

a) **DOV/23/01262 – Erection of a dwelling, car port and associated parking – Meadow View, The Forstal, Preston**

Reason for report – Number of contrary views (10)

b) **Summary of Recommendation**

Planning permission be granted

c) **Planning Policy and Guidance**

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

Draft Dover District Local Plan (March 2023) - The Draft Dover District Local Plan is being examined. Following the Inspectors' initial advisory letter, consultation on the Main Modifications commenced on 11 April 2024. Whilst that process is not complete and the final report has not been received, there is a high probability that policies will eventually be adopted as originally worded or as proposed to be modified. Therefore, having regard to paragraph 48 of the National Planning Policy Framework, they can generally be given a considerable amount of weight. The relevant policies are: SP1, SP2, SP3, SP4, CC1, CC2, CC4, CC8, PM1, PM2, H1, H5, TI1, TI3.

National Planning Policy Framework (NPPF) (2021): Paragraphs Paragraphs 2, 7, 8, 11, 47, 48, 55, 57, 84, 96, 112 - 115, 123 – 126, 128, 131 - 137, 180, 186.

National Design Guide & National Model Design Code (2021)

d) **Planning History**

DOV/03/00722 – Erection of detached four-bedroom house – Refused

DOV/05/00133 – Erection of a detached, three-bedroom chalet bungalow – Refused

DOV/15/00821 – Erection of two detached dwellings and garages, creation of vehicular access, car parking and associated landscaping (existing buildings to be demolished) - Granted

DOV/16/00571 – Variation of Condition 1 of planning permission DOV/15/00821 (Erection of two detached dwellings and garages, creation of vehicular access, car parking and associated landscaping (existing buildings to be demolished) to allow changes to approved drawings (application under Section 73) – Granted

DOV/19/00021 - Outline application for the erection of two dwellings (details of appearance, landscaping and scale to be reserved) – Refused and Appeal Dismissed

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

Representations can be found in the online planning file; a summary is provided below:

Preston Parish Council – Object on the following summarised grounds:

- Site is outside of the village confines
- Backland development is out of character of the area
- Proposal is contrary to the Village Design Statement

- Site was meant to be laid out as a wildlife area under the 2016 planning permission

Kent Fire and Rescue – Advise on the access requirements for Kent Fire and Rescue

Southern Water – Advising where the approximate location of an existing foul sewer is located through the site

Third party Representations: 10 objections have been received and are summarised below:

- Lack of need for additional housing in the local area
- Harm to the character of the area
- Additional vehicle movements along The Forstal
- Impact on local wildlife
- Additional light pollution
- Visual harm of the dwelling
- Landscaping under the previous approval has not been implemented
- Previous appeal decision to refuse two dwellings
- Noise and disturbance during construction of the dwelling
- Traffic/parking/highways safety
- Loss of view

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

- Brownfield site
- Will improve the ecology of the site
- Will not harm residential amenity
- Is a demand for housing in the area
- Proposal is appropriate to the local area

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

- 1.1 The application site is located south of The Forstal and located behind existing residential development. The site is primarily outside of the Preston settlement boundary, with the access, which is taken between existing dwellings, inside the settlement confines of Preston as defined by the Core Strategy and Draft Local Plan policies maps.
- 1.2 There are a number of small buildings on site, including an extensive single storey building adjacent to the eastern boundary with Forstal Farmhouse – this has been used as a workshop, but is now in a state of disrepair. Adjacent to the northern boundary, to the rear of Narnia, is a metal clad building with a steep pitched roof.
- 1.3 Footpath EE153A runs inside and adjacent to the western boundary of the site, from The Forstal through to Court Lane to the south. At the southern end of the site, the footpath crosses the site towards the south eastern corner.
- 1.4 The proposed development involves the sub division of No.2 Meadow View to form two separate plots. One plot would consist of the existing property at No. 2 Meadow View (plot 2 in figure 1 below), with the rear part of the site, proposed as the site for the new dwelling. This area was formally shown under planning application 16/00571 as land to be set aside for a wildlife habitat (figure 1 below).

