

- a) **DOV/22/00931 - Change of use of land and erection of a single storey detached building for use as holiday let (container to be removed) - Land Adjoining The Minns, Mantles Hill, Ripple**

Reason for report – Number of contrary views (10)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM11, DM15, DM16, TI1

Draft Dover District Local Plan (March 2023) - 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: PM1, SP1, SP2, SP6, E4.

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 84, 130, 174

### **Relevant Planning History**

DOV/16/00349 - Certificate of Lawfulness (existing) for the stationing of one caravan, vehicles and a container to house a vehicle – A certificate was granted for the siting of a steel container close to the Mantles Hill and the use of land for the storage of a touring caravan close to the rear garden of Judges Gate.

DOV/18/00095 - Erection of a detached dwelling (4 bedrooms and self/custom build) with associated access and parking – Refused (22/06/18) due to the siting, form, materials and scale of the building representing an intrusive and unsustainable form of development harmful to the character and appearance of the countryside.

**(Officer comment:** It is important to note that this application was for a detached permanent residential dwelling with accommodation over 2 floors with a garage workshop underground and on a larger area of land than that subject of the current application site).

The refusal was sustained on appeal July 2019. The inspector included the following:

- The site is not readily accessible for day-to-day services and facilities by means of transport other than the private car.
- The development would introduce built development with a substantial footprint with a significant part of the plot providing a driveway access from the entrance. The development would significantly increase the mass and bulk of built development on this largely undeveloped site.
- The development would have a limited impact on the wider landscape setting. However, it would in immediate and short distance views from the entrance and at various points along Mantles Hill, the proposal would be seen, albeit in glimpsed views only. The site serves to assist in the transition between the built development of

Church Lane and turning the corner into Mantles Hill and the more open farmland beyond and opposite the site.

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

Representations can be found in the online planning file, a summary is provided below:

Ripple Parish Council – Object – overdevelopment and outside of the settlement confines of Ripple.

East Kent Public Rights of Way – No comments to make

The County Archaeologist - No comments received

Southern Water – They advise the applicant to contact the EA regarding the use of a private wastewater treatment works and that a public sewer could be crossing the development site and that in the event of discovery during construction then an investigation of the sewer would be required before any further works are carried out. (Officer comment: The applicant can be advised of the above by way of an informative in the event that planning permission is granted).

Waste Officer – No comments received

Third party Representations: 10 objections have been received and are summarised below:

- Site is on someone else's land boundary
- Out of keeping with character of the area
- Dangerous exit/ entrance to the site
- Increased traffic pressure
- Outside of settlement confines
- Other existing holiday lets within the village
- Will set a precedent for further holiday lets
- Noise disturbance from users of the holiday let
- The entrance created on this land does not have the benefit of planning permission

(**Officer comment:** It is understood that the access to the site from Mantles Hill has been there for some time, at least since 2009. Google maps shows evidence of an access from at least this timeframe. It is therefore likely to be considered to be lawful in any event.)

- Question whether if the building is constructed on site from a timber frame kit, will it actually be a mobile home as described?

(**Officer comment:** Whilst the D&A Statement included with the application makes reference to the holiday let being a mobile home, it is clear from the plans that it would be a building).

