

a) **DOV/20/00284 (Hybrid Application):**

**(Phase 1) Full Application - erection of 18 dwellings and 4 flats, access, parking, associated infrastructure and landscaping and**

**(Phase 2) Outline Application - building comprising 10 flats and 5 dwellings (with all matters reserved except access and layout)**

**63 Sandwich Road, Ash**

Reason for report – Number of contrary views (46)

b) **Summary of Recommendation**

Planning permission be granted.

c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, CP3, CP4, CP6, CP7, DM1, DM5, DM11, DM12, DM13, DM16

Land Allocations Local Plan (2015): LA21, DM27

Draft Dover District Local Plan: The Submission Draft Dover District Local Plan is a material planning consideration in the determination of applications. At submission stage the policies of the draft plan can be afforded some weight, depending on the nature of objections and consistency with the NPPF. The relevant policies are: SP1, SP2, SP5, SP11, SP13, SP14, SP15, CC1, CC2, CC4, CC6, CC8, PM1, PM2, PM3, PM4, H1, E2, TI1, TI2, TI3, TI5, NE1, NE3, NE5 and HE1

Ash Neighbourhood Plan (2021): ANP4, ANP5, ANP6, ANP7a, ANP13, ANP14, ANP15, ANP16

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 92, 104, 110, 111, 112, 113, 119, 124, 130, 131, 157, 174, 180, 194, 197, 199, 202

National Design Guide & National Model Design Code (2021)

d) **Relevant Planning History**

18/00538 - Change of use of building A to music school (Use Class D1) and building B to mixed use warehouse/storage and car repairs (retrospective) – Approved

04/00973 - Outline application for demolition of existing bungalow and erection of 5 detached dwellings – Refused

*Adjacent site to the west which forms part of the site allocation*

22/01497 - Outline application for the erection of up to 53no. dwellings with associated parking, open space, landscaping, drainage and associated infrastructure (with all matters reserved except access) (existing buildings to be demolished – Pending Consideration

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

##### *Final Response:*

Consider that the application is not appropriate and fails to meet certain areas of the Ash NDP:

- Biodiversity issues require local mitigation, lack of green spaces/areas/ lack of buffer zone to Collar Makers Green/ merging landscape
- Street scene out of character, urbanisation and lack of play area
- Lack of transport provisions regarding visitor parking - 2 spaces is insufficient
- Need to investigate connection to local services, particularly mains sewerage
- The S106 needs to be addressed
- Increase in vehicular travel and the speed limit is at this point 60mph and will need to be addressed along with the other traffic issues caused by this development
- Mechanism for ensuring the road is maintained will need to be addressed
- Unnecessary to add another site entrance as there is a more than adequate access road currently

##### *Second Response*

- Welcomes the application and requests contributions in their previous response
- Two additional units have resulted in less visitor parking and loss of open space
- Access to Collar Makers Green is not supported

##### *First Response*

- Supported this allocation in the DDC Land Allocations Local Plan
- Unsure why access is proposed through 17 Pippin Close
- Requires more parking
- Request double yellow lines around the access of the site
- Request conditions for archaeology
- Fibre broadband
- Biodiversity enhancement and net gain of 10%
- Should be in accordance with policy LA21
- Request S106 contributions for reducing speed limit to 30mph on Sandwich Road
- Contributions towards Ash LAP and other outdoors sports facilities

KCC Fire and Rescue – Consider the off-site access requirements have been met.

Environment Agency - No objections

KCC Infrastructure – Requested infrastructure contributions (set out within the report)

Natural England – Further information required with regard to the impacts of additional residential accommodation, impacts to the Special Protection Area (SPA) and Ramsar Sites(s) may result from increased recreational disturbance.

Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against potential recreational impacts of the development of the site(s).

Kent Police – Welcome discussion with the applicant/agent about designing out crime measures.

KCC Housing – Application continues to propose 30% affordable housing, in line with DDC policy. Request that the developer liaise with DDC when proposing a mix of units to ensure local needs are met.

KCC Drainage – Recommend conditions should permission be granted.

DDC Environmental Health – Desk top study is required, and this can be secured by a pre commencement condition

KCC PROW – No comments to make.

Southern Water – No discharge of foul and surface water sewerage from the site shall be discharged into the public system until offsite drainage works to provide sufficient capacity within foul and surface water network to cope with additional sewerage flows are complete.