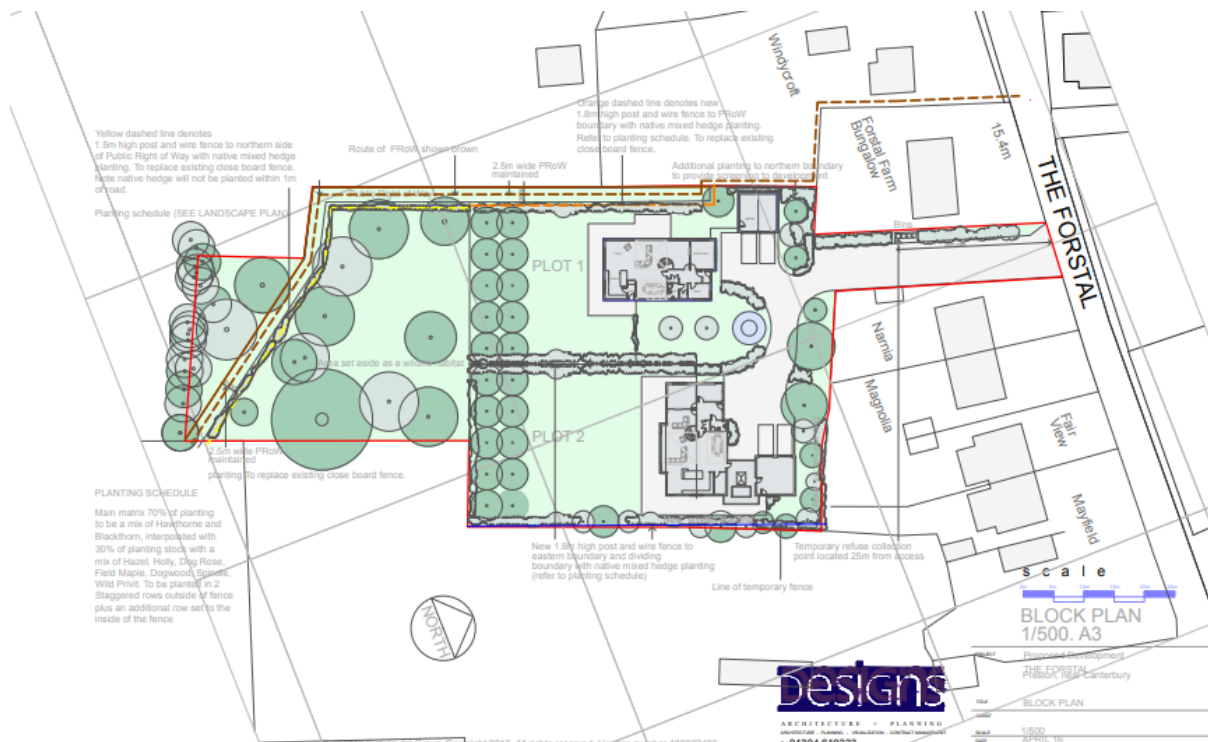


Figure 1 – Approved Site Layout – Reference: 16/00571

- 1.5 The proposed development involves the sub division of the site for the erection of a dwelling with associated parking. The proposed dwelling would be 1.5 storeys in height and would be finished in brick and black stained weatherboarding, black aluminium windows with plain clay roof tiles.

