

a) **DOV/23/01234 - Erection of a detached dwelling - 51 Church Path, Deal**

Reason for report – Number of objections.

b) **Summary of Recommendation**

Grant planning permission.

c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, CP7, DM1, DM11, DM13

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.

Draft policies SP1, SP2, SP4, SP13, SP14, SP15, CC2, CC4, CC6, CC8, PM1, PM2, TI1, TI3, NE1, HE1, HE3

National Planning Policy Framework (NPPF) (2023): Paragraphs 7, 8, 11, 12, 47, 48, 60, 96, 108, 114, 115, 123, 124, 128, 135, 136, 139, 180, 186, 189, 190, 191, 200, 201, 203

National Design Guide & National Model Design Code (2021)

d) **Relevant Planning History**

19/01165 - Variation of Condition 2 (approved plans) to allow the relocation of the log cabin of planning permission DOV/18/00954 (application under Section 73) - Granted Permission

18/00954 - Erection of a log cabin in rear garden for the use as a holiday let (existing wooden pigeon loft to be demolished) - Granted Permission

17/00302 - Certificate of Lawfulness (proposed) for the erection of a log cabin - Granted Permission

16/01499 - Certificate of Lawfulness (Proposed) for the erection of a log cabin - Refuse Planning Permission

13/00114 - Erection of a single storey side extension - Granted Permission

Adjacent/ nearby sites

53 Church Path 13/00951 -Erection of a detached dwelling- Approved

55 Church Path 15/00730 - Erection of a detached dwelling- Allowed at Appeal

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

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

Deal Town Council- No objection

Southern Water - Existing public sewers should be protected. An application to connect to the public sewer would need to be made by the developer.

Kent Fire and Rescue - No response received.

KCC Archaeology - No response received.

KCC PROW - No comments

Third party Representations:

18 letters of objection have been received as summarised below:

- Insufficient parking in surrounding areas.
- Residents of Sutherland Road have been promised residents parking with marked bays and yellow lines and nothing has been forthcoming.
- Difficulty for residents of Sutherland Road to access driveways, due to narrowness of road and amount of parking.
- Difficulty in accessing the site at construction stage. When 53 and 55 were built supplies were craned in.
- Disruption and noise at construction stage.
- Impacts on neighbours existing health issues from dust and noise
- Development will add to the density of housing in the area.
- Too close to neighbouring properties.
- Lack of access for emergency and service vehicles.
- Congestion.
- Church path and adjacent footpath to Sutherland Road will be closed/ less accessible for pedestrians and residents during construction stage.
- Closure of Church path is not acceptable and will affect neighbours and residents will mobility issues.
- Pedestrians will have to take less safe routes.
- Parking on nearby roads including Sutherland Road causing pedestrian accessibility and safety issues.
- Points affecting results of parking survey- one sample was during the school run and would expect to be more parking available. The nighttime sample does not account for night shift workers.
- Cars park on the pavement at the entrance to Sutherland Road, forcing disabled vehicles and families with pams/ buggies/ children to pass in the road at a dangerous junction (London Road /Albert Road /Sutherland Road and this will further exacerbate this issue.

0 letters of support have been received.

f) 1. The Site and the Proposal

- 1.1 The application site comprises part of the garden of 51 Church Path. The site is located on the southern side of Church Path. 51 Church path is located to the east of the site, a detached bungalow. 53 Church path is located to the west, a detached two-story house. To the south are located 26-28 a pair of semi-detached two storey houses.
- 1.2 The site is located approximately 300m from Deal Railway station and approximately 600m from the Town centre. The site is within an Coal Authority Development Low Risk Area and an Archaeological Notifications Areas.
- 1.3 The proposal is for the erection of a detached dwelling.

