

a) **DOV/21/01237 – Erection of 9 dwellings, new vehicle access, associated parking and landscaping – Phase II, Land South of Mill Field, Ash**

Reason for report – Number of contrary views (6 objections including the Parish Council)

b) **Summary of Recommendation**

Planning permission be granted

c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, CP3, CP4, CP5, CP6, DM1, DM5, DM11, DM12, DM13, DM15, DM16

National Planning Policy Framework (NPPF) (2023): Paragraphs 2, 7, 8, 11, 38, 80, 83, 110, 130 - 135, 159, 167, 174, 180, 181, 185

National Planning Practice Guidance & Kent Design Guide

National Design Guide & National Model Design Code (2021)

Planning (Listed Buildings and Conservation Areas) Act 1990

SPG4 Kent Vehicle Parking Standards

Countryside and Rights of Way Act 2000

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: SP1, SP2, SP3, SP4, SP5, SP11, SP12, SP13, SP14, SP15, CC1, CC2, CC4, CC5, CC6, CC8, PM1, PM2, PM3, PM4, H1, H2, TI1, TI3, TI5, NE1, NE2, NE3, NE4, NE5, HE1, HE3

Ash Parish Council Neighbourhood Development Plan 2018-2037 (2021): ANP1, ANP3, ANP4, ANP5, ANP6, ANP7c, ANP8, ANP9, ANP13, ANP14, ANP15, ANP16

d) **Relevant Planning History**

DOV/15/01225 – Erection of ten dwellings and associated garages, parking and vehicular access – Granted

DOV/18/00533 – Variation of Condition 2 of planning permission DOV/15/01225 to allow changes to approved drawings (application under Section 73) - Granted

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

Representations can be found in full in the online planning file. A summary has been provided below:

Ash Parish Council – Initially in response to the original scheme proposed for 10 dwellings, objected to the following parts of the application and requested further

information and contributions. In response to the revised scheme for 9 dwellings, objected to parts of the proposals and requested further information and conditions. Objected to the absence of information on how there would be enhancement of existing vegetation, how it would be protected and managed once the development is completed; that the west, south and east boundaries are not 10m; that the site is not being connected to EE111. Requested further information on 10% biodiversity net gain; sustainable construction; nutrient neutrality; site levels. Requested conditions were imposed for details of the boundary treatment, management plan and depth of west, south and east boundaries and north buffer zone; installation of a kissing gate from the site to EE111 and ground support; lighting to not affect night time skies; Thanet Coast and Sandwich Bay SPA and SAC mitigation; conservation of protected species and additional features to support them as per recommendations of ecology report; electric vehicle charging points not less than 5 per unit and preferably one per unit; fibre to the premises; details of building materials; construction management plan. Request the following financial contributions: minimum of £423.21 per 3 bed dwelling and £523.96 per 4 bed dwelling towards Ash Recreation Ground Play facilities; Ash Sports Pavilion requests £413.28 per 3 bed dwelling and £511.68 per 4 bed dwelling towards Outdoor Sports facilities. Do not feel that the % of buildings matched up to the application and leaves a lack of 1 or 2 bed properties (30%). Request that any open and/or shared spaces be maintained by a management company established by the developer with ongoing maintenance responsibilities held by this company.

KCC Public Rights of Way and Access Service – Public footpath EE111 runs adjacent to the proposed development. They raise no objection and suggest four informatives (to be included on the decision notice if permission is granted).

KCC Flood and Water Management – Initially recommended a holding objection and requested the submission of further information. However upon receipt of further information, advised that they were satisfied for further infiltration testing to be submitted as part of the detailed design, with the hydraulic modelling updated accordingly. Soakage tests must be compliant with BRE 365 and should be undertaken at the location and depth of the proposed features. Detailed design should utilise a modified infiltrate rate and demonstrate that any soakaway will have an appropriate half drain time. The imposition of conditions was requested to address the following matters:

- Submission of a detailed sustainable surface water drainage scheme
- Submission of a verification report pertaining to the approved surface water drainage system
- That where infiltration is to be used to manage surface water from the development, it will only be allowed within the parts of the site where information is submitted to demonstrate there is no resultant unacceptable risk to controlled waters and/or ground stability

KCC County Archaeology – Note the application is accompanied by a report setting out the results of archaeological field evaluation works carried out in support of the application, identifying several archaeological features (including various ditches and pits, perhaps indicative of settlement activity) largely dating to the Early Iron Age with some more limited evidence also for Late Iron Age/Romano-British Activity. Recommend the imposition of a condition for a programme of archaeological work in accordance with a written specification and timetable to be submitted to and approved by the local planning authority (LPA).

