

Appendix

- a) **DOV/20/01569 - The erection of a two storey building incorporating 15 apartments (independent living accommodation), communal social areas and associated parking and landscaping**

Longships, Cauldham Lane, Capel Le Ferne

Reason for report – Number of contrary views (36 Public Representations & Parish Council)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM11, DM15, DM16

Land Allocations Local Plan (2015): DM27

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.

Kent Downs Area of Outstanding Natural Beauty Management Plan 2021- 2026

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 38, 47, 48, 60 – 62, 86, 79, 110 - 112, 120, 123, 130 - 135, 167, 168, 174, 176, 180

National Design Guide & National Model Design Code (2021)

- d) **Relevant Planning History**

Various applications including:

CH/6/63/0051 – the erection of dwellings - Refused

CH/6/63/0198 – outline – demolition of “Longships”, and construction of cul-de-sac with 10 building plots - Refused

CH/6/66/0263 – erection of a garage - Granted

DO/74/0454 – residential development - Refused

DO/78/1175 – Erection of bungalows or houses on all or part of site – Refused, Appeal Dismissed

DOV/93/00929 – Two storey side extension - Granted

DOV/13/00302 – Outline application (with all matters reserved) for the erection of eight dwellings (existing dwelling to be demolished) – Refused

e) **Consultee and Third Party Representations**

Representations can be found in full in the online planning file. A summary has been provided below:

Capel Parish Council – Initially advised they were in agreement of the concept for small retirement units within the village however did not support the application as the location proposed is deemed totally inadequate for this scale of development. They considered the proposal was not in keeping with the current street scene or rural characteristics of the village; that the site would need significant screening to mitigate the impact on AONB and bridleways; that the scale is inappropriate; and impact on properties in Cauldham Close. In addition, the access statement indicates these 2-bedroom residential units are designed to accommodate a live-in person who can act as a companion or take on community duties. With 15 units of two bedrooms and to include all visitor provisions, the parking area seems inadequate when considering residents, visitors, staff deliveries etc. Cauldham Lane is a single-track lane, has no pavement or no passing places, is regularly blocked for deliveries and heavy vehicles accessing local farm, the Industrial units further down Cauldham Lane and access for emptying the bins is from the lane, that would cause considerable congestion on bin days. Significant issues previously raised by DDC regarding the junction of Cauldham Lane / Capel Street / New Dover Road. Historically, there have been a number of road traffic accidents exacerbated by the blind entrance / exit to the B2011 often in foggy weather times. This is the main access route to the local Primary School, so will add further pressure at certain times of the day. Parking and movement of persons from the site with network providers (NHS etc), third party organisations, friends and family, make movements to and from the site a significant issue. Difficult to see how pedestrian walkway on Cauldham Lane would be achieved as the lane is narrow and although land could be purchased from properties along the lane, this may be difficult to achieve. This lane is regularly used by many of our parishioners including dog walkers, ramblers, school children, elderly residents, families and horse riders. Any increase to traffic will have wider health, safety & social impacts to the village. A previous application for this site DOV/13/00302 dated 13th June 2013 was refused and many of the reasons made why this was declined, are still very valid. This site is not currently within the approved Local Development Plan and sits on the edge of our settlement. Leaving the site generally to decline should not be a reason to promote development. Impacts to utility service provisions, for example many residents are believed to have issues with low water pressure. Traffic: Construction movements will have lasting impacts to the village, AONB and Bridleways. The proposal, as submitted, has a gross external floor area of 2,015 m² as identified on DRG P-004 REV and the Parish Council believe, the construction cost to build alone could be in excess of £5m. With a probable construction period of up to 2 years and likelihood of mobile cranes, this would have a significant impact to the local parishioners' wellbeing. Fail to see how this proposal has a positive impact of the NPPF and believe DDC already have a 5-year housing land supply. A development of 15 no 2-bedroom independent living apartments, over a GEA of 2,015 m² with its associated impacts to the environment and local community make this application inappropriate and should be refused planning permission.

In response to revised plans, advised they still objected. Although the plans now show the building to be further away from Cauldham Close/Lane, which was a concern of the Parish Council as indicated in our previous statement, the Proposal will still impact on neighbouring properties in Cauldham Close/Lane, with the issues of parking on site. The achievement of the proposed footpath and the dangers of the Cauldham Lane/Capel Street junction still exist. Although changes have been made to the access/egress arrangements, it has not been demonstrated how service and emergency vehicles would be able to turn round if all parking spaces on site were occupied. It is also noted, that the Road Safety Audit was carried between 17.00hrs and 18.00hrs, not a time to get an accurate impression of Cauldham Lane traffic activity. Whilst the Road Safety Audit recognises the dangers associated with the Cauldham Lane/Capel Street junction, they appear to indicate that cutting back vegetation at the junction will resolve safety concerns, but the Parish Council consider this is not enough to deal with this exceptionally dangerous junction and narrow access with no footpaths to Cauldham Lane/Close. Dover District Council Draft Local Plan (HELAAP/LALP) states 10 units restriction only. Subject to all the above comments, we continue to have concerns and issues with this application, and request ours and any neighbours comments and/or reactions are seriously considered accordingly.

Further commented:

We have carefully considered all comments made to Dover District Council since we drafted our response back in January 2021. In our last submission we questioned the space in the car park for delivery and emergency vehicles to turn round if all parking bays are used, we think this point is still valid. The emergency vehicle turning space has not been addressed to date.

Although we fully support the concept for small retirement units for our parishioners based upon the survey we undertook a number of years ago, we are still not convinced this is the correct site for this in its current format put forward, with the erection of two storey building incorporating 15 apartments (flats), communal social areas and associated parking and landscaping. It is too large and will have a significant impact to the surrounding area and street scene for Cauldham Lane and Cauldham Close.

It is disappointing to read a statement in the revised Design Access Statement submitted: "we find it important to underline the note from the viability report's comment that a smaller scheme would run a larger deficit as the land value used is already conservative and the GDV of a smaller scheme would make the scheme much less viable", bearing in mind the site is well documented by Dover District Council positively for 10 units. A smaller scheme may well be able to be incorporated with less impact. We believe the scheme is too large and will have a significant impact to the surrounding area.

It is very clear that a significant amount of effort and alteration has been made to this application since early 2021, but it is also very clear the majority of comments made by the residents and wider parishioners do not support this application. Objections include impact to neighbouring properties, negative impact of wildlife, access and movement along Cauldham Lane, safety grounds (Cauldham is a single-track Lane),

pure scale of the development is not in keeping with the area and issues with drainage and water raised by local residents.

The proposal now shows Cauldham Lane being widened to 4.8m adjacent to the frontage of Longship, which could mean the removal of mature trees. The road widening adjacent to No: 2A Cauldham Lane, seems totally unnecessary.

A revised highway scheme has been put forward however, we still have significant concerns with the junction of Capel Street, New Dover Road and Cauldham Lane. Capel Street is used as a short cut to Dover and this Council have worked hard over the years to try and educate and limit the significant speeding that occurs on a daily basis.

