

- a) **DOV/21/00511 – Erection of a single storey extension, entrance porches, dormer windows and rooflights to facilitate the change of use and conversion of 2 buildings to form 4 dwellings with the erection of 1 link-attached dwelling; erection of entrance gates with associated parking and gardens (demolition of existing 3 extensions and entrance porch) - 82-86 The Street, Ash**

Reason for report: Number of contrary views.

b) **Summary of Recommendation**

Planning Permission be Granted

c) **Planning Policy and Guidance**

Planning and Compulsory Purchase Act 2004

- Section 38(6) – requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

Planning (Listed Buildings and Conservation Areas) Act

- Sections 66 and 72.

Draft Dover District Local Plan

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process however 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.

Core Strategy Policies

CP1, DM1, DM2, DM4, DM5, DM11, DM13.

Land Allocations Local Plan

DM27

Ash Neighbourhood Plan

ANP3, ANP4, ANP5, ANP6, ANP8, ANP13, ANP14.

National Planning Policy Framework (NPPF) (July 2021)

The most relevant parts of the NPPF are: 8

11 – states that development proposals that accord with an up-to-date development plan should be approved without delay or, where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, permission should be granted unless:

- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development (having regard for footnote 7); or
- ii. 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.

Paragraphs 60, 64, 78, 79, 110, 111, 112, 119, 120, 123, 124, 129, 130, 167, 180, 181, 182, 194, 195, 197, 199, 200, 202, 203.

The National Design Guide and Kent Design Guide (KDG)

d) Relevant Planning History

DO/83/470: Change of use to craft industry for organ building – Granted subject to conditions.

e) Consultee and Third-Party Responses

Ash PC – Ash Parish Council considered this application at its meeting held on Monday 17th May 2021 and objected because of over-development and loss of amenity and privacy. Should the application be granted the parish council asks for consideration of conditions for one electric vehicle charging point and connection of fibre to the premises.

Additional clarification: The Ash Parish Council Planning Committee meeting held on Monday 26th July 2021 agreed to make the following clarifications to the submission of the Ash Parish Council as considered on 17th May 2021.

The objections were because of over-development and loss of amenity and privacy. The over-development of the site was considered in relation to the new build as it intensified the development of the site, with the layout design causing the site to be cramped. The proximity of the new build between one and two metres from the shared boundary and the adjacent barn conversion (90a The Street) that is two metres from the boundary would lead to a loss of privacy. Although there is no direct over-looking issue, due to the height of the fence and the proposed ground level of the new build, there is the possibility that the ground floor on the west side of 90a The Street could be viewed from the top section of the living room window on the east side of the new build. The current amenity of 90a will be affected by noise / disturbance from the occupation of the new build due to the proximity of the two buildings to each other. At certain times of the day, there is also the loss of amenity from the loss of sunlight to the west facing ground floor windows of 90A.

Should the application be granted the parish council asks for consideration of conditions for one electric vehicle charging point and connection of fibre to the premises

Southern Water – Draws attention to the existing public foul sewer within the development site. The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water before the layout of the proposed development is finalised.

Please note: - The public foul sewer requires a clearance of 3 metres on either side of the gravity sewer to protect it from construction works and to allow for future access for maintenance.

- No new development or new tree planting should be carried out within 3 metres of the external edge of the public gravity sewer without consent from Southern Water.
- No new soakaway, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public sewer.
- All existing infrastructure should be protected during the course of construction works.

In order to protect public sewers, Southern Water requests that if consent is granted, the following condition is attached to the planning permission; The developer must agree with Southern Water, prior to commencement of the development, the measures to be taken to protect the public sewers.

Furthermore, it is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

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

The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

The Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse.

KCC Highways – Proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. Requests an informative relating to the need for consent from the Highway Authority for any works within the highway.

KCC Archaeologist – No response received.

DDC Environmental Health – Has no observations to make.

DDC Natural Environment Officer – I have reviewed the preliminary ecological appraisal and bat survey reports and accept the findings and recommendations. Buildings B1 and B2 have been confirmed as supporting day roosts for a variety of bat species (common and soprano pipistrelles and brown long eared bats. A European protected species development licence will therefore need to be sought from Natural England post planning consent. I am satisfied that the outline mitigation measures proposed by the consultant are adequate to meet the licensing requirements. Detailed proposals will be drawn up with the applicant during the design and licensing processes.

Mitigation measures for protected species, listed within the PEA include:

- Clearance of any woody vegetation outside of the bird nesting season (March to August inclusive). If this is not possible then checks for nesting birds should be made by an ecologist within 48 hours of disturbance/clearance
- Habitat manipulation for reptile species to discourage use of the grassland by keeping the sward short
- A bat sensitive lighting scheme which should follow the guidance published by the Bat Conservation Trust and Institute of Lighting Professionals, 2018

Biodiversity enhancements include provision of bat boxes and bird boxes (type and locations specified in the PEA)

Mitigation measures and biodiversity enhancements should form a condition of planning consent.