Environmental Protection – have no objections, however recommend a condition requiring submission of a robust construction management plan.

Housing Development Manager – this is a development of 9 units in a rural settlement. 30% of the properties should be for affordable housing which ideally should be provided on site or an off-site payment needs to be agreed. No details of affordable housing contributions have been included within the application.

KCC Economic Development – Initially requested financial contributions and for all homes built as wheelchair accessible & adaptable dwellings in accordance with Building Regs Part M 4 (2) and imposition of a condition requiring the installation of fixed telecommunication infrastructure and high speed fibre optic. However, following revision of the number of dwellings proposed, withdrew their request for contributions on the basis of the new dwelling mix.

Natural England – initially advised that further information was required to determine impacts on designated site due to the potential for a likely significant effect on Stodmarsh Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar Site, Site of Special Scientific Interest (SSSI), National Nature Reserve (NNR) and the Thanet Coast and Sandwich Bay SPA and Ramsar. Upon consultation on the revised proposals, advised that their previous advice applied and the amendments are unlikely to have significantly different impacts on the natural environment than the original proposal.

Environment Agency – have assessed the application as having low environmental risk and have no comments to make. The applicant may be required to apply for non-planning consents directly from the Environment Agency (to be included as an informative).

Southern Water – requires a formal application for a connection to the public foul sewer to be made by the applicant/developer. Provided advice on sustainable drainage systems (SuDS) (to be included as an informative if permission is granted) and that the advice of technical staff should be sought on the adequacy of soakaways to dispose of surface water from the development. Requested an informative is attached requiring the submission of details of means of foul sewerage and surface water disposal prior to construction of the development. It is possible that a sewer now deemed to be public could be crossing the development site and should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Affinity Water – do not have any comments to make.

Senior Natural Environment Officer – is satisfied that the preliminary ecological appraisal (PEA) report submitted presents an appropriate level of ecological survey work to inform the determination of the application with regard to potential ecological impacts. A badger sett has been identified on the site and without the implementation of mitigation, there is potential for impacts and a risk of conflict between the badgers and future residents of the development. Mitigation proposals are included in the PEA; some can only be carried out under licence which must be sought from Natural England, to derogate from offences to badgers and their setts. A condition for the submission of details and implementation of mitigation measurements is suggested (to include provision of a corridor for badgers along the south and eastern boundaries outside of the gardens and reinforced with badger proof fencing – subsequently shown on the amended plans and considered acceptable subject to being secured

by condition, provision of badger proof fence within building foundations of specific plots (13, 14, 15 and 16) to prevent future badger sett digging resulting in subsidence, provision of galvanised chain link mech and membrane beneath the gardens of specific plots (13, 14, 15 and 16)). A condition for a scheme of biodiversity enhancement measures in line with the recommendations of the PEA was suggested.

Third Party Representations:

5 members of the public have written in objection and comments are summarised below. Matters such as loss of views and impact on property values are not material considerations and have not been included below.

- Residential amenity – land level is higher than current level of Mill Field, concerns regarding privacy (including during construction phase) and overlooking, concerns regarding noise and disturbance/mess during construction
- Visual amenity – height of houses will alter valued landscape views across from Staple to Ash
- Security/lighting – no street lighting installed in Phase 1. Concerns that without lighting there could be issues with security. Concerns whether road will be adopted and street lighting installed.
- Deliverability – concerns that development was submitted barely 1 year after neighbourhood development plan was published which envisaged 5-10 year deliverability
- Design – concerns that planting proposed for phase 1 of development was not provided and whether proposed planting would be. Concerns whether green buffer zone between development and existing houses at Mill Field will be provided and enforced. Suggestions that land level should be lowered and deeper buffer provided between development and existing properties
- Archaeology – survey was undertaken, has this been accounted for and will further study be done.
- Ecology/wildlife – development would remove habitat for foxes, protected birds and badgers, will this be taken into consideration. Natural England have suggested biodiversity enhancements. Development should include wetland/ponds
- Cumulative impacts of developments within the village – pressures on local health, social care, education facilities, utilities, roads/pavements and other services. Has consideration been given to enhancing health and social care facilities or how they will be impacted. Already overpopulated/overdeveloped.
- Parking/highways – busy, narrow main road through village, some does not have pavement on both sides, little public parking available. There is potential for 40 additional cars wanting to use the streets or gaining access via Mill Field, has this been taken into consideration.
- Drainage – remedial work has been carried out on Phase 1 and drainage in gardens is poor, leaving many waterlogged after even mild rainfall. Concerns regarding surface water seeping into existing houses and gardens.
- Have previous comments from consultees been considered – will Natural England's comments on Stodmarsh SSSI be considered and a Habitats Regulations (HRA) be carried out.
- None of the properties will be affordable homes or starter homes for young families. No 1 or 2 bed homes for single people.
- Concerns regarding adherence to neighbourhood development plan.