Vehicles joining Capel Street from New Dover Road constantly cut across the bend at the top of Capel Street at the point of the proposed crossing, which in our view could lead to a significant risk of a serious or fatal accident. This point is also raised in the Waterman Revised Stage 1 Audit.

There are a number of valid issues raised by the Waterman Revised Stage 1 Audit, the most worrying is related to the proposal for a pedestrian crossing point at the top of Capel Street. In our view, the position of a crossing point in this location is extremely dangerous as many vehicles leave the B2011 (New Dover Road) at speed and straight line onto Capel Street, as highlighted in point 7.3 of the Audit. Point 7.5 of the Audit highlights the problems of vehicles queuing to leave Capel Street in the vicinity of the proposed crossing, again resulting in a possible accident waiting to happen.

The upheaval this development would cause to our Parishioners in Cauldham Lane by road widening and installation of a footpath is unacceptable and is going to be horrendous, while the road widening and the footpath installation take place and this is without the added traffic, caused by the construction site.

For the above reasons, we are not in favour of the current application.

We may be in favour of this type of accommodation at the old petrol station site on New Dover Road, as this in our opinion is an ideal site for this type of accommodation, with easy ingress / egress.

Waste Officer - have now looked at the site plan and if the measurements are correct for width of entrance and exit I do not see any issues for the vehicles visited the site to collect the waste. It looked on the plan like the vehicle could drive in and collect the waste. If not then there would be a delay caused by collections. But if there is no bin store then the waste will need to be stored at the boundary on collection day. It is collected from the roadside at other sites so should not be an issue.

Tree and Horticulture Officer - The recommendations made in the report look to be appropriate and whilst tree removal is shown within the site, the amenity value provided by the boundary planting looks to be largely retained. The protection measures set out within the Tree Constraints Plan are considered suitable provided they are implemented in conjunction with the recommendations made in the Method Statement. The securing of a landscaping scheme through condition or otherwise will be important to ensure the strengthening of the retained boundary planting.

Environment Agency - Do not object to the proposal in principle subject to the imposition of conditions requiring a remediation strategy to be submitted should

contamination not previously identified be found present at the site during construction and that no infiltration of surface water into the ground is permitted other than with the written consent of the local planning authority. An informative relating to contamination is also suggested and they advise that non-planning consents may be required (also to be included as an informative should permission be granted).

NHS – No response received.

Senior Natural Environment Officer - I have reviewed the ecological reports submitted in support of this application and accept the findings and recommendations. Suggestions for enhancements include:

- bat boxes eg Schwegler 2F and 1FF
- bird boxes on the newly erected building or retained trees such as Sparrow Terrace Schwegler 1SP and general purpose boxes - Schwegler 1B
- landscaping using native species precautionary measures for demolishing the building and to mitigate impacts upon foraging bats are recommended, which include:
 - Demolition should include hand removal of roof tiles. If at any point bats or evidence of bats (droppings) are discovered works should stop and an ecologist called for advice;
 - To compensate for foraging habitat loss, all trees proposed for removal should be replaced on a one-for-one basis. New trees should be broad-leaved native species;
 - Any new proposed external lighting should be minimised as far as safely possible with the use of warm white LED and PIR sensors to reduce the extent of light on the site;
 - Any required lighting for carparking areas should be LED bollard lights with directional hoods pointing downward.

Further advised: The 2017 ecological assessment recorded bat droppings within the building proposed for demolition. It is then concluded in the 2017 report that the building has high potential for roosting bats, for which 3 emergence / dawn return surveys are needed to confirm the status of the roost. No internal survey of the building was carried out in respect of the 2020 bat surveys, but three dusk emergence or dawn return surveys were carried out, during which no bats were recorded emerging from the building. Neither of the reports includes any discussion about how the bat droppings came to be within the building without the building being a bat roost. Neither report includes detailed information regarding the locations of potential roosting features (beyond the photographs of the loose tiles in the Biodiversity Assessment). Given that two years have passed since the bat emergence / dawn return surveys, I advise that updated surveys are required prior to commencement of development (if planning permission is granted), to ensure that all necessary mitigation and compensation measures for any potential impacts to bats can be implemented. Suggested condition wording is provided below. If bats are recorded it may be necessary for the applicant to secure a European protected species mitigation licence (EPSML) prior to any works taking place. Low numbers of bat droppings were recorded in 2017 and no bats were recorded emerging during 2020 and I advise that, if bats are present, it is likely that there will be mitigation and compensation measures available and achievable within the proposed development,

such that the favourable conservation status of the local bat population could be maintained. The submitted reports provide little information regarding other potential biodiversity interest on the site and I consider there to be potential for reptiles and hedgehogs to use the site. As the site is in active use as residential garden, the opportunities for reptiles and hedgehogs are not likely to be significant, but I advise that precautionary measures during site clearance are secured within the biodiversity method statement. In addition to any necessary mitigation and compensation measures, in accordance with the NPPF, "opportunities to improve biodiversity in and around developments should be integrated as part of their design". I therefore advise that the implementation of biodiversity enhancements is secured within the planning permission, if granted. The wording of conditions for biodiversity method statement, biodiversity enhancements and bat-sensitive lighting strategy are suggested.

KCC Economic Development - Initially requested financial contributions towards secondary education extension, community learning, youth service, library bookstock, social care and waste. Upon receipt of further information that the development would be restricted to occupants aged 55 to 60 years of age, and subject to a binding legal restriction upon occupancy age to over 55s in perpetuity, advised they would not seek education or youth contributions. The following contributions for the development were sought: Community Learning - £246.30
Library Bookstock - £831.75
Social Care - £2,203.20 (and all homes built as wheelchair accessible and adaptable dwellings in accordance with building regs part M 4 (2))
Waste - £817.05
Broadband – suggest imposition of a condition requiring details of high speed fibre optic installation.

Kent Fire and Rescue Service - I can confirm that on this occasion it is my opinion that the emergency access requirements for the Fire and Rescue Service under the above Act have been met. Applicants should be aware that in the event of planning permission being granted the Fire and Rescue Service would require emergency access, as required under the Building Regulations 2010, to be Established Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.

Environmental Health - Have no objections, but recommend conditions should be imposed requiring an investigation, risk assessment and remediation scheme to be submitted should contamination be found during the course of the development that was not previously identified, for a construction management plan (including hours of operation, dust mitigation, the control of noise and vibration, the prevention of mud being carried onto the highway, that during demolition and construction no noisy activity shall take place outside 0800 to 1800 hours Monday to Friday, 0800 to 1300 hours Saturday and no noisy activity taking place on Sundays or Bank Holidays). Upon receipt of revised plans, requested an additional condition for details of any

external lighting (including fittings, illumination levels and spread of light) to be submitted prior to installation.

