

- a) **DOV/22/01120 - Erection of three detached dwellings, six semi-detached dwellings, realignment of part of highway, new access and roadway, associated parking and landscaping - Cherry Garden, Cherry Garden Lane, Ash**

Reason for report – Number of contrary views (11)

- b) **Summary of Recommendation**

Planning permission be refused.

- c) **Planning Policy and Guidance**

Ash Neighbourhood Plan: ANP1, ANP4, ANP5, ANP6, ANP7a, ANP13, ANP14, ANP15 and ANP16

Core Strategy Policies (2010): CP1, CP6, CP7, DM1, DM11, DM13 and DM16

Land Allocations Local Plan (2015): LA 21 – Land to the South of Sandwich Road, Ash

Local Plan (2002) Saved policies: CO8 (Development affecting hedgerows)

Draft Dover District Local Plan to 2040

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 (Regulation 19) the policies of the draft can be afforded some weight, but this depends on the nature of objections and consistency with the NPPF.

Draft policies SP1, SP2, SP11, SP13, SP14, CC2, PM1, PM2, TI1, TI3 and NE3 are considered most relevant to this application.

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 92, 110, 111, 112, 119, 130, 174, 180

National Design Guide & National Model Design Code (2021)

- d) **Relevant Planning History**

DOV/21/01545 | Erection of 3 no. detached dwellings, 6 no. attached dwellings, realignment of part of highway, new access and roadway, associated parking and landscaping – Refused

Neighbouring sites, part of the site allocation LA21/ ANP7a

20/00284 – 63 Sandwich Road - Hybrid application: (Phase 1) Full application for erection of 20no. dwellings and 4no. flats, access, parking, associated infrastructure and landscaping; (Phase 2) Outline application for a building comprising 10no. flats and 5no. dwellings (with all matters reserved except access and layout) – Pending Determination

22/01497 - Land At 52 New Street Ash CT3 2BN - Outline application for the erection of up to 53 no. dwellings (with all matters reserved except access) (existing buildings to be demolished. This relates to the central part of the site allocation and includes a site wide masterplan – Pending Determination

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

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

Ash Parish Council – Objects to the proposal. DDC Policy LA21, Ash NDP Policy ANP7 a) and other relevant Ash NDP Policies have been addressed. The Parish Council have requested financial contributions via a S106 agreement if planning permission is granted.

KCC Highways– Have asked for amendments relating to widening of some parking spaces and tracking for the refuse freighter. They have also advised that widening of Cherry Garden Lane would be subject to a separate S278 Agreement, should planning approval be granted, and that the applicant must be aware of the significant cost implications the widening of the highway will incur. Subject to the submission of amended plans, KCC Highways raise no objection, subject to conditions.

KCC PROW– No comments

DDC Environmental Health – No comments.

Southern Water – Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer, and that an informative is added if permission is granted.

DDC Ecology – Initial response: Has advised that habitats and features are present on and around the site, indicating ecological value and the potential for protected species presence. As such, a preliminary ecological appraisal (PEA) must be sought from the applicant. The PEA will identify if there is a need for further ecological surveys to assess ecological value and/or confirm protected species presence/likely absence to allow full consideration of the potential ecological impacts of the proposed development. The PEA report, OR, if further surveys are required, an Ecological Impact Assessment (EclA) report, detailing all surveys and outcomes, must be sought prior to determination of the planning application. The submission must provide appropriate and achievable mitigation measures for any identified ecological impacts.

Second response: Additional information and/or clarification is sought from the applicant on the potential for bat roosting potential of trees on the site boundaries, the impact of the loss of hedgerow and bank on biodiversity and any designated species that are present, and how the loss of these habitat features are compensated for within the proposed development site, and that bat activity surveys should be sought from the applicant to ensure that the use of Cherry Garden Lane by bats is understood before any lighting is introduced. The additional information requested above is needed prior to determination of the application, to ensure that all potential ecological impacts can be taken into account and addressed in the decision, in accordance with government guidance, planning policy and protected species legislation.

DDC Tree officer– The application form states that there are no trees on the site but the proposed plans show that it is intended to retain trees, particularly those in the north west corner where there are some significant Poplars and Sycamores. A Pre-development tree survey/report should be submitted to show what constraints the trees may have on the development, which trees are to be retained and how those to be retained will be protected.

Natural England– Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). However, our advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the European Site.

