

Application Number	21/00577/AS
Location	The Barn The Bothy, and Land at rear of 9, Church Hill, Chilham.
Grid Reference	E: 606915 / N: 153766
Parish Council	Chilham
Ward	Downs North
Application Description	Demolition of The Bothy Barn and the erection of three detached dwellings with associated accesses, parking and landscaping.
Applicant	Clifford Land and Property Development Ltd
Agent	Rebus Planning Solutions
Site Area	0.42 Hectares

(a) 16/11	(b) Chilham 'R'	(c) KCC Ecology +, KCC Heritage X
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New Site Location Plan with an amendment to red line boundary

(a) 16/2	(b) Chilham 'R'	(c) KCC Ecology +, KCC Heritage X
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First Amends

(a) 16/4	(b) Chilham 'R'	(c) -
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Introduction

1. This application is reported to the Planning Committee at the request of the Ward Member for Downs North, Councillor Geoff Meaden in the light of my Recommendation to grant planning permission.

Site and Surroundings

2. The application site is located on the north side of Church Hill, on the north-eastern side of Chilham village. A site location plan is provided in **Figure 1** below, and an aerial view in **Figure 2**. The site slopes down Church Hill in a

north easterly direction and also falls away from the Church Hill frontage down to the A252, which forms the northern boundary to the site.

3. Immediately adjacent to the site to the south-west is existing linear residential development fronting Church Hill which extends down from The Square. To the north east is undeveloped land. An informal footpath runs along the north-east boundary, linking bridleways AE9 with AE15.
4. The site is located within the Chilham Conservation Area and within the Kent Downs Area of Outstanding Natural Beauty (AONB). None of the trees on the site are protected via Tree Protection Order (TPO), however the trees do benefit from protection on account of the site being located within the Conservation Area. To the south-east, on the opposite side of Church Hill, is the Grade I Listed St Mary's Church, and the Vicarage, which is Grade II* Listed.
5. The application site comprises the Bothy Barn and land to the north-east of No. 9 Church Hill, a single storey detached dwelling which falls outside of the application site. Planning permission was recently granted for the demolition of No. 9 and its replacement with a new dwelling – see planning history section of this report below.

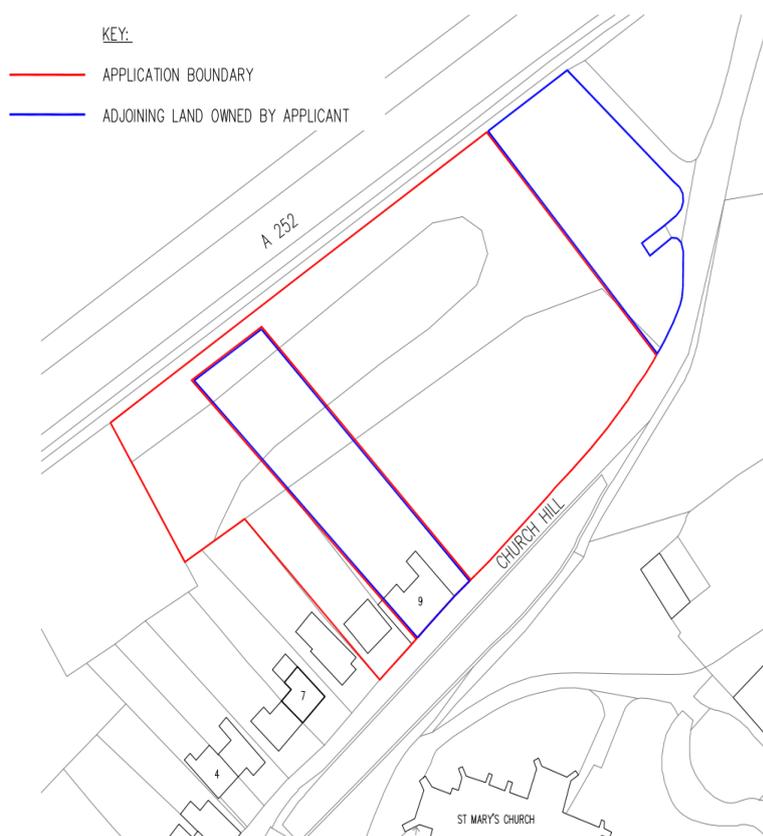


Figure 1: Site Location Plan



Figure 2: Aerial View

Proposal

6. The application seeks full planning permission for the erection of three detached dwellings, with associated landscaping and access arrangements. The site comprises two parts, firstly the demolition of the Bothy Barn and its replacement with a new detached dwelling (referred to as Plot C). The second, to the east beyond the single storey dwelling known as no.9 Church Hill, two new detached dwellings are proposed (referred to as Plots A and B). The proposed site layout plan is provided in **Figure 3** below.
7. On Plot C is proposed a two-bed dwelling to replace the Bothy Barn. On Plots A and B are proposed two, four-bed dwellings. Each of the dwellings would be two storey with the first floor accommodation within the roof space. The proposed plans and elevations for each dwelling are provided in **Figures 4, 5 and 6** below.
8. Plot C would have a private access off Church Hill with space to accommodate two cars to the front of the dwelling. Plots A and B would share a single access off Church Hill and would have three parking spaces each.

