

a) **DOV/23/00995 - Erection of two dwellings with associated parking (outbuildings to be demolished) - Land to the Rear of 439 Folkestone Road, Dover**

Reason for report – Number of contrary views (7 Public Representations)

b) **Summary of Recommendation**

Planning permission be granted.

c) **Planning Policy and Guidance**

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

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, NE2, NE3

National Planning Policy Framework (NPPF) (2023): Paragraphs 2, 7, 8, 11, 38, 47, 48, 60 – 65, 87, 114-116, 128, 132, 135 - 140, 173, 174, 180, 182, 186

National Design Guide & National Model Design Code (2021)

Kent Downs Area of Outstanding Natural Beauty (AONB) Management Plan 2021-2026

Countryside and Rights of Way Act 2000

d) **Relevant Planning History**

DOV/01/00576 – Change of use to private dwelling – Granted

DOV/07/00499 – Erection of first floor side extension. – Granted (439 Folkestone Road)

DOV/17/00516 – Creation of vehicular access and construction of hardstanding – Refused – Appeal Allowed with Conditions (Westbourne, 439 Folkestone Road)

DOV/17/01230 – Erection of a detached dwelling, formation of vehicle access and parking – Granted (Land Rear Of 117 Manor Road & Adjoining 437 Folkestone Road)

This permission has since lapsed

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

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

Dover Town Council – Support.

KCC Highways and Transportation – Initially sought corrections and further information, at one stage recommending refusal. However, following amendments, advised the applicant had confirmed the relocation of the parking serving 437 Folkestone Road to the rear of the site, widening the existing access to allow two way

movement (any dropped kerb not utilised for this should be reinstated to full height to avoid the retention of a parking space to the front). Recommended Fire and Rescue and waste (to ensure they are content with roadside collection) were reconsulted due to the access track being over 45m in length and less than 3.7m at a pinch point and as drag distances for operatives are greater than 30m. The access gradient is unclear however they could not recommend refusal on this basis but advised the applicant level the access as much as possible to an adoptable standard.

They raised no objection subject to the imposition of conditions for a construction management plan, measures to prevent the discharge of surface water onto the highway, provision and permanent retention of the vehicle parking spaces shown on the plans prior to the use of the site commencing, closure of the existing access not utilised for the widening of the access track, use of a bound surface for the first 5m of the access from the edge of the highway, gates to open away from the highway and be set back a minimum of 5m from the edge of the carriageway, provision and retention of secure covered cycle parking facilities, provision and maintenance of 2m x 2m pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level. Advice is also provided on EV charging standards and an informative is suggested.

Southern Water – requires a formal application for a connection to the public foul sewer to be made by the applicant/developer and if connection is to be made through land under the ownership of other Parties, then the Landowners consent would be required. Technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water. It is possible that a sewer now deemed to be public could be crossing the development site and should any be found during construction works, an investigation will be required to ascertain its ownership.

Kent Fire and Rescue Service – Applicants should be aware that in the event of permission being granted the Fire and Rescue Service would require emergency access, as required under the Building Regulations 2010, to be established. The access driveway which should be a minimum of 3.7 metres in width. Where there is a pinch point due to gates etc the width may be reduced to a minimum of 3.1 metres. The driveway is required to allow a fire engine to reach a location, a maximum of 45 metres from the furthest point within in the dwelling. The distance of 45 metres may be extended up to 90 metres for a house with no floor more than 4.5m above ground level or 75m for houses and flats having one floor more than 4.5m above ground level, on the provision of a domestic fire suppression system installed to the appropriate standard.

Stagecoach South East – initially objected to the application, noting the concerns of KCC Highways and that the proposals would require the provision of dropped kerb access which would interfere with the bus stop located at the boundary of 437/439 such that an alternative location for the bus stop (including provision of a raised kerb and revised road markings) would need to be agreed. However, upon receipt of amended plans, advised that what is now proposed widens the proposed access road, leaving the existing flight of steps in place and with no alterations to the footway or bus stop and on this basis, withdrew their objection.