RSPB – Objects to this application as there is insufficient ecological information submitted. The development site area has a history of Turtle Dove records associated with it. The Turtle Dove is the UK's fastest declining breeding bird and is threatened with global as well as national extinction. Turtle Doves have been recorded on the adjacent abandoned orchard site to Cherry Garden for the last couple of years (BTO and RSPB data). Last year the area was surveyed as part of the National Turtle Dove survey and a Turtle Dove territory was recorded on the abandoned orchard site. Given the loss of habitat that has occurred locally on the adjacent abandoned orchard site, we recommend an ecological assessment to be carried out at Cherry Garden to ensure that there is no further loss of important habitats locally. Alongside this we would recommend breeding bird surveys to further assess the sites usage by Turtle Doves and other species.

Third party representations:

Seven representations of objection have been received and are summarised below:

- Contrary to Ash Neighbourhood Plan
- Does not address wider site allocation
- Incorrect information given in relation to existing trees or hedges on the site
- Incorrect information given in relation to risk to biodiversity and habitats
- Harmful visual impact on rural character of Cherry Garden lane and setting of village.
- Risk to pedestrian safety.
- Risk to highway safety.
- Increase in traffic and congestion
- Increase in pollution
- No environmental improvements over first application
- No renewables or environmental features to buildings
- Increased pressure on local services such as water, school, GP and shops
- Does not provide the type of housing needed by the village
- Not enough parking provided
- Harm to biodiversity and protected species including turtle doves, bats, badgers and hedgehogs
- Loss of trees and habitats
- Too many houses for the site
- Concerns relating to surface water drainage
- Tree preservation orders near the site

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

- Unobtrusive, out of view and well screened
- Well-designed development which will fit well on this site
- Safe access on Cherry Garden Lane
- Provides homes
- Small rather than large development, that will produce less vehicle movements
- Trees are retained
- Social and economic benefits

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

1.1 The site is located on the eastern side of Ash on the junction of Cherry Garden Lane and Sandwich Road, as shown in figure 1 below. It is located within the Ash village confines as shown in the Ash Neighbourhood Plan.

1.2 The site forms part of a wider housing allocation for 95 homes, in the Ash Neighbourhood Plan and Dover District Land Allocations Local Plan, as shown below in figure 2.