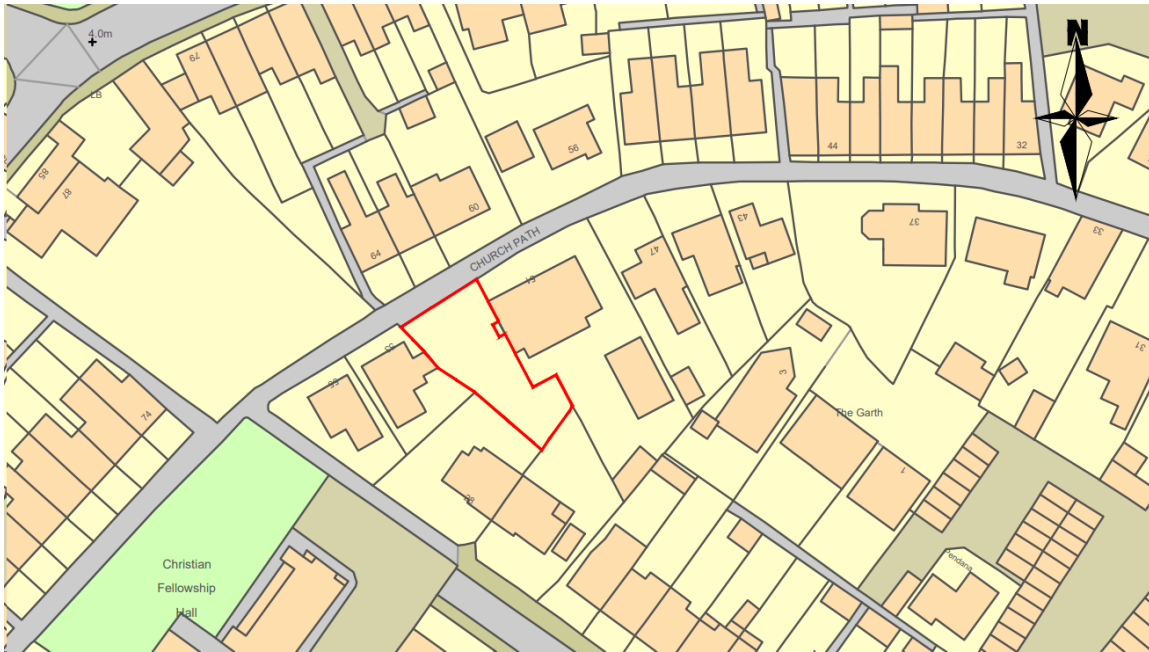


Figure 1: Site location Plan (not to scale)

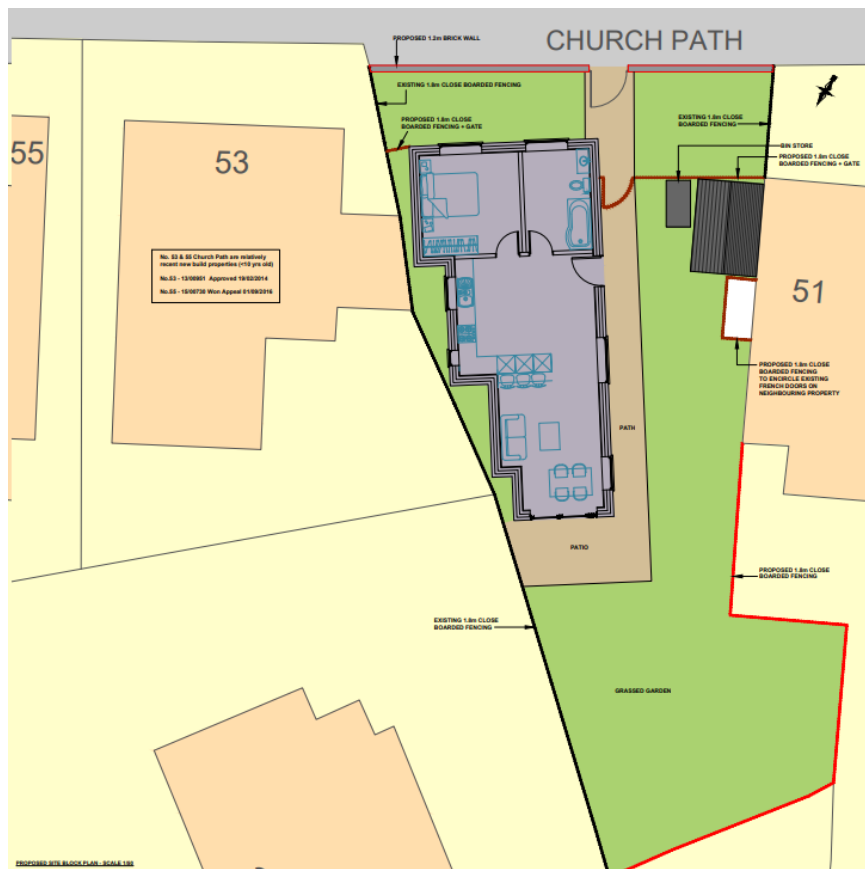
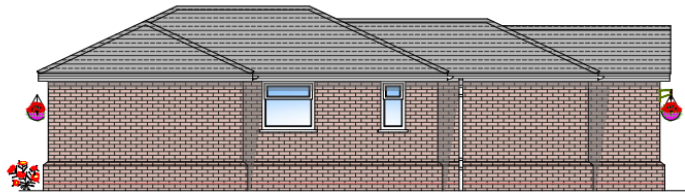