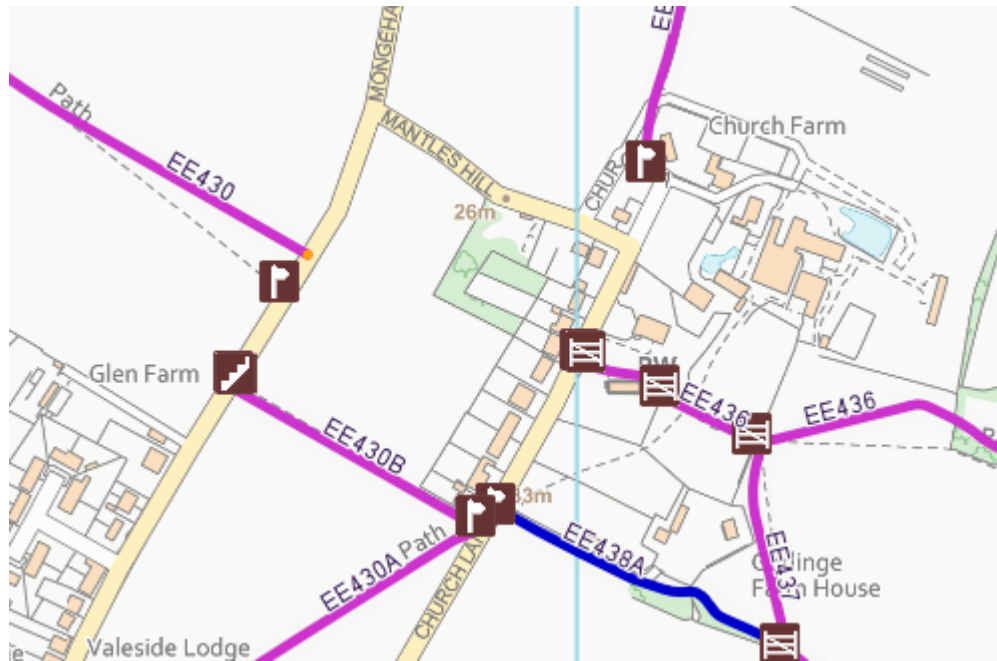
- Previous application has been refused

1 representation in support of the proposals has been received and is summarised below:

- Will improve the appearance of the site
- Will not be used all year round

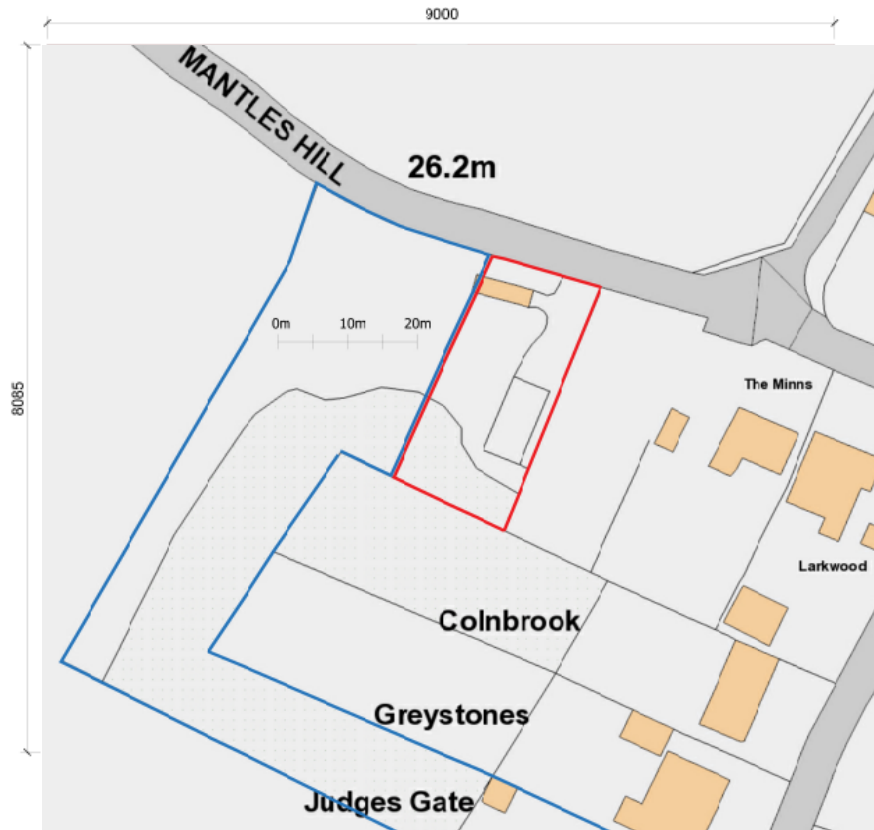
e) 1. **The Site and Proposal**

1.1 The application site relates to land to the northwest of Mantles Hill, which lies outside of the settlement confines of Ripple. The land can be accessed on foot via Judges Gate, a detached property on Church Lane (the owners of the land) and from Mantles Hill where a gate is already located and there are several Public Rights of Way in the surrounding area as shown on Figure 1. The land forms part of the North Downs landscape character area.



**Figure 1 – Public Rights of Way map**

1.2 This application seeks permission for the change of use of the land, and the erection of a single storey, detached building for use as a holiday let. There is an existing container on the site, shown in Figure 2. This would be removed as part of this proposal together with the caravan that currently stands on the site and that was granted a lawful development certificate in 2016 (see planning history above).