KCC County Archaeology – The site lies within an area of multi-period archaeological potential. The application has been submitted with a useful Archaeological Appraisal (KAP, 2020) which sets out the present understanding of the archaeological potential of the site. On the basis of our present understanding, it is possible that the groundworks associated with the proposed development works may impact upon buried archaeological remains. A condition is suggested for a programme of archaeological works to be submitted and approved by the local planning authority.

KCC Highways and Transportation – Initially advised:

1. Visibility splays of 43 metres x 2.4 metres x 43 metres are required at the proposed exit point unless measured speeds indicate a lesser requirement. These splays appear to be achievable within land controlled by the applicant and/or the highway authority and should therefore be shown on the plans.
2. The proposals show new footways along the site frontage and between the site and Cauldham Close. Further details of the proposed width and edge restraint of these footways should be provided, as they will be adopted by the highway authority.
3. It appears unnecessary to have a separate entry and exit point, particularly as most (if not all) trips associated with the site are likely to be to/from the east. A single site access at the location of the current exit point would suffice and should be of suitable size to accommodate a 10 metre rigid delivery/removal vehicle pulling up in Cauldham Lane and reversing into the site (swept paths should be submitted to demonstrate this).
4. The refuse collection proposals are noted but they require minor widening of the carriageway in Cauldham Lane to provide a minimum 4.8 metres width, to allow a car to pass whilst the refuse vehicle is stationary and collecting the refuse. Details of this widening should therefore be submitted.
5. I suggest the views of the Fire and Rescue Service are sought on the acceptability of access for a fire appliance. The amendments suggested in item 3 above should assist in this respect.
6. I note that a contribution is suggested towards highway improvements between Cauldham Close and Capel Street to accommodate this proposal and possible development on the adjacent site to the west, however no information is provided on the improvements proposed and costs of the same. Improvements will be required to provide a suitable footway and passing places for vehicles and these will need to be in place prior to occupation of either site. Details of the proposed improvements should therefore be submitted, including a safety audit and designer's response to any issue raised, and I suggest the applicant may therefore wish to discuss the same with the developer of the adjacent site.

I wish to place a holding objection until the above matters have been satisfactorily resolved.

I would add that the amount of car and cycle parking proposed is acceptable, however I would prefer to see a bound surface rather than the grass-crete indicated. In any case the first 5 metres of the access from the edge of the highway will need to have a bound surface to prevent loose material being moved onto the highway.

Subsequently advised:

Initially advised further details regarding footways should be provided, visibility splays appear to be achievable and should be shown on the plans, a separate entry and exit point appear unnecessary and a single access at the current exit point would suffice and should be of suitable size to accommodate a 10m rigid delivery/removal vehicle pulling up in Cauldham Lane and reversing into the site (swept paths should demonstrate this), refuse collection proposals require minor widening of the carriageway in Cauldham Lane to provided minimum 4.8m width to allow a car to pass, views of Fire and Rescue Service should be sought, note that a contribution is suggested towards highway improvements between Cauldham Close and Capel Street to accommodate this proposal and possible development on the adjacent site to the west, however no information is provided on the improvements proposed and costs of the same. Improvements will be required to provide a suitable footway and passing places for vehicles and these will need to be in place prior to occupation of either site. Details of the proposed improvements should therefore be submitted, including a safety audit and designer's response to any issue raised, and I suggest the applicant may therefore wish to discuss the same with the developer of the adjacent site. Place a holding objection until the above matters have been satisfactorily resolved. The amount of car and cycle parking proposed is acceptable, however would prefer to see a bound surface rather than the grass-crete indicated. In any case the first 5 metres of the access from the edge of the highway will need to have a bound surface to prevent loose material being moved onto the highway.

Subsequently advised:

Following previous correspondence dated 21 January 2021, a number of amendments have been outlined. A Stage 1 Safety Audit has been conducted during the hours of 17:00-18:00, which may be considered as not appropriate to assess peak vehicle movements. A number of items were raised by the RSA, which have been given a designer response accordingly.

1. Southern side footway at Cauldham Land / Cauldham Close junction. Pinch points will be created due to utility poles. The exact location of any relocation of utilities will need to be agreed with the relevant providers in advance of detailed design stage. If no alternative locations are viable, this will make the footway unviable for all users.
2. Proposed access on Cauldham Lane – vegetation needs to cut back and maintained to a height of 1.05 metres within the visibility splays.
3. Dropped kerbs at private dwellings – dropped kerbs are to be provided at all private dwellings, to enable pedestrian access and to prevent vehicles striking full height kerbs. Full details to be supplied.
4. Tactile paving is proposed at the junction of Cauldham Lane / Cauldham Close. However, this is may need to be moved slightly further into Cauldham Close to ensure confusion as to the routing for visually impaired users.
5. Proposed tactile crossing at Capel Street – suitable pedestrian visibility splays need to be demonstrated, with no obstruction above 0.6 metres within the splays.
6. The land to widen the highway and create a footway is required to be adopted highway or land within the applicants ownership. Confirmation of the highway boundary is required. (An informative was also suggested – to be included on the decision notice should permission be granted)

Upon receipt of additional information, advised:

Following previous correspondence dated 28 October 2021, I note that a number of amendments have been outlined and a second Safety Audit has also been conducted between 7.30am-9.30am and 14.30pm-17.00pm which meets requirements. I therefore have the following comment to make:

- The exact location of any relocation of utilities still need to be agreed with the relevant providers in advance of detailed design stage, this is to ensure the proposed locations are acceptable and will need to be submitted on a plan. I can confirm the tactile paving proposed at the junction of Cauldham Lane / Cauldham Close have been checked with the 278 Agreements Engineer who confirms these are sufficiently relocated as per auditors response.

Following further informal correspondence, advised that “If a Grampian condition can be agreed I would be more than happy to deal with this as part of the 278 agreements. As I said, the agreements engineer has looked at the proposals and is happy, but this is all under the basis the utilities can be diverted.”

Southern Water (SW) – Provided an extract map from their records (available to view in the online file). 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. 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. (information to be included as an informative should permission be granted)

Affinity Water - It has been identified that the site is within a natural high point in the network. Should customers have any issues relating to water pressure, it is encouraged that they contact Affinity Water directly.

