

- a) **DOV/20/00038 – Erection of 6 dwellings; change of use and conversion of existing public house into 6 self-contained flats; amendment to existing Kearsney Avenue vehicular access; formation of parking; creation of pedestrian accesses to London Road; closure of two existing vehicular accesses to London Road and Kearsney Avenue (proposed pedestrian crossing on London Road west of the junction with Alkham Road) – The Railway Bell Public House, 120 London Road, River**

Reason for report – number of objections (32)

- b) **Summary of Recommendation**

Grant planning permission, subject to legal agreement and conditions.

- 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.

Draft Dover District Local Plan

The regulation 18 consultation draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan-making process, the policies of the draft plan have little weight and are not considered to materially affect the assessment of this application and the recommendation as set out (see NPPF paragraph 48). However, some of the background evidence collected as part of the plan-making process is relevant to consideration of this application, as discussed below.

Dover District Core Strategy (2010)

CP1 – Settlement hierarchy

DM1 – Settlement boundaries

DM5 – Provision of affordable housing

DM11 – Location of development and managing travel demand

DM13 – Parking provision

Dover District Land Allocations Local Plan (LALP)(2015)

DM27 – Providing open space

National Planning Policy Framework (NPPF)(2021)

2, 7, 8, 11, 38, 48, 60, 65, 93, 104, 110, 112, 119, 120, 123, 124, 126, 130,

- d) **Relevant Planning History**

No relevant planning history.

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

DDC Senior Natural Environment Officer – subject to works not impacting the roof of the main building, the Officer comments that the development may be able to proceed without the need for a bat specific survey by using timing i.e. not doing the work within the bat summer roosting season (May to September).

DDC Environmental Health – no objection subject to conditions.

DDC Housing – commented originally supporting wheelchair accessible bungalow (not now proposed, acknowledges commuted sum toward affordable housing.

DDC Trees – informal liaison – see consideration under ‘Trees’.

KCC Highways – no objection subject to conditions and informatives.

Stagecoach – comments –

*There is currently a bus stop, with shelter, outside the existing premises. We note that it is proposed to extend the bus stop markings, but the resultant layout of the stop is unclear. It is imperative that the raised kerb is retained, along with the shelter, although the opportunity should be taken to reposition the shelter to the rear of the footway so that the open side faces the carriageway, in order to meet current disabled access standards. We would need to see more detail on the proposed bus stop arrangements in the context of the proposed footway build outs to accommodate an uncontrolled crossing point.*

KCC SUDS – no objection subject to conditions and informatives.

KCC Archaeology – no objection subject to condition.

KCC Infrastructure – no objection subject to the following requests –

- Secondary education – **£27,777** – for the expansion of Dover Christ Church Academy.
- Community learning – **£197.04** – towards Dover Adult Education.
- Youth service – **£786.00** – towards Dover Youth Service.
- Libraries – **£665.40** – towards the service and stock at Dover library and the mobile library attending River.
- Social care – **£1,762.56** – towards specialist care accommodation in Dover.
- Waste – **£1112.64** – towards improvements at Dover Household Waste Recycling Centre.
- Broadband informative.

Environment Agency – observations as follows – *For this scale and type of development we would make no detailed comments for land previously used for low use retail/residential use. Any soakaway for clean roof drainage should be through sealed trap gullies and only sited in areas of clean naturally occurring materials in accordance with building regulations Approved Doc H. Any unexpected contamination encountered should be reported to the Environmental Health in accordance with Building regulations approved Doc C.*

Kent Fire and Rescue – comments –

*I can confirm that on this occasion it is my opinion that the off-site access requirements of the Fire & Rescue Service have been met.*

Kent Police – recommends conditions based on Secured by Design (SBD) and Crime Prevention through Environmental Design (CPTED) standards.

NHS – no response received.

Southern Water – no objection subject to informatives.

Temple Ewell Parish Council – objects –

1 October 2020 –

*The Parish Council is against the proposals contained in the above application and wishes the following points to be taken into consideration when the application is considered by Dover District Council:*

*The proposed re-development of this Public House will mean the loss of a community asset which has served the village of Temple Ewell for over 150 years, and until recently had been a community hub, hosting the local Sunday League football team, and various live bands and other entertainment for parishioners.*

*Whilst the Public House has been closed for over a year, it is not entirely clear from the documents within the application to what extent the business was no longer viable as a going concern due to the absence of financial accounts from recent trading. Local feeling is that poor management of the business in recent years contributed to its demise.*

*The Office of National Statistics report from March 2019 indicated that the 10 year trend of Public House closures had shown a dramatic reversal, and indeed we are aware of at least 2 village pubs within the district that have recently successfully reopened following an extended period of closure.*

*The proposals for the site represent gross over-development, with the houses being wholly out of character with neighbouring properties which are predominantly sizeable detached houses and bungalows.*