The development falls within the Little Stour and Wingham catchment area and is therefore affected by Natural England's position (issued as formal advice to LPAs) that all developments have to demonstrate nutrient neutrality to avoid adverse effects upon the integrity of Stodmarsh SSSI/SAC/Ramsar/SPA.

Private representations:

18 objections received, raising the following issues:

- Additional traffic on a busy, narrow street with poor sight lines, lack of parking and congestion
- Overdevelopment and cramped
- The additional extension to accommodate dwelling 5 is unnecessary and inappropriate; it is overbearing and will result in a loss of privacy, sunlight and outlook for neighbouring properties, enabling views into living rooms and gardens
- It is inappropriate in design, will dominate views of the rear building (girls' school) and is harmful to the heritage interest of the site overall
- Existing windows already provide the opportunity for views into properties, but residential use will exacerbate this
- Windows on the west elevation of dwelling 2 overlook the patio of the neighbour to the west
- Restoration and conversion of the existing buildings is welcomed, but the additional dwelling is too much, and a scaled-down proposal would be better
- Whilst the building was vacant it caused no issues for the neighbours
- Harmful impact on the conservation area and listed buildings nearby; out of character with original buildings and the rest of the village
- Noise, disturbance, and dust during construction works; will destroy peacefulness
- The access is narrow and awkward; reinstatement of the porch on unit 1 will reduce the width of the access further, pushing vehicles closer to the house to the east, which is a listed building; risk of clutter at the entrance on bin collection day
- Noise and disturbance from use of the access to serve nine parking spaces; risk of damage to the listed building to the east
- Loss of property value and emotional stress
- Insufficient parking for visitors, etc.
- Insufficient capacity in schools, doctors, etc.; also overloading of sewerage system
- Lack of consultation and inability to respond due to lockdown
- This is not a brownfield site
- Regret loss of previous commercial use; uses other than residential would be better for the village
- The proposed metal entrance gate is not appropriate in visual terms and incongruous and will create noise and disturbance through continual opening and closing; creation of a gated community is not appropriate
- The flat roof extensions (air raid shelters) are an important part of village history
- The parking spaces in the middle of the site will create an ugly, urban space; lack of detail of lighting for this area

A petition with 10 signatures was received, commenting on the applicants' response to earlier objections.

One further letter received, neither objecting or supporting the proposal, but raising issues unrelated to this application.

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

- 1.1 The site has an area of 0.13ha and is located on the north side of The Street a short distance east of the War Memorial. It is currently occupied by buildings that were originally built to house the village school, with the boys' school (dating from 1871) on the front part of the site, adjacent to the back edge of the footway, and the girls' school (dating from 1892) in a separate building at the rear of the site. Both buildings have been extended over the years, including by the addition of what appear to be single storey air-raid type structures, probably dating from WWII. The buildings appear to have been empty for some time, but the last known use was for the restoration and manufacture of organs. Vehicular and pedestrian access to the site exists at the eastern end of the road frontage. The site lies within the conservation area and, although none of the buildings is listed, they should be regarded as non-designated heritage assets.
- 1.2 It is proposed to convert and extend the existing buildings to provide a total of five dwellings (1 x one-bedroom, 3 x two-bedroom and 1 x three-bedroom). The frontage building will accommodate two dwellings. Dwelling 1 is to be accessed via the reinstated porch to the eastern end of the building at the site entrance and will provide a three-bedroom dwelling arranged over three floors with open plan living area on the ground floor and access to a small private garden to the rear. Dwelling 2 comprises the remainder of the frontage building and will provide a two-bedroom dwelling, again arranged over three floors with a kitchen/diner and separate lounge at ground floor. Access off the lounge to the rear enters a small rear private garden. The single-storey additions at the rear of the building will be demolished and dwelling 2 is accessed via a new porch entrance from the rear parking area (in part, replacing the demolished additions). The conversion works include the addition of three dormer windows in the roof on the street elevation.
- 1.3 Dwelling 3 is located in the western end of the northern building at the rear of the site, the former Girls' School. This will provide a two-bedroom dwelling arranged over two storeys. The single-storey rear extension will be demolished and in part replaced by a new, smaller extension to accommodate the kitchen which will provide rear access into a small private garden. Dwelling 4 is formed of the eastern side of the former Girls' School and will be accessed via a new porch that links to the side of the new building Dwelling 5. Dwelling 4 provides an open plan living/kitchen/diner at ground floor level and two bedrooms and a bathroom at first floor level.
- 1.4 Dwelling 5 is a new build dwelling in the rear north-eastern corner of the site, provided by extending the rear building to the east of proposed dwelling 4. It is a small single storey one-bedroom unit with an open plan living/kitchen area. It will have a pitched roof with gables at the northern and southern ends, the ridge being somewhat lower than the main ridge on the existing building, and a small outshot on the eastern side with a pitched and hipped roof. Like the other proposed dwellings, this unit will have a small private garden.
- 1.5 The existing open area between the buildings, which historically would have been the school playground and in more recent years used for parking for the commercial use, will provide parking spaces for nine vehicles to serve the

development and turning area to ensure vehicles leaving the site can do so in forward gear utilising the existing site access. Areas for bicycle storage and refuse storage are also provided.