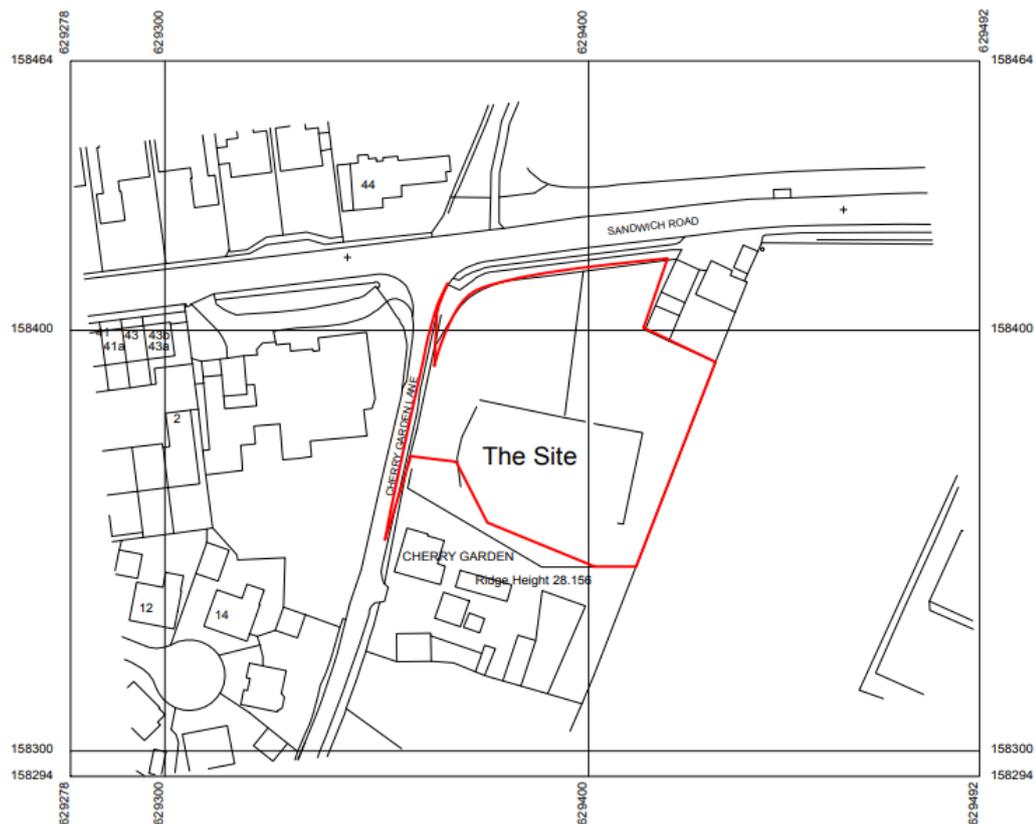


Figure 1: Site location Plan

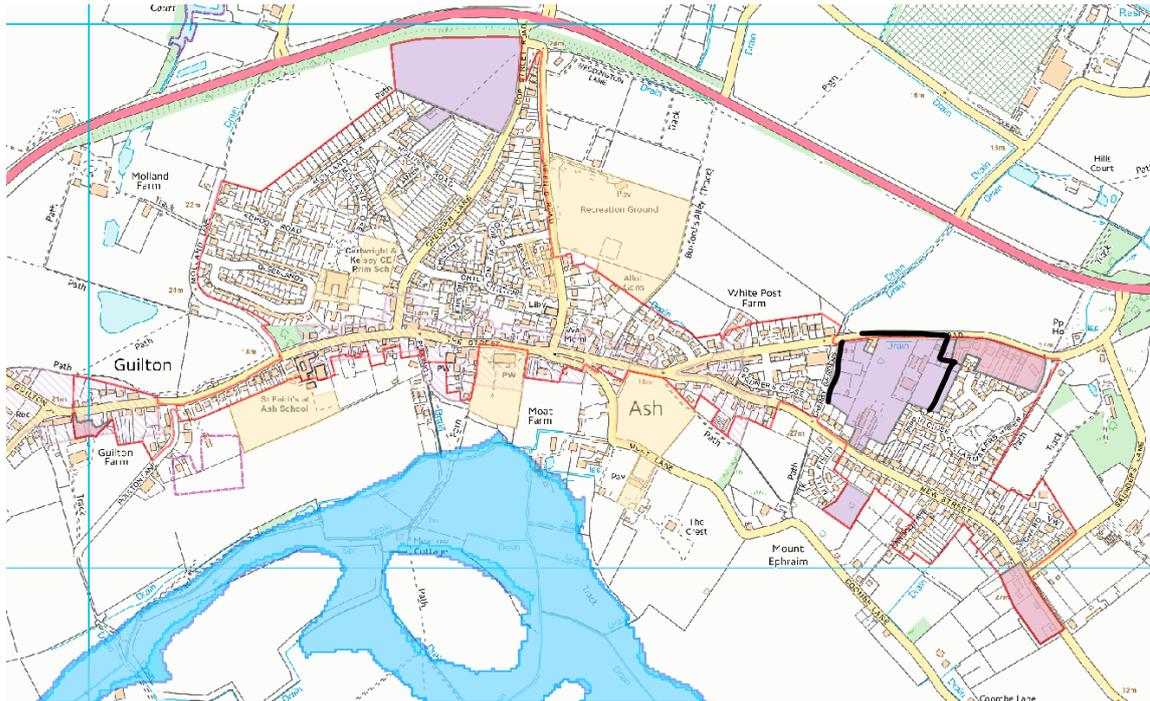


Figure 2: Map showing settlement confines and allocated site in black outline

1. 3 The site comprises agricultural and paddock land with hedgerow and tree planting along the north and west boundary, as shown in figure 3 below. The north boundary of the site adjoins Sandwich Road and the west boundary adjoins Cherry Garden Lane. The site sits on higher ground than both Sandwich Road and Cherry Garden Lane. Figure 5 below shows the site and the junction of these two streets.
1. 4 The east boundary of the site abuts vacant land which is covered with trees and vegetation. The northeast boundary abuts the rear and side boundary of a residential property, 51 Sandwich Road. To the south of the site is residential development at Cherry Garden.
1. 5 Cherry Garden Lane is a rural single width lane with no pedestrian footpath. The lane has a rural character due to the narrow single lane width, its sunken nature and roadside trees and hedgerows, as shown in Figure 4.



Figure 3: Aerial Photograph of wider site allocation



Fig 4: looking east along Sandwich Rd, showing site corner with Cherry Garden Lane



Fig 5: Looking north along Cherry Garden Lane, with site boundary to right of photo

- 1.6 The proposal is for the erection of 3 detached dwellings, 6 semi-detached dwellings, the realignment of part of highway, new access and roadway, associated parking and landscaping.
- 1.7 The application proposes a new vehicle access onto Cherry Garden Lane on the western boundary of the site. The proposed internal access road would be broadly T-shaped with housing proposed around the access road, backing onto the site boundaries. Three two-storey detached houses and three two-storey semi-detached pairs are proposed.
- 1.8 The houses would have a traditional form with pitched roofs (hipped and gabled) and gabled front projections. Materials comprise yellow stock facing bricks, Eternit cladding and clay plain tiles with white uPVC fenestration. Figures 6 and 7 show the proposed layout and elevations.



