

- a) **DOV/20/00693 – Erection of a three-storey residential building comprising 21 self-contained flats, a drinking establishment and associated parking, formation of additional access - Aylesham Sports Club, Burgess Road, Aylesham**

Reason for report – Number of objections (27)

- b) **Summary of Recommendation**

Planning permission be granted, subject to a S106 legal agreement

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010) (CS): CP1, CP4, CP6, DM1, DM5, DM11, DM13, DM15, DM16, DM24

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 Plan have little weight and are not considered to materially affect the assessment of this application and the recommendation as set out.

National Planning Policy Framework (NPPF) (2021)

Paragraphs: 7, 8, 11, 34, 57, 60, 63, 69, 81, 93, 110, 111, 112, 119, 120, 124, 130, 174, 180, 181, 185

National Design Guide & National Model Design Code (2021)

The Kent Design Guide (KDG) (2005)

SPG 4 Kent Vehicle Parking Standards (2006)

- d) **Relevant Planning History**

DOV/18/00300 – Erection of two-storey side and three-storey rear extensions to facilitate conversion into 19 no. self-contained flats and a public house; formation of vehicular access and parking (mixed Use Class C3 and A4) – Approved subject to S106 agreement. This permission was not implemented and the application building subsequently burnt down in 2019.

DOV/17/00736 - Erection of a two storey side and rear extension to facilitate conversion into 21no. self-contained flats and creation of parking (existing dwelling to be demolished) – Refused for the following reasons:

- Loss of the pub / community asset
- Absence of affordable housing contribution

DOV/16/00192 - Change of use and conversion of existing sports club to provide 21 self-contained flats to include two storey side extensions (to north and south) and

three storey rear extension – Refused and dismissed at appeal for the loss of pub/ community asset

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

KCC Highways – no objection in principle bearing in mind the extant consent for 19 flats and a drinking establishment on the site. Recommend conditions for CMP, retention of parking spaces, electric charging points, cycle parking, provision of visibility splays and bound surface material for the site entrance.

KCC LLFA – no objection to the proposed drainage strategy. Recommend a condition requiring a detailed surface water drainage strategy to be submitted prior to the commencement of development.

Kent Fire and Rescue - off-site access requirements of the Fire & Rescue Service have been met.

Kent Police Designing Out Crime - Suggest various conditions for designing out crime.

KCC Economic Development – Request contributions towards primary and secondary education, youth services, library book stock, waste and social care

Southern Water – Advise can provide foul sewerage disposal for the development and that a formal application is required for a connection to the public foul sewer. There are no public surface water sewers in the area and alternative means of draining surface water are required.

Senior Natural Environment Officer – The reptile survey report confirms the presence of slow worms and viviparous lizards on the site. The reptile survey is now considered out of date, and site photographs indicate that the habitat conditions have improved for reptiles; there may also have been additional colonisation as a result of the receptor site that is situated adjacent to the proposed development site.

An up-to-date understanding of the status of reptiles on the site would ensure a good understanding of the levels of mitigation/compensation required for any reptile impacts. There do appear though to be potential options for habitat enhancements adjacent to the proposed development site, including potentially the use of the existing receptor site. As there appear to be mitigation options available, a condition requiring a Biodiversity Method Statement for the protection of reptiles (a reptile mitigation strategy), informed by an updated reptile survey.

Environmental Health – No objections. Recommend sound insulating measures are secured by conditions to safeguard the amenity of future occupants from noise from the railway line and sound insulation measures for the flats above the public house.

Housing Manager- Advises there is a demand for affordable housing in the district. Policy requirement would be for 6 of the flats to be affordable, 4 for rent and 2 shared ownership. Have also advised that an off-site contribution could be used on potential future projects in Aylesham by the Council.

Aylesham Parish Council – Objects for the following summarised reasons:

- Wildlife conservation area on land adjacent to the Sports Club.
- Burgess Road would be overdeveloped.
- No confirmed tenant for the pub.
- Increase in on street parking.
- Increased pressure on sewerage system.
- Design of building not in keeping with current design of houses
- Application stated that owner was advised to demolish stewards house, however owner put in application to demolish existing stewards' house.