Third party Representations:

7 Members of the Public have written in objection to the proposals and material considerations are summarised below. Matters such as loss of a view and impact on house prices are not material considerations.

- Highways safety – concerns regarding safety of the access lane and danger of vehicles ending up in gardens due to width and drop in ground levels and whether it would be resurfaced to ensure vehicles do not lose traction. Concerns regarding pedestrian safety, width of lane (and existing extension at 437), emergency access (e.g. for fire engines and refuse vehicles), visibility from access due to parked vehicles. Concerns whether lane is strong enough for HGVs, access and parking during construction and for deliveries and access for refuse collection vehicles, how refuse would be collected. No visitor parking proposed so they would have to park on the public highway. Additional housing will exacerbate and encourage more parking in the cycle lanes. Concerns that access was amended before planning was granted for one bed chalet bungalow rear of 117 Manor Road as single track was not suitable for vehicles and emergency services, right of access over track.
- Residential amenity – overlooking/privacy (planning has also been granted to 117 Manor Road using this was of access), encroaching on neighbours, gardens are not 10m deep as suggested in national space standards. Will impose a track with regular car use directly next to 437. Buildings should be single storey to avoid overlooking.
- Design/visual amenity - land is not large enough to support 2 dwellings and car parking, designs are too cramped for space without adequate access. Elevations lack detail on materials and finishes. Bin and bike stores not indicated on block plan. Drag distance for refuse is over recommended distance and uphill on very steep gradient. No proposed safe area for bins to be positioned for collection at the top of the road, restricting access to the bus stop, users and blocking view points (concerns for public safety). Impact on views of AONB.
- Wildlife/ecology – loss of trees that bats nest in, will remove habitats from the overgrown land where foxes reside
- Precedent – could lead to others building at the end of a garden
(**Officer comment:** The Planning Committee is advised that the application before you should be assessed on its own merits and not whether it might lead to future development)
- Address of development – application states to rear of 439 Folkestone Road but development is also to rear of 437 Folkestone Road
(**Officer comment:** Officers are satisfied that the address adequately identifies the site location)
- Utilities – request details of sewage plans, whether a sewage pump will need to be in place or a cess pit or if they would cut into an existing sewage line on Manor Road lower down. Would this cause extra noise, what would it run on, what if it fails? If a cess pit, where would it be sited, will it impact the load bearing of the ground above. Bin drag distance is over the recommended distance and uphill on very steep gradient, no safe area for bins to be positioned for collection at the top of the road and this could restrict access to the bus stop and block view points entering/exiting the lane
- Plans – red line does not extend to edge of highway meaning they have not consented to access the road and red line should be adjusted. No drawing submitted or part of DAS in regard to highway information, gradient of access and construction methodology/construction method statement, lack of vision splays to Folkestone Road which should be within red line, vehicle tracking, proposal prohibits 117 Manor Road access to consented rear garden building and parking space already approved and concerns regarding cumulative impact of 6 vehicles using access. Concerns that study would be marketed as bedroom and increased parking for a 3-bed house would otherwise be needed. Concerns that drawings do not consider extension to side of No. 439 and no measurement is shown at its narrowest point. Not wide enough for refuse and emergency

vehicles. Now proposed for up to 7 vehicles. Will the lane be properly resurfaced to ensure vehicles do not lose traction entering/exiting the lane, safety concerns that a vehicle with lost traction could veer and drop into neighbouring garden.

(**Officer comment:** it is considered that officers are satisfied that the information needed to make an informed assessment of the proposal has been submitted. Access to 117 Manor Road is a civil matter. Parking matters will be addressed in the assessment below.)

