

- a) **DOV/22/01652 - Outline application for the erection of 1 self-build dwelling (all matters reserved except access) following demolition of former dwelling - Danefield House, St Mary's Grove, Tilmanstone**

Reason for report – Number of contrary views (54) and called in by Cllr Steve Manion. The reasons given are it contravenes draft policy SP4, is outside the village confines and it does not have appropriate vehicle access.

- b) **Summary of Recommendation**

Grant outline planning permission

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM11, DM13, DM15, DM16

Draft Dover District Local Plan (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 weight, depending on the nature of objections and consistency with the NPPF. Draft policies SP1, SP2, SP4, SP11, SP13, SP14, SP15, CC2, CC4, CC5, CC6, CC8, PM1, PM2, H5, TI1, TI3, TI5, NE1, NE2, NE3, HE1, HE2, HE3

National Planning Policy Framework (NPPF) (2023): Paragraphs 7, 8, 11, 12, 47, 48, 55, 56, 57, 60, 69, 79, 86, 92, 98, 100, 104, 110, 111, 112, 119, 120, 124, 126, 130, 131, 132, 134, 152, 154, 157, 159, 167, 174, 180, 183, 185, 194, 195, 203

National Design Guide & National Model Design Code (2021)

- d) **Relevant Planning History**

21/01510 - Outline application for the erection of up to 12 no. self-build dwellings and 4 no. affordable dwellings (all matters reserved except access) (existing building to be demolished) – Withdrawn

14/00209 - Erection of a detached replacement dwelling, with detached garage, erection of detached stable building and equestrian arena, together with associated car parking, access, landscaping and front wall and gates - Withdrawn

04/00829 - Erection of detached dwelling and garage block with accommodation over (existing dwelling to be demolished), provision of new vehicular access and change of use of land for the keeping of horses and erection of stables and associated works - Withdrawn

02/00699 - Development of 12no. 'affordable' dwellings, 13no. private houses, two tennis courts, village green and paddock - Refused

98/00555 - Change of use from class C2 to single dwelling: extensions to provide conservatory and double garage - Granted

95/00449 - Renewal of application DOV/90/0060 - conversion to residential home and extension of buildings - Withdrawn

90/00060 - extension & conversion to residential home(Class C2) - Granted

88/01702 - outline - residential development of 6 houses - Refused

88/00862 - conversion of house to provide two separate dwellings - renewal
DO/83/842 - Granted

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

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

Tilmanstone Parish Council-. Raised concerns that documentation submitted is ambiguous in its content by making references to numbers of dwellings beyond the single dwelling description. Need to be sure there is no subsequent suggestion of the details submitted being used to support any future proposal(s) to increase the number of dwellings. On the basis of above Tilmanstone Parish Council supports the application for the erection of 1 self-build dwelling following the demolition of the former dwelling, and only on this basis. It should be noted that the Parish Council originally objected to 4 no. dwellings, due to highways matters at St Marys Grove and site is located outside the settlement boundaries.

Environment Agency- No comments as it falls outside remit as a statutory consultee.

Southern Water – The EA should be consulted directly by the applicant regarding the use of a private wastewater treatment works which disposes of effluent to sub-soil irrigation.

KCC PROW– No comments

KCC Archaeology- No response

KCC Highways – The original application sought a larger number of dwellings at this site and this application seeks a significant reduction, however this remains some increase in movements on St Marys Grove from site. Bus services are limited to 1/2 each way services Monday to Friday with only 1 service on a Saturday which cannot be considered a regular, it is likely that residents will rely almost exclusively on a private car.

As this is an outline application with all matters reserved except access, the amended site plans have been expanded to include the access as now proposed and visibility. Splays should be 2.4m setback by 43m in either direction to the carriageway edge, based upon the 30mph speed limit. Splays should fall over land under control of the applicant or KCC. Any gates to be erected at the access should also be included on plans and setback a minimum of 5m opening into the site to prevent vehicles waiting on the highway causing obstruction. Furthermore, the access should be constructed of bound surface for a minimum of 5m, to prevent debris being dragged onto the highway.

DDC Environmental Health – Recommends conditions to deal with contamination.

DDC Ecology- The potential for a range of ecological impacts is identified in the Ecological Impact Assessment (EclA), and mitigation measures are proposed. Ecological enhancement measures are also proposed. A new Ecological Impact Assessment (EclA) has been submitted, reflecting the change to the redline boundary. Although an updated site assessment has been undertaken, no new protected species surveys have been carried out, so the applicant is still relying on the 2021 ecological

surveys. These have not been reproduced in the new EclA, so there is a need to refer to the previous EclA for details.

The suite of potential ecological impacts remains at a different scale. There is identified potential for impacts to: roosting bats, foraging and commuting bats, hazel dormice, badgers, breeding birds, reptiles, great crested newts, hedgehogs, harvest mice and 'common mammals', in addition to woodland (habitat of principal importance / BAP habitat), and recreational impacts to the SPA / Ramsar site.

The proposed mitigation measures are likely to be achievable for: SPA (SAMM payment), foraging and commuting bats (lighting, landscape planting), badgers (update surveys, protective buffers), breeding birds (timing of habitat removal etc), hedgehogs (precautionary vegetation and habitat pile clearance) and harvest mice (ecologist check for nests prior to habitat removal). Details can be secured by conditions.

It is reported that proposals will seek to retain the woodland within the site, it is queried how this can be certain in the long term when the woodland will be within the curtilage of the proposed development. Further consideration must be given to the potential impacts of the loss of the trees/woodland, if their retention cannot be secured. Information is also sought to identify the trees with bat roosting potential within the site, to understand the site's potential value for roosting bats prior to determination. The submission and implementation of a detailed mitigation method statement and enhancement proposals, informed by updated bat emergence surveys, can be secured by condition.

The 2021 reptile survey identified the presence of slow-worms and viviparous lizards on the site. It is proposed that reptiles will be translocated from the site to a reptile receptor site (located within the grassland field to the south of the site). I advise that further information is sought from the applicant regarding the extent of reptile habitat loss within the site, in addition to details of the reptile receptor site to confirm its location and the status of reptiles on the proposed receptor site. Additional information needs to be provided to demonstrate that the proposed translocation is acceptable. It is important that the submission considers the reasons for the common lizards' current restriction to the development footprint, including any key habitat features that are present and would be lost. The preference would be for an extension to the retained area of suitable habitat on the site.

