

- a) **DOV/22/01216 - Erection of a detached dwelling with associated parking and landscaping - Land South-West of Fieldings, Stoneheap Road, East Studdal,**

Reason for report – Number of contrary views (15)

- b) **Summary of Recommendation**

Planning permission be refused.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010):

CP1 – Settlement Hierarchy

DM1 – Settlement Boundaries

DM11 – Location of Development and Managing Travel Demand

DM15 – Protection of Countryside

DM16 – Landscape Character

DM13 – Parking Provision

National Planning Policy Framework (NPPF) (2021)

Paragraphs 7, 8, 11, 130, 174

National Planning Practice Guidance

National Design Guide (2021)

National Model Design Code (2021)

Kent Design Guide (2005)

SPG4 Kent Vehicle Parking Standards

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 (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:

SP1 – Planning for Climate Change

SP2 – Planning for Healthy and Inclusive Communities

SP4 – Residential Windfall Development

SP14 – Enhancing Green Infrastructure and Biodiversity

PM1 – High Quality Design

PM2 – Quality of Residential Accommodation

TI1 – Sustainable Transport and Travel

TI3 – Parking Provision on new Development

NE1 – Biodiversity Net Gain

NE2 – Landscape Character and the Kent Downs AONB

NE3 – Thanet Coast and Sandwich Bay SPA Mitigation and Monitoring Strategy

d) **Relevant Planning History**

DOV/22/00591 - Erection of a detached dwelling, with associated parking – Refused 13/07/2022 due to: outside of confines, harm to intrinsic character and beauty of the countryside and failing to achieve a sustainable pattern of development; creation of an urbanised and visually intrusive form of development which would cause substantial harm to the unspoilt rural character and appearance of the area; and adverse effect on reptiles.

DOV/18/01113 - Erection of a detached dwelling, formation of vehicle access, creation of parking and associated landscaping – Refused 08/01/2019 due to: outside of confines, harm to intrinsic character and beauty of the countryside and failing to achieve a sustainable pattern of development; creation of a vehicular access, the excavation and land raising and the height and roof form of the dwelling creating a visually intrusive form of development; and adverse effect on reptiles. **Dismissed at Appeal 08/10/2019.**

DOV/16/00057 - Erection of a single dwelling ('Meisterstuck Haus' eco home) and garage with landscaping and ecological enhancements – Refused 25/04/2016 due to: loss of hedgerow and harm to the character and appearance of the street scene; standard visibility splays; and insufficient ecological information. **Dismissed at Appeal 21/04/2017**

OUT/15/00796 - Outline application for the erection of a detached dwelling (all matters are reserved) – Refused 16/10/2015 due to the development comprising an unjustified form of sporadic development, beyond settlement confines and harm to the character and appearance of the area.

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

DDC Natural Environment Officer – The Design and Access Statement refers to a Preliminary Ecological Appraisal and a reptile survey but neither has been submitted with this application.

Habitats and features, including buildings, trees, hedgerows and rough grassland are present on and around the site, indicating ecological value and the potential for protected species presence. Previous ecological survey work undertaken at the site identified the presence of protected reptile species and badgers. Whilst these surveys are no longer valid for this application due to the length of time that has elapsed, they provide further evidence that ecological survey work is necessary to confirm the current status of the sites biodiversity.

As such, a Preliminary Ecological Appraisal (PEA) must be undertaken by a suitably qualified ecologist. A PEA assesses the habitats and features within and around the site and identifies if there is a need for further ecological surveys to allow full consideration of the potential ecological impacts of the proposed development. All necessary ecological surveys must be undertaken, and the reports submitted to inform the determination of the planning application. In the absence of this information, the Council is not able to apply to NPPF mitigation hierarchy principles (paragraph 180(a)) or follow relevant government guidance (paragraph 99 of circular 06/05).

Advises that for this application, the lack of ecological information should be a reason for refusal.

A PEA was submitted in respect of the previous (refused) application 22/00591. This report remains valid for the purpose of the current application, but even if submitted alone would not provide sufficient ecological information to adequately inform the planning determination. Several potential ecological impacts are identified in the report which would need to be adequately addressed, including the need for an up to date reptile, badger and bat surveys.

DDC Tree and Horticultural Officer – Raise no objections.

Sutton Parish Council – The Council was in favour of the new house design, but had no comment to make on the merits of the overall application.