Figure 6: Proposed site plan



Figure 7: Proposed elevations

1. 9 It is noted that when originally submitted, the application was not supported by a Design and Access Statement, a Planning Statement, an Ecology Assessment or Tree Assessment. The agent has been advised that the application is likely to be refused for similar reasons to the 2021 application and has been invited to submit amended proposals to address the reasons. A planning statement and Preliminary Ecological Assessment were submitted at a later date. The planning statement contains a sitewide masterplan.

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
- The impact on parking and highways
- The impact on ecology and biodiversity
- The impact on flood risk and drainage

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 The application site forms part of a wider site allocated for housing in the adopted Ash Parish Council Neighbourhood Development Plan (2021) and the Land Allocations Local Plan (2015). Therefore, policies ANP7a and LA21, which relate to the allocation in the respective plans, are considered the most relevant in determination of this application.
2. 4 Policies CP1, DM1 and DM11 of the adopted core strategy (2010), are also considered relevant to the principle of development. Policies CP1 and DM1 act together to confirm that the defined urban area and villages are intended to be the focus for new development in the district. Policy DM11 seeks to manage travel and states that development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies.
2. 5 Draft policies SP1, SP2 and TI1 are considered relevant to the principle of this development. Draft policy SP1 seeks to ensure new development contributes to climate change mitigation including by reducing the need to travel and maximising opportunities for sustainable transport options. Draft policy SP2 seeks to ensure new development creates opportunities for active travel, including provision of safe walking and cycling routes. It also seeks to ensure new developments are designed to be safe and accessible and seeks to ensure access to greenspaces and spaces for play and recreation. Draft policy TI1 requires that development be readily accessible by sustainable transport modes through the provision of high quality, engineered, safe and direct walking and cycling routes within a permeable site layout.
2. 6 Notwithstanding the primacy of the development plan, paragraph 11 of the NPPF states that where the policies which are most important for determining the application are out of date (including where the LPA cannot demonstrate a five year housing land supply or where the LPA has 'failed' the Housing Delivery Test), permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole (known as the 'tilted balance') or where specific policies in the NPPF indicate that development should be restricted.
2. 7 At the present time the council has a demonstrable 5-year housing land supply of 6.16 years and has not failed to deliver the housing delivery test requirement (delivering 88%). Furthermore, it is considered that the main policies for determining the application LA21 and ANP7a are up-to-date given that they relate to site allocations and as such the 'tilted balance' (paragraph 11, NPPF) would not be engaged. As such the principle of development is assessed against policies ANP7a and LA21.
2. 8 Policy ANP7a) of the Ash Neighbourhood Plan and Policy LA 21 of the Land Allocations Plan both allocate the site for an estimated capacity of 95 homes. Both policies require that any planning application is preceded by and is consistent with a development brief that has been agreed by Dover District Council, that there is a comprehensive approach to development of the whole site but if the site is developed incrementally, each phase must demonstrate that it will not prejudice the implementation of the whole development. The policies also require that the impact of development on the setting of the village and wider

landscape is minimised, the existing boundary hedgerows are retained and enhanced as part of the development and that there is no vehicular access to the site from Cherry Garden Lane.

2. 9 When submitted, the application was not supported by a development brief or masterplan for the wider site allocation. A planning statement was submitted at a later date, which contains a masterplan for the site allocation. The application is not supported by a Design & Access Statement.
2. 10 The submitted masterplan indicates separate access to the application site from Cherry Garden Lane. The layout does not provide any connectivity or integration of built form with the wider allocated site. The proposed dwellings within the application site face inwards and no frontages are provided onto Sandwich Road or the adjacent area of open space indicated within the site allocation on the masterplan. It is considered that the masterplan does not represent a coordinated and comprehensive proposal. Therefore, the applicant has failed to demonstrate that the current application accords with an agreed comprehensive approach to development of the wider site and that the development of this site will prejudice the implementation of the whole site allocation for ANP7a / LA21.
2. 11 In addition to this, there are specific requirements of the site allocation policies which have not been met. The application proposes a new access on the western boundary of the site from Cherry Garden Lane which is contrary to the site allocation in both plans. No mitigation strategy to address any impact on the Thanet Coast and Sandwich Bay Ramsar and SPA sites and Sandwich Bay SAC site has been put forward contrary to LA21. In addition, a preliminary ecological survey for the site has been submitted at a late stage in the determination process. The existing boundary hedgerow along Cherry Garden Lane is not being retained and enhanced as part of the development which is contrary to the site allocation policies in both plans. Further, it is considered that by virtue of the removal of the hedgerow and a lack of comprehensive design approach, the impact of the development on the setting of the village has not been minimised which is contrary to the site allocation in both plans.
2. 12 In the absence of an adequate site wide comprehensive masterplan and/or development brief the Council is also concerned that the incremental development of the site allocation would fail to achieve the necessary infrastructure and affordable housing contributions required to mitigate the impact of the estimated 95 dwellings across the allocated site. The current application proposes nine houses and, on its own, does not trigger a requirement for affordable housing or infrastructure improvements and/or contributions. Without the necessary infrastructure improvements, community service contributions and affordable housing provision, it is considered that the incremental development of housing site allocation ANP7a / LA 21 would fail to appropriately mitigate for the additional impact resulting from an estimated total 95 dwellings.
2. 13 There are two live planning applications to the east of this site which relate to the remainder of the wider site allocation for policy LA 21. Application DOV/20/00284 is a hybrid application for (Phase 1) a full application for erection of 20 dwellings and 4 flats, access, parking, associated infrastructure and landscaping; and (Phase 2) an outline application for a building comprising 10 flats and 5 dwellings (with all matters reserved except access and layout).

