

- a) **DOV/22/00262 – ERECTION OF 2NO. BUILDINGS FOR USE AS CATERING UNIT AND CLASSROOM, FORMATION OF CAR PARKING AND TURNING AREA, INSTALLATION OF SOLAR PANELS TO EXISTING STORE BUILDING, RELOCATION OF BIN STORE, USE OF SITE FOR UP TO 60 STUDENTS AT ANY ONE TIME AND OCCASIONAL COMMUNITY USE.**

Forest School Activities And Education Centre Woodpecker Court 45 Wigmore Lane Eythorne CT15 4BF

Reason for report: Number of contrary views (34), and Member call-in.

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policies and Guidance**

Core Strategy (CS) Policies

- DM1, DM11, DM15

Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) - Section 66 of the above Act requires the decision maker to pay due regard to the desirability of preserving the setting of a listed building.

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 93, 95, 130 and 174.

The Kent Design Guide (KDG) (2005)

National Design Guide (2019) & National Model Design Code (2021)

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 have little weight and are not considered to materially affect the assessment of this application. The Draft has completed the first public consultation exercise, which expired in March and at this stage only minimum weight can be afforded to the policies of the Plan.

- d) **Relevant Planning History**

19/01241 – Granted, for “Retrospective application for the change of use of land and the erection of 5no. buildings for use as 2no. classrooms, tool and machine storage, toilet block, including change of use of adjacent land for educational use and erection of a woodland classroom.”

Condition 4 of this planning permission states:

“The educational facility hereby permitted shall not be used for the education, training or schooling of more than 40 students/young people at any one time.

Reason: In the interests of highway safety.”

Condition 5 of this planning permission states:

“No teaching, training or other types of schooling of the students/young people shall take place outside the hours of 0900 hours to 1500 hours on Mondays to Fridays. The use of the site hereby permitted shall not take place on Saturdays, Sundays or Public Holidays, with the exception of those occasions set out in the Schedule of Events within the Planning Statement dated 30 October 2019 - which are designated as a presentation event, 3 parents' open days and an annual open event for the local community.”

Reason: To conserve the character and appearance of the countryside.

21/01098 – Consent granted, for “Felling and remedial works comprising of; deadwooding, crown reductions, pollarding, coppicing, limb removal and creation of monoliths”.

e) Consultee and Third Party Representations

The proposal has been amended from its initial submission and three rounds of consultation have taken place. Some comments are no longer relevant due to the change in the proposal, but are included for completeness.

Eythorne Parish Council: In their initial response, the PC provided a neutral response and sought a site visit from the Planning Committee. In their most recent response, the PC do not raise objections on highway grounds subject to the imposition of two conditions (provision and retention of the parking spaces and a limit on the numbers of pupils), but concludes that “increasing student numbers & allowing use outside of normal school hours can no longer be supported.”

Environmental Protection Officer: Initially raised no comments, but sought further information on the increase on the ‘community based events’. Raises no objections subject to a condition limiting the hours of opening for these events from 0900 hours to 20 hours.

Officer Comments: This information has been provided to the Officer and a response is awaited.

Tree Officer: No objections are raised.

Heritage Officer: It is not considered that this application requires specialist input in respect of the built historic environment.

KCC Highways: The existing access via Adelaide Road is suitable with good visibility in both directions and is wide enough to allow 2 vehicles to pass along its entirety, but the access and parking spaces would need to be retained in perpetuity.

KCC PROW Officer: Does not wish to make comments.

Kent Fire & Rescue Service: Commented on the initial submission that there lacked emergency access to the proposed units.

Officer Comments: The comment is not in a form of a planning objection, but rather highlights that this is a building control matter that would need to be addressed.