Southern Water – There are no public foul sewers in the area to serve this development. The applicant is advised to examine alternative means of foul disposal.

Public Representations:

15 letters of support and 5 letters of objection have been received in response to the application. The material considerations included within these letters have been summarised below. Matters such as impact on an individuals' property value and financial intentions of the applicant are non-material considerations and are not included below.

The letters of support raise the following points:

- The proposal is a well-designed building which is in keeping with its surroundings and would be a great asset to the village.
- The proposal would provide a good use of unused land in providing an infill dwelling.
- The proposal would improve the land which currently appears under maintained.
- The proposal would be a nice addition.
- The proposal will complement the surrounding dwellings and area.

The letters of objection raise the following concerns:

- Applicant does not address or overcome the reasons for refusal for the previous 3 applications, two of which were dismissed at appeal, for residential development.
- The reasons for refusal stated in the previous applications still apply.
- This application is a near identical application to the recently refused application (DOV/22/00591) in July 2022, which does not address the reasons for refusal for this application.
- The development will still be out of keeping for the area.
- The proposal will be overbearing and would dominant and change the character of this part of Stoneheap Road, particularly given the elevated nature of the land this side of Stoneheap Road.
- The development would result in overlooking and an unacceptable loss of privacy to adjacent neighbours.
- This is not an infill plot and was once an area of woodland with many different species residing until it was cleared.
- The design and materials of the proposed dwelling is overtly urban.
- No ecological surveys have been provided as part of this application, which formed one of the reasons for refusal for the previous application.
- The proposal could set a precedent for removing trees for residential development, as this site used to be a woodland.
- The proposal would result in additional traffic which would be detrimental to highway safety.

- The proposal would result in additional surface water.

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

1.1 The application relates to an enclosed field covering 0.14 hectares on the south east side of Stoneheap Road, outside the confines of East Studdal. The site rises to the south east from the road and is bounded by hedges/trees to its side and rear boundaries. The site been cleared at some point and currently contains overgrown vegetation. Stoneheap Road is a narrow, single rural lane with no footpath provision or full street lighting provision, and the area including the application site is rural/agricultural in character and appearance. There is sporadic development on the north west side of Stoneheap Road and a detached bungalow and some outbuildings to the north east of the site. The location and layout of the site in relation to its surrounding environment is shown in Figure 1 below.



Figure 1: Site Location Plan

1.2 This application follows a series of four applications for the erection of a single dwelling at this site, all of which have been refused and the middle two applications (DOV/18/01113 and DOV/16/00057) dismissed at appeal. The

original application proposed outline consent, and the latter three application proposed full applications for a detached dwelling of different design approaches.

- 1.3 This application is a resubmission of the last refused application (DOV/22/00591) which was refused in July 2022. The current application proposes some limited alterations to the former application involving the removal of the two storey side projection with a subsequent reduction in width of the dwelling and reposition to be central to the parking area to the frontage. Otherwise, the proposed dwelling reflects the previous proposal. The proposed dwelling is a detached two storey dwelling which will be set back from the front boundary, sited centrally within the site utilising the existing site access, with parking to the frontage. It is proposed to partially excavate and level the centre of the site where the dwelling will be sited, with sloped banking around the house. The proposed dwelling is a large two storey dwelling of a largely traditional design with a symmetrical arrangement to its main body. The dwelling will be set under a gabled pitched roof, with half dormer windows at first floor, and design features including a brick banding detail, canopy feature to the entrance and chimney to the south west side elevation. The layout, design and section plans of the proposed dwelling are shown in Figures 2, 3 and 4 below respectively.