2. 14 It is noted that a site wide masterplan has been submitted with application DOV/20/00284 which demonstrates how the site could be comprehensively developed, including the northwest corner of the site which is the subject of this application. It is acknowledged that application 20/00284 has not yet been determined by the Council. The submitted masterplan for 20/00284 and the site plan submitted for this application do not accord with each other.
2. 15 Application DOV/22/01497 is an outline application for the erection of up to 53 dwellings (with all matters reserved except access) (existing buildings to be demolished. This relates to the central part of the site allocation and includes a site wide masterplan. This application was received at a later date to the case in question. It is noted that a site wide masterplan has been submitted with this application which demonstrates how the site could be comprehensively developed, including the northwest corner of the site which is the subject of this application. The submitted masterplan for 22/01497 and the site plan submitted for this application do not accord with each other.
2. 16 The application in question proposes a small cul-de-sac housing development in the northwest corner of a wider housing site allocation. It is considered that the internal layout would effectively close off the development from the wider site and the private rear gardens of Plots 3 to 7 would back onto the boundary adjoining the wider site allocation. As a result, there would be no visual or physical relationship between the application site and wider housing allocation for ANP7a/ LA21. Furthermore, no pedestrian, cycle or vehicle routes are proposed to connect to the wider site allocation and there would be no interconnectivity or permeability between this site and the wider site allocation. Future residents of the development would not be able to access any green or play space provided as part of the wider development of site allocation ANP7a/ LA21.
2. 17 To summarise, it is considered that the submitted site wide masterplan does not indicate a coordinated and comprehensive design approach, and as such the applicant has failed to demonstrate how the proposal would connect and integrate, either visually or physically, with the wider site allocation. As a result, it is considered that the proposed development would fail to integrate with the wider village setting and would appear as an unplanned and visually discordant urban extension to the village contrary to the requirements of policy LA21 of the Land Allocations Plan and policy ANP7a of the Ash Neighbourhood Plan. In addition, the proposals fail to meet the other specific requirements of allocations policies, particularly in relation to location of highway access.
2. 18 The proposals do not provide any footways or cycleway to Cherry Garden Lane or connecting into the wider site allocation. By virtue of this lack of safe, accessible, and direct walking and cycling routes providing connectivity with the remainder of the allocated site and the surrounding area, the proposals would also fail to meet the requirements of draft policies SP1, SP2 and T1 and the aims and objectives of the NPPF in promoting active travel for the benefit of healthy communities and climate change mitigation and would not represent a sustainable form of development.

Impact on Character and Appearance

2. 19 Draft policy PM1 states that all development in the district must achieve a high quality of design, that promotes sustainability, and fosters a positive sense of place. New development must demonstrate an understanding and awareness of the context of the area. It should be compatible with neighbouring buildings and

spaces, and respect and enhance character to create locally distinctive design or create character where none exists. Further to this, PM1 requires new development to be designed to give priority to people over cars and prioritise sustainable transport choices.