If it is within the wider site that was subject to the 2021 reptile survey as part of the previous redline, the large population of slow-worms indicates limited scope for additional habitat enhancements to increase the carrying capacity, and the further information must outline the potential options for habitat enhancements, considering any limiting factors to the current reptile populations. As the reptile receptor area is offsite, its status, along with its long-term management for reptiles, will need to be secured.

It is considered that clarification is sought as to the extent of nesting bird habitat that will be lost. The implementation of the proposed mitigation measures will ensure that direct impacts to nesting birds are avoided, but a loss of nesting bird habitat should also be mitigated for, and the proposed provision of a few bird boxes seems unlikely to provide sufficient replacement opportunities for nesting birds. Opportunities for enhancing and managing habitat for nesting birds should be sought within the development.

The use of District Level Licensing for Great Crested Newt impacts is proposed, but submission is not accompanied by the Natural England-countersigned 'Impact Assessment and Conservation Payment Certificate' (CPC). It is advised that this must be sought prior to determination, to demonstrate that the potential impacts to Great Crested Newts will be addressed. If not provided, ecological assessments and surveys will be required so that the potential impacts can be considered in detail.

DDC Trees - Objection to the possible removal of T3 (Oak) to provide the visibility splay. The Arboricultural Impact Plan indicates that that T3 and T59B may need to be removed. T3 is located immediately adjacent to T2 (Beech) and form one canopy and it is difficult to see how T3 could be removed without affecting the visual amenity and long term health of T2 which would be left exposed to wind forces to which it is not accustomed. Objection to the removal of the vegetation along the entire 43 metre length of the splay as this is likely to be detrimental to the rural character of this location. In response to these comments the access and visibility splays have been repositioned in order that T2 and T3 are retained and no objections provided the tree protection measures and associated recommendations as set out in the Arboricultural Report are adhered to.

RSPB – Sufficient mitigation should be provided for impacts on Turtle Dove habitat. Additional mitigation measures should be provided beyond those already proposed in ECIA. A landscape and ecology management plan should be secured.

Third party Representations:

4 letters of support have been received as summarised below:

- Brownfield site, suitable for a small development.
- Restoration of house and site which has been derelict for a long time.
- The current ruin is an eyesore and a safety hazard.
- The unresolved matter of this site has been a long-time concern in parish.

50 letters of objection have been received and are summarised below:

- St Mary's Grove is narrow and with limited passing points, and not suitable to provide access. The proposal does not have adequate access, including for large vehicles.
- Concerns regarding the adequacy of the junction of St Mary's Grove and Dover Road to accommodate larger vehicles, and existing visibility at this junction.
- Dover road operates under the national speed limit for a road of its type.
- Lack of affordable housing
- Tilmanstone is identified with the Councils Settlement Hierarchy as a Hamlet and therefore is deemed unsuitable for further development.
- There is no justification or need for this development to allow it to take place beyond the confines and contravene policy, including SP4.
- The restoration is a welcome proposal but that in itself does not justify development as proposed.
- DDC concluded that there is no justification to include the site in its Regulation 19 Local Plan.
- The proposal is not sustainable. There are no local services or facilities which the development could make use of and there is no public transport since bus was withdrawn. Residents would rely on private car.
- Increase in traffic will have an impact on safety at this junction.
- St Mary's Grove carriageway width is 3, rather than 5m as stated.

- The visibility splays for the proposed access onto St Mary's Grove will contain trees covered by TPO's and has been overlooked by applicant.
- The development will result in an increase of traffic using Tilmanstone as a cut-through to Elvington, Shepherdswell and the A2.
- No public involvement/consultation has taken place and application is not supported by a Statement of Community Involvement.
- The application does not consider the existing ecological aspects of the site despite it containing significant flora and fauna and priority wildlife habitat.
- The site has significance and value to Tilmanstone in shaping its character and appearance. Impact on the character and tranquil and secluded nature of this part of the village.
- The utilities statement demonstrates a lack of attention to detail as it was submitted for application 21/01510, mentions 16 dwellings and is out of date.
- The original building would have been a characterful and extraordinary property and the remaining footprint should be respected.
- Danefield House is not capable of renovation.
- Disruption during construction stage, including traffic and pedestrian safety.
- St. Mary's Grove sometimes floods making road impassible.
- No infrastructure in village such as shop or school.
- Adverse impact on neighbouring residents.
- No need for self builds.
- Detrimental to local businesses.
- Village shop should be built on the land.
- There are only 2 buses serving the nearby schools plus a contactable service for local residents run on the basis of need. The timings do not provide transport throughout the day at regular intervals for local residents.
- Widening the existing access point will enable the developer to have a stronger case for further development, with emphasis on the creation of large 'self build houses' which will not be affordable
- Latest submission continues to mention creation of multiple dwellings as part of the design and access statement. Assurances should be provided by the developer that this is a standalone project, with no intention to build further homes.
- Large properties are unaffordable for some local residents.

(It should be noted that most of the above comments relate to the superseded proposal for 4 dwellings.)

f) 1. The Site and the Proposal

- 1.1 The site is located at the village of Tilmanstone. The settlement itself is separated into three main clusters of built development. The village has a village hall, play area, church and public house, but has no services that residents may use day-to-day, such as convenience retail, primary school or GP surgery. There is a limited infrequent bus service. The settlement hierarchy identifies Tilmanstone as a smaller village/hamlet.
- 1.2 The site is located between the clusters but outside of the defined settlement boundaries. The site area totals 1.03 ha. This has been reduced from 3.12 ha, when proposals were first submitted.
- 1.3 The site lies to the south of St. Marys Grove, which is a country lane with no footways. There is some limited street lighting. The speed limit is 30mph. Its noted that much of the village has no footways. It is bound by open fields to the

west and south, with the residential dwellings of Tilmanstone located beyond. To the east the site is bound by a residential property and Dover Road. Beyond this road and an additional field is the A256.

- 1.4 The site is located within an Archaeological Notification Area and a Coal Authority Development Low Risk Area. Part of the site is at Risk of Flooding from Surface Water (1 in 1000 yrs). The site contains an area of Priority habitat inventory (Deciduous woodland) and there are various TPOs on the site.
- 1.5 The proposal is for outline planning permission for the erection of 1 no. self-build dwelling (with all matters reserved except access) following demolition of the former dwelling. The proposal has been amended during the course of the application. It has been reduced from the original proposal of *“Outline application for the restoration of Danefield House and the erection of up to 3 no. self-build dwellings (with all matters reserved except access)”*.