- 1.6 In terms of the broader context, although the main frontage building has the appearance from the street of being single storey, with three tall windows, because of the eaves height and steeply pitched roof the overall form and bulk is not substantially different from the other buildings along this street frontage, which are generally of two storeys plus attics served by front dormers. Several of these neighbouring buildings are Grade II listed buildings, including nos 76, 78 and 80 (to the west) and 88 and 90 (to the east), as well as 81/83 opposite. To the rear of nos 88 and 90 is a newer, two-storey dwelling (no 90A) which sits close to the eastern boundary of the rear part of the application site and on a slightly lower ground level. Further to the rear, beyond the northern site boundary, is another newer dwelling (no 92A). Adjacent to the western boundary of the rear part of the site is a parking area and rear gardens serving properties in Queens Road.

2. Main Issues

- 2.1 The main issues are:

- The principle of residential development;
- Impact on residential amenity (particularly privacy, outlook, sunlight/daylight, and noise and disturbance);
- Design and impact on the non-designated heritage assets, nearby listed buildings and the conservation area generally;
- Highways, access and parking;
- Ecology impacts, notably in relation to Stodmarsh;

Assessment

Principle

- 2.2 The starting point for decision making is Section 38(6) of the Planning and Compulsory Purchase Act 2004. This states that regard is to be had to the development plan; for the purpose of any determination to be made under the Planning Acts, the determination must be in accordance with the plan unless material considerations indicate otherwise.
- 2.3 Policy CP1 states that the location and scale of development in the District must comply with the Settlement Hierarchy which informs the distribution of development in the Core Strategy. The site lies within the defined confines of Ash, which is identified as a Local Centre and therefore a secondary focus for development in the rural area, suitable for a scale of development that would reinforce its role as a provider of services to its home and adjacent communities. This site constitutes Previously Developed Land and development involving the provision of five dwellings would be of a scale consistent with the objectives of CP1. Development on this site is therefore also consistent with policy DM1, which seeks to resist development outside confines.
- 2.4 Policy DM4 relates to the re-use or conversion of rural buildings and allows for the conversion of structurally sound, permanent buildings, within settlement confines, to a range of uses, including residential. The buildings must be of suitable character and scale for the proposed use, contribute to local character and be acceptable in other planning respects. That part of the current proposal that relates to the conversion of the existing buildings meets all these tests.

- 2.5 Paragraph 11 of the NPPF states that development which accords with an up to date development plan should be approved without delay whilst, where there are no relevant development plan policies or where the most important policies are out of date, permission should be granted unless policies in the NPPF for protected areas or assets provide a clear reasoning for refusing the development or where the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in NPPF as a whole. A footnote confirms that whether policies are out of date also includes instances where the local planning authority cannot demonstrate a five year housing land supply or where the delivery of housing falls below 75% of the housing requirement in the previous three years.
- 2.6 It is considered that policies DM1, DM11 and DM2 are the ‘most important’ policies for determining this application.
- 2.7 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council’s 2010 Adopted Core Strategy. In accordance with the Government’s standardised methodology for calculating the need for housing, the Council must now deliver 557 dwellings per annum. Policy DM1 places a blanket restriction on development which is located outside settlement confines, which is significantly more restrictive than the NPPF. As a matter of judgement, it is considered that policy DM1 is out-of-date and, as a result, should carry reduced weight.
- 2.8 Policy DM11 seeks to locate travel-generating development within settlement confines and restrict development that would generate high levels of travel outside confines. For the purposes of assessing this application, the site falls within the settlement confines and so is supported by DM11. This support is broadly consistent with the NPPF which seeks to focus development in locations which are or can be made sustainable, where there is access to a range of modes of transport (including walking and cycling) and where development will support existing facilities and services, and social integration. The occupants of the development would be able to access the range of day-to-day facilities and services available within the Local Centre of Ash, and would be able to reach these facilities by more sustainable forms of transport, including walking and cycling. The site is located close to public transport links. Whilst DM11 is slightly more restrictive than the NPPF, it is considered that DM11 is not out-of-date and should continue to attract significant weight.
- 2.9 Policy DM1 is out-of-date. Whilst DM11 is, to a degree, in tension with the NPPF it is not considered to be out-of-date. Given how critical DM1 is to the assessment of the application, it is considered that the basket of ‘most important policies’ is out of date and the ‘tilted balance’ described at paragraph 11(d) of the NPPF is engaged.
- 2.10 As the last known use (and current lawful use) of the site was an employment-related use, it is also necessary to consider the principle of residential use in the context of policy DM2. This says that permission for changes of use or redevelopment of land or buildings currently or last in use for employment purposes will only be granted if the land or buildings are no longer viable or appropriate for employment use. However, this is not entirely consistent with statements in the NPPF. For example, paragraph 119 promotes the effective use of land in meeting the need for homes, and paragraph 120 supports the development of under-utilised land, and it lends substantial weight to the use of

brownfield land for homes and taking the opportunity to remediate derelict land. Paragraph 123 encourages a positive approach to applications for alternative uses of land that is not allocated for a specific purpose, and reference is made to using retail and employment land for homes, where this would not undermine key economic sectors or sites. Policy DM2 should therefore be afforded less than full weight, and this also engages the tilted balance described at NPPF paragraph 11(d).