Third Party Representations: 33 comments have been received. 3 in support, 3 neither supporting or objecting and 27 objecting to the proposals. Matters such as impact on an individuals' property value, financial intentions of the applicant etc. are not material planning considerations and are not included below.

- A burnt down building should not be turned into a bigger building.
- The proposal will be an eyesore.
- Whether the infrastructure in Aylesham can support 21 dwellings.
- Increased on street parking pressures.
- Increased traffic
- Loss of privacy. The three storey building will overlook houses.
- Loss of light and overshadowing to adjacent houses.
- Number of flats is excessive.
- Overdevelopment and overbearing.
- The village does not need more housing.
- The land needs to be used for something to support the people already in the village, help the children and give them something to do.
- The bar will cause conflict with proposed flats - Noise and smells.
- Noise and disruption resulting from the drinking establishment and its afterhours consequences.
- This is an increase on the previous submitted plan 18/00300
- If a bar/pub is built what mitigation and prevention are proposed to ensure this unit will become tenanted and not turned into another flat.
- The bar needs sound insulation, to comply with licensing conditions and may need kitchen ventilation.
- Impact on existing pub in Aylesham.
- Would be better if it was totally residential with no bar.
- Scale is out of keeping with area.
- This plan doesn't fulfil the actual needs of this village.
- A drinking establishment has recently ceased trading proving there is no need for a new place to open.
- Ecology impact in relation to the station field nature reserve was sectioned off next to the site.
- Impact on sewerage systems.
- A bar/social space would be welcome in Aylesham.

1. The Site and the Proposal

The Site

- 1.1 The site comprises the former Aylesham Sport Club which burnt down in April 2020. The building has been cleared from the site and only the hardstanding remains which is becoming overgrown. The site is located on the eastern edge of Aylesham village on the southeast side of Burgess Road in a residential area. There are dwellings

opposite and to the southwest of the site. To the east of the site is a small, wooded area with the railway line beyond. To the south is a public recreation area with a shared pedestrian and cycle path running along the eastern edge providing access to Aylesham Station. A small section of the recreation area adjacent to the application site has been fenced off, rewilded and is used as a reptile receptor site for the Aylesham village expansion housing developments, which also proposes housing development in part of the open space to south of the site.

- 1.2 Burgess Road is predominantly characterised by traditional two-storey semi-detached and terrace dwellings. There is also a semi-detached single-storey dwelling with living accommodation in the roof and a single detached property located broadly opposite the site. The former pub was a fairly substantial two-storey brick built building with a small parking area located at the front of the site. The pub was orientated at an angle to Burgess Road, in contrast to the housing opposite which have a uniform presence fronting Burgess Road.
- 1.3 Prior to the fire which destroyed the building planning permission was approved for the erection of 2-3 storey extensions and the conversion of the building into 19 flats and a public house. This was approved by Planning Committee on 23 August 2018. This permission had not been implemented before the fire. It is understood that the former public house ceased trading in 2015.

The Proposal

- 1.4 The proposal is for the erection of a three-storey residential building comprising of 21 self-contained flats, a drinking establishment, associated parking and formation of an additional access. The proposed development would sit broadly on the previous footprint of the existing pub and would be orientated at an angle towards Burgess Road in a similar manner to the former building. The proposed footprint would be approx. the same size as the enlarged footprint previously approved under planning application DOV/18/00300.
- 1.5 The proposal would be three-storeys in height with the third floor living accommodation proposed within the roof space and served by small flat roof dormer windows on all four sides of the building. The building would be formed of facing brickwork and amendments have been sought to include brick course detailing above the windows and window lintels below. Several of the flats facing towards the rear of the site would be served by balconies and patio areas.
- 1.6 21 flats are proposed over the ground, first and top floor with a separate bar proposed at ground level in the northwest corner of the building, adjacent to Burgess Road. The bar is proposed in a similar location to the bar area approved under application DOV/18/00300. There are 14 x 1 bed flats and 7 x 2 bed flats in total.
- 1.7 The overall height of the proposed building would be no higher than the former building and previously approved extensions. However, the additional roof level accommodation now proposed has resulted in an increase in the massing of the roof, essentially extending above the previously approved side extensions to form a continuation of what would have been the original ridge level of the former building.