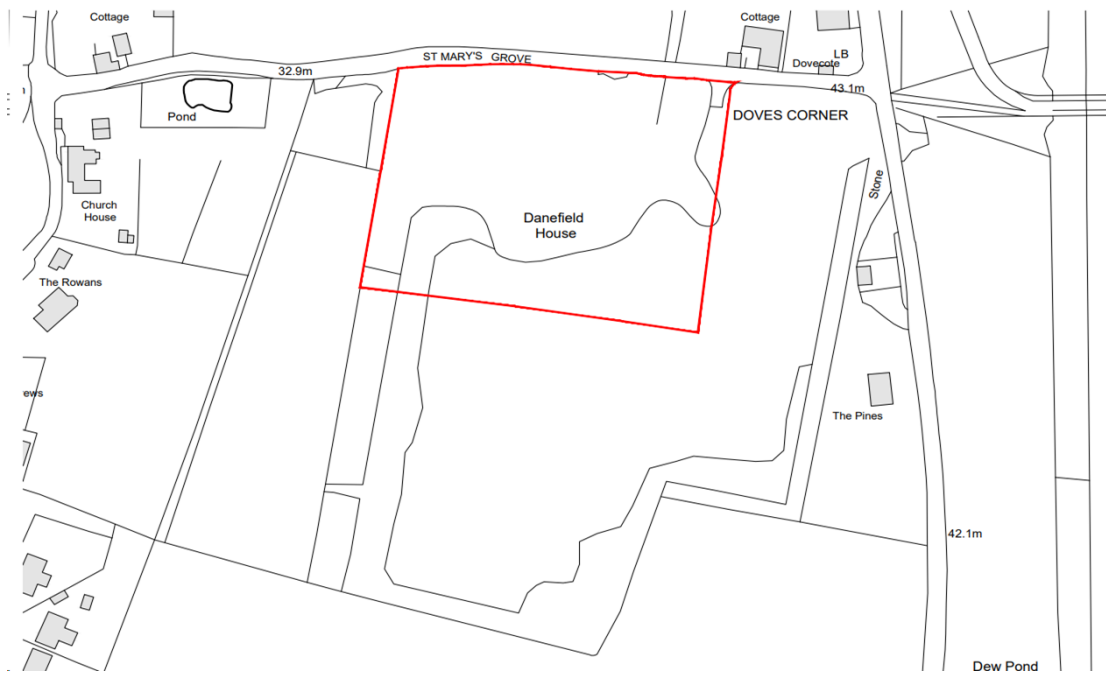


Figure 1: Site location Plan -revised scheme (not to scale)



Figure 2: View looking west along St. Mary's Grove with the existing access on left and Beech tree cottage on right



Figure 3: View looking north west towards ruin from within site



Figure 4: View looking west towards ruin from within site



Figure 5: View looking north towards St. Mary's Grove and existing access from within site



Figure 6: Illustrative site plan - revised scheme (not to scale)

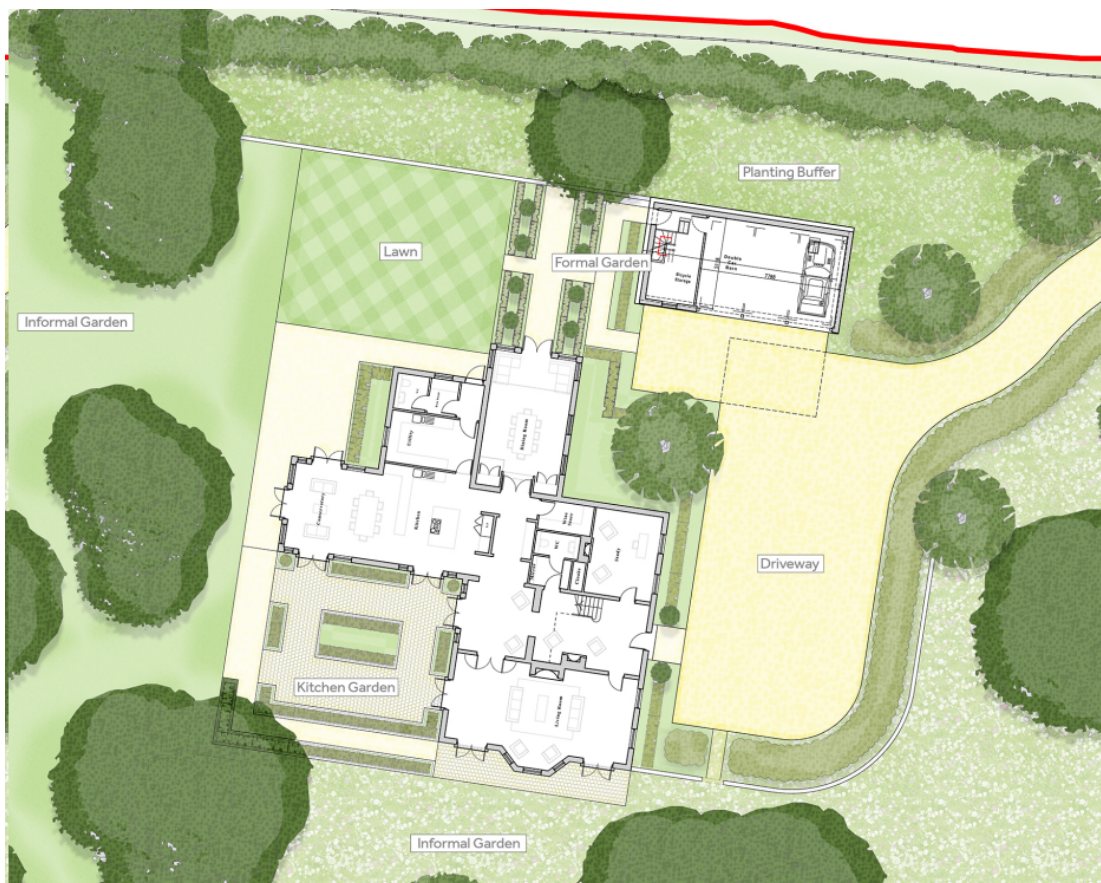


Figure 7: Illustrative landscape scheme - revised scheme (not to scale)