Third party Representations:

36 Representations of objection have been received and are summarised below:

- Impact on highway, in particular additional traffic, parking, passing places, safety and access (including concerns regarding proposed highway works)
- Design is out of keeping, over intensive development, inappropriate for location. Concerns regarding siting, impact on visual amenity, character of area and elements of the proposals, particularly the Kent oast house, spiral staircases (safety concerns in inclement weather, risk of falling, evacuation of residents with mobility problems and in respect of crime) and location and distance of refuse storage. Amendments to plans have not overcome previous concerns.
- Impact on AONB
- Light pollution due to amount of glazing, roof and vehicle movements

- Impact on residential amenity, particularly privacy and overlooking, smell and noise pollution and disturbance.
- Capacity of utilities and services, particularly electrical, water supply and sewers. Concerns also in respect of surface water and run-off to the lane.
- Loss of green space and trees and associated impact on rural character
- Impact on wildlife, including bats
- Concerns in respect of amenities within Capel-Le-Ferne, limited economic benefit
- Contrary to planning policy (particularly DM4, DM5 and DM6) and concerns in respect of status of emerging local plan. No affordable housing is proposed. Previous unsuccessful attempts to develop the site, with reasons for refusal still valid. Does not meet objectives of sustainable development.
- Concerns regarding need and type of housing – need for housing of this type in the area, however preference for sheltered accommodation with warden presence. Need for affordable housing for rent or sale
- Concerns regarding advertisement of application by site notice, lack of access to internet and awareness/discussion of application due to Covid restrictions

5 representations in support of the proposals have been received and are summarised below:

- Concept/type of housing is more appropriate to long term sustainability of the village
- Would provide homes for older people, noting increasing ageing population, encouraging downsizing and freeing up larger properties reducing the need to build new homes
- Widening the lane and provision of pavement would improve safety overall. Demographic of residents, likelihood of them being 2 car households and using the lane during rush hours is small.

Councillor Peter Jull:

- Support is conditional on proposed pavement in front of nos 1-7 Cauldham Lane being set back adjacent to front hedges or as far back as is highways land to allow for widening of Cauldham Lane carriageway in connection with Local Plan land allocations further down the road
- Frontage and pavement of the application site should be set back in line with the revised pavement to allow Cauldham Lane to be widened across the application site frontage.
- Alignment should allow for the pavement and widening to continue to the north west along the frontage of the proposed adjacent housing land allocation
- Developer contributions should be required towards costs of widening up to the junction with Capel Street in conjunction with other development sites in the Local Plan.

Councillor Cherry Leppard:

- A lot of people in Capel who have houses and bungalows with gardens would like somewhere like this to live now. They would not want to leave Capel

- Would let up houses and bungalows for younger people.
- Road and footpath could be altered without too much trauma
- Bus stop very close and a shop so maybe people wouldn't want to use their car so much

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

- 1.1 The site relates to a detached two storey dwelling on the southwest side of Cauldham Lane. The site is mostly outside of, but directly adjacent to the settlement confines of Capel-Le-Ferne. It is bounded by paddocks to the northwest, agricultural land to the southwest, No. 7 Cauldham Lane, a block of garages, and the garden of Nos. 18 and 20 Cauldham Close to the southeast. Land further to the southwest of the site is within the Kent Downs Area of Outstanding Natural Beauty (AONB).
- 1.2 This application seeks permission to demolish the existing dwelling and buildings on site and to erect a two storey detached building containing 15 apartments for independent living accommodation. During the course of the application, the design of the proposals was amended to change the parking and access arrangements, remove a Kent oast gazebo, include a translucent glazed window panel within one of the units and move the building further northeast; the application was re-advertised accordingly. Each apartment would contain two bedrooms, with at least one of the occupiers being age 55+, enabling the second bedroom to be occupied by a carer if required (although no care is to be provided as part of the development). The ground floor units would have patios and the first floor units would have balconies. Centrally within the building would be an internal atrium with social areas and a lift. The building would be finished in red brick cladding, with sections of white render, red clay roof tiles, glass balconies and metal framed double glazed windows. Part of the roof would be glazed with solar panels and there would also be solar panels on the centrally facing roof slopes.
- 1.3 The existing vehicular access to the eastern half of the site (on Cauldham Lane) would be widened to enable vehicles to enter and exit at the same time and a car park would be created, finished in permeable paving. This would provide 17 residents and visitors car parking spaces with EV charging points and a bicycle rack. There would be a communal garden to the southeast, southwest and northwest sides of the building and a number of trees and hedgerow would be planted as part of the proposed landscaping.

2. Main Issues

- 2.1 The main issues for consideration are:
- The principle of the development
 - The impact on the character and appearance
 - The impact on residential amenity
 - Impacts on the highway
 - Contributions and viability

Assessment

Principle of Development

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if 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 made in accordance with the plan unless material considerations indicate otherwise.
- 2.3 Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The site is located adjacent to, but outside of the defined settlement confines, is not supported by other development plan policies and is not ancillary to existing development or uses. As such, the application is contrary to Policy DM1.
- 2.4 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. The site is located outside of the settlement confines (albeit it is directly adjacent to the confines of Capel-Le-Ferne). As part of the proposals, a section 278 agreement would be made with KCC Highways to provide a pedestrian footway with crossing points between the site and Capel Street. The existing highway is also intermittently lit. As a result, it is considered that occupants of the development would be able to travel to the small range of services within the village, and the regular bus services to other nearby settlements, on foot, and would not be reliant on the use of a car to travel in order to reach all of the necessary day to day facilities and services. Notwithstanding this, the development is not justified by other development plan policies and as such, is considered to be contrary to Policy DM11.
- 2.5 Policy DM15 requires that applications which result in the loss of countryside, or adversely affect the character or appearance of the countryside, will only be permitted if it meets one of the exceptions. The development would not result in the loss of countryside; the land currently being occupied by a dwelling and associated garden. However, it is considered the development would result in a limited adverse impact on the countryside (as detailed further in the report). The development would not meet the exceptions listed in Policy DM15. Whilst it is considered that the development would have only a limited impact on the character and appearance of the countryside (discussed in detail later in the report), this alone would be sufficient for a proposal to be considered contrary to DM15.
- 2.6 Policy DM16 states that development that would harm the character of the landscape, as identified through the process of landscape character assessment will only be permitted if it is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and

mitigation measures; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level. It is considered (further in this report) that the development would have only a limited impact on the character of the countryside and no significant adverse impact on the landscape. Consequently, the development would not conflict with DM16.

- 2.7 For the above reasons, the development is contrary to policies DM1, DM11 and DM15 of the Core Strategy, but would accord with DM16. It is considered that these policies are also the most important policies for determining the application.
- 2.8 The NPPF advises, at paragraph 11, that proposals that accord with an up-to-date development plan should be approved without delay. An assessment of the most important policies for the determination of the application must be undertaken to establish whether the 'basket' of these policies is, as a matter of judgement, out-of-date. Additionally, criteria for assessing whether the development plan is out-of-date are explained at footnote 8 of the NPPF. This definition includes: where the council are unable to demonstrate a five-year housing land supply; or, where the council has delivered less than 75% of the housing requirement over the previous three years (as assessed by the Housing Delivery Test). Footnote 7 sets out policies within the framework which provide a clear reason for refusing development which would disengage the tilted balance. The impact of the development on the adjacent AONB is discussed further in this report, however is not considered to provide a reason to refuse the development and the tilted balance is therefore engaged.
- 2.9 Having regard for the most recent Housing Delivery Test, the Council are currently able to demonstrate a five-year supply. The council have delivered 88% of the required housing as measured against the housing delivery target; above the 75% figure which would trigger the tilted balance to be applied. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.
- 2.10 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 number of dwellings per annum the council must now deliver has increased. As a matter of judgement, it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result of this, should carry only limited weight.
- 2.11 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The blanket approach to resist development which is outside of the settlement confines does not reflect the NPPF, albeit the NPPF aims to actively manage patterns of growth to support the promotion of sustainable

transport. Given the particular characteristics of this application and this site, being adjacent to the confines and proposing a number of highways works which would provide pavement and crossing points connecting the site and intervening part of Cauldham Lane to the existing pavement on Capel Street, it is not considered that the use of the site as proposed would weigh against the sustainable travel objectives of the NPPF. Whilst the blanket restriction of DM11 is in tension with the NPPF, given that the policy otherwise reflects the intention of the NPPF to promote a sustainable pattern of development, on balance, it is not considered that DM11 is out-of-date. However, the weight to be afforded to the policy, having regard to the degree of compliance with NPPF objectives in the circumstances presented by this application, is reduced.