2. 20 By virtue of the proposed layout, design and orientation of the housing, which would turn its back on Sandwich Road and Cherry Garden Lane, the proposal would fail to provide an active frontage facing the adjacent streets. This is considered to be particularly important along Sandwich Road as this is the main route through the village and is characterised by residential properties fronting onto the road. The proposal would therefore not respond to context and be considered out of character with surrounding development. Further to this, there would also be no natural surveillance afforded to Sandwich Road in this area by the new development. In addition to this the proposed layout would fail to provide an active frontage and natural surveillance opportunities onto the open space indicated on the submitted site wide masterplan.
2. 21 The proposed vehicle access onto Cherry Garden Lane would result in the removal of established boundary and roadside vegetation which the policy seeks to retain, and the required visibility splays would result in the removal of further roadside boundary planting. Cherry Garden Lane is a narrow rural lane and one of the main characteristics of the lane (although located within the village confines) is its rural character and the roadside hedgerow and tree planting. The site itself sits on higher ground than Cherry Garden Lane. The creation of a new vehicle access and the required visibility splays onto Cherry Garden Lane is considered to have a harmful visual impact on the rural character of the lane and would negatively impact the wider village setting. It is considered that the change in levels would amplify this visual prominence. The pre-text to policy LA 21 at paragraph 3.271 states 'Vehicular access should not be from Cherry Garden Lane as this would have a detrimental impact on the character of this road and the setting of the village'.
2. 22 As previously discussed, there would be no safe and accessible walking and cycling connections from the site to the wider allocation and the surrounding area and as such it is considered that the proposal does not prioritise sustainable transport modes and give priority to people over cars.
2. 23 In the absence of an acceptable masterplan or comprehensive development brief for the wider site allocation there is concern that the wider site would come forward as a patchwork of incremental smaller housing developments would have a visually harmful impact on the setting of Ash village due to a lack of cohesive and consistent design approach. This is considered to be particularly important given the size of the wider site allocation which is allocated for an estimated 95 dwellings.
2. 24 Notwithstanding the absence of an acceptable masterplan, it is considered that the proposed site layout, by reason of the siting and design, be out of keeping with the prevailing pattern of development and the overall character of the area and would not establish a strong or positive sense of place, in particular the Sandwich Road frontage. The proposals would not prioritise sustainable transport modes and give priority to people over cars. As such it is considered that the proposals would be contrary to paragraph 130 of the NPPF and draft policy PM1.

Impact on Residential Amenity and Future Living Conditions

2. 25 Draft policy PM2 relates to quality of residential accommodation and requires that all new residential development, including conversions, must be compatible with neighbouring buildings and spaces and not lead to unacceptable living conditions for neighbouring properties through overlooking, noise or vibration, odour, light pollution, overshadowing, loss of natural light or sense of enclosure. Development should be of an appropriate layout with sufficient usable space and contain windows in all habitable rooms to facilitate comfortable living conditions with natural light and ventilation. Well-designed private or shared external amenity space should be provided on-site, that is of appropriate size and fit for purpose.
2. 26 Given the separation distances retained to existing surrounding properties, it is considered that there would be no significant adverse loss of neighbour amenity. Further, due to the orientation and separation distances between the proposed dwellings within the site there would be no significant adverse loss of amenity between the proposed houses.
2. 27 The proposed dwellings would be of reasonable size and layout such as to provide a good standard of accommodation. Whilst not adopted by the council, the dwellings would accord with the guidance in the National Space Standards. The properties would have gardens of a sufficient size, albeit the gardens serving plots 4, 5 and 6 are relatively small given the area of the development site.

Impact on Parking/Highways

2. 28 No internal vehicle, cycle or pedestrian links are proposed to connect to the wider site allocation. A new vehicle access is proposed onto Cherry Garden Road which would be contrary to policies ANP7a and LA 21 and would be visually harmful as discussed in the previous section relating to character. No footway or cycleway has been proposed to Cherry Garden Lane, which would not support the aims of promoting active travel. The applicant has failed to demonstrate why vehicle access cannot be provided through the wider site allocation to the east which is a requirement of policy LA21.
2. 29 The level of vehicle parking proposed is considered acceptable for the size of properties in this location, However KCC Highways and Transportation have requested that the parking spaces abutting a boundary or vegetation should be widened to 2.7 metres. Cycle parking has been proposed within garages and garden sheds.
2. 30 Tracking has been submitted to illustrate turning for a refuse freighter and a fire tender. KCC Highways have stated that the tracking for the refuse freighter does not correspond with the site plan and that a revised tracking plan should be submitted. KCC highways have requested that visibility splays of 2.4 metres x 43 metres are proposed where all vegetation should be maintained to a height of 1.05 metres. KCC Highways have also advised that widening of the highway will be subject to a separate S278 Agreement, if planning approval be granted.

Ecology

2. 31 Paragraph 180 requires that when determining planning applications, local planning authorities should refuse planning permission if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or compensated for. It also states that opportunities to improve

biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.

