

- a) **DOV/18/00282 – Erection of a detached dwelling, associated landscaping works, creation of pedestrian access, and associated parking provision.**

The White House, 3 St Margarets Road, St Margarets Bay, CT15 6EQ

Number of contrary comments – (9)

- b) **Summary of recommendation**

Grant permission.

- c) **Planning policy and guidance**

Statute

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

A summary of relevant planning policy is set out below:

Dover District Core Strategy (2010)

CP1 – Settlement hierarchy.

DM1 – Settlement boundaries.

DM13 – Parking provision.

DM15 – Protection of the countryside.

DM16 – Landscape character.

Saved Dover District Local Plan (2002) policies

None.

National Planning Policy Framework (NPPF)(2018)

2. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet

the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

11. Plans and decisions should apply a presumption in favour of sustainable development...

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

124. The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this...

127. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and

where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

130. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions...

131. In determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

172. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and

- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

177. The presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.

189. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

190. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

192. In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

193. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Other considerations

St. Margaret's Bay Conservation Area – designated 1 November 1990

Planning (Listed Buildings and Conservation Areas) Act 1990

Section 72(1) – *In the exercise, with respect to any building or land in a conservation area... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*

d) **Relevant planning history**

DOV/15/01282 – Erection of a detached dwelling and associated parking – REFUSED, APPEAL DISMISSED.

e) **Consultee and third party responses**

DDC Heritage – informal discussion, no objection.

DDC Landscape/Ecology – no objection, following submission of information to address concerns regarding the functioning of the proposed green walls and how these would be perceived in the landscape. Commented on originally submitted ecological information, requiring up to date surveys which were subsequently submitted. Submitted information to be conditioned in any grant of permission.

DDC Trees – no objection, subject to conditions.

KCC PRoW – no objection, subject to informatives.

Southern Water – no objection subject to informatives regarding connection to the public sewerage system.

Public comments

Objections x9, Support x7, Neutral x3

Objections

- Construction traffic, blocking access to dwellings accessed from upper section of St Margaret's Road, and damage to lower section of St Margarets Road and dwellings located there.
- Garden grabbing.
- Badgers – disagrees with ecological report.
- Local designations – Kent Downs AONB, SSSI, SAC, Heritage Coast, Marine Conservation Zone.
- Green walls require maintenance.
- If conveyor used for materials this is a daunting proposal.

Support

- Eco-friendly – good design.
- Retaining wall removed, all Inspector issues from 2015 addressed.
- Award winning development.
- Innovative design to enhance conservation area.
- Other dwellings recently granted permission of a lesser quality.
- This kind of design should be encouraged.
- Unique property.
- Correct management would address construction issues.
- Supports energy system.
- Eclectic architectural styles in St Margaret's Bay.

Neutral

- Would rival Ness Point.
- Sympathises with local neighbours during construction period.
- Concern about noise from development.

f) **1. The site and the proposal**

1.1. The site

- 1.2. The application site is located south east and north west of St Margaret's Road, which curves back on itself down the valley side towards the bay in St Margaret's Bay. The site is adjacent to the lower level section of St Margaret's Road, but due to topography is accessed from the upper section of the road via a narrow access lane, which also doubles as public footpath ER42.
- 1.3. The site, which appears primarily as a sloping bank comprises the existing dwelling, The White House, which is located towards the south western corner of the site, approximately two thirds of the way up the bank. North and north east of the dwelling is a tennis court, which has been cut into the bank. Along the south eastern boundary of the is a dense grouping of trees which provides enclosure to the lower section of St Margaret's Road.
- 1.4. The application site is located outside of the St Margaret's Bay settlement boundary, diagonally removed to the south east by a distance of approximately 10 metres.
- 1.5. The site is located within the St Margaret's Bay Conservation Area, which is designated primarily in recognition of the low density development pattern, in which open areas of trees, grassland and other vegetation provide a verdant setting to relatively large properties occupying [in the main] similarly large plots. The relationship between the dwellings and the open spaces is a key part of this atypical conservation area, which stretches from the junctions of St Margaret's Road with Sea View Road and Goodwin Road in the south west just over 1km to the junction of Granville Road and Hotel Road, down to Bay Cottages in the north east.
- 1.6. The site is located opposite the Kent Downs AONB, the boundary of which is found on the south eastern side of the lower section of St Margaret's Road. The designation covers the Pines Calyx gardens and rises to the cliff top and along the valley to the south west. The AONB at this location also coincides with the Heritage Coast definition, although it is important to recognise that the site is outside of both of these designations.
- 1.7. Neighbouring the site to the north west is Bay Hill Close, a terrace comprising a mix of 12 dwellings, and The Studio (a small dwelling). To the west is 5 St Margaret's Road (Seven Seas) and the new property which was permitted to the rear of The Shrubbery. South east of the site on the opposite side of St Margaret's Road are numbers 40 and 42.
- 1.8. Site dimensions are:
 - Depth – 65 metres.
 - Width – 91 metres.
- 1.9. Proposed development
- 1.10. The proposed development is a four/five bedroom, two storey dwelling to be sited where the tennis court is currently located. The dwelling is designed in

