

a) **DOV/22/00472 - Change of use and conversion of existing granary building to residential dwelling - The Stables, Great Knell Farm, Knell Lane, Ash**

Reason for report – Number of contrary views (20) and a decision was taken to grant planning permission for this application under delegated authority which was subsequently quashed by the High Court as the decision should have been made by the Planning Committee.

b) **Summary of Recommendation**

Planning permission be granted.

c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM4, DM11, DM15, DM16

Ash Neighbourhood Plan (2021): ANP1, ANP4, ANP5, ANP15

Regulation 19 Draft Dover District Local Plan: The Regulation 19 Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. Policies PM1 and PM2 are relevant as they seek to address issues affected by climate change and seek to ensure high quality design. Policy SP4 sets out criteria for allowing windfall residential development in the countryside. Policy NE3 relates to SPA mitigation.

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 12, 14, 60, 79, 80, 130, 174

National Design Guide & National Model Design Code (2021)

d) **Relevant Planning History**

DOV/12/00104 – Refused for retrospective application for the erection of a building for use as ancillary residential storage, following the demolition of an agricultural building. No action was taken on the replacement building, but the reason for refusal reflected the intention to use the building for residential purposes and was considered contrary to Policy DM1.

(Officer Comment: This building is one half of the current application building.)

DOV/14/01059 – Prior Approval granted for the change of use of an agricultural building to a residential dwelling. This applied to the adjoining building and a further building on the far side of the existing courtyard.

17/00388 – Refused for the adjoining building for the erection of two detached dwellings (existing agricultural buildings to be demolished). At the time, the current application building was described as dis-used former agricultural building to remain. The application was refused, mainly, due to conflict with DM1 and DM15, and conflict with DM11.

There is no recent planning history particular to the current application building.

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

Three consultation periods have taken place. Representations can be found in full in the online planning file. A summary is provided below:

Town/Parish Council – First response was “no comment to be made on the application”. The Planning Committee will be updated verbally of the Parish Council’s second response.

Kent PROW Officer: No comments to make.

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

Senior Natural Environment Officer: Advise that the submitted proposals are sufficient for me to advise that favourable conservation will be maintained. As it is a separate legal requirement regulated by Natural England, there is no need to require the detailed mitigation / compensation method by condition.

Third Party Representations:

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

- Loss of privacy, loss of amenity
- Overdevelopment, harm to the rural character, and rural heritage
- The building should be retained and not converted
- Impact on bats and wildlife
- Increase in traffic and harm to highway and pedestrian safety
- The proposal does not provide affordable housing
- Impact upon infrastructure
- Contrary to the Development Plan (Core Strategy and Ash Neighbourhood Plan) and planning policy guidance.

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

- There is a housing shortage
- The re-use of a dis-used building in the countryside would be consistent with other proposals
- Secures an old building
- The proposal is in keeping with the area
- The proposed bat loft is supported
- There are no existing highway concerns