Space is also provided within the curtilage of each dwelling for the storage of cycles and bins.

9. The application drawings have been amended since their original submission to reduce the scale and footprint of the dwellings on Plots A and B. This application also follows a previous application, that was withdrawn by the applicant, that proposed three dwellings, each with their own access off Church Hill, on land to the rear of The Bothy, no. 9 Church Hill (refer to planning history below).

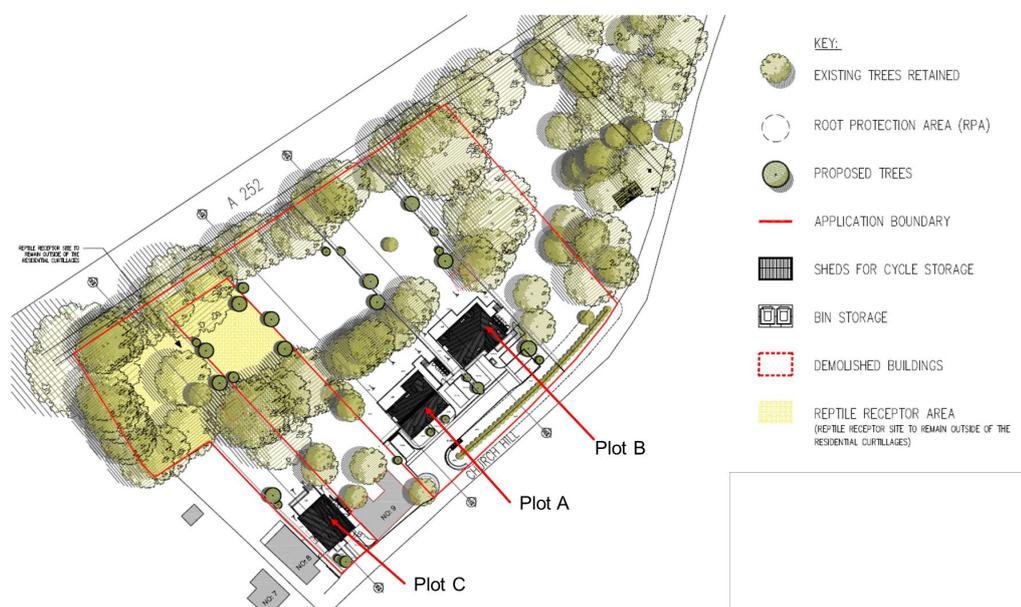


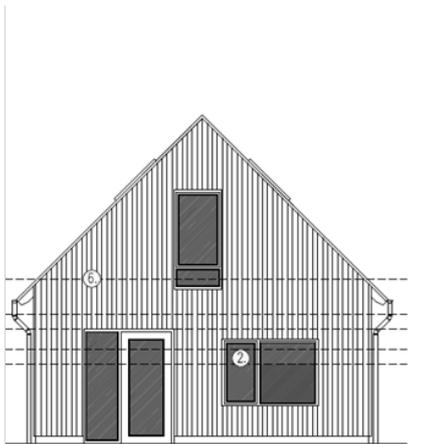
Figure 3: Proposed Site Layout Plan

Plot C (The Bothy Barn)

10. The new dwelling would be gable fronted and clad in charred larch cladding. The roof would be clad in clay plain tiles and would include conservation roof lights. The windows and doors within the elevations would be black aluminium.

Plots A and B

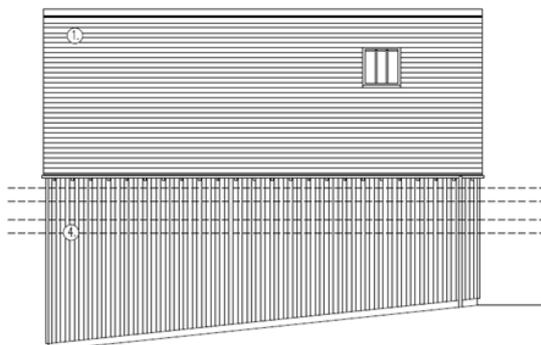
11. Both dwellings would have pitched roofs with small front and rear dormers. Plot B would also have a projecting gable feature to its front elevation clad in charred larch cladding at first-floor level and a hipped roof on its eastern side. The elevations would be predominantly red brick, with projecting brick detailing along the eaves, dormers and chimneys. Clay plain tiles are proposed for the roofs. The windows would have dark grey brick surrounds to their reveals, headers and cills. The windows would be black aluminium.