contemporary aesthetic, with sharp detailing and well defined lines. It would have a flat roof, and, depending on the orientation of viewing, the floor plan would be laid out in a Z formation. At upper ground floor level the dwelling would feature two balconies, and across both levels the dwelling would feature glazed walls facing south east with the intention to capture views towards the cliffs and the bay.

1.11. The dwelling would have a green roof and green walls, with the intention of assimilating its form into the bank and existing vegetation which is located to its north west and north east.

1.12. The dwelling would be accessed from the existing site access taken from PRow ER42, which also serves the White House. The existing White House garage would be divided into two so as to also serve the new dwelling. Parking would also be available in front of the garage. From the parking area pedestrian steps would be constructed, which would lead down to the ground floor of the dwelling. Further steps to the side of the dwelling would lead to its lower ground floor and garden.

1.13. The site would be divided between the two dwellings, down to St Margaret's Road, initially with post and wire planting, which would then be complemented by native planting.

1.14. The dwelling would incorporate environmentally beneficial technology. The submitted information details the system as follows:

In the summer the solar panels work in normal operation heating the top of the thermal store first for instant use as hot water, limiting the amount of time the backup heat pump has to work. In the heating season the solar panels first put heat into the water/ice store heating it up to 20°C. The heat pump can then take the energy out of the water turning it ice when the house requires heating. By using the phase change between ice and water a far greater amount of energy can be stored (the equivalent of 2500 litres of a hot water storage tank) with minimal losses making the unit small and compact. Any excess solar energy then goes into the bottom of the Solus II thermal store pre-heating the water so the heat pump runs less.

1.15. Very similar technologies have been incorporated into other developments, most notably at Pentire House. The incorporation of such technologies is a recognised way to enhance the sustainability credentials of such developments.

1.16. Dimensions of the proposed building are:

- Depth – 15.3 metres.
- Width – 22.3 metres.
- Height – 7 metres (south east elevation), 3.9 metres (north west elevation).
- Distance from the White House – 21 metres.

1.17. Plans will be on display.

DOV/15/01282 and appeal

1.18. In 2015 an application for the erection of a zero emission dwelling, referred to as the ZEDBRA house, was refused and the subsequent appeal was dismissed. The dwelling now proposed is a revision of that refused under DOV/15/01282 and bears a number of similarities including the shape of the footprint and its proposed location. Key parts of the appeal consideration are as follows:

1.19. In reference to St Margaret's Bay Conservation Area

9. Approaching from the south west the cliff top is open and exposed, affording sweeping views across the valley to the settlement of St Margaret's Bay. From this viewpoint, the existing dwelling occupies an isolated position within a sparsely developed swathe of hillside, partially shielded by the tree screen running along the western boundary of the site, which limits the visibility of the building within its hillside setting. The proposed building would occupy the space immediately to the east of the White House. Its width would exceed that of the building which it would sit alongside. Whilst certain elements of its design such as the green roof seek to integrate the building in to its surroundings, other parts of the building such as the white rendered structural elements and contrasting dark grey panelling would be noticeable features that would contrast significantly with the natural features of the surrounding landscape.