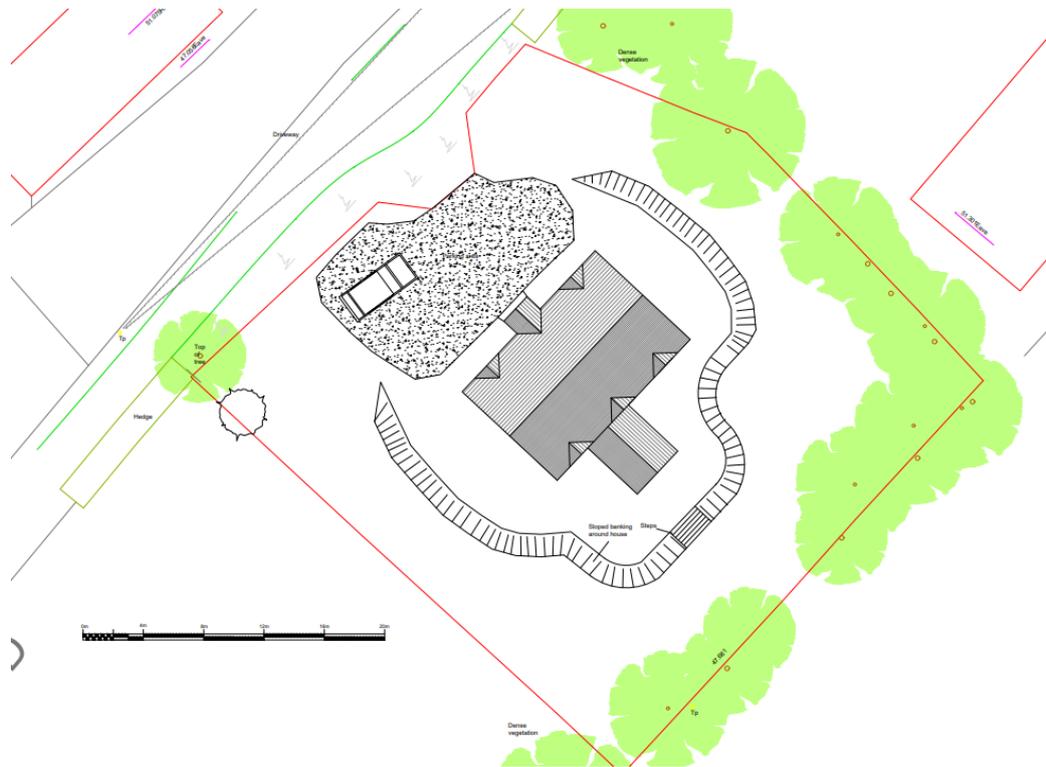


Figure 2: Proposed Site Layout



Figure 3: Proposed Elevations

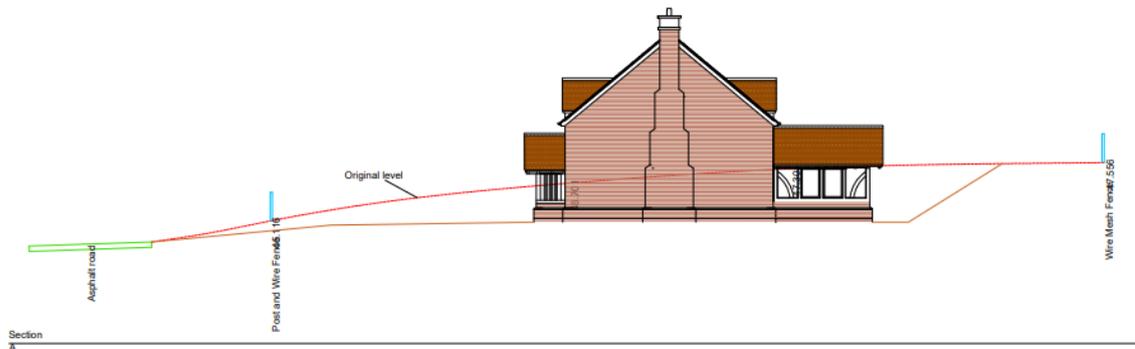


Figure 4: Proposed Section Plan

2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development
- Impact on character and appearance, countryside and landscape
- Impact on residential amenity
- Highway safety and amenity

Assessment

Principle of Development

- 2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in the plan unless material considerations indicate otherwise.
- 2.3 Policy CP1 of the core strategy identifies the location and scale of development for settlements in terms of hierarchy. East Studdal, the closest settlement to the site is defined as a village which is suitable for an appropriate scale of development that would reinforce its role as a provider of services to essentially its home community. Land is allocated within the village for 30 dwellings, which has planning permission for residential development. The site falls outside of the settlement confines of East Studdal. The site lies in the countryside for policy purposes and Policies DM1 and DM15 apply which restrict new housing to that which functionally requires a village location.
- 2.4 Policy DM1 of the core strategy identifies that development on land outside rural settlement confines will not be permitted unless specifically justified by, amongst other things, other development plan policies or it functionally require such a location. The proposed dwelling would be located outside the confines. The proposal does not meet any of the circumstances where development outside of the settlement confines would exceptionally accord with Policy DM1 and, therefore, the development is contrary to this policy. The location of the application site in relation to the settlement confines is indicated in Figure 5 below.