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

- 1.1 The application site relates to a plot of land to the south of Mill Field, and to the north of Coombe Lane. The site is currently agricultural land and is bounded by hedgerow to the northwest, southwest and southeast and the gardens and vehicular access from Mill Field (Phase I of the housing development) to the northeast. The dwellings of Mill Field are predominantly two storey detached or semi-detached dwellings, finished in either red or yellow brick with tiled barn hipped or hipped roofs, with gardens to the rear and driveways to the front.
- 1.2 The proposals are to erect 9 dwellings with associated parking and landscaping. The development would be accessed from Mill Field (Phase I) and the proposed dwellings would be two storeys in height, having brown and red tiled hipped roofs, finished in stock bricks with black stained feather edge boarding, flint panelling, stone cills and uPVC windows and doors. 10 dwellings were originally proposed, however the number was reduced to 9 during the course of the application and was duly re-advertised and subject to further consultation.



Figure 1: Proposed Block Plan



Figure 2: Proposed sections through site

2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development
- Impact on visual amenity
- The impact on residential amenity
- Other material considerations

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 another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The site is located outside of, but in part adjoins the settlement confines identified in DM1. Notwithstanding this, the site is allocated for residential development (Policy ANP7c) within the Ash Parish Council Neighbourhood Development Plan 2018-2037 (September 2021). The proposals therefore accord with Policy DM1.
- 2.4 The NPPF advises, at paragraph 11, that proposals that accord with an up-to-date development plan should be approved without delay. An assessment of the most important policies for the determination of the application must be undertaken to establish whether the 'basket' of these policies is, as a matter of judgement, out-of-date. Additionally, criteria for assessing whether the development plan is out-of-date are explained at footnote 7 of the NPPF. This definition includes: where the council are unable to demonstrate a five-year housing land supply; or, where the council has delivered less than 75% of the housing requirement over the previous three years (the Housing Delivery Test). The Council are currently able to demonstrate a five-year supply and have delivered 88% of the required housing as measured against the housing delivery target; above the 75% figure which would trigger the tilted balance to be applied. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.
- 2.5 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver a greater number of dwellings per annum. As a matter of judgement, it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result of this, should carry only limited weight.
- 2.6 Ash Parish Council Neighbourhood Development Plan (ANP) allocates the site for residential development with an estimated capacity of 9 dwellings (Policy ANP7c). NPPF Paragraph 14 sets out that "In situations where the presumption (at paragraph

11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply⁹: a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made; b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement; c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74); and d) the local planning authority's housing delivery was at least 45% of that required¹⁰ over the previous three years. The neighbourhood plan was adopted just over two years ago, such that development conflicting with the neighbourhood plan is not considered to disengage the presumption of NPPF Paragraph 11.

- 2.7 Policy ANP7c sets out that proposals which meet the following criteria will be supported:

7c.1 Any application of development is preceded by an archaeological assessment of the site and its submission to Kent County Council;

7c.2 The existing boundary hedgerows and veteran trees are retained and enhanced with native/indigenous species as part of the development boundary; new hedgerows of no less than 10 metres width should be established along the southern, western and eastern boundaries;

7c.3 A green buffer zone is provided between the development and the existing houses to the north side of the site; and

7c.4 Vehicular access to the site is from the existing road through Millfield.

As discussed further in this report, it is considered that the proposals accord with points 7c.1, 7c.3 and 7c.4, however conflict with point 7c.2 as whilst new hedgerows are proposed, they are less than 10m in width.