10. The retaining wall housing the extended driveway and turning circle, rising to the full height of the White House, would be a particularly prominent feature, giving the impression of a continuous, linear built form connecting the two buildings. In views from the south west the new building would be particularly noticeable, as it would not benefit from the existing tree screening along the western boundary of the White House.

11. While the proposal would retain a level of spacing between buildings that would be consistent with other developments within the Conservation Area, the development itself would involve the erection of a substantial, prominent building in an area that is currently undeveloped. Furthermore, the large retaining wall necessary to facilitate vehicular access to the dwelling would lead to the impression of a continuous built form linking the two properties. The height and depth of the proposed retaining wall would result in an urbanising effect that would alter the balance between built form and the natural wooded environment to the detriment of the predominantly natural, wooded quality of the Conservation Area.

In reference to the AONB and Heritage Coast

20. The proposed development would affect views from within the AONB and surrounding designated Heritage Coast, through the gradual urbanisation of a part of the adjoining hillside which is currently undeveloped. The size and prominence of the building, together with the substantial retaining wall would be prominent features in views from the surrounding hills. This would draw the eye away from the natural features of the surrounding landscape. In consequence

the development would fail to conserve the setting of the AONB. For the same reason it would also harm the character of the surrounding undeveloped coast.

2. Main issues

- 2.1. The main issues to consider are:
- Principle of development.
 - Appropriate assessment.
 - Design, heritage and landscape.
 - Residential amenity.
 - Highways/transport.
 - Ecology (other).
 - Trees.
 - Sustainability and conclusion.

3. Assessment

Principle of development

- 3.1. The White House and its curtilage, which form the site, are located outside of the St Margaret's Bay settlement boundary. Accordingly, assessed against the adopted development plan, the proposed development would normally be considered unacceptable in principle.
- 3.2. There are, however, other material considerations, which under section 38(6) of the Planning and Compulsory Purchase Act 2004, add balance to the determination of this application.
- 3.3. Dover District Council, as the local planning authority (LPA), cannot demonstrate a five year supply of deliverable housing land. Normally, this would mean that the presumption in favour of sustainable development would apply, and that under paragraph 11 of the NPPF, permission should be granted unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole.
- 3.4. The case of the People over Wind and Sweetman, ruled on at the Court of Justice of the European Union in April 2018, has had implications for the adopted approach that the council had been utilising in respect of the potential impact of residential development on the European ecological sites at the Thanet Coast and Sandwich Bay. Until the ruling, the council had been factoring in an ecological mitigation scheme at the screening stage, meaning that no appropriate assessment (in accordance with the Habitats Regulations 2017) was required to be undertaken. The European ruling determined that mitigation measures could not be accounted for at the screening stage. Accordingly, on that basis that a likely significant effect on the European sites, resulting from residential development, incorporating single dwelling proposals, cannot be ruled out, an appropriate assessment must be undertaken.

3.5. Paragraph 177 of the NPPF states that:

The presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impacts on a habitats site is being planned or determined.

It is important to recognise that paragraph 177 does not discriminate between schemes that pass the appropriate assessment and schemes that do not – it is simply the fact that an appropriate assessment is required.

3.6. Accordingly, the presumption in favour of sustainable development does not apply in the case of this application. In terms of policy DM1 and settlement boundaries this means that the policy can be afforded due weight, but the counter to this is that the council has previously acknowledged in submissions to public inquiries that the settlement boundaries do not carry full weight in light of the inability to demonstrate a five year supply of deliverable housing land. Paragraph 177 does not alter that fact as such.

3.7. The pragmatic approach in light of the nuances of whether the development is or is not acceptable in principle, and the degree to which this may or may not be the case, is to assess the individual merits of the proposal and make a balanced determination.

Appropriate assessment

3.8. As addressed above, the proposed development requires that an appropriate assessment be undertaken in relation to the potential effects of recreational pressure on the European sites at the Thanet Coast and Sandwich Bay.