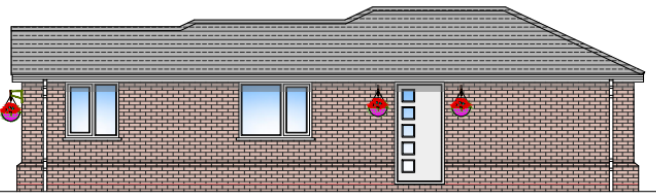
Figure 2: Proposed site and floor plan (not to scale)



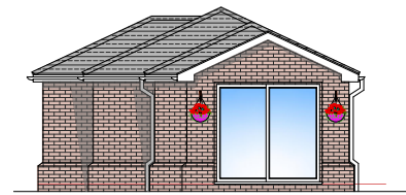
PROPOSED FRONT ELEVATION
Scale 1/100



PROPOSED SIDE ELEVATION - View B
Scale 1/100



PROPOSED SIDE ELEVATION - View A
Scale 1/100



PROPOSED REAR ELEVATION
Scale 1/100

Figure 3: Proposed elevations (not to scale)

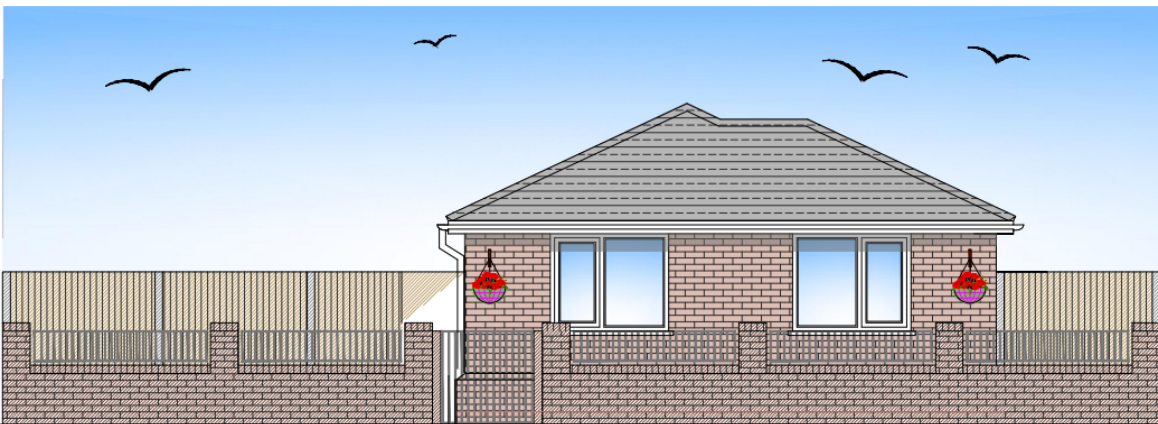


Figure 4: Proposed north elevation facing Church Path (not to scale)



Figure 5: View looking southwest along Church Path, with No. 51 on left, site in middle, and No. 53 on right of photograph



Figure 6: View looking northeast along Church Path, with No. 51, site and No. 53 on right of photograph



Figure 7: View looking west from within the site, towards No. 53 Church Path on left and 64 Church path of right.



Figure 8: View looking west from within the site, towards No. 53 Church Path



Figure 9: View looking southwest from within the site, towards 26 and 28 Sutherland Road on left and No. 53 Church Path on right

2. Main Issues

2.1 The main issues for consideration are:

- The principle of development
- Character and appearance
- Heritage Impact
- Impact on living conditions
- Highway issues
- Ecology and trees
- Flood risk, drainage and contamination
- Archaeology

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 National Planning Policy Framework are a significant material consideration in this regard.

2.3 The site is located within the settlement confines and the creation of residential accommodation in this location would accord with Policies CP1 and DM1. As such, the development is acceptable in principle, subject to impact on visual and residential amenity, and other material planning considerations.