6 representations in support of the proposals have been received (including from The Dover Society) and are summarised below:

- Plenty of room for off-street parking
- Sympathetically designed to minimise impact on neighbouring properties
- Nice to see more new housing space in this area, positive use of brownfield site rather than using greenfield
- Hidden space for 2 private housing, will be discrete and inobtrusive, perfect opportunity for infill
- Beneficial to run down street for anything new to be added to this scrub land
- Represents a good standard of housing on an otherwise unused piece of land
- Note the views expressed by Kent Highways and Kent Fire & Rescue, but are happy to support the application subject to these concerns being addressed

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

1.1 The site relates to a plot of land to the rear (southeast) of 437 and 439 Folkestone Road (a pair of semi-detached dwellinghouses), within the settlement confines of Dover. The site is accessed via a driveway, to the east of 437 Folkestone Road, which slopes down steeply away from the highway. The site currently contains a number of garages and outbuildings and a parking area. The access is bounded by the gardens of 435 Folkestone Road to the northeast and 3 Rugby Road to the east and the development site itself is bounded by the gardens of 117 Manor Road to the southeast, a private playing field to the south (which lies within the Kent Downs Area of Outstanding Natural Beauty) and 441 Folkestone Road to the west.

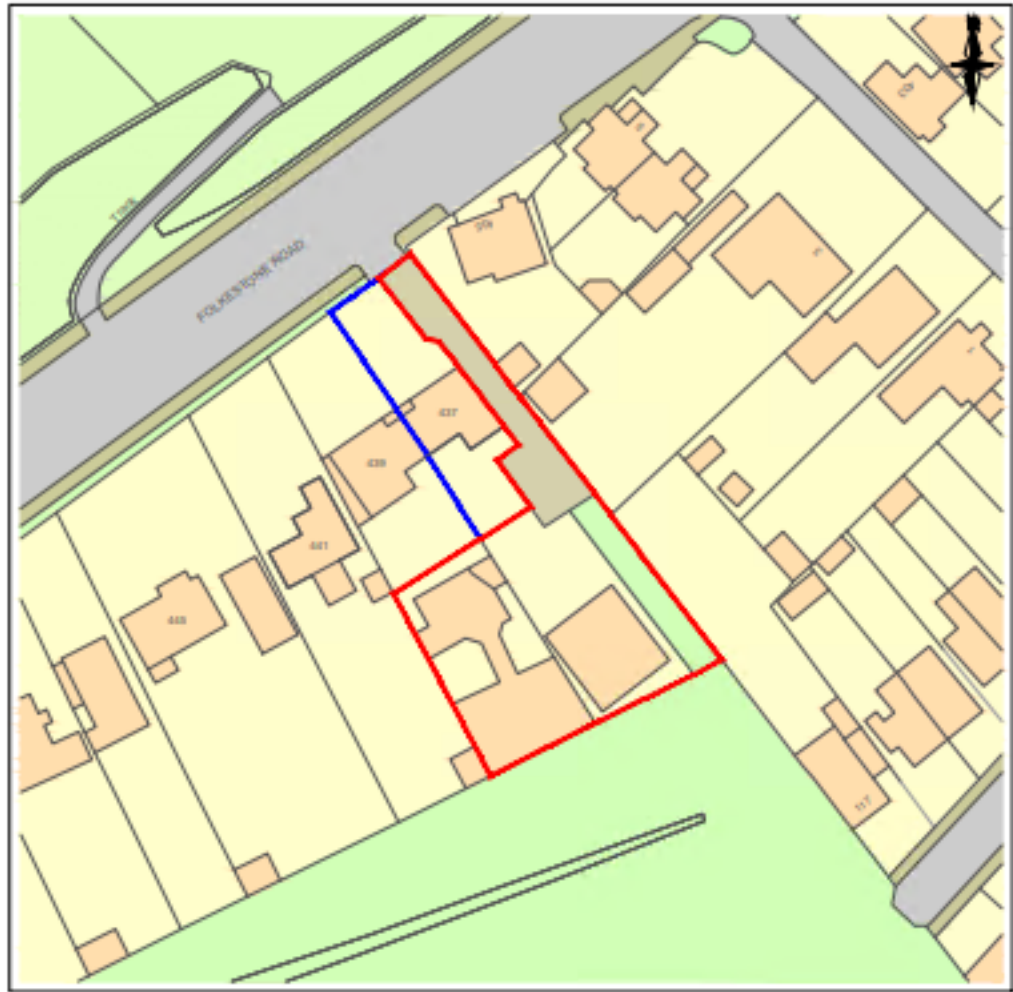


Figure 1. Site Location Plan

- 1.2 The applicant seeks consent for the demolition of the existing buildings and the erection of two detached dwellings, as shown in Figures 2, 3 and 4 below. The two-bedroom dwellings, which would be positioned downhill of Folkestone Road (as shown in Figure 4), would have private gardens to the rear with secured cycle sheds and would each have two parking spaces. The dwellings would be finished in a slate type roof, brick elevations and white uPVC windows and the first-floor level accommodation would be served by rooflights to the southeastern roof slopes. The design of the access has been amended several times during the course of the application and is discussed further at paragraphs 2.13 to 2.15. Whilst the access has been amended since it was last advertised, the public is not considered to be prejudiced by this as the scale of works is reduced.