Public Representations: At the time of writing this report, there have been 196 representations received from the public consultations of the application. Of these, 34 are objections and 161 are in support. One neutrally worded response (with regard to reflection from the solar panels) has been received. A summary of the objections raised is as follows:

- The location is unsuitable
- Impact upon air quality, the woodland and natural environments and habitats
- Loss of privacy, increase in noise and general disturbance and harm to living conditions
- Fire hazard
- Increase in traffic, harm to highway and pedestrian safety
- Harm to the visual amenity and countryside character
- Harm to the listed building and its setting
- The café is inappropriate
- Harm to welfare of animals
- There are breaches of planning control
- The bungalow is not surplus to use

A summary of the supporting comments is as follows:

- Supports the local community
- Meets an educational need
- The work being done with the pupils is supported.
- Raises the profile of the area
- There is sufficient separation to nearby properties
- The proposal is sustainable

The KCC Interim Area Education Officer states that there has been a significant increase in the numbers of children and young people with Education Health and Care Plans and an increased demand for places in schools (such as Woodpecker Court) offering bespoke learning environments.

The Head teacher at the Eythorne Elvington Community Primary School states that the school uses the grounds and benefits from the staff delivering sessions, there is a desire to increase and improve links and the school does not have any issues with the operations of Woodpecker Court.

Astor School supports the application, the bespoke curriculum and the way the facility is operated.

The Vicar of the Bewsborough Parish (6 local parishes including Eythorne & Elvington) supports the school and the support it provides to the children and local community.

f)

1. **The Site and the Proposal**

- 1.1 The application site comprises a 2-storey, Grade II listed, detached dwelling (the applicant's house), a converted garage building, in use for ancillary residential accommodation (a relative of the applicant), a former coach house building, in use as a classroom, and 6 single storey outbuildings to the side and rear of the detached dwelling, within its 'garden'. Three of these outbuildings have recently been erected and are in use as a classroom, toilet block and a tool/machine storage building. They are of timber construction - some of which are located on pre-existing concrete slabs.
- 1.2 Within this 'garden' area are open/grassed areas, a pet/animal enclosure, a relaxation area, a parking area, a small 'assault course' – which leads from the garden along a narrow strip of land towards the access to the site from Wigmore Lane and a small 'range' on the other (south eastern) side of the parking area, along a short, narrow strip of land.
- 1.3 Not including the house and its ancillary residential accommodation, the use of the remaining land and buildings provide an alternative/additional means of education for young people.
- 1.4 The detached dwelling is the former Manor house (Woodpecker Court) and was constructed in the early 18th Century. It is finished in red brickwork under a plain tiled roof.
- 1.5 The application site also comprises an area of land in front of (west of) Woodpecker Court, which contains a further timber building in use as a classroom and a shed. Adjoining the classroom is a small enclosure, housing animals (located to the north east of the building).
- 1.6 To the north of the 'garden' area is an area of woodland, which is protected by a Tree Preservation Order. Only part of the woodland is in 'use' by the applicant for teaching outdoor/woodland skills to the young people, the remaining parts have been made available for the public/community groups to use. Within the woodland, a 'dead wood wildlife' fence is erected, which is about 1m-1.5m high and made up of fallen branches and dead wood, and which forms a 'green' barrier to the area of land that the applicant wishes to separate between public and educational use. The fence comprises branches entwined and stacked together to form a physical barrier. Within the area to be retained for educational use only, and with access from the garden of the main site, a further timber (mobile) building for use as a woodland classroom has been recently stationed.
- 1.7 The application site also covers land that is owned by the Tilmanstone Welfare Club. This includes a small square parcel of land located opposite the front garden of Woodpecker Court, located amongst trees, and is used to accommodate a field shelter and grazing for goats. To the west of this there is a further large field that has been sub divided into 4 paddocks and used to accommodate 4 field shelters and additional animals including alpacas, goats and sheep. This land is close to Elvington Court Nursery (containing a dwelling and outbuildings) and the

residential properties along Thanet View (Adelaide Road). The land now has the appearance of being in agricultural use.