*The height and prominence of the proposed properties will visually detract from what is the gateway to the village of Temple Ewell and will also adversely impact on the outlook of the adjoining properties in Egerton Road, including a significant loss of natural light during winter months.*

*While the allocated parking spaces comply with the local current development requirements, there is no allowance for parking of visitors to this proposed development; on street parking nearby is at a premium, with Kearsney Avenue in particular being heavily subscribed. It should also be borne in mind that in recent years, the Railway Bell Car Park has been used by patrons of nearby Leads Garage and Kearsney Bowling Club which with the loss of these spaces will place further demand for on street parking in this locality.*

*We are aware from recent discussions with representatives from Kent Highways surrounding our Highways Improvement Plan, that they are reviewing an earlier plan that involves establishing a one way flow of traffic through Lower Road, Temple Ewell which would have a significant effect on traffic flows around the Alkham Valley Road/London Road junction directly opposite the Railway Bell site. It is possible that these plans might include the need to acquire additional land (at the front of the proposed properties) in order to improve the currently difficult and dangerous exit/entrance to Alkham Valley Road from the Temple Ewell side of London Road.*

*We would concur with the many comments (including those on behalf of the developer and from Kent Highways) in relation for the need for some form of pedestrian crossing between the Alkham Valley Road and Egerton Road junctions with London Road, however in terms of pedestrian footflow across London Road, we believe that there are greater numbers and therefore a greater need for a crossing further along London Road in Temple Ewell, between Temple side and High Street, where many families attempt to cross this busy road on journeys to the village school, playing field, Post Office and Stores and The Fox Public House.*

*Kent Highways are currently holding traffic censuses at both these locations and on Lower Road. We would ask that in addition to the traffic censuses, pedestrian footflows are also monitored to establish priorities for traffic calming measures within Temple Ewell.*

*The allocation of any Section 106 funding should be for the overall benefit of the residents of Temple Ewell, and not solely linked to the provision of a pedestrian crossing in the vicinity of the proposed development. They should be allocated to the area of greatest need as determined in conjunction with our Highways Improvement Plan. There should also be some provision for financial assistance for Temple Ewell Primary School, as these new households would place additional pressure on already stretched resources and place numbers at the school.*

*Finally, we would also like to comment on the lack communication from the developers in relation to these plans; Temple Ewell Parish Council has received no contact from the developers prior to the submission of their original or amended application, and it would appear that promised consultation with nearby residents has not materialised.*

*We also share residents' concerns regarding the removal of two established trees from the area of the site where the houses fronting London Road are proposed immediately prior to submission of their planning application; a further indication of the developers' "dismissive and presumptuous" attitude towards local residents.*

27 January 2021

*The current plans still fail to address the following issues:*

- 1. Over-development of the site; the high density of the properties is out of keeping with the neighbouring area which are predominantly sizeable detached houses.*
- 2. The allocated parking appears to make no provision for visitors. Nearby on-street parking spaces are at a premium, with Kearsney Avenue particularly heavily subscribed. The Car Park at the Railway Bell is utilised by patrons of both Leads Garage (opposite) and nearby Kearsney Bowling Club. The loss of these spaces will have a further adverse impact on parking in the vicinity.*
- 3. The addition of further homes on this site will put further strain on traffic flows at peak times, particularly given the difficult and dangerous exit from Alkham Road onto London Road opposite the Railway Bell. Traffic flows are often significantly increased at times when the A2 & A20 are subject to disruption due to delays at the Port of Dover.*
- 4. The loss of the proposed bungalow fronting Kearsney Avenue from the plans is disappointing given that it would have provided suitable accommodation for those with disabilities.*
- 5. The proposed semi-detached properties fronting Kearsney Abbey are squeezed in against the boundary with 5 Kearsney Avenue, and we fail to see how these properties can be constructed without causing damage to both the canopy and root structure of the mature Yew Tree that sits on the boundary between existing and proposed properties.*

28 July 2021.

- 1. The location of the proposed crossing point being just 4 metres from the junction with Alkham Road poses a danger to pedestrians from vehicles exiting left from the semi-hidden Alkham Road leaving drivers little time to react to a pedestrian crossing London Road here*
- 2. The extension of the Bus Stop Cage on London Road will create a potential blockage in the vicinity of this busy junction.*
- 3. The proposed extension of the pavement on London Road will narrow the road to 7.3m in the vicinity of the junction with Alkham Road. This will make an already difficult*

*manoeuvre for larger vehicles undertaking a 90 degree plus turn more dangerous by forcing vehicles onto the opposing carriageway.*

*4. There has been no consultation with either the developers or Kent Highways in relation to the Parish Highways Improvement Plan which has outstanding proposals in respect of crossing points and traffic calming on London Road.*

*5. Similarly, we are aware that there are ongoing discussions between DDC & KCC in relation to re-engineering the London Road/Alkham Road junction to better facilitate exit of vehicles from Alkham Road and improve pedestrian safety at this location. There appears to be no mention of these discussions being considered in relation to this application in order to arrive at a much improved long term solution for this junction. What is required is some joined-up thinking and not an inadequate short term fix because the developer is offering some funding for minor alterations in exchange for permission to re-develop the Railway Bell site.*

