

- a) **DOV/19/00669 - Outline application for the erection of 34 dwellings and means of access with associated landscaping (appearance, landscaping, layout and scale reserved) – Land between Nos 107 and 127 Capel Street, Capel-le-Ferne**

Reason for report - Number of contrary views (100).

- b) **Summary of Recommendation**

Planning permission be granted subject to conditions and S106 agreement

- c) **Planning Policies and Guidance**

## Legislation

### Planning and Compulsory Purchase Act 2004

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise”

### Core Strategy Policies (2010)

CP1 - Settlement Hierarchy  
CP3 - Distribution of Housing Allocations  
CP4 - Housing Quality, Mix, Density and Design  
CP6 - Infrastructure  
DM1 - Settlement Boundaries  
DM5 - Provision of Affordable housing  
DM11 - Location of Development and Managing Travel Demand  
DM12 - Road Hierarchy and Development  
DM13 - Parking Provision  
DM15 - Protection of Countryside  
DM16 - Landscape Character  
DM17 - Groundwater Source Protection

### Land Allocations Local Plan (2015)

LA26 - Land between 107 & 127 Capel Street  
DM27 - Providing Open Space

### National Planning Policy Framework (NPPF) (2019)

Paragraph 2 states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 8 - Identifies the three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles.

Paragraph 11-12 - Presumption in favour of sustainable development for decision-taking. For decision taking this means approving development proposals that accord

with the development plan without delay unless adverse impacts significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.

Paragraph 38 - LPA's should approach decisions on proposed development in a positive and creative way and work pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision makers should seek to approve applications for sustainable development where possible.

Paragraph 59 – To support the Governments objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

Paragraph 78 – To promote sustainable development in rural areas, housing should be located where it will enhance the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.

Paragraph 108 – Applications for development should make appropriate opportunities to promote sustainable transport modes, provide that safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network in terms of capacity and congestion) or on highway safety can be mitigated.

Paragraph 109 - Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 117 – Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, whilst safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 122 – Planning policies and decisions should support development that makes efficient use of land, taking into account (amongst other considerations) the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and healthy places.

Paragraph 123 – Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site.

Paragraph 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.

Paragraph 127 – Planning decisions should ensure that developments:

- Will function well and add to the overall quality of the area, for the lifetime of the development;
- Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- 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);

- 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;
- Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and support local facilities and transport networks; and
- 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 the fear of crime does not undermine the quality of life.

Paragraph 128 – Design quality should be considered throughout the evolution and assessment of individual proposals. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably.

Paragraph 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, taking into account any local design standards.

Paragraph 148 – The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise, vulnerability and improve resilience; encourage the reuse of existing resources, support renewable and low carbon energy and associated infrastructure.

Paragraph 163 - When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.

Paragraph 170 - Planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, recognising the wider benefits of ecosystem services and minimise impacts on biodiversity and providing net gains in biodiversity. Recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services. Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 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 landscape and scenic beauty. The scale and extent of development within these designated areas should be limited.

Paragraph 175 - When determining planning applications, local planning authorities should apply the principles to conserve and enhance biodiversity and development proposals where the primary objective is to conserve or enhance biodiversity should be permitted, opportunities to incorporate biodiversity in and around developments should be encouraged and planning permission should be refused for development resulting in the significant loss or deterioration of irreplaceable habitats, including SSSI's, ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

Paragraph 177 – The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site, unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

Paragraph 178 - To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 180 – Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. This includes noise from new development and the need to avoid noise giving rise to significant adverse impacts on health and the quality of life, identify and protect tranquil areas prized for their recreational and amenity value and limit the impact of light and pollution for artificial light on local amenity, intrinsically dark landscapes and nature conservation.

DDC Affordable Housing and Addendum SPD (2011)

Kent Design Guide (2005)

Kent Downs AONB Management Plan (2014)

SD1 – Sustainable Development

LLC1 – Landform and Landscape Character

**d) Relevant Planning History**

There is an extensive planning history; the most recent and relevant are listed below:

DOV/01/00924 - Erection of stables and hay store - Granted

DOV/96/01006 - Erection of 23 No. 2, 3 & 4 bedroomed houses with garages and access road – Refused - Appeal Dismissed

DOV/96/00222 - Erection of 23 No. 2, 3 & 4 bedroomed houses with garages and access road - Refused

DOV/16/01316 - Outline planning permission for the erection of 10 flats in 2 no. blocks (6x1 bed and 4x2 bed); and 31 dwellings (10x2 bed, 15x3 bed and 6x4 bed); plus associated access and parking (with appearance, landscaping and scale reserved) – Refused – Appeal Dismissed

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

Infrastructure and Delivery Officer – A contribution of £1900 will be required towards the Sandwich and Pegwell Bay access mitigation strategy to address its increased use.

The proposed development will be located close to the existing recreation ground and play area on Lancaster Avenue, which is owned and managed by the Parish Council. The distance between the development site and the play area is a little over 300m or around 450m along existing roads, which falls within the 600m accessibility standard set out in DM27 of the Land Allocations Document. The evidence supporting our adopted open space standard for children's equipped play is presented in the 'Review of Play Area Provision 2012-2026'. It includes the following text:

- Developments that are located outside the catchment of existing play facilities may give rise to the need for new play facilities.
- In other cases it may be more appropriate to secure an off-site contribution via a planning agreement, to increase the capacity of existing provision.

Therefore, provided that access to the existing play area can be improved, it would not be necessary to provide equipped play on site. A suitably scaled contribution for play may be calculated as follows: according to the adopted open space standards the additional need for children's equipped play space is 0.006 ha. The average play area size in our district is 0.01 ha and the cost of creating a Local Area for Play and providing fifteen years of maintenance has been calculated as £42,520 which equates to a commuted sum of £32,330 presuming interest at 2%. So the need created by this development equates to around 60% of a play area, which would result in a contribution of £19,400. If we also considered the additional need arising for outdoor sport facilities that might increase the level of contribution required, although the recreation ground does not provide formal pitch provision. It is stated that multifunction open space will be provided on site. The only other category to consider is the additional need for allotment or community gardens.

DDC Ecologist – I have reviewed the suite of ecological survey reports submitted and accept their findings. They make recommendations for mitigation of impacts upon protected species including foraging bats and badgers to include:

- A bat sensitive lighting scheme, this should follow the Bat Conservation Trust and Institution of Lighting Professionals guidance.
- Working exclusion zones around active badger setts during development along with a suite of best practice procedures during the construction phase. The recommendation is for a 10-metre zone around each sett to be left undeveloped with badger proof fencing erected to the southern, eastern and northern sides of these setts. This fencing will need to be maintained throughout construction and post development and its' suggested that it is promoted as a wildlife area to new residents of this site. The importance of the wide hedgerow along the western boundary as commuting route is also highlighted and the recommendation is to maintain its current width.

The only recommendation for ecological enhancement is the development of new hedge-lines and herbaceous borders, within the planned development zone. To achieve biodiversity net gain as required by the NPPF 2019, I advise that the following are considered:

- Provision of hedgehog nesting boxes and 12cm square gaps under any new fencing to allow hedgehogs access onto all garden areas.
- Provision of ready-made bird boxes (mix of open-fronted and hole-nesting boxes)
- Integral Swift bricks or external boxes
- Provision of bat roosting spaces within the new buildings or installation of ready-made bat boxes.
- Provision of reptile/amphibian hibernacula (as stand alone or within new walls)
- Provision of log piles for invertebrates- stag beetles, reptiles and amphibians.

