

- a) **DOV/21/00391 – ERECTION OF DETACHED DWELLING WITH ASSOCIATED PARKING.**

Land Adjacent To 95 The Street Ash Kent CT3 2AD

Reason for report: Number of contrary views (36).

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policies and Guidance**

Core Strategy (CS) Policies: CP1, DM1, DM11

Ash Neighbourhood Plan (ANP) Policies: ANP4, ANP5, ANP6n

National Planning Policy Framework 2021 (NPPF): Section 5, Section 9, Section 12

Designated Heritage Assets

The application site falls within the Ash Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

The Kent Design Guide (KDG) (2005)

National Design Guide (2019)

Regulation 18 Consultation on the Draft Local Plan

The Draft Local Plan has undergone its first public consultation exercise, which expired in March 2021. At this stage only minimum weight can be afforded to the policies of the Plan.

- d) **Relevant Planning History**

07/01404 – Refused, for the erection of a pair of semi-detached dwellings by reason of design and appearance and overlooking towards the side of No.95.

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

The proposal has been amended from its initial submission and two consultations of the application have taken place.

Ash Parish Council: To the originally submitted scheme the Parish Council raised objections on the basis of..." overdevelopment of the site, not in character with the street scene and the Ash Conservation area; loss of visual amenity, over-looking of adjacent properties and possible flooding due to surface water run-off."

For the amended scheme the Parish Council did not raise objections to the development, but wished consideration to be given to the potential surface

water run off beyond the eastern boundary of the site. Should permission be granted, the Parish Council has requested a number of conditions be imposed.

KCC PROW Officer: Does not wish to make comments.

Southern Water: Requires a formal application to connect to the public sewer that crosses the access to the site. Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer.

Heritage Officer: Sought improvements in the design and use of finishes. These were undertaken and have been submitted under amended drawings.

Kent Highways: No objections are raised subject to the imposition of conditions.

Senior Environment Officer: No objections subject to the proposal meeting the requirements of Natural England I respect of achieving nutrient neutrality.

Tree Officer: Raises no objections as the trees to be removed are of low quality and value. However, seeks a condition to protect the other trees shown to be retained during the construction period.

Public Representations: From the two consultation periods, there have been 37 representations received (32 for the first proposal and 5 for the amended proposal) from the public consultation. Of these, 36 responses raise objections, and 1 response supports the application. The objections can be summarised as follows:

- Out of character and scale
- Overbearing, intrusive, inappropriate use of materials
- Harm to the conservation area and views of the listed Ash Church
- Overlooking/loss of privacy, loss of light, loss of amenity
- Loss of trees, wildlife and impact upon habitats
- Harm to highway and pedestrian safety
- Impact upon drainage
- Inconvenience and disturbance during construction
- The proposal is worse than the application refused in 2007
- Incorrect/inconsistent information with the submission

One respondent supports the design and appearance of the proposal, and makes suggestions for some alterations to be made.

f)

1. **The Site and the Proposal**

1.1 The application site is a square parcel of land adjacent to (to the east of) No.95 the Street. It appears to have formally been part of the side garden of No.95. The site has the remnants of a garage building, which faces toward No.95, and is otherwise mostly covered in vegetation, with leylandii trees along its eastern boundary and other trees within the plot. The front boundary comprises a 1.8m high timber fence that has been overgrown by ivy and other vegetation. The topography of the land falls from front to back.