Housing Officer – Proposal would provide 30% in accordance with DDC Policy. Request that the developer discuss with DDC when proposing mix of units to ensure local needs are met.

KCC Highways - *Following amendments to the scheme, KCC Highways final response set out:*

- Proposals are acceptable in highway terms
- Unlikely to have a severe impact in highway capacity terms
- Acceptable visibility is available at the site access
- Off site highways works can be agreed through the highway agreement process
- Sufficient parking is provided for the detailed element
- Routing of HGV's can be dealt with through a Construction Management Plan
- No objection, subject to conditions

DDC Natural Environment Officer:

- Further Bat Survey studies required
- Condition required for nesting birds
- Habitat management required by condition in accordance with the reptile survey
- Biodiversity enhancements to be secured by condition

Third party Representations:

46 Representations of objection have been received and are summarised below:

- Overdevelopment of Ash
- Additional traffic impact
- Impact on neighbours amenity
- Run off should be designed to replicate Greenfield conditions
- Lack of infrastructure provision
- Flats are inappropriate for the village
- Brownfield site but infrastructure cannot support more housing
- Access is not suitable
- Overdevelopment of the site
- Construction impact

- Additional crime
- Land is contaminated
- Impact on protected species
- Additional parking issues caused by new residents
- Impact of additional children on local play infrastructure
- Comments from the adjacent landowner on technical matters, including: application form needs to be amended to include loss of commercial, needs to show how the site will link with the adjacent site which forms part of the same allocation, results in a poor quality environment due to the number of units and the proposal fails to provide sufficient parking.

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

The Site

- 1.1 The application site has an area of approximately 0.88 hectares and is to the south of Sandwich Road. The site is located towards the east of Ash and is between residential areas to the east and south. To the north are open agricultural fields and immediately to the west is a former orchard which forms part of a separate outline planning application for residential (reference listed above). To the south on New Street are a collection of listed buildings, including the Grade II 50 New Street and the Grade II listed The Shrubbery. The Grade I listed Church of St Nicholas is located 680m to the west of the site.
- 1.2 The site is in the main on the eastern parcel of an open field with a collection of temporary buildings on the northern part of the site. The western parcel, which includes the site entrance, has three former agricultural buildings which are now in commercial use. The site has a relatively flat gradient. The boundaries of the site are formed of established hedging and trees on the east, south and west with the site access and some hedging on the northern boundary on to Sandwich Road.
- 1.3 Importantly, the site is allocated for housing development in the Land Allocations Local Plan (policy LA21), and within the Ash Neighbourhood Plan (ANP) (policy ANP7a) which both allow for an estimated capacity of 95 dwellings across this site, and the adjacent site to the west. The two allocation policies set out a number of criteria to be met.
- 1.4 A separate outline application for 53 no dwellings to the west is currently pending consideration and will be reported to planning committee at a future meeting.

