

a) **DOV/23/01055 - Erection of a dwelling with associated parking - Site Rear of 19 and 21 Bewsbury Crescent, Whitfield**

Reason for report – Number of contrary views (13 + Parish Council)

b) **Summary of Recommendation**

Planning permission be granted.

c) **Planning Policy and Guidance**

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

Land Allocations Local Plan (2015) & Local Plan (2002) Saved policies

Submission Draft Dover District Local Plan (2023): The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process the policies of the draft can be afforded some weight, but this depends on the nature of objections and consistency with the NPPF. Draft policies SP1, SP2, SP3, SP4, SP5, SP11, SP12, SP13, SP14, CC1, CC2, CC4, CC5, CC6, CC8, PM1, PM2, H1, TI1, TI2, TI3, NE1, NE3

National Planning Policy Framework (NPPF) (2023): Paragraphs 2, 7, 8, 11, 38, 47, 48, 60 – 63, 83, 114-116, 124, 135-140, 165, 173-174, 180, 186, 189

National Design Guide & National Model Design Code (2021)

Noise Policy Statement for England (2010)

d) **Relevant Planning History**

Various applications, including:

DOV/14/00388 – Erection of three detached dwelling, creation of parking and provision of replacement parking and new vehicular access for no. 21 (existing garage at no.21 to be demolished) – Refused – Appeal Dismissed

DOV/14/00726 – Outline application for the erection of two detached single storey dwellings, creation of parking and provision of replacement parking and new vehicular access for no.21, (existing garage to no.21 to be demolished) – Refused – Appeal Dismissed

DOV/15/01065 – Erection of two single storey bungalows – Refused – Appeal Dismissed

DOV/16/00909 – Erection of two single storey bungalows, construction of a vehicular access and parking – Refused – Appeal Dismissed

DOV/21/00664 – Erection of detached dwelling, driveway with associated parking. Creation of 2no. parking bay and blocking up of existing windows to side elevation of number 21 (existing garage and shed to be demolished) (trees and hedges to be removed) – Refused

DOV/21/01903 – Erection of detached dwelling, driveway with associated parking, alterations to existing driveway and blocking up of windows to side elevation of number 21 and erection of 1.8m high fencing (existing garage and shed to be demolished) – Granted

DOV/22/01271 – Variation of Condition 2 (approved plans) of planning permission

DOV/21/01903 (Erection of detached dwelling, driveway with associated parking, alterations to existing driveway and blocking up of windows to side elevation of number 21 and erection of fencing) – Granted

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

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

Whitfield Parish Council – *Inevitably we have now received an application to squeeze a second property into this site. The original application for two properties was refused, so the applicant sought permission for one that was granted, a variation was then submitted to completely re-site this property (in order to fit in a second). There are some clear failings in the planning system that allow this to happen.*

As with the application for both the two properties and the single property, Whitfield Parish Council strongly object to this new application for the erection of a dwelling. This site is surrounded on all sides by residential dwellings, with the driveway to access this dwelling in very close proximity to the property wall of No 23 Bewsbury Crescent. An additional property with two/three vehicles will greatly increase the vehicle movements and noise levels passing so close their home on a daily basis.

Whitfield Parish Council object to back garden developments; this application must certainly be regarded as an over intensification of a back garden. Whitfield has a high proportion of homes with large gardens that can accommodate such development and while individual applications may not cause problems, the cumulative effect of all these applications has an adverse effect to the parish.

KCC Public Rights of Way and Access Service – Public footpath ER74 runs adjacent to the proposed development. KCC have no objection but suggest informatives (to be included if permission is granted).