- 1.2 No.95 is a two storey, semi-detached Victorian house. It has a rectangular form, with a pitched roof. It is finished in white painted brickwork under a slate roof. The front elevation contains a ground window and a first floor window above. The entrance to the building is from the side. There are windows in the side elevation facing the application site. Adjacent to the building is an area for a parking space, with access from The Street. There is a timber shed and a fence at the rear of the parking space.
- 1.3 The eastern boundary of the site is the extent of the settlement boundary, at this point of the village. To the east of the boundary is an area of open green space.
- 1.4 Opposite, there is a terrace of two storey Victorian residential properties. These have front doors, with a ground window and first floor window above. These buildings have rendered elevations, slate roofs and chimneys.
- 1.5 The site falls within the Ash Conservation Area. The character of this part of the conservation area is mainly derived by a variety of Victorian buildings that are constructed close to the back edge of the highway. The buildings at the back edge of the highway, and the narrowness of the road, provide a tight knit urban form in this part of the street scene, with long views created by the location and proximity of the buildings, to the west and east. There are some buildings set further back from the highway (Nos. 92 and 94) and there is the open space to the east of the plot, which provide a visual loosening of the built form and change to the linear pattern of residential development along the street. In combination, the design and appearance of the buildings along this stretch of the road, and their location and proximity to each other make a positive contribution to the special character of the area.
- 1.6 The application is supported by an Arboricultural Report, a Preliminary Ecological Appraisal and an Arboricultural Report, Heritage Statement and a Provisional Certificate from Natural England with regard to great Crested Newts.
- 1.7 The proposal has been amended from its first submission. More recently, it has been amended to take into account the comments from the Heritage officer with regard to the design and finer detailing of the scheme.
- 1.8 The application proposal is for the erection of a detached, two storey house with space on the building's western side for two parking spaces, with access from The Street. In addition, cycle and refuse storage areas are proposed along the eastern boundary of the site.
- 1.9 The building will have a square form with a pitched roof, with gabled ends. The building will be double fronted, with a centrally located entrance door and windows on either side and above. The entrance door will have a storm porch above, the windows will have 12 panes (box) with brick arches.
- 1.10 A garden room is proposed on the western side of the building, set back behind the front elevation. This will be rectangular in form with a sloping,

pitched roof. On the roof, solar panels are proposed. The garden room will be constructed so that it is set into the falling levels of the land - its rear section will be lower than its front section. The rear elevation of the main building will contain a large, rectangular bay window, with a flat roof and roof lantern.

1.11 The leylandii trees along the eastern boundary of the site and some self-seeded oak trees on the site will be lost. One maple tree on the site will be retained and a group of trees beyond the eastern boundary of the site will be protected during construction. Trees can be planted on the site, as part replacement.

1.12 The submitted preliminary ecological appraisal does not identify any protected species or habitats on the site, but suggests that ecological enhancements should be made as part of the proposal.

2. Main Issues

2.1 The main issues are:

- The principle of the development
- Design and the impact on designated heritage assets
- The impact on residential amenity
- The impact on highway safety
- Conservation of Habitats and Species Regulations
- Other Considerations
- Conclusions

Principle of Development

2.2 The application site falls within the village confines of Ash. As such, under Policies CP1 and DM1, the erection of a dwelling within the settlement boundary is acceptable in principle.

2.3 In March 2017, DDC Cabinet agreed to commence the review of the Core Strategy (CS) and Land Allocation Action Plan (LALP) through the preparation of a single local plan. The decision to review the CS and LALP is an acknowledgement that in some cases the evidence base is out of date. It is also recognised that some of the detailed policies applicable to the assessment of this particular application (including Policies CP1 and DM1) 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.

2.4 With regard to this particular application, the focus of the NPPF is to locate new housing development within suitably sustainable locations. Supporting the principle of new housing within the village confines would

be consistent with Paragraph 79 of the NPPF, which seeks to locate housing where it will enhance or maintain the vitality of rural communities and to avoid the development of isolated homes in the countryside.

- 2.5 There are no in principle objections arising from the policies in the Ash Neighbourhood Plan.
- 2.6 As such, the principle of allowing housing development in this location is compatible with the objectives of the Development Plan and the requirements of the NPPF.