The Proposal

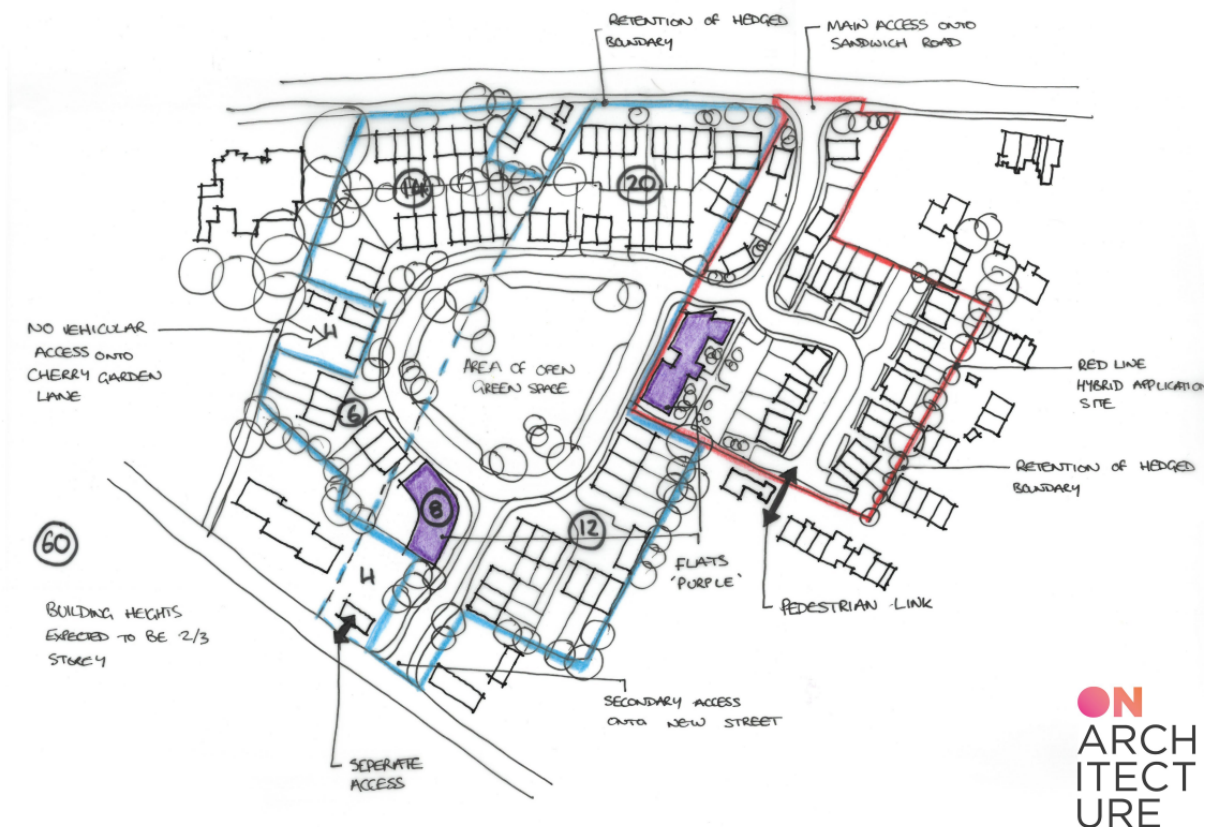
- 1.5 The application is a hybrid planning application which seeks full permission for 18 houses and 4 flats (maisonette units), and outline permission (access and layout for approval) for 10 flats and 5 houses. Access to the site would be via the existing access point to the north on to Sandwich Road. The full element of the proposal consists of semi-detached dwellings and detached maisonette units to provide a mix of house types and sizes. Affordable housing would be provided at 30% (12 units). The units would be largely two storeys in height, with some 2.5 storey height units on key buildings within the site. Buildings are contemporary in style in terms of their height, form and appearance. An area of open space would be provided to the south of the site with existing boundary landscaping to be retained and enhanced. The design and layout will be

discussed in more detail in the assessment below.

## **2. Main Issues**

### Principle of Development

- 2.1 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.”
- 2.2 As set out above, the Council's adopted Site Allocations Local Plan and the ANP both allocate the site as part of a wider allocation for an estimated capacity of 95 dwellings, subject to a number of criteria covering matters relating to master planning of the entire site, design and layout, access, air quality, open space, infrastructure, highways and transportation.
- 2.3 This is a hybrid application for 37 dwellings, with 22 units forming the full element of the proposal and 15 dwellings within the outline section of the application. In terms of the allocation of the site as part of the wider allocation, the cumulative number of units proposed across the three application sites is 99, four above the indicative capacity within the allocation policies for the site. The density of this application is 42 dwellings per hectare (dph), so accords with draft policy PM1 which requires a density of between 30-50 dph, and Core Strategy policy CP4 which requires densities to exceed 40 dph. The loss of the commercial units is accepted with the allocation of the site for residential.
- 2.4 The key issues for the application are centred around the site allocation policies (LA21 and ANP7) as follows:
- Comprehensive approach to the site, including access and connectivity
  - Visual Impact – Including Design, Appearance & Landscaping
  - Residential Amenity
  - Highways and Parking
  - Heritage Impacts
  - Other Matters
- 2.5 The revised NPPF has a chapter dedicated to design (12 – Achieving well-designed places) and there is specific reference to the design framework ‘Building for a Healthy Life’. This application has been assessed against this document.



**Figure 2: Indicative Layout of the wider allocation site – Please note that this is an indicative plan only to show how the three separate land parcels could connect through the proposed western access of this site)**

Comprehensive Development to the Site

2.6 Policy LA21 and ANP7a). **Criteria listed in bold relate to criteria listed with the Ash Neighbourhood Plan, read:**

- i. any application for development is preceded by, and is consistent with a development brief for the whole of the site which has been agreed by the Council;*
- ii. 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;*
- v. Vehicular access is located from Sandwich Road with the emergency access from New Street.*

**7a.1 Any application for development is preceded by and is consistent with a development brief that has been agreed by Dover District Council; this must include an ecological survey;**

**7a.3 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;**

**7a.6 Vehicular access to the site is from Sandwich Road and New Street;**

2.7 The application only proposes vehicular access from Sandwich Road via one access point which is in accordance with the policy criteria listed above. This

would be from the existing access on to Sandwich Road. The access point has been assessed by Kent Highways and judged to be suitable and safe.