- 2.8 The Draft Local Plan was submitted for examination in March 2023 and its policies are considered to be material to the determination of applications, with the weight attributed to the policies dependant on their compliance with the NPPF. Draft Policy SP1 of the Submission Draft Dover District Local Plan seeks to ensure development mitigates climate change by reducing the need to travel and Draft Policy SP2 seeks to ensure new development is well served by facilities and services and create opportunities for active travel. Draft Policy TI1 requires opportunities for sustainable transport modes to be maximised and that development is readily accessible by sustainable transport modes.
- 2.9 Draft Local Plan Policy SP4 sets out the appropriate locations for new windfall residential development which seeks to deliver a sustainable pattern of development, including within the rural area where opportunities for growth at villages (in line with Paragraph 79 of the NPPF) are confirmed. The policy is underpinned by an up-to-date evidence base of services and amenities at existing settlements and takes account of the housing need across the district. The site is located outside of, but immediately adjoining the draft settlement boundaries (Ash being a tier 1 settlement for the purposes of SP4) and is considered to accord with draft Policy SP4.
- 2.10 It is considered that policy DM1 is in tension with the NPPF, although for the reasons given above some weight can still be applied to specific issues it seeks to address, having regard to the particular circumstances of the application and the degree of compliance with NPPF objectives, in this context. The development would also accord with the objectives of draft Policy SP4, which is considered to attract moderate weight in the planning balance, being devised on the basis of current housing targets

and the NPPF. The proposals do not fully accord with the requirements of Policy ANP7c, however as set out above, the conflict with the neighbourhood plan is not considered to disengage the tilted balance of NPPF Paragraph 11 and the policy is considered to attract substantial weight in the planning balance. Notwithstanding this, Policy DM1 is particularly critical in determining whether the principle of the development is acceptable and is considered to be out-of-date, such that the tilted balance approach of Paragraph 11 of the NPPF is engaged. An assessment as to whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits (and whether this represents a material consideration which indicates that permission should be granted) will be made at the end of this report.

Impact on Visual Amenity

- 2.11 As discussed above, the site is allocated for residential development in the Ash Neighbourhood Development Plan, which forms part of the Development Plan. Whilst the site is currently undeveloped, paragraph 1.49 of the Core Strategy (2010) sets out that for the purposes of Policy DM15, the definition of countryside is considered to exclude any land allocated for development in the Core Strategy or other local development framework documents. Notwithstanding this, Policies DM15 and DM16 are relevant in respect of the impact of the development on the wider landscape and countryside, together with Paragraph 174 of the NPPF and draft Policy NE2. The policies seek to protect the countryside and character of the landscape, setting out criteria by which development that would adversely affect or result in harm would be permitted. Paragraph 174 of the NPPF seeks to recognise the intrinsic character and beauty of the countryside.
- 2.12 The site is located immediately south of the residential street of Mill Field which contains predominantly two storey dwellings, with terraces to the western half and more recent detached and semi-detached dwellings to the eastern half. There are also detached dwellings, set within larger plots which are more rural in appearance, on either side of the site fronting Moat Lane and Coombe Lane (to the south of the site). Whilst there is open countryside further south of the site on the opposite side of the highway, it is considered that the proposed dwellings would be seen within the context of the existing residential development in Ash.
- 2.13 There is an existing hedge along the southern boundary of the site (adjacent to Coombe Lane) which is shown as being retained on the proposed site plan. As set out at paragraph 2.7, ANP7c seeks for the existing boundary hedgerows and veteran trees to be retained and enhanced with indigenous species as part of the development boundary. It sets out that new hedgerows of no less than 10m in width should be established along the southern, western and eastern boundaries. In accordance with the policy, the proposed site plan demonstrates that the existing boundary hedgerow to the east, south and west would be retained. There are no veteran trees within the site (confirmed in the tree report), however the existing plum tree would be retained. An additional conservation hedgerow is proposed to be planted within the site adjacent to the southern boundary, however this would be less than 10m in depth, contrary to the objectives of the policy. The design and access statement submitted with the application considers that the provision of a 10m buffer would constrain the site and that there is an inability of the site to accommodate such a wide tree/hedgerow buffer given the need to balance issues relating to design, layout, access construction and impacts upon existing neighbours. It is noted in the Parish Council's response that they would wish to see an alternative layout for 9 units. They consider that the "design of the dwellings would not necessarily need to change;

access construction is a short term factor and it is not clear how this would be affected by a change in layout”.

- 2.14 The following image (figure 3) shows the extent of a 10m buffer (outlined in red) based on the original layout of 10 dwellings at the site. In order to accommodate the buffer area, it is considered that the scale and layout of the development would need to be significantly reduced, to the extent that it may not be possible to accommodate the 9 dwellings now sought, with necessary road, parking turning space and gardens.