2. 32 Draft policy SP14 echoes this requiring that every development connects to and improves the wider ecological networks in which it is located, providing on-site green infrastructure that connects to off-site networks. Proposals must safeguard features of nature conservation interest, and retain, conserve and enhance habitats. Draft local plan policies SP14 and NE1 work together to ensure that the green infrastructure and biodiversity of the district are conserved and enhanced and seek biodiversity net gain.
2. 33 Saved policy C08 states that development which would adversely affect a hedgerow will only be permitted if no practicable alternative exists and suitable native replacement planting is provided.
2. 34 Draft policy SP13 relates to protecting the districts hierarchy of designated environmental sites and biodiversity assets. Draft policy NE3 sets out that financial contributions should be secured for developments within a 9km zone of influence of the Thanet Coast and Sandwich Bay SPA, towards monitoring and mitigation measures set out in the Thanet Coast and Sandwich Bay SAMM.
2. 35 Paragraph 99 of ODPM circular 06/2005 states: "it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision".
2. 36 The application is not supported by a mitigation strategy to address the impact on the Thanet Coast and Sandwich Bay Ramsar and SPA site and Sandwich Bay SAC site, contrary to the requirements of LA21 respectively. However, the council does have a mitigation strategy to address recreational impacts on the off-site SAC (discussed below in the Appropriate Assessment).
2. 37 The site is located on the edge of the village and comprises three small undeveloped fields / paddocks with hedgerow boundaries and are connected to a vegetated site to the east and southeast. Habitats and features are present on and around the site, indicating ecological value and the potential for protected species presence that must be taken account of in assessing the planning application.
2. 38 As such, the application must be supported by a preliminary ecological appraisal (PEA) to assess the ecological potential of the site. The PEA would assess the habitats and features within and around the site and identify if there is a need for further ecological surveys to assess ecological value and/or confirm protected species presence/likely absence to allow full consideration of the potential ecological impacts of the proposed development. To ensure that the planning determination is adequately informed in respect of all potential ecological impacts, it is considered that the PEA report, or if further surveys are required, an Ecological Impact Assessment (EiA) report, detailing all surveys and outcomes, must be sought prior to determination of the planning application. The submission must provide appropriate and achievable mitigation measures for any identified ecological impacts. The PEA and all necessary ecological surveys must be carried out, with the results and any necessary mitigation proposals submitted to inform the determination of the application in accordance with planning policy, government guidance and legislation.

2. 39 A PEA was submitted at a later date. The PEA report considers the potential for roosting bats and rules out the poplars in the north-western corner of the site as providing no potential roosting features. A 'single unidentified cypress' is also described but no further details are provided as to its bat roosting potential. This tree seems to be along the western boundary of the site and appears to be removed as a result of the proposed development, along with a second tree adjacent to it. Further information is needed to clarify the potential for these trees to support roosting bats.
2. 40 The PEA report also identifies the need for precautionary measures for work to the hedgerow along the boundary with Cherry Garden Lane in relation to potential impacts to nesting birds, however the site entrance is proposed onto Cherry Garden Lane, resulting in the complete loss of this area of vegetation and the bank. Further information is needed to consider the impact of the loss of hedgerow and bank on biodiversity and any designated species that are present. In addition to birds, it is considered that the presence of hibernating / sheltering species such as hedgehogs and toads will need to be addressed. There is also a need to show how the loss of these habitat features are compensated for within the proposed development site.
2. 41 The PEA report recommends the use of bat-sensitive lighting within the proposed development. Cherry Garden Lane is tunnel-like with tree branches reaching across above the road, and it is likely to be used by foraging and commuting bats. It is considered that any lighting is proposed along the Lane and at the site entrance, bat activity surveys are needed to ensure that the use of the Lane by bats is understood before any lighting is introduced.
2. 42 It is considered that the additional information requested above is needed prior to determination of the application, to ensure that all potential ecological impacts can be taken into account and addressed in the decision.
2. 43 Further to this, RSPB has objected to this application due to insufficient ecological information. The proposed development site area has a history of Turtle Dove records associated with it. The Turtle Dove is the UK's fastest declining breeding bird and is threatened with global extinction. Kent is the stronghold for Turtle Dove within the UK and within the county, 12 important core Turtle Dove areas have been identified as the highest priority for the species. Ash sits within one of these high priority Turtle Dove areas.
2. 44 Turtle Doves have been recorded on the adjacent site to Cherry Garden for the last couple of years (BTO and RSPB data). RSPB recommend an ecological assessment and breeding bird surveys are carried out, to further assess the sites usage by Turtle Doves and other species.
2. 45 The application form states that there are no trees on the site, however the proposed plans show that it is intended to retain trees, particularly those in the northwest corner where there are some significant Poplars and Sycamores. A tree survey/report has been requested from the Agent, to show what constraints the trees may have on the development, which trees are to be retained and how those to be retained will be protected. However, no response has been received.
2. 46 In the absence of further ecological information and surveys as discussed above, the ecological impacts of this proposal cannot be adequately assessed. Therefore, having regard to the relevant provisions of the Regulations and in

consideration of the relevant provisions of the NPPF it is considered that it has not been demonstrated that the proposal would not cause significant or unacceptable harm to biodiversity. As such it is considered that the proposals would be contrary to the aims of the NPPF.