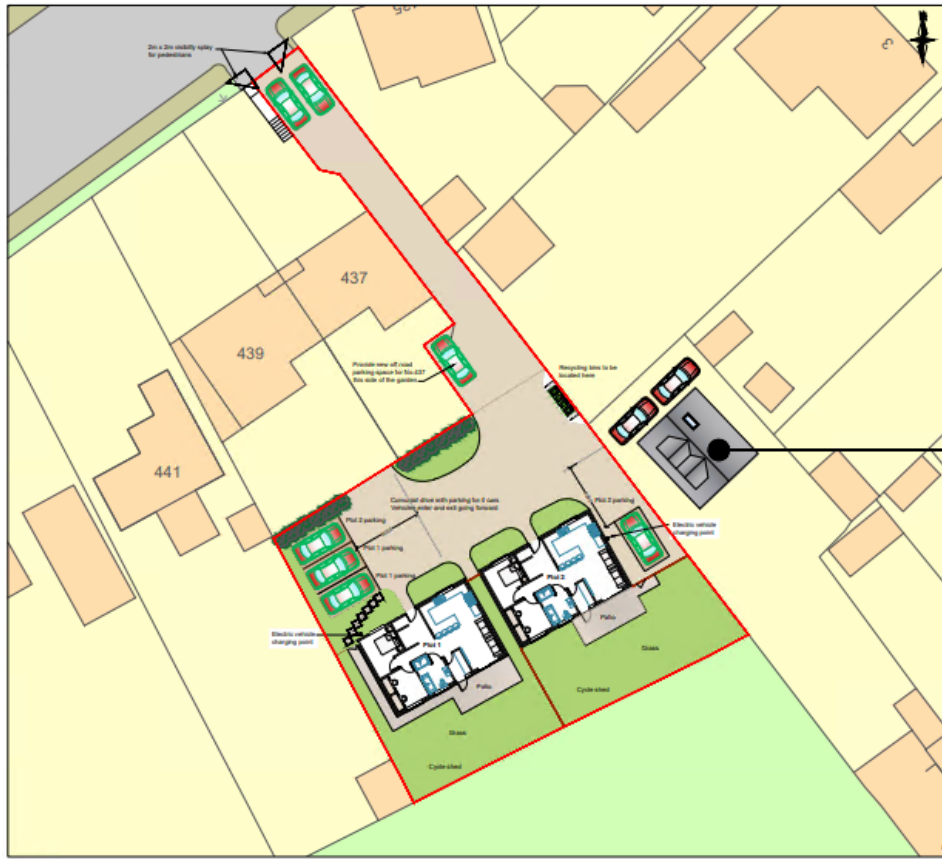


Figure 2. Proposed Block Plan

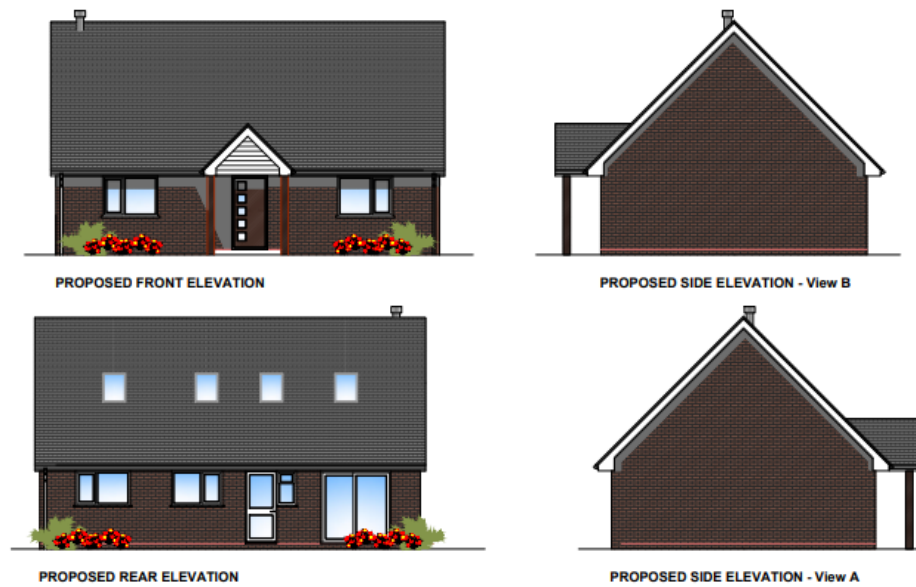


Figure 3. Proposed Elevations

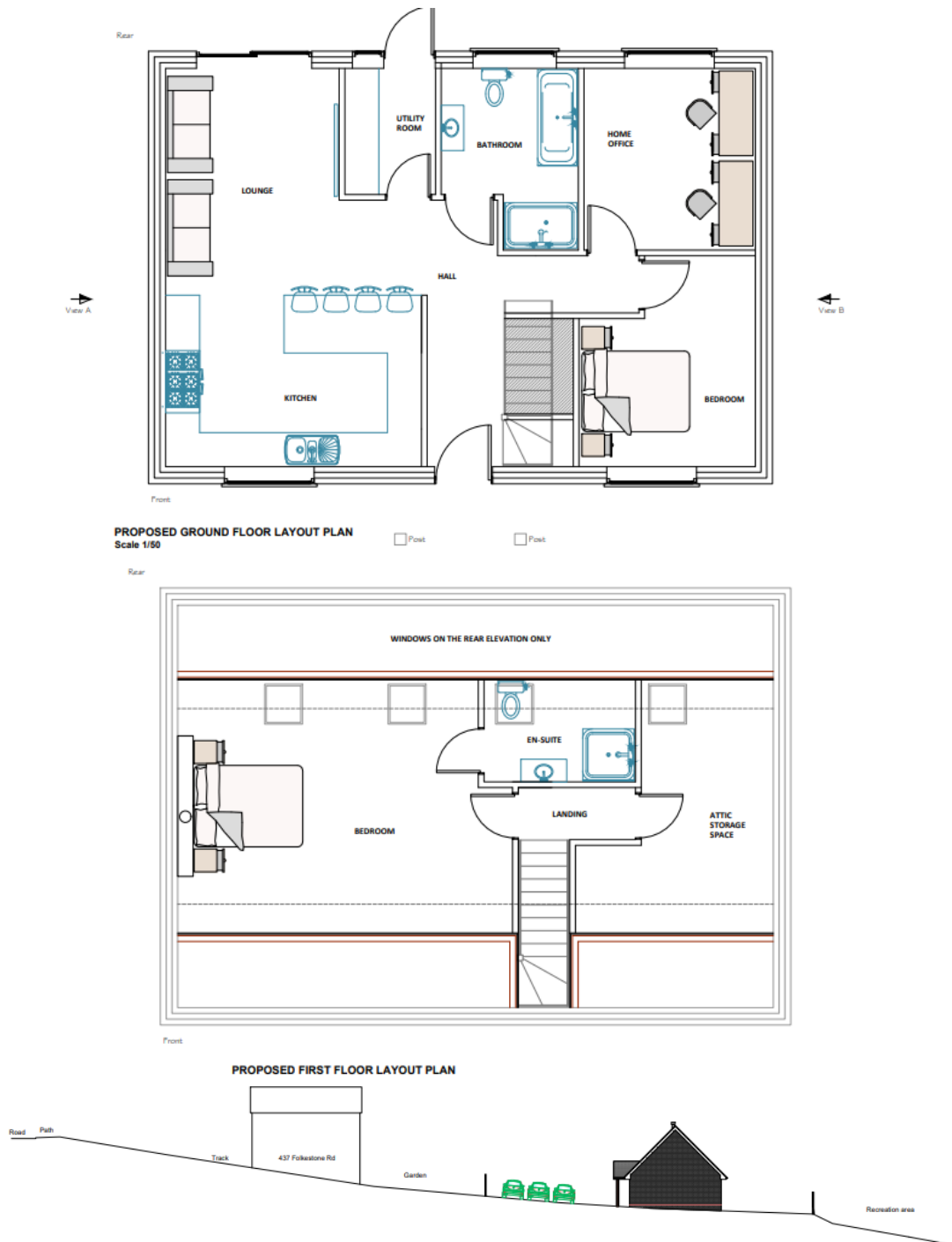


Figure 4. Proposed Floor Plans and Section

2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development
- Impact on visual amenity
- 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 settlement confines and the principle of residential development in this location would accord with policy DM1.
- 2.4 The NPPF advises, at paragraph 11, that proposals that accord with an up-to-date development plan should be approved without delay. 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 the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (policies include those relating to habitats sites, SSSI, AONB, Heritage Coast, irreplaceable habitats, designated heritage assets and those of archaeological interest and areas at risk of flooding or coastal change), or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. 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 of the NPPF. This definition includes: where the council are unable to demonstrate a five-year housing land supply; or, where the council has delivered less than 75% of the housing requirement over the previous three years (the Housing Delivery Test).
- 2.5 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.