3.9. The following appropriate has been undertaken on that basis.

3.10. *The Conservation of Habitats and Species Regulations 2017
Regulation 63: Appropriate Assessment*

3.11. *All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.*

3.12. *Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in combination with all other housing development within the district, to have an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.*

3.13. *Following consultation with Natural England, the identified pathway for such an*

adverse 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.

- 3.14. *The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.*
- 3.15. *Given the limited scale of the development proposed by this application, a contribution towards the Council's Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the council will draw on existing resources to fully implement the agreed Strategy.*
- 3.16. *Having had regard to the proposed mitigation measures, it is considered that the proposal would not have an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that any harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.*

Design, heritage and landscape

- 3.17. **Previous appeal.** The Inspector acknowledged in the appeal under DOV/15/01282 that the site is not particularly visible from close by, and rather that it is when it is viewed from the opposite side of the valley on the slope up to the cliff edge and along footpaths ER38 and ER37, that its prominence is revealed.
- 3.18. Currently the location of the proposed dwelling is occupied by a tennis court which has been cut into the prevailing landform, with a unsympathetic edge exposed to view.
- 3.19. The Inspector raised concern that under the previous proposal, the intended continuation of the driveway, in effect linking the White House to the proposed house, which was to be finished in white render, would read as a single linear form and unacceptable urbanisation of the hillside at this location, regardless of the intention to tie the dwelling into the landform with its green roof. This was also true of the white rendered elements of the building and dark cladding panels.
- 3.20. The proposal now under consideration has addressed those concerns by removing the extended driveway entirely and replacing this with a set of steps set back from the existing retaining wall, and set back from what would be the front elevation of the dwelling. This proposal also extends the green roof concept from the original scheme into a green wall proposal so that the opportunities for

the dwelling to contrast with its setting would be in a large part reduced.

3.21. In amending the design in light of the Inspector's concerns it is considered that the impacts or potential impacts on the setting of both the heritage coast and Kent Downs AONB are adequately addressed, bearing in mind that these would be issues of setting, rather than development within the designations themselves.

3.22. **Spatial character and heritage considerations.** The Inspector previously acknowledged that:

...the proposal would retain a level of spacing between buildings that would be consistent with other developments within the Conservation Area...

3.23. This is considered true of the revised proposal, which while taking cues from the previous application, has also reduced the dimensions of that scheme and set the proposed dwelling back into the hillside, making use of the space where the extended driveway would have been sited. Accordingly, in terms of the conservation area, it is considered that the proposal would not be contrary to the terms of the designation, and that in the wider context, taking into account design amendments since 2015, no harm would be caused to the heritage asset.

3.24. While the relatively undeveloped nature of the hillside is acknowledged, the OS map nevertheless gives an indication of the existing buildings in the area, which accounting for the spaciousness of the conservation area, are located in relatively close proximity around the site on three sides. Were this dwelling to be permitted, it is not considered that in spatial terms it would be particularly out of character.

3.25. **Building design.** Design is acknowledged as being a subjective issue. A key consideration for whether this dwelling can be justified is based on the quality of its design, which if acknowledged, would be a material consideration in favour of the proposal. Paragraph 131 of the NPPF has a key part to play in this consideration, advising that:

... great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

3.26. It is noted that the proposed dwelling is considered to fit within the overall form and layout of its surroundings, and the proposed eco-friendly credentials of the building are also acknowledged.

3.27. The design itself is considered to be of a high standard that responds well to its location on the hillside overlooking St Margaret's Bay. The previous extended driveway, identified by the Inspector, has been removed and this is considered to benefit the design quality of the proposal, allowing the dwelling to be seen as a standalone form.