Kent Fire and Rescue Service – *Due to the length of the proposed access driveway, facilities should be provided to allow a fire appliance to turn in accordance with B5 of Approved Document B, Volume 1 2019. Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority.*

Third party Representations:

13 Members of the Public have written in objection to the proposals and representations are summarised below:

- Residential amenity, loss of privacy/overlooking, noise and disturbance
- Over intensification of the site
- Ecology/trees
- Inadequate access and parking provision, including turning areas and access for emergency vehicles
- Inaccurate plans - with the current layout (drive of 21 is now different to that shown in plans). Plans accepted for 21A were for 4 vehicles; now reduced to accommodate new plans
- The previous permission has not been fully implemented/conditions complied with
- Inaccuracies and misleading statements in application
- Increased risk of flooding to neighbouring properties and gardens
- Previous refusals over 9 year period

10 representations in support of the proposals have been received and are summarised below:

- no reasonable objection
- The development is in keeping with other properties in the area
- Traffic/parking/access is appropriate and impacts will be minimal
- There is a need for housing
- The development would not harm residential amenity
- Use of land for housing within the built up area is preferable
- Sympathetic to neighbouring properties and with use of hedging and suitable fencing the impact on such will be at a minimum

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

- 1.1 The application site relates to land to the rear of 19 and 21 Bewsbury Crescent, located within the settlement confines of Whitfield. The land is accessed via a driveway to the west side of 21 Bewsbury Crescent, which serves a dwelling currently under construction at the site (the subject of applications DOV/21/01903 and DOV/22/01271). The site is bounded by 17 Bewsbury Crescent to the east, which has a detached annexe within the rear garden of the property. To the west of the site is 23 Bewsbury Crescent; a detached single storey bungalow. Public bridleway ER74 runs adjacent to the south eastern site boundary and beyond this are the gardens of Nos. 17, 19, 21, 23 and 25 Castle Drive, which are chalet bungalows with dormer windows facing towards the site. Bewsbury Crescent contains a range of bungalows, chalet bungalows and two storey dwellings; the majority of which are detached and finished in brick and/or render with a range of roof types and orientations. All the dwellings are set back from the highway behind front gardens or driveways and there is a strong building line. Notwithstanding this, a number of dwellings have been constructed in the rear gardens of the properties, particularly in the eastern corner and along the north eastern side of Bewsbury Crescent. A bungalow has also been erected to the rear of 31 Bewsbury Crescent to the west of the site (and on the same side of the Crescent).
- 1.2 There is extensive planning history for this site, with previous applications for three detached dwellings, two detached single storey dwellings and two single storey bungalows having been refused and dismissed at appeal. DOV/14/00388 sought permission for three detached (two storey) dwellings, with the proposed access to the west side of 21 Bewsbury Crescent (as currently proposed). Application DOV/14/00726 sought outline permission (all matters reserved) for two detached bungalows with the same access location. Both were refused and dismissed, with the Inspector considering that the tandem form of development was acceptable, however raising concern that the traffic movements very close to the private area of 23, whilst limited in number, would result in increased noise and disturbance close to the sitting out area and the bedroom windows of 23 which would not result in a good standard of amenity for existing residents. Subsequent applications DOV/15/01065 and DOV/16/00909 (both for two detached dwellings) proposed a driveway between 19 and 21 were also dismissed at appeal in respect of the impact on the amenities of occupiers from the introduction of vehicle movements along the side and rear of properties 19 and 21 Bewsbury Crescent and associated activity and disturbance. As set out above, permission was granted under DOV/21/01903 (and DOV/22/01271) for the erection of a bungalow at this site, with the access being taken from the west of 21 Bewsbury Crescent. Conditions were imposed in relation to hard and soft landscaping to secure acoustic fencing either side of the access and use of a bound surface to reduce noise and disturbance, amongst other conditions.

- 1.3 The applicant seeks consent for the erection of a dwelling with associated parking. The three-bedroom single storey dwelling would contain an open-plan living/kitchen/dining room and would have access to garden to the south and east. It would have a fibre cement slate roof, anthracite powder coated aluminium framed windows and doors and the external walls would be finished in white 'monocouche' render, with sections of cedar cladding on gable ends.