*Lastly, we would re-iterate that the re-development of the Railway Bell site represents the loss of a community asset that was until relatively recently a thriving meeting/eating place for the local community to meet. It is very disappointing that the developers' proposals focus on cramming as many dwellings as possible on the site without considering replacing some of the lost retail/community amenity space within the development.*

29 September 2021.

*The Parish Council has been made aware by KCC that a Zebra Crossing will be installed adjacent to the end of Kearsney Abbey by the end of October 2021. We therefore little benefit in having an uncontrolled crossing point (as proposed by the applicants) between Egerton Road and Alkham Road, this being under 80m from the new Zebra Crossing. Furthermore, we have serious concerns regarding the safety of the proposed uncontrolled crossing for pedestrians, given its extreme proximity to traffic undertaking a left turn from Alkham Road into London Road. We are also aware that as part of the DDC Draft Local Plan, a traffic modelling review is to be undertaken in relation to the traffic flows at the Alkham Road/London Road junction. We therefore request that any decision on this application is deferred until such time as the traffic modelling review is completed, as this may potentially impact on the frontage of the Railway Bell should a change in the road infrastructure or priorities be recommended.*

River Parish Council – no comments.

Public Representations – 34x objections, 8x observations, 1x support

#### Objections

- Traffic, crossing required.
- Loss of pub/restaurant/community building.
- Design/layout too dense.
- Failure of pub due to mismanagement.
- Needs more parking on site, will impact on street parking/operation of local businesses.
- Loss of Yew tree, should be TPO.
- Loss of light to Egerton Road residents.
- Loss of privacy to gardens – Egerton Road and Kearsney Avenue.
- Damage to property through construction.
- Loss of value to property.
- Originally proposed terrace of five out of character.
- Pressure on local infrastructure.

- Enough housing in area allowed already – Dublin Man o’ War, Manor View Nursery.
- Pedestrian crossing in wrong location/needs to be controlled.

#### Observations

- Controlled junction required.
- Traffic calming or crossing facilities required.
- Need to protect remaining trees.
- Needs consideration for those that already use on street parking.

#### Support

- Pub struggled for some time already.
- Site is now run down and neglected.

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

#### 1.1. The Site

The site is located 2.5 miles to the West of Dover in East Kent, overlooking the Alkham valley. The village location comprises a residential settlement connecting to Dover and other surrounding villages, primarily by London Road, which also provides access to the port of Dover. Road and rail links in the area include the A2 and the South Eastern Railway service to Ashford International and St Pancras.

- 1.2. The site application boundary contains the former Railway Bell public house, which was historically a Victorian Hotel. As well as the former public house, the site contains a large tarmac car park to the east and a large garden to the north.
- 1.3. The application site is located approximately two miles from the town centre. There are a number of facilities nearby, including; schools, restaurants and shops as well as good transport connections.

Distances from site:

- Town Centre – 39 min (walking)
- Town Centre – 6 min (driving)
- London – 1hr 53 min (train)

#### 1.4. Approximate site dimensions are:

- Depth – 50 metres (seen from London Road).
- Width – 60 metres (at maximum, seen from London Road).

#### 1.5. Proposed Development

The layout of the scheme is designed to integrate into the surrounding context. The site sits at a prominent location at the junction between Kearsney Avenue and London Road.

- 1.6. The proposal incorporates the conversion of the former public house into a two storey residential apartment building containing six apartments.
- 1.7. A pair of semi-detached groups (four houses) is proposed to front onto London Road, following the existing building line along the street.

- 1.8. Another semi-detached group (two houses) is proposed to the eastern site boundary. Private gardens to the apartment building are located at the corner of the site where Kearsney Avenue meets London Road.
- 1.9. The existing vehicular access off Kearsney Avenue is to be moved slightly, allowing access to the resident's parking spaces. The main pedestrian access route is proposed to be taken from London Road.
- 1.10. The proposal includes the retention and conversion of the existing pub building into residential apartments. The proposal for the converted building includes three 2 bed apartments located at ground floor level, and three 1 bed apartments located at first floor level. A raised floor is proposed to unit 8 to include the living area.
- 1.11. Associated landscaping, amenities and parking are also proposed for each of the dwellings, including the reinstatement/continuation of the flint wall around the site boundary at the junction of London Road and Kearsney Avenue.
- 1.12. The overarching style of the existing surrounding buildings is traditional, and the predominant materials utilised within close proximity to the site are render, pebbledash, yellow brick, red brick, plain roof tiles and slate roof tiles.
- 1.13. The proposed material palette includes; white render, red brickwork, light grey powder-coated aluminium window and door frames and slate roof tiles. The proposed materials and forms are to be traditional and will include careful detailing.
- 1.14. The materials proposed to the existing building conversion are to match the existing materials where possible.
- 1.15. An uncontrolled pedestrian crossing is proposed to the west/north west side of the junction of London Road and Alkham Road.