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

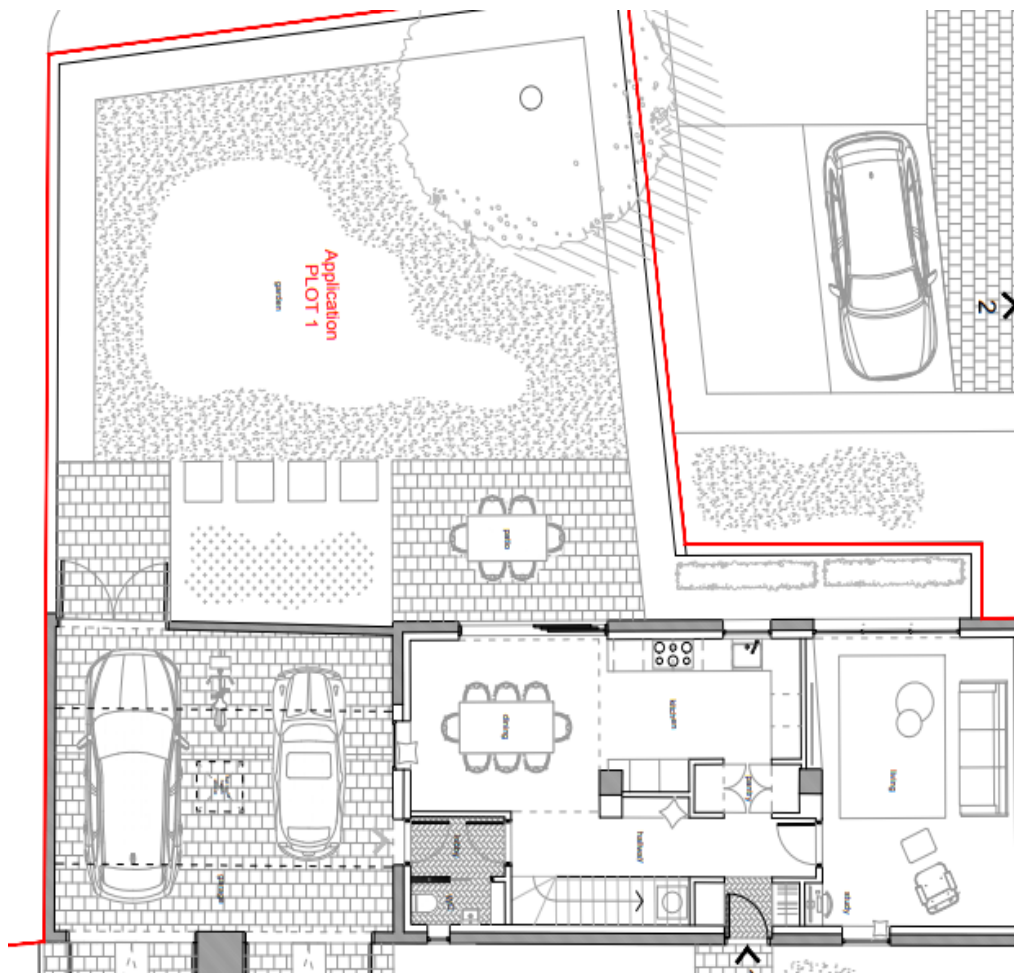
1.1 The application building appears as two buildings joined, with one being taller than the other. The part of the building nearest the entrance has a brick front elevation and a timber clad and blockwork rear elevation. It has a set of timber double doors on this elevation. The other part of the building was rebuilt in 2011. It is taller and is timber clad on its front and rear elevations with two sets of double doors on the rear elevation and a single secondary opening on its front elevation. The building has a slate roof.



Figure 1 – Site location plan

- 1.2 The entrance to the site is from Knell Road, which is a rural lane. The access passes a farm gate which opens out onto a parcel of land in front of the application building and passes the side of the building via a set of gates. To the rear of the building is a grassed courtyard which is also enclosed by another building (called the black barn).
- 1.3 The application building and its immediate, surrounding area has an agricultural appearance and rural character. The openings at the front are limited and the use of brick and timber cladding under a slate roof are appropriate for the building and its function.
- 1.4 The site's immediate surroundings also have a rural character. It is considered that the building contributes positively towards the rural character and appearance of the area.
- 1.5 The building forms part of a farmstead. It has a frontage onto the highway and is visible from public vantage points. The building is some distance from any rural settlement confines.

- 1.6 The building to the north is called the “black barn” and has been the subject of two recent planning applications – set out above. The submission states that the approval has been enacted but there is no current evidence of this, and on the Officer’s site visit the building did not appear to be in residential use, from an outside inspection, as there was no domestic paraphernalia or activity associated with it – although no internal inspection was made. Notwithstanding, this building’s approval was via a Prior Approval route and not a planning application. On the basis that the Prior Approval has not been implemented, this Approval has lapsed.
- 1.7 The proposal seeks to use most of the building for living accommodation, with a section of the building to be used for garaging on the ground floor, with a bat loft above. Behind the building a garden area is proposed, which will be enclosed. The main first floor area comprises 3 bedrooms. See Figures 1 and 2.