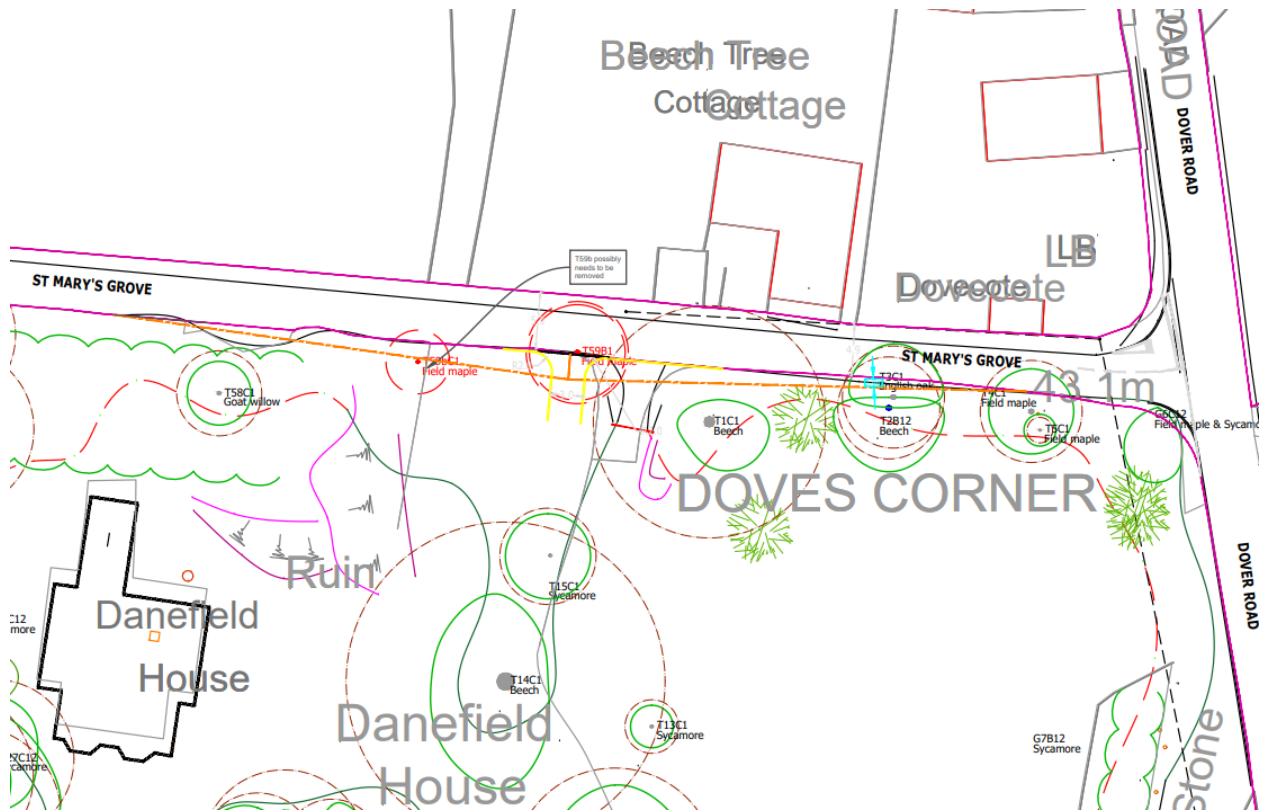


Figure 8: Proposed visibility splays -revised scheme (not to scale)



Figure 9: Illustrative front (east) elevation -revised scheme (not to scale)



Figure 10: Illustrative rear (west) elevation -revised scheme (not to scale)

2. Main Issues

2.1 The main issues for consideration are:

- Principle of development
- Design
- Heritage Impact
- Landscape Impact
- Impact on highway matters
- Ecology and trees
- Impact on residential amenities
- Flood risk and drainage
- Archaeology
- Contamination

Assessment

Principle of Development

2.2 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning decisions must be taken in accordance with the ‘development plan’ unless material considerations indicate otherwise. The requirements of the NPPF are a significant material consideration in this regard.

2.3 Notwithstanding the primacy of the development plan, Paragraph 11d of the NPPF states that “where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date” permission should be granted unless:

“i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (7); 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”.

- 2.4 The Council are currently able to demonstrate a five-year housing land supply and have not failed the housing delivery test. The policies considered most important in determination of the principle are considered to be CP1, DM1, DM11 and DM15.
- 2.5 Policy CP1 of the Core Strategy seeks that the location and scale of development in the district complies with the Settlement Hierarchy. Tilmanstone is identified as a hamlet, not suitable for further development unless it functionally requires a rural location.
- 2.6 Policy DM1 sets out that development will not be permitted on land outside rural settlement confines unless justified by other policies, it functionally requires such a location, or it is ancillary to existing development or uses. Policy DM1 accords with the strategic aim of the NPPF to promote sustainable development. However, it is considered that Policy DM1 is in tension with the NPPF as it is more restrictive and that limited weight should therefore be afforded to this policy. Given the degree of conflict it is considered that this policy is out-of-date.
- 2.7 Policy DM11 seeks to locate travel generating development within confines and restrict development that would generate high levels of travel outside confines. Whilst there is some tension, this policy broadly accords with the NPPF's aim to actively managing patterns of growth to support the promotion of sustainable transport and is therefore not considered to be out-of-date, however weight is reduced.
- 2.8 Policy DM15 seeks to resist development that would result in the loss of, or adversely affect the character or appearance of the countryside. The 'blanket' protection of the countryside is more stringent than the NPPF. However, this policy is considered broadly consistent with the aims of the NPPF including the need to recognise the intrinsic character and beauty of the countryside (Paragraph 174 of the NPPF). It is not therefore out-of-date and continues to attract significant weight.
- 2.9 Given the location of the proposed development outside the village confines and within the countryside, the proposal would be contrary to Policies DM1, DM11 and DM15, with no adopted Local Plan policies indicating that permission should be granted.
- 2.10 Consideration must be had for whether the “tilted balance” would be engaged, having regard for Paragraph 11 of the NPPF. Some of the adopted policies relevant for determining the application are considered to be out of date to varying degrees, with Policy DM1, which is particularly crucial in assessing the principle of the development, being particularly so. Given the weight to policy DM1 it is concluded that the 'basket' of adopted policies is out of date.
- 2.11 Consequently, it is considered that the 'tilted balance' would be engaged and paragraph 11 the NPPF would be relevant in the assessment. Sub-paragraph (ii) states in order to grant planning permission, it should be demonstrated that any adverse impacts of doing so would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