- Green walls
- Establish wildflower areas in addition to amenity grassland
- Integration of Sustainable Urban Drainage Systems
- Integration of green or grey roofs

#### Habitat Regulations Assessment

The current Thanet Coast Mitigation Strategy recognises the possible cumulative impacts of recreational pressure caused by developments within the whole of the Dover district. The conclusion that the distance of this development (20km) from the Thanet Coast & Sandwich Bay SPA/Ramsar is too great for the proposal to have any impact and reference is made to making financial contributions to the Thanet Coast Mitigation Strategy. Reference is also made to possible impacts upon Folkestone to Etchingill Escarpment SAC but its stated that the scale of the proposal will not affect protected species. The report makes no assessment of what the possible pressures might be. I would suggest that the only likely significant effect is recreational pressure, leading to erosion of the chalk grassland the notified feature. The applicants therefore should consider why use of the SAC by the new residents would not have an adverse effect upon its integrity.

DDC Environmental Health - No objection, subject to conditions relating to discovery of potential contamination and hours of construction.

DDC Strategic Housing – Across the Dover District there is a need and a demand for affordable rented properties of all sizes. In addition, there is a demand for homes to be made available for sale via Low Cost Home Ownership schemes such as shared ownership - in particular there is demand for 2 bedroom houses as starter homes. This development proposes 10 affordable homes, which is in line with DDC policy for a development of this size and type. Of these properties, 7 should be for affordable rent and 3 for shared ownership. In order to meet the demand for low cost home ownership starter homes, the shared ownership homes ideally should be 2 bedroom houses, and the affordable rented homes should be 5 x 3 bedroom houses and 2 x 2 bedroom houses.

KCC Highways and Transportation – Initial concerns were raised in respect of various highway matters which need to be addressed, such as, minimum carriageway width, proposed pedestrian crossing point, conflict with on street parking, shared service requirements, location of off-street car parking and required visibility splays. In addition traffic levels and demand and trip generation of development need to be clarified. A safety audit is also required for all the highway alterations in Capel Street, including any amendments.

Following amendments to the site layout and the submission of additional information KCC Highways have the following comments:

I refer to the amended plans and additional information submitted and confirm I now raise no objections in respect of highway matters. The site is allocated in the adopted Local Plan under policy LA26 for an estimated 40 dwellings and therefore the principle of development has been accepted. I also note the appeal Inspector's conclusion on the previous application DOV/16/01316 that the proposed similar access arrangements were satisfactory.

The proposals are likely to generate approximately 19 two-way vehicle movements in the morning and evening network peak hours. Whilst the existing level of traffic in Capel Street is generally of a low level, there is clearly a significant increase in traffic during drop-off and pick-up periods for the nearby school, with the associated parking demand and consequent narrowing of the road to single way working in the section near the school. There are some existing accesses which prevent parking and

therefore provide passing places/give way points but some of these are of insufficient length and make manoeuvring more difficult. Over time there may be a few places at the school taken by pupils in the new development, reducing the number of pupils being driven to the school from further afield and therefore the number of vehicle trips in Capel Street. However, the development is still likely to lead to an increase in vehicle movements overall, particularly in the combined morning peak hour/school drop-off period. As such the development proposals include improvement of passing places in the section of Capel Street near the school, to assist with the flow of traffic particularly during the morning peak period. These improvements take the form of parking restrictions in the following locations:

- i) Between (and encompassing) the accesses to numbers 82 and 84 Capel Street
  - ii) Across the accesses to numbers 96 and 98 Capel Street, but extended sufficiently to provide sufficient room for a car to readily manoeuvre in/out of the passing place.
- These add to existing passing areas to create adequate two-way flow and passing opportunities at regular intervals to accommodate the additional traffic from the development.

The site access arrangements include minor widening of Capel Street where necessary along the site frontage to enable vehicles to pass each other and the provision of a footway linking the site to the existing footway network in Capel Street, providing pedestrian access to the school, bus stops and the wider village. The access arrangements require parking restrictions to maintain appropriate visibility at the proposed pedestrian crossing point and site accesses in Capel Street. Whilst this may remove a small amount of on-street parking, some additional unallocated parking can be made available within the new site and the reallocation of some school places to children living on the new development should help to reduce the demand for on-street parking at school drop-off and pick-up times.

A Traffic Regulation Order (TRO) would be required for the parking restrictions and this can be made by Kent County Council as the highway authority. According to advice to Planning Inspectors TROs must be made for qualifying purposes including avoiding danger to persons or traffic and facilitating the passage of traffic, which clearly apply in this case. Traffic flow and highway safety should be the primary concerns in relation to introducing a prohibition of waiting rather than matters of inconvenience or change. Therefore, if KCC is satisfied that the TRO is required and is the correct form of mitigation then they are in a position to dismiss erroneous objections and make the Order. The TRO could therefore be reasonably secured through a planning condition or s.106 agreement, with the drawings which highlight the TRO also referred to as approved drawings in the decision notice.

All the proposed highway alterations have been subject to an independent safety audit and can be carried out by the developer through a s.278 agreement with the highway authority.

Construction traffic and timing/routing of the same, associated parking/turning areas and wheel washing facilities can be dealt with by condition through a Construction Management Plan.

Taking all of the above into account the proposals are unlikely to have a severe impact that would warrant a recommendation for refusal on highway grounds. Highway conditions should be secured. Whilst not currently a policy requirement, I would request that all curtilage parking spaces are fitted out to allow the charging of electric vehicles.

KCC Flooding and Waste Management - No objection subject to further testing to be undertaken prior to the design stage to ensure adequate cellular storage capacity and

conditions relating to further design details at reserved matters stage, a detailed SuDS scheme and its management and verification.

KCC - Economic Development – Financial contributions are requested from the developer for the enhanced provision and projects towards community services to include:

- Secondary Education
- Community Learning
- Social Care
- Libraries

These contributions total £145,053.68 to be secured through a Section 106 Legal Agreement as part of any submission. In addition, 1 Wheelchair Adaptable Home should form part of the social housing proposals and the provision of Fibre Optic Broadband across the site should be provided.

KCC Public Rights of Way Office - No comments to make.

Southern Water - No objection as they can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

Environment Agency - No objections and development should cause no significant risk to the environment if developed appropriately, subject to conditions including no infiltration and contamination safeguarding and informatives in respect of pollution prevention and waste control.

NHS South Kent Coast CCG – No healthcare contribution is being sought in respect of this development.

Kent Downs AONB Unit – No comments submitted

Kent Police Crime Prevention – No objections in principle subject to a condition for measures to minimise the risk to crime to be submitted and approved.

Kent Fire and Rescue – The means of access is considered satisfactory.

Capel-le-Ferne Parish Council - Objects to the application and cannot support for the following reasons:

One of the reasons given for dismissing the previous outline planning application was: the harmful environmental effect the works would have on the character and appearance of the street scene would outweigh the social and economic benefits of the proposed development. Whilst accepting this application has removed the blocks of flats, the site still appears to be overdeveloped and at odds with the street scene in this part of Capel-le-Ferne. An example of the density of development in this part of Capel-le-Ferne can be seen in Elizabeth Drive, which runs to the rear of Capel Street. This estate was built on a parcel of land that is of similar size to the Capel Street plot, but there are only 21 dwellings on this plot. By further reducing the density of development in this application, it would satisfy the concerns with the character and appearance of the street scene for this part of Capel, but also alleviate the concerns regarding traffic congestion in Capel Street.

The application claims the proposal will meet the social dimension of the sustainable development balance by contributing to meeting the need for affordable housing in the district. The proposal will deliver an affordable housing provision of 30% which is in

line with and Policy DM 5 of Dover's Adopted Core Strategy (2010). The affordable housing for this site will total 10 units, 5 x 2 bed and 5 x 3 bed units. It is difficult to understand how the 3 bed units will come under the affordable housing umbrella.