Design and Impact upon the Designated Heritage Assets

- 2.7 The proposal has been amended from its original submission and is a clear improvement in the form, design and appearance of the building and its configuration on the plot.
- 2.8 The street elevation of the building is a Victorian styled composition. It has a simple, unfussy design and uses appropriate door and window proportions. It is two storeys in scale and is located close to the back edge of the highway. As such, it will align with the linear pattern of development along this part of the street. The use of yellow stock facing brickwork, timber fenestration and slate roofs are traditional materials and would suit this style of building and design. The building would visually relate well to the surrounding buildings and would be sympathetic with its visual quality and the prevailing character and appearance of the conservation area. Care will need to be had for the choice of materials and the detailing of the building, which can be secured by condition.
- 2.9 The parking spaces, cycle and refuse storage areas could be appropriately designed with details to be required by planning conditions. The building allows sufficient garden space to the rear, and replacement hedgerow and tree planting would provide an appropriate setting for the development and help to assimilate it with the surrounding area – in particular with the open land to the east. This would in part also off-set the loss of vegetation and tress from the site, although these currently have low amenity value.
- 2.10 One of the responses received from the consultation of the application makes reference to the likely harm to the views of St Nicholas's Church. In this respect the statutory duties of paying special regard to preserving the setting of the listed building apply, and that this must be given considerable importance and weight. St Nicholas's Church building in Ash, is located further west of the application site, on raised land levels, above the level of the highway. It is a Grade I listed building and originates from the 12th Century.
- 2.11 The proposed two storey scale of the proposed building, its proximity to No.95, its location along the linear pattern of development on the Street and the intervening buildings between the application site and the Church building will mean that the views to and from the Church building would not be impeded or otherwise affected by the proposal.

- 2.12 Subject to the imposition of planning conditions, the proposed development is well designed and will preserve the prevailing character and appearance of the conservation area and the setting of the listed Church building.

Impact on Residential Amenity

- 2.13 The location of the proposed dwelling would face some of the Victorian buildings opposite, on the other side of the street. The building would come no closer to this terrace than other existing buildings adjacent. There is also an existing level of visibility into windows by the public at street level. In view of the existing circumstances and level of visibility and intervisibility it is not considered that the proposal would make this materially worse. As such, the proposal would not give rise to undue levels of overlooking and loss of privacy for those occupiers living opposite.
- 2.14 With regard to the impact on No.95 The Street, only one first floor side window is proposed in the new building that will face the side elevation of No.95. This window will serve a stairwell. As the window will not serve a habitable room, it is unlikely that the occupiers of the new house will be using this window for outlook. In conclusion, the living conditions of the occupiers of No.95 will be safeguarded.
- 2.15 There is residential development to the rear of the plot, Oast View, with access from Moat Lane. Again, due to the location of the proposed house and its separation from Oast View, it is not considered that there will be a material increase in overlooking from what is already experienced from the existing windows in No.95, to the extent that this would lead to an adverse loss of privacy and undue harm to the living conditions of the occupiers of those properties.
- 2.16 It is concluded therefore, that the proposed house would not give rise to undue levels of impact upon the living conditions of the occupiers of adjacent properties, or those opposite.

Impact on Highway Safety

- 2.17 Kent Highways has advised that subject to the imposition of conditions, the proposal is acceptable on highway safety grounds. It is considered that drivers approaching from the east would be able to clearly see a vehicle waiting to emerge at the access from further away, and the access will only have limited use. An objection on highway safety grounds is therefore unlikely to be upheld on appeal. This does not negate the view of local people that the increased use of the access and parking area is a cause for concern; however, the proposal is not considered to directly or automatically give rise to conditions that would harm pedestrian and highway safety.

Conservation of Habitats and Species Regulations 2017

Thanet Coast/Sandwich Bay SPA:

- 2.18 The site is located within the area where the development is likely to have a significant effect on the Thanet Coast and Sandwich Bay Special

Protection Area (SPA). Applying a pre-cautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within the district, to have an adverse effect on the integrity of the protected SPA and Ramsar sites. Following consultation with Natural England, the identified pathway for such an adverse effect is an increase in recreational activity which causes disturbance, pre-dominantly by dog-walking, to the species which led to the designation of the sites and the integrity of the sites themselves.

- 2.19 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. For proposed housing developments in excess of 14 dwellings the SPA requires the applicant to contribute to the Strategy in accordance with a published schedule. This mitigation comprises several elements, including monitoring and wardening.
- 2.20 Having regard to the proposed mitigation measures and the level of contribution currently acquired from larger developments, it is considered that the proposal would not have an adverse effect on the integrity of the SPA and Ramsar sites. The mitigation measures will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

Stodmarsh Lakes Nature Reserve SPA/SAC:

- 2.21 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 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.
- 2.22 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.