- 2.12 NPPF paragraph 79 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
- 2.13 NPPF paragraph 124 states that decisions should support development that makes efficient use of land, taking into account the identified need for different types of housing and the availability of land, local market conditions and viability, the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and healthy places.
- 2.14 Historically there has been a residential dwelling and use on the site since at least the 19th Century. It is understood that the original dwelling was last inhabited in the 1980s and there was a fire in 2002. There is a documented planning history on this site over the last 30 years. This includes permission for a C2 use in 1990, but not implemented and in 1998 permission was granted for a dwelling (C3 use) on the site.
- 2.15 Regard needs to be had to whether the residential use and the original house has been abandoned. The legal framework regarding the issue of abandonment in planning is summarised as follows. If a building or land "*remains unused for a considerable time, in such circumstances that a reasonable man might conclude that the previous use had been abandoned*", (Lord Denning, *Hartley v MHLG* [1970] 1QB 413) then the concept of abandonment would apply. It involves a cessation of use in such a way, and for such a time, as to give the impression to a reasonable onlooker, that it was not to be resumed, (*Nicholls v SSE and Bristol CC* [1981] JPL 890, J.363).
- 2.16 In *Trustees of Castell-y-Mynach Estate v Taff-Ely BC*, [1985] JPL 40, the Court suggested four criteria for abandonment, these are: the period of non-use, the physical condition of the land or building, whether there had been any other use, and the owner's intentions as to whether to suspend the use or to cease it permanently. In *Hughes v SSETR* [2000] 80 P&CR 397, the Court found that the test of the owner's intentions should be objective and not subjective, on the authority of *Hartley and Castell-y-Mynach*. In *Bramall v SSCLG* [2011] JPL 1373 Wyn Williams J affirmed the four criteria of abandonment and concluded that the weight to attach to each is a matter of planning judgment for the decision taker.
- 2.17 In assessing the use against the relevant criteria, the following needs to be taken into consideration. In respect of the period of non-use, it is understood that the site/building has not been used since the 1980s when the condition of the building started to deteriorate. The period of non-use therefore equates to approximately 34 years. In respect of the physical condition of the land or building, it is understood that the condition of building began to deteriorate in the 1980s. There was a fire in 2002. At present the building is a ruin with large sections of wall and roof missing and is overgrown.
- 2.18 In respect of there being any other use, it is understood that the site had also been used for commercial uses throughout the latter half of the last century. In respect of the owner's intentions as to whether to suspend the use or to cease it permanently, there has been a considerable planning history on the site with permission granted in 1998 for C3 use.

- 2.19 To conclude, given the above, and apportioning weight to the physical condition of the ruin, it could be considered that the use of the building/land for a residential use has been abandoned.
- 2.20 The Submission Draft Local Plan is at an advanced stage and is considered to be an important material consideration in the determination of the application. Draft policies SP1, SP2, SP4 and H5 are considered most relevant to the principle of development. Draft policy SP1 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.
- 2.21 Draft policy SP4 seeks to ensure windfall development is in a sustainable location and relates to an existing settlement. The policy is based on evidence of the sustainability of settlements and is evidenced in the Settlement Hierarchy. The policy is underpinned by an up-to-date analysis of services and amenities at existing settlements, taking into account the availability of public transport, retail, community, education and medical facilities. Using this information and current housing requirements, the policy 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.
- 2.22 Policy SP4 identifies two categories of settlement. The first are settlements that are capable of meeting some or all of the daily needs of their inhabitants and are identified as suitable for additional residential development either within or immediately adjoining the settlement confines. The second are settlements that are identified as suitable for minor residential development or infilling of a scale that is commensurate with that of the existing settlement and within the boundaries. Tilmanstone falls into the second category of settlement. Policy SP4 also applies other criteria to assess the appropriateness of development in these locations. The proposal is located outside of the confines and does not therefore comply with the first part of draft policy SP4.
- 2.23 In terms of the second set of criteria in draft policy SP4, the proposal is considered to be of an appropriate scale, compatible with the layout, density, fabric and appearance of the settlement, would not result in an unacceptable intrusion into the open countryside, and would not generate a level of traffic that would result in severe impacts to the highway network that cannot be mitigated. The proposal is therefore considered to accord with the second part of draft policy SP4.
- 2.24 The proposal is therefore within the countryside and is also not considered to comply with part 3 of SP4. Accordingly, the proposal is not considered to comply with draft policy SP4. As the policy and confines to which it relates have been devised in line with up-to-date housing figures and the objectives of the NPPF, the policy is considered to hold increasing weight in the planning balance.
- 2.25 Draft policy H5 supports self-build house schemes on non-allocated windfall developments, subject to compliance with the other policies in the Plan and where overall, this would not result in an over-provision of this type of housebuilding when compared to the Council's supply/demand evidence.
- 2.26 It is further noted that the site, (although abandoned) still constitutes previously developed land and a former residential use. Permission was granted in 1998

residential use on the site, after a previous permission for C2 use in 1990. This is also a material consideration in determining this application.

- 2.27 Paragraphs 79 and 80 of the NPPF are also relevant, in that housing should be located where it will enhance or maintain the vitality of rural communities and that decisions should avoid the development of isolated homes in the countryside. It is not considered that the site is in an isolated location, as it is located between the clusters of development which make up the village of Tilmanstone. At the closest point, the application site is approximately 120m from the village confines. There are also two other properties accessed off St. Mary's Grove, Beech Tree Cottage to the northeast and St. Mary's Grove Cottage to the west.

Design

- 2.28 Paragraph 152 of the NPPF states that the planning system should support the transition to a low carbon future. It should help to shape places in ways that contribute to reductions in greenhouse gas emissions and encourage the reuse of existing resources, including the conversion of existing buildings. Draft policy SP1 seeks to ensure that all new built development contributes to the mitigation of, and adaptation to climate change. This is echoed in draft policy CC2 which provides details of sustainable design and construction including the adaption of buildings and minimisation of waste.
- 2.29 Draft policy SP2 seeks new developments to be designed as safe and accessible, to minimise the threat of crime, promote social interaction and inclusion. All new development should achieve a high standard of design internally and externally, and should have accessible, high-quality greenspaces.
- 2.30 Draft policy PM1 requires that development achieves a high quality of design, promotes sustainability and fosters a positive sense of place. It also states development should respect and enhance character to create locally distinctive design or create character where none exists.
- 2.31 The proposal is for a new self-build dwelling which would be located on the site of the existing ruin. The application is in outline form with all matters reserved except access. However indicative plans and elevations have been submitted which show a two-storey dwelling in a traditional classical architectural style, with a pitched roof and chimneys. A three-bay garage in a traditional barn style is also proposed with a cycle store and storage area over the garage.
- 2.32 Although layout, scale and appearance are reserved, it is considered that the indicative scale is appropriate for the site and location, having regard for the scale and siting of the former dwelling. Landscaping is also reserved, although a site and landscape plan have been submitted which indicates how the landscaping of the site could be undertaken.
- 2.33 The revised proposals indicate that the vehicle access to the site will be relocated approximately 6.5m to the west of the existing access. The scheme proposes that 2.4 x 43m visibility splays to the access. There are a number of mature trees and a hedgerow along the site frontage with St. Mary's Grove. The site access has been relocated to reduce impact on the existing mature trees, notably a Beech and an Oak tree to the east of the existing access. A stretch of hedgerow and a Field Maple tree would be lost to achieve the splays, and it is considered that a suitably worded condition can secure the replacement of these.

