout have overcome the previous concerns raised with regards the loss of open space originally identified. However, the final section of this paragraph causes some concern due to the lack of certainty on the matter. The report states that the plans "*do not indicate that this space would be publicly accessible.*" When reading the paragraph in more detail it states that the site was identified as open space in the core strategy "*due to its potential value as publicly accessible open space and/or its current amenity value.*" The land is not publicly accessible in its present state as it is privately owned and there is no indication that it would have ever been made publicly accessible.

It is presently only accessible via Hawarden Place due to the lack of connection from School Lane (a point that is addressed below in regards to the proposal), it is therefore hard to imagine how this space would ever become publicly accessible at any time in the future. It is therefore only reasonable to conclude that it was identified due to its amenity value. Assuming that to be the case its retention within the revised scheme as an orchard cannot be contrary to the aims of policy DM25 and the lack of public accessibility cannot be an issue.

Chairman  
R S J Tetlow MSc Dip Surv FRTP FRCS FCIM FRSA

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Again, this matter has not been concluded in the report and it means that your members might indeed raise concerns over the lack of public access within my clients' proposals despite their being no requirement to do so and no conflict as such with the policy.

## 2. Highways concerns.

I note in the report (and indeed the second reason of refusal) that an objection has been raised on the basis that the pedestrian connection to School Lane has been removed. The intention of the scheme was to provide a pedestrian connection to School Lane to the north of plot 15 on the layout. What is at issue here though is the comments from the Heritage Officer and those based on the revised layout that I received via email from the case officer on 9<sup>th</sup> August. These comments state (red being the additional comments received after the revised scheme was considered):

*"There was only one section of the curtilage listed wall that I was content with breaking through, but further interventions particularly to School Lane will be harmful by eroding the sense of enclosure. The site location plan received 10/06/2016 is not completely clear but despite the annotation it appears that there remains an opening proposed in the wall to School Lane; this is an issue."*

Clearly your conservation officer considered, as was intended, that the layout plan does indeed retain the proposed opening in the wall to provide a pedestrian connection. I do note that in the summary of the Heritage Officer's comments on page 15 there is no mention of the above comments at all. This in itself is misleading as it seeks to remove from a public document issues that the Heritage Officer raised and must be considered. Members need to be aware as part of the balancing exercise (which I will discuss in more detail later) whether the harm to the wall by creating a pedestrian access is outweighed by the benefits of creating a pedestrian connection to School Lane.

Given that, as is stands, the second reason for refusal states that the scheme would fail to "maximise walking, cycling and the use of public transport" and Highways object to the scheme (if it does not indeed contain the pedestrian link) on the basis of it failing to provide a "pedestrian route to the wider footway network and bus stop/services/amenities" I can only surmise that officers have already made the judgement that the public benefits of a link do outweigh any harm to the heritage asset.

This is certainly a matter that needs addressing in order that members are aware of the issues. For clarification in case of continued confusion I can confirm that there is a gate at the end of the wall next to unit 15. Contrary to the view that this location results in an opening in the wall this location on site is actually part of an existing fence as the wall ends approximately in line with the Orchard. As such the highways objection should not stand due to the inclusion of the access and neither should the heritage concerns due to it not relating to the boundary wall. I therefore consider that the second reason for refusal should be withdrawn as it is no longer defensible.

## 3. Quantum of development

The report seeks to summarise at paragraph 2.10 discussions that were held with the case officer as to why the scheme could not be reduced in size, a matter which the heritage officer brought up in their comments. Whilst the report seeks to provide an explanation as to why the scheme cannot be reduced in scale it lacks the context and implications of such a request.

As a matter of principal the report does not seek to set out in any detail the housing position within the district relative to meeting the needs of older people. The adopted Core Strategy is the starting point for considering need and thus quantum. It is noted that paragraph 2.31 of the strategy reflects the increase in the over 65 population within the district, going on to recognise at 2.38 that "the stock is not sufficiently suited or adaptable to the needs of the elderly and those with health problems." Of final relevance is paragraph 3.77 which states that "the Strategy looks to the rural area to accommodate a significant amount of development consistent with the Settlement hierarchy and to help widen housing choice and meet local needs." It is clear therefore from the core strategy that there is a recognition to make the most efficient use of land within sustainable locations, and with a specific recognition of an expanding ageing population with insufficient stock provision.