2. 47 In addition to this no information has been submitted in relation to ecological enhancements or biodiversity net gain and as such the proposals do not accord with draft policies SP14 and NE1, however limited weight can be given to these policies at this time.

Habitats Regulations (2017) Regulation 63: Appropriate Assessment

2. 48 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. 49 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. 50 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. 51 Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.

Flood Risk and Drainage

2. 52 The application form indicates that Sustainable Urban Drainage will be used for surface water discharge. Had the scheme been acceptable overall details of the proposed surface water drainage scheme could have been secured by condition.
2. 53 The application form indicates the proposed development would be connected to the existing public sewerage system and the plan submitted by Southern indicate existing drains supply in proximity to the site. Had the scheme been acceptable overall, this point could have been addressed by condition and secured directly with Southern Water.

3. Conclusion

- 3.1 In the absence of an acceptable development brief or masterplan for the wider site allocation, the applicant has failed to demonstrate that the current application accords with an agreed comprehensive approach to the wider site and that the development of this site will not prejudice the implementation of the whole site allocation for ANP7a and LA21. There is concern that a patchwork of incremental smaller housing developments may result in a discordant design approach and would have a visually harmful impact on the setting of Ash village.
- 3.2 The proposed layout and design would fail to provide an active frontage facing the road which is considered to be particularly important along Sandwich Road as this is the main route through the village and is characterised by residential properties fronting onto the road. The proposed layout would therefore be out of keeping with the prevailing pattern of development, would fail to add to the overall quality of the area and establish a strong or positive sense of place, as required by paragraph 130 of the NPPF and draft policy PM1.
- 3.3 The proposed development would fail to integrate with the wider village setting and would appear as an unplanned and visually discordant urban extension to the village contrary to the aims and objective of policies ANP7a and LA21. The creation of a new vehicle access onto Cherry Garden Lane would have a harmful visual impact on the rural character of the lane and would harm the wider village setting contrary to policies ANP7a and LA21.
- 3.4 The lack of pedestrian links from the site to the existing highway network constitutes a risk to pedestrian safety, fails to promote sustainable transport modes, and constitutes an unsustainable form of development contrary to the aims of the National Planning Policy Framework and draft policies SP1, SP2 and T11.
- 3.5 Insufficient information has been submitted to allow a full assessment of the implications of the development on the ecology and wildlife within and around the site and the ecological and nature conservation value of the surrounding European Protected Sites. In the absence of this information the proposal would be harmful to matters of ecological importance. The proposal would fail to accord with the aims of the NPPF and draft policies SP13, SP14 and NE3.
- 3.6 In summary, the proposal would be contrary to Ash Neighbourhood Plan policy ANP7a and Local Plan Land Allocation policy LA21. The proposal, by reason of the siting, design and access, would be a visually harmful and unsustainable form of development, would represent a danger to pedestrian safety and would be harmful to matters of ecological importance. It is recommended that planning permission is refused for the following reasons.

g) Recommendation

I PERMISSION BE REFUSED for the following reasons:

- 1) In the absence of a development brief for the wider site the applicant has failed to demonstrate that the application accords with an agreed comprehensive approach for housing allocation ANP7a/ LA21. Further, the applicant has failed to demonstrate that the development of this site will not prejudice the implementation of the whole site allocation. As a result, the proposed development would fail to integrate with the wider village setting and would appear as an unplanned and visually discordant urban extension to the village contrary to policy ANP7a of

the Ash Neighbourhood Plan and policy LA21 of the Land Allocation Local Plan.

- 2) The creation of new vehicle access onto Cherry Garden Lane and the proposed layout, design and siting of the development would have a harmful visual impact on the rural character of the Cherry Garden Lane and would be out of keeping with the prevailing pattern of development. Consequently, the development would fail to add to the overall quality of the area and establish a strong or positive sense of place and contrary to policy ANP7a of the Ash Neighbourhood Plan, policy LA21 of the Land Allocation Local Plan, policy PM1 of the draft Dover Local Plan and paragraph 130 of the National Planning Policy Framework.
- 3) The lack of pedestrian links from the site to the existing highway network constitutes a risk to pedestrian safety and represents an unsustainable form of development contrary to policies SP1, SP2 and T11 of the draft Dover Local Plan and paragraphs 104, 110, 111 and 112 of the National Planning Policy Framework.
- 4) In the absence of evidence to the contrary, the development has failed to demonstrate a full assessment of the implications of the development on the ecology and wildlife within and around the site and the ecological and nature conservation value of the surrounding European Protected Sites. In the absence of this information the proposal would be harmful to matters of ecological importance and would be contrary to draft policies SP13, SP14 and NE3 and paragraphs 174, 180 and 181 of the National Planning Policy Framework.

- II Powers to be delegated to the Head of Planning and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Nicola Kingsford