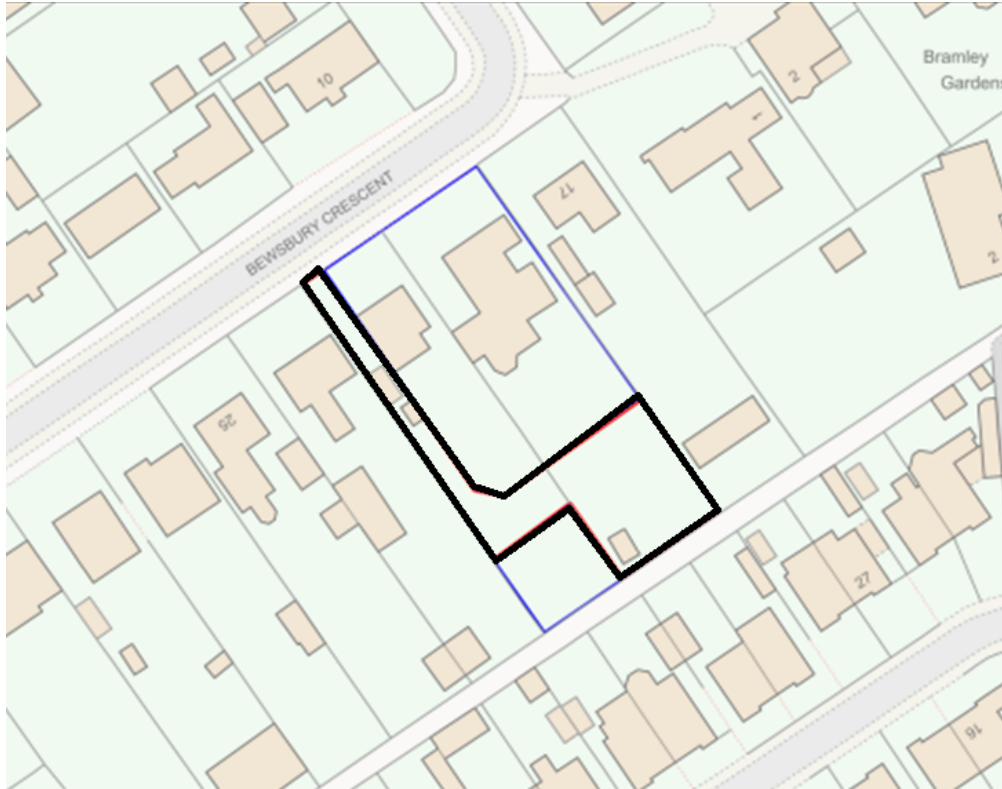


Figure 1. Site Location Plan

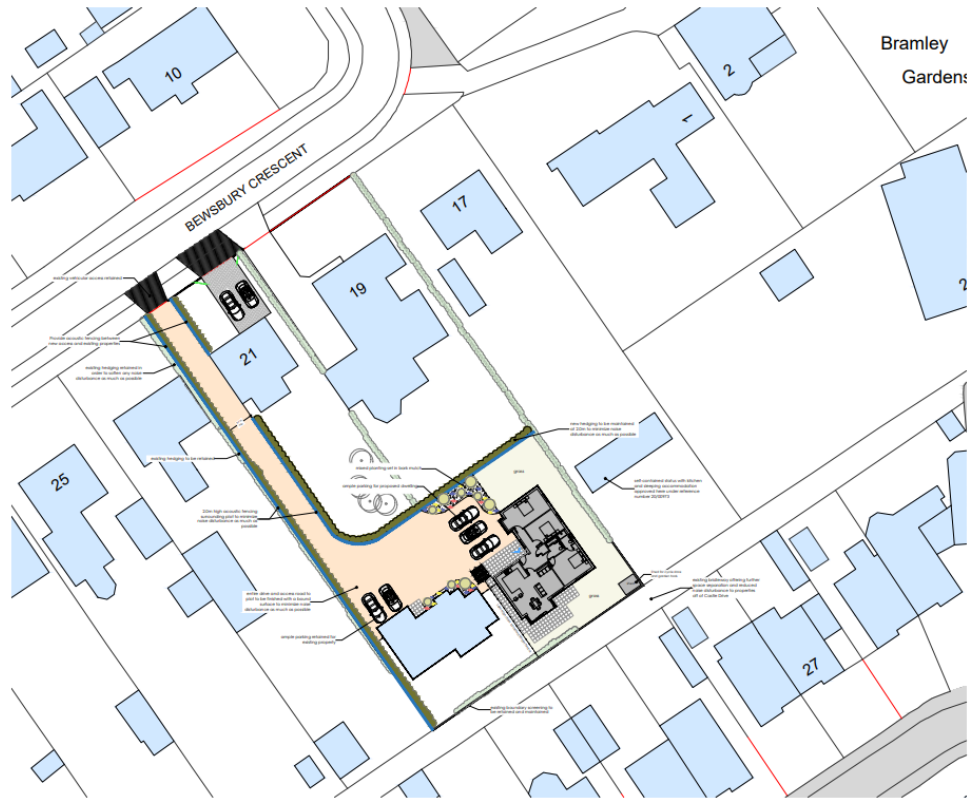


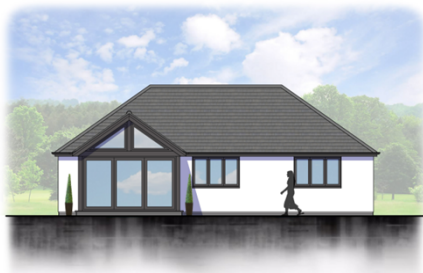
Figure 2. Proposed Block Plan



front - north west



side - south west



rear - south east



side - north east

Figure 3. Proposed Elevations

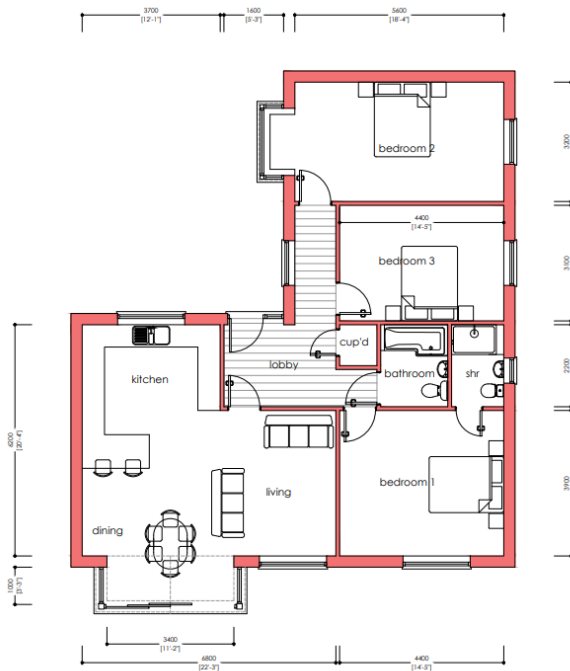


Figure 4. Proposed Floor Plans

2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development
- The impact on visual amenity
- The impact on residential amenity
- Other matters

Assessment

Principle of Development

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.3 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 within the defined settlement confines and therefore accords with Policy DM1.
- 2.4 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel unless it is justified by other development plan policies. The occupants of the development would be able to access most day to day facilities and services within Whitfield and would be able to reach these facilities by more sustainable forms of transport, including walking and cycling or via nearby public

transport. Again, as the site is located within the settlement confines, the development accord with Policy DM11.

- 2.5 For the above reasons, the development accords with Policies DM1 and DM11 of the development plan. 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 8. This definition includes: where the council are unable to demonstrate a five-year housing land supply (or a four year supply if applicable); or, where the council has delivered less than 75% of the housing requirement over the previous three years (as assessed by the Housing Delivery Test).
- 2.6 Having regard for the most recent Housing Delivery Test, the Council are currently able to demonstrate a five-year supply. The council 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. 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.
- 2.7 Policy DM11 is consistent with the NPPF which seeks to focus development in locations which are or can be made sustainable, where there is access to a range of modes of transport (including walking and cycling) and where development will support existing facilities and services, and social integration. It is considered that the blanket restriction imposed under (1) of DM11 is contrary to the NPPF, albeit the remainder of the policy broadly accords with the NPPF. It is therefore considered that DM11 is not out-of-date and should continue to attract significant weight.
- 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 T11 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 appropriate locations for new windfall residential development. The draft Policy seeks to deliver a sustainable pattern of development, including within the rural areas where opportunities for growth at villages (in line with Paragraph 83 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 within the draft settlement confines (within the settlement of Dover which

includes Whitfield), such that the principle of residential development would accord with draft Policy SP4.