- 2.8 In terms of ensuring a comprehensive approach to the whole site and each phase demonstrating that it will not prejudice the implementation of the whole development. The applicant is proposing connectivity to the adjacent sites and the remainder of the site allocation through a vehicular and pedestrian access to the western boundary of the site. This connectivity forms part of the full element of the proposal and would be conditioned to be provided up to the site boundary prior to the occupation of any units. The connectivity between the site and the remainder of the allocation site, both this applicant and the applicant (figure 2) for the adjacent site have submitted indicative masterplans. Both indicative plans show that this application would provide connectivity between the sites from this proposed access point. The proposal would therefore not prejudice the delivery of the whole development.
- 2.9 Overall, the vehicular access point complies with the allocation policies, are safe and the scheme provides good vehicular, pedestrian and cycle connectivity to the local area and its service/amenities (as discussed below). The delivery of the site for housing would not preclude the delivery of the remainder of the allocation. The proposal would comply with policies LA21 and ANP7a.

#### Visual Impact – Including Design, Appearance and Landscaping

- 2.10 Policy LA21 and policy ANP7a require:  
*iii The impact of the development on the setting of the village and wider landscape is minimised through the siting, massing and scale of the new dwellings*

**7a.4 the impact of the development on the setting of the village and wider landscape is minimised by reference to Policies ANP4, ANP5 and ANP6.  
*iv and 7a.5 The existing boundary hedgerows and vegetation are retained and enhanced as part of the development;***

- 2.11 The most visible part of the site will be the western section which is within the outline element of the proposal. Whilst appearance and scale are reserved matters, layout is not a reserved matter and is for consideration. The units within the outline element would have some dwellings in line with the existing building line on Sandwich Road with the remainder of the dwellings set back from the frontage of the site on to Sandwich Road. New landscaping would be secured and would provide an appropriate setting in accordance with the above criteria.



**Figure 2: Proposed Full Site Layout**

- 2.12 In terms of the remainder of the development, in particularly the full element of the proposal, which is for consideration, the application site is located behind the rear gardens of buildings fronting on to Sandwich Road to the south and to the rear of properties fronting on to Pippin Close to the East and South.
- 2.13 Whilst the application site is visible in glimpses through the buildings on these roads, views will be at a distance and are currently of boundary landscaping or the rear of other adjacent residential properties that surround the site on three sides. In this context, the application site is considered to make little contribution to the setting of the village and the wider landscape.
- 2.14 In terms of the layout, this has been developed using the constraints and opportunities of the site. This includes the required buffers to the existing landscape planting around the edge of the site, as well as retaining the existing access and providing an access point to the remainder of the allocation adjacent to the west.
- 2.15 Particular regard has been paid to the scale, height, materials, detailing, mass, bulk, articulation, and site coverage, incorporating an acceptable modern design, and making use of high-quality materials including clay tiles etc. Where flank elevations are exposed, windows and/or different materials at first floor level are provided to ensure interest. On corners, buildings are fronted and are overlooked by an adjacent property facing on to the side elevation.
- 2.16 The application site is in a backland location and as a result, and unlike an infill scheme, there is greater flexibility in the design and appearance of the buildings. It is also highlighted that there is variety in the design and appearance of local buildings in the immediate area of the site. The design is considered to be acceptable in accordance with draft Local Plan policy PM1 and policy ANP6. In



terms of the outline section, final details, including appearance and scale will be secured at reserved matters stage.

- 2.17 The proposed affordable housing will be spread throughout the development with details of the units, and details of M4(2) compliant units to be secured by condition. Units would be tenure blind so they would not appear any different to the market housing in accordance with development plan policies.