The responses to the 2019 Capel-le-Ferne Community Plan indicated that only 8% of Parishioner were between the age of 19 and 44, indicating that there was insufficient affordable housing for that age group. Capel-le-Ferne needs more 2 bed units and less 4 bed units.

Additional comments: continue to object to this application and submit further comments:

The Road Safety Audit - According to Para. 1.3, Capel Street appears to have reverted to a 30MPH speed limit. PLEASE NOTE this is a 20MPH ZONE LIMIT. Traffic exceeds this 20mph, with some drivers travelling more than 50% of the speed limit, as can be proved by Parish Council Speed Watch data over the last year. With a wider road and double yellow lines, i.e. no parked vehicles, this will lend Capel Street to become a much faster Street in the future, with the drivers who use this route now to/from Dover. The proposal of a new estate in this rural one lane location would increase the volume of traffic, adding to the likelihood of more vehicles speeding and spoiling the tranquillity of Capel-le-Ferne.

Parish Council do not understand the lining plan document, as this shows double yellow lines outside 84 and 98 Capel Street, both properties are on the Green Lane side of the School. Why is this being done?

The Masterplan has now been revised, reducing the number of driveways (crossovers) accessing directly onto Capel Street from 5 to 4. The Road Safety Audit raises concerns about these driveways (crossovers). The Audit states:

No details relating to the width of the vehicle crossovers serving the proposed residential units fronting Capel Street have been provided. The widths of the vehicle crossovers appear to be narrow and as a result there may be an increased risk of collisions between vehicles entering and exiting the access simultaneously. Although the driveway widths have been amended, to further reduce the risk of collision, the plans should be revised so that the houses fronting Capel Street have shared driveways that crossover onto the development access road and not Capel Street. Capel Street has several driveways and junctions already with blind exits. Drivers and residents using this Street have to exit these driveways and junctions with extreme caution, because of the speeding mentioned above. The proposal of a new estate in this rural one lane location would increase the volume of traffic, adding to the likelihood of "an accident waiting to happen".

Some residents and their visitors, have no driveways in Capel Street and rely on the "on-street parking". As is the same with school traffic at session times, parents need somewhere to park. Therefore, using the site for parking can only be a foreseeable problem for both residents of the site and likewise the parents.

Third Party Representations - A total of 103 representations have been received with 100 objecting, 2 neutral comments and 1 letter of support. The following is a summary of the objections received:

- Capel street is unsafe as existing with no footpaths, increased use will only make the road more unsafe for everyone
- Road not wide enough for extra traffic
- Cumulative impact of development on village, existing village will be compromised

- Parked cars obscure visibility
- Traffic generation and lack of nearby road capacity
- Adverse and increased impact on highway safety
- Driveways are already blocked by parked cars
- Parts of the highway are on private land
- Car parking falling below car parking standards and not sufficient for the proposed development
- Insufficient car parking resulting in on street car parking pressure
- Change character of whole village, community and tranquillity
- Urbanisation of Capel, affect local character of village
- Pressure on local services
- Mud on the road
- Lack of facilities and amenities in village to accommodate proposal
- Overdevelopment of site, too many dwellings and too many for Capel
- Inappropriate ribbon development
- The highway works proposed will make the use of Capel Street even more complicated, unworkable and push school parking outwards affecting more residents
- The road safety audit is inaccurate and out of date
- There will be nowhere for existing residents to park due to the proposed highway works
- Housing should not be in the village
- The need to retain the front boundary hedge is being ignored
- Further removal of countryside and wildlife
- Creating sprawl not infilling
- The development will affect the wellbeing of the whole community
- Development needs to be scaled down
- Adverse impact on AONB and view of it
- No more development is necessary in Capel
- Transport report submitted is 2 years out of date and re-use of the same supporting documents
- Development of the site was dismissed by an Inspector due to being harmful to the environment, effect on local character and street scene
- Too close to a school
- Dwellings proposed inappropriate
- Proposal overbearing out of scale and character with the area
- Surrounding area mostly bungalows
- Pedestrian crossing is sited in the wrong place
- Capel needs shops and facilities not housing
- This is not a sustainable development
- Lack of 'soft edge' to development as proposed in LA26
- Adverse impact on local wildlife on site, due to loss of hedge and habitats which should be protected
- The site is totally unsuitable for the proposed development.
- Insufficient drainage
- Removal of the hedge should not even be considered
- This is a rural village not an urban area where you would expect to see double yellow lines
- The submitted reports are unreliable and inaccurate
- Increased flood risk and drainage will not be sufficiently addressed
- Social housing is required in Capel not market housing
- Light pollution
- Increase in air and noise pollution and crime
- Landscape buffer zone inadequate

- Adverse impact on internet speed
- This greenspace should be protected
- Lead to overlooking and loss of privacy and loss of outlook which is unacceptable
- Construction period will be chaos for local residents
- No consultation of village
- Why should the village be changes forever for profit
- Capel Street is largely single lane and not enough room for vehicles to pass
- Highway safety is already a serious issue in Capel Street which is regularly blocked and access restricted by parked cars, road safety will only get worse
- There is no footpaths and the road can't be widened it is already unsafe for pedestrians including school/nursery children.
- Road is already unsafe and dangerous for everyone, it is only a country lane
- Overdevelopment of the site
- Proposed off-site parking bays are on private land
- Increased double yellow lines increases pressure elsewhere and are ignored and not enforced
- Road is inadequate to serve the development or construction vehicles
- Up to 18 parked vehicles will be displaced, where are these residents supposed to park their cars, this will cause more problems and is not a solution
- Widening of road will increase speeding further, which is already a problem
- Speed bumps are required
- Not the right site for development
- All hedgerows should be retained, birds use the hedge, it should not be removed and this is contrary to policy LA 26 that requires its protection
- Existing utilities can't cope, more development will make things worse
- Any development should only be adjacent to the main roads
- The site is not close enough to a bus stop to be acceptable
- The hedgerow to be removed is an ancient hedgerow and should be retained
- Local residents don't want double yellow lines
- Parents dropping children off for the school ignore all existing measures the proposed double yellow lines will not work, no-one will enforce the measures
- The need for more housing ignores the views of the local population
- Capel street is a rat run and the speed limit of 20mph is completely ignored, this will only get worse
- Residents views are not being taken seriously

The letter of support identified the need for new houses and affordable housing allowing people to stay in the village.

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

- 1.1 The site is located on the northern side of Capel Street and is extensively screened by hedgerow to all boundaries. To the west is the Kent Downs AONB with views of the site possible along Cauldham Lane where there are gaps in the hedgerow and from Green Lane which is a Public Right of Way between Capel Street and Cauldham Lane. Capel Street and the surrounding streets are predominantly residential with a mix of one and two storey detached and semi-detached housing of varying architectural styles.
- 1.2 The northern boundary adjoins a two storey semi-detached residential property and garden, to the south is a single storey detached dwelling on Capel Street and further rear gardens serving properties on Green Lane adjoining the southern boundary, opposite the site are a mixture of two storey properties. The site is currently undeveloped and used as horse paddock and occupies an area of 1.51 hectares. It is with Flood Zone 1 and Groundwater Source Protection Zone 3

- 1.3 The site lies within the settlement boundary with residential development to both the northern and southern boundaries. It is a designated housing allocation site under the Local Plan Land Allocations Policy LA26 subject to certain criteria and in effect infills this gap in the defined settlement.