- 1.8 The Tilmanstone Welfare Bowls Club and Pavilion, the Willows (bungalow) and car parking are located mostly to the west of Woodpecker Court.
- 1.9 The access to the rear 'garden' of the site is from Wigmore Lane along a narrow private drive to a small parking area within the 'garden' area. An additional access to Woodpecker Court is via a lane accessed from Adelaide Road. In addition to Woodpecker Court, the lane serves Elvington Court Nursery, the Tilmanstone Welfare Bowls Club and Sports Pavilion, Willows bungalow as well as the paddocks, pens and classroom used by the School.
- 1.10 Public Right of Way EE354 runs along this lane from Adelaide Road.
- 1.11 The proposal seeks to erect two buildings on the site, within the main 'garden' area, close to existing buildings. The first would be used as a classroom, it would be of similar design and appearance as the other classroom buildings. The second building is proposed to be used as a catering building, to replace a 'mobile' catering unit in the same location. The mobile building would be moved to another location within the site, further north within the woodland, and close to the 'dead wood' fence.
- 1.12 A new bin enclosure building is proposed to the west of the site and would be adjacent to an existing classroom building.
- 1.13 Solar panels are proposed on the roof of an existing tool and equipment building, which is among the existing buildings and classrooms in the centre of the site.
- 1.14 The proposal also seeks to vary the limitation of children approved under the previous planning permission. This seeks to increase the number of students/school children on the site at any time from 40 to 60. The increase in the number of children comes from an increase in demand for such a facility and educational service. Secondly, the proposal seeks to increase the number of 'events' on the site available to the public and community groups from 1 to 6 (1 per term).
- 1.15 Whilst the access from Wigmore Lane remains, providing access to a small car parking area in the site, the proposal includes the provision of a turning area, drop off and pick up area and further parking spaces for staff on the western part of the site, accessed from the lane front Adelaide Road. The use of this access was highlighted to be available to the school under the previous application, but the proposal seeks to change the degree to which this access is used through the turning, pick up and staff parking areas proposed.

2. Main Issues

- 2.1 The main issues are:
 - Principle of development

- Impact on visual amenity and the character and appearance of the countryside
- Impact upon the setting of the designated heritage asset
- Impact on residential amenity
- Highway Safety
- Planning balance

Principle of Development

- 2.2 In respect of Policy DM1, the proposal is considered to be ancillary to an existing development and use and therefore it would be in conformity with this policy and acceptable in principle.
- 2.3 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The confines of the village extend to the houses opposite the access to the application site along Wigmore Lane (but do not take in the access to the site) and cross the access to the lane leading to the paddocks, the 'Willows', the Bowls Club land, Elvington Court Nursery and Woodpecker Court from Adelaide Road.
- 2.4 Whilst the proposed development and increase in the number of pupils and staff attending the school and activities will increase the demand for travel outside the village confines, it is considered that the application site is not so materially removed from the village confines so as to be remote from it and; as such, there will be travel to and from the site that would cross into/overlap with the village confines.
- 2.5 Policy DM11 is worded to allow development outside the settlement confines if justified by other development plan policies. As the proposal is considered to be in conformity with Policy DM1, it is considered that the proposal is only partly and in moderate conflict with the aims of Policy DM11 to reduce travel outside the settlements and the objectives behind Paragraph 105 of the NPPF to actively manage patterns of growth.
- 2.6 For the purposes of applying the appropriate weight to the Development Plan and those policies important for the determination of the application, it is accepted that some of the detailed policies applicable to the assessment of this particular application (including Policies DM1 and DM11) are to various degrees, now considered inconsistent with aspects of the NPPF and as such are out-of-date. That does not mean however that these policies automatically have no or limited weight. They remain part of the Development Plan and must therefore be the starting point for the determination of the application. Furthermore, while the overall objective of a policy might be held out-of-date, greater weight can nevertheless still be applied to it depending on the nature/location of the proposal in question and the degree to which the policy (in that limited context) adheres to and is consistent with the policy approach in the NPPF.
- 2.7 As the policies are out of date with the NPPF, what is known as the 'tilted balance' applies, as set out in Paragraph 11 of the NPPF, where there is a presumption in favour of planning permission for sustainable

development being granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

- 2.8 In conclusion, whilst there is moderate conflict with the aims of Policy DM11 and Paragraph 105 of the NPPF, there is an NPPF requirement under Paragraph 95 that decisions should give “great weight” to the needs of schools. As such, and weighing these in the balance, it is considered that the principle of the proposal is acceptable in this location.