## **2. Main Issues**

2.1 The main issues to consider are:

- Principle of development
- Development of a public house
- Design, street scene and visual amenity
- Residential amenity
- Trees
- Highways and traffic impact
- Ecology
- Affordable housing, planning obligations, s106.
- Sustainability and conclusion.

### **Assessment**

#### **2.2 Principle of Development**

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 such plans, unless material considerations indicate otherwise.

- 2.3 Dover District Council, as the local planning authority (LPA), can demonstrate a housing land supply in excess of five years. However, by virtue of the age of the Core Strategy (2010), information relating to the objectively assessed housing need having been updated and a local plan review already progressing there are parts of the existing development plan which are considered to be out of date. It is important when an application is being considered and where policies are out of date, that the relevant policies for determination are assessed against the NPPF (2021) as to the degree to which they might be in accordance, or otherwise.
- 2.4 The relevant policies in this circumstance are DM1, DM11 and DM13. Of these policies DM1, for the reasons considered above, and its relevance in paragraph 11 of the NPPF and the presumption in favour of sustainable development, is considered to be the most out of date and as such less weight is applied to this policy. This being said, the application site is located within the settlement boundary and is therefore acceptable in principle, subject to other material considerations.
- 2.5 Policy DM11 seeks to resist development outside the settlement confines if it would generate a need to travel. The application site is located within the settlement boundary and it is considered this proposal therefore complies with this policy.

2.6 Development of a Public House

The Railway Bell has not been listed as an asset of community value. For the purposes of policy DM24, this is not a rural pub. Therefore, in terms of policy weight or material consideration, the most relevant guidance can be found in the NPPF at paragraph 93, which directs as follows:

- 2.7 *To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*  
*a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments...*
- 2.8 The submitted commercial viability report notes that there are seven public houses within a 1.5km radius of the application site, so in terms of its loss, it is not considered that the community, or indeed sense of community, would be unduly harmed. Indeed, the Railway Bell last operated as public house in December 2018. As noted in the commercial viability report the public house was subject to a number of fleeting tenancies and leases in its latter years, with six between 2002 and 2018 – four over the period from March 2013 until its closure. Marketing undertaken on the public house was as follows:
- 2.9 Licenced trade specialists Fleurets were instructed on 15 March 2019 to market the freehold interest of the property at an asking price of 'Offers Invited' excluding VAT, with verbal guidance of between £750,000 and £800,000 provided to interested parties. At the time of instruction the property was not trading, however the opportunity was marketed for continued public house use.
- 2.10 From the date of instruction, Fleurets undertook a full marketing campaign, in order to fully expose the opportunity to the local and national market, which included:



- Entrance onto Fleurets website (666 web hits)
- E-marketing campaigns sent out to Fleurets' database of registered buyers on six separate occasions, reaching approximately 10,360 each time
- Sales details sent by post and email following direct enquiries
- Entrance onto Daltons website from date of instruction
- Entrance onto Zoopla website from date of instruction
- For Sales board erected on 20 March 2019
- Social media advertising via Twitter and Facebook

2.11 Advertising in the local press was not undertaken, as since the vast expansion of the internet since 2003, this is no longer deemed a cost effective or productive form of advertising in our industry.

2.12 By presenting this opportunity to the local and national market by the aforementioned methods, Fleurets conducted 2 open viewing sessions with 2 applicants attending both sessions. It should be noted that none of the applicants who viewed the property wished to purchase for the intention of continued pub use. From this, one offer was received and accepted with the intention to be to use the property for alternative uses.

2.13 Considering the relative lack of interest, certainly for ongoing use as a public house, the commentary regarding the cost to renovate and the likely operating conditions is revealing:

2.14 On a free-of-tie lease at Market Rent the business is likely to make a net loss of £119,233 over three years following an initial investment of £90,000, the Return on Investment (ROI) produced is negative (-232%).

2.15 A freehold business is likely to make a net loss of £2,233 over three years following an initial investment of £90,000 (prior to the inclusion of a purchase price, VAT and SDLT), the Return on Investment (ROI) produced is negative (-102%).

2.16 It is clear to see that were the Railway Bell reinstated for public house use in the current local market and with the numerous strong and well-established competitors in close proximity, the ongoing business would most likely be unviable and unsustainable.

2.17 The owner/operator of a public house such as the Railway Bell must be able to expect a reasonable return on the effort, labour and risk that they invest in operating the business. To an extent, such expectations are subjective but by way of a guide we refer to the case of *Brooker v Unique Pub Properties Limited* (2001) (Chancery Division Bristol District Registry Case No. BS002253) which gave consideration to the level of remuneration that the operator of a public house would reasonably expect to receive. In the case stated it was that that, at that time, the minimum remuneration an operator would expect was £20,000 per annum. If this figure is adjusted to reflect the subsequent increase in average *earnings it would now equate to a figure in the region of £35,000 per annum.*

2.18 Taking into account the policy context, the pub's history and the marketing history, it is not considered that refusal on the ground of retaining the pub as a community use could be substantiated.