Proposed Street Scene DD

**Figure 3: Street Scene – Eastern Section of Site**



Proposed Street Scene BB

**Figure 4: Street Scene – Northern Section of Site**



Proposed Street Scene AA

**Figure 5: Street Scene – Western Section of the Site**

- 2.18 With regard to trees, the Council's Tree Officer has commented that there are no significant trees on the site other than the Hawthorn boundary hedges and these are shown to be retained. Details of tree protection for the construction phase will be required pre commencement of any development. Some of the existing boundary trees, which are to be retained will be within the rear gardens of properties along the north, east and west boundaries. Conditions will be imposed to ensure the retention of the boundary vegetation in the long term, as well as fencing in front of the existing trees and no outbuildings to be constructed beyond these new boundary treatments to ensure the long-term retention of the trees. Additional planting for the site boundaries, internally within the site and the management of the landscaping will be required by condition.
- 2.19 Overall, the layout is considered to be of an acceptable quality, providing connections to the local area and adjacent site, creating a distinct sense of place in accordance with policies PM1 and ANP6.

#### Residential Amenity

- 2.20 Policy PM2 of the draft Local Plan attracts limited weight as the Nationally Described Space Standards (NDSS) set out that their use is for when the Local Plan is adopted. The applicant has provided the internal space for each house that shows the majority of the house types would meet those standards. Whilst the Reg 19 Local Plan is a material consideration, the NDSS sets out that the space standards should be used "if a local authority has adopted the space standard in its Local Plan". Given that the Reg 19 Plan is yet to be formally adopted and doesn't carry full weight, it is not considered that the shortfalls of house type A by 9SQM below the standard would be sufficient to warrant a robust reason for refusal, albeit it counts against the scheme. It is however important to consider the layout, location, and orientation of the units, particularly for the house types below the standard, to ensure that they provide sufficient useable space, light, and that sufficient outdoor amenity space is available for future residents. The proposed layout and house designs, demonstrate a good standard of accommodation is proposed for the future residents, and ensures an acceptable level of amenity for future residents can be accommodated within the layout.
- 2.21 In terms of existing residents, the nearest existing houses are to the east of the site at Russett Close. The closest distance here would be at 11m, but this would be from the rear elevation of some of the proposed units to the side elevation of properties on Russett Close. Where properties are located back-to-back on the east, separation distances would be in excess of 24m. Properties to the side are at a distance of 11.8m and this is from the rear elevation to the side elevation of plot 17. To the north, there is a separation distance from the rear of the proposed units to existing properties of a minimum of 30m. All the site's boundaries have established landscaping which will be retained and enhanced. With these distances, and the height of the new dwellings, there would not be a significant impact upon these properties in terms of privacy, light and outlook. The proposal would be in accordance with policy PM1 of the Draft Local Plan.

#### Highways and Parking

- 2.22 The development will use the existing access onto the public highway (Sandwich Road). KCC Highways report that the proposals are unlikely to have a severe impact in highway capacity terms. Off-site footway improvements will be required

to provide a continuous footpath to the south side of Sandwich Road, which currently ceases to the west of Gardeners Close. The proposals include an informal crossing, and this improvement would provide a continuous, segregated footway from the site to Ash village. These improvements can be made within the highway boundary with detailed design through the highway agreement process (s278).

- 2.23 KCC Highways are satisfied that sufficient parking is to be provided for the detailed element of the proposal, such that there is unlikely to be unacceptable parking on the existing highway. Parking has also been retained for the existing buildings on the outline site but reorganised to accommodate the new access road. Ash Parish Council has concerns that only 2 visitor parking spaces are to be provided. However, the applicant has submitted the below plan which shows the provision of 4 visitor parking spaces. Policy DM12 requires a total of 4.4 visitor spaces for the detailed element, plus an additional 1 space for the four tandem spaces (total of 5.4 visitor spaces). The applicant is proposing to over provide for 2-bedroom units by providing 2 spaces for every 2-bedroom unit against the policy requirement of 1.5 spaces. The overall parking provision is considered to be acceptable when considered against policy DM12 and policy ANP13.



- 2.24 Swept path details have been provided to show that a refuse vehicle can suitably negotiate both the site access and turning areas within the site. KCC Fire and Rescue have also commented on the application that they are satisfied with access into the site.

- 2.25 Ash Parish Council has requested that the 60mph speed limit along Sandwich Road is addressed as part of this development. KCC Highways have not requested the relocation of the speed limit to east of Collar Makers Green as part of this application, but it has been requested by KCC Highways under the adjacent site application. NPPF paragraph 111 states "*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*". For the reasons outlined above, it is considered that there would not be any severe impact on the highway or local parking demand as a result of this proposal. The proposal is in accordance with policies DM12, ANP13 and ANP15.