**Figure 2 – Site plan**

- 1.3 The proposed building is single storey with a pitched roof. Elevation materials comprise slate tile cladding to the sides and rear elevation beneath a slate tiled roof. The front elevation would be recessed and comprise vertical timber cladding with a veranda to the front.
- 1.4 The layout of the holiday let is shown below in Figure 3. Following concerns raised by officers about the size of the proposed holiday let, its length has been significantly reduced from 13.65m to 9m with a depth of 8.09m including the veranda. This has resulted in a reduction in bedrooms from 3 to 2, the removal of an ensuite and a utility room and a reduction in the hall area. In turn the application site area subject of the change of use of the land has equally been significantly reduced to what is considered to be a suitable external amenity space and parking area. The proposal includes the planting of a native hedgerow to the western boundary of the site. The remainder of the land in the applicant's ownership will remain as agricultural land.

**Figure 3 – Proposed floor plan**

## **2. Main Issues**

- 2.1 The main issues for consideration are:

- Principle of the development
- Impact on visual amenity
- Impact on residential amenity
- Impact on highway safety
- SAMMs

## **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 DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by other development plan policies, functionally requires a rural location or is ancillary to existing development or uses. The site is located outside of any settlement confines. The proposed holiday accommodation is not supported by other policies, does not functionally require this location (albeit its location could be argued to be desirable to meet the needs of a sector of the holiday market) and is not ancillary to existing development or uses. As such, the development would be contrary to Policy DM1 (although it is acknowledged that this policy holds reduced weight in the planning balance)
- 2.4 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless justified by other plan policies. As above, the site is outside of the confines and the proposed holiday accommodation use is not justified by other plan policies. The nearest settlement is Ripple, which is approximately 300m away from the application site. Although Ripple is considered to be a sustainable settlement due to the range of shops and services that it provides. Notwithstanding this, practically it would be necessary for visitors to travel by private car in order to reach day to day facilities, amenities and tourist attractions. As such, the proposed holiday accommodation would be contrary to Policy DM11 which, although this policy holds reduced weight in the planning balance, it still broadly aligns with the objectives of the NPPF.
- 2.5 Policy DM15 resists the loss of 'countryside' (i.e. the areas outside of the settlement confines, but excluding land within the curtilage of buildings) or development which would adversely affect the character or appearance of the countryside, unless one of four exceptions are met; it does not result in the loss of ecological habitats and provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character. Resisting the loss of countryside (another blanket approach) is more stringent than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development (Paragraph 174).
- 2.6 Policy DM16 seeks to avoid development that would harm the character of the landscape, unless it is in accordance with allocations in the development plan and incorporates any necessary avoidance or mitigation measures; or it can be sited to avoid or reduce harm and/or incorporate design measures to mitigate the impacts to an acceptable level. As with Policy DM15, this policy is considered to

be in some tension with the objectives of the NPPF (particularly Paragraph 174), by resisting development that would harm the character of the landscape, unless the impact can be otherwise mitigated or reduced.