- 2.10 It is considered that policies DM1 and DM11 are, to varying extents, in tension with the NPPF, although for the reasons given above some weight can still be applied to specific issues these policies seek to address, having regard to the particular circumstances of the application and the degree of compliance with NPPF objectives in this context. The proposals would also accord with 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. 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, and as such, 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 The site is within a predominantly residential area and Bewsbury Crescent comprises a mix of dwellings of varying heights. Whilst there is a strong building line along Bewsbury Crescent, the character of the street scene is considered to be varied and several dwellings have been permitted and constructed within the rear gardens of dwellings, including this site, such that the principle of backland development has been established.
- 2.12 The proposals would result in the creation of a detached bungalow to the rear of 19 and 21; to the east of a bungalow currently under what appears to be the final stages of construction, which would utilise the same vehicular access to the west side of 21 Bewsbury Crescent. Due to its siting and the positioning of existing dwellings fronting the highway, there would be very limited, if any, views of the proposed bungalow from Bewsbury Crescent. There would be views of the roof of the bungalow from the public bridleway to the rear, however the design and materials of the proposed bungalow would be in keeping with that of the adjacent bungalow under construction. As such due to the scale and design of the proposal, it is considered the development would preserve the varied character and appearance of the area, in accordance with the objectives of NPPF Paragraph 135 and draft Policies SP4 and PM1.

Impact on Residential Amenity

- 2.13 The bungalow would be seen from a number of nearby properties (including those on Castle Drive and the annexe to the rear of 17 Bewsbury Crescent). Notwithstanding this, due to the scale and design of the proposed bungalow, it is not considered the development would result in an overbearing impact on the amenities of nearby residents. Due to the orientation of the site and direction of the sun path, the bungalow would cast shadow mostly across its own garden or parking area. Any further shadow would largely fall on the site boundaries and would be limited by the hipped roof of the bungalow, such that the development is not considered to result in significant overshadowing or loss of light to neighbouring residents.
- 2.14 In respect of privacy, the bungalow would feature windows at ground floor level only, which would overlook the proposed garden or parking area of the site, with wider

views restricted by boundary planting. In the interests of residential amenity, it is considered appropriate to suggest a condition is imposed to secure the provision of the boundary treatments indicated on the block plan. Subject to this, the development is considered to sufficiently preserve the privacy of neighbouring residents (and future residents of the adjacent bungalow under construction).

- 2.15 Concerns have been raised in public representations in respect of noise and disturbance from the use of the access (between 21 and 23 Bewsbury Crescent). Previous applications for the erection of 2-3 dwellings to the rear of 19 and 21 Bewsbury Crescent have been refused, with some dismissed at appeal. A Noise Impact Assessment has been submitted, however this considers the impact of one dwelling using the access and has not been updated to consider the cumulative impacts of the approved bungalow under construction and the proposals now submitted. Notwithstanding this, the development would not increase noise generated by each vehicle movement, rather it would increase the number of vehicle movements overall. The Noise Impact Assessment concludes that the noise impact of passing vehicles would be lower than background noise at the noise monitoring location. The previously approval also secured a 2m high acoustic fence (as opposed to the 1.8m high fence recommended by the Noise Impact Assessment) to further reduce the impact.
- 2.16 Condition 4 of DOV/22/01271 required the submission of a landscaping scheme (including boundary treatments); details of which have been approved. The condition requires the landscaping scheme (which proposed 2m high acoustic fence along the length of the boundary with 23 Bewsbury Crescent and the majority of the garden boundary with 21 Bewsbury Crescent and a tarmac surface to the driveway) to be carried out fully within 12 months of the completion of the development. Concerns have been raised in respect of this being provided and the quality of hedgerow currently along the boundary. Whilst the landscaping scheme is not currently in place, the development does not appear to have been completed yet. In order to ensure the hard and soft landscaping shown on the proposed plans is delivered, in the interests of residential amenity (given the boundary treatments are required to ensure suitable privacy between future and existing occupants and a bound driveway surface and acoustic fencing are needed to restrict noise and disturbance from the increased use of the access), it is considered appropriate to impose a condition to secure this. Notwithstanding the harm to residential amenity identified by Inspectors (summarised at paragraph 1.2), whilst balanced, it is considered the level of activity from the use of the access associated the proposals (and the recently constructed bungalow once occupied), is unlikely to result in such significant harm to the amenities of residents of 21 and 23 Bewsbury Crescent, particularly once the 2m acoustic fence has been erected, to warrant a recommendation for refusal, having had regard to the objectives of the NPPF (particularly paragraph 135), draft Policies PM1 and PM2 and the Noise Policy Statement for England.
- 2.17 In respect of the amenity of the proposed occupiers, the bungalow would contain three bedrooms and a large open-plan living/kitchen/dining room with access to a private garden. All habitable rooms would be naturally lit and refuse/recycling storage and secured bicycle storage has been shown on the proposed block plan, with a 1.8m high close-boarded fence being installed along the retained garden boundary of the adjacent bungalow ensuring sufficient privacy and amenity. Consequently, it is considered the proposals would provide a good standard of amenity, having had regard to the objectives of NPPF Paragraph 135 and draft Policy PM2.