- 2.6 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 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 creates opportunities for active travel. Draft Policy TI1 requires opportunities for sustainable transport modes to be maximised and that development is readily accessible by sustainable transport modes. Draft Local Plan Policy SP4 sets out the 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, such that it is considered to attract moderate weight in the planning balance. The site is located within the draft settlement confines and would therefore accord with the objectives of the policy.

- 2.8 It is considered that policy DM1 is in tension with the NPPF, although for the reasons given above some weight can still be applied to specific issues the policy seeks 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 the objectives of Draft Policy SP4 which is considered to attract moderate weight in the planning balance, being devised on the basis of current housing targets and the NPPF. 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

- 2.9 The proposed dwellings would be set back from the public highway, positioned behind and at a lower level than the semi-detached properties fronting Folkestone Road (437 and 439). There is adequate space within the site to accommodate 2 dwellings comfortably with a reasonable sized garden and parking area. The site section in Fig.4 shows that the land falls away and suggests that the intention is to very slightly make up the levels. Given the modest scale of the buildings and their positioning in relation to the main road then there should only be glimpses of the development from the wider area to the north. To address this, a levels condition could be imposed to ensure that there are no significant changes in levels during construction that might unduly increase the impact of the development upon the wider area. The pitched roof design and materials would not be out of character with the context of the site. The development would therefore sit comfortably within the street scene with no harm to visual amenity. In turn, a condition can be imposed to seek the submission of samples for approval to ensure a high-quality finish to the development. Whilst there may be some more distant views of the dwellings from the south (where there are public rights of way and the Kent Downs AONB), the proposals would nonetheless be seen within the context of existing residential development and, due to their design, siting and scale, are considered to preserve the character and appearance of the wider countryside and landscape area (including AONB) beyond, having had regard to the objectives of NPPF Paragraphs 180 and 182, Policies DM15 and DM16, draft Policy NE2 and SP4 and section 85 of the Countryside and Rights of Way Act 2000, which places a

duty on Local Planning Authorities to 'have regard' to the 'purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty'. It is considered the proposals would accord with the objectives of NPPF Paragraph 135 and draft Policy PM1.