- 2.7 Turning to the objectives of the NPPF. regarding rural tourism. Paragraph 84 states that in supporting a prosperous rural economy, decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside. Paragraph 85 highlights that it should be recognised that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.
- 2.8 The submission Draft Local Plan was submitted for examination in March 2023. The Plan is at an advanced stage and is considered to be an important material consideration in the determination of the application. In relation to the Draft Local Plan, policies PM1, SP1, SP2, SP6, E4, and TI1 are considered most relevant to the principle of development.
- 2.9 Draft Policy SP1 seeks to ensure development mitigates climate change by reducing the need to travel and Policy SP2 seeks to ensure new development is well served by facilities and services and create opportunities for active travel. Policy TI1 requires opportunities for sustainable transport modes to be maximised and that development is readily accessible by sustainable transport modes. Given the location of the site in the countryside, the limited services and amenities in the vicinity and nature of the surrounding rural network as previously outlined, it is considered that the proposal does not accord with Draft Policies SP1, SP2 and TI1. However, given that the plan is at examination stage then these policies can only be given moderate weight at this time.
- 2.10 Draft Policy SP6 supports tourism development that would extend or upgrade the range of tourist facilities, particularly those that attract the staying visitor, increase the attraction of tourists to the area and extend the season in accordance with draft policy E4. This Policy supports proposals for self-catering tourism accommodation across the District subject to a series of criteria. This includes: The scale and design of the proposal is to be compatible with the character, layout density and appearance of the existing settlement; The level and type of activity the proposal generates and the functional and visual relationship with adjoining uses does not result in harm to the character and appearance of the area, including the character and quality of the countryside; The scale and design of the proposal being compatible with its surroundings; It would not have an adverse impact on the living conditions of existing adjoining residents.; Traffic generated from the development can be safely accommodated on the local road network, and the development will not generate a type or amount of traffic that would be inappropriate to the rural road network; Proposals seek to improve provision of sustainable travel options to the site, wherever possible.
- 2.11 Whilst policy SP4 is at examination stage given its consistency with the NPPF and there being no objections then it can be given moderate weight in the planning balance. In turn, by definition countryside locations are often desirable for tourist accommodation, with Draft Policies SP6 and E4 providing support for the proposal. Whilst it is acknowledged that a rural location may be beneficial given the type of development, the proposed creation of a unit of holiday accommodation would, however, be contrary to Policies CP1, DM1, DM3, DM11 of the CS, Draft Policies SP1, SP2 and TI1 of the Draft Local Plan and Paragraph

112 of the NPPF which prioritises pedestrian and cycle movements and access to high quality public transport.

- 2.12 Regard must also be had for whether the tilted balance is engaged, as set out in Paragraph 11 of the NPPF. The majority of the most important policies for determining the application are considered to be out of date to varying degrees, with DM1, which is particularly crucial in assessing the principle of the development, being particularly so. Having considered the Development Plan in the round, it is considered that the 'tilted' balance should be engaged and as such the application should be assessed in the context of granting planning permission unless:
- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for reusing the development proposed; or
  - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

An assessment of ii) will be made at the end of this report.

#### Impact on Character and Appearance

- 2.14 Paragraph 130 (f) of the National Planning Policy Framework sets out that 'planning decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development' The National Planning Policy Framework continues at paragraph 130 (c) setting out that 'planning decisions should ensure that developments are sympathetic to local character, including the surrounding built environment, whilst not preventing or discouraging appropriate innovation or change'.
- 2.15 The site is outside of the settlement confines and as discussed, is considered to be within the countryside and is therefore subject to Policies DM15 and DM16.
- 2.16 The application site sits at the end of a small cluster of houses along Church Lane. The properties are detached with large gardens to the northwest. The application site is accessed by an existing gate onto Mantles Hill.
- 2.17 Mantles Hill slopes down to the northwest, leaving the application site in an elevated position. Notwithstanding this, the building has been designed with a simple form and with materials that would be sensitive to a rural location. In addition, its curtilage and footprint has been reduced in size so that it reflects its proposed use as holiday accommodation only. Given this and being single storey, any views of the building within the landscape from public vantage points would be mitigated because the building would be seen as an unassuming addition to the landscape. In turn, the site is bounded by dense, tall planting around the perimeter, such that apart from glimpses at the entrance to the site the building will largely remain hidden from view. Therefore, the intrinsic character and beauty of the landscape would be preserved. , and the objectives of Paragraph 130 and 174 of the NPPF. The development would therefore accord with policy policies DM15 and DM16 of the Cores Strategy, criteria i) and iv) of policy E4 and Policy PM1 of the emerging Local Plan.

### Impact on Residential Amenity

- 2.18 Paragraph 130 (f) of the National Planning Policy Framework says that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.
- 2.19 The nearest residential dwelling is The Minns, located to the southeast of the site. The proposed holiday let would be located on the southeastern boundary of the site, which is shared with The Minns. There would be approximately 30 metres between the holiday let and The Minns, separated by a tall, dense hedgerow. The private garden area of The Minns is immediately south of the property and a very comfortable distance away from the proposed building. Due to the combination of the single storey design and this separation distance it is not considered that the addition of a holiday let in this location would result in harm to the residential amenity of occupants of The Minns regarding adverse overlooking and overbearing development. The proposal would therefore be in accordance with criteria vi) of policy E4 of the emerging Local Plan and Paragraph 130 of the NPPF (2021).
- 2.20 Concerns have been raised regarding activity, noise and disturbance associated with the use of the holiday let. A holiday accommodation use would be different to a permanent residential dwelling. In turn, whilst there might be some noise from vehicle movements and convivial activity, this would be no different to the noise resulting from the other residential properties in the vicinity, and being from holiday accommodation, would be of a reduced scale. In the event of planning permission being granted, a condition is recommended to control the occupation to holiday accommodation only, to ensure that the building is not occupied as someone's main or sole place of residence.