2.19 Design, Street Scene and Visual Amenity

The originally submitted proposal envisaged a terrace of five dwellings adjacent to the southern boundary of the site, fronting London Road, but served from within the site. On the Kearsney Avenue side of the site (east), one single storey dwelling was proposed.

- 2.20 The LPA sought amendments on this proposal, due to the design of the dwellings facing London Road, and the spatial arrangement arising from these dwellings. While not commenting in any detail about the previous design, the spatial arrangement where the dwellings were located adjacent to the road boundary meant that the pub building, which is the prominent feature of the site, would be hidden from views of the site taken from the west. The pub is not a heritage asset as such and is not designated, but in seeking to retain it as part of the development proposal, it was considered that the building needed to be retained with some sense of the space of its original design and layout i.e. that which currently exists with its forecourt.
- 2.21 Notably then, the negotiation on this site has encountered some factors which have influenced its evolution. Primarily this relates to development viability, where the applicant is seeking that the new build element retains six dwellings, rather than for instance reducing this figure to five. The result is the proposal as now submitted, with four dwellings relating to the London Road boundary and an additional dwelling being located on the Kearsney Avenue side of the site (making two), and these two dwellings, in semi-detached formation each being two storeys tall.
- 2.22 For the London Road side of the site there is currently a land level issue, where the pub garden is raised above the road level by around 1.5 metres, where this is retained by an attractive flint wall. The objective normally would be to have the houses served directly from the road, but the options that this would entail would either require that significant earth removals were required, or that the access arrangements might result in a contrived solution. The added consideration was where to site the dwellings such that the pub building maintained its sense of space and primacy on the wider site.
- 2.23 The ultimate solution was to retain the flint wall, and site the dwellings in line with the pub building. There would be two pedestrian accesses from London Road, but for vehicles the dwellings would still be served from inside the site. Due to the dwellings being sited further to the north it would not appear so strongly as if there was an inactive frontage, rather that the rear gardens would lead toward the boundary and the land in effect would be maintained for its current use i.e. a garden. The rear elevations of the dwellings (those seen from the public realm) have been designed such that they mimic front elevations to a degree and retain some visual interest.
- 2.24 The applicant has also indicated where sheds would be located in the rear gardens, with the intention that barring the inclusion of these, permitted development rights would be removed for outbuildings, as well as for rear extensions and roof extensions. That is not to say that such developments are prohibited, but because of the consideration that has gone into this issue, any proposal to develop further would need to be considered by the local planning authority.
- 2.25 Where the dwellings are proposed on Kearsney Avenue there has been some consideration of their orientation. This has led to the dwellings being orientated at an angle to the highway, as opposed to being sited perpendicular. The neighbouring dwellings to the east – numbers 5 and 7, are each sited more

towards a perpendicular layout even though their gardens are oblique to the road. Beyond 5 and 7, 9 and 11 are oblique to the road and therefore in line with their garden arrangements. This leads to a somewhat unorthodox street frontage, but this is considered to be acceptable, as there is no sense of conformity present on the northern side of Kearsney Avenue comparable to its southern side. The dwellings are well designed and feature well proportioned and located windows with brick headers and arched porches to the front doors – it is considered they could be accommodated successfully within the street scene.

- 2.26 Adjacent to the Kearsney Avenue dwellings, to their west/south west, highways requirements have necessitated the inclusion of a wider access – to accommodate a refuse vehicle servicing the site. The character of the access is largely as was originally proposed, although its increased width means that there is less enclosure to the street and parking spaces are moved closer to the converted pub building. This element of the proposal would ideally have seen a better resolution, but in the balance of the overall scheme, is still considered to be acceptable.
- 2.27 The design of the converted pub would retain the existing form, with some tidying up of its immediate surroundings. A new wall would be built extending from the existing flint wall on London Road and around the junction to the existing flint wall on Kearsney Avenue. This is considered to be a good element of the scheme which ties the new development into the older existing features, while also creating private space for the new residents.
- 2.28 Inside the site, much of the space which is already hard standing, forming the car parking for the pub, would be retained as hard standing for parking for the new dwellings. There is some rationalisation proposed where garden space is created and some existing elements of the pub garden would be hard surfaced, but in general terms, this element of the character i.e. a parking court, is not considered to be significantly different from the current situation.
- 2.29 Taken together, the proposals are considered to represent a successful design solution, particularly where the applicant has been willing to amend the proposal and work with the local planning authority.

### 2.30 Residential Amenity

The key interactions of the site are with existing residents at the rear of 1, 2 and 3 Egerton Road, 1 Kearsney Villas (also Egerton Road) and along the western boundary of 5 Kearsney Avenue.