2 Main Issues

- 2.1 Principle of mixed use development
 - Proposed bar/public house

- Scale, design and visual impact
- Highway considerations
- Residential amenity
- Noise
- Ecology
- Appropriate Assessment
- Drainage and Stodmarsh
- Affordable housing, planning obligations, s106
- Other Matters

Principle

- 2.2 The application site comprises a former public house which, prior to the fire that destroyed the building, benefitted from planning permission for extensions and conversion to 19 residential flats, with a small bar area in a section of the building adjacent Burgess Road. The site is, however, located outside the settlement confines but adjoins the confines of Aylesham where the principle of residential development is supported by policy DM1 and the aims and objectives of the NPPF. The principle of a mixed use residential and pub scheme is supported by virtue of former use and would replace the 2018 permission that could not be implemented following the fire in 2020. Therefore, it is necessary to consider the tilted balance and the consideration of paragraph 11 of the NPPF.
- 2.3 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, the tilted balance is therefore engaged.
- 2.4 Having regard for the most recent Housing Delivery Test, the Council are currently able to demonstrate a five-year supply (6.39 years). The council have delivered 88% of the required housing. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.
- 2.5 Policy DM1 and the settlement confines 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.
- 2.6 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 site and wider locality, being adjacent to the confines, 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.
- 2.7 Policy DM15 resists the loss of 'countryside' (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. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out below.

- 2.8 Policy DM16 seeks to avoid development that would harm the character of the landscape, unless it is in accordance with allocations, 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. This policy is considered to be in some tension with the objectives of the NPPF (174), by resisting development that would harm the character of the landscape, unless the impact can be otherwise mitigated or reduced. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out below.
- 2.9 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 when 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 set out in Paragraph 11 of the NPPF is engaged, due the age of the development plan policies. Paragraph 11 of the NPPF sets out that planning permission should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF Framework taken as a whole.

Proposed Bar/Public House

- 2.10 The former public house ceased trading in November 2014. In 2017 planning application DOV/17/00736 proposed to convert the whole building into 21 flats resulting in the loss of the public house. A significant number of objections were received regarding the loss of the public house, including from the Local Councillor and Parish Council. The application was subsequently refused as the proposed change of use would have represented the unnecessary loss of a valued community facility which would harm the economic and social viability of the community of Aylesham, reducing the ability of Aylesham residents to meet their needs and would reduce opportunities for meetings between members of the community. Policy DM24 seeks to retain important community facilities, including pubs, that accords with the NPPF Framework.
- 2.11 In 2018 application DOV/18/00300 proposed various extensions to the building and conversion to 19 flats, but also proposed a new, albeit reduced, public house within the ground floor of the converted building. This application was approved at Planning Committee in August 2018 where the approved public house had a footprint of approx. 132sqm. The current application proposes a new public house/bar in broadly the same position as that previously approved under application DOV18/00300, with a slightly larger footprint of approx. 145sqm.
- 2.12 There have been various public comments in relation to the proposed public house, some objecting stating that a pub is not needed in the village and there would be a conflict between the pub and proposed residential units, while some local residents are in support. However, in policy terms and in particular DM24, the

reprovision/replacement of the public house would ensure a community facility is retained on the site which addresses the reason refusal in respect of DOV/17/00736. In addition, a mixed use proposal (public house and residential) has previously been approved on this site, therefore the principle of a mixed use scheme is supported and considered to be acceptable. The impact of the pub in terms of noise and highways will be assessed in further detail below.