### Highways

- 2.21 The application has been considered in relation to policies DM11, DM13 and draft policies TI1 and TI3. 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, or the residual cumulative impacts on the road network would be severe.
- 2.22 The submitted drawing shows sufficient parking and manoeuvring space within the site for vehicles to enter and leave in a forward gear and access to the site is existing. In turn, given the nature of the development it would not result in traffic generation that would adversely impact on the local rural road network. The proposal is therefore in accordance with policies, DM11, and DM13 and draft policy TI3 and criteria vii) and viii) of draft policy E4 of the emerging Local Plan.

### Other Matters

- 2.23 Reference has been made in representations to the previous decision to refuse a dwelling within the vicinity of the site which was sustained on appeal. However, the planning committee is advised that this application related to a permanent residential dwelling of a significantly greater scale and massing and on a much larger plot. Policies relating to new dwellings in the countryside are different to those for tourism accommodation and such a use can be controlled by way of a planning condition to ensure that it does not become a permanent residential dwelling in the future. In turn, what is proposed is a very modest single storey building on a reduced area of land commensurate with the tourism



use. The visual impact in the wider landscape would therefore be significantly reduced compared with the appeal scheme.

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

- 2.24 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. 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.
- 2.25 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.
- 2.26 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.
- 2.27 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.
- 2.28 It is noted that the draft Local Plan contains a Policy requiring a financial contribution towards the erection of new dwellings within a 9km zone of influence of the SPA (Policy NE3). This application was submitted prior to the publication of the Regulation 19 plan and as such, notwithstanding the creation of a new dwelling (holiday let), on this occasion it is not considered appropriate to require a contribution under the draft policy as the application was submitted in advance of the Regulation 19 plan when the impact of development of this scale would have been mitigated by larger scale development.

### **3. Conclusion**

- 3.1 Significant weight is applied to the requirements of the Development Plan and NPPF policies. It is also acknowledged that the 'tilted balance' approach under paragraph 11 of the NPPF should be applied.
- 3.2 There is support in the NPPF for sustainable rural tourism but an acknowledgement that such uses might need to be found beyond existing settlements. In turn, whilst the development is contrary to policy DM1 of the Core Strategy, this policy is out of date and therefore the 'tilted balance' is thus engaged. In turn, the development would comply with the criteria within policy E4 of the emerging Local Plan but at this time this policy can only be given moderate weight. It has been stated that the proposed design, form, scale and layout of the development, is sympathetic to the local character of the surrounding area, and there would be limited harm to the intrinsic character and beauty of the countryside. There would be additional mitigation from the removal of the storage container and the touring caravan from the site. Given that there is a lawful development certificate allowing this use of the land then in the event of planning permission being granted then their removal would be secured by way of a Unilateral Undertaking. There would be no harm to residential amenity, highway safety nor nature conservation.
- 3.3 Set against the requirements of the 'tilted balance', it is not considered that the proposal would undermine any key aspects of policy in the NPPF, and any adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework and taken as a whole. In the circumstances of this case, it is considered that planning permission should be granted subject to the conditions specified below.

**g) Recommendation**

- I PLANNING PERMISSION BE GRANTED, subject to the completion of a Unilateral Undertaking to ensure that the said land will not be used for the stationing of a steel container and a touring caravan and subject to the following conditions:
1. Time Limit
  2. Approved plans
  3. Materials as approved
  4. Use as holiday accommodation
  5. Landscaping scheme (specifically relating to retention of the hedgerow at 2m to the east and fronting the road and details of the provision of a line of newly planted native hedgerow to the west
  6. Removal of container
- II Powers to be delegated to the Head of Planning and Development to settle any necessary planning conditions and the Unilateral Undertaking in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Amber Tonkin

*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).*