#### Heritage Impacts

- 2.25 There are a number of heritage assets near to the site. Notably to the south on New Street are a collection of listed buildings, including the Grade II 50 New Street and the Grade II listed The Shrubbery. The Grade I listed Church of St Nicholas is located 680m to the west of the site.
- 2.26 The NPPF outlines at paragraphs 199 and 200, that great weight must be given to the conservation of listed buildings irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. The NPPF also requires the local planning authority, when assessing an application to 'identify and assess the particular significance of any heritage asset that may be affected by the proposal. Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 2.27 The development of 37 houses at the site would inevitably result in some harm to the setting of the two listed buildings to the south. Such impacts upon the setting of these listed buildings were clearly accepted when the Land Allocations Local Plan Inspector agreed that the allocation was acceptable for 95 dwellings.
- 2.28 It is therefore a case of minimising the impact upon the heritage assets and securing sensitive design. It is considered that the scale of the development, with the separation distance between the site and the listed buildings as well as the intervening more modern development, serve to minimise the impact upon listed buildings.
- 2.29 Whilst having special regard to the preservation of the setting of the Church, 50 New Street and The Shrubbery, overall, it is considered that the public benefits of providing 37 houses, including affordable housing to meet needs on an allocated site, and the associated social and economic benefits provide for clear and convincing justification for some harm to the heritage assets, and these benefits outweigh this less than substantial harm to the listed buildings in line with Paragraph 208 of the NPPF.

#### Other Matters

### *Affordable Housing*

- 2.30 Affordable housing is proposed at 30% (12 units) with the tenure split of 55% (7 units) affordable/social rent, 25% (3 units) First Homes and 20% (2 units) shared ownership. The overall amount (30%) and tenure splits is in accordance with policy SP5 of the Regulation 19 Local Plan and this will be secured under the legal agreement. The accommodation provides a mix of house sizes including 1 bed flats, as well as 2 and 3 houses and the final affordable accommodation mix for both the full and outline elements would be secured by condition. The tenure splits would be secured under the legal agreement.

### *Drainage*

- 2.31 The Application Site lies within Flood Zone 1 - the lowest level of risk of fluvial flooding. Flood risk from groundwater and reservoirs is also low.
- 2.32 For the surface water from the development, permeable paving would be used for driveways so water would drain into the ground as it currently does via infiltration. Due to the low anticipated infiltration rate, runoff from the access road and roofs will be discharged from the site at a controlled rate with discharge to the watercourse running northeast from the junction of Sandwich Road and Cherry Garden Lane.
- 2.33 KCC LLFA has raised no objections to the principles of the SUDs scheme subject to the final details being provided by pre commencement condition.
- 2.34 Southern Water have confirmed that they are currently in the process of designing and planning delivery of offsite sewerage network reinforcements. Southern Water set out that they seek to limit the timescale for delivery to a maximum of 24 months from a firm commitment of the development. A condition would be imposed that the necessary sewerage infrastructure is in place prior to the occupation of any unit. This would ensure that the development is in accordance with policies LA21 and ANP7a.

### *Ecology*

- 2.35 Policy ANP4 of the Ash Neighbourhood Plan requires all developments to provide a biodiversity net gain of not less than 10% as well as ensuring ecological enhancements, such as incorporating additional features such as bird and bat boxes.
- 2.36 The full element of the site is mainly an arable field with grassland and scrub around its margins and hedging and trees around the edges. Features of ecological importance within the site include hedgerows and the areas of grassland. The outline element of the proposal includes three former agricultural buildings, which are now used for commercial purposes and areas of hardstanding.
- 2.37 In terms of protected species, trees, shrubs and buildings on the site have potential to support nesting birds, the former agricultural barns have the potential to support roosting bats and that the habitat had the potential to support reptiles.
- 2.38 Specifically, in terms of protected species, a detailed reptile survey was undertaken but no reptiles were recorded on the site and as such no mitigation measures for reptiles are necessary. Recommendations are provided in the

Reptile Survey report in respect of habitat management to minimise the potential for reptile colonisation of the site. These must be implemented, to avoid the need for further reptile surveys and mitigation. In terms of bats, the three former agricultural buildings, have identified potential to support roosting bats. Bat emergence surveys are required to confirm the presence / likely absence of bat roosts in the buildings.