Scale, Design and Visual Amenity

- 2.13 The proposed building would occupy a slightly larger footprint compared to the extended footprint approved under application DOV/18/00300 at approx. 670sqm compared to 636sqm. The orientation and location of the building would be broadly the same as previously approved. The main difference between the proposed scheme and the previously approved side extensions to the former pub is the increased roof massing and change to the design, with the current scheme creating a continuous ridge level rather than the smaller scale side extensions previously approved. The additional scale is not considered to be significant compared to 2018 application.
- 2.14 Further, the site is located on the edge of a large open public recreation field with a wooded area to the rear and side of the site. The site is therefore set within its own plot and does not follow the uniform building line of the residential properties on Burgess Road. There is a sense of openness adjacent the site, where the shared footpath enters the public open space and it is therefore considered, on balance, the proposed building could be successfully accommodated on the plot without appearing dominant or overbearing in relation to the smaller scale two-storey dwellings on Burgess Road. In addition, the site is located within the foreground of a small, wooded area and there are a number of trees located at the front of the site along Burgess Road which would act as a backdrop and screen the building from various public viewpoints, including at the junction of Burgess Road and Ratling Road. As a result, the proposed three-storey building would not appear overly prominent within the Burgess Road streetscape.
- 2.15 In terms of the design, the front elevation would be broken up by several recesses which would reduce the overall massing of the principal elevation and introducing some vertical articulation. The massing of the roof would be broken up by the subordinate flat roofed dormer windows. The proposed site plan indicates the existing trees along the Burgess Road frontage would be retained and these would help to screen and soften the visual impact of the proposals, along with further landscaping proposed at the front of the building, which can be secured and controlled by conditions.
- 2.16 Amended plans have been submitted that introduce additional windows on the flank elevation facing the public open space to ensure this elevation forms an active frontage. Design details have also been added (window courses and lintels) to improve the elevational design of the building. The building would be constructed in red facing brick similar to the former building with white uPVC fenestration which would be in keeping with the character of Burgess Road.
- 2.17 As set out above, the footprint would be broadly the same as the 2018 planning approval and the proposed site plan indicates that the building could be successfully accommodated on the site, with supplementary landscaping and appropriate parking and turning areas, without appearing as a cramped form of development. Overall, and on balance, the proposed design, scale and siting, are considered to be appropriate for this site and the three-storey proposal would not appear overly

prominent or incongruous due to the orientation of the building and location of the site in relation to the residential properties in Burgess Road.

Highway Considerations

- 2.18 KCC Highways have advised that a total combined parking requirement for the proposed flats (25) and drinking establishment (15) is 40 spaces but have indicated that the parking for the drinking establishment is a maximum figure and can be reduced in this instance, as it is likely that some customers will walk or cycle in this location. The parking layout has been amended to accord with the consultation from KCC Highways to allow for a total of 10 unallocated parking spaces for the patrons of the pub and visitor parking for the flats and 25 allocated parking spaces for the proposed flats.
- 2.19 KCC Highways have confirmed the number of parking spaces is appropriate to accommodate the proposals and would ensure that there is unlikely to be an unacceptable increase in parking pressure in Burgess Road and the surrounding roads. In addition, the site plan indicates there would be sufficient turning areas within the site to allow vehicles to enter and leave the site safely in forward gear.
- 2.20 No objections are raised regarding the provision of an additional vehicle access onto the site from Burgess Road. The proposed new access would provide a dedicated access to the public house entrance and parking area which would ensure an element of separation between the pub and flats. The proposed new vehicle entrance would result in the loss of a small amount of vegetation along the Burgess Road frontage. However, the access is in the same position as that approved under planning application DOV/18/00300 and is therefore considered to be acceptable, subject to the provision and retention of visibility splays which can be secured by condition.
- 2.21 Dedicated cycle parking is proposed to the side of the proposed building and an appropriate design for the storage facility can be secured by condition. Refuse storage details would also need to be secured by condition.
- 2.22 The additional two flats compared to the 2018 approval would not represent a significant increase in vehicle trips and would not result in a serve impact on the local highway network in terms of the increase in vehicle movements and there would be no highways safety objections, subject to conditions.

Residential Amenity

- 2.23 A number of objections have been raised regarding the potential for loss of privacy and light to neighbouring properties. However, the nearest adjacent dwelling is located on the opposite side of Burgess Road and approx. 30m to the south on the other side of the shared pedestrian/cycle access. Given the separation distances involved and the public space between the site and nearest property there would be no significant adverse loss of residential amenity in terms of light, outlook or privacy.
- 2.24 The internal room sizes and overall floor area for the proposed flats would be in accordance with the national described space standards. An acceptable standard of living accommodation is therefore proposed. Only some of the residential flats located at the rear of the building would have a private outdoor balcony or patio space, however, given the proximity of the public open space adjacent the site this is not considered to weigh heavily against the proposal and would not warrant a reason for refusal. It is also noted that the initial designs proposed some ground floor patio areas at the front of the building, but these have been omitted following negotiations

as it was felt the enclosed patio areas detracted from the overall design of the principal elevation.