Figure 5: Location of site in relation to the settlement confines (application site outlined in black)

- 2.5 Policy DM15 also seeks to resist development which would result in the loss of, or adversely affect the character or appearance of the countryside, except in certain circumstances. This policy reflects the NPPF's aim of, inter alia, having regard for the intrinsic character of the countryside and focusing development in sustainable locations. The development would result in the loss of countryside

and would not meet any of the first three criteria of Policy DM15, whilst the development (one dwelling) could be accommodated elsewhere.

- 2.6 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. As stated above, the site is located outside of the settlement confines and is not justified by other development plan policies. It would be necessary for visitors to travel by private vehicles in order to reach day to day facilities. As such, the development would be contrary to Policy DM11.
- 2.7 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.
- 2.8 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 council must now deliver a greater number of dwellings per annum. 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. As whole, it is considered that the main policies within the current adopted Core Strategy for determining the application are to a greater or lesser extent in tension with the NPPF, and as such, the 'tilted balance' (paragraph 11, NPPF) is engaged for this purpose. At the present time, however, the council has a demonstrable 5-year housing land supply of 6.35 years and has not failed to deliver the housing delivery test requirement (delivering 88%), and therefore the presumption in favour of sustainable development is not engaged for any other reason.
- 2.9 At its heart, the NPPF seeks to achieve sustainable development. Paragraph 8 of the NPPF outlines that achieving sustainable development means that the planning system has three overarching objectives which are economic, social and environmental. Paragraph 79 sets out that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain rural communities.
- 2.10 The Draft Local Plan was published for Regulation 19 stage consultation on 21 October 2022. The Plan is at an advanced stage and is considered to be an important material consideration in the determination of applications, with policies attracting weight in the planning balance. Draft Policy SP1 of the Regulation 19 Dover District Local Plan seeks to ensure development mitigates climate change by reducing the need to travel and Draft Policy SP2 seeks to ensure new development is well served by facilities and services and create opportunities for active travel. Draft Policy TI1 requires opportunities for sustainable transport modes to be maximised and that development is readily accessible by sustainable transport modes.

- 2.11 Draft Local Plan Policy SP4 sets out the appropriate locations for new windfall residential development which seeks to deliver a sustainable pattern of development, including within the rural area where opportunities for growth at villages (in line with Paragraph 79 of the NPPF) are confirmed. The policy is underpinned by an up-to-date evidence base of services and amenities at existing settlements and takes account of the housing need across the district.
- 2.12 Policy SP4 identifies two categories of settlement. The first are settlements that are capable of meeting some or all of the daily needs of their inhabitants and are therefore identified as suitable for additional residential development either within the settlement or immediately adjoining the settlement confines. The second category of settlement have fewer facilities, with residents likely to have their day-to-day needs met by services at nearby village or urban centres. At these locations, opportunities for new residential development are more limited, being focused on minor infilling within the settlement confines only. Beyond these locations, the policy includes criteria by which new dwellings elsewhere in the countryside may be permitted, where they are in line with the criteria listed at NPPF Paragraph 80. The policy and the confines applicable to the settlements in question are considered to be in line with the sustainable development objectives of the NPPF. There are currently no unresolved objections to the policy, following the publication of the Regulation 18 version of the Plan. As such and in line with Paragraph 48 of the NPPF it is considered that the policy can attract significant weight in the planning balance.
- 2.13 The application site is located outside the settlement confines of East Studdal (approximately 92m away along Stoneheap Road, separated by undeveloped land), a second tier settlement which permits minor infilling within the confines, and would therefore be contrary to Draft Policy SP4. The site is not readily accessible by sustainable transport modes, with occupiers reliant upon the private car to access day to day service and amenities and would therefore be contrary to draft Policies SP1, SP2 and TI1. The development is also contrary to Policies DM1, DM11 and DM15 of the Core Strategy as outlined above.
- 2.14 Applications for a single dwelling at the application site have been considered and refused four times previously and dismissed at appeal twice on the basis of the principle of development (among other reasons), which is a material consideration of significant weight.
- 2.15 The application is subject to the application of the titled balance which requires the social and economic benefits of the housing development to be balanced against the environmental issues, including the impact on the countryside, and a judgement made as to whether the development as a whole is considered to be sustainable development. This will be assessed at the end of the report.

