

- a) **DOV/22/00688 – Erection of raised decking, fencing, ramp and handrail to front hardstanding for daily siting of mobile café van for sale of hot drinks and pre-made snacks - Long View, Upper Street, Kingsdown**

Reason for report – Number of contrary views (27)

- b) **Summary of Recommendation**

Refuse Planning Permission

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010) (CS): CP1, DM1 and DM13

National Planning Policy Framework (NPPF) (2021): Paragraphs: 7, 8, 11, 111, 112, 130 and 189-208.

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. Draft policies: PM1 and HE2

Planning (Listed Building and Conservation Area) Act 1990 Section 72(1)

- d) **Relevant Planning History**

DOV/20/00096 - Prior approval for the change of use to Wine Bar/Shop – Prior Approval Refused

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

Ringwould Parish Council – objects, overdevelopment of the site, close to neighbour boundary and negative impact on adjacent conservation area.

Environmental Health – A condition is required for opening hours to be 8am-4pm Tuesday to Saturday and for a 1.5 metre fence along the shared boundary of Beech Villa.

DDC Heritage – The upper section of the conservation area, in which this property is located, is the earliest part of the village and is characterised by its narrow, irregular street pattern and dense built form with buildings of varied architectural styles and ages. The location of the proposed deck is clearly visible when approaching the property from along the road either side and the materials used and height of the deck and fencing is incongruous with the surrounding area. The fencing used has a rustic character which is inappropriate. The proposed deck is dominant in the street scene creating a negative feature in the conservation area and causing harm to the character and appearance of the Upper Street part of the Kingsdown Conservation Area. In my opinion, this amounts to less than substantial harm, as defined in the NPPF.

Third Party Representations: 43 objections have been received as summarised below:

- Negatively impacts conservation area
- Structure is an eyesore
- Original construction was dangerous
- Concerns for safety of road users
- Loss of privacy from raised platform
- Design of ramp is dangerous for wheelchair users, doesn't allow visibility until user is on road
- Loss of two parking spaces

19 comments in support received, as summarised below:

- Will be well supported by visitors to the area
- Kingsdown needs a coffee shop

1. The Site and Proposal

- 1.1 The application site is land to the front of a retail premises known as “Flair” located to the southeast of Upper Street, as shown in Figure 1 below. The property is set within the settlement confines of Kingsdown and within the Kingsdown Conservation Area. The application site is attached to Ox Tale Butchers to the southwest and bounded by Beech Villa to the northeast. The current use of the site is car parking.