Impact on Visual Amenity and Character and Appearance

- 2.9 The impact of the proposal on visual amenity and the character and appearance of the countryside needs to be considered against the use of the land and the existing development.
- 2.10 The main educational function takes place within the rear garden area of Woodpecker Court – the main building on the land. The garden land is well defined and physically contained by boundary enclosures. The proposed buildings are contained within this garden area and form part of a consolidation of buildings on the site. They are sympathetic with the existing form, design and appearance of other nearby buildings and would not stand out on their own and would not encroach into the open countryside. The garden is not overtly visible from public vantage points and as such its use and the proposed buildings will have a minimal impact upon visual amenity and the character and appearance of the area.
- 2.11 The proposed bin store is modest in scale and would be located against an existing classroom. It is well designed and would not encroach into the more open countryside and surrounding area. As such, the bin enclosure is considered to meet the requirements for good design within the NPPF.
- 2.12 The proposed solar panels would be on a roof slope of an existing building in the centre of the site and would not be visible from public vantage points. As such, these are considered acceptable.
- 2.13 The proposed turning, drop off and car parking areas would be visible from public vantage points within the open countryside. The car parking would take place on an existing area that is grassed. Both the parking area and turning area would be seen within the context of an existing access/private way leading to the existing pavilion and hard surfaced car parking area. The turning area and car parking area would not take up a significant amount of the existing land – some of this land is already in use as one of the animal enclosures (pig pens). With suitable hardsurfacing or even cellular matting, these areas would not appear untoward, intrusive within this context or significantly harmful to warrant a refusal of planning permission.
- 2.14 The additional numbers would appear to be able to be suitably accommodated on the site, as the amount and extent of development on the site is consolidated and not significant, and there appears to be sizeable areas of open land for the pupils’ recreation and leisure.

- 2.15 The increased use would extend into the woodland area. There has been some removal of trees and other works of management - which appear to be covered by the consent granted in 2021 (set out above). With this exception, there appears to be no other material increase or noticeable visual impact or change in the prevailing character and appearance of the woodland since the previous permission was granted in 2020. The intention behind the education in this area is to teach forest school/tree management skills within the woodland which should not have any material bearing upon its appearance. The applicants own the woodland and allow the public and community groups access to it
- 2.16 It is considered therefore that on the whole, having taken into account the increased areas of hardstanding for the parking and turning areas, the proposal meets the requirements of Policy DM15 and paragraph 174 of the NPPF.

Impact upon Designated Heritage Asset

- 2.17 The listed building is the main, detached two storey dwelling at the front of the site, with an access from the drive leading from Adelaide Road. It also has an access from Wigmore Lane, via a private lane, which serves the educational facility. The occupier of the house operates the educational facility, and is the principal applicant.
- 2.18 The proposed development only affects the parts of the site that are some distance (to the west and east) from the main house and the ancillary residential accommodation (in the converted garage) – with intervening development/structures between them. As such, it is considered that the proposed development would not affect the setting of Woodpecker Court. Having considered the duty under Section 66 of the Principal Act, it is considered that the new buildings, uses and other development do not materially affect the setting of the designated heritage asset, and have a neutral impact.

Impact on Residential Amenity

- 2.19 There is a close boarded timber fence some 2.5m high along the boundary with Elvington Court Nursery. Along the boundary with the residential properties in Wigmore Road, to the east, there are rows of landscaping that form a dense planting screen within the application site and within the garden of the adjacent residential property. There are only glimpsed views of parts of the rear garden area of the adjacent property from the application site. It is considered therefore that the neighbouring residential properties are suitably safeguarded from overlooking and loss of privacy.
- 2.20 As the educational use of the land only takes place within normal school days and hours, it is considered that noise and disturbance arising from the additional development and numbers of pupils will take place during less sensitive times and days of the week – which would allow the residents of nearby properties to continue to enjoy a reasonable degree of peace and quiet at weekends and during the evenings.

- 2.21 With regard to the additional community events proposed, one per term, it is not considered that this increase is material enough to cause undue harm to the living conditions of the occupiers of nearby properties.