- 2.11 Whilst the current site may have previously been in employment use, that was clearly not its original purpose. It is not regarded as a key site in terms of employment land supply and redeployment to an alternative use would not undermine economic objectives. Indeed, given its location within a generally tightly developed and predominantly residential area, it could be argued that a residential use fits more successfully in this context than an industrial use, for example in terms of the potential level and nature of traffic generation and general levels of activity. Reading policy DM2 alongside the relevant parts of the NPPF, there is no objection to the loss of this site from employment use.
- 2.12 The principle of residential use of this site is therefore considered to be acceptable, subject to other material planning considerations as discussed below.
- 2.13 For completeness, the tilted balance is not engaged for any reason other than as set out above, as the Council has a demonstrable five-year housing land supply (6.35 years' worth of supply) and has not failed to deliver at least 75% of the housing delivery test requirement (delivering 88%).

Residential Amenity

- 2.14 The principal issues to consider in terms of amenity are potential loss of privacy/overlooking, loss of daylight and sunlight, loss of outlook, overbearing effect, and noise from the proposed development. The main policy reference points are NPPF paragraphs 119, 129 and 130, which talk about promoting health and well-being and promoting a high standard of amenity for existing and future users. It is also appropriate to consider the amenity of future occupiers of the proposed development.
- 2.15 Most of the windows and other openings on the frontage building (proposed units 1 and 2) will either face onto The Street or north into the site, and these are unlikely to impact on the amenity of neighbours. The proposed reinstatement of the porch at the eastern end of the building will include a large window on the flank elevation, facing towards the side elevation of no. 88 on the opposite side of the access. Although there are some windows on the neighbour's flank elevation, this area is open to public views from the street and it is considered that there should be no unacceptable loss of privacy as a result of the erection of the porch, including the side window. On the western elevation of the rear part of proposed unit 2 there is a small dormer window that currently sits at high level (due to the absence of an upper floor internally); this will become a window to a first floor bedroom, with the potential to overlook across the rear of no. 80 and this should be obscure glazed; there is second window serving this room that looks east, into the site.
- 2.16 So far as the rear building is concerned, the conversion works (to provide units 3 and 4) do not give rise to any significant concerns in terms of amenity. The upper floor window on the western elevation does not overlook any private amenity space and, although there is a dormer window and an oriel window on the north elevation (facing towards the garden of no. 92A), and two small roof lights are proposed, these should not give rise to an unacceptable loss of privacy due to the relative

heights and distance from the boundary. The proposed single storey extension to the rear of unit 3 will partly replace an existing extension and is of a height and design that should not impact on neighbours' amenity.

- 2.17 The majority of concerns that have been expressed by neighbours (and the Parish Council) regarding amenity relate to the impact of the proposed new-build element, unit 5. This will extend into a part of the site that is currently open, between the eastern end of the rear building and the boundary with no 90A, to the east. This extension comprises a small link element between units 4 and 5, the main part of unit 5 (which has a width of about 5.6m and a ridged roof running from front to rear and gables on the front and rear elevations), and a small outshot at the eastern end, set back from the front corner of the main part on unit 5. This outshot has a width of about 1.8m and is set back 4m from the front corner; it has a lower pitched and hipped roof, with the hip facing towards no 90A. The boundary is not straight, with the site broadening out slightly towards the rear (north). This means that the front corner will be about 2m from the boundary and the distance between the outshot and the boundary varies from 0.6m to 0.8m. No 90A faces the boundary and is on a ground level about 0.6m below that of the application site. The distance between the elevation of 90A and the new building will be about 4.6m at the front, and between 2.9m and 3.2m where the outshot is. The height of the boundary fence varies because the ground rises slightly but is between 1.6m and 1.8m. There are large glazed folding doors on the ground floor of 90A and other windows on the floor above.
- 2.18 Concerns have been expressed about the impact on this property through loss of privacy, loss of outlook and views, and loss of daylight and sunlight. The relationship between the new-build and the neighbour was discussed with the applicant's agent at pre-application stage and, as a result, unit 5 was re-designed and move slightly further away from the boundary. Cross-sections submitted as part of the application give an indication of the lines of sight from the neighbours' windows.
- 2.19 Looking firstly at the potential overlooking and loss of privacy, there are no windows proposed on the outshot part of the new dwelling facing towards 90A. There is a sitting room window on the side elevation of the front part of the dwelling; as mentioned, this is estimated to be about 4.6m from the elevation of 90A but the boundary fence provides a significant visual barrier between the two; although it might be possible for someone in the sitting room standing very close to the window to see the top part of the ground floor windows in 90A, this is not a degree of mutual overlooking that would, in my opinion, justify a refusal of planning permission. There are rooflights in the roof slope that faces the boundary, but these are high level, and the angle does not permit views into the ground floor windows. There is a side door towards the back of the house, but the outlook from this would be beyond the rear corner of 90A..
- 2.20 The assessment regarding potential loss of outlook is more balanced. The outlook from 90A's ground floor windows is already significantly affected by the proximity and relative height of the boundary fence. Although it will be possible to see much of the side roof slope on the front part of new unit 5 above and beyond the fence, this roof will be sloping away from the viewer and at an increasing distance. The outshot roof will be closer, but this is not directly opposite the windows most likely to be affected, being set further back towards the rear (north) of the site. Overall, although there will be some loss of sky views from the affected ground floor windows, on balance this is not considered to be so harmful as to justify refusal. Members will be aware that loss of a view is not generally considered to be a material planning consideration. Similarly with regard to daylight and sunlight,