Extract from the proposed site plan 2021-09-01. The dotted red line shows the approximate extent of a 10m buffer zone of boundary screening as required by NDP Policy ANP7c

Figure 3. Plan showing the extent of a 10m buffer zone as outlined in red

- 2.15 In the interests of visual amenity, it is considered appropriate to impose a condition requiring further details of the proposed landscaping and it would be expected that the existing hedgerow would be enhanced. Whilst a 10m depth would not be achievable based on the current layout proposed, it is considered that enhanced planting with appropriate maintenance could effectively soften views of the development from the countryside to the south of the site (and the conflict with this part of the Policy is not considered to result in such significant harm to warrant refusal of the application).
- 2.16 Having had regard to paragraph 130 of the NPPF and draft policies PM1 and NE2, it is considered the scale of the dwellings would be compatible with existing development in the vicinity, that the materials proposed would be in keeping with the existing material palette and that the layout of the development would be appropriate

at the edge of the built settlement. Subject to the imposition of conditions requiring the submission of samples of the materials to be used in the construction of the dwellings, details of landscaping and levels (discussed further below), it is considered the development would preserve the character and appearance of the street scene, the wider countryside and landscape area, and would accord with the objectives of the NPPF, the Neighbourhood Plan and the Core Strategy (and draft local plan).

Impact on Residential Amenity

- 2.17 The land rises towards the southwest of the site and as the site is adjacent to the rear and side gardens of properties in Mill Field, there is the potential for the proposals to impact residential amenity.
- 2.18 A two storey semi-detached dwelling would be erected to the southwest of No. 23 Mill Field. The dwelling would be set away from this property, although an attached garage would be constructed adjacent to the boundary (separated in part by a hedge) and would project beyond the rear building line of the dwellings. Both this and the main roof of the proposed dwelling (plot 11 on drawing 2023-01-01) would have a barn hipped roof. Due to the orientation of the site and direction of the sun path, the proposed development would cast shadow towards No. 23 throughout the day. The approved plans for the property (DOV/18/00533) indicate that the majority of windows on the flank elevation of this dwelling serve non habitable rooms (WC, bathroom and landing) or would be a secondary window to a room served by larger openings on the southeast elevation (a lounge). As such, on balance, the proposals are considered unlikely to result in such significant harm to warrant refusal.
- 2.19 Whilst directly visible from No. 23 Mill Field, due to the siting and scale of the proposals, it is considered the development would be unlikely to result in an unacceptably overbearing or enclosing impact on neighbouring amenity. In respect of privacy, the closest proposed dwelling to No. 23 Mill Field (proposed plot 11) would feature windows on the front and rear elevations overlooking the parking area and garden respectively. There would be a window at ground floor level serving a WC and windows at first floor level serving a staircase and bathroom (with a distance of approximately 11m between the main flank elevations of the two dwellings (excluding the garages)). In the interests of privacy of the neighbouring occupiers, it is considered appropriate to impose a condition requiring these windows to be fitted with obscured glazing. Subject to this, the impact on the privacy of this neighbouring dwelling is considered to be acceptable.
- 2.20 A two storey detached dwelling is proposed in the northwestern corner of the site (plot 19), to the south of Nos. 14 and 16 Mill Field. There would be an attached garage constructed to the north side of the dwelling which would be approximately 5.5m from the boundary with the neighbouring gardens, however there would be a greater separation distance between the main flank elevation of the proposed dwelling and the garden boundaries to the north. Due to this and the design and appearance of the proposals, it is not considered that development would result in an unacceptably overbearing impact. There would be a high level window at first floor level on the flank (north) elevation of the dwelling which would face towards these neighbouring properties, however this would be a secondary window to a master bedroom which would also be served by a larger window on the rear elevation of the dwelling. As such, the proposals are considered unlikely to result in significant harm to neighbouring privacy. Whilst the proposed dwelling would cast shadow towards these neighbouring properties and their gardens throughout the day, the majority of shadow would fall across the site and garage and the development would not cause an unacceptable level of overshadowing or loss of light.