Visual and Countryside Impact

- 2.16 East Studdal is a linear village with its main built-up area along both sides of Downs Road together with Downs Close and some frontage development at the beginning of Strakers Hill and Homestead Lane. Stoneheap Road is a narrow, single rural lane with established hedgerows to both sides, no footways and only limited street lighting, which contains sporadic development to the north west side of the road, and minimal development to the north east side of the road. Through this, Stoneheap Road has a distinctly rural character, with the scattered residential development in the vicinity of the appeal site being detached from the main village. The application site was formerly paddock/garden land associated with Fieldings to the north east, and was severed from this property some time

ago. The site now forms an enclosed field containing overgrown scrub vegetation which has blended into its undeveloped surroundings and forms part of the rural and undeveloped character in the locality.

- 2.17 Paragraph 130 of the National Planning Policy Framework sets out that planning decisions should ensure that developments establish or maintain a strong sense of place and development should be visually attractive as a result of good architecture, layout and effective landscaping and be sympathetic to local character and history, including the surrounding built and landscape setting. Paragraph 174 of the NPPF seeks for development to contribute to and enhance the intrinsic character and beauty of the countryside.
- 2.18 Policy DM15 states that any development which would result in the loss of, or adversely affect the character and appearance of the countryside will only be permitted if it meets certain criteria, which is not applicable in this case. Regard must also be had for whether the development would harm the landscape character of the area, in accordance with Policy DM16. Draft Policy NE2 sets out that proposals should have regard to their landscape character area.
- 2.19 The former appeal decision for the 2016 application considered that the development of this site for a single dwelling and its associated access, driveway and garage would noticeably erode the verdant character of the approach to the village and consolidate the existing built development along both sides of the road. It further stated that given there are no buildings to the south east or south west, the proposal could not be considered as infilling an existing built up area. As such, it was concluded that the proposal would significantly harm the character and appearance of the area. The appeal decision for the 2018 application considered that the proposed works which would raise the ground level within the site and introduce a large hummock to the rear of the site formed by the roof of the dwelling would be unnatural and incongruous and concluded that the proposal would not be a suitable location for a dwelling, with regards to the character and appearance of the area.
- 2.20 Both former applications, referred to above, related to proposed dwellings of a reduced height than the current proposed development in order to limit the visual impact of the development, having regard to the raised ground levels of the application site. The first application proposed a low profile single storey bungalow with limited excavation, and the second application proposed considerable excavation and engineering works to reduce the ground level of the proposed single storey dwelling and screen the development from Stoneheap Road with a land bank/bund to the frontage and proposed a unique design approach with a sloped roof which sought to minimise its profile and impact.
- 2.21 The current application proposes the erection of a dwelling of a larger overall scale and height than the previous proposals which were dismissed at appeal, and proposes a dwelling of the same design, of a slightly reduced scale (following the omission of the side projection) to the most recently refused application. This application proposes a large, wide, two storey dwelling of a largely traditional design and form. The site is proposed to be excavated to a degree which will level the site where the dwelling, parking area and an element of the rear garden is situated with sloped banking around the house. This excavation will limit the profile of the dwelling from the road to some extent, however the proposal would be considerably larger and taller than the previously proposed dwellings which were dismissed at appeal. The proposed development would therefore have a greater visual impact on the character and appearance of the area than these

former applications resulting from the large scale, height and built form of the dwelling and the layout of the site.

- 2.22 The proposal is considered to overtly urbanise the application site, with the scale, design and built form of the dwelling, its layout, large area of hardsurfaced parking to the frontage and extent of built development relative to the size of the plot being more akin to a suburban 'executive home' type development, than a rural dwelling. The large scale and two storey height of the dwelling, together with the raised ground level of the site from the road is considered to form a visually intrusive and imposing form of development within its context which would be pronounced and prominent within this rural setting. The proposal would therefore be inappropriate and unsympathetic for its rural location, forming an incompatible development with the surrounding environment. The application site is detached from the settlement of East Studdal and forms part of the undeveloped and rural character of the locality. The proposed development of this site for housing would have a poor relationship to the settlement of East Studdal and would result in local landscape harm through the loss of its undeveloped nature and character.
- 2.23 The proposed development is therefore considered to continue to notably erode the identified verdant and rural character of the approach to the village and consolidate built development in this location, as noted in the 2016 appeal decision, and would have a greater detrimental impact upon the surrounding environment through its more urbanised layout and design, alongside its larger and more imposing scale, height and built form. Given this, there is considered to be no reason to default from the consistent position relating to development at this site, as outlined by the previous refused applications and dismissed appeals.
- 2.24 The development is therefore considered have a significant detrimental impact upon the rural and verdant character and appearance of the street scene and countryside, contrary to Policies DM15, DM16 of the Core Strategy and paragraphs 130 and 174 of the National Planning Policy Framework.