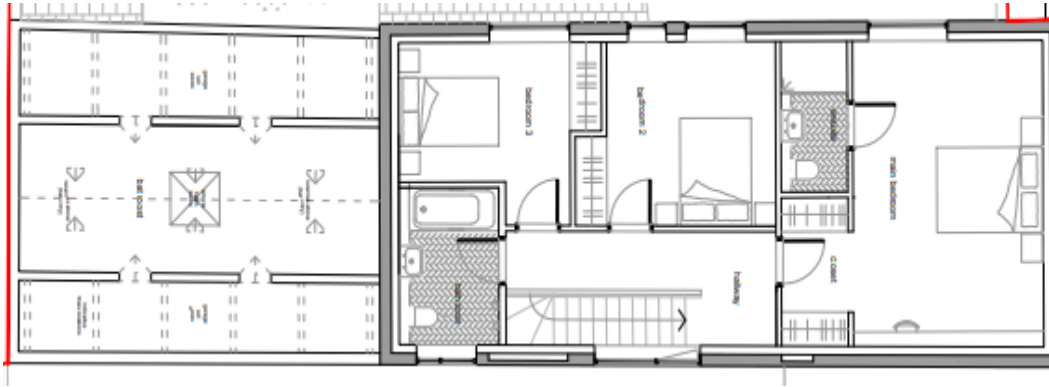


Figure 2 – Ground and First Floor Plans

1.8 During the course of the consideration of the application, amendments were sought to not only rationalise the number of openings but to also amend their design to be more sensitive to the rural character of the building. All fenestration is to be timber framed. See Figure 3.

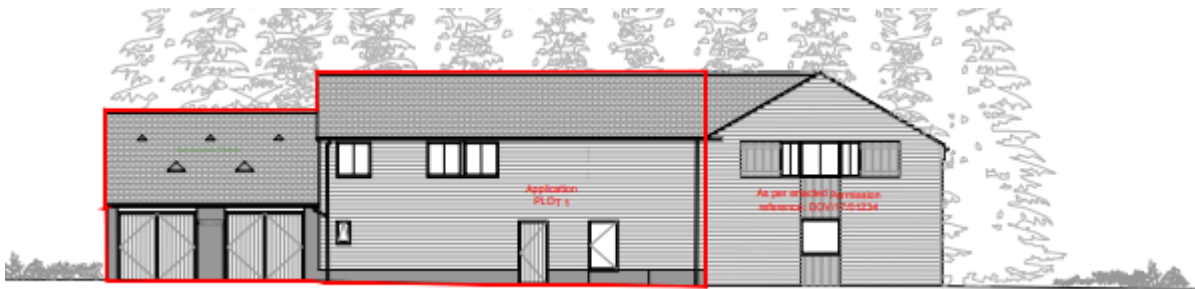


Fig 3 – Front Elevation

2. Main Issues

2.1 The main issues for consideration are:

- Principle of the development
- Impact on the character and appearance of the countryside
- Residential Amenity
- Highway Safety
- Ecology
- The Planning Balance