- 2.21 A number of other dwellings are located to the north of the site and the proposals would be directly visible from the windows and rear gardens of these properties. There would be a distance of approximately 25m between the existing dwellings and proposed dwellings (No. 24 Mill Field and Plot 16) and a distance of approximately 18.75m between plot 16 and the rear garden boundary of No. 24 Mill Field (with a greater separation distance of approximately 25m between the proposed dwellings and other dwellings within Mill Field). However, the proposed dwellings would be set further south of the existing Mill Field dwellings, separated by the proposed private access road, visitor parking and landscaping (including new mixed conservation hedge which would be planted). Concerns have been raised in respect of the difference in ground levels between the site and existing Mill Field dwellings and impact on privacy. Whilst levels have been indicated on the proposed site plan and cross sections of the site have been provided (although do not demonstrate the relationship to the existing dwellings at Mill Field), in order to ensure the development is constructed at appropriate ground levels, it is considered appropriate to impose a condition requiring details of floor, eaves and ridge levels for all new dwellings.
- 2.22 Mixed conservation hedgerow is proposed within the site which would provide some screening, as well as add to the visual amenity of the development. It is considered appropriate to suggest a condition is imposed requiring further landscaping details to be submitted to ensure the planting is provided and maintained. Environmental Protection have also reviewed the proposals and recommend the imposition of a condition for a construction environmental management plan, to demonstrate adoption and use of best practicable means to reduce the effects of noise, vibration, dust and site lighting. Subject to this, and due to the design, siting and appearance of the development, it is considered the proposals would be unlikely to result in a significant overbearing impact on residential amenity, overshadowing or to result in unacceptable harm to the privacy of occupants in the wider area (including Coombe Lane and Moat Lane), having had regard to the objectives of NPPF Paragraph 130 and draft Policy PM1.
- 2.23 In respect of the amenities of the proposed occupiers, the dwellings would be located in a predominantly residential area, within walking distance of the services and facilities available in Ash. The proposed dwellings would contain three or four bedrooms, with well-proportioned kitchen/dining rooms and living rooms and private gardens. The design and access statement sets out that, in relation to ANP7c, the majority of the proposed dwellings have been designed to consider 'design for life' principles (e.g. level thresholds, living space enabling wheelchair access) and level thresholds will be provided for all dwellings. Cycle storage would be provided within garages and refuse/recycling storage would be provided within the gardens. As such, it is considered that occupiers of the development would enjoy a high standard of residential amenity in accordance with NPPF Paragraph 130(f) and the broad objectives of draft policies PM1 and PM2.

Other Material Considerations

Archaeology

- 2.24 The site is located in an area of archaeological potential and in line with the requirements of policy ANP7c (as well as draft Policy HE3 and NPPF Paragraph 194), a report setting out the results of archaeological field evaluation works has been submitted. This has been reviewed by KCC County Archaeology, who recommend a condition is imposed for a programme of archaeological work. Subject to this, the development is considered to be acceptable in this respect.

Parking and Highways

- 2.25 Access to the site would be via the non-adopted section of Mill Field, in accordance with ANP7c. The agent has confirmed in the design and access statement that although the road has been designed and would be constructed to adoptable standards, it would remain a private highway. Each dwelling has been designed to accommodate three off-street parking spaces (some of which would include tandem parking), in addition to garages (which are not included in parking provision). Three visitor parking bays are also proposed adjacent to the northern site boundary. Having had regard to Policy DM13, ANP13 and draft Policy TI3, the resident and visitor parking proposed is considered to accord with the parking requirements.

Impact on Flood Risk/Drainage

- 2.26 The site lies within Flood Risk Zone 1 which has the lowest risk of flooding (and as such no sequential or exceptions test is required). Due to the scale of development proposed and in line with the NPPF, a Drainage Impact and Flood Risk Assessment (Tridax Ltd received 3rd August 2021) has been submitted. The report includes detailed design drawings showing that the surface water would be discharged via soakaways and the foul sewage would be disposed of to the mains sewer.
- 2.27 The Environment Agency has assessed the application as having a low environmental risk and have no comments to make, although advise that non-planning consents may be required (to be included as an informative if permission is granted). Affinity Water have no comments on the proposals and no objections are raised by Southern Water (although the advice and informative included in their response will be an informative on the decision notice). KCC Flood and Water Management have reviewed the application and following initial requests for further information, advised that they were satisfied for further infiltration testing to be submitted as part of the detailed design. They requested conditions are imposed for the submission of a detailed sustainable surface water drainage scheme, a verification report pertaining to the approved scheme (to demonstrate the drainage constructed is consistent with the approved scheme), and for infiltration to manage the surface water from the development to only be allowed in the parts of the site where information is submitted to demonstrate there is no resultant unacceptable risk to controlled waters and/or ground stability. Subject to the imposition of these conditions, the proposals are considered to be acceptable in this respect, having had regard to the objectives of the NPPF and Policy CC5.