Sustainability

- 2.25 Policy DM11 of the Dover Core Strategy sets out that development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. As outlined above, the proposal is not justified by other development plan policies. Paragraph 79 of the NPPF sets out 'to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities'. Draft Policy T11 requires opportunities for sustainable transport modes to be maximised and that development is readily accessible by sustainable transport modes.
- 2.26 The village of East Studdal contains two halls, one being a small village hall and the other a Parish Community Centre. The settlement no longer includes a shop, which has been converted to a dwelling and there are no other facilities or services. The halls can be reached on foot or by bicycle, however these would only cater for a limited proportion of residents' needs, with all other day-to-day needs located outside the settlement. Stoneheap Road is a narrow rural lane which does not include a footway, with limited street lighting, which is likely to discourage pedestrians and cyclists, particularly after dark, with children or during inclement weather. The village is served by a bus stop which provides an infrequent service, located over 285m from the application site, with only one/two

buses a day in either direction. The limited bus service is not considered to provide a realistic alternative to the use of the private car for meeting the day-to-day needs of future occupiers of the development, and in any case, both the Halls and the bus stop require a journey along Stoneheap Road to access. As such, the occupiers of the proposed dwelling would, in practice, be very or wholly reliant on the private car for access to amenities and services.

- 2.27 The proposed development through its location and lack of access to safe walking and cycling routes or public transport to provide for day to day needs is therefore considered to be located in an unsustainable location, contrary to Policy DM11 of the Core Strategy, Draft Policies SP1, SP2 and T11 of the draft Dover Local Plan and the aims and objectives of the NPPF. In addition, given the limited facilities in the vicinity, the addition of a single dwelling in a location which would be detached from and poorly related to the village, would neither enhance or maintain the vitality of the rural community and be contrary to the aims and objectives of the NPPF in particular paragraph 79.

Impact on Residential Amenity

- 2.28 Section (f) of Paragraph 130 of the NPPF identifies that development should ensure a high standard of amenity for existing and future users. Given the location of the dwelling and its separation distance to its adjacent neighbours, the development would not result in harm to residential amenity deriving from the built form of the proposal. No first floor side elevation windows are proposed, and the land to the rear is undeveloped. The proposal would introduce windows to both storeys which would face the front elevation of the dwelling opposite. These windows would face across Stoneheap Road, which is a common and expected arrangement for fenestration, which together with the separation distance provided, would not result in harmful overlooking.
- 2.29 The dwelling would be provided with a suitable layout, overall floor area which is considered to be acceptable (and accords with the Nationally Described Space Standards, albeit these have not been formally adopted by the council) and sufficient light, outlook and ventilation from all primary habitable windows. The dwelling will be provided with a large garden area which will be capable of providing sufficient external amenity space, refuse storage and cycle storage. The proposed development would therefore be acceptable with regard to the residential amenity of adjacent neighbours and the future occupants, in accordance with paragraph 130 of the National Planning Policy Framework, and Draft Policy PM2.

Highways

- 2.30 The proposed dwelling would utilise the existing site access and would be provided with visibility splays, with no front boundary treatment which is considered to provide sufficient visibility for the proposed vehicular access. The dwelling will be provided with a large hard surfaced area with parking for several cars, which will provide sufficient off street parking provision to serve the development. The vehicular movements associated with this single dwelling are not considered to be significant or materially alter those in the surrounding area. As such, the proposed development is considered to be acceptable with regards to highway safety and amenity and complies with Policy DM13.