Highway Safety

- 2.22 The increase in the number of pupils attending the school (from 40 to 60) and increase in staff numbers from 10 to 20 will increase the vehicular movements to and from the site and the levels of activity on the site. Condition 4 (restricting the number of pupils) was imposed on the previous planning permission, to safeguard highway safety. On advice from Kent Highways, the condition was imposed and its effect aimed at the use of the access to the site from Wigmore Road.
- 2.23 In KCC's response, at that time, there was a preference for drop off and pick-ups to use the access and lane from Adelaide Road as a more appropriate solution than vehicles using the access from Wigmore Lane.
- 2.24 Under this current application, there are no objections from KCC Highways to the use of the access from Adelaide Road, parking and turning areas, providing that the parking and turning areas are retained for these purposes.
- 2.25 The 2019 planning permission for the change of use of the land with the conditions attached did not prevent or limit the use of the access from Adelaide Road. As such, there are no current planning controls over the number of vehicles using the access for the purposes of dropping off and picking up children.
- 2.26 As such, it is considered that as there is the ability for vehicles to turn on site and leave the access onto Adelaide Road in a forward gear, the increase in the number of pupils and staff is not likely to give rise to a significant increase in harm to highway or pedestrian safety.
- 2.27 The context of the use of the land and access from Adelaide Road, and the comments from Kent Highways, do not negate the views of local people that the increased use of the access and parking area are a cause for concern; however, the proposal is not considered to directly or automatically give rise to conditions that would unduly harm pedestrian and highway safety.

Other Matters

- 2.28 The final consultation of this application expires on 12 August 2022. The reason for this consultation was due to the proposed increase in community events from 1 to 6 and to clarify the de. Should any new information/responses be submitted following the Planning Committee decision and prior to the expiration of the consultation period, and this information is considered by the Head of Planning and Development to be material to the decision that has been made, the application will be reported back to the next available Planning Committee.

Planning Balance

- 2.29 The proposal would not be in conflict with policy DM1 and is only in moderate conflict with policy DM11 and policy DM15. The conflict with DM15 could be mitigated through a condition on how the additional areas of land take would be treated.
- 2.30 The requirements of Paragraph 95 of the NPPF are to give “great weight” to the needs of schools. As such, it is considered that for this application to be unacceptable any harm identified would have to overcome the great weight in favour of extending the school and improving its provision and service. As there is only limited harm identified it is considered that the planning balance is strongly in favour of granting planning permission.

Conclusion

- 2.31 The proposal is for the erection of two buildings, the relocation of a bin enclosure building, solar panels, increased areas of hard surfacing for turning and parking, an increase in the number of pupils on the site at any time from 40 to 60 and an increase in open/community events from 1 per year to 6 per year.
- 2.32 It is considered that the proposal is acceptable in principle and there is only a limited degree of conflict with planning policy and harm arising from the proposal. Given the weight to be afforded to the need for the school to expand and improve their facilities, it is considered that the proposal should be supported.

g)

Recommendation

- I Planning permission be GRANTED with the imposition of the following conditions:
- i. Permission to be implemented within 3 years.
 - ii. Development should be in accordance with the layout plan and drawings
 - iii. Materials of the buildings to be as those submitted with the application
 - iv. Materials of the new hard surfacing areas to be submitted for approval.
 - v. Retention of the parking and turning areas for the duration of the school use of the site.
 - vi. Only 60 pupils to be allowed on the application site at any one time.
 - vii. To limit the hours of opening for the public/community events from 0900 hours to 2000 hours.
 - viii. The previous condition 5 (imposed on 19/01241) on the hours and days of the operation of the use to be re-imposed with the increase from 1 open community event to 6 per school year.
- II Powers be delegated to the Head of Planning and Development to settle any necessary wording in line with the recommendations and as resolved by the Planning Committee, and to determine whether any new information/responses received before the expiration of the

consultation period (12 August 2022) are material to the Planning Committee's decision so as to require the application to be held in abeyance and reported back to the Planning Committee.

Case Officer: Vic Hester