- 2.12 Policy DM15 resists the loss of 'countryside' (i.e. the areas outside of the settlement confines) or development which would adversely affect the character or appearance of the countryside, unless one of four exceptions are met; it does not result in the loss of ecological habitats and provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character. Resisting the loss of countryside (another blanket approach) is more stringent than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development (Paragraph 174). There is some tension between this policy and the NPPF. In this instance the sites appearance within open countryside does afford a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below.
- 2.13 Policy DM16 seeks to avoid development that would harm the character of the landscape, unless it is in accordance with allocations in the DPD and incorporates any necessary avoidance or mitigation measures; or it can be sited to avoid or reduce harm and/or incorporate design measures to mitigate the impacts to an acceptable level. As with Policy DM15, this policy is considered to be in some tension with the objectives of the NPPF (particularly Paragraph 174), by resisting development that would harm the character of the landscape, unless the impact can be otherwise mitigated or reduced. In this instance the sites appearance within wider landscape character does afford a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below.
- 2.14 The Council is in the Regulation 18 or 'consultation' phase of the draft Dover District Local Plan. This is the start of a process for developing a new local plan for the district, replacing in due course the Core Strategy and Land Allocations Local Plan. At this stage the draft is a material planning consideration for the determination of planning applications, although importantly it has little weight at this stage. As the plan progresses, it will be possible to afford greater weight to policies or otherwise, commensurate with the degree of support/objection raised in relation to them during the consultation process. A final version of the Plan will be submitted to the Planning Inspectorate for examination to

determine if the Plan can progress to adoption and, if so, the degree to which final modifications will/will not be required. At the time of preparing this report therefore, policies within in the draft plan are material to the determination of the application, albeit the policies in the draft Plan have little weight at this stage and do not materially affect the assessment and recommendation. Notwithstanding this, the application site has been identified as a suitable residential development site within the draft plan (site reference CAP009), for development of 10 dwellings (SA Policy 1 Housing Allocations). The adjacent plot of land to the northwest has also been identified (CAP013) as being suitable for residential development of 15 dwellings and a further site to the rear of dwellings on the northeast side of Cauldham Lane (CAP006) is identified as being suitable for development of 50 dwellings.

- 2.15 It is considered that policies DM1, DM11, DM15 and DM16 are to a greater and lesser extent in tension with the NPPF, although for the reasons given above some weight can still be applied to specific issues they seek to address, having regard to the particular circumstances of the application and the degree of compliance with NPPF objectives, in this context. Policy DM1 is particularly critical in determining whether the principle of the development is acceptable and is considered to be out-of-date, and as such, the tilted balance approach of Paragraph 11 of the NPPF is engaged.

Impact on the Character and Appearance

- 2.16 The site is located outside of, but adjacent to the settlement confines identified in Policy DM1 and is therefore considered to be within the Countryside, subject to Policies DM15 and DM16. These policies seek to prevent development which would result in the loss of, or adversely affect the character and appearance of the countryside and wider landscape area. Furthermore, the NPPF identifies that “decisions should contribute to and enhance the natural and local environment by... recognising the intrinsic character and beauty of the countryside” (Paragraph 174). The site is also located to the northwest of the Kent Downs AONB and the NPPF (Paragraph 176) states that “Great weight should be given to conserving and enhancing landscape and scenic beauty in... Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues”. Moreover, Section 85 of the Countryside and Rights of Way Act 2000 places a duty on Local Planning Authorities to ‘have regard’ to the ‘purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.
- 2.17 The proposals would result in the demolition of the existing two storey dwelling and outbuildings, and erection of a detached two storey building comprising 15 independent living units. The building would be positioned further southwest than the existing dwelling, and would be finished in red brick cladding, with recessed elements centrally on each elevation finished in white render with glazed balconies. There would be curved feature fire escape staircases from the first floor balconies to the garden level below. The pitched roof would be finished in red clay tiles with projecting gables, which would prevent views of

the solar panels on the inner roof slope and the central glazed roof and solar panels. The scale of the building is larger than other buildings in the area, which are predominantly single dwelling houses, although the height of the building is not out of character. Whilst the footprint is larger, the building sits within a generous plot with plenty of open space around it, providing an appropriate context to the building. Architecturally, the building is somewhat different to its neighbours. However, it would not be so different to appear out of place, particularly as there is no strong unified character to the buildings in this part of Capel-le-Ferne. In the interests of visual amenity, a condition is suggested for samples of external materials to be submitted and for details of external lighting to be provided (discussed further at paragraph 2.37). Subject to this, the design is considered to be acceptable having had regard to NPPF Paragraph 130.

- 2.18 The development would be largely screened from views from the public highway, other than when viewed from the vehicular access, by the existing trees and additional planting proposed. New hedgerow would be planted along the southwest boundary such that together with the existing trees, views of the proposals from the adjacent countryside and nearby AONB would be limited. Where the proposal would be visible, it is considered the development would be seen within the context of the existing development in Capel-Le-Ferne and would preserve and conserve the intrinsic character and scenic beauty of the countryside and Kent Downs AONB. For the same reasons, it is also considered unlikely that the development would result in undue harm to the character and appearance of the wider landscape area. Having had regard to the Kent Downs AONB Management Plan and Countryside and Rights of Way Act, it is considered the proposals would accord with the objectives of NPPF Paragraphs 174 and 176 and Policies DM15 and DM16.

Impact on Residential Amenity

- 2.19 The site is located to the northwest of properties on Cauldham Close and to the west and southwest of dwellings on Cauldham Lane. The proposed building would be visible from a number of nearby properties and the impact is discussed below.
- 2.20 In respect of properties on Cauldham Lane, the proposals include a number of highways works (discussed further at paragraphs 2.26 onwards), as well as landscaping works. Discussed further at paragraph 2.38, a number of trees would be removed as part of the proposals, however additional trees and hedgerows would be planted as part of the works. Whilst there would be direct views of the proposals from the vehicle access on Cauldham Lane, the building would be set back from the highway behind a wooded area, which would restrict and soften views of the development. This, together with the proposed design and appearance of the building, is considered unlikely to result in an unduly overbearing impact on residential amenity. For the same reasons, and due to the separation distance between the proposed building and properties on Cauldham Lane, the development is considered unlikely to result in

significant harm to privacy or overlooking. Due to the siting of the proposals, direction of the sun path and separation distance from these properties to the northeast, the development is considered unlikely to result in overshadowing or loss of light to residential amenity.