Trees and Ecology

- 2.28 In accordance with the Habitats Directive 1992 (to ensure the precautionary principle is applied) and the Wildlife and Countryside Act 1981, it is necessary to ensure the application has no adverse impact. In furtherance, regard must be had for whether the development would cause any harm to habitats or species on or adjacent to the application site, in accordance with paragraphs 174 and 184 of the NPPF.
- 2.29 A preliminary ecological assessment (PEA) has been submitted as part of the application which records the findings of a site visit to search for protected and other species and suitable habitat. This found that there was no suitable habitat for common reptiles, no trees or buildings that might be used by bats, no ponds on site or within proximity suitable for great crested newts and negligible habitat for breeding birds (although care would need to be taken not to disturb the habitat in breeding season), however protected species were identified at the site. A number of recommendations are made in the report, which has been reviewed by the Senior

Natural Environment Officer who is satisfied that an appropriate level of ecological survey work to inform the determination of the application with regard to potential ecological impacts has been provided. They consider that without the implementation of mitigation, there is potential for impacts to these protected species and there is also a risk of conflict between future residents of the development and these species. Some of the mitigation measures proposed can only be carried out under licence from Natural England (and an informative will be included to this effect if permission is granted). In line with the objectives of the NPPF to improve biodiversity in and around developments, they recommend a condition is imposed requiring the submission of details and implementation of the biodiversity enhancement measures provided in the recommendations of the PEA, as well as a condition to provide mitigation measures for the protected species at the site to avoid conflicts with the future residents of the development if permission is granted.

- 2.30 Policy ANP4 states that developments should provide biodiversity net gains of not less than 10%. No assessment has been submitted with this application, however 10% biodiversity net gain is not yet a national requirement for minor developments. Notwithstanding this, additional native landscaping is proposed within the site.
- 2.31 As part of the application a tree constraints plan, tree protection plan and pre-development tree survey and report have been submitted. None of the trees within the site are subject to a TPO and all trees are proposed to be retained. The report includes details of a construction exclusion zone and recommendations and measures such as protective fencing that will be put in place to protect trees. Having had regard to NPPF Paragraph 174, ANP4, ANP7c, draft policies CC8, PM1, NE1 and NE2, it is considered appropriate to impose conditions requiring the development to be carried out in accordance with the submitted tree protection measures, and for a detailed landscaping scheme (including hard and soft landscaping, as well as planting schedules, species and numbers and details of boundary treatments) to be submitted.

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

- 2.32 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.33 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. Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.34 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.

- 2.35 It is noted that the Submission draft Local Plan (2023) contains Policy NE3 which requires development within a zone of influence of the SPA to provide a financial contribution towards monitoring and mitigation measures. This is also set out within Policy ANP4, point 4.2 of the Ash Neighbourhood Development Plan. However, this application was submitted prior to the publication of the Regulation 19 Policy and as such, notwithstanding the proposed creation of 9 new dwellings, 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 (less than 14 dwellings) would have been mitigated by larger scale development.
- 2.36 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 will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.
- 2.37 The site is within the Little Stour and Wingham Catchment and the foul sewage from the development would likely be connected to the mains drainage (due to the proximity to existing connections and in line with the hierarchy) which would be treated at Dambridge Waste Water Treatment Works. A connection between development in this location and the European Protected sites at Stodmarsh has been identified. It is noted that ANP4 seeks for development to achieve nutrient neutrality regarding the Stodmarsh SAC/SPA/Ramsar site. Notwithstanding this, further investigations have been undertaken in this regard to establish the extent of the connection between development within the relevant parts of the District and the Stodmarsh site. Subsequently the local planning authority, as the 'competent authority' is satisfied (following consultation with Natural England), that discharges of wastewater would not have a likely significant effect on the integrity of the Stodmarsh SAC, SPA and Ramsar site.

Other Matters

- 2.38 Contributions of a minimum of £423.21 per 3 bed dwelling and £523.96 per 4 bed dwelling towards the Ash Recreation Ground Play facilities have been requested by the Parish Council. The consultation response also states the Ash Sports Pavilion requests a minimum of £413.28 per 3 bed dwelling and £511.68 per 4 bed dwelling towards outdoor sports facilities. Policy ANP3 seeks for developments of 5 or more dwellings to provide appropriate green and open spaces, in accordance with the District Council's standards. Having had regard to Policy DM27, no open space is proposed within the development, however access to open space is available. A contribution towards improvements and maintenance of facilities at Ash Recreation Ground (towards the projects identified in the Infrastructure Delivery Schedule) has been requested by the Policy Team (£1,078.43 for accessible greenspace and £4,514.17 for children's equipped play space) and the agent has confirmed this can be secured via legal agreement if permission is granted.
- 2.39 Policy ANP1.6 seeks for developments to demonstrate how they will positively accommodate, divert or enhance paths and link networks. The Parish Council have requested a connection is provided between the site and the public right of way (EE111) to the west. The design and access statement sets out that a link to the public footpath has not been proposed in the interests of 'Designing out Crime'. Notwithstanding the objectives of Policy ANP1, it is considered that residents of the development would be able to reach the services and public transport available within the settlement via the existing footpaths within Mill Field.