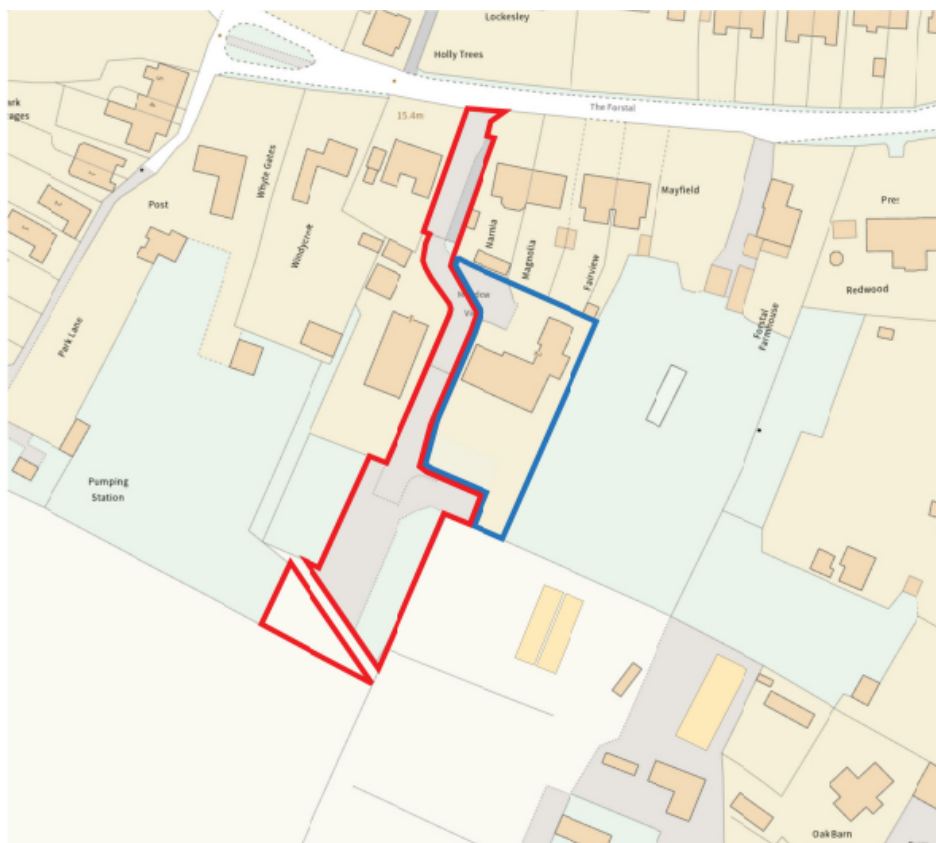


Figure 2: Site Location Plan

2. **Main Issues**

2.1 The main issues for consideration are:

- The principle of the development
- Impact on visual amenity
- Impact on residential amenity
- Parking and Highways
- Wildlife, Ecology and Trees
- 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 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 provide 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 four or five-year housing land supply (for the purposes of Dover District, a four year supply is required); or, where the council has delivered less than 75% of the housing requirement over the previous three years (the Housing Delivery Test). Having regard to the most recent Housing Delivery Test, the Council are currently able to demonstrate a four-year housing land supply in accordance with the updated NPPF at paragraphs 77 and 226. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.

2.4 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 adjacent to the settlement confines of Preston and would not accord with policy DM1.

2.5 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other

policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver a greater number of dwellings per annum. As a matter of judgement, it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result of this, should carry only limited weight.

- 2.6 The aim of policy DM11 to manage patterns of development to prioritise more sustainable modes of transport broadly reflects the aims of the NPPF. The development is contrary to this policy, being outside of the confines. However, the blanket restriction within policy DM11 against development outside of the settlement confines is again significantly more restrictive than the NPPF which instead seeks to actively manage patterns of growth to support sustainable modes of transport (considering the location of development on its specific merits). Therefore, policy DM11 should be afforded less than full weight.
- 2.7 Policy DM15 seeks to resist the loss of countryside, which is more stringent than the NPPF, and development that would adversely affect the character or appearance of the countryside, which is broadly consistent with the NPPF. The first strand of this policy (resisting the loss of countryside) is another example of the blanket restriction against development outside of the confines; however, the second strand is more consistent with the NPPF, albeit the NPPF refers to character and beauty rather than the more generic character and appearance. Whilst not considered to be out of date, policy DM15 is considered to carry reduced weight. The development, again due to being located outside of the confines, is contrary to this policy.
- 2.8 Given the importance of policy DM1, the relationship between policy DM1 and DM15, and the tension between policy DM11 and the Framework, it is considered that the 'basket of policies' in the Core Strategy which are most important for determining applications are out-of-date and should be given less than full weight.