- 2.31 **1, 2 and 3 Egerton Road.** The rear gardens of these dwellings meet the application site side on when viewed from the perspective of unit 1, which would provide an interface along the length of its side boundary. There is a window at first floor level facing toward the side, but this is small bathroom window which could reasonably be conditioned to be obscure glazed and fixed shut up to 1.7 metres above internal finished floor level. Accordingly, it is not considered that any undue harm would arise to the amenity of these neighbours from the erection of the proposed dwellings. The rear of 3 Egerton Road would meet the parking area, so there would be no accommodation with views looking directly into the garden at this point but there might be the potential for some disturbance caused by car movements. It is considered that this could mostly be addressed by the correct boundary treatment at this location such as an acoustic fence erected within the site. A landscaping condition is proposed with the

recommendation.

- 2.32 **1 Kearsney Villas.** Units 1 and 2 face toward the rear garden of 1 Kearsney Villas, however, due to a number of factors, it is considered that this would not result in undue harm. There is an 18.5 metre separation distance between the front elevation of the proposed dwellings and the garden fence of 1 Kearsney Villas, the relevant part of the garden at Kearsney Villas is to the rear, rather than immediately in their private amenity area i.e. outside the rear elevation, and the garden at 1 Kearsney Villas is slightly raised due to land level differences. A land levels and sections condition is proposed with the recommendation to be able to control this relationship.
- 2.33 **5 Kearsney Avenue.** The resident at 5 Kearsney Avenue has raised concerns regarding privacy, particularly where the original proposal comprised a single storey dwelling adjacent to their property. The proposal now includes a semi-detached block with two storeys. The privacy of number 5 is helped to be retained by the raised land level of their garden relative to the site and by the orientation of the proposed dwellings oblique to Kearsney Avenue i.e. in line with the garden orientation so that views are directly backwards rather than to the side.
- 2.34 Concerns are also raised regarding the impact of the proposal on their Yew tree, this is discussed further below. Putting aside the issue of the tree in this part of the consideration, any impacts on residential amenity are otherwise considered not to result in undue harm.

#### 2.35 Trees

Adjacent to the site immediately outside of its eastern boundary, is a Yew tree sited within the garden of number 5 Kearsney Avenue. The neighbours at number 5 have requested that the tree is protected by a Tree Preservation Order. The tree is relatively prominent although is sited back from the edge of the highway. The DDC tree officer did suggest that the tree might be protected under an order but has not confirmed or initiated any order. Having followed this up, the tree has not subsequently been protected.

- 2.36 The reason for this consideration is that by amending the design from the originally proposed single storey dwelling, the now proposed semi-detached block has the potential to cause harm to the tree by way of damage to the roots and conflict in terms of cutting branches where there is an overhang into the site. Notably, without a TPO the overhanging parts of the tree could be cut back regardless.
- 2.37 Accordingly, the situation as it stands is that the Yew tree has not been protected by a TPO. The tree may be damaged as a result of the development being granted permission and subsequently being constructed. Where damage is caused to the tree, this would be a civil matter to be resolved between the developer and the adjacent residents.
- 2.38 In terms of planning considerations, even if the tree were protected by a TPO, the grant of planning permission would allow works to proceed, with the potential for any subsequent damage arising. Taking into account the situation as it is, the proper consideration is one of planning balance i.e. the benefits of delivering 12 new dwellings in a sustainable location versus the harm caused by the loss of a Yew tree. In any case, a planning condition is proposed which would seek details of the foundation design for the proposed dwelling adjacent to the Yew tree.

2.39 In this instance it is considered, on balance, that the benefits of the development proposal outweigh the harm arising.

#### 2.40 Highways and Traffic Impact

A key concern with the proposal has been its impact on highways issues. Among the concerns raised by KCC Highways and in the public comments are parking provision, the impact on the junction of Kearsney Avenue and London Road, the impact on the functioning of the car garage, DP Lead, opposite the site to the south, and the need for a pedestrian crossing to facilitate access to the western side of London Road.

2.41 In terms of parking provision, the proposed development would provide policy compliant parking provision. The submitted drawings show four visitor spaces, with only one space allocated to units 1 and 4. In reality the requirement of 0.2 visitor spaces per unit would translate to 2.4 visitor spaces in total. Therefore, units 1 and 4 could each have two spaces, with two visitor spaces left over. This is considered to be acceptable.

2.42 KCC Highways has not objected to the functioning of the junction at London Road and Kearsney Avenue, although have noted that by closing the accesses onto London Road, this may encourage on street parking. Accordingly, the bus stop 'cage' markings have been shown to be extended in order to protect the functioning of the bus stop. This is considered sufficient to address the concerns of the service provider also.

2.43 One concern raised by a third party is how the parking would impact the functioning of the existing car sales/garage business DP Lead, which relies on street parking. While the concerns of the business are acknowledged, having discussed this with the KCC Highways, the use of the street for parking in connection with the business would not substantiate a redesign of this scheme. Nevertheless, a construction management plan will be the subject of a condition in order to manage the impact of construction on residents and businesses within the area.