given the relative height, distance and orientation between the two buildings, this is not an overriding concern; the orientation is not due west, but rather slightly north of west, so any loss of sunlight is likely to be limited to later in the evening and only at certain times of the year.

- 2.21 The remaining issue to consider in terms of amenity in potential noise and disturbance. With regard to the use of the site as a whole, the current lawful use for the manufacture and restoration of organs is likely to have been a use that would now fall within Class E of the Use Classes Order (Commercial, Business and Service uses); besides light industrial uses, this encompasses a wide range of uses including some that would potentially attract a significant number of visiting members of the public, such as retail, indoor sport, medical services or a creche. Whilst the 1983 planning permission upon which the organ-building use relied contained a condition limiting the use of the site to that particular purpose, it is clear from the history of the site that a number of other industrial/commercial uses had been considered to be acceptable here, at different times. Although it is understandable that local residents may have become accustomed to the site being a “quiet” site, having been unused for a few years, that is clearly not a situation that could be relied upon in the longer term, and the potential alternative uses that could take place are a material planning consideration. Indeed, it is likely that the proposed residential use for five dwellings would create less noise and disturbance (and fewer comings and goings) than many of the potential alternative uses. Similarly, although concern has been expressed about the proposed gate at the site entrance and the potential that frequent use of the gate might have in causing disturbance to the immediate neighbours, there is already a gate in a similar position and the historic level of use is not something that can be relied upon, nor is this something over which the local planning authority could have control. Indeed the 1983 permission has a further condition requiring the playground area to be kept available for vehicle parking.

Design and Visual Impact

- 2.22 As Members may be aware, national policy advice on design has recently been updated in the revised NPPF (July 2021). The principal references are now in paragraphs 130 – 134. Developments should aim to function well and add to the overall quality of the area, be visually attractive, be sympathetic to local character and the surrounding built environment (while not preventing or discouraging innovation or change, such as increased densities), and create attractive, welcoming and distinctive places to live, work and visit. In addition, it is necessary to consider the impact of the proposals on heritage assets; in this case the designated heritage assets are the conservation area and the nearby listed buildings (and their settings); the buildings within the site are also considered to be non-designated heritage assets. NPPF paragraph 194 requires applicants to describe the significance of any heritage assets affected by their proposals; a Heritage Statement has been submitted as part of this application. Paragraph 197 sets out certain factors that should be taken into account in considering planning applications. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (para 199). Any harm to, or loss of, the significance of a designated asset should require clear and convincing justification (para 200). Where a development proposal will lead to less than substantial harm to the significance of a designated asset, this harm should be weighed against the public benefits of the proposal including securing its optimum viable use (para 202). The effect of an application on the significance of a non-designated heritage asset should be taken into account; in weighing such applications a balanced judgement