Tilted Balance

- 2.9 Notwithstanding the primacy of the development plan, Framework paragraph 11(d) states that where the policies which are most important for determining the application are out of date permission should be granted unless (i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (known as the 'tilted balance') or (ii) specific policies in the Framework indicate that development should be restricted.
- 2.10 The consequence of engaging the tilted balance is considered further in the overall planning balance at the end of this report. It should be noted that at the time of the previous refusal and dismissed appeal, the tilted balance referred to above was not engaged, with paragraph 4 of the appeal decision stating:

"Whereas at the time of the refusal of the planning application the Council stated that it could not demonstrate a five-year supply of housing land, it now claims that it can referring to data in the Authority's Monitoring Report for 2017/2018. The appellant has not contested this. Accordingly, the tilted balance referred to in Paragraph 11 of the National Planning Policy Framework (the Framework) is not engaged."

Therefore, as set out above, paragraph 11 of the NPPF requires where the tilted balance is engaged that:

“permission should be granted unless (i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (known as the ‘tilted balance’)”

- 2.11 Whilst the tilted balance is engaged by reason of the most important policies for the site being out of date, it must be noted that the tilted balance is not engaged by reason of the councils housing land supply or housing delivery positions.

Draft Local Plan

- 2.12 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 and any outstanding objections. Draft Policy SP1 of the Submission Draft Dover District Local Plan seeks to ensure development mitigates climate change by reducing the need to travel and Draft Policy SP2 seeks to ensure new development is well served by facilities and services and create opportunities for active travel. Draft Policy TI1 requires opportunities for sustainable transport modes to be maximised and that development is readily accessible by sustainable transport modes.
- 2.13 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 outside but adjacent to the settlement confines of Preston as defined by the Draft Local Plan policies map, such that the principle of residential development would accord with draft Policy SP4, subject to the criteria within the policy being met (discussed in more detail below).
- 2.14 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 a considerable amount of 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

- 2.15 The site lies within the countryside, where policy DM15 applies. This policy directs that planning permission for development that adversely affects the character or appearance of the countryside should be refused, unless one of four criteria is met, and the development does not result in the loss of ecological habitats.

2.16 Regard must also be had for whether the development would harm the landscape character of the area, in accordance with policy DM16. Where harm is identified, permission should be refused unless it is in accordance with the development plan and incorporates any necessary avoidance or mitigation measures or can be avoided or reduced to an acceptable level.



Figure 3: Proposed Site Plan

2.17 In terms of the Draft Local Plan policy SP4, this allows windfall development adjoining the settlement confines of Preston, subject to the criteria outlined within the policy being met. This criterion requires that the proposal be of an appropriate size, compatible to the layout, density and appearance of the area, that it would conserve and enhance landscape character and that it would not result in an unacceptable intrusion into the countryside.

2.18 An outline application for two dwellings was dismissed at appeal in January 2020, with the Inspector concluding:

“The proposal would result in a significant adverse effect on the rural character and appearance of the area in respect of the location and layout of the dwellings with insufficient land remaining for meaningful mitigation of that impact. For the reasons given and having regard to all other matters raised the appeal is dismissed.”

2.19 Under the previous refusal, the prevailing pattern of development of the surrounding area was of linear development fronting onto roads. However, since the construction of the two dwellings to the front of the site (application reference: 16/00571), this linear form of development adjacent to this site has been eroded by the now constructed backland development to the north east.