- 2.39 Natural England through their 'standing advice', sets out that local planning authorities "*should...not decide on planning applications until you have received all the necessary surveys*" and that "*You should not usually attach planning conditions that ask for surveys*". Without all necessary ecological surveys, Dover District Council is not able to verify that the NPPF mitigation hierarchy principles (paragraph 180(a)) have been applied, or follow government guidance that "*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*" (paragraph 99 of Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).
- 2.40 Bat surveys should be submitted at the time that this application was made, or during the course of the applications consideration, in accordance with guidance. The three agricultural barns are located within the outline element of the proposal have the potential to support bats and the potential impact on bats is a material planning consideration. However, detailed bat surveys have not been submitted, as an updated preliminary survey was submitted towards the end of last year and the bat surveys need to be carried out over the summer months. It is understood that the bat surveys will be undertaken shortly. Whilst this could justify the refusal of the application on the grounds of a lack of information, or indicate that the application is not yet able to be determined, given the length of time that the application has been with the council and in the interests of working proactively with the applicant, it is considered that it would not be unreasonable in the circumstances to advise that the application be granted subject to the applicant first submitting the bat survey (and any mitigation which is necessary) for approval prior to formal determination. Given what is known about the potential for bats on site, it is unlikely that the development would be prevented due to ecological constraints, with any necessary mitigation being achievable on site. However, should the survey demonstrate significant constraints exist, it may be necessary to bring the application back to planning committee, if requested. In these circumstances, it is considered that for this application, this approach would sufficiently safeguard the interests of wildlife in accordance with provisions of the NPPF, the development plan and Natural England Standing Advice.
- 2.41 In terms of biodiversity net gain, the ANP requires a net gain of 10% for all developments. This application was validated on 20<sup>th</sup> May 2020 with the ANP made on September 2021. The Environment Act which requires developments to provide a mandatory net gain of 10% will apply from November 2023 only to applications submitted after Biodiversity Net Gain takes effect (November 2023). As set out above, this application was submitted prior to the ANP being made, and as such does not include the requisite detail to provide a net gain calculation for the application. Notwithstanding this, the site includes a green buffer zone on the southern section of the site of between 6-9.5m, which would be conditioned to be a wildflower grassland. Other enhancements would include new native planting, permeability for hedgehogs, bat and bird boxes, and habitat piles. This is considered a proportionate response based on the low ecological value of the

site and will provide an appropriate biodiversity net gain for this development in line with the NPPF, the draft Local Plan and the ANP.

*Habitats Regulations (2017) Regulation 63: Appropriate Assessment*

- 2.42 There is 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. The emerging Local Plan requires that developments within 9km of the site would cause recreational impacts for which mitigation is required.
- 2.43 A Strategic Access Mitigation and Monitoring Strategy (SAMM) has been prepared and adopted by the Council in order to monitor potential impacts on the qualifying bird species for the SPA arising from development in the district and to provide appropriate mitigation through a range of management and engagement methods. This is set out at Policy NE3 of the draft Local Plan, which provides the most up to date scientific knowledge of the issue.
- 2.44 This mitigation comprises several elements, including the monitoring of residential visitor numbers and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education).
- 2.45 The site lies within the 9km Zone of Influence, and in order to mitigate against the potential for in-combination effects of new development, through the pathway of recreational pressure, on the Thanet Coast and Sandwich Bay SPA. The tariff will be collected through the S106 agreement.

*Archaeology*

- 2.46 Policy ANP7a, criterion 2 requires:

***'Any application of development is preceded by an archaeological assessment of the site and its submission to Kent County Council;'***

- 2.47 The application site on the Council's GIS mapping system identifies this section of the allocation site to be outside of an area of archaeological potential. Notwithstanding, KCC Archaeology have been consulted and consider that the application site lies in an area of archaeological potential relating to Iron Age, Roman and Anglo Saxon remains, which have been recorded in the eastern areas of Ash. KCC Archaeology consider that a pre commencement condition is sufficient to address any potential archaeology. This would be a pre commencement condition to secure a programme of archaeological works. It is considered that this approach would be sufficient to address the ANP allocation policy.

*Open Space*

- 2.48 In accordance with Policy DM27 of the Land Allocations Local Plan, the development (as of more than five dwellings) is expected to provide open space on site, or a contribution towards off-site provision, to meet the demand it would generate. Without any on site open space, the Council's planning policy team have requested contributions toward off site open space, as set out below. The Council's Planning Policy team has confirmed that there are no open space and children's play spaces identified projects in the Ash area, so contributions towards these two open space typologies have not been requested.