Character and Appearance

- 2.4 Policy SP1 states development should contribute to climate change mitigation through use of low carbon design to reduce energy consumption in buildings, sustainable construction techniques, water, energy and resource efficiency, and renewable and low carbon technologies. Draft policy SP2 seeks that new developments are designed to be safe and accessible, and to minimise the threat of crime. All new development should achieve a high standard of design internally and externally.
- 2.5 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. Appropriate provision for service areas, refuse storage (including waste and recycling bins), and collection areas should be made in accordance with the nature of the development.
- 2.6 The proposal is for a one storey detached dwelling. The proposed dwelling would be located at the northern end of the site fronting onto Church Lane.
- 2.7 The position of the dwelling on the site has been informed by the location of a public sewer within the site. This does result in a slightly skewed position in relation to the existing building line and the relationship with neighbouring properties. However, considering the siting of the proposal in terms of the wider area, the siting does appear consistent with the surrounding urban grain and pattern of development.
- 2.8 The proposed dwelling is of a traditional architectural style with a pitched roof, with hips and a gable end to the rear. Brickwork is proposed for the elevations and slate to the roof.
- 2.9 Given the context of the site, it is considered that a condition should be imposed to remove some permitted development rights related to extending the property.
- 2.10 To conclude, it is considered that the proposal could be assimilated into its surrounding context without causing undue harm to amenity or the visual quality of the street scene and would accord with relevant policies.

Heritage Impact

- 2.11 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.
- 2.12 The NPPF requires the local planning authority, when assessing an application to identify and assess the particular significance of any heritage asset that may be affected by the proposal. Draft policies HE1 and HE3 relate to protection of heritage assets and listed buildings.
- 2.13 To the northwest of the site is a grade II listed building at 87 Middle Deal Road, approximately 45m from the site.
- 2.14 The immediate context is that of a built up urban area, with existing built form between the proposed dwellinghouse and the listed building. Due to the distance and the

relationship between the properties in this location, it is not considered that there would be any unacceptable impact on the setting of the listed building.

Impact on Residential Amenity

- 2.15 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. Whilst the Nationally Described Space Standards are yet to be formally adopted, they are referenced in the emerging plan in respect of internal accommodation. Well-designed private or shared external amenity space should be provided on-site, that is of appropriate size and fit for purpose. It also states that all new build development is to be built in compliance with building regulation part M4(2).
- 2.16 The proposed dwelling would be located at the northern end of the site fronting onto Church Lane. The front of the dwelling would be located approx. 6.5m from 51 Church Lane, and the rear would be located approx. 4.3m from 51 Church lane. The proposed dwelling would be located approximately 2.2m from 53 Church Path.
- 2.17 The height of the proposed dwelling would be 3.9m at the highest point. Due to the height proposed and the distances retained from the boundaries, it is not considered that there would be any unacceptable loss of daylight/ sunlight, overbearing impact or overlooking into neighbouring properties.
- 2.18 The proposed dwelling would be provided with good sized internal accommodation and private external amenity space. It is therefore considered the proposals would provide a good standard of amenity for occupiers of the proposed dwelling, which would accord with Paragraph 127 of the NPPF and draft policy PM2.

Impact on Highways, Public Rights of Way and Parking Provision

- 2.19 NPPF Paragraph 110 states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:
- (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - (b) safe and suitable access to the site can be achieved for all users;
 - (c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code 46 ; and
 - (d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 2.20 NPPF Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 2.21 Draft policy TI1 states that development should, in so far as its size, characteristic and location, be readily accessible by sustainable transport modes and make provision for secure cycle parking and storage in accordance with the Parking Standards.
- 2.22 Policy DM13 sets requirements for parking provision in compliance with SPG4 which sets out standards for the maximum number of parking spaces.
- 2.23 Draft policy TI3 requires proposals to use the requirements of Kent Design Guide Review: Interim Guidance Note 3 as a starting point in relation to vehicle parking. The parking provision on residential development shall take account of local circumstances including the layout of the development, the mix of dwellings, the character of the local area and the proximity of public transport.
- 2.24 The policy states that residential development proposed with no parking provision will be supported where:
- a) it is located in easy walking distance of a range of services and facilities,
 - b) there is suitable access to non-car based modes of transport, and
 - c) it is demonstrated that the lack of provision will not be to the detriment of the surrounding area.