Noise

- 2.25 The pub element of the proposal replaces a long standing public house on this site, therefore the presence of a pub here is accepted. The proposed pub would have a reduced footprint, compared to the previous pub, and the overall impact in terms of noise and disturbance would therefore reduce compared to historic use of the site. Conditions can also be attached to control the opening hours. As a result the continued use of the site for a public house is not considered to result in any significant adverse amenity impacts to neighbouring residents in Burgess Road.
- 2.26 Several objections have been made regarding the mixed use of the building for a pub and flats and the potential for conflicts between the two uses, particularly through noise and disturbance from the pub use on the adjoining flats. This relationship has been accepted and approved previously under DOV/18/00300 and Environmental Health have confirmed that future occupants of the flats could be safeguarded from the impact by appropriate noise insulation measures, which can be secured and controlled by conditions.
- 2.27 In addition, some of the ground floor flats have their living spaces directly beneath bedrooms in the flats on the 1st floor which could also cause noise and disturbance issues between these units. As a result, Environmental Health has recommended a condition to secure appropriate sound insulation measures to overcome this, which can also be secured by condition.
- 2.28 The site is located approx. 40m to the west of the railway track which raises the potential for noise from passing trains to affect future occupiers. Similar to the previously approval conditions are recommended to secure a scheme of sound insulation measures to protect future occupants from noise arising from the railway.

Ecology

- 2.29 The previous buildings have been cleared from the site and hardstanding occupies the majority of the site. The area to the front and side of the site has been sectioned off from the public recreational space by post and rail fencing and has become overgrown. The section of land (outside the application site) comprises a rewilded reptile receptor site for the Aylesham Village Expansion.
- 2.30 The submitted reptile survey report confirms the presence of slow worms and viviparous lizards on the site. Since the ecology surveys were undertaken the habitat conditions on the site have improved for reptiles and there may also be additional colonisation as a result of the receptor site, that is situated adjacent to the proposed development site. There are potential options for habitat enhancement adjacent to the proposed development site, that includes the use of the existing receptor site for mitigation of this application site.
- 2.31 The Council's Ecology Officer has confirmed that an up-to-date understanding of the status of reptiles on the site would ensure a good understanding of the levels of mitigation/compensation required for any reptile impacts. As there are mitigation options available on the adjacent site, the Council's Ecology Officer has requested conditions requiring a Biodiversity Method Statement for the protection of reptiles/birds and hedgehogs, to include a reptile mitigation strategy, an ecological design strategy and a habitat monitoring and management plan. These would be informed by an updated reptile survey which would need to be completed prior to the commencement of development and secured by condition.

- 2.32 Several objections have also been raised regarding the potential impact of the development on the rewilded/receptor site adjacent the site. This receptor site can be safeguarded during construction works to ensure there is no adverse ecological harm and it is noted that the receptor site was allocated for this use before the pub burnt down, while there was an extant permission for extensions and conversion to residential approved under DOV/18/00300. Overall there would be no significant negative ecological impacts subject to an updated reptile survey and appropriate conditions. These address the requirements of legislation and the need to protect biodiversity as set out in paragraph 180 of the NPPF.

Habitats Regulations (2017) Regulation 63: Appropriate Assessment

- 2.33 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.
- 2.34 Following consultation with Natural England, the identified pathway for such an adverse effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, to the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.35 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.
- 2.36 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.
- 2.37 In accordance with the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy Thanet Coast SPA a contribution of **£595** is required to mitigate the additional impacts of the proposed development. This contribution will be secured through the s106.

Drainage and Stodmarsh

- 2.38 The site is previously developed land and is largely covered by hardstanding, with the footprint of the proposed building broadly the same as the overall footprint of the previously approved scheme. The application is supported by a Site Drainage Evaluation which proposes infiltration systems to manage surface water drainage which is the preferred approach and has been agreed by KCC Drainage/LLFA and is subject to detailed drainage considerations which can be secured by condition.
- 2.39 Foul sewerage would be discharged to the existing sewerage system and Southern Water has confirmed they can provide foul sewerage disposal to service the development which will require a formal application to Southern Water. An informative will be added accordingly.