- 3.28. As with the previous proposal, the dwelling would benefit from sharp detailing and clean edges that evoke a contemporary aesthetic. This is tempered somewhat by the green walls that have been introduced as a response to the comments of the previous Inspector, however, this itself is considered to be beneficial, enabling the dwelling to combine an organic, softer form, with its more striking aspects.
- 3.29. The dwelling is considered to be a contemporary interpretation of a seaside dwelling, that also works within its site, and as such is considered to meet the criteria of NPPF paragraph 131. It is therefore considered that the design of the proposal should be afforded great weight in the determination of this proposal.
- 3.30. **DM15 – Protection of the countryside.** Policy DM15 states that development “which would result in the loss of, or adversely affect the character or appearance, of the countryside will only be permitted if it is:
- i. In accordance with allocations made in Development Plan Documents, or
 - ii. justified by the needs of agriculture; or
 - iii. justified by a need to sustain the rural economy or a rural community;
 - iv. it cannot be accommodated elsewhere; and
 - v. it does not result in the loss of ecological habitats”.
- 3.31. The preliminary text to policy DM15 identifies that land within the curtilage of buildings is not considered to be countryside for the purposes of the Core Strategy. Therefore, it is a matter of whether the proposed dwelling would adversely affect the character or appearance of the countryside. For the reasons given above this is not considered to be the case. As such, it is considered that the proposed development complies with policy DM15.
- 3.32. **DM16 – Landscape character.** Policy DM16 states that development “that would harm the character of the landscape, as identified through the process of landscape character assessment will only be permitted if:
- i. It is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or
 - ii. It can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level.”
- 3.33. As assessed above, it is not considered that the development would harm the character of the landscape. Accordingly, it is considered that the proposal complies with policy DM16.
- 3.34. The proposed development is therefore considered to be acceptable in terms of its design and how this could be accommodated into the immediate and wider landscape. As noted, the design is considered to be of a high standard that would facilitate that would benefit the area generally as a best practice example.

Residential amenity

- 3.35. As acknowledged, the proposed dwelling would conform to the prevailing

settlement pattern of the conservation area in terms of how the dwellings relate to the space around them. A result of this is that the proposed dwelling is not sited in a way that the building itself would result in any harm to residential amenity.

- 3.36. A number of comments have been submitted, however, that raise concern about the prospect of conflict arising from construction vehicles using the PRow to access the development site. The access lane from the upper section of St Margaret's Road is wide enough only for one vehicle and past experience of construction on this lane has not been without difficulty.
- 3.37. Were permission to be granted, a construction management plan would be sought by condition that could seek to address some of these issues, e.g. the timing of deliveries etc.
- 3.38. It is correct to acknowledge, however, that such considerations do tend to fall into the category of civil matters and that it is not considered that construction concerns could legitimately warrant a ground for refusal. Accordingly, the proposal is considered to be acceptable in terms of residential amenity.

Highways/transport

- 3.39. The proposed development would utilise an existing access on to St Margaret's Road. Given that it is for an additional single dwelling, it is unlikely to result in a severe impact on the functioning of the highway. The proposal incorporates sufficient parking space, which means that there would be no on street parking.
- 3.40. In terms of the site location outside of the settlement boundary, it retains a close enough proximity to the boundary that residents of any new dwelling would be as likely to make use of public transport (the nearest stop is 220 metres away along walking routes) as would a resident living within the settlement boundary.
- 3.41. The proposal is considered to be acceptable in highways/transport terms.

Ecology (other)

- 3.42. The preliminary report submitted with the proposal recommends typical ecological enhancement measures including the planting of native shrubs and trees to support local biodiversity, and consideration of lighting with regard to bats foraging in the area. These enhancements would be secured through planning condition.
- 3.43. The report also identified the need for further survey work in relation to badger setts on the proposal site. Four setts have been identified, one of which is unlikely to be affected by the development proposal and one of which is currently unused. However, there is potential for harmful effects, necessitating appropriate ecological measures as follows:
- A licence under the 1992 Protection of Badgers Act must be applied for if

planning permission has been granted to allow for contingencies primarily relating to the accidental penetration or damage to hidden badger tunnels and the temporary sett closure that is required. The process of acquiring this will provide mitigation details that, in summary, consist of:

- Separation of the badger setts from the working part of the site by means of a protective fence.
- Fencing off sett one to prevent it from being accidentally damaged.
- Supervision of the digging required for the extension of services eastwards from the existing connection above the White House. This will need to be carried out between July to November inclusive of any one year.
- The temporary closure of setts 2, 3 and 4 to prevent a breach of the law by accidental penetration of tunnels. This will need to be carried out between July to November inclusive of any one year, whereafter the setts can be reopened at any time.