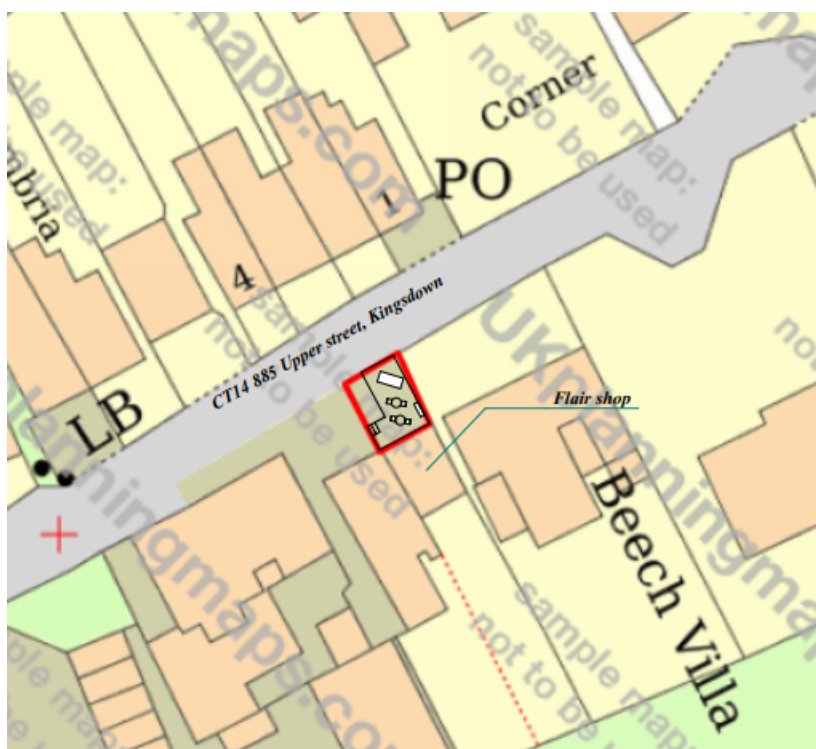


Figure 1: Site Plan

- 1.2 The application is for the erection of a raised decking, fencing, ramp and handrail, to the front area of hardstanding for the daily siting of mobile café van for sale of hot drinks and pre-made snacks. The raised decking would sit at 0.75m high, with additional fencing around the perimeter of the decking, taking the structure to 1.65m in height. Access to the decking would be via a ramp. The opening hours of the coffee van would be Tuesday – Saturday 8am to 4pm.

- 1.3 The original submission was for retrospective permission, however the structure has now been dismantled. Figure 2 shows the existing and proposed street elevation, which shows the development in context within neighbouring properties, with Figure 3 showing the side elevation of the proposed decking area, including the coffee pod and seating.