- 2.40 The response from Natural England (NE) in respect of the impact on the Stodmarsh designations is an outstanding matter. The Conservation of Habitats and Species Regulations 2017, Regulation 63, requires that an Appropriate Assessment be carried out. It is for the council, as the 'competent authority', to carry out the assessment. The concerns relate to raised nutrient levels affecting Stodmarsh Lakes and has caused 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.
- 2.41 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 international ecological value for wetland habitats and the rare and special wildlife they support. They are protected through a combination of designations including: Special Area of Conservation, Special Protection Area, Ramsar site, 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.
- 2.42 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.
- 2.43 DDC have commissioned consultants to carry out studies to undertake investigations 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. 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. The above results were presented to NE last year. Notwithstanding the extremely low probability of any connection with Stodmarsh lakes, NE was reluctant to rule out the possibility of contaminants entering the lakes and therefore were not prepared to remove its standing objection.
- 2.44 Further discussions identified the presence of a sluice gate downstream of Stodmarsh lakes that could effectively prevent any upstream flow and therefore contaminants, from entering the lakes. The consultants therefore reworked their modelling to take this factor into account. The results of this have been presented to NE who maintained their position. We remain in active discussion with NE and are considering all options, the latest work undertaken by our consultants has identified a lower impact on Stodmarsh and no requirement for mitigation taking into account future housing projections. This has been sent to NE and we are awaiting their response.
- 2.45 The current application, along with many other housing proposals in this part of the district, has now been on hold for over 18 months pending the resolution of this issue. This is a major concern to the Council and developers alike given the need to meet housing targets. Given the delays caused by this issue and the progress made so far with the advice provided by our consultants and discussions with NE ongoing, officers consider that a recommendation to grant, subject to the issue being satisfactorily resolved, will at least establish the principle of the proposal and give the

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.

Affordable Housing, Planning Obligations, S106

Affordable Housing

- 2.46 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. However, the policy also acknowledges that the exact amount of affordable house, or financial contribution, to be delivered from a scheme will be determined by economic viability, having regard to individual site and market conditions.
- 2.47 During the last application an off-site affordable housing contribution was agreed. The previous off-site affordable housing contribution was based on 19 units and a reduced rate based on vacant building credit when a figure of £79,800 was agreed. The principle of an off-site contribution was therefore accepted previously, so it would be reasonable to adopt the same approach with this application. However, the contribution needs to be recalculated due to the increase in residential units, changes in market conditions and the vacant building credit no longer being applicable.
- 2.48 The method for securing off-site contributions set out in the SPD for affordable housing requires a payment equivalent to 5% of the Gross Development Value (GDV) of the proposed housing development. Negotiations were undertaken and searches have been completed to determine the sales/sold values of one and two-bedroom flats in the local area. Having regard to recent sold prices of comparable properties in Aylesham a figure of £185,000 is considered reasonable for a two-bedroom flat. There have been no recent sales of one-bedroom flats in Aylesham so the search area was increased and a reasonable figure in the borough for a one bedroom flat is considered to be £140,000. The GDV of the development would be £3,255,000 (7x two bed and 14 x one bed flats) and therefore the required contribution (5% of this figure) would amount to £162,750, which has been agreed by the agent and can be secured by a S106 agreement. In addition, the Council's Housing department have confirmed they are currently looking at potential affordable housing sites in Aylesham and the off-site affordable housing contribution from this scheme could therefore be used locally. The offsite affordable housing contribution of £162,750 therefore needs to be secured towards affordable housing sites in Aylesham through the s106 agreement.
- 2.49 Other s106 contribution requests: These were requested from KCC for the following:
- Primary education - **£8,123.50** – towards St Joseph's Catholic Primary School Aylesham expansion to accommodate 1FE
 - Secondary education – **£7,945.00** – towards Expansion of Secondary School places in Dover District
 - Community learning – **£344.82** – towards additional resources for Dover District Adult Education service
 - Youth service – **£1,375.50** – Contributions requested towards additional resources for the Youth Service locally including: Pie Factory Music, detached youth work covering anti-social behaviour and normal and preventative services, Aylesham Youth Provision and Not in Education Employment or Training, and local grants to Aylesham young people projects