will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- 2.23 LBCA Section 66(1) says: "In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."
- 2.24 LBCA Section 72(1) says: "In the exercise, with respect to any building or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."
- 2.25 A number of elements of the proposal have the potential to impact upon the character and appearance of the conservation area. Three dormers are proposed on the front roofslope of the frontage building, facing The Street. These are relatively small and have pitched and hipped roofs. They are similar in style and form to existing dormers on other buildings along the road, notably the terrace of houses immediately to the west. They will not dominate the roof within which they sit, and are also aligned vertically with the main windows below. They will fit well in the street scene overall. Similarly, the restoration of the porch on the eastern end of this building will reintroduce an element that existed previously, albeit probably not in precisely the same form, but this, too will not be obtrusive in the street scene. The proposed gate at the site entrance will replace an existing gate that does not positively contribute to the character and appearance of the street scene.
- 2.26 The proposed extension to the rear building (to provide unit 5) will be readily visible from the road and the site entrance. The form and design of this new-build element will reflect those of the building to which it is attached, including the roof form and eaves detailing, the inclusion of a "porthole" window in the gable end, and the form and proportions of the ground floor windows. It has a lower ridge and eaves height and will be subservient to the main building. The loss of the open area in this corner of the site is not considered to significantly harm the character of the conservation area, and the proposed building will therefore preserve the appearance of the area.
- 2.27 Although there are several listed buildings adjacent to the site and nearby, for the most part the proposed buildings works will not have an appreciable impact on their settings. The listed building most affected is 88 The Street, adjacent to the site entrance. The porch extension to the building on the opposite side of the entrance and the installation of the replacement gate will be seen in the context of this building within the wider street scene. However, as mentioned, the proposed gate will be a visual improvement on what is there at the moment, and the porch, although reducing the gap between the two buildings, will not be a dominant feature and will be of appropriate appearance for its location, so will not harm the setting of this listed building.
- 2.28 So far as the main buildings within the site are concerned, these are considered to be worthy of being treated as non-designated heritage assets by virtue of their age, their characteristic form and design (for the time and purpose for which they were built) and their significance as part of the history of the village. These are considered to be the principal features that lend to the significance of the buildings. In applying the test in NPPF paragraph 203, a number of factors need to be considered. The proposed dormers and porch on the frontage building have

already been mentioned; in addition to being acceptable in the context of the conservation area, these changes are not considered to harm the significance of this school building; indeed, the reinstatement of the porch is a positive step that enhances understanding of the significance of that building. The twentieth century extensions that are to be removed are relatively large (despite being single-storey) and one could take the view that in some ways they help to “tell the story” of the history of the buildings and how they have evolved over the years. However, the extensions are not attractive structures and they are in a poor condition. They do not possess the same design quality as the original buildings and are of an alien form. I therefore take the view that removal of these structures will help to better reveal the true significance of the buildings as heritage assets (this being one of the objectives listed in NPPF paragraph 206) by making their original form more legible. Although a single-storey extension is proposed to the rear of both buildings (in part replacing the demolished extensions) these are substantially smaller and their form is more in keeping with the form and design of the main buildings; they do help to create useable space within the proposed dwellings and on balance they are not considered to detract from the significance of the buildings.

- 2.29 The internal space of the rear building lends itself in a reasonably straightforward way to conversion to form units 3 and 4, with minimal subdivision and provision of a first floor in part of the building where there is already a false ceiling. Subdivision of the frontage building is somewhat more challenging, given that the principal internal space is a single space across the whole width of the building, with a full-height beamed ceiling (the former school hall). This is considered to contribute to the significance of the building as a non-designated heritage asset. However, within this space there is currently a mezzanine at the eastern end, served by a staircase that sits in front of one of the main windows. The solution that has been adopted is to retain a void at first floor level in both the new dwellings, with a new floor inserted at second floor level only, apart from a replacement mezzanine at the eastern end of unit 1. This mezzanine will actually be marginally less extensive than the existing one and be served by a new staircase in the rear corner of the building, allowing the staircase at the front to be removed. There had been concern over how the floor of the mezzanine would be seen from The Street, through the easternmost window, and alternative layouts were explored; however, it transpires that the level of this floor aligns with the transom in the window, and therefore can be easily disguised; when the removal of the existing staircase is taken into account, overall this will be a betterment.
- 2.30 In conclusion, it is considered that the proposed conversion works will result in “less than substantial” harm to the significance of the designated heritage assets (the conservation area and the settings of nearby listed buildings). They will bring public benefits by enabling these interesting buildings to be brought back into beneficial use. The scheme meets the tests in NPPF paragraphs 200 and 202, and will fulfil the requirements of Sections 66 and 72. Similarly, in terms of the impact on the buildings themselves as non-designated assets, any harm to the significance of the assets is considered to be acceptable and justified by the objective of securing an appropriate future use.

Highways, Access and Parking

- 2.31 The main policy reference points are Core Strategy DM13 and NPPF paragraphs 110 – 112. DM13 advocates a design-led approach to car parking, based on the characteristics of the site, the locality, the nature of the proposed development and its design objectives. The provision of nine parking spaces to serve the five dwellings is an appropriate proposition in this relatively sustainable location within

the designated Local Centre. The submitted plans include turning circles to show that a normal sized car can turn within the site to leave in a forward direction.

- 2.32 Concern has been expressed over the potential use of the site access, given the narrowness of The Street and the prevalence of parked cars. However, this is not an uncommon state of affairs within historic settlements; there are a number of other broadly similar site entrances along The Street at various intervals, and experience shows that parked cars can often lead to reduced traffic speeds. Moreover, and as mentioned above, this is a historic access with established use rights and the site itself has use rights that mean that a significant level of traffic generation could be expected with any alternative legitimate use. The gates will be set back 6m to allow vehicles to wait clear of the carriageway whilst they are being opened.