#### The Proposal

- 1.4 The proposed development is a resubmission of a previous proposal that was refused at planning committee and subsequently dismissed at appeal (Ref: DOV/16/01316). This application is in outline form and includes details of the means of access and parking with appearance, layout, landscaping and scale reserved for future consideration in a reserved matters application. However detailed indicative plans have been submitted in this regard that show the proposed layout and typical housing designs along key sections. The proposal is for the erection of 34 dwellings including an indicative mix of 10 affordable units which is a 30% provision of affordable housing and overall 8 x 2 bed, 16 x 3 bed houses and 10 x 4 bed houses.
- 1.5 The indicative plans submitted provide an indication of the expected form, scale and layout of the proposed development. The indicative site layout includes the layout of the roads which comprises a main access road with two smaller sections extending off to form two cul-de-sacs formed around two courtyards with a central turning area. In addition to this four separate vehicular access points are proposed from Capel Street to serve 1-2 dwellings fronting Capel Street. The main access/junction into the site is in a similar location to the previous proposal but is more rural in character and form. Off-street car parking is available for all the dwellings in the form of drives and dedicated car parking spaces.
- 1.6 The indicative layout and design of the units provides an eclectic mix of design form and size. A number of the units are shown to be bungalows and single storey this includes some of the units along the Capel Street frontage which include both detached and semi-detached units with varying roof forms and scales. These are sited behind a new boundary hedgerow with a new public footpath extending along the site frontage. The existing hedgerow to the western boundary will therefore be removed and replaced to allow a new footpath to be created. Overall the proposed dwellings are predominantly a maximum of two storeys in height. The siting of the units has been set back along the western boundary of the site to ensure the western landscaped 'buffer' (previously proposed) is retained and enhanced to reduce the visual impact on the adjacent AONB. Substantial new tree and hedge planting and associated landscaping is proposed throughout the development and along the principle access roads. The boundary landscaping to the northern and southern boundaries is to be retained and enhanced to provide a landscaped buffer to all boundaries.
- 1.7 The proposals also include off-site highway works which involve the provision of a stretch of public footpath along the eastern side of Capel Street and the provision of double yellow lines in front and near the site and at two further sections on Capel Street. The proposals also include the widening of Capel Street to 5.5m close to the site's main access and a new footpath along the length of the site frontage.
- 1.8 The following documents have been submitted in support of the application:
- Design & Access Statement
  - Planning Statement
  - Tree Report
  - Transport Statement

- Stage 1 Road Safety Audit
- Drainage Report
- Habitats Regulation Assessment
- Statement on Surface Water Drainage Works
- Phase 1 Ecological Survey
- Reptile, Bat and Badger Surveys
- Flood Risk Assessment
- Statement of Community Involvement
- Construction Management Plan
- Infrastructure/Utilities Statement

1.9 An amendment to the indicative layout has been submitted that has reduced the number of points of vehicular access from six in total to five. There has also been a minor reduction of the level of hard surfacing across the site layout (although this still appears to be quite high). The proposed off-site highway works were also submitted at a later date which set out the proposed double yellow lines, restrictions to car parking and additional footpath works. The amended site layout and additional information have been subject to re-consultation.

## 2. **Main Issues**

2.1 The main issues to consider are:

- Principle of Development
- Impact on the AONB and Visual and Rural Amenity
- Affordable Housing and Dwelling Mix
- Impact on Residential Amenity
- Highways Issues
- Appropriate Assessment
- Ecology
- Drainage and Flooding
- Planning Contributions
- Other Material Considerations

### **Assessment**

#### **Principle of Development**

2.2 The application site lies within the settlement confines of Capel-le-Ferne, a Local Centre as identified in Policy CP1 of the Core Strategy, where development suitable for the scale that reinforces its role as a provider of services to local communities is appropriate. It is a site allocated for housing development under Policy LA26 of the Land Allocations Local Plan. The proposal is therefore considered to be in accordance with Policy DM1 and CP1 of the Core Strategy, as it is within the settlement boundaries. The principle of residential development on the site is therefore established by the adopted development plan which allocates the site for housing.

2.3 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in the plan, unless material considerations indicate otherwise.

2.4 Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally

requires a rural location or is ancillary to existing development or uses. The site is located within the defined settlement confines and is supported by other development plan policies (LA 26) and is ancillary to existing development or uses. As such, the application is in line with Policy DM1.

- 2.5 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. The site is located within the settlement confines. It is considered that the occupants of the development could access necessary day to day facilities and services. The development is justified by other development plan policies -LA 26 and as such, the development is in accordance with Policy DM11.
- 2.6 Policy DM15 requires that applications which result in the loss of countryside, or adversely affects the character or appearance of the countryside, will only be permitted if it meets one of the exceptions. The development would not result in the loss of countryside, as the site is within the confines of Capel. It is considered that the development would have only a limited impact on the adjoining character and appearance of the countryside which is further mitigated by the proposed landscaping and form of the development.
- 2.7 For the above reasons, the development is in accordance with policies DM1, DM11 and DM15 of the Core Strategy.
- 2.8 However, notwithstanding the primacy of the development plan, paragraph 11 of the NPPF states that where the policies which are most important for determining the application are out of date (including where the LPA cannot demonstrate a five year housing land supply or where the LPA has 'failed' the Housing Delivery Test), permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole (known as the 'tilted balance') or where specific policies in the NPPF indicate that development should be restricted.
- 2.9 Having regard for the most recent Annual Monitoring Report 2018/9, the Council is currently able to demonstrate a five-year supply and the Council have not 'failed' the Housing Delivery Test. It is considered that the policies which are most important for determining the application are DM1, DM1, DM15 and LA26.
- 2.10 The current Core Strategy policies and the settlement confines referred to within the policies were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver 629 dwellings per annum. As a matter of judgement it is considered that some policies in the Core Strategy are in tension with the NPPF, are out-of-date and as a result, should carry only limited weight.
- 2.11 Whilst it is considered that policy LA 26 is not out of date, policies DM11 and DM15 are not out-of-date, although they are in tension with the NPPF and DM1 is out of date. Nevertheless, policy LA 26 is considered to be the critical policy for the determination of the principle of the development and therefore the 'tilted balance' is not engaged. In addition an assessment as to whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the development will be made at the end of this report.
- 2.12 Policy LA26 of the Land Allocation Local Plan (2015) is considered, as identified above, to be up to date and provides for housing development on the site of up to 40 dwellings, to include a mix of housing types and densities with substantial landscaped boundaries and a lower density development on the western section. It sets out 9 criteria which development of the site would need to comply with which

are:

- I. The design and layout should incorporate frontage development with adequate parking arrangements;
- II. The existing boundary hedgerows and vegetation to the west are retained;
- III. A landscape buffer is provided along the western boundary to reduce the impact on the AONB;
- IV. Development proposals are sensitively designed in terms of height and massing in order to ensure the development does not have an adverse impact on the AONB and countryside;
- V. Footway connections are provided within the site and new footway provision is facilitated on KCC highway land on the eastern side of Capel Street to provide pedestrian connectivity to the primary school and beyond;
- VI. A financial contribution is secured to mitigate the impact on the Thanet Coast and Sandwich Bay SPA;
- VII. Development should provide a connection to the sewerage system at the nearest point of adequate capacity and ensure future access to the existing sewerage and water supply infrastructure for maintenance and upsizing purposes;
- VIII. If street lighting is required this should be designed to minimise the impact of light pollution and conserve the dark night skies of the AONB; and
- IX. Vehicular access is achieved onto Capel Street which is designed to minimise the loss of the existing hedgerow.