2.44 In respect of the pedestrian crossing, the comments of KCC Highways cover this topic succinctly: *The proposals are likely to result in increased pedestrian trips to/from the local school and railway station, and therefore improved facilities are required to allow and encourage this sustainable travel. These improvements take the form of an uncontrolled pedestrian crossing point in London Road on the pedestrian desire line to/from the station and school, and include a build-out, dropped kerbs, tactile paving, and parking restrictions to maintain visibility. These proposals have been subject to an independent safety audit and will be carried out by the developer through a s.278 agreement with the highway authority.*

2.45 Further to the location of the uncontrolled pedestrian crossing, which objectors are concerned is on the wrong side of the junction of Alkham Road and London Road, KCC Highways is imminently (works commencing 18 October 2021) about to install a zebra crossing on London Road to the east side of the junction with Kearsney Avenue. Accordingly, pedestrians will have an option to cross to either side of the Alkham Road junction.

2.46 Accordingly, in respect of highways matters, all issues are considered to have

been resolved to a satisfactory standard for development to be able to proceed.

2.47 Ecology

The submitted preliminary ecological assessment advises the following: Without the implementation of suitable avoidance and mitigation measures, development proposals have the potential to impact upon roosting bats, foraging and commuting bats, badger, hedgehog and nesting birds.

2.48 Mitigation without the need for further survey work is required for foraging and commuting bats, badger, hedgehog and nesting birds (detailed in Section 11). Ecological enhancement measures are recommended as part of development proposals to improve the biodiversity value of the site (detailed in Section 12).

2.49 The initially submitted survey identified that a species specific bat survey would be required. However, an amended survey was submitted which acknowledges that no evidence of bats was found in the pub building and only advises a bat survey if future works were to impact hanging slates, the roof or the loft. On this basis the senior natural environment officer accepted that no further bat survey work would be required i.e. accepting the developer's assurance that these parts of the building would not be affected. Accordingly, a condition will be imposed that requires the relevant survey work to be undertaken if works to convert the pub ultimately result in the hanging slates, roof or loft being affected.

2.50 All other matters can be addressed by suitable conditions for mitigation measures and biodiversity enhancement works, in accordance with the recommendations of the submitted ecological report. Furthermore, an external lighting scheme will be required to minimise the impact on any foraging or commuting bats.

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

2.52 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.

2.53 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.

2.54 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.

2.55 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.

2.56 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.

2.57 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 the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

2.58 Affordable housing, planning obligations, s106

**Affordable housing.** Policy DM5 of the Core Strategy allows for commuted sum payments toward affordable housing where the number of dwellings to be provided is between 5 and 14. In reality, accounting for government guidance, in a village/suburban location such as River, this applies to developments between 10 and 14 dwellings. The commuted sum is calculated by taking 5% of the gross development value.

2.59 DDC does not have a valuer for these purposes, so there is some negotiation involved with the applicant, taking into account local asking prices and sold prices, for equivalent or similar developments. The prices taken as a guide in this instance, are from Right Move and Zoopla.

2.60 The suggested calculation, agreed by the applicant, is as follows:

Unit	Beds	Price (£k)
1	3	325
2	3	325
3	3	325
4	3	325
5	2	190
6	2	190
7	2	190
8	1	150
9	1	150
10	1	150
11	3	325
12	3	325
Gross development value		2,970

<b>5% of GDV</b>	<b>£148,500</b>
------------------	-----------------

2.61 **Other contributions.** These were requested from Kent County Council for the following:

2.62 Secondary education – **£27,777** – for the expansion of Dover Christ Church Academy.

- 2.63 Community learning – **£197.04** – towards Dover Adult Education.
- 2.64 Youth service – **£786.00** – towards Dover Youth Service.
- 2.65 Libraries – **£665.40** – towards the service and stock at Dover library and the mobile library attending River.
- 2.66 Social care – **£1,762.56** – towards specialist care accommodation in Dover.
- 2.67 Waste – **£1112.64** – towards improvements at Dover Household Waste Recycling Centre (HWRC). Dover District Council to date has not accepted contribution requests towards the HWRC, which it considers has not yet been adequately justified. Accordingly, this contribution will not be sought.
- 2.68 **Open space. Accessible green space.** Kearsney Abbey and Russell Gardens together are a strategic scale green space, approximately 14 hectares in size. Access to the park is approximately 420 metres from the application site. In terms of required standards, although there is no 0.4 hectare space within 300 metres (to the access, not to the park), Kearsney Abbey and Russell Gardens easily meet the standard of a 2 hectare space within 1000 metres, and are not far short of the 20 hectare standard. Accordingly, in terms of the green space standard, this is considered to be met.
- 2.69 **Allotments/community gardens.** Requests for contributions toward allotments/community gardens are the responsibility of parish council. In this case no request has been made.
- 2.70 **Children’s equipped play space.** Access to the equipped play space at Kearsney Abbey is noted as being around 530 metres from the application site. This play space is of a strategic scale. The accessibility standards for play space are for a local play space within 600 metres, or a strategic play space within 1000 metres. Accordingly, in terms of the equipped play space standard, this is considered to be met.
- 2.71 **Outdoor sports facilities.** The assessment for outdoor sports facilities, and any contribution requested will be reported verbally to members of the planning committee meeting.
- 2.72 **Thanet Coast and Sandwich Bay mitigation.** No mitigation payment is required as part of the proposal, due to the net increase of units being below 15.
- 2.73 In total, planning obligation requests of **£179,688** (subject to any further request in relation to outdoor sports facilities) have been made to, and agreed by, the applicant. In respect of planning obligations (subject to any request for outdoor sports facilities), the application is considered to be acceptable.