When considering the proposed scheme, the implications of the heritage officers request for revisions to the scheme so that it is based upon "a small number of units hugging the back edge of the site (adjacent to the school) and retaining a large open space to School Lane and within the site would be more characteristic" need to be considered. Although the number of units that should be considered is not outlined in the heritage officer's comments our subsequent discussions with the case officer via an email of 11 June states that they would be looking for a reduction "by at least 6-7 units" meaning that the scheme would only retain 8-9 units. On the basis that the scheme is designed around the principles of care, a point which the Council accept given the Class C2 use, this would mean that the scheme would still need to retain the proposed communal facilities and the minimum provision of care to residents but at a higher cost per resident. This would make the scheme unviable and therefore no longer able to proceed for the provision of housing with care.

This is a significant implication of the suggestion to reduce the scale of the scheme and one that does not seem to have been given sufficient consideration in the report or indeed the assessment of the scheme generally (again, discussed in more detail below).

#### 4. Heritage Impacts

I note in the report that issue of heritage impacts is the most significant element and forms the principal reason for refusal. The first point to note in this section of the report is the comment at paragraph 2.13 that "Weatherboarding is not commonly found in the village." As a first point it should be noted that weatherboarding is indeed evident within the village, most notably within Hawarden Place immediately to the north of the application site. Secondly, the NPPF is clear at paragraph 60 that:

*"Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness."*

As discussed with your officers, there is no conservation area appraisal for Wingham to date and therefore no reference point for what provides the distinctiveness of the area worthy of its preservation and enhancement. As stated, there are examples of the use of weatherboarding in the immediate locality of the application site and without a conservation area appraisal to provide the context of the local vernacular and distinctiveness the consideration of materials remains a personal matter and must be considered on the basis of whether the proposal fails to preserve or enhance the character and appearance. This is not stated in the report or the comments of the heritage officer and cannot therefore be considered to be harmful by the omission of this assessment.

The issue of greatest concern in the heritage assessment is that set out in paragraphs 2.16 and more importantly 2.17. Paragraph 2.17 open with the sentence "The lack of sufficient analysis of the significance of the designated assets..." in order to suggest that the scheme has not been appropriately designed to reflect its local context. This fails to consider that a detailed Heritage Statement was submitted in support of the application. This report has an entire section in it relating to "Assessment of Significance" and includes the following sub-headings:

- Historic background;
- Scheduled Monuments;
- Listed Buildings;
- Conservation Areas;
- Archaeology; and
- Non-designated heritage assets

Moreover, having considered the significance of the heritage assets the report proceeded in the following chapters to assess the effects of the proposed development on the assets both directly and indirectly, and provide an assessment of mitigation measures to be incorporated.

On the basis of the information submitted with the application it is disingenuous to suggest that the application lacks sufficient analysis. Indeed, were one to be critical at all of the application it would be reasonable to state that it is the council who have lack sufficient analysis of the designated assets for



failing to have in place a conservation area appraisal for Wingham to set out what its principle characteristics are and those elements that need protecting and those that need enhancing.

The issue of the impacts on Goose Barn (set out in paragraph 2.18) also need to be addressed. The original comments from the heritage officer stated that this building was curtilage listed, however the most recent comments state that *"The barn (Goose Barn) is likely to be curtilage listed grade II* [noting here that the heritage officer states Grade II and not Grade II\* as referred to in the committee report]. This is in contradiction to the assessment set out in the supporting heritage statement with the application which considers at paragraph 5.7.1 that Goose Barn is a non-designated heritage asset and is of low significance. Since the initial comments were received in March 2016 from the heritage officer we have not been provided with any evidence to demonstrate that the barn is indeed a curtilage listed building as considered by the heritage officer.

When considering the harm arising from the scheme in the heritage officers' original comments they failed to state whether it would result in substantial or less than substantial harm, a point which was only clarified when pressed on the matter. I note that the report sets out at paragraph 2.19 that it is agreed that less than substantial harm arises from the scheme. In this paragraph the report states that *"The public benefits of the scheme are not considered to outweigh the harm to the designated heritage assets"*, which appears to mirror the comments from the heritage officer who stated *"The proposal has not provided any justification that this harm is outweighed by the public benefits of the scheme."* Whilst the planning submission set out the significant public benefits of the proposed development (listed in detail at paragraphs 5.34 to 5.36 of the statement) and indeed the acknowledged need for this form of specialised housing both nationally and locally (paragraphs 5.9 to 5.21) there is no such assessment within the committee report or indeed ever provided to us during the course of the consideration of the application. The only consideration within the committee report is within the conclusion at paragraph 3.1 where it states *"There is a need for housing, particularly for older people."* This is the only element of the entire report that seeks to address any planning benefit of the application.