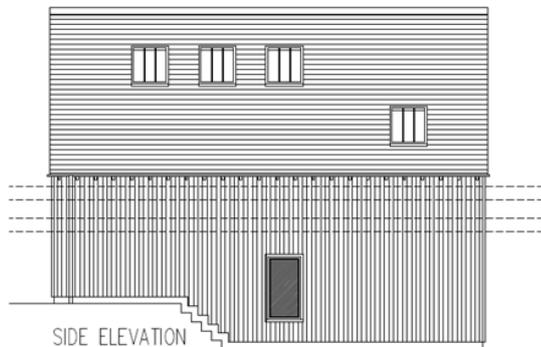
FRONT ELEVATION



REAR ELEVATION



SIDE ELEVATION



SIDE ELEVATION

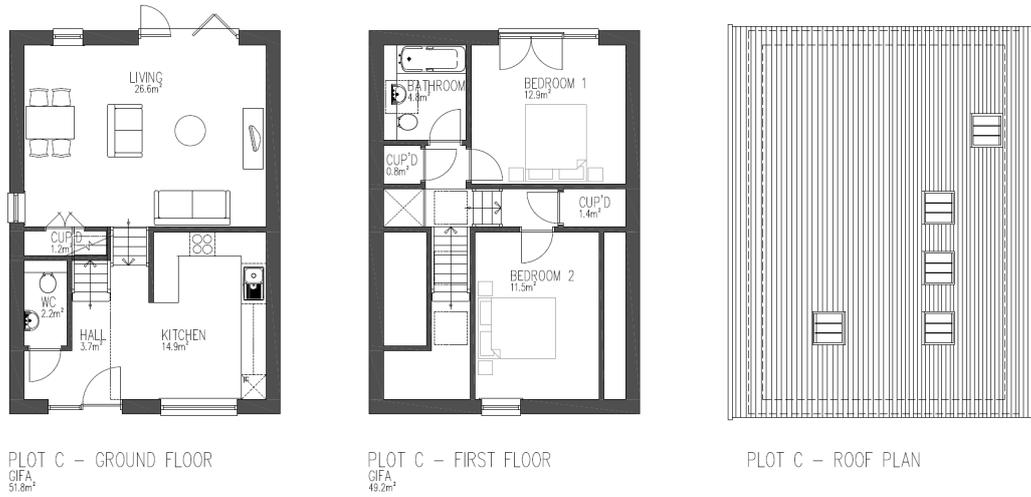


Figure 4: The Proposed Dwelling on Plot C (replacement of Bothy Barn)