### Infrastructure and Developer Contributions

- 2.49 As required by policy CP6 of the Core Strategy, Draft Local Plan policy SP11, policy PM4 and DM3, Ash Neighbourhood Plan policies ANP14 and ANP16 and the consultation requests that have been submitted by infrastructure providers, the following contributions are to be secured through a S106 agreement, or condition:

<b>Matter</b>	<b>Contribution</b>
Secondary Education	£104,420.00 – Towards Deal & Sandwich Secondary Schools
Community Learning	£607.54 – Towards additional resources for and classes for new learners in Sandwich
Youth Service	£2,423.50 – Towards additional resources for youth service in Dover District
Library Bookstock	£2051.65 towards addition resources at Ash library
Social Care	£5,434.56 towards specialist care accommodation in Dover District
Waste	£3,430.64 towards improvement works at Dover HWRC to increase capacity
Open Space	Natural Grass Pitches - £9,443 Lifecycle cost - £1,967 Changing rooms - £19,405 Artificial Grass Pitches - £3,925 Lifecycle cost - £129 Changing Rooms £1,401 Indoor Bowls - £779 Sports Halls - £18,063 Swimming Pools - £19,861  Towards district wide need for football pitches, Tides - Deal project and identified need for health and fitness facilities at Sandwich for sports hall contributions.
NHS	£32.040 – Towards refurbishment 1 or more affected practices or within the primary care network
Affordable Housing	12 units as outlined above
Broadband	Details to be secured by condition in accordance with policy ANP14



### **3. Conclusion**

- 3.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 3.2 The site is part of an allocated site for 95 houses within the Land Allocations Local Plan and the Ash Neighbourhood Plan. The application proposes 37 dwellings and for the reasons outlined in the report above, the proposal complies with all policy criterion subject to the legal agreement and conditions. The application also complies with all other relevant Development Plan policies.
- 3.3 There are limited views of the site from the public domain and so the visual impact is acceptable. Existing trees can be retained with the landscape boundaries enhanced.
- 3.4 The site is sustainably located. There are no objections from KCC (H&T) to the proposal subject conditions and off-site highways works.
- 3.5 Financial contributions should be sought towards nearby open space provision and other infrastructure provision.
- 3.6 A legal agreement can secure 30% affordable housing to accord with the development plan.
- 3.7 Conditions can be imposed to ensure that matters such as surface water drainage, biodiversity enhancements, low carbon energy, lighting, and archaeological interest are adequately dealt with by condition.

### **g) Recommendation**

- I Subject to completion of S106 Agreement in relation to Development Contributions as set out in the report above, PERMISSION BE GRANTED subject to the submission and approval of a bat survey and mitigation as necessary, and subject to the following conditions:
  - 1) Detailed Time Limit
  - 2) Outline Time Limit
  - 3) Approved plans
  - 4) Samples of materials
  - 5) Details of windows (including the depth of reveals), meter cupboards
  - 6) Details of surface water management
  - 7) Drainage Verification report
  - 8) Details of foul drainage
  - 9) Construction management plan
  - 10) Provision and retention of phase 1 parking spaces
  - 11) Provision and retention of replacement parking for existing buildings in phase 2
  - 12) Provision of bicycle storage
  - 13) Completion of footways and carriageway, including up to the adjacent allocation prior to first occupation of a dwelling
  - 14) Provision and maintenance of visibility splays
  - 15) Completion of S278 for a pedestrian crossing point and associated highway alterations in Sandwich Road
  - 16) Archaeological programme

- 17) Details and provision of ecological enhancements
- 18) Affordable housing provision
- 19) Housing to meet Building Regulations M4(2)
- 20) Previously unidentified contamination
- 21) Details of low carbon energy sources
- 22) Details of broadband provision
- 23) Soft landscaping
- 24) Tree Protection Measures
- 25) Boundary Treatment
- 26) Hard Landscaping
- 27) Bat Mitigation
- 28) Nesting Birds
- 29) Street lighting
- 30) Habitat Management
- 31) PD Rights removed for outbuildings by boundary landscaping

- 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

Adam Reynolds

*The Human Rights Act (1998) Human rights issues relevant to this application have been taken into account. The Assessment section above and the Recommendation represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).*