2.20 In terms of views, the proposed dwelling is significantly setback from The Forstal, and the building would be largely concealed in views from The Forstal by virtue of the existing dwellings towards the front. In terms of views from the wider landscape, under the previous approval this area was shown as a wildlife area outside of the amenity space for either of the properties. In dismissing the previous appeal, the Inspector set out that:

“Although the floor area and scale of the proposed dwellings has not been specified, even if accommodation is contained to a single floor, the buildings would be likely to impact on the open and largely undeveloped character around the site. The pitched roofs to the two recently constructed houses could be clearly seen from the intersection of the public right of way with Court Lane at the time of my visit. The landscape measures included within the permission for those houses would undoubtedly filter these views, but the two additional dwellings now proposed would largely negate this planting. The curtilages of the proposed dwellings have not been defined, but they would be significantly smaller than those of the recently constructed houses. The siting of the dwellings would be close to site boundaries and to the public right of way such that there would be little scope for mitigation of the landscape impact through screening vegetation. The buildings would be close to and conspicuous from the public right of way and would be perceived as impacting on an open area.”

2.21 The applicant is now proposing one unit set further into the site from the PROW. Bearing in mind the recent two dwellings constructed to the east of the site, the proposed dwelling would be read against the existing domestic development and not as a true encroachment of the countryside. The dwelling is sited that sufficient space is retained between the dwelling and the rear western boundary. The western rear boundary of the site will be enhanced with additional landscaping, which will assist in screening the development.

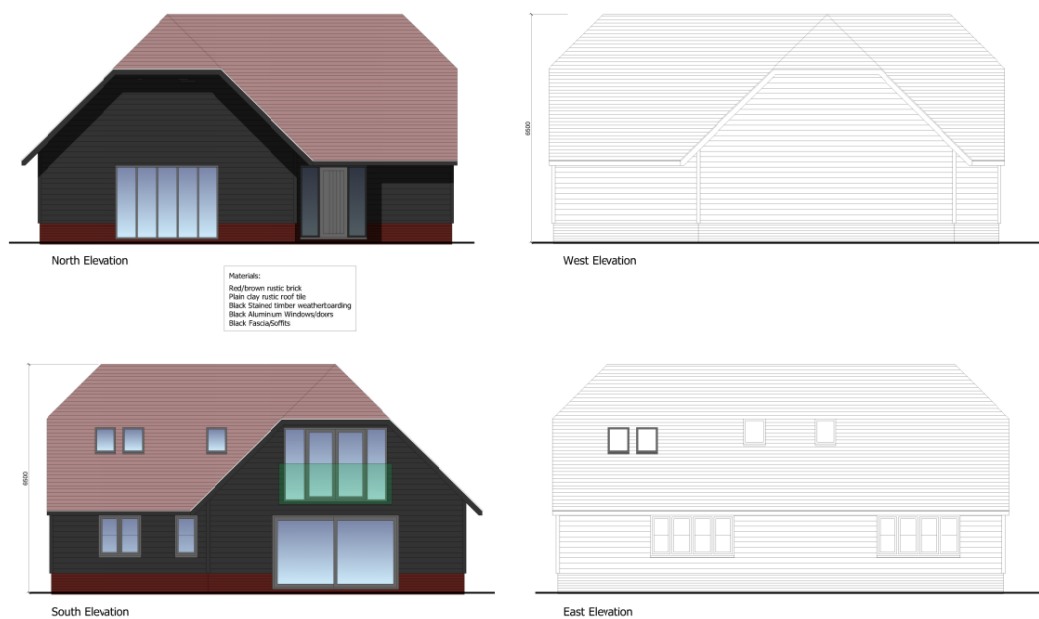


Figure 4: Proposed Elevations

- 2.22 The proposal is for a 1.5 storey dwelling and in terms of views from the PROW (PROW EE153A) to the west of the site, the roof and some of the elevation of the building would be visible. However, the impact of the dwelling would be diminished by the use of sensitive, high-quality materials (clay roof, black stained timber weatherboarding), and in terms of form, viewpoints would be similar to barn type roofs that are not uncommon in the rural setting.
- 2.23 In terms of visual amenity, due to the appropriate 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