- 2.34 To conclude, it is considered that the development proposed could form a compatible and suitable expansion of the village, provided the detailed design and landscaping is sensitively considered. The design overall is considered to be acceptable and complies with adopted and draft local policies and the aims of the NPPF.

Heritage Impact

- 2.35 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision makers, when considering whether to grant planning permission for development which affects a listed building or its setting, to 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.
- 2.36 The NPPF requires the local planning authority, to identify and assess the particular significance of any heritage asset that may be affected by the proposal. Paragraph 203 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 2.37 Paragraph 206 of the NPPF states that local planning authorities should look for opportunities for new development within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 2.38 The site is located approximately 50m from Tilmanstone Conservation Area, to the west of the site. There are a number of listed buildings in the conservation area including the Grade I listed St. Andrew's Church, located approximately 125m from the site and Church House, a Grade II listed building approximately 100m. The ruin itself is considered to be a non-designated heritage asset. It is considered that a new self build dwelling on the site is an opportunity to secure a high quality, appropriately designed replacement, which has potential to reference the original building. Overall, it is considered that the proposal is acceptable and complies with draft local policy and the aims of the NPPF.

Landscape Impact

- 2.39 Paragraph 174 of the NPPF states that development should contribute to and enhance the natural and local environment by protecting and enhancing the intrinsic character and beauty of the countryside.
- 2.40 Policy DM16 relates to landscape character and seeks to avoid development that would result in harm to the character of the landscape unless it is in accordance with allocations, or it can be sited to reduce harm and/or incorporate design measures to mitigate impacts to an acceptable level. Draft policy NE2 states that proposals should demonstrate regard to the Landscape Character Area, as defined by the Dover District Landscape Character Assessment 2020, in which they are located.
- 2.41 The site is located within F2: Northbourne Landscape Character Area. This is a rural chalk landscape with a gentle ridge and valley topography, with large arable fields interspersed with woodland blocks. There are numerous small blocks and

belts of deciduous and coniferous woodland, often associated with parkland breaking up large arable fields. Estate walls, gatehouses, parkland trees and avenues are prominent in the landscape contrasting with open arable areas. A rural and tranquil landscape, with narrow winding lanes connecting the farmhouses and settlements, disrupted locally by the A258 and A256, but elsewhere with strong rural character.

- 2.42 Landscape management guidance for this area is to: conserve and enhance the ancient woodland and deciduous woodland through appropriate woodland management; increase the extent of native deciduous woodland, using locally native species in order to link to existing woodland; seek to avoid the introduction of coniferous boundaries, and to conserve and reinforce the parkland/estate character around Tilmanstone, putting in place a programme of new parkland/avenue tree planting where appropriate.
- 2.43 Development management guidance for this area is to encourage the use of in keeping materials such as flint, redbrick and render for any new developments, to resist proposals for highway upgrading to retain the rural character of the narrow rural lanes and conserve the grass verges which provide an important biodiversity resource in the intensively farmed arable landscape.
- 2.44 Although at outline stage, it is considered that the provision a dwelling on the site, in this location would be appropriate. The indicative plans identify a new dwelling on the site of the previous dwelling with a similar footprint and scale. The site contains trees and vegetation, and the proposals would also include additional landscaping.
- 2.45 To the south of the site is PROW EE404, which runs southwest to northwest approximately 170m from the existing ruin. The site is well screened by trees around the boundary, and it is not considered that the development, (subject to details at reserved matters), would be highly visible from the PROW, highways beyond St. Mary's Grove or from the surrounding countryside.
- 2.46 To conclude, it is considered that the proposed development would not have an unacceptable visual impact on views from the landscape, countryside and surrounding area. It is considered that an appropriate scale, form and materials could be secured at reserved matters stage.

Impact on Highway Matters

- 2.47 Draft policy TI1 states that development should, in its size, characteristic and location, be readily accessible by sustainable transport modes through the provision of high quality, safe and direct walking and cycling routes within a permeable layout, contributing into sustainable transport proposals including off-site improvements to cycling and walking routes, and make provision for secure cycle parking and storage in accordance with the Parking Standards. It states that the Council will safeguard the Public Rights of Way network, and other existing cycle and walking routes and will encourage their enhancement and extension.
- 2.48 Draft policy TI3 requires proposals to meet the requirements of Kent Design Guide Review: IGN 3 in relation to vehicle parking. Policy DM13 sets requirements for parking provision in compliance with SPG4 which sets out standards for the maximum number of parking spaces.

- 2.49 St. Mary's Grove is a single lane carriageway. There are no footways, however there is some limited streetlighting. The speed limit is 30mph and there is an existing vehicle access from the site onto St. Mary's Grove. The lack of footway and limited lighting is considered detrimental to the scheme; however, the scheme is for one dwelling on previously developed land in a rural context.
- 2.50 The scheme includes the relocation of the vehicle access and the proposed creation of 2.4m x 43m vehicle visibility splays. The access and the splays are considered appropriate for the context, and conditions could be imposed requiring the maintenance of the splays and other highway safety measures including a bound surface for 5m from edge of carriageway and gates to be set back by at least 5m. There would be adequate space for parking and manoeuvring, as well as cycle parking provided on the site.

Ecology and Trees

- 2.51 Paragraph 180 requires that when determining applications, local planning authorities should refuse planning permission if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or compensated for. It also states that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.
- 2.52 Draft policy SP14 echoes this requiring that every development connects to and improves the wider ecological networks in which it is located, providing on-site green infrastructure that connects to off-site networks. Proposals must safeguard features of nature conservation interest, and retain, conserve and enhance habitats.
- 2.53 Draft policy NE3 requires that all proposals for new residential development within a 9km Zone of Influence radius of the SPA will be required to make a financial contribution towards monitoring and mitigation measures set out in the Thanet Coast and Sandwich Bay SAMM, in order to mitigate against the potential for in-combination effects of new development, through recreational pressure on the Thanet Coast and Sandwich Bay SPA.
- 2.54 An Arboricultural Impact Assessment has been submitted, including a draft method statement. The tree survey has been updated with the revised proposal to indicate the removal of a Field Maple to allow for visibility splays. There are also a number of protected trees covered by Tree Protection Orders (TPOs) on the site.
- 2.55 Part of the site also contains an area of Priority habitat inventory (Deciduous woodland). No trees are proposed to be removed in this area. It is considered that the protection of trees could be secured by imposing a condition for a final tree protection and retention plan and that a landscape and habitat management plan to secure long term appropriate management of this area should also be secured. In this case the most appropriate way to secure this would be through the s106 legal agreement.
- 2.56 Given the status of the woodland, it's importance as a habitat, and the visual amenity provided by the trees, it is also considered reasonable and appropriate to serve a Tree Protection Order to further protect the trees within the priority habitat area that are not already covered by a TPO.