- 2.21 To the southeast of the site are a number of garages accessed from Cauldham Close, as well as the rear gardens of Nos. 18 and 20 Cauldham Close. There would be a separation distance of approximately 23.65m between the rear elevation of No. 18 and the proposed development. One existing tree within the southwest corner of the site would be removed, however one new Beech tree would be planted which over time would likely fill this gap. In addition, the design of the proposals was amended during the course of the application to include sections of translucent glass panel (1.7m high) on the first floor south westernmost flat, to prevent overlooking whilst allowing diffuse light to enter the property (suggested to be secured by condition). Whilst the proposals would be visible from nearby properties to the south of the site on Cauldham Close, due to the separation distance, landscaping which would soften views of the proposals, and design of the development, the proposals are considered unlikely to result in unacceptable overlooking, harm to privacy or an overbearing or enclosing impact. The proposed building would be sited to the north of these dwellings and due to the orientation of the site and sun path, the development would be unlikely to result in overshadowing or loss of light to the amenities of nearby residents. Notwithstanding this, in order to ensure the development is constructed at appropriate ground levels in relation to surrounding properties, a condition is suggested requiring details of existing and proposed floor, eaves and ridge levels.
- 2.22 Concerns have been raised by the Public in respect of the impact of the proposed highways works, particularly the installation of a passing place on Cauldham Lane, on privacy. The proposed highways works (discussed further at Paragraph 2.27) would result in the creation of pavements and a passing place. Pedestrians would walk in closer proximity to the front elevations of houses on Cauldham Lane than the existing scenario (walking on the road or on driveways to avoid traffic). In addition, a vehicle passing place would be provided. Whilst this may result in some noise and disturbance to nearby residents, it is likely that this would be limited to brief periods of time and is considered unlikely to result in such significant harm to warrant refusal.
- 2.23 On balance, for the reasons outlined above, it is therefore considered that the development would be unlikely to result in unacceptable harm to the amenities of nearby residents, having had regard to NPPF Paragraph 130.
- 2.24 In respect of the amenities of proposed occupants of the development, each of the units would contain well sized habitable rooms. The units would be well lit by natural light and would have access to communal social areas, as well as patios or balconies and communal gardens. Bicycle storage would be provided, and a refuse enclosure would be located to the front of the site, with a condition suggested requiring further details of these arrangements. As such, it is

considered that occupants would enjoy a high standard of residential amenity in accordance with the aims of NPPF Paragraph 130(f).

Travel, Parking & Highways

- 2.25 Policy DM11 requires planning applications for development that would increase travel demand should be supported by a systematic assessment to quantify the amount and type of travel likely to be generated and include measures that satisfy demand to maximize walking, cycling and the use of public transport. Development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- 2.26 The site is outside of, although is adjacent to the settlement confines (to the southeast). Details of the proposed access to the site and off-site works have been provided. A road safety audit, highway response technical note, details of vehicle tracking and highways arrangements have been submitted.
- 2.27 A pedestrian footway and uncontrolled pedestrian crossings would be provided under a Section 278 agreement, enabling occupants of the development and of the other properties on Cauldham Lane to access the confines and facilities within the village, as well as bus services on New Dover Road. Whilst the development would be contrary to Policy DM11 by being located outside of the settlement confines, given the particular characteristics of the site and highway works proposed, it is considered that the location of the site, relatively close to a number of facilities and services (accessible by public transport providing connections to Dover, Folkestone and other settlements), could provide some assistance in providing further access to local services and the vitality of rural services (NPPF paragraph 79), both to the proposed development and existing properties. Some weight should be provided in favour of the development in this respect which provides some counterbalance to the otherwise unsustainable nature of the site's location.
- 2.28 As part of the highways works, Cauldham Lane would be widened locally to 4.8m to the front (northeast) of the site to provide a passing opportunity for refuse collection, and would be widened to 4.8m at the proposed access location. To the southeast of the site, on the southwest side of Cauldham Lane, a 1.8m wide pedestrian footway would be provided, with full height kerbs and dropped kerbs installed in line with existing vehicle cross overs. Tactile crossing points would be provided and a 1.8m wide footway would be provided along the northern side and corner of Cauldham Lane by the junction with Capel Street. Cauldham Lane would be widened locally outside of No. 2A to provide a passing place. These works have been reviewed by KCC Highways.
- 2.29 As part of the works proposed, the access within the northwest part of the site onto Cauldham Lane would be widened to enable vehicles to enter and exit the

site at the same time. The other existing access within the northern half of the site would no longer be used and additional planting would be installed in this location. Parking would be provided to the northeast of the proposed building, containing 2no. visitor parking spaces and 15no standard parking spaces which would accord with the parking provision for flats set out in Policy DM13.

- 2.30 As the site is located just outside of the settlement confines, and in order to provide sustainable transport in line with the objectives of Paragraph 112 of the NPPF, it is considered appropriate to suggest a condition is imposed requiring electric vehicle cable ducting to be laid to serve the parking spaces of the proposed development. A condition for a construction management plan to be submitted is also suggested by Environmental Health Officers.
- 2.31 Whilst concerns have been raised by local residents in respect of traffic, parking and the proposed highways works, additional information has been provided by the agent during the course of the application such that there are no objections from KCC Highways. Furthermore, Kent Fire and Rescue Service advise that they consider emergency access requirements have been met.

Flood Risk, Drainage & Contamination

- 2.32 A flood risk assessment and drainage strategy report have been submitted. These identify that the site is located within flood zone 1, which has the lowest risk from flooding. As such, the sequential test and exceptions test are not required. The drainage strategy proposes a new foul water drainage scheme to connect to the mains sewer and Southern Water advise a formal application for a connection will need to be made by the applicant or developer. In respect of surface water drainage, the proposed strategy is to infiltrate all collected rainwater into the ground by means of permeable paving and soakaways.
- 2.33 The Environment Agency have been consulted on the proposals and raise no objections, subject to the imposition of conditions requiring a remediation strategy to deal with any contamination not previously identified (should any be found during the course of the development), and for no infiltration of surface water drainage into the ground other than with the written consent of the local planning authority. These are considered reasonable in order to ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by unacceptable levels of water pollution in line with Paragraph 174 of the NPPF. Subject to this, the development is considered acceptable in this respect.

Archaeology

- 2.34 An archaeological appraisal has been submitted in support of the proposals and KCC Archaeology advise that it is possible the groundworks associated with the proposed development may impact upon buried archaeological remains. They recommend a pre-commencement condition is imposed to secure the implementation of a programme of archaeological work in

accordance with a written specification and timetable, to be submitted for approval.