Impact on Ecology and Biodiversity

- 2.31 Paragraph 174 of the National Planning Policy Framework requires proposals to protect and enhance sites of biodiversity or geological value, minimise impacts on and provide net gains for biodiversity. Paragraph 180 of the NPPF sets out mitigation hierarchy principles for applications which effect biodiversity. The application site is an undeveloped parcel of land containing overgrown scrub vegetation, with mature and established trees and hedges to its side and rear boundaries. The application refers to a Preliminary Ecological Assessment (PEA) and reptile survey having been instructed in the Design and Access Statement, however neither have been submitted with the application. It is noted that a PEA was submitted with the recently refused former application reference DOV/22/00591. The Natural Environment Officer has commented on the proposal and referred to the former PEA. Former ecological survey work undertaken at the site identified the presence of protected reptile species and badgers.
- 2.32 The most recent former PEA identified that the site contains grassland which dominates the development site, and the adjacent scrubland is a suitable habitat for reptiles. In 2018, a survey by LaDellWood ecologists in support of the 2018 application found a population of slow worms on site. It is noted that these surveys were completed during October 2018, outside of the optimal season for surveys, and may have missed the presence of other reptile species and/or underestimated the population size of slow worm. It is identified that without mitigation, the proposed development could injure or kill legally protected reptiles. This former PEA therefore recommended that an updated reptile survey is carried out between April – June and/or September. It is also recommended to translocate any reptiles on site through the provision of a programme of reptile trapping, onto an appropriate receptor site, either in a newly created habitat or through an existing habitat that can be enhanced to increase its carrying capacity.
- 2.33 The 2018 application proposed a receptor site within the south west front corner of the site. It was considered that the relative population site put forward was an underestimate, and the proposed reptile site would be too small. The receptor site was to be part of the garden of the new property, and it was unclear how the residents would manage the area for reptiles. It was therefore concluded that the ecological survey and proposed mitigation measures did not go far enough to safeguard the ecology on the site, and this former one of the reasons for refusal. This was upheld at appeal and formed one of the reasons for dismissal, with the Inspector concluding that the appeal scheme would cause material harm to the ecology of the area as the proposal does not identify appropriate mitigation to offset its impact upon protected species.
- 2.34 The former PEA also identified that the dense scrub habitat to the south west of the site may contain a badger sett, and there were distinct mammal paths under the boundary fence between this area and the site. Therefore, badgers may commute or forage across the site at night. The PEA therefore recommended that a badger survey of the adjacent land within 30m of the site should be undertaken in March – April. The 2016 ecological scoping survey also noted the presence of badger runs and a latrine on the site.
- 2.35 In this case, the application is not supported by any ecological information, with no accompanying PEA, and does not include the badger and reptile surveys recommended through the previous PEA and ecological information. The

proposal does not provide mitigation measures such as a receptor site to mitigate the impact of the proposal upon reptiles, nor provide ecological enhancement measures to provide biodiversity net gain. The Natural Environment Officer has reviewed the proposal and advises that without this information, the application should be refused as the proposal is not adequately informed in respect of all potential ecological impacts. Without the necessary up to date ecological surveys, the Council is not able to apply the NPPF mitigation hierarchy principles (paragraph 180(a)) or follow government guidance that 'it is essential that the presence of protected species and the extent that they may be affected by the proposed development, is established before planning permission is granted' (paragraph 99 of circular 06/05).

- 2.36 In the absence of this information, mitigation measures and ecological enhancement measures the proposal would adversely affect reptiles and has failed to fully consider the impact of the proposal on ecology and biodiversity and demonstrate that this site would protect, enhance and minimise impacts to biodiversity contrary to paragraphs 174 and 180 of the National Planning Policy Framework (2021), and paragraphs 98 and 99 of Circular 06/2005 'Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System', and Draft Policy NE1 of the Draft Dover Local Plan.

Archaeology

- 2.37 KCC Archaeology commented on the recent former application (DOV/22/00591) that the application site lies within a landscape which is rich in archaeological remains, and that remains associated with Prehistoric and later activity may extend into the site in question. Accordingly, a condition requiring a programme of archaeological work to be secured prior to development was requested, which remains valid for this application. Should permission be granted, this condition would be secured to address archaeological considerations.

The Conservation of Habitats and Species Regulations 2017, Regulation 63: Appropriate Assessment

- 2.38 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.39 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. 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.
- 2.40 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.

- 2.41 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.
- 2.42 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.
- 2.43 Draft Policy NE3 of the Draft Dover District Local Plan requires all proposals within the 9km zone of influence radius of the SPA (of which the application site falls) to provide a financial contribution secured through the S106 mechanism to mitigate against the additional recreation pressures on the SPA. As this application was received prior to the publication of the Regulation 19 Draft Dover District Local Plan on the 21 October 2022, this policy is not applicable for this application, and the assessment above remains valid.