What is particularly difficult to accept when considering the heritage impacts is the wording of part of the reason for refusal. The reason states:

*"The proposed development, by virtue of its scale, mass, layout, design and materials would if permitted result in a dominant, incongruous, unsympathetic and poorly related form of development, out of keeping with the prevailing form of surrounding development, harmful to the character and appearance of the surrounding area, street scene, the significance of listed buildings including the likelihood of obscuring views to the Grade I listed building and the character and appearance of the Wingham Conservation Area, contrary to National Planning Policy Framework Policies 60, 64, 128, 131, 132 and 134."* [my emphasis added]

This wording is clearly imprecise when it comes to visual impact as it uses the phrase likelihood to define the impact. This implies that no full assessment has been considered to determine whether or not there is real harm to the views of the Church as a result of the proposed development. This is not in keeping with national guidance that requires clear reasons to be given when seeking to refuse an application. It is therefore stated that the Council should confirm that the development will either result in detrimental impacts on views of the Grade I listed church or withdraw that element from the reason for refusal. The council have not provided any information to demonstrate that the scheme will result in unacceptable impacts to the views, whilst we have provided views to show that the scheme will not be harmful to assessing the church against the backdrop of our proposed scheme.

##### 5. Balancing exercise

The government is clear in setting out within the NPPF at paragraph 14 the "presumption in favour of sustainable development" and that this must consist of an assessment of the economic, social and environmental role (paragraph 7). The committee report clearly makes an assessment of the environmental role noting what is considered to be an unacceptable impact on the conservation area while an acceptable impact for ecology (noting that there is no assessment provided on the landscape impact of the scheme). However, the report is almost silent on the economic or social role that the development would play locally within Wingham and indeed within Dover as a whole. It is accepted that economically the development will not play a significant role per se with regards employment

generation other than during the construction of the scheme. However, additional residents will support existing local businesses and it is accepted that the scheme is within the village confines and a sustainable location.

In respect of the social role, the report states at paragraph 3.1 that the community facilities "appear to be only available to residents on the site, the applicants have not indicated otherwise, so the wider public benefit is at best limited." As a starting point officers have not sought any clarification on this matter in the discussions that we have had with them since submitting the planning application in November. We have provided additional information in respect of what the care package for residents would entail, how the communal facilities would operate in regards to layout and functions and even what the role of the site manager would be however at no point was the question asked about whether or not the communal facilities would be accessible for residents of the village. My clients are happy to confirm that existing residents are able to join in with the proposed development and benefit from the facilities and services on site subject to paying for those on a similar basis to the residents of the scheme itself. As a further reflection of the need and support for this form of development, my clients have already been approached by residents within the village who are looking for the opportunity to 'rightsized' and move into accommodation that suits their future health needs and enable them to free up their larger, under-occupied family houses.

Of course there is the financial aspect to consider regarding the maintenance and running of the facilities as these are paid for through the annual service charge, however in principle the opening up of the facilities to residents of the village on an invitation basis is always something that is encouraged as it ensures that such schemes become part of the wider community. This is an important tenet of such developments to ensure that issues of isolation within the older people of a community are addressed. The conclusion of the report also overlooks the fact that through the delivery of care and support to residents within the proposed scheme there will be obvious implications for being able to deliver additional outreach care services to the existing residents of the village who would prefer to stay in their own home but still receive some care and support.

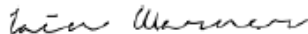
It is our assessment that the overwhelming need for this form of development within Dover and the associated benefits that such schemes deliver outweighs the harm to the heritage assets that the Council have identified, irrespective of the fact that we do not agree that such perceived harm is warranted in the first place.

## 6. Conclusion

As outlined in some detail above, clearly we have significant reservations about the report in its current format and the lack of detailed assessment that would be required to make a balanced judgement by your members. This is more worrying given the amount of time that your officers have had the application for and the lack of detailed discussions with them despite constant chasing for updates and previously stating that we were happy to discuss and explain our proposals given the specialist nature of them.

It is perhaps also worth noting that even in the majority of letters opposing the development in its original form the issues relate to specific details as opposed to the principle of development per se. Many of the specific design concerns with the original scheme have been addressed within the revised scheme such as concerns with the relationship of the scheme and existing properties in respect of outlook and overlooking. The general principle and design approach was also accepted when the initial plans were presented to the South East Design Panel.

Yours sincerely



IAIN WARNER  
ASSOCIATE DIRECTOR  
For and On Behalf Of  
TETLOW KING PLANNING



Appendix 2: Plan showing the location of breaks in the wall