Ecology Impacts

- 2.33 NPPF paragraph 174 says that planning decisions should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity. Paragraph 180 says that when determining applications, if significant harm to biodiversity cannot be avoided, adequately mitigated or, as a last resort, compensated for, permission should be refused.
- 2.34 The application is accompanied by a Preliminary Ecological Appraisal, Bat Survey and indicative bat mitigation strategy. The Appraisal concluded that the buildings had the potential to accommodate bats, but that the likelihood of other protected species and species of interest (such as reptiles, amphibians, badgers and dormouse) being present was low. The bat survey confirmed the presence of day roosts for various species of bat; a European Protected Species Licence from Natural England will therefore be required, following any grant of planning permission and before any works commence, including demolition works. However, it is noted that the roofs to the buildings are boarded internally, below the roof tiles, meaning that the intervening space (the main area occupied by the bats) can, with care, be subject to minimal disturbance. The draft mitigation strategy includes a number of measures including use of bat tiles and installation of bat boxes, and this is considered to be an appropriate and proportionate approach. The detail of these measures can be secured by planning conditions.

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

- 2.35 The Conservation of Habitats and Species Regulations 2017, Regulation 63 requires that an Appropriate Assessment be carried out. It is for the Council, as the 'competent authority', to carry out the assessment.
- 2.36 Members may be aware of press reports relating to concerns about raised nutrient levels affecting Stodmarsh Lakes and the delays in housing schemes coming forward as a result. This has affected the districts of Canterbury and Ashford, as well as part of Dover District. Essentially the concerns have been raised following studies by Natural England (NE) that increases in wastewater from new developments coming forward have resulted in increased nutrient levels in Stodmarsh Lakes and which are causing water quality issues as a result. The lakes have high international ecological value for wetland habitats and the rare and special wildlife they support. They are protected through a combination of designations including A Special Area of Conservation, A Special Protection Area, A Ramsar site, A site of Special Scientific Interest and a National Nature Reserve. As such they are protected under the Habitat Regulations which requires an

Appropriate Assessment to be carried out to show there would be no adverse effect of a proposal on the integrity of the site. Until that can be demonstrated NE will raise an objection to any development proposal resulting in an increase of wastewater.

- 2.37 As far as Dover District is concerned, the areas affected are those which discharge to the Dambridge wastewater treatment works in Wingham. In common with other treatment works the Wingham site discharges treated effluent which eventually enters the Little Stour and then the Great Stour Rivers. Whilst Stodmarsh is upstream from the nutrient discharge location, because the river is tidal, there is potential for upstream movement during incoming tides.
- 2.38 Because of the above, officers commissioned consultants to carry out a study to undertake an investigation into potential connectivity between the Dambridge works and water bodies at Stodmarsh. This involved extensive collation and analysis of hydrological data in order to construct applicable modelling profiles. Two scenarios were considered; a worst case when Great Stour discharge was very low; and a realistic flow pattern based on actual recorded flows for the period of 2016-2019. The modelling was conservative in its approach, for example ignoring the potential for any contaminants to decay or otherwise be removed before they might arrive at Stodmarsh lakes which is likely in all probability. The results were that under a worst case scenario there might be a concentration of 0.002 mg/l at the lakes whilst under a more realistic scenario the increase in concentration might be 0.00012 mg/l. Even allowing for any lack of decay in the contaminants, such levels are below the limits of detection of the methods used for water quality.
- 2.39 The above results were presented to NE in mid 2021. Notwithstanding the extremely low probability of any connection with Stodmarsh lakes, NE was reluctant to rule out the possibility of ANY contaminants entering the lakes and therefore was not at that stage prepared to remove its standing objection.
- 2.40 During discussions however, it also emerged that the presence of a sluice gate downstream of Stodmarsh lakes might effectively prevent any upstream flow and therefore contaminants, from entering the lakes. The consultants were therefore asked to rework their modelling taking that factor into account. The results of this have been presented to NE who have to date, maintained their position. We remain in discussion with NE and are considering all options.
- 2.41 The current application, along with many other [housing] proposals in this part of the District, has now been on hold for over a year pending the resolution of this issue. This is a major concern to the Council and developers alike given the need to meet housing targets. Given the delays caused by this issue and the progress made so far with the advice provided by our consultants and discussions with NE ongoing, officers consider that a recommendation to grant subject to the issue being satisfactorily resolved, will at least establish the principle of the proposal and give the developers some comfort. The recommendation is framed in recognition that the application can only be approved on the basis of there being no likely significant effect on the integrity of the Stodmarsh SAC, SPA and Ramsar site or alternatively, that satisfactory mitigation can be achieved
- 2.42 Aside from any potential impact on Stodmarsh, this development also needs to be considered and assessed in terms of its potential to impact on another group of European Sites, namely those at Sandwich Bay and Pegwell Bay, through the potential disturbance of birds due to increased recreational activity there.

- 2.43 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.
- 2.44 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.
- 2.45 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.
- 2.46 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.
- 2.47 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.