- 2.57 The proposal submitted would involve the loss of a mature Field Maple and a section of hedgerow along the frontage to St. Mary's Grove. These are not covered by a TPO or the priority habitat listing. The Field Maple is considered to provide some visual amenity to the immediate area, although as there are other significant trees, the loss of the Field Maple is not considered to adversely affect visual amenity or the character of the area. It is considered that a replacement scheme for the loss of the hedgerow and tree could be secured by condition.
- 2.58 An Ecological Impact Assessment (EclA) and supporting surveys have been submitted. A Baseline Habitat Condition Assessment, Biodiversity Net Gain Assessment, Biodiversity Metric and Habitat Condition Assessment spreadsheets was initially submitted with the application but these are no longer applicable for the single dwelling proposal. A revised EclA was submitted, reflecting the change to the redline boundary. Although an updated site assessment has been undertaken, no new protected species surveys have been carried out, so the applicant is relying on 2021 ecological surveys, which are now considered out of date and will need to be updated.
- 2.59 A suite of potential ecological impacts is identified and there is potential for impacts to: roosting bats, foraging and commuting bats, Hazel Dormice, badgers, breeding birds, reptiles, Great Crested Newts, hedgehogs, Harvest mice and 'common mammals', in addition to woodland (habitat of principal importance / BAP (Biodiversity Action Plan) habitat).
- 2.60 It is considered that some of the proposed mitigation measures are likely to be achievable through conditions for lighting, landscape planting, timing of habitat removal etc, precautionary vegetation and habitat pile clearance and ecologist checks for nests prior to habitat removal. A detailed biodiversity method statements can also be secured by condition.

Bats

- 2.61 In addition to the woodland's value as habitat of principal importance, some of the trees have been assessed as having bat roosting potential. It is not clear which of trees have been identified and further information is needed to identify the trees with bat roosting potential within the site, and to ensure an understanding of the site's potential value for roosting bats prior to determination.
- 2.62 The building for demolition is also assessed as having high potential for roosting bats and bat emergence surveys were undertaken during August and September 2021, during which no bats were recorded emerging from the building. The building is also considered in the EclA to provide opportunities for hibernating bats, but detailed surveys have not been undertaken due to the structural integrity of the building.
- 2.63 Although precautionary mitigation with no further bat surveys is recommended in the EclA, it is considered that this is not sufficient to be confident that potential impacts to bats will be adequately addressed. Two years have elapsed since the bat emergence surveys of the building, and updated surveys will be necessary to ensure that the detailed mitigation measures are informed by up-to-date information. It is considered that these are surveys are not required prior to determination, as it is understood there has been little or no change to the site and building since the previous surveys were carried out and can be addressed by conditions.

- 2.64 The mitigation/enhancement measures recommended in the EclA for roosting bats comprise only 1 hibernation bat box and an additional integrated bat tube. It is considered that additional details of ecological mitigation for roosting bats is required.
- 2.65 It is considered that the submission of a detailed mitigation method statement and enhancement proposals, informed by updated bat emergence surveys, can be secured by condition, however, further information is still required pre-determination and this is reflected in the resolution.

Reptiles

- 2.66 The 2021 reptile survey identified the presence of slow-worms and viviparous lizards on the site. It is proposed that reptiles will be translocated from the site to a reptile receptor site (located within the grassland field to the south of the site). It is considered that further information should be sought regarding the extent of reptile habitat loss within the site, in addition to details of the reptile receptor site to confirm its location and the status of reptiles on the proposed receptor site.
- 2.67 It is considered that if it is within the wider site subject to the 2021 reptile survey, the large population of slow-worms indicates limited scope for additional habitat enhancements to increase the carrying capacity. Therefore, further information also needs to outline the potential options for habitat enhancements, considering any limiting factors to the current reptile populations. Also, as the reptile receptor area is off-site, its status and its long-term management for reptiles, along with translocation will need to be secured by a s106 legal agreement.

Nesting birds

- 2.68 Further clarification is also to be sought as to the extent of nesting bird habitat that will be lost as a result of the proposed development. The implementation of the proposed mitigation measures will ensure that direct impacts to nesting birds are avoided, but a loss of nesting bird habitat should also be mitigated for, and the proposed provision of bird boxes is unlikely to provide sufficient replacement opportunities for nesting birds. Opportunities for enhancing and managing habitat for nesting birds should also be sought within the development.

Great Crested Newts

- 2.69 The use of District Level Licensing for Great Crested Newt impacts is proposed, but the submission is not accompanied by the Natural England-countersigned 'Impact Assessment and Conservation Payment Certificate' (CPC) as this is still awaited from Natural England. However, this also needs to be sought prior to determination, to demonstrate that the potential impacts will be addressed. If this cannot be provided, ecological assessments and surveys for Great Crested Newts will be required so that the potential impacts can be considered in detail.
- 2.70 While this application does not require the forthcoming mandatory BNG, the NPPF identifies that development should deliver a net gain in biodiversity and further information to address this is required.
- 2.71 To conclude further information needs to be sought to address considerations in relation to: bat roosting potential within trees and any mitigation required; the extent of reptile habitat loss and further details of the receptor site; the extent of

nesting bird habitat to be lost and any further mitigation required; the submission of a Natural England-countersigned 'Impact Assessment and Conservation Payment Certificate' in relation to Great Crested Newts; and information to indicate that a net biodiversity gain can be achieved on site.

- 2.72 It is not considered that there would be any barriers to being able to secure adequate mitigation measures for the above species, if required, given the size of the site and the scheme proposed. It is therefore considered that an addendum to the EclA is sought prior to determination. Given this, the resolution to grant planning permission is subject the submission of an addendum to the EclA detailing on and off-site measures and mitigation. Any off site mitigation will also be secured through the s106 legal agreement. On this basis of the required additional information, it is considered that the requirements on the NPPF, associated guidance and draft policies can be sufficiently addressed in relation to this proposal.