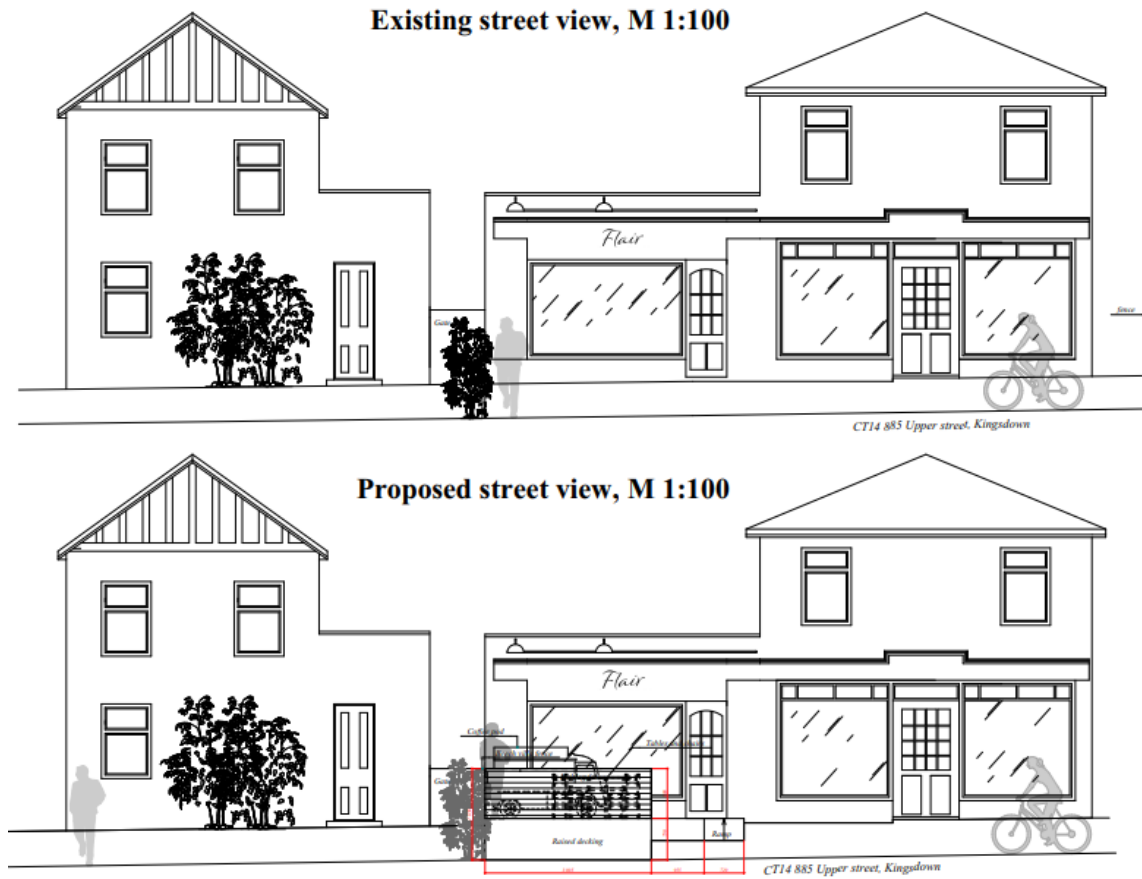


Figure 2: Existing and Proposed Street Elevations

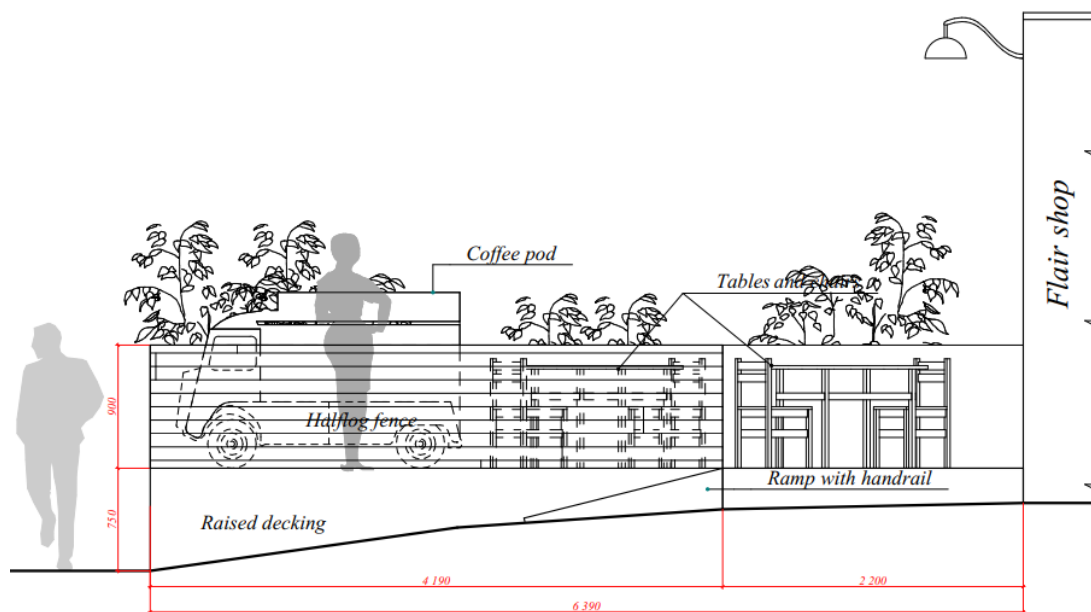


Figure 3: Proposed side elevation

2. Main Issues

2.1 The main considerations are:

- Principle of development
- Impact on Conservation Area
- Residential amenity
- Highway safety and parking

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 The site lies within the settlement boundaries of Kingsdown. Policy CP1 seeks to direct the location and scale of development in compliance with the settlement hierarchy. Policy DM1 permits development within the settlement boundaries. The development is therefore considered to be acceptable in principle, subject other material planning considerations.

Impact on Conservation Area

2.4 The application property is within the Kingsdown Conservation Area which is subject to an Article 4 Direction. Regard must be had for the provisions of the Sections 72(1) of Planning (Listed Buildings and Conservation Area) Act 1990 which states that, 'In the exercise, with respect to any building or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall

be paid to the desirability of preserving or enhancing the character or appearance of that area.' Regard must also be had for the provisions of the NPPF in paragraphs 189 – 208. Notwithstanding the statutory duty, the NPPF at paragraph 202 requires that regard must be had for whether development would cause harm to any heritage asset (both designated and non-designated), whether that harm would be substantial or less than substantial and whether, if harm is identified, there is sufficient weight in favour of the development (public benefits) to outweigh that harm.

- 2.5 The upper section of the conservation area, in which this property is located, is the earliest part of the village and is characterised by its narrow, irregular street pattern and dense built form with buildings of varied architectural styles and ages. The village shops and one of the village pubs are closely located on Upper Street. There is a tarmac hardstanding to the front of each of the shop units. The Kingsdown Conservation Area Appraisal notes that “the shops are a very important part of the village...The open areas in front of the shops are gathering places for locals and visitors to exchange greetings” (page 17).
- 2.6 Emerging Draft Policy HE2(a) states that development and alterations in Conservation Areas should respect the plan form, architectural features, materials, height, massing, building lines, roofscapes, scale, relationships between buildings and the spaces between them.
- 2.7 The location of the proposed deck is clearly visible within the street scene and when approaching the property along the road. The materials used, raised height of the deck and fencing is incongruous with the surrounding area where one common characteristic is low level flint and brick walls and low picket fences bordering the road, some painted white. The fencing proposed has a rustic character which is inappropriate and out of context in the streetscene. The proposed deck is therefore dominant in the street scene creating a negative feature in the Conservation Area and causing harm to the character and appearance of the Upper Street part of the Kingsdown Conservation Area.
- 2.8 The proposal is considered to result in less than substantial harm, as defined by Paragraph 201 of the NPPF. The proposal would therefore be contrary to the aims and objectives of the NPPF and Draft Policy HE2 of the Draft Local Plan.