Figure 5: The Proposed Dwelling on Plot A

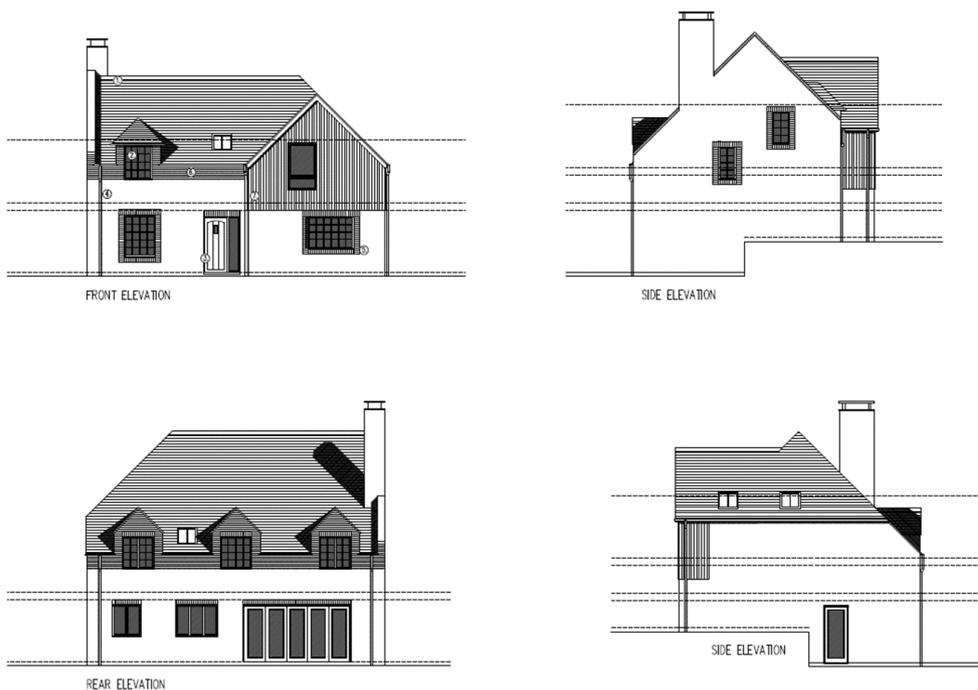




Figure 6: The Proposed Dwelling on Plot B

Planning History

12. The following planning history is relevant to the application site.

The Bothy, 9 Church Hill

13. 21/00572/AS - Demolition of No.9, The Bothy and the erection of a replacement dwelling with associated access, parking and landscaping - permitted 1 October 2021.

The Bothy Barn, Church Hill

14. 17/00522/AS - Demolition of existing barn and erection of a new dwelling - permitted 12 June 2017.

15. 08/00167/AS - Demolition of existing barn and erecting a dwelling - permitted 21 July 2008.

Land at the rear of 9, Church Hill

16. 20/00983/AS - The erection of three detached dwellings with associated accesses, parking and landscaping - withdrawn 11 November 2020
17. This application was withdrawn following advice from planning officers that the proposed development was not supported due to the scale and amount of development proposed and the impact it would have upon the character and appearance of Church Hill and the Chilham Conservation Area.



Figure 7: Planning History

Consultations

18. The application has been subject to formal statutory and non-statutory consultation comprising the display of a site notice, a press notice and notification letters sent to the occupiers of 16 properties in the vicinity of the application site.
19. In November 2021, following receipt of a new site location plan with an amendment to the red line site boundary, all consultees and neighbours were re-notified of the application. Furthermore, in April 2021, following receipt of revised plans, all neighbours and the Parish Council were re-notified again.

Ward Members: Councillor Geoff Meaden objects to the application raising concerns about the impact of the development on the adjacent listed buildings; the ancient Pilgrims Way; the 'rustic, rural and villagey' atmosphere along Church Hill; biodiversity and ecosystems; the existing semi-natural and natural vegetation that separates the village from the A252; and that large houses and their gardens will change the surroundings from rural to semi-rural.

The Councillor also raises concerns about the design of the dwellings; the narrowness of Church Hill and consequent parking problems; highway safety concerns with respect to poor visibility for traffic exiting Church Hill onto the A252; and the development resulting in pressure to develop land to the north for further housing

Chilham Parish Council object to the application raising concerns about the impact of the development on the adjacent listed buildings; the Chilham Conservation Area; the Pilgrims Way; and the North Downs AONB. The Parish Council also raise concerns about the design of the dwellings, which they consider do not respond to the character of the area or the local landscape; the loss of vegetation on the site, including old and dying trees; the impact on highway safety with respect to poor visibility for traffic exiting Church Hill onto the A252; the development resulting in pressure to develop land to the north for further housing; and the lack of response in the application to carbon neutrality.

KCC Heritage (Archaeology) raise no objection. The application site lies within the historic core of Chilham, considered to be a medieval village collecting around the castle complex. Remains associated with Post Medieval or earlier activity may survive on site. In view of the archaeological potential a condition is recommended (if permission is granted) to require a programme of archaeological work in accordance with a written specification and timetable to be submitted to and approved by the Local Planning Authority.

KCC Ecological Advice Service comment that the Ecological Scoping Survey report submitted with the application concludes that the development has potential to result in impacts to reptiles, nesting birds and bats.

Reptiles - reptile translocation will be required to ensure that no reptiles are killed or injured as a result of the development, and to ensure that there is suitable habitat available in the long-term. An on-site receptor area is identified.

Nesting birds - disturbance of suitable vegetation should avoid the bird breeding period (March to August) unless preceded by an inspection and appropriate action to avoid disturbance of active bird nests. An informative can be attached to the planning permission, if granted, to remind the applicant of their legal obligations.

Bats - the assessment of The Bothy Barn concludes that there are negligible opportunities for roosting bats in the structure. No mitigation during the demolition of the Barn is therefore necessary at this time.

No bats were recorded in the two trees with bat roosting potential on site and it is concluded in the Ecological Scoping Survey that no bat mitigation is necessary. Further assessments may be necessary before these trees are felled, and as a minimum this should use a soft-felling method. The

submission and implementation of a method statement for the tree felling can be subject to planning condition, if planning permission is granted.