Other Issues

- 2.48 Policy DM4 says that the Council will seek developments of between five and 14 dwellings to make a contribution to affordable housing. However, the NPPF indicates that a more flexible approach should be applied in rural areas and paragraph 64 specifically says that affordable housing should not be sought for residential developments that are not "major" developments other than in "designated" rural areas (which this is not). Moreover, NPPF paragraph 64 also says that, to support the use of brownfield land, where vacant buildings are being used or redeveloped, any affordable housing due should be reduced by a proportionate amount. In the light of this it is not considered appropriate to seek an affordable housing contribution in this instance.
- 2.49 There are no other requirements for developer contributions that would apply to this proposal.
- 2.50 With regard to drainage, the strategic situation with regard to foul drainage and potential impact at Stodmarsh is discussed above. Southern Water has drawn attention to the presence of an existing sewer within the site, and protection of this can be secured by condition. A surface water drainage strategy is included in the application and this proposes a SUDS solution including the use of permeable surfacing throughout the site and an underground cellular storage soakaway crate beneath the parking area. This is an acceptable approach in principle, and a condition will require the submission of a detailed scheme.

2.51 Consultation with Environmental Health has not revealed a concern over contamination on this site, nor any need for remedial measures.

2.52 A number of policies in the adopted Ash Neighbourhood Development Plan (ANDP) are relevant to this proposal, as set out at the beginning of this report. This is not a site specifically identified for development in the Neighbourhood Plan. The issues relevant to policies in the Neighbourhood Plan have been discussed above in the context of other policy requirements including, for example, those relating to biodiversity (ANP4), drainage (ANP4), design (ANP6), and car parking (ANP13). ANP5 seeks to ensure that developments are resilient to climate change and lists a number of ways in which this might be achieved. This scheme incorporates a number of such measures, including the use of SUDS for surface water drainage, EV charging points, cycle parking, and the removal of the least energy-efficient parts of the existing buildings. Given the other constraints that apply here, including the need to secure a scheme that respects the non-designated heritage assets, this is considered to be an appropriate a proportionate response. No significant conflicts with the policies of the ANDP have been identified.

3. **Conclusion/Sustainability**

3.1 This is an application for minor residential development that makes appropriate and effective use of a vacant, brownfield site in the heart of Ash. It has been carefully designed to make good use of buildings that are non-designated heritage assets in a way that respects their key features and enhances their significance as historic buildings; the proposed extension to accommodate an additional unit also respects the setting of these buildings and the wider conservation area. Although some concerns have been expressed over the potential impact on neighbouring residential properties, detailed analysis confirms that there is unlikely to be an overriding and unacceptable impact in this regard.

3.2 The NPPF identifies three interrelated objectives that underpin the achievement of sustainable development: economic, social and environmental. As there are no identified adverse effects of granting planning permission that would significantly and demonstrably outweigh the benefits, planning permission should be granted in accordance with NPPF paragraph 11.

3.3 The one unresolved issue relates to whether there is a potential impact on the designated European sites at Stodmarsh, as a result of drainage from the development. This situation is safeguarded by the caveat contained in the Recommendation below.

g) Recommendation

i. SUBJECT TO the local planning authority, as the 'competent authority' for the purposes of the Habitat Regulations, being satisfied (in consultation with Natural England as/if necessary), that discharges of wastewater from Dambridge wastewater treatment works would not have a likely significant effect on the integrity of the Stodmarsh SAC, SPA and Ramsar site, or alternatively that satisfactory mitigation can be achieved, **GRANT PLANNING PERMISSION** subject to conditions to cover the following matters:

- i) Standard commencement
- ii) Approved plans
- iii) Submission of external materials

- iv) Submission of details of dormers on front elevation/roof slope, all rooflights, and front entrance gates
 - v) Submission and implementation of landscaping scheme
 - vi) Provision of car parking
 - vii) Provision of cycle parking
 - viii) Provision of refuse storage facilities
 - ix) EV charging points
 - x) Submission of foul drainage details (subject to outcome of Stodmarsh negotiations)
 - xi) Submission of SUDS/surface water drainage scheme (pre-commencement condition)
 - xii) Unforeseen contamination
 - xiii) No demolition during bat hibernation season
 - xiv) No demolition until bat licence obtained
 - xv) Submission of detailed mitigation scheme regarding bats and other species (pre-commencement condition)
 - xvi) Submission of external lighting (to include bat-sensitive measures)
 - xvii) Provision of obscured glazing (first floor dormer to unit 2)
 - xviii) Removal of permitted development rights for extensions, roof alterations and additional window openings
 - xix) Submission of measures to safeguard existing sewer (as requested by Southern Water) (pre-commencement condition)
 - xx) Provision of broadband connections
- ii. Powers to be delegated to the Planning and Development Manager to resolve details of any necessary planning conditions and/or legal agreements and matters covered in recommendation I above relating to any impacts on the protected Stodmarsh sites in accordance with the issues set out in the report and as resolved by Planning Committee.

Case Officer

Neil Hewett