2.13 As this is a criteria based policy it is important that any development proposal addresses as many of the criteria set out above. In addition to these site specific criteria, the development must be acceptable in all other material aspects. The proposed development, although only in outline form at this stage, where details are indicative, appears to appropriately address most of these criteria, which shall be discussed in more detail later in this report. It therefore largely accords with Policy LA26 and is considered an acceptable form of development on this site. The proposal is therefore largely in accordance with relevant development plan policies, being an allocated housing site, as well as the NPPF Framework and is acceptable in principle.

2.14 It should be noted that an earlier outline planning application for 41 units ref: DOV/16/01316 was refused at Planning Committee in September 2017 on the grounds of the effect on the character and appearance of the street scene and the impact on the landscape and scenic beauty of the AONB. This decision was appealed (ref: APP/X2220/W/18/3196016) and the appeal was dismissed in June 2018. The Inspector accepted that the impact on the AONB was acceptable but found the proposed layout to be harmful to the character and appearance of the street scene. It is considered that due to the revised proposal, layout and reduction in the number of the proposed units the development now proposed has addressed the concerns regarding the impact on the character and appearance of the street scene. This position shall be discussed in more detail later in the report.

#### Impact on the AONB and Visual and Rural Amenity

2.15 In terms of the impact on the wider landscape policies DM15 and DM16 of the Core Strategy are most relevant. Policy DM15 relates to the protection of the countryside and states that development that would result in the loss of, or adversely affect the character or appearance, of the countryside will only be permitted if it is in accordance with allocations made in Development Plan Documents or the development justifies a rural location. Although not situated in the countryside, an assessment of the proposals impact on the character and appearance of the adjoining countryside is required.

- 2.16 Policy DM16 relates to landscape character and 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 mitigation measures to mitigate the impacts to an acceptable level.
- 2.17 The site is not situated within one of the defined landscape character areas but consideration of the impact on the existing landscape and its character is necessary to ensure the proposed development does not affect the character of the wider landscape.
- 2.18 The application site also adjoins the Kent Downs AONB on its western boundary and to the north. The proximity of the site immediately adjacent to the AONB and the scale and nature of the application proposal is such that development of the site could affect the AONB, by virtue of impact on its setting. The setting of the AONB and its importance is recognised in the Kent Downs AONB Management Plan and policies SD1 and LLC1 of the plan are the most relevant. The Plan advises that the weight to be afforded to setting issues will depend on the significance of the impact with matters such as the size of the proposals, their distance and incompatibility with their surroundings likely to affect impact. Paragraph 172 of the NPPF is also relevant in this regard and seeks to protect the landscape and scenic beauty of the AONB. Consequently, the impact on the setting of the AONB, countryside and landscape adjacent to the site need to be considered, along with paragraph 170 of the NPPF that relates to the need to enhance the natural and local environment, ecology, biodiversity and the importance of the intrinsic character and beauty of the countryside.
- 2.19 Policy LA26 also has a number of requirements in respect of minimising the impact on the character and setting of the AONB, the surrounding countryside and landscape. This includes the retention of boundary hedgerows, a landscaped buffer along the western boundary and the sensitive consideration of the height, massing and street lighting of any proposals. These requirements are to ensure that the impact on the AONB and landscape character is minimised and protected by any development proposal. Consideration and an assessment of the requirements of the Kent Downs AONB Management Plan were taken into account in the allocation of this site. The policy allocation therefore seeks to address any impact through the setting of the relevant criteria and ensuring the mass and height of the proposed buildings are minimised and landscaping provides the appropriate screening.
- 2.20 The proposal incorporates substantial landscape buffers to the western, northern and southern boundaries of the site, especially along the western boundary where further enhancement through tree planting is proposed, (along with development set back along this boundary). Although landscaping is reserved for future consideration it is necessary to ensure at this stage that the landscape 'buffers' would incorporate both native planting and biodiversity gains appropriate to the landscape character and site. The proposed landscaped buffers, at this stage, more an adequately address the need for landscape screening on site and accord with the requirements of Policy LA26 with any impact mitigated on the setting of the AONB, wider landscape and adjoining countryside. The protection of this proposed landscaping would, however, need to be controlled through appropriate conditions to ensure such measures are carried through to the reserved matters stage.

- 2.21 The massing of the development, as shown on the indicative site layout, has also been significantly set back from the western side of the site and particularly along the western boundary which reduces the visual impact on the adjacent AONB, countryside and landscape. The indicative layout and limited massing of the overall development accords with the need for the sensitive treatment of the development site, as identified in Policy LA26. The indicative layout therefore confirms that the development of this site can be appropriately sited in this regard and can mitigate the impact on the landscape and countryside.
- 2.22 In terms of the height of the proposed dwellings these are to be two storeys in height with some of the proposed buildings indicated as being single storey bungalows, including along the Capel Street frontage. The previous proposal ref: DOV/16/01316 that was refused by Members and dismissed at appeal proposed up to 3 storey development, in the form of a block of flats that raised concerns regarding the visual impact on the landscape and the impact on the setting of the AONB. The Planning Inspector nevertheless found the impact on the landscape and setting of the AONB to be acceptable. All flats and three storey elements have now been removed from the scheme and the reduced number of units 34 instead of 41, (as originally proposed) spreads built development more evenly across the site and provides a high level of landscaping. The maximum height of the proposed dwellings is to be up to two storey and therefore addresses this aspect. Nevertheless, it is still considered necessary to require proposed ground levels, sections through the site/buildings and details of the finished heights of the proposed buildings above ground as a condition. This is to ensure that the resultant height of the proposed dwellings is appropriate to its context and acceptable in terms of visual amenity.
- 2.23 In policy LA 26 it identifies that development should incorporate frontage development with adequate parking and footpath arrangements and the retention of the existing boundary hedge. However this proposal involves the removal and replacement of the existing hedgerow along the site frontage. This is to enable a public footpath along the roadside in front of a replacement hedge to form the garden boundaries. Along the Capel Street frontage, 11 detached and semi-detached dwellings are proposed, set back from the boundary with Capel Street with 4 joint vehicular access points in addition to the main access into the rest of the site. The previous proposal retained the hedge, although there was some loss due to the proposed access and related visibility splays and provided a public footpath behind the hedge line to the north of the proposed access and along the frontage to the south of the access with hedge planting reinstated behind. Although the former scheme retained a greater proportion of the existing hedge along Capel Street, it provided a footpath behind the hedge that restricted its use by all. This proposal although not seeking to retain the hedge frontage along Capel Street, is intending a replacement hedge along the frontage which in the long term will result in a greater proportion of hedgerow than the previous scheme, due to the set back offsetting the need for wider visibility splays at the road side.
- 2.24 At street scene level the indicative designs and layout proposed provide a more rural character to the development than the previous application and the varied house design, form and scale are more respectful of the existing eclectic character within Capel, (rather than a standard housing estate design), that also includes bungalows and individually designed units. This is more appropriate for Capel and would reflect existing building materials and design details. Although this aspect is to be addressed at a later Reserved Matters application, it has been shown that the previous concerns raised by Members and the Planning Inspector can and have been addressed in the revised proposals. The key reason for the Planning Inspector's dismissal of the appeal was the regular form, appearance and footprint

of the proposed dwellings which were a standard size and layout resulting in a development that would be out of keeping in the varied character of the existing street scene. The application provides a great variety of units, of differing forms and designs, which although indicative, is more appropriate within the street scene and is therefore considered to be acceptable on this allocated housing site.