To avoid impacts to foraging and commuting bats, lighting of the site must not illuminate retained trees and boundary vegetation. Large windows to the rear of the proposed properties are a concern as internal illumination has potential to disturb bats. Further information is required to confirm whether these proposals would result in the illumination of retained habitat to the rear of the properties, or if a 'dark corridor' can be maintained.

Ecological enhancements - the development provides opportunities to incorporate features which are beneficial to wildlife and measures to enhance biodiversity, these must be secured as a condition, if permission is granted.

KCC Highways were not consulted on the current application, however they were consulted on the previous application, ref: 20/00983/AS, which proposed a more extensive development on land to the rear of no. 9 Church Hill than proposed in this application.

KCC Highways considered that three new houses would not result in a significant increase in traffic movements and therefore this did not cause them concern. The exit onto the A252 has the required setback and visibility would appear good, although the highway authority did appreciate the Parish Council's concerns. Church Hill is a one way road and has a 20mph speed limit, the geometry of the road means that this should be adhered to. As it is one way, visibility splays to the left of the residential accesses only are required (south westerly direction). Based on the 20mph speed limit, visibility splays of 2.4m x 25m need to be achieved.

Kent Downs AONB Unit were not consulted on the current application, however they were consulted on the previous application, ref: 20/00983/AS, which proposed a more extensive development on land to the rear of no. 9 Church Hill than proposed in this application.

The AONB Unit raised no objection in principle to a small scale development in this location. However, it raised concerns about the extent of vegetation removal along Church Hill proposed in the previous application. It highlighted that maintaining the character of the sunken rural lane is crucial as it contributes to the special quality of the setting of the village as well as the landscape character of the AONB.

Neighbours

20. The council received eight responses in support of the application (from residents of six properties) and five objections to the application (from residents of five properties). The comments are summarised below

Support

21. The design of the dwellings, are in-keeping with the local vernacular; has taken into account the AONB Landscape Design Handbook, and the local character and materials; follows many of the recommendations in the Chilham Design Statement; is sensitive to the character of the village and the AONB. The development will improve / tidy up the end of Church Hill and visually enhance the street scene.
22. There might be a small increase in traffic, but this will be insignificant. The development will improve the parking situation and allow easier passage of traffic along Church Hill down to the A252.
23. This small development will mean Chilham is playing a small part in meeting the borough's new housing requirements.
24. The development will have a positive impact on the visual appearance of Church Hill.
25. If residential development has to occur in and around the Chilham (which clearly it does), better that it is well thought out, quality development such as this rather than the typical volume builder developments.

Objection

26. The development would alter the unique landscape of this ancient village; would impact on the Conservation Area, neighbouring listed buildings, the ancient Pilgrims Way; and the AONB., Church Hill is an important approach to the village and should be protected.
27. The development is outside the confines of the village.
28. The design of the dwellings is not in-keeping with the character of the area. Large four bed detached houses will detract from the existing Church Hill properties, that are semi-detached or small cottages.
29. Concerns about the proximity of the development to the A252, it is difficult to gain access to the A252 from Church Hill. Also, concern about the narrowness of Church Hill, construction vehicles have difficulty negotiating the hill. Residents have had their houses damaged by large delivery vans.
30. There is already a lack of off-road parking on Church Hill creating access problems. Concern that only two parking spaces per dwelling are proposed.
31. Wildlife will be impacted by the development, birds, bats and badgers will be lost. The wooded area along the A252 boundary provides a soft edge to the village, the development would remove a lot of trees / tree canopy, extend the

gardens of the new houses down to the A252. No detail is provided about the new planting proposed.

32. The development will put a strain on local infrastructure, water supply and sewerage disposal.
33. The development does not meet the challenge of climate change or the Council's zero carbon policy, in particular, in respect of renewable energy provision.
34. Concerns about the impact of the development on nutrient neutrality, specifically the calculation methodology used in the applicant's submission and the mitigation strategy proposed. There is no evidence that the applicant has consulted the Environment Agency regarding obtaining permission to discharge part-treated sewerage to the ground in a Source Protection Zone.

Planning Policy

35. The Development Plan for Ashford borough comprises the Ashford Local Plan 2030 (adopted February 2019), along with the Chilmington Green Area Action Plan (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019), the Boughton Aluph and Eastwell Neighbourhood Plan (2021), the Egerton Neighbourhood Plan (2022) and the Kent Minerals and Waste Local Plan (2016) as well as the Kent Minerals and Waste Early Partial Review (2020).
36. For clarification, the Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).
37. The Local Plan polices relevant to this application are as follows:
 - SP1 Strategic Objectives
 - SP2 The Strategic Approach to Housing Delivery
 - SP6 Promoting High Quality Design
 - SP7 Separation of Settlements
 - HOU3a Residential Windfall Development within Settlements
 - HOU5 Residential Windfall Development in the Countryside
 - HOU12 Residential Space Standards Internal