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

- 2.73 It necessary to consider any likely significant effects of the proposed development in respect of disturbance of birds due to increased recreational activity on the Thanet Coast and Sandwich Bay SPA. A Strategic Access Mitigation and Monitoring Strategy (SAMM) has been adopted in order to monitor potential impacts on the qualifying bird species for the SPA arising from development and to provide appropriate mitigation. This is set out at Draft Policy NE3 as the site lies within the 9km Zone of Influence, within which mitigation will be required.
- 2.74 Having had regard to the proposed mitigation measures it is considered that the proposed development would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA where it would make a contribution towards implementation of the SAMM. This payment will be secured by way of a s106 contribution.

Impact on Residential Amenity

- 2.75 Draft policy PM2 relates to quality of residential accommodation and requires that all new residential development, must be compatible with neighbouring buildings and spaces and not lead to unacceptable living conditions for neighbouring properties through overlooking, noise or vibration, odour, light pollution, overshadowing, loss of natural light or sense of enclosure. Development should be of an appropriate layout with sufficient usable space and contain windows in all habitable rooms to facilitate comfortable living conditions with natural light and ventilation.
- 2.76 Whilst the Nationally Described Space Standards are yet to be formally adopted, they are referenced in the draft plan in respect of internal accommodation. It also states that all new build development is to be built in compliance with part M4(2). Overall, it is considered that the proposals are likely to be acceptable in relation to living conditions of future residents and impacts on neighbouring residential amenity.

Flood Risk and Drainage

- 2.77 Draft policy SP1 seeks to mitigate and adapt to climate change by ensuring development does not increase flood risk. Draft policy CC5 states that development on sites at risk of flooding will only be permitted where it is demonstrated by a site-specific flood risk assessment that the development would not result in an unacceptable risk on flooding on the site or elsewhere. NPPF paragraph 167 states that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
- 2.78 The site is located within Flood Zone 1, but part of the site is at risk of flooding from Surface Water (1 in 1000 yrs). A Flood Risk and Drainage Assessment has been submitted and proposes that surface water drainage will be by infiltration and there will be no increase to existing off-site surface water run-off rates or volumes. A package treatment plan for foul drainage is proposed. Southern Water have raised no objection, and The Environment Agency had no comments. Given the proposal is for a dwelling it is considered that conditions are not appropriate and should not be imposed relating to drainage.

Archaeology

- 2.79 Draft policy HE3 relates to archaeology and the site lies within an archaeological notifications area. It is identified as an area of some palaeolithic potential and area of multi period archaeological potential in Tilmanstone Parish. An Archaeological Desk Based Assessment has been submitted and states that there is a chance that archaeological features, artefacts and ecofacts may be present on the site. It is considered that archaeological investigation and assessment is undertaken prior to commencement of any works on the site which can be secured by condition.

Contamination

- 2.80 The NPPF states (Paragraph 93) that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from contamination. A phase 1 contamination assessment study has been submitted and confirms that a Phase 2 investigation should be undertaken to assess the underlying ground conditions and potential contamination across the site. The assessment also notes that basic Radon protective measures will be required. A number of measures are also recommended for the construction period and suggested conditions will secure further assessment, with remediation and verification, if necessary. This is addressed in the recommendation.

3. Conclusion and Planning Balance

- 3.1 Paragraph 11 of the NPPF sets out that when the local policies are considered out of date that any decision should rest on the tilted balance and development should be granted unless “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.” As the most important policies in determining this application are considered out of date, paragraph 11 of the NPPF is relevant.
- 3.2 The proposal would be located outside of the village confines, with no footway and limited street lighting linking the development to the village. It is considered in this context there would be some limited social adverse effects.

- 3.3 There would be some effects on trees, including the loss of one mature tree and a length of hedgerow. The proposal would result in an area of priority habitat of deciduous woodland within the curtilage of a dwelling. However, the planning process offers an opportunity to secure retention of the woodland, and its future management. There would also be some ecological effects, with some impact on habitats for a number of species, however it is considered that these can be adequately mitigated and secured by conditions and in the s106 agreement.
- 3.4 The proposal would provide one new home and there would be some limited socio-economic benefits provided by the development at construction stage and when built, including by providing new homes, which in turn would provide support for the vitality of the village and nearby settlements, (NPPF paragraph 79).
- 3.5 It is considered that the proposals would significantly enhance the character and appearance and visual amenity of the area, by bringing a long-standing derelict site back into use and improving the overall appearance of the site and immediate area.
- 3.6 Given the above, it is considered that the benefits of the scheme would outweigh the adverse effects. As such when considering the “tilted balance” under NPPF paragraph 11, the adverse effects would therefore not significantly and demonstrably outweigh the benefits.
- 3.7 In reaching this conclusion weight has been given to the previous land use of the site, being previously developed residential land, with planning permission granted in 1998 for a residential use and the desire to bring the site back into an appropriate use, with an appropriate amount of development.
- 3.8 In apportioning this weight regard has been had for NPPF paragraph 124 in relation to supporting development that make efficient use of land, taking into account the identified need for different types of housing and the availability of land suitable for accommodating it, the desirability of maintaining an area’s prevailing character and setting and the importance of securing well-designed and attractive places.
- 3.9 Accordingly and in light of the above, it is recommended that planning permission is granted subject to the resolution of the ecology matters identified, and the SAMMS payment, ecological mitigation and habitat management secured through a s106 legal agreement.

g) Recommendation

- I **OUTLINE PLANNING PERMISSION BE GRANTED** Subject to completion of s106 legal agreement in relation to a SAMMS contribution, habitat management and reptile translocation, and in addition the submission of an addendum to address the additional ecology information required in an Ecological Impact Assessment and the following conditions:
 - 1) Submission of reserved matters
 - 2) Time limit for reserved matters
 - 3) Time limits
 - 4) Approved plans
 - 5) Materials
 - 6) Contamination remediation strategy

- 7) Verification report for contamination
- 8) Contamination safeguarding
- 9) Refuse and cycle parking provision
- 10) Parking provision
- 11) Visibility splays
- 12) Gates set back from highway by 5m
- 13) Bound surface for first 5m of access
- 14) Programme of archaeological works
- 15) Final Arboricultural method statement
- 16) Tree and hedge protection, retention and replacement plan
- 17) Biodiversity Method Statement, including update surveys
- 18) Ecological enhancements

- II Powers to be delegated to the Head of Planning and Development to settle outstanding ecology matters any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

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