- 2.23 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.
- 2.24 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.
- 2.25 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.
- 2.26 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, in particular. 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 applicant 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

Other Considerations

- 2.27 A number of matters have been raised as a result of the consultation of the application. Many of these are considered to have been addressed through the amended proposal, and other issues can be addressed through the imposition of planning conditions.
- 2.28 With reference to the Provisional Certificate issued by Natural England, this, in effect, enables the applicant to demonstrate early engagement with Natural England and that in issuing the Certificate Natural England

does not have in principle objections to the compensation (mitigation) proposed to the likely impacts on great crested newts.

- 2.29 With reference to the bus shelter, the development and the proposed access do not directly require its relocation. Kent Highways have considered that the access is suitably safe and have not raised the relocation of the bus shelter as necessary for the development to proceed. The location of bus shelters is not a planning matter, but rather a highway matter and so unless required to make the development acceptable, a condition for its removal and relocation would not be necessary and would therefore not meet the tests for planning conditions as set out in the NPPF.

Conclusions

- 2.30 The proposal seeks to erect a two storey house within the former garden of No.95 The Street. It is considered to be well designed and would be sympathetic with the visual quality of the street scene and the character and appearance of the conservation area.
- 2.31 It is considered that the proposal would not give rise to undue harm to residential amenity, or highway safety.
- 2.32 Due to the ongoing issue with nutrient neutrality and the need to avoid any significant effect on the protected habitats and species at the Stodmarsh Lakes Nature Reserve, it is not considered that planning permission should not be granted at this stage, but Members give their approval in principle for the proposed development, subject to the nutrient neutrality matter being addressed in the near future.
- 2.33 It is considered that the proposal meets the requirements of the Development Plan and NPPF
- 2.34 Conditions are recommended to be imposed on the resolution to grant planning permission.
- 2.35 Subject to the need to address any likely significant effect on the designated Stodmarsh Lakes and for an Appropriate Assessment to take place in the future, the application is supported by the officers.

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, PERMISSION BE GRANTED subject to the following conditions:
1. Standard 3 year implementation period
 2. Development in accordance with the approved plans.

3. Samples of the bricks and slates and details of materials proposed for the external finishes of the building shall be submitted for approval before the construction of the development takes place above ground level
4. Details of construction of eaves and rafter ends, verges, barge boards, joinery of doors & windows and their positioning in the masonry to be submitted for approval
5. Details/position of vents to be submitted for approval
6. Sample panel of brickwork to show brick bond and mortar joints.
7. Site levels to be submitted for approval.
8. Details of the means to dispose of surface water and foul water drainage from the site shall be submitted for approval prior to works commencing.
9. Details of native planting species, enclosures and landscaping to be submitted for approval before the construction of the development exceeds ground level
10. Recommendations within the Ecological Appraisal for enhancing biodiversity during development and increasing biodiversity post construction to be implemented
11. The tree protection measures identified in the Arboricultural Report shall be fully implemented during the construction of the development
12. A Construction Management Plan to be submitted for approval
13. No development shall take place on the site until details are submitted to and approved in writing by the local planning authority of measures to demonstrate that the proposal is taking a proactive approach to mitigating and adapting to climate change and minimising energy consumption. This shall include the provision of an electric vehicle charging point.
14. Parking spaces as shown on the approved plans shall be provided before first use and retained thereafter
15. Provision and maintenance of 1 metre x 1 metre pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level, prior to the use of the site commencing
16. Provision of bonded surface for the first 5m of the depth of the parking spaces
17. Completion of the vehicular crossing prior to use of access
18. Cycle, refuse and recycling facilities to be provided before the first use of the development and retained thereafter
19. Removal of PD rights – Under Class A of the GPDO to cover extensions, extensions and alterations to the roof and outbuildings

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: Vic Hester