HOU14:	Accessibility Standards
HOU15	Private External Open Space
TRA3a	Parking Standards for Residential Development
TRA7	The Road Network and Development
ENV1	Biodiversity
ENV3b	Landscape Character and Design in the AONB's
ENV4	Light Pollution and Promoting Dark Skies
ENV7	Water Efficiency
ENV8	Water Quality, Supply and Treatment
ENV9	Sustainable Drainage
ENV13	Conservation and Enhancement of Heritage Assets
ENV14	Conservation Areas
ENV15	Archaeology

38. The following are also material considerations to the determination of this application:-

Supplementary Planning Guidance/Documents

Fibre to the Premises SPD, 2020

Dark Skies SPD, 2014

Residential Space and Layout SPD, 2011

Sustainable Drainage SPD, 2010

Residential Parking and Design Guidance SPD, 2010

Landscape Character SPD, 2010

Village Design Statements

Chilham Village Design Statement

Chilham Conservation Area Management Plan

Informal Design Guidance

Informal Design Guidance Note 1 (2014): Residential layouts & wheeled bins

Informal Design Guidance Note 2 (2014): Screening containers at home

Informal Design Guidance Note 3 (2014): Moving wheeled-bins through covered parking facilities to the collection point

Kent Downs AONB Landscape Design Handbook

Kent Downs AONB Management Plan 2021-2026

Government Advice

National Planning Policy Framework (NPPF) 2021

National Planning Practice Guidance

Technical Housing Standards – nationally described standards

Planning (Listed Buildings and Conservation Areas) Act 1990

Article 6(3) of the Habitats Directive; Habitats Regulations 2017

39. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Assessment

40. The key areas for consideration in the assessment of this application are as
- Principle of Development
 - Impact on the Kent Downs AONB
 - Impact on the Setting of the Conservation Area and Listed Buildings
 - Site Layout and Building Design

- Trees
- Ecology
- Residential Amenity
- Highway Safety and Parking
- Drainage
- Sustainability and Climate Change
- Impact on Designated Sites (Stodmarsh)
- Five Year Housing Land Supply Position

Principle of Development

41. Local Plan policy SP1 sets out the strategic objectives for development within the borough which form the basis of the policies within the Local Plan and provide the core principle that planning application are expected to adhere to.
42. When considering whether policy HOU3a (Residential Windfall Development within Settlements) or policy HOU5 (Residential Windfall Development in the Countryside) should be applied in the assessment of this application, I have considered the village confines map for Chilham, adopted by the Council in 2019 as an assessment guide. The proposed dwelling on Plot C (The Bothy Barn) falls within the confines of Chilham, however the new dwellings on Plots A and B fall outside the village confines as per **Figure 8** below. In light of this, I have considered this application against both policies.