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 building forms part of a farmstead of buildings within the open countryside and is not located “adjacent to” the rural settlement confines of Ash.
- 2.4 There are no footways or cycle lanes to aid or help promote walking or cycling to and from Ash village and other rural settlements. The rural lane is narrow, and it is not supported by street lighting. The site is close to working farms which rely on farm vehicles using the local roads. It is considered therefore that the location of the site is not conducive to encouraging walking or cycling and there is limited opportunity to provide meaningful alternatives to the use of the private motor car.
- 2.5 To assist with the assessment of the application, it is necessary to identify those policies in the development plan that are most important for the determination of the application. With specific reference to the principle of the development proposed, it is considered that policies DM1, DM4 and DM11 of the Core Strategy and ANP1 of the Ash Neighbourhood Plan (ANP) are those most important.
- 2.6 Having identified those most important policies, it is necessary to appropriate the correct weight to them. The development strategy set out within the Core Strategy is based upon evidence which is considered to be out of date. 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 629 dwellings per annum. As a matter of judgement, it is considered that Policies DM1 and DM11 are in tension with the NPPF, are out-of-date and, as a result of this, should carry less weight, but nevertheless weight is still appropriated to them and their objectives towards achieving sustainable development.
- 2.7 Likewise, Policy DM4 is out of kilter with the NPPF. Paragraph 79 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 80 of the NPPF has a more restricted approach to new housing development within the countryside, in isolated locations. The application site falls within the countryside, but it is not considered to be isolated in view of the nearby residential development and its reasonable proximity to Ash. Unlike, Policy DM4, paragraph 79 does not place a blanket in principle objection on the re-use of buildings within the countryside that are not adjacent to rural settlements.
- 2.8 Proposed policy SP4 in the Regulation 19 Draft Local Plan carries moderate weight as it broadly follows the policy guidance, as set out in the NPPF, in its objective to promote sustainable forms of development in suitably sustainable and accessible locations. The policy supports new dwellings in the countryside subject to a number of criteria – one of which is where the development would re-use redundant or disused buildings and enhance its immediate setting echoing paragraph 80 of the NPPF (albeit this site is not considered to be isolated).
- 2.9 Policy ANP1 of the ANP is not considered to be out of date with the NPPF. It was made within the last 2 years (September 2021), it contains policies and allocations to meet its identified housing requirement, the local planning authority has at least a three-year supply of deliverable housing sites and the local planning authority’s housing delivery test has been at least 45% of that required over the previous three years.

- 2.10 However, and notwithstanding, the ANP has relied upon the same settlement confines for Ash as set out in the Core Strategy 2010, because it was a requirement of the ANP to be in general conformity with DDC's strategic policies at the time. As set out above, such DDC strategic policies are now out of date as the evidence behind them is out of date.
- 2.11 Furthermore, the ANP states that the 2015 settlement (as set out in the Local Allocations Local Plan 2015) boundary will be the subject of a review when Dover District Council carries out its consultations on the emerging Local Plan. The review of the Local Plan and by association the review of the settlement boundaries are being undertaken through the Regulation 19 Draft Local Plan. The Regulation 19 Draft Plan does not place the application site within the settlement boundary of Ash, although the revised settlement boundary is not yet fixed in an adopted Plan.
- 2.12 Taking into account and weighing the most important policies for the determination of the planning application as a whole, it is considered that the proposal is in conflict with an up-to-date development plan. Having reached this conclusion, it is necessary to take into account and weigh in the planning balance the material considerations in this case to indicate whether the ANP and those other development plan policies that are considered to have less weight, should not be followed. In doing so, regard must be had for paragraph 14 of the NPPF which states that when applying the tilted balance, the adverse impacts of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits provided that four criteria are met, which they are (see paragraph 2.9).

Impact on Character and Appearance

- 2.13 Although within a location that is not sustainable, the existing building has a rural character and appearance and has been disused or otherwise not been used efficiently for a number of years. The proposal offers the opportunity for the building to be fully used, which should retain its rural character and appearance, and the building's positive contribution to the surrounding countryside.
- 2.14 The proposed use will be facilitated by the layout and the elevational changes to the building. It is considered that the changes to the elevations help retain the functional, rural appearance of the building. The layout provides front and rear gardens and a visitor parking space. Too much residential activity and domestic paraphernalia to the front of the building and in the front garden adjacent to the highway would need to be restrained so as to safeguard the setting of the building and its contribution towards the visual quality of the street scene; otherwise, this would detract from the rural character and setting of the building. As such, planning conditions are necessary to limit the domestic activity of the site in front of the building, closest to the highway, whilst allowing this activity to take place to the rear of the building, which is effectively screened from public view. Conditions are also required to help ensure the development assimilates with its surroundings and enhances its immediate setting.
- 2.15 The character of the surrounding landscape is mostly flat and open, with the occasional visual and physical interventions of farmsteads and agricultural buildings.