- 2.24 The bungalow would be seen from a number of nearby properties, principally to the north, including No's 1 and 2 Meadow View. Notwithstanding this, due to the scale and design of the proposed dwelling, and the acceptable separation distance, 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.
- 2.25 In respect of the proposed dwelling, the northern elevation of the dwelling would feature windows at ground floor level only, which would overlook the proposed front garden or parking area of the site, with wider views restricted by the existing 1.8m fence to the front. In terms of the rear of the property this would contain first floor openings, but these would only provide views of the wider countryside and some views maybe possible of a garden room at the adjacent property. Ground floor windows would be screened by a 1.8m fence and a native hedgerow. In the interests of residential amenity, it is considered appropriate to suggest a condition is imposed to secure the provision of the boundary treatments and landscaping

indicated on the block plan. Subject to this, the development is considered to sufficiently preserve the privacy of residents.

- 2.26 In respect of the amenity of the proposed occupiers, the dwelling 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 has been shown on the proposed block plan. 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

- 2.27 The proposed dwelling would contain three double-bedrooms and the block plan submitted shows that two parking spaces would be provided within the car port with additional parking spaces available on the site, which would accord with the parking requirements of Policy DM13 and draft Policy TI3. The drive and access road would utilise the existing driveway with the parking area to be finished in gravel. It is considered there would be sufficient space for vehicles to turn within the site, as well as for some visitor parking if required.
- 2.28 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

- 2.29 The site contains a number of trees and those adjacent to the southern boundary would be retained within the development. A condition will be imposed for the retention of the existing trees and to provide the further landscaping as shown on the proposed block plan.
- 2.30 The site is predominantly of maintained grass and having regard to Natural England's standing advice, is considered unlikely to provide suitable habitat for protected species.

Other Matters

- 2.31 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 by package treatment plant, the suitability of which would be considered at Building Regulations stage.

3. Conclusion and Planning Balance

- 3.1 The 'basket' of Core Strategy policies that are 'most important' for the determination of this application are out of date. Consequently, the application should be assessed having regard for the 'presumption in favour of sustainable development', or the 'tilted balance' as set out at paragraph 11d of the Framework. This requires that planning permission should be granted unless the adverse impacts of granting planning permission would 'significantly and demonstrably' outweigh the benefits.

- 3.2 The site is adjacent to the settlement confines of Preston, and under draft policy SP4 the development of the site is supported for windfall residential development, subject to the criteria set out within the draft policy. It is considered that the development of the site for residential use is acceptable.
- 3.3 The development of the site would, necessarily, alter the character of the site in some views, especially short-range views from the PROW. Whilst this impact is considered to weigh against the scheme, it is concluded that the level of harm is limited. The development would have an impact on the character of the area; however, this impact is considered to have been limited and mitigated through the use of landscaping. Due to the small number of units proposed (1), no objection is raised on highway grounds and ecological enhancements will be sought by condition.
- 3.4 It is therefore concluded that the harm of this development is outweighed by the benefits (conversely, the test for refusal being that the harm must significantly and demonstrably outweigh the benefits). As such, it is recommended that planning permission be granted, subject to conditions.

g) Recommendation

- I PLANNING PERMISSION BE GRANTED subject to no new material considerations being submitted during the 21-day readvertisement period and subject to conditions:
- 1) Time
 - 2) List of approved plans
 - 3) Samples of external materials
 - 4) Parking and turning space provision
 - 5) Bicycle storage
 - 6) Refuse storage
 - 7) Hard and soft landscaping scheme and maintenance for 5 years following completion
 - 8) Boundary treatment – including hedgehog holes
 - 9) Ecological enhancement – bird boxes and bat bricks
 - 10) Window reveals
 - 11) External lighting
 - 12) Permitted development – Class A and B removal
 - 13) Permitted development – Class E removal for the rear meadow area of the site
- II Powers to be delegated to the Head of Planning and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Amber Tonkin

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).