### 3. **Conclusion and Sustainability**

- 3.1 Sustainable development in the planning context is understood through the three roles that planning plays – the economic role, the social role and the environmental role. Although the application under consideration is acceptable in principle, and there is no fundamental policy objection, it is nevertheless a useful exercise to consider the proposal in light of the presumption in favour of sustainable development i.e. paragraph 11 of the NPPF.
- 3.2 Economic role. The loss of the public house no doubt has an economic impact



on the area, but it has not been operating since December 2018, and since that time there has been no interest in restarting the pub use. Therefore, the impact felt through the loss of the pub has already been a part of daily life for almost three years. The potential impact on the operation of DP Lead while noted, is unlikely to be significant, and is likely to vary depending on the time of day. In terms of the proposal, there is the potential for twelve separate families to occupy the site and bring an economic benefit to the area. The construction contract for the development would also bring a time limited benefit. It is considered overall that there is a potential for a longer term benefit by granting permission for this development.

- 3.3 Social role. The public house undoubtedly plays a social role first foremost, but as noted the loss of this social role in the sense of day to day life happened almost three years ago. The commercial viability report notes that there are seven public houses within a 1.5km radius of the site, so other opportunities do exist for socialising. Additionally, the pub has not been listed as an asset of community value. In terms of the application, up to twelve new families could occupy the site and each would have the opportunity to play a part in the local community on an ongoing basis. It is therefore considered that there is a small social benefit from the redevelopment of the site.
- 3.4 Environmental role. The submitted ecological report shows that the subject to the recommendations of the report being followed in respect of mitigation measures and biodiversity enhancements, the development should be acceptable. The proposed development is located in a village/suburban area within settlement boundaries, it has access to a range of facilities in relatively short distance, including a railway station at Kearsney for longer range travel. The site is well located in terms of its environmental sustainability credentials and represents the best use of previously developed land to provide accommodation. Furthermore, electric car charging points will be required by condition and a pedestrian crossing to facilitate walking will be provided as part of the development. The proposal is considered in the wider context of the environment to provide a strong benefit.
- 3.5 Accordingly, taking into account the three roles of sustainability, the proposed development is considered to represent a sustainable scheme. The applicant has worked with the planning department over the course of a year and a half to resolve issues on the site, most prominently concerning design and the impact on the local street scene. All requests for development contributions have been agreed, including the provision of a pedestrian crossing, and while it is acknowledged that these represent what is required to make the proposal acceptable, rather than being a benefit over and above the existing situation, it nevertheless shows that the proposal could be accommodated.
- 3.6 The recommendation therefore is to grant permission.

g) **Recommendation**

- I. Planning permission be GRANTED, subject to a legal agreement and to conditions including the following:
  - (1) Time limit
  - (2) Drawings
  - (3) Materials
  - (4) Landscaping hard and soft, including tree planting, means of enclosure and gates

- (5) Tree protection
- (6) Foundation design – Yew tree
- (7) No dig – car parking/tree roots
- (8) Land levels and sections
- (9) Parking and garaging
- (10) Bicycle parking
- (11) Refuse and recycling storage and collection
- (12) Visibility splays
- (13) No discharge of surface water to highway
- (14) Bound surface first 5 metres of each access to the highway
- (15) Completion of highways works
- (16) Closure of existing access and reinstatement of footpath
- (17) Electric vehicle charging
- (18) Surface water drainage scheme
- (19) Surface water – verification
- (20) Surface water – infiltration
- (21) Sound insulation
- (22) Archaeology
- (23) Biodiversity mitigation measures
- (24) Biodiversity enhancement scheme
- (25) External lighting scheme
- (26) PD restrictions – A – enlargement, improvement or other alteration of a dwellinghouse, B – additions etc to the roof of a dwellinghouse, D – porches (Kearsney Avenue dwellings), E – buildings etc incidental to the enjoyment of a dwellinghouse (London Road dwellings).
- (27) Construction management plan

- II. That powers be delegated to the Head of Planning, Regeneration and Development to settle the detail of the section 106 agreement.
- III. That powers be delegated to the Head of Planning, 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