- 2.25 As such, it is considered that the relevant requirements of LA26 have largely been observed (albeit the loss of the boundary hedge along Capel Street and the reduced number of units allocated on the site), which state that “development should be sensitively designed in terms of height and massing in order to ensure the development does not have an adverse impact on the AONB and countryside”. It should be borne in mind that the layout and design plans are indicative and careful consideration will need be given to the detailed layout submitted as part of any reserved matters proposals to ensure suitability of spatial layout arrangements. It is therefore considered that the scheme does not give rise to any adverse impacts on the visual amenity of the site and immediate surrounding area, nor does it fail to conserve and enhance the natural beauty and special character of the adjoining AONB. As such the proposal is in accordance with Policies DM15 and DM16 of the Core Strategy, policy LA 26 of the LALP, paragraphs 170 and 172 of the NPPF and the policies of the Kent Downs AONB Management Plan.

#### Affordable Housing and Dwelling Mix

- 2.26 Core Strategy Policy DM5 and the adopted SPD require that for schemes of this scale, the Council should seek an on-site provision of 30% affordable housing. The applicant is proposing to provide the required 30% affordable housing, which amount to 10 dwellings. The affordable units should be designed and positioned in small clusters and be tenure blind. The Council would seek 70% (7) of the affordable units to be provided as affordable rented homes with the balance provided as shared ownership units (3). It is considered that, subject to being secured through a condition, which would require further details of the provision and tenure, the development could accord with Policy DM5 of the Core Strategy and the Affordable Housing SPD. Further details of the affordable housing provision would be considered at the Reserved Matters stage, subject to viability and design considerations. The proposal therefore responds to the need for affordable housing through the provision of policy compliant affordable housing proportion for local people with 50% of this housing being 2 bedroom units that also satisfies Capel Parish Council’s concerns in this regard.
- 2.27 The latest Strategic Housing Market Assessment (SHMA) identifies the broad split of demand for market housing to meet the prioritised needs of the district. Whilst these recommended proportions should inform the housing mix, they are not rigid. At this outline stage indicative details of the dwellings have been provided and indicate the proposed housing mix of 8 x 2 bed units; 16 x 3 bed units and 10 x 4 bed units. This provision would be considered in line with the needs identified in the SHMA.
- 2.28 Policy CP4 of the Core Strategy requires applications for residential development for 10 or more dwellings to identify the purpose of the development in terms of creating, reinforcing or restoring the local housing market in which it is located and develop an appropriate housing mix and design, taking into account the guidance from the SHMA. It also identifies the need to create landmarks, foreground and background buildings, vistas and focal points in the layout of sites. It is noted that some of these aspects have been considered in the supporting documents. The policy also identifies a need to provide an appropriate density for development sites which will be design led and determined through the design process at the maximum level consistent with the site. Policy CP4 guidance is for a density

wherever possible to exceed 40 dwellings net per hectare and will seldom be justified at less than 30 dwellings per hectare. The proposed development proposes a net density of 33.8 dwellings per hectare which is at the lower end of the density level required under CP4. It should also be noted that policy LA 26 required 40 dwellings on the site, therefore the density of the development is below that expected on this site but is considered more appropriate in relation to the character of the Capel. At the local level the mix and indicative design of the units is considered appropriate for this edge of village location and largely complies with the relevant policies identified.

#### Residential Amenity

- 2.29 The proposed development in outline form reserves the appearance, layout, landscaping and scale of the development. However, the indicative site layout identifies all the proposed dwellings are but set well back from Capel Street boundary and all other adjoining boundaries. The closest existing properties along Capel Street are to the north and south, although proposed built development is sited a good distance from the respective boundaries and is unlikely to affect their residential amenity. Accordingly, it is unlikely that any adverse impacts with regard to privacy and overlooking, loss of outlook or overshadowing are anticipated on existing properties. Therefore the juxtaposition of the proposed units suggests that no adverse amenity issues.
- 2.30 The precise location of the proposed dwellings is unknown at this stage, however, the proposed access roads have been submitted in full and indicative plans submitted show the layout of dwellings at this stage. The final layout, will be the subject of an application for reserved matters, but will be likely to closely align with the layout shown on the indicative plan. The plans submitted demonstrate that the proposed development can be accommodated in a manner which would ensure that reasonable separation distances between properties and reasonable a standard of accommodation can be achieved. Given the location of the site and the substantial separation distances to other properties, it is not considered that the living conditions of any properties would be directly harmed by the development, but a detailed assessment would form part of any reserved matters application.
- 2.31 Whilst the living conditions of the proposed new build dwellings cannot be established at this stage, the size of the site and the density of the development are more than sufficient to demonstrate that the proposed dwellings could be accommodated in a manner which would ensure a high standard of accommodation, particularly when regard is had for the indicative layout. It is considered that the living conditions of occupants of the dwellings would be likely to be acceptable.

#### Highway Impacts

- 2.32 The relevant Core Strategy policy is DM11 and to a lesser degree policies DM12 and DM13. DM11 requires planning applications for development that would increase travel demand should be supported by a systematic assessment to quantify the amount and type of travel likely to be generated and include measures that satisfy demand to maximize walking, cycling and the use of public transport. Development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- 2.33 Policy DM12 requires that developments that would involve the construction of a

new access onto a trunk or primary road will not be permitted if there would be a significant increase in the risk of crashes or traffic delays unless the proposals can incorporate measures that provide sufficient mitigation. Whilst policy DM13 requires that development provides a level of car and cycle parking which balances the characteristics of the site, the locality, the nature of the proposed development and design objectives.

- 2.34 Full details of the means of access are submitted under this application and include a 4.8m wide access road to serve the site from Capel Street, along with four joint points of access to serve 10 dwellings off Capel Street. The access road would lead on to two clusters of dwellings within courtyards. Although only an indicative layout, 75 car parking spaces are proposed throughout the development, which exceeds KCC requirements and provides 7 visitor spaces to assist in the school peak periods. The proposed works also include the widening of the southern section of Capel Street to 5.5m, the provision of a public footpath along the site frontage, that will enhance pedestrian safety, a new footpath on the eastern side of Capel Street to link up with the existing public footpath network and the provision of double yellow lines in front of the southern section of the site and extending south up to the boundary of No. 114 Capel Street.
- 2.35 KCC Highways initially raised concerns in respect of the proposal as various matters needed to be considered further and addressed, such as the minimum carriageway width, proposed pedestrian crossing point, resolution of conflicts with on-street parking, location of off-street car parking and required visibility splays. In addition, a safety audit was also required for all the proposed highway alterations in Capel Street. In response to these concerns, additional highway work details and a road safety audit were submitted. These documents proposed the works required to the adopted highway on Capel Street and have been the subject of re-consultation. This includes the addition of double yellow lines on Capel Street, including two sections further along Capel Street to enable suitable passing places.
- 2.36 The proposed development is likely to generate approximately 19 two-way vehicle movements in the morning and evening peak hours; however, there is clearly a significant increase in traffic during drop-off and pick-up periods for the nearby school, with the associated parking demand and consequent narrowing of the road to single way working in the section near the school. Although some passing places are available these are short in length and make manoeuvring difficult. Therefore, the development proposals include the improvement of sections of Capel Street to assist with the flow of traffic. These improvements take the form of additional parking restrictions between (and encompassing) the accesses to numbers 82 and 84 Capel Street and across the accesses to numbers 96 and 98 Capel Street, but extended to provide sufficient room for a car to manoeuvre in/out of the passing place. These add to existing passing areas to create adequate two-way flow and passing opportunities at regular intervals to accommodate the additional traffic from the development.
- 2.37 The site access arrangements also include minor widening of Capel Street along the site frontage to enable vehicles to pass each other and the provision of a footway linking the site to the existing footway network in Capel Street, providing pedestrian access to the school, bus stops and the wider village. The access arrangements require parking restrictions to maintain appropriate visibility at the proposed pedestrian crossing point and site access. Whilst this may remove a small amount of on-street parking, 7 additional unallocated parking spaces are to be made available within the application site to ease this pressure which would also provide public footways to the school and a crossing to improve pedestrian safety.