Parking and Highways

- 2.18 The proposed dwelling would contain three double-bedrooms and the block plan submitted shows that three parking spaces would be provided within the site, which would accord with the parking requirements of Policy DM13 and draft Policy TI3. Two parking spaces are also shown to serve the adjacent two bed bungalow, which is also considered to accord with the requirements of these policies. The drive and access road would be finished in a bound surface (to minimise noise disturbance), and it is considered there would be sufficient space for vehicles to turn within the site, as well as for some visitor parking if required (noting that some on-street parking is also available, albeit limited).
- 2.19 Concerns have been raised in respect of the width of the access, however Kent Fire and Rescue Service have advised that due to the length of the access driveway, facilities should be provided to allow a fire appliance to turn in accordance with Building Regulations. Given this matter can be addressed separately under building regulations, it is not considered necessary to require further information in this respect.

Wildlife/Ecology/Trees

- 2.20 The site relates to garden land which appears reasonably well maintained (noting the adjacent bungalow is currently under construction resulting in disturbance to the site), is bounded by fences and, having regard to Natural England advice (and draft Policies SP13, is considered unlikely to provide a suitable habitat for European Protected Species. It is noted that draft Policy CC8 seeks a minimum of two new trees to be planted for each new dwelling, however at this stage, the draft policy is considered to attract limited weight, being more onerous than the NPPF.

Flood Risk and Drainage

- 2.21 The site is located within flood zone 1, which has the lowest risk from flooding from rivers and the sea. For new residential development of this scale and within this flood zone, a site specific flood risk assessment, sequential test and exceptions test are not required. The application form sets out that surface water would be disposed to a soakaway and foul sewage would be disposed to the mains sewer. As these matters would be dealt with adequately under building regulations, it is not considered that further details are required.

Planning Balance

- 2.22 The principle of the development accords with Policies CP1 and DM1 (and draft Policy 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.
- 2.23 Policies CP1 and DM1 carry limited weight, however draft Policy SP4 carries moderate weight in favour of the proposals. The impact on visual amenity, residential amenity and in respect of other material considerations has been discussed above and, on balance, is considered to be acceptable, weighing in favour of the proposals. 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 lies within the settlement confines identified in Policies CP1 and DM1, as well as the draft settlement confines identified in SP4 and is considered to be acceptable in principle. 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. The design of the proposals is considered to preserve the character and appearance of the area. The impact on residential amenity and other material considerations has been addressed and subject to the imposition of the suggested conditions, is considered to be acceptable, addressing the previous reasons for refusal of development at the site. In light of Paragraph 11 of the NPPF, and in taking into account other material considerations, 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 the following conditions:
- 1) Time
 - 2) Plans
 - 3) Samples of materials
 - 4) Parking and turning space provision
 - 5) Bicycle and refuse storage
 - 6) Landscaping provision (including boundary treatments)
- II Powers to be delegated to the Head of Planning and Development to settle any necessary planning conditions, obligations and reasons in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Rachel Morgan