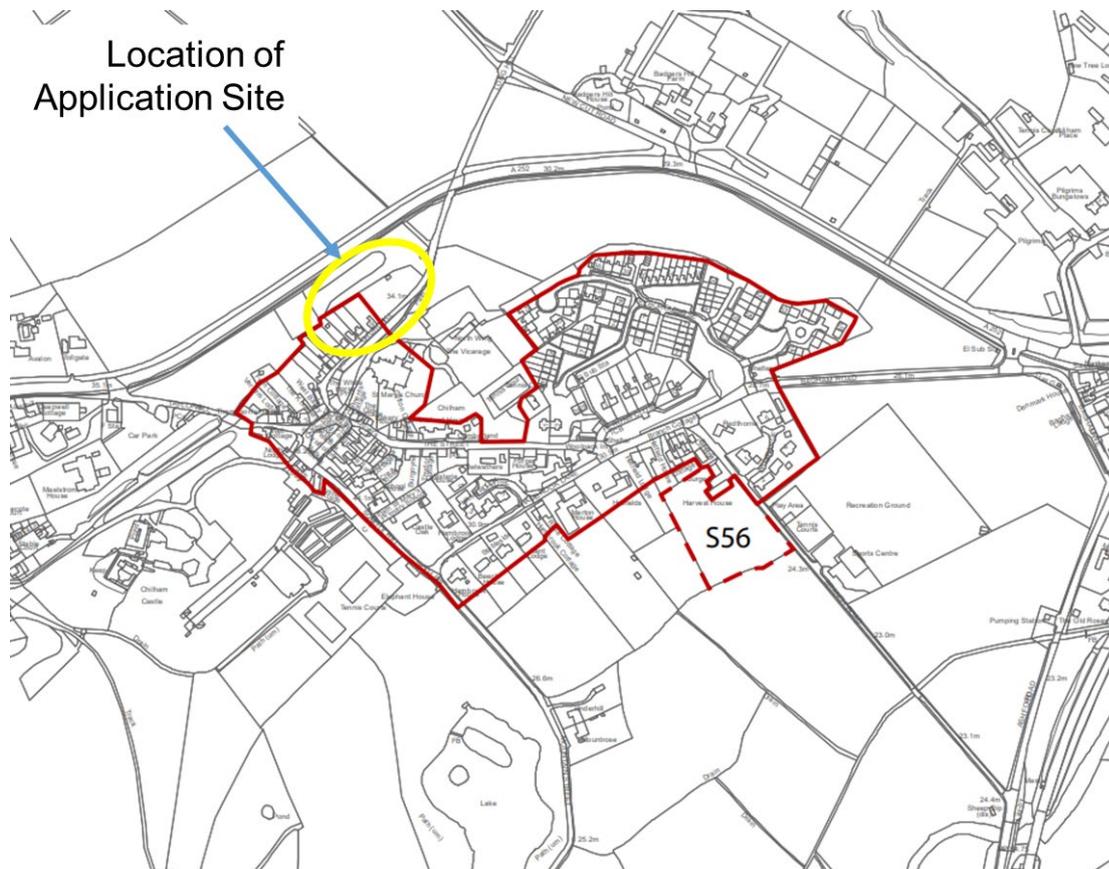


Figure 8: Chilham Village Confines Map

43. Policy HOU3a allows residential development and infilling of a scale that can be satisfactorily integrated into the existing settlement within the built-up confines of Chilham, providing that the following requirements are met.
- a) The layout, design and appearance is appropriate to and is compatible with the character and density of the surrounding area;
 - b) It would not create a significant adverse impact on the amenity of existing residents;
 - c) It would not result in significant harm to or the loss of, public or private land that contributes positively to the local character of the area (including residential gardens);
 - d) It would not result in significant harm to the landscape, heritage assets or biodiversity interests;
 - e) It is able to be safely accessed from the local road network and the traffic generated can be accommodated on the local and wider road network;

- f) It does not need substantial infrastructure or other facilities to support it, or otherwise proposes measures to improve or upgrade such infrastructure;
 - g) It is capable of having safe lighting and pedestrian access provided without a significant impact on neighbours or on the integrity of the street scene; and,
 - h) It would not displace an active use such as employment, leisure or community facility, unless meeting the requirements of other policies in this Plan.
44. Turning to policy HOU5, this policy allows residential development adjoining or close to the existing built up confines of Chilham providing that the following criteria are met:
- a) The scale of development is proportionate to the size of the settlement and the level, type and quality of day to day service provision currently available;
 - b) The site is within easy walking distance of basic day to day services, and/or has access to sustainable methods of transport;
 - c) The development is able to be safely accessed from the local road network and the traffic generated can be accommodated on the local and wider road network;
 - d) The development is located where it is possible to maximise the use of public transport, cycling and walking to access services;
 - e) The development must conserve and enhance the natural environment and preserve or enhance any heritage assets in the locality; and,
 - f) The development is of a high quality design and meets the following requirements:-
 - i. it sits sympathetically within the wider landscape,
 - ii. it preserves or enhances the setting of the nearest settlement,
 - iii. it includes an appropriately sized and designed landscape buffer to the open countryside,
 - iv. it is consistent with local character and built form, including scale, bulk and the materials used,

- v. it does not adversely impact on the neighbouring uses or a good standard of amenity for nearby residents,
 - vi. it would conserve biodiversity interests on the site and / or adjoining area and not adversely affect the integrity of international and national protected sites in line with Policy ENV1.
45. In both policies, where a proposal is located within an AONB, an applicant will need to demonstrate that it is justifiable within the context of this national level of protection and conserves and enhances its natural beauty.
46. I have considered the proposed development against the criteria set out above and conclude that the development complies with each criterion and is therefore compatible with policies HOU3a and HOU5. I have set out my reasoning for this in respect criterion (a)-(e) and (g) of policy HOU3(a), criterion (c)-(f) of policy HOU5 and the impact on the AONB in the relevant sections of this report below.
47. With regard to criterion (f) of policy HOU3(a) and criterion (a), (b) and (d) of policy HOU5, I consider that the construction of three new dwellings in Chilham is acceptable in relation to the size of the village and the services it provides. The site is within walking distance of day to day services in the village and public transport (rail and buses) at its eastern edge and, given the scale of development involved, does not need additional infrastructure or facilities to support it. The site is considered a sustainable location. With regard to criteria (h) of policy HOU3(a) the development would not displace an existing active employment, leisure or community use.