- 2.38 KCC Highways have advised of the acceptability of these highway proposals and that a Traffic Regulation Order (TRO) would be required for the proposed parking restrictions on Capel Street. TROs must be made for qualifying purposes including avoiding danger to persons or traffic and facilitating the passage of traffic, which applies in this case and could be secured through a planning condition. In addition, all the proposed highway alterations have been subject to an independent safety audit and can be carried out by the developer through a s278 agreement with the Highway Authority.
- 2.39 The proposed highway layout and associated parking arrangements for the new dwellings are therefore acceptable and are in accordance with current guidance, including exceeding parking standards. KCC Highways has confirmed that the off-site passing bays and road works proposed will be on the public highway and not on private land. Adequate access and turning facilities are also available for all of the proposed dwellings, refuse and emergency vehicles with a reduced need to park on-street and in particular Capel Street. If the application were to be granted conditions could be attached to ensure that the effects of the development would be sufficiently mitigated so as not to cause undue harm to the local highway network. In addition, a condition can require full details to be submitted for the off-site highway works, comprising the provision of footpaths and the TRO's required. A Construction Management Plan would deal with other matters such as associated parking/turning areas for construction vehicles and wheel washing facilities.
- 2.40 Significant concerns have been raised by third parties that the development would significantly and detrimentally increase and impact on traffic and the local highway which is identified as already struggling to cope with existing levels of traffic locally. A strong level of concern is also raised over the narrowness of Capel Street which causes significant local concern. It is however considered that with appropriate conditions and controls in place these concerns would to a sufficient degree, be addressed. On balance, it is not considered that the proposal would not result in a severe highway impact and would therefore accord with the aims and objectives of paragraph 109 of the NPPF as well as local standards and planning policies.

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

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

2.44 *For proposed housing developments in excess of 14 dwellings (such as this application) the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy requires the applicant to contribute to the Strategy in accordance to a published schedule. This mitigation comprises several elements, including the monitoring of residential visitor number and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education). Natural England has been consulted on this appropriate assessment and concludes the assessment is sound.*

2.45 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed. A contribution of £1990 is therefore sought to this effect.

#### Ecology

2.46 In furtherance to the impacts on the off-site Thanet Coast and Sandwich Bay, Ramsar/ SPA, regard must be had for whether the development would cause any harm to habitats or species on or adjacent to the application site, in accordance with paragraphs 170, 175 and 177 of the NPPF. In addition, regard must be had for Natural England's Standing Advice. The application was supported by a Phase 1 Ecological Survey which considers both the flora and fauna of the site and in addition reptile, bat and badger surveys.

2.47 The site is grassland and grazed horse pasture of low ecological significance. The mixed hedgerow around the boundaries of the site provide botanical interest at a local level and should be retained where possible. The hedge lines provide nesting and foraging areas for birds, reptiles and bats and there is an active badger sett on site, to the north western corner. Badgers and their setts are protected by the Protection of Badgers Act 1992. Therefore, a specific badger survey is required which can then inform the proposed development, in order to comply with ODPM Circular 06/2005 (para. 99).

2.48 The species surveys have identified the potential for low reptile populations on site, the use of the site by two types of bats for foraging and commuting and the active use of the site by badgers. There is therefore potential for a detrimental impact on protected species, however, the submitted species surveys recommend a series of mitigation measures, to ensure that the impacts on these protected species and biodiversity generally are minimised and enhanced and such measures can be controlled by suitable conditions. The Councils Ecologist has confirmed that the findings of the submitted ecological appraisals are accepted and subject to the implementation of the full mitigation measures identified and additional measures to encourage and enhance biodiversity across the site; there is no ecological constraint to development. All of these measures can be addressed through planning conditions.

2.49 In addition, the site has potential for hedgehog and, as such, precautionary safeguards for these species and improvements to their habitats have been recommended. In respect of birds using the site, these may be nesting on site and safeguards can be put in place that include construction work outside of the bird breeding season and under ecological supervision. Such safeguards have been recommended and these could be conditioned.

- 2.50 In respect of existing trees on the site these have been surveyed and a Tree Report submitted. The majority of tree cover is associated with the line of the mixed hedgerows to all boundaries. A small proportion of low category trees and some hedgerow is proposed to be removed to facilitate access to the site and the new public footpath along Capel Street. However, it is proposed to replant the hedgerow along Capel Street and includes a significant level of tree planting and landscaping across the site, along with reinstating gaps in hedgerows with appropriate species. Therefore, although there will be a loss of the hedgerow along the eastern boundary this is not significant to the wider area ecologically and the replacement hedge planting will ensure the impact on the street scene is minimised. To minimise the impact on the trees and hedges to be retained, the necessary protection measures required can be controlled by conditions.
- 2.51 The proposed layout allows the existing hedgerows to the north, south and western boundaries to be retained and additional planting to allow deeper landscaped areas where new trees can be planted. On the western site boundary the enhanced hedgerow depth and the new trees will provide a landscape 'buffer' between the site and the AONB to the west. New planting will consist of a mix of native species which could be controlled by suitable conditions. Overall the proposals are acceptable in respect of the protection of ecology and protected species, landscape designations and conservation and enhancement of biodiversity which are considered to comply with the aims and objectives identified through the NPPF and the Kent Downs AONB Management Plan.

#### Drainage and Flooding

- 2.52 The site lies within Flood Risk Zone 1, where there is the lowest risk of flooding. However, given the size of the site, it is appropriate to consider whether the development would be likely to lead to localised on or off-site flooding. The NPPF, paragraph 163, states that local planning authorities should ensure that flooding is not increased elsewhere and priority should be given to the use of sustainable drainage systems. In furtherance to this, the Planning Practice Guidance states that sustainable drainage systems should be designed to control surface water run-off close to where it falls and replicate natural drainage as closely as possible.
- 2.53 A Drainage report and FRA have been submitted in support of the application which confirms that infiltration drainage is suitable on this site. It is proposed to deal with all surface water and run-off by 4 deep bore soakaways into the subsoil below so that there will be no increase in run-off from the site as a result of the proposed development. There will also be an underground tank for each soakaway of between 50 and 200 cubic metres to allow storage capacity for storm water.
- 2.54 This method of surface water disposal is considered acceptable for this site with the Environment Agency and KCC raising no objection but advising of appropriate conditions to ensure the protection of the groundwater quality in respect of pollution prevention and waste. KCC Flood and Water Management are the Lead Local Flood Authority and have also raised no objection subject to conditions relating to further testing and final details in respect of the surface water drainage measures and management and verification of the approved scheme. The proposed drainage measures for this outline proposal are therefore considered acceptable at this stage, subject to conditions, further testing and details that could also be considered at a Reserved Matters stage.
- 2.55 Southern Water supplies foul waste at this location and they have raised no objection as they can provide foul sewage disposal capacity for the proposed development. They advise that they would require a formal application for a

connection to the public sewer to be made by the applicant or developer. The proposal is therefore acceptable in this regard.