- 2.16 The retention of the building and the limited additional domestic paraphernalia to the front of the site should ensure that the intrinsic character and beauty of the countryside are retained and the surrounding, open and flat landscape are conserved.
- 2.17 As such, the proposal satisfies policies DM15, DM16 and ANP6 of the development plan and the provisions set out in paragraphs 130 and 174 of the NPPF.

Impact upon Ecology/Habitats

- 2.18 A Preliminary Ecological Appraisal has been submitted with this application. It is understood that the application property has been used and is used (from a survey undertaken in 2021) as a bat roost. The proposal includes the provision of a "bat loft" to function as compensatory habitat for the loss of roosting space.
- 2.19 The bat loft and measures of mitigation proposed are acceptable to the Council's Senior Natural Environment Officer. Further requirements will need to be met to ensure that a Licence can be issued by Natural England.
- 2.20 The proposed development provides opportunities to incorporate features into the design which are beneficial to wildlife, including native species planting and the installation of bat/bird nest boxes. Measures to enhance biodiversity can be secured through a condition of planning permission.

Habitats Regulations (2017) Regulation 63: Appropriate Assessment

- 2.21 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.
- 2.22 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.
- 2.23 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.
- 2.24 Policy NE3 of the draft Plan requires that within 9km of the SPA, all new developments will be required to contribute towards mitigation, with the required payment set out at Table 11.2. Whilst the policy is in an unadopted plan, the evidence base is up to date and must be taken into account. The required payment for this three-bedroom dwelling would be £337 and will need to be secured by legal agreement.

Planning Balance

- 2.25 The most important policies for determining the planning application and the weight that should be afforded to these policies are set out in this report. In brief, and overall, the location of the proposal fails to achieve the requirements for sustainable development within suitably sustainable and accessible locations. This conflict should be weighed against 'another' arm of achieving sustainable development which is to achieve good design and to re-use an existing rural building – which would retain its rural character and positive contribution towards the rural character and appearance of the area. In addition, the proposal would provide a family home to meet a social need, which would also be close enough to Ash for the occupiers to be able to contribute towards and maintain its vitality.
- 2.26 In view of the changes proposed to the elevations of the building and layout of the scheme, the potential for the existing rural character and appearance of the building to be retained, the opportunity to enhance its setting and to use the building more efficiently and potentially guarantee and/or promote its longevity and that the occupiers of the building could help benefit the vitality of Ash and other local settlements and rural communities, the benefits of the proposal are considered to outweigh the conflict with the development plan policies.

3. Conclusion

- 3.1 The decision is finely balanced and it is the proposed use and ongoing contribution of the building to the character and appearance of the countryside that marginally weighs in favour of granting planning permission. Whilst paragraph 14 of the NPPF indicates that conflict with a Neighbourhood Plan will likely mean the adverse impacts significantly and demonstrably outweigh the benefits, it is considered that the reuse of this building, together with the enhancement to the character and appearance of the area, on balance, provide such a circumstance.
- 3.2 There are other development plan policies and policy guidance set out earlier in this report against which the proposal should be considered. There are also matters raised in response to the consultation of the application. The suggested planning conditions would be able to accommodate these and the requirements of policies DM15 and DM16 of the Core Strategy, policies ANP4, 5 and 15 of the ANP, policy SP4 of the Regulation 19 Draft Local Plan as well as those policies within the NPPF.

g) Recommendation

- I PERMISSION BE GRANTED subject to a legal agreement to secure SAMM payment and conditions:
- 1) Time limit
 - 2) Approval of Drawings and Documents received
 - 3) Approval of Materials
 - 4) Approval of a lighting design strategy for biodiversity
 - 5) Protection of hedgehogs and nesting birds during construction
 - 6) Approval of measures to enhance biodiversity
 - 7) Provision of a bat loft and its protection thereafter.
 - 8) Retention of car parking spaces within the garage
 - 9) No additional openings in the building
 - 10) Provision of cycle and refuse storage within the garage

- 11) Approval of hard and soft landscaping, including boundary enclosures
- 12) Removal of PD Rights for the building Classes A-G

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

Vic Hester