Residential Amenity

- 2.9 Section (f) of Paragraph 130 of the NPPF identifies that development should ensure a high standard of amenity for existing and future users of residential dwellings, with Draft Policy PM2 stating that development should not lead to unacceptable living conditions such as overlooking, loss of light or a sense of enclosure. The application site is adjacent to Beech Villa and in an area which mainly consists of residential properties. Beech Villa is a residential property located adjacent and northeast of the application site. The height of the proposed raised decking area would enable users to look directly into the ground floor windows of this residential property, resulting in a loss of privacy and a detrimental impact on residential amenity.
- 2.10 Environmental Protection has also raised concerns due to the close proximity and suggested the erection of a fence along the boundary with Beech Villa. Notwithstanding the impact on the character and appearance of the conservation area, while a fence may prevent additional loss of privacy to Beech Villa, this doesn't address the limited separation distance between the edge of the proposed decking, adjacent to the road and the terrace of residential properties on the opposite side of Upper Street. There is approximately 11 metres between the front elevation and the edge of the proposed decked area. This is also not considered to be a sufficient distance to

preserve the privacy of 1-4 Green Bank, the dwellings located on the northwestern side of Upper Street. There would however be no overbearing or overshadowing impact to these neighbouring properties.

- 2.11 Therefore, the proposal, while not resulting in overshadowing or an overbearing impact, would not preserve the existing level of privacy experienced by neighbouring properties and would result in an unacceptable loss of residential amenity through loss of privacy and overlooking that would be contrary to Paragraph 130 of the NPPF (2021) and PM2 of Draft Dover District Local Plan.

Highway Safety

- 2.12 The proposals would result in the loss of 2 parking spaces outside the small row of shops on Upper Street. This part of Upper Street is narrow, with two way traffic and there are limited parking and passing places for vehicles.
- 2.13 Paragraph 111 of the NPPF states that “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety...” Furthermore, Paragraph 112 provides additional context, “development should... create places that are safe, secure and attractive and minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter and respond to local character and design standards.” The development is considered to result in harm to highway safety by putting additional pressure on parking and road users in the area, limiting parking place and passing opportunities on Upper Street. The proposal would therefore be contrary to Paragraphs 111 and 112 of the NPPF.

3. Conclusion

- 3.1 The proposal is not considered to preserve or enhance the character and appearance of the designated conservation area and are considered to result in less than substantial harm, as defined by Paragraph 201 of the NPPF. Furthermore, the proposal would result in loss of privacy, contrary to Paragraph 130 of the NPPF and PM2 of Draft Dover District Local Plan. and with the loss of 2 parking spaces, the proposal is considered to result in harm to highway safety, contrary to Paragraphs 111 and 112 of the NPPF. As such, the proposed development would fail to comply with the NPPF and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and is recommended for refusal.

f) Recommendation

I Planning permission be REFUSED for the following reasons:

1. The proposal, by virtue of its siting, scale and material finish would result in development that is out of keeping with the prevailing character of the area, detracting from the street scene which predominantly includes low level flint and brick walls and low picket fences bordering the road. As a result, the development would neither preserve or enhance the character and appearance of the designated Kingsdown Conservation Area, contrary to paragraphs 189-208 of National Planning Policy Framework (2021) and Policy HE2 of the Draft Dover District Local Plan (2022).

2. The proposed decking area, by virtue of its close proximity, siting and scale, would result in a loss of privacy and residential amenities to the nearby residential properties, Beech Villa and 1-4 Green Bank, contrary to Paragraph 130 of the National Planning Policy Framework (2021) and PM2 of the Draft Dover District Local Plan (2022).

3. The proposal, by virtue of its location and subsequent loss of 2 parking places, would result in an unacceptable impact to highway safety, creating potential conflicts between road users contrary to Paragraphs 111 and 112 of the National Planning Policy Framework (2021).

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

Case Officer

Amber Tonkin