### Planning Contributions

- 2.56 The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (CIL Regulations) require that requests for development contributions of various kinds must comply with three specific legal tests, being necessary, related to the development, and reasonably related in scale and kind.
- 2.57 Policy CP6 of the Core Strategy requires planning applications to provide an appropriate mechanism to ensure that any necessary infrastructure to support the development can be secured at the time it is needed. This policy therefore confirms the need to address any increased infrastructure needs as part of the application process. Such needs would normally be addressed in a s106 legal agreement, as long as all provisions comply with the relevant tests outlined in the NPPF and planning policy guidance. It is considered that the tests have been duly applied in the context of this planning application.
- 2.58 In accordance with Policy DM27 of the LALP, the development would be expected to provide Open Space on site, or a contribution towards off- site provision, to meet the Open Space demands which would be generated by the development. As there is access to an existing play area at Lancaster Avenue it would not be necessary to provide equipped play on site. However, a suitably scaled contribution for upgrading or additional play equipment/space has been calculated according to the cost of creating a new Local Area for Play and providing fifteen years of maintenance at £42,520 which equates to a commuted sum of £32,330 including interest at 2%. Therefore the need created by this development equates to around 60% of a play area, which would result in a contribution of £19,400. This would need to be secured through a s106 and with the payment of this contribution, the proposal would accord with Policy DM27 of the Core Strategy.
- 2.59 KCC Economic Development have advised that the development would increase demand for local facilities and services and where there is currently inadequate capacity to meet this additional need, contributions should be sought to provide infrastructure improvements proportional to meet the need generated. In this instance, KCC have advised that there is sufficient primary school provision but insufficient secondary school provision to meet the needs of the development. KCC have also requested a contribution of £139,910 towards the Phase 1 expansion of Dover Grammar School for Girls, due to exceeding the capacity of pupil spaces generated by the development. In addition a contribution of £1,632.54 towards additional book stock for Capel mobile library, a Social Care contribution of £2639.42 towards Dover Social Care Hub and a Community Learning contribution of £871.72 towards Adult Education at Dover Discovery Centre, would ensure that the needs generated by this proposed development would be met. It is considered that the requested contributions are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
- 2.60 NHS CCG have advised that no contribution will be sought for this development.
- 2.61 The applicant is in the process of agreeing the Heads of Terms in relation to these contributions, that are considered necessary to make the development acceptable in planning terms. The Heads of Terms are:

- Secondary Education- towards Phase 1 expansion of Dover Grammar School for Girls of £139,910
- Library - contribution towards additional book stock for Capel mobile library of £1,632.54
- Social Care - £2639.42 towards Dover Social Care Hub
- Community Learning - £871.72 towards Adult Education at Dover Discovery Centre
- A total of £1,990 is required as a contribution towards the Thanet and Sandwich Coast Management Strategy
- An off-site public open space contribution of 60% towards enhanced play space facilities at Lancaster Avenue of £19,400.
- Payment of all associated legal costs.

2.62 In addition, a separate s278 Agreement under the Highways Act with KCC Highways and Transportation in respect of the access arrangements and highway improvements outside of the application site will be required.

2.63 The full range of contributions required by the development are being met by this proposal.

#### Other Material Considerations

2.64 The likelihood of contaminants on site is limited due to the previous use of the land, nevertheless, as the proposed end use is residential it is susceptible to risks of contamination, a condition would be required to ensure that should any contamination be identified during construction then further investigation and remediation and/or mitigation measures would need to be submitted and approved.

2.65 The Kent Police Crime advisor has no objection subject to a condition being imposed to submit details for approval which accord with the principles and physical security requirements of Crime Prevention through Environmental Design.

2.66 External lighting details have not been submitted but would need to be appropriately mitigated at reserved matters stage. External lighting will need to be included in a condition identify its requirement at reserved matters stage, due to its importance in this sensitive location as a result of the adjoining AONB and bat protection measures.

2.67 Other matters such as cycle parking, refuse storage and materials will be required to be submitted at reserved matters stage and would not be subject to outline conditions or scrutiny at this stage.

### **3. Conclusion**

3.1 In terms of planning policies, development of this site within the settlement confines and on land allocated for residential development under Policy LA26 of the LALP is acceptable in principle and is in accordance with policies in the Core Strategy, Local Plan and the NPPF.

3.2 In addition, there are no development plan policies or policies in the Framework that suggest development should be refused. When weighing up the adverse impacts of the development identified in the report, although there is a large proportion of local objection to the proposed development, there are no clear planning reasons that would significantly and demonstrably outweigh the benefits

of providing additional housing on an allocated site within the district, including the provision of 30% affordable housing.

- 3.3 The proposed development of 34 dwellings will be a substantial addition to the availability of housing sites within the district and will contribute towards the 629 units per annum now required under the standardised methodology for the calculation of housing need. The additional housing will also have social benefit of providing 10 affordable housing units on the site. In addition, the relevant contributions towards local infrastructure costs have largely been agreed in principle, including education and open space contributions.
- 3.4 The proposal is of a relatively low density but within the quantum of housing suggested by LA26 (and other development plan policies) which also seek to retain a significant amount of natural screening in the context of the site location and its setting. As has been discussed above, the impact on the setting of the AONB is minimised and its special character protected. The proposed plans have also sought to address the concerns raised by the Planning Inspectorate by providing a mix of housing sizes, form and design rather than a standardised housing design with a similar footprint that would be out of keeping in the highly varied character of the dwellings in Capel. The proposals are therefore considered to be in keeping with the character and street scene of Capel Street and development should be approved.
- 3.5 Initial objections from KCC Highways have also been overcome following additional information submitted which included a Road Safety Audit. KCC Highways consider the revised proposals to be acceptable, subject to necessary conditions and agreements relating to off-site highway works. The proposed impact on the highway is therefore not severe and accords with paragraph 109 of the NPPF, the impact on the highways is consequently acceptable.
- 3.6 The proposed development, although only in outline form, largely addresses most of the criteria identified in Policy LA26 of the Land Allocations Local Plan and accords with the principles of this policy, albeit with the loss of the frontage hedgerow, although this is proposed to be replaced and allows the provision of an accessible public footpath; it is therefore an acceptable form of development for this housing allocation site. The proposal therefore accords with relevant development plan policies, the NPPF and is acceptable in principle. All other matters raised can be addressed by planning conditions. Consequently the application is recommended for approval, subject to conditions and a suitable s106 legal agreement to secure the required contributions.

#### **4. Recommendation**

- I. PLANNING PERMISSION BE GRANTED subject to a Section 106 legal agreement to secure necessary planning contributions and subject to the following conditions to include:
- 1) Reserved matters details
  - 2) Outline time limits
  - 3) Approved plans
  - 4) Existing the proposed site levels and building heights
  - 5) Ecological mitigation and recommendations implemented
  - 6) Ecological/biodiversity mitigation, enhancement and management plan
  - 7) Construction Management Plan
  - 8) Highway conditions (parking, visibility splays, highway works fully implemented,

turning facilities, cycle parking, gradient, surface, works to all footpaths and drainage)

9) Affordable housing provision (numbers, type, tenure, location, timing of construction, housing provider and occupancy criteria scheme)

10) Landscaping Details and maintenance of buffer zones

11) Open space management plan

12) Protection of Trees and Hedges

13) Hard landscaping works and boundary details/enclosures

14) Reporting of unexpected land contamination

15) No works on site until final SuDS testing is undertaken and submitted

16) Design details of surface Water drainage strategy

17) Implementation and verification of SuDS scheme

18) No other infiltration on site other than that approved

19) Contamination safeguarding

20) Off-site highway works undertaken and implementation of a Traffic Regulation Order

21) External lighting to be addressed at reserved matters

- II. Powers to be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions and to agree a s106 agreement in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Lucinda Roach