3.44. The ecological report concludes:

Overall, provided that the risk of damaging or disturbing the setts on the site is managed by means of a licence issued under the 1992 Protection of Badgers Act, and if there is licenced, ecological supervision of excavation for the services' extension to Zedbra House from the existing driveway, there will be negligible risk of long term impact from the proposed building upon the badgers at this site.

3.45. The council is not a competent authority in regard to the Protection of Badgers Act, and must defer to Natural England to issue a licence for works to be undertaken. Similarly, the council cannot specify a condition that is reliant on another regulatory process taking place i.e. the issuing of the aforementioned licence. Accordingly, were works to take place without such a licence having been issued, the council would be reliant on the vigilance of neighbours or passers-by.

3.46. While there is a matter outstanding i.e. the issuing of the Natural England licence, this is dealt with under different legislation, and as such, in planning terms, the ecological aspects of the proposal are considered to be acceptable.

Trees

3.47. The DDC tree officer has no objection subject to the use of standard conditions for tree protection and the submission of an arboricultural method statement. Accordingly, the development is considered to be acceptable in this regard.

3.48. Previously there has been concern about the loss of a highly regarded tree on the access road to the site. This tree is not protected under any order, although does benefit from protection due to being located in the conservation area. As such, it would be expected that this matter would be addressed within any construction management plan.

3.49. A high quality landscaping scheme would be sought through condition to accompany any permission.

Sustainability and conclusion

- 3.50. The three roles that planning must undertake in delivering sustainable development are its economic role, its social role and its environmental role. While the presumption in favour of sustainable development is not applied in the determination of this proposal, consideration against these three aspects, in light of the complex policy environment, is considered to be a pragmatic way of assessing the proposal.
- 3.51. **Economic.** The proposed development would deliver time limited benefits in terms of local construction work. It would also potentially deliver a small ongoing benefit in terms of new residents to the area, assuming that they have not moved within the district. There would be no adverse economic effects.
- 3.52. **Social.** The proposed development has the potential to deliver a small benefit in social terms, with new residents to the area. It would also represent a small benefit in terms of an additional dwelling to the Dover housing supply. There are unlikely to be any adverse social effects.
- 3.53. **Environmental.** The environmental impacts of the proposal are considered to be more balanced. The erection of the dwelling would alter the local landscape in that this prominent hillside would be developed further. However, this is considered to be balanced by the design of the proposal, which as assessed above, is considered to attract great weight for its quality. In adapting the original design from 2015 to take account of the specific harm that the Inspector identified on that occasion, the applicant has addressed the factors that meant design quality could not be afforded due recognition. In terms of the Core Strategy policies that protect the countryside and landscape character, for the reasons given above, it is considered that these have been complied with. There are also ecological considerations that must be factored in to the determination of this proposal, however, the appropriate assessment, as well as the submitted ecological report, also identify that development can proceed. It is worth noting that the majority of the land identified for development is currently occupied by a sterile tennis court for which there is no environmental benefit associated with its retention. Weight must also be given to the incorporation of sustainable technologies.
- 3.54. The development in effect, represents a small extension to the existing built form of St Margaret's Bay. Taking into account the context of the area, the permission of a dwelling at this location, based on the justification of its design quality, is not considered to be harmful. The land in question, while outside of settlement boundaries, is already domestic curtilage associated with the White House.
- 3.55. Based on the above considerations, the recommendation is to grant permission.

g) Recommendation

- I. Planning permission be GRANTED, subject to conditions, including: (1) Time (2) Drawings (3) Samples (4) Landscaping hard and soft, including means of enclosure and gates (5) Details of green walls and roof (6) Low reflective glazing (7) Concealed rainwater goods (8) Incorporation of sustainable technologies (9) Full details of lighting (10) Ecological mitigation and enhancement (11) Parking and turning area (12) Bicycle parking (13) Refuse storage (14) Tree protection (15) Arboricultural method statement (16) Levels/sections (17) Earthworks (18) Small-scale development (19) PD restrictions (schedule 2, part 1, classes A, B, C, D, E, F, G) (20) Construction management plan.
- II. That powers be delegated to the Head of Regeneration 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

Darren Bridgett