3. **Conclusion/Planning Balance**

- 3.1 The proposed development is for a dwelling outside of the settlement confines of East Studdal, classified as a tier 2 settlement with Draft Policy SP4, which would be contrary to the development plan, and the emerging Dover Local Plan. The proposal would result in a single dwelling which would provide a minimal contribution towards the Councils housing supply. The development would provide limited economic and social benefits associated with the occupation of this single dwelling, and employment opportunities for a short time period linked to the construction of the development. It is proposed to utilise modern technology and measures to provide a sustainable and efficient dwelling which would provide some benefits in this regard.
- 3.2 From an environmental point of view, the proposal would involve the development of an area of land that falls outside the settlement confines and comprises undeveloped countryside for the purposes of planning. The location of the site and lack of access to safe walking and cycling routes and limited public transport provision would require the occupiers to be dependent upon the private car to reach everyday facilities and services comprising an unsustainable form of development, contrary to climate change objectives. Furthermore, the development would be detached from the village, and would therefore neither enhance nor maintain the vitality of the rural community. The development would cause material harm to the rural and verdant character and appearance of the area and countryside through its imposing and urbanised scale and design within its context. In addition, the proposal does not provide sufficient information or mitigation measures in respect of protected species and its ecological impact and is not considered to demonstrate that the proposal would protect, enhance or minimise impacts to biodiversity.
- 3.3 The principle of development for the erection of a single dwelling at the application site has been considered and refused four times previously, which is a material consideration of significant weight. This has established the policy position with regard to residential development at this site, which has been tested and dismissed at appeal twice which forms a further relevant material planning consideration. Since the previous application was refused, the policy position

against the development has strengthened given the Regulation 19 stage of the Draft Local Plan, with weight applicable to the relevant policies, particularly Policy SP4 which has been produced on the basis of the current housing need, underpinned by an up to date evidence base. In addition, the council can demonstrate a five year housing land supply and has not failed the housing delivery test and can therefore meet the applicable housing requirements, which reduces the weight attributed to the benefits of a single dwelling.

- 3.4 For the reasons set out above, and in accordance with the previous decisions and outcomes of the associated appeal decisions, the principle of the proposed development would be contrary to Policies DM1, DM11 and DM15 of the Dover District Council Core Strategy, Draft Policies SP1, SP2, SP4 and T11 of the Draft Local Plan and paragraphs 8 and 79 of the National Planning Policy Framework. This, together with the identified harm to the character and appearance of the area and countryside, and the adverse impact upon biodiversity is considered to significantly and demonstrably outweigh the limited benefits deriving from the provision of a dwelling in this location, when considered against development plan policies and the Framework when read as a whole.

g) Recommendation

I PERMISSION BE REFUSED for the following reasons:

- 1) The proposed development would be located outside the defined settlement confines, within the countryside and does not functionally require a rural location. The development would represent an unsustainable form of development with an over reliance on private car travel to access everyday services and amenities and result in the loss of countryside, contrary to Core Strategy Policies DM1, DM11 and DM15 Draft Policies SP1, SP2, SP4 and T11 of the Draft Local Plan and paragraphs 8 and 79 of the National Planning Policy Framework.
- 2) The proposed development, by virtue of its scale, form, design, layout and location, would create an urbanised and visually intrusive form of development which would be out of keeping and cause substantial harm to the rural and verdant character and appearance of the area, contrary to Core Strategy Policies DM15 and DM16, Policies PM1 and NE2 of the Draft Dover Local Plan and paragraphs 130 and 174 of the National Planning Policy Framework.
- 3) The application site provides a suitable habitat for reptiles and was previously identified as providing a habitat for slow worms and badgers in former surveys, which are protected species. No ecological information, reptile and badger surveys, mitigation measures in the form of an appropriate receptor site to mitigate the loss of reptile habitat, or ecological enhancement measures have been provided as part of this application. Consequently, the development has failed to demonstrate that it would not be likely to adversely affect protected species and has failed to fully consider the impact of the proposal on ecology and biodiversity and demonstrate that this site would protect, enhance and minimise impacts to biodiversity contrary to paragraphs 174 and 180 of the National Planning Policy Framework (2021), paragraphs 98 and 99 of Circular 06/2005 'Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System', and Draft Policy NE1 of the Draft Dover Local Plan.

- II Powers be delegated to the Head of Planning and Development to settle any necessary wording in line with the recommendations and as resolved by the Planning Committee.

Case Officer

Jenny Suttle