Ecology and Trees

- 2.35 In support of the application, a biodiversity assessment, bat survey report, arboricultural assessment and landscape specification (which includes details of ecological enhancements to be provided) have been submitted.
- 2.36 The 2017 ecological assessment recorded bat droppings within the building proposed for demolition and concluded that the building has high potential for roosting bats. In the 2020 bat survey, no internal survey was conducted, however three dusk emergence or dawn return surveys were carried out, during which no bats were recorded emerging from the building. The Senior Natural Environment Officer (SNEO) has reviewed the information submitted, noting that neither of the reports include discussion about how the bat droppings came to be within the building without the building being a bat roost and that neither report includes detailed information regarding the locations of potential roosting features beyond the photographs of loose tiles in the biodiversity assessment. Given that two years have passed since the bat emergence/dawn return surveys, they advise that updated surveys are required prior to the commencement of development (to be secured by way of a condition) to ensure all necessary mitigation and compensation measures for any potential impacts to bats can be implemented. If bats are recorded, it may be necessary for the applicant to secure a European protected species mitigation licence prior to any works taking place. Low numbers of bat droppings were recorded in 2017 and no bats were recorded emerging during 2020 and the SNEO advises that, if bats are present, it is likely that there will be mitigation and compensation measures available and achievable within the proposed development, such that the favourable conservation status of the local bat population could be maintained.
- 2.37 The SNEO advises that the submitted reports provide little information regarding other potential biodiversity interest on the site and considers there to be potential for reptiles and hedgehogs to use the site. As the site is in active use as residential garden, the opportunities for reptiles and hedgehogs are not likely to be significant, but the SNEO advises that precautionary measures during site clearance are secured within the biodiversity method statement. In addition to any necessary mitigation and compensation measures, in accordance with the NPPF, "opportunities to improve biodiversity in and around developments should be integrated as part of their design". They therefore advise that the implementation of biodiversity enhancements is secured within the planning permission, if granted. Accordingly, conditions have been suggested, should permission be granted, requiring the submission of a biodiversity method statement, details of biodiversity enhancements to be implemented and a bat sensitive lighting strategy.

- 2.38 In respect of the existing trees on site, these have been surveyed and an arboricultural assessment has been submitted. The proposals would result in the removal of a number of trees (8 category U trees; 10 category B trees; and 1 group of trees, 23 trees and 4 hedges of category C quality). Some of these warrant removal due to their condition (being dead, almost dead or likely to succumb to Dutch elm disease), to accommodate the proposed highway improvements to Cauldham Lane, are recommended to be removed for landscaping purposes, or require removal as a direct result of the development. The trees to be retained are proposed to be protected during the development and a landscaping scheme has been submitted setting out that 21 new trees would be provided, together with hedge plants and native bulbs.
- 2.39 The Tree Officer advises the recommendations of the arboricultural assessment look to be appropriate and whilst tree removal is shown within the site, the amenity value provided by the boundary planted looks to be largely retained. They consider the protection measures set out within the tree constraints plan are suitable provided they are implemented in conjunction with the recommendations made in the method statement and advise that the securing of a landscaping scheme through condition or otherwise will be important to ensure the strengthening of the retained boundary planting. A condition for the provision of the landscape specification submitted (including the imposition of the tree protection measures identified) is suggested accordingly.

Contributions

- 2.40 Core Strategy Policy DM5 requires that for schemes of more than 15 dwellings an on-site provision of affordable housing, amounting to 30% of the dwellings proposed, will be required. The policy also acknowledges that the exact amount of affordable housing, or financial contribution, to be delivered from any scheme will be determined by economic viability, having regard to individual site and market conditions.
- 2.41 Policy CP6 requires that development which generates demand for additional infrastructure will only be permitted if the necessary infrastructure is either in place or where it can be provided. Policy DM27 requires that developments contribute towards the provision of open space to meet the needs which will be generated by the development. However, no requests for contributions towards open space have been received. In this instance, the Agent has confirmed that the proposed accommodation is to be occupied by residents 55-60 years or older and the scale of contributions which would be applicable to residents of the development is reduced. Having regard to the shared amenity space which is to be provided for residents within the site, and existing open space available in the village, it is not considered necessary on this occasion to seek open space contributions. Notwithstanding this, it is considered appropriate to restrict the age of occupants within the development as part of the Section 106 agreement, as this affects the contributions sought and is considered appropriate given the communal living areas to be provided with the

independent living accommodation.

- 2.42 A request has been received from KCC Economic Development Unit. £246.30 is sought for community learning, £831.75 is sought for library bookstock, £2203.20 is sought for social care (with all homes to be built as wheelchair accessible & adaptable dwellings in accordance with Building Regs Part M 4 (2)) and £817.05 is sought towards waste. A condition requiring details of fixed telecommunication infrastructure and high speed fibre optic connections is also requested by KCC and has been suggested accordingly to provide high quality digital infrastructure in new developments in line with NPPF Paragraph 112.
- 2.43 In addition, as set out further below, a contribution is required in respect of the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation strategy. The contributions sought are considered necessary and the agent has agreed to secure these via a Section 106 legal agreement should permission be granted.
- 2.44 The application has been supported by a viability statement which seeks to demonstrate that the development cannot support the provision of affordable housing or contributions, making a loss. In accordance with the Councils normal practice, and having regard for the Affordable Housing SPD, the council appointed an independent viability consultant to review the applicants report.
- 2.45 The Council's viability consultant questioned the assumptions made within the submitted statement and sensitivity tested the applicant's viability appraisal. They have run a comparative appraisal which used the current BCIS build cost data for supported housing (£1,793 per m² rather than £1849 per m² used by the agent), a higher sales and marketing allowance (2.5% rather than 1.5%), higher sales legal fee (£750 per unit rather than £500 per unit), higher profit margin (17.5% instead of 15%) and legal acquisition fees at 0.75% of land value (which the agent had omitted). They agree the process the agent used to devise the benchmark land value is reasonable but applied a lower landowner premium of 20% to derive a benchmark land value of £480,000 (rather than £500,000 identified by the agent). Based on this, the viability consultant's appraisal results in a residual land value of £320,483 (after allowing for the S106 contributions of £4,098). The land value is below their calculation of the benchmark land value by £159,517 and they consider there is therefore no surplus available to fund additional S106/affordable housing contributions.
- 2.46 They also ran a scenario test with increased sales prices which resulted in a residual land value of £580,850 (after allowing for S106 contributions of £4,098). The land value was above their calculation of the benchmark land value by £100,850 and therefore there is potential for surplus funding to provide additional S106/affordable housing contributions should the sales values rise to these levels in the future. On this basis, they suggest a viability review is carried out if the scheme has not been implemented to slab level within 2 years of consent being granted. Additionally, a late-stage review can be carried out when 75% (11 flats) flats have been sold and occupied.

- 2.47 In line with this, it is suggested that a review mechanism is incorporated into the S106 agreement so that, should the development become sufficiently viable such that it could support affordable housing contributions, a level of contributions could be secured.