Impact on Residential Amenity

- 2.10 The proposed dwellings would be positioned downhill from properties fronting Folkestone Road and whilst concerns have been raised in representations in respect of overlooking, the dwellings would feature openings at ground floor level which would overlook the car parking area of their respective gardens. At first floor level, there would be rooflights on the southeast roof slopes which would overlook the proposed gardens and playing fields beyond. As such, it is considered the privacy of surrounding residents would be adequately preserved and a condition is suggested preventing the installation of further openings in the roof of the dwellings. Due to the positioning of the dwellings, their height and design, it is considered the development would not result in an overbearing impact on nearby residential amenity. The majority of shadow cast by the development would fall to the north of the dwellings, across the parking and turning areas, such that the development is considered unlikely to result in significant overshadowing or loss of light to neighbouring properties.
- 2.11 In respect of the amenities of future occupiers of the development, the dwellings would have south facing gardens and all habitable rooms would be of a good size and would be naturally lit and ventilated. Whilst not yet adopted, it is noted that the development would meet the Nationally Described Space Standards. Secured cycle storage would be provided within the gardens of the properties and the plans indicate the dwellings would be fitted with fire sprinklers, which would be a matter for Building Regulations approval. Having had regard to the objectives of the NPPF (particularly Paragraph 135) and draft Policies PM1 and PM2, it is considered the proposals would have an acceptable impact on residential amenity.

Flood Risk and Drainage

- 2.12 The site is located within flood zone 1, which has the lowest risk from flooding from rivers and the sea and a site-specific flood risk assessment, sequential test and exceptions test are not required. Southern Water have been consulted on the proposals, advising that a formal application for a connection to the public foul sewer would be required and that should any sewer be found during construction works, an investigation would be required to ascertain its ownership before any further works commence on site. It is noted that one of the public representations queries how sewage from the development will be treated. The application form clarifies that surface water would be disposed of by soakaways and that foul sewage would be disposed to the mains sewer. As these matters would be dealt with under Building Regulations, it is not considered that further details would be required by condition.

Travel, Highways and Parking

- 2.13 Two parking spaces would be provided for each of the new dwellings within the development, which is considered to accord with the requirements of Policy DM13 and draft Policy TI3. To accommodate the widened access to the site, the existing parking space for 437 Folkestone Road would be relocated to the rear. Whilst the provision of one parking space to serve the existing dwelling likely falls

below the requirements of Policy DM13 and draft Policy TI3, this is not considered so significant to recommend refusal given some on-street parking is available in the area. Secured bicycle storage would also be provided within the garden of each property (suggested to be secured by condition) and there is a bus stop to the north of the site providing services towards Dover and Folkestone, where a range of facilities can be found. A representation has made reference to a potential 3rd bedroom on the plans, which is currently shown as a study, and potential implications for additional parking requirements. In the event that the dwellings were marketed with 3 bedrooms there would be no additional parking requirements for this suburban location.