- Libraries – **£1,164.45** – towards additional resources and bookstock for Aylesham Library
 - Social care – **£3,084.48** – towards specialist care accommodation in Dover.
 - Waste – **£1,947.12** – towards new works at Dover Household Waste Recycling Centre to increase capacity
- 2.50 In total, planning obligation requests of **£187,734** have been made and agreed by the applicant and need to be secured through a s106 legal agreement. In respect of planning obligations, the application is considered to be acceptable.
- 2.51 In addition Policy DM27 requires open space contributions for developments of 5 or more units. The contribution figures for the different elements of open space provision are:
- Accessible Green Space: £1445.58
 - Outdoor sports facilities £5389.02
 - Children’s Equipped Play space £5206.06 all towards Station Field play area
 - The Sandwich Bay SPA Mitigation contribution of **£539.32**
- 2.52 These requests are still being discussed and considered by the applicant and would form part of the discussions in respect of the s106. In total, planning obligation requests including the SPA mitigation contribution and open space contributions are **£200,313.98**. In respect of planning obligations, the application is considered to be acceptable and further contributions could be secured following further discussions with the applicant in respect of the s106.

Other Considerations

Archaeology

- 2.53 The site is located in an area of high archaeological potential and the proposed seeks to extend the built footprint of the previous building which could impact previously unknown heritage assets of archaeological importance. As per the previous permission an archaeological watching brief condition is recommended to ensure that any archaeological features are appropriately recorded.

3. Conclusion

- 3.1 The public house on this site ceased trading some time ago and the building is no longer in situ. However, during the previous applications to convert the public house to residential it was agreed that a pub would be retained in a mixed use residential scheme. This approach has been carried forward in the current application in accordance with policy DM24 and the public house provision is broadly as previously approved. The development complies with sustainability objectives of the NPPF, adjoins the built confines and is acceptable in terms of its design, appearance, location and all other respects, subject to the appropriate conditions and S106 agreement.
- 3.2 The proposal would provide a contribution towards the Councils five year housing supply and a policy compliant off-site affordable housing contribution would be secured to be used in Aylesham village by DDC housing department on future affordable housing projects.
- 3.3 The tilted balance approach set out at Paragraph 11 of the NPPF is 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 and the background of the site, the development is considered to preserve the character and appearance of the countryside and wider landscape, with any impact mitigated. In light of Paragraph 11 of the NPPF, and in taking into account other material considerations as discussed, it is considered that the benefits of the development outweigh the disbenefits.

- 3.4 Overall, the proposal is considered to be acceptable and would comply with policies DM1, DM5, DM11, DM13, DM15, DM16 and DM24 of the CS. Taking into account paragraph 11 of the NPPF and the planning balance, the benefits of the development outweigh any adverse impacts and when taking into account the whole Framework and the aims and objectives of the NPPF and is recommended for approval.

f) **Recommendation**

- i. SUBJECT TO the LPA, as the 'competent authority' for the purposes of the Habitat Regulations, being satisfied (in consultation with Natural England), 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,

PLANNING PERMISSION BE GRANTED, subject to a legal agreement and to conditions to include the following:

1. Time limit
2. Approved plans
3. Materials samples
4. Window details – recesses
5. Landscaping scheme
6. Retention of existing trees
7. Tree protection- Root Protection Zones
8. Biodiversity Method Statement (reptiles/birds/hedgehogs)
9. Ecological design strategy – compensatory habitats for reptiles and biodiversity enhancements
10. Habitat management and monitoring

11. Updated reptile survey
12. Provision and retention of parking spaces
13. EVC charging
14. Cycle parking and refuse storage retention
15. Provision of visibility splays – new access
16. Provision of pedestrian visibility splays
17. Use of bound surface for the first 5 metres of the access
18. Construction Management Plan
19. Submission of a SuDS drainage scheme prior to commencement
20. Submission of drainage infiltration information
21. Submission of a SuDs drainage Verification Report
22. Contamination safeguarding
23. Sound insulation measures to safeguard occupiers from the railway track
24. Sound insulation between the first floor flats and the ground floor flats adjoining the public house.
25. Pub opening times
26. Archaeological watching brief
27. Scheme to demonstrate secured by design principles

- II. Powers to be delegated to the Head of Planning and Development 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 the Planning Committee.

Case Officer

Andrew Jolly