Previous Application

- 2.48 Reference has been made in the public representations received to an outline planning application (with all matters reserved) for the erection of eight dwellings (existing dwelling to be demolished) at the site (DOV/13/00302). Permission was refused on 13/06/2013 on five grounds, including the absence of a bat and tree survey, no affordable housing provision, increased use of the single track lane with no pedestrian footway to the detriment of highway and pedestrian safety, impact on the countryside (by way of the number of dwellings, size and location of the site, which would be likely to erode the strong rural character and appearance of the area and would fail to reflect the surrounding spatial character of the surrounding built development, likely to result in a prominent and intrusive development within the surrounding countryside and without a tree survey, the proposal may also result in the loss of mature trees which would exacerbate the harsh visual impact of the development, failing to provide an environmental role and resulting in unsustainable development. In addition, the proposed scheme was considered to result in new residential development outside any settlement confines, which would fail to utilize brown-field land, would constitute an unsustainable form of development, which would be poorly connected to necessary services and facilities, creating travel demand particularly by the private car and failing to provide an economic role. The development was considered to be contrary to Policies DM1, DM4, DM5, DM11 and DM15 of the Core Strategy and the NPPF.
- 2.49 Since the determination of that application, the National Planning Policy Framework has been updated. Whilst the Core Strategy remains unchanged, as set out at Paragraph 2.8 onwards, the tilted balance of NPPF Paragraph 11 is considered to be engaged as the policies most important in the determination of the application are considered to be out of date, in tension to varying extents with the NPPF and hold reduced weight in the planning balance. An assessment of this is set out from paragraph 2.55. In considering the current application, regard has been had for the information submitted with the application and the consultee comments received in relation to many of the issues which were considered in the assessment of the 2013 application. The conclusions reached have been set out in this report.

Habitats Regulations (2017) Regulation 63: Appropriate Assessment

- 2.50 The impacts of the development have been considered and assessed. There is also a need to consider the likely significant effects on European Sites and the potential disturbance of birds due to increased recreational activity at Sandwich

Bay and Pegwell Bay.

- 2.51 Detailed surveys at Sandwich Bay and Pegwell Bay have been carried out. 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.
- 2.52 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves. The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.53 For proposed housing developments in excess of 14 dwellings the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy requires the applicant to contribute to the Strategy in accordance with a published schedule. This mitigation comprises several elements, including the monitoring of residential visitor number and behaviour to the Sandwich Bay, wardening and other mitigation. Natural England has been consulted on this appropriate assessment and concludes the assessment is sound. The agent has agreed to the funding of this mitigation, which will be secured by a S106.
- 2.54 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 will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

Planning Balance

- 2.55 The principle of the development is contrary to the development plan in respect of Policies DM1, DM11 and DM15 (although does not result in the loss of countryside). As discussed in the principle of development section of this report, it is acknowledged that some of the key policies in the determination of the application are out of date and hold reduced weight and as such, the tilted balance approach set out in Paragraph 11 of the NPPF is engaged. In such circumstances, permission must be granted unless material considerations indicate otherwise.
- 2.56 Policy DM1 carries limited weight, however Policy DM11 carries greater weight as it is considered to broadly be in accordance with the key sustainable development objective of the NPPF. As considered in the above report, the

development would generate travel outside of the rural settlement confines contrary to Policy DM11. As part of the proposals, highways works which include the provision of a pedestrian footway would be secured (under a 278 agreement) which would enable access to the limited range of facilities within Capel-Le-Ferne, but also to public transport, allowing access to a full range of services and facilities in other nearby settlements. It is considered that this could provide some assistance in providing further custom to local services and the vitality of rural services in accordance with Paragraph 79 of the NPPF, which weighs in favour of the scheme.

- 2.57 For the reasons set out in the report, the proposals are considered to be acceptable in respect of design, impact on countryside, landscape character and the nearby AONB, residential amenity and other material considerations.
- 2.58 The proposals would not provide affordable housing, contrary to Policy DM5, however highways works to provide pedestrian footways, a passing place and uncontrolled crossing points would be provided and dealt with via a Section 278 agreement and KCC contributions and SPA mitigation contributions would be secured through a Section 106 agreement.
- 2.59 Overall, whilst this is a finely balanced assessment, it is considered that the disbenefits of the scheme do not outweigh the benefits, with material considerations indicating that permission should be granted subject to relevant conditions and a legal agreement.

3. Conclusion

- 3.1 As outlined above, the site lies adjacent to, but outside of the settlement confines and is therefore considered to be within the countryside. The tilted balance approach set out at Paragraph 11 of the NPPF is considered to be engaged as the Policies most important for determining the application are out-of-date and in conflict to a greater or lesser extent with the NPPF. Due to the design and appearance of the development, as well as the proposed landscaping, for the reasons outlined in the report, the development is considered to preserve the character and appearance of the countryside and wider landscape area and is considered unlikely to result in unacceptable harm to residential amenity. The development would generate additional travel outside of the settlement confines contrary to Policy DM11, however highways works are proposed which would provide pedestrian footways, encouraging sustainable transport. In light of Paragraph 11 of the NPPF, and in taking into account other material considerations as discussed in the planning balance section of this report, it is considered that the benefits of the development outweigh the disbenefits and it is recommended that permission be granted.

4. Recommendation

- I PERMISSION BE GRANTED subject to a Section 106 agreement and conditions:

- 1) 3 year time limit for commencement of the development
- 2) List of approved plans
- 3) Samples/Details of external materials
- 4) Obscured glazing on first floor windows of southwest corner unit
- 5) Existing and proposed ground, eaves and ridge levels
- 6) Details of bat sensitive external lighting
- 7) Provision of refuse and recycling storage
- 8) Provision of bicycle storage
- 9) Removal of materials in relation to demolished dwelling prior to first occupation of development
- 10) Construction management plan
- 11) Dealing with unexpected contamination that may be found
- 12) Provision and maintenance of visibility splays prior to first use of the access
- 13) Details of cabling to be provided to enable installation of EV charging points
- 14) Completion of parking with drainage measures installed to prevent surface water run-off onto the highway prior to first occupation
- 15) Use of a bound surface for the first 5m of the access from the carriageway
- 16) Details/plan of any utilities along Cauldham Lane which require relocation to provide the footway and highways works which would be set out in the Section 278 agreement
- 17) Details of biodiversity enhancements
- 18) Biodiversity method statement in respect of bats
- 19) Development to be carried out in accordance with arboricultural report and imposition of tree protection measures
- 20) Provision of landscaping within first planting season following completion of the development and replacement of any tree/hedge removed, destroyed, damaged or diseased within 5 years of planting
- 21) No infiltration of surface water drainage to the ground
- 22) Programme of archaeological work
- 23) High speed fibre optic

- II That powers be delegated to the Head of Planning and Development to settle the details of the section 106 legal agreement and the necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer: Rachel Morgan