- 2.14 It is noted that permission has previously been granted for the erection of a dwelling to the rear of 117 Manor Road (DOV/17/01230), which would have utilised the proposed access for this site (the track is now under the ownership of the applicant). At the site visit, development at the neighbouring site to the east did not appear to have been commenced and in any event this permission has since lapsed.
- 2.15 KCC Highways and Transportation initially raised concerns, recommending refusal on highways grounds due to the increased use of a substandard access and the gradient and width of the access increasing the likelihood of vehicles waiting on or reversing onto the highway when faced with opposing vehicles. However, the design of the access was amended during the course of the application. As set out above at paragraph 2.13; the existing parking space serving 437 Folkestone Road would be removed with the access widened to allow vehicles to enter and exit the site at the same time (utilising the existing dropped kerb) and the parking space would be relocated to the rear. They raise no objection subject to the imposition of conditions to secure a construction management plan, measures to prevent the discharge of surface water onto the highway, provision and retention of the vehicle parking spaces shown on the plans, closure of the existing access not used for the widening of the access track, use of a bound surface for the first 5m of the access from the edge of the highway, gates to open away from the highway and be set back a minimum of 5m from the edge of the carriageway (notwithstanding that none are shown on the proposed plans), provision and retention of secured cycle storage facilities, provision and maintenance of 2m x 2m pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level. They also suggest a condition for the provision of EV charging, however this matter is dealt with under Building Regulations. An informative is also suggested.
- 2.16 Concerns have been raised in public representations about the safety of the use of the access and risk of vehicles coming off the access into neighbouring gardens if they lose traction. The intention is for the access to be resurfaced and it is considered appropriate to require details of the proposed surface of the access to be submitted as part of a hard and soft landscaping condition (which would also include details of boundary treatments). Concerns have also been raised in public representations in relation to the location of refuse on collection days and whether this would obstruct the highway and bus stop or obscure visibility from the access. As such, a condition is suggested requiring the submission of refuse collection details and a separate condition is suggested requiring the provision and maintenance of pedestrian visibility splays (as detailed in the above paragraph). In respect of access for emergency vehicles such as fire engines, the location and block plan confirm that the dwellings will require fire sprinkler protection, to be dealt with under Building Regulations.

Subject to the above conditions, the development is considered to be acceptable in respect of highways safety.

- 2.17 Stagecoach South East initially objected on the basis that the proposals would interfere with the bus stop and an alternative location for the stop would be required. However, upon further clarification of the amended plans, which would result in no changes to the existing dropped kerb arrangements (and would therefore not require relocation of the bus stop), withdrew their objection.

Other Matters

- 2.18 The proposals would result in the demolition of the existing outbuildings at the site. Having had regard to Natural England's standing advice, the site is considered unlikely to provide suitable habitat for protected species. Notwithstanding this, were permission to be granted, an informative could be included providing information on the protection of bats.

Planning Balance

- 2.19 The proposals would contribute two dwellings towards the Council's 5-year housing land supply. The application site is located within the settlement confines identified in Policy DM1 and the principle of residential development in this sustainable location is considered acceptable. The site is also within the draft settlement confines associated with draft Policy SP4, attracting moderate weight in favour of the proposal.
- 2.20 Due to the design, siting and scale of the development, the proposals are considered to have an acceptable impact in respect of visual and residential amenity (subject to the imposition of conditions), as well as being acceptable in regard to flood risk, weighing in favour of the development.
- 2.21 Overall, having had regard to the objectives of NPPF Paragraph 11, it is considered that the disbenefits of the scheme do not outweigh the benefits, with material considerations indicating that permission should be granted.

3. Conclusion

- 3.1 For the reasons set out above and having had regard to the tilted balance engaged under NPPF Paragraph 11, the proposed erection of two dwellings with associated parking is considered acceptable in principle and in respect of other material considerations, with the benefits of the development outweighing the disbenefits and it is recommended that permission be granted.

g) Recommendation

I PLANNING PERMISSION BE GRANTED subject to the following conditions:

- (1) time condition
- (2) plans
- (3) samples of materials
- (4) hard and soft landscaping scheme, including details of hard surfacing/driveway finish (with use of a bound surface for first 5m of the access from the edge of the highway and measures to prevent the discharge of surface water onto the highway) and boundary treatments and maintenance for 5 years following completion

- (5) construction management plan
- (6) provision and retention of the vehicle parking spaces
- (7) closure of the existing access not used for the widening of the access track
- (8) provision and permanent retention of secure covered cycle parking facilities
- (9) provision and maintenance of 2m x 2m pedestrian visibility splays behind the footway with no obstructions over 0.6m above footway level
- (10) gates to open away from the highway and be set back a minimum of 5m from the edge of the carriageway
- (11) no further openings in the roof of the dwellings
- (12) provision of refuse storage and details of collection arrangements/location
- (13) provision of secured cycle storage

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