Where appropriate, the Council will consider the use of Controlled Parking Zones (CPZs) to support the wider strategy for the management of on-street parking, in line with the approach outlined in this policy.

- 2.25 The proposal does not include provision of any parking spaces, due to the site's location off Church Path. A parking survey has been submitted which indicates there is capacity within the existing on-street parking available nearby within walking distance of the site.
- 2.26 The site is in a highly sustainable location within easy walking distance of services and facilities, rail and bus links and it has been demonstrated that the lack of provision will not be to the detriment of the surrounding area.
- 2.27 A number of letters of objection have been received stating that the applicant will close the footpaths near the site, Church Path and the adjacent footpath connecting Church Path to Sutherland Road. The applicant has not stated on submitted information that they intend to do this. In any case Church Path is a confirmed highway and public right of way (ED24) and the footpath connecting Church Path to Sutherland Road is a confirmed highway. As such, agreement from Kent County Council would be needed to stop it up either of these routes, follow due process.
- 2.28 Therefore, given the above, it is considered that the development would accord with the requirements of Policy DM13 and draft policies TI1 and TI3.

Ecology and Trees

- 2.29 Paragraph 180 requires that when determining planning 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.

- 2.30 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.
- 2.31 Draft local plan policies SP14 and NE3 work together to ensure that the green infrastructure and biodiversity of the district are conserved and enhanced and seek biodiversity net gain.
- 2.32 Given the nature of the proposal and the site forming part of an existing garden curtilage, it is not considered that there would be any unacceptable ecological implications within or adjacent to the site.

Habitats Regulations (2017) Regulation 63: Appropriate Assessment

- 2.33 The impacts of the development have been considered and assessed. There is also a need to consider the likely significant effects on European Sites and the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.34 Detailed surveys at Sandwich Bay and Pegwell Bay have been carried out. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within the district, when considered in-combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.35 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.
- 2.36 The site is located within the 9km of zone of influence for the Thanet Coast and Sandwich Bay SPA Mitigation and Monitoring Strategy. As such financial contributions will be sought 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 the pathway of recreational pressure, on the Thanet Coast and Sandwich Bay SPA. The tariff will be collected through a S106 undertaking.

Flood Risk, Drainage and Contamination

- 2.37 NPPF paragraph 173 states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
- 2.38 The NPPF states (Paragraph 189) that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.
- 2.39 Draft policy SP1 seeks to mitigate and adapt to climate change by ensuring development does not increase flood risk, including by taking a sequential approach to location of development. 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 a unacceptable risk on flooding on the site or elsewhere.

2.40 The site is located within flood zone 1. The application form states that a soakaway will be used for surface water drainage and foul drainage will connect to the existing mains sewer.

2.41 There is no known contamination at this location. The site was previously part of the garden of 51 Church Path.

Archaeology

2.42 Draft policy HE3 relates to archaeology. The site is located within an area of medium palaeolithic potential and background archaeological potential. KCC have been consulted but have not responded.

2.43 Given the site's location it is considered reasonable to impose a condition requiring a watching brief.

3. Conclusion

3.1 The proposal is located in a highly sustainable location close to the town centre and transport links. There would be some socio-economic benefits provided by the development at construction and operation stage, albeit minor.

3.2 It is not considered that proposal would cause any unacceptable impacts on the visual amenity, or residential amenity of the area, and would not cause a detrimental impact on the surrounding area through lack of parking provision. It is therefore considered that there are no reasons that the proposal should be prevented or refused on highways grounds.

3.3 To conclude, the proposed scheme is acceptable in principle, would preserve the character and appearance of the area, would not result in any unacceptable impacts on neighbour amenity and is considered to be acceptable in all other aspects. It is considered to accord with local plan policies and the aims of the NPPF.

3.4 Accordingly, in light of the above it is recommended that planning permission is granted subject to the conditions set out below.

g) Recommendation

I PLANNING PERMISSION BE GRANTED subject to s106 for SAMM payment and the following conditions:

- 1) Date of approval
- 2) Approved plans
- 3) Samples of materials
- 4) Provision of bicycle storage facilities
- 5) Provision of refuse/recycling storage facilities
- 6) Removal of some permitted development rights
- 7) Archaeological watching brief
- 8) Reporting of unexpected contamination

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

Case Officer

Nicola Kingsford

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