2.40 The Strategic Housing Manager has been consulted on the application, which originally proposed 10 dwellings (constituting major development). The number of units was revised to 9 (no longer major development). The Strategic Housing Manager advises that 30% of the properties should be for affordable housing which ideally should be provided on site or an off site payment should be agreed. Policy DM5 states that developments between 5 and 14 homes are expected to make a contribution towards the provision of affordable housing. However, NPPF Paragraph 64 states that "Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer)". Draft Policy SP5 requires the provision of affordable housing on schemes of 10 dwellings or more (and on sites of 0.5 hectares or more). Whilst the site area is approximately 0.55 hectares, this is not a designated rural area. Policies DM5 and SP5 are considered to be more restrictive than the NPPF and as such, in this instance it is not considered appropriate to require a contribution towards off site affordable housing for the proposed development.

Planning Balance

2.41 The site is allocated for development within the Ash Neighbourhood Development Plan (Policy ANP7c) and therefore accords with Policy DM1. The site is outside of, but adjacent to the draft settlement confines associated with draft Policy SP4 and as Ash is a tier 1 settlement, development adjoining the settlement boundaries such as this is considered to accord with SP4. It is acknowledged that some of the key (adopted) policies in the determination of the application are out of date and hold reduced weight and as such, the tilted balance approach set out in Paragraph 11 of the NPPF is engaged. In such circumstances, permission must be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Policy DM1 carries limited weight, however Policy ANP7c is considered to attract significant weight and draft Policy SP4 is considered to attract moderate weight in the planning balance.

2.42 Due to the design, siting and scale of the development, and subject to the suggested conditions which include landscaping, the proposals are considered to have an acceptable impact on visual amenity and the character and appearance of the countryside and wider landscape area. Subject to the imposition of conditions relating to levels, landscaping and obscured glazing, the development is considered unlikely to result in significant harm to the amenities of nearby residents. The impact on archaeology, parking and highways, flood risk and drainage, ecology and trees has been considered above and found to be acceptable subject to the imposition of suggested conditions, weighing in favour of the scheme. Overall, it is considered that the disbenefits of the scheme do not significantly and demonstrably outweigh the benefits, with material considerations indicating that permission should be granted, subject to relevant conditions.

3. Conclusion

3.1 As outlined above, the site is allocated for residential development within the neighbourhood plan (Policy ANP7c) and is considered to accord with Policy DM1 and draft Policy SP4. The tilted balance approach set out at Paragraph 11 of the NPPF is considered to be engaged as the policies most important for determining the application are out-of-date and in conflict to a greater or lesser extent with the NPPF. In light of this and in taking into account other material considerations, for the reasons

set out above, it is considered that the benefits of the development outweigh the disbenefits and it is recommended that permission be granted.

g) Recommendation

I PLANNING PERMISSION BE GRANTED subject to a legal agreement to secure financial contributions towards open space and the following conditions:

- (1) standard time condition
- (2) list of the approved plans
- (3) samples of external materials
- (4) details of any external lighting
- (5) parking provision and retention
- (6) development to be carried out in accordance with tree survey and tree protection plan
- (7) details of biodiversity enhancements
- (8) implementation of measures to secure the protection of protected species
- (9) obscured glazing to northeast elevation of Plot 11
- (10) landscaping scheme
- (11) details of finished floor levels, eaves levels and ridge levels, shown on a cross section through the site
- (12) detailed surface water drainage scheme
- (13) verification report pertaining to the surface water drainage scheme
- (14) restricting infiltration of surface water within the site to parts where information is submitted to demonstrate there is no resultant unacceptable risk to controlled waters and/or ground stability
- (15) implementation of a programme of archaeological work in accordance with a written specification and timetable
- (16) construction environmental management plan
- (17) restriction of meter boxes, vents and flues

II Powers to be delegated to the Head of Planning and Development to settle any necessary planning conditions, legal agreements and reasons in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Rachel Morgan