Impact on the Kent Downs AONB

48. Local Plan policy ENV3b is relevant to development within AONB's. The policy requires the Council to have regard to the purpose of conserving and enhancing the natural beauty of the Kent Downs AONB. Proposals within AONB's will only be permitted where:
- The location, form, scale, materials and design would conserve and where appropriate enhance or restore the character of the landscape.
 - The development would enhance the special qualities, distinctive character and tranquillity of the AONB.
 - The development has regard to the relevant AONB management plan and any associated guidance.

- The development demonstrates particular regard to those characteristics outlined in Policy ENV3a, proportionate to the high landscape significance of the AONB.
49. Under the Countryside and Rights of Way Act 2000 (CROW Act), local planning authorities have a legal duty to take account of the purposes of an AONB designation in determining planning applications i.e. the conservation and enhancement of the area's natural beauty. In addition to consideration of the proposal against the Ashford Local Plan, account should be taken of paragraph 176 of the NPPF and the policies and objectives of the Kent Downs AONB Management Plan. The NPPG confirms that AONB management plans can be a material consideration in determining planning applications. Guidance within the Kent Downs AONB Landscape Design Handbook is also relevant.
50. The site of Plots A and B is characterised by meadow ground and coppiced trees. The site of Plot C is occupied by a small barn type structure (the Bothy Barn). The character of Church Hill and its surroundings is typically semi-rural, signalling the gradual transition from village settlement to countryside. The extent of the built form decreases down the hill, with natural landscape features becoming more dominant towards the bottom. The wider surrounding countryside, which extends out from the site to the north east, is predominantly pastoral with open views to the wider landscape.
51. The Kent Downs AONB Management Plan promotes a landscape led approach to new development. It highlights that the special characteristics and qualities of the AONB include the quality of the built heritage and settlement patterns. In order to conserve and enhance the natural and scenic beauty of the Kent Downs, the scale, extent and design of new development, is critical.
52. The Kent Downs AONB Landscape design Handbook identifies that new development within and adjacent to rural settlements should reflect the settlement character and form and respect its relationship with the surrounding landscape. New dwellings and their associated boundaries and accesses, should not be suburban in character and materials should reflect local distinctiveness.
53. The height and scale of the proposed dwellings is in-keeping with that of neighbouring dwellings and is modest in relation to the size of the site. The ridgelines of the roofs are staggered in height to reflect the downward gradient of Church Hill. The dwellings on Plots A and B would be recessed back into the site to allow for the retention of the existing bank and foliage along the Hill. A significant area of trees and vegetation would be retained to the rear of the site, adjacent to the A252.

54. The development has been designed to ensure as much of the existing hedgerow and trees along the boundaries and within the site are retained. Albeit, it is acknowledged that trees and a small portion of hedgerow will need to be removed, however, this will be minimal and new planting is proposed to mitigate the impact of this loss. In addition, the dwellings would be constructed from materials appropriate to the village.
55. These elements combined would ensure that the development respects and complements the character of the village and its landscape setting, maintains the landscape character of Church Hill, reflects local distinctiveness and conserves and enhances the landscape and character of the AONB. I therefore consider that the proposed development complies with Local Plan policies ENV3(b), HOU3(a) and HOU5 and the policies and objectives of the Kent Downs AONB Management Plan and Landscape Design Handbook.

Impact on the Setting of the Conservation Area and Listed Buildings

56. Chilham is a historic village which retains the appearance of a strategic settlement rising from the rural Stour valley, crowned by its church and castle, surrounded by the huddled roofs of its medieval houses. Narrow steep lanes rise from the valley and emerge, one to each corner, into the village square, formed by medieval houses on its north and south sides, Chilham Castle on the west and St Mary's church and graveyard to the east. Church Hill is one of these lanes and is the historic approach into and out of the village from the north east.
57. The Chilham conservation area encompasses the hilltop core of Chilham village together with the parks and gardens of Chilham Castle. This designation is based on the high historic and architectural significance of the built environment and its location within the distinctive landscape of the Kent Downs AONB. This historic pattern and grain of development, described above, is of significant historic interest and makes an important and significant contribution to the character and development of the conservation area.
58. The village contains many listed buildings. The closest to the application site, and within the setting of the proposed development, are the Grade I Listed St Mary's Church and the Grade II* Listed Vicarage. These buildings are set on higher ground above the application site. Two other listed buildings, no's 2 and 3 Church Hill (Grade II Listed), located on the corner of Church Hill and The Square to the west of the application site, are considered to be unaffected by the proposal due to their position and proximity to the application site. **Figure 9** below shows these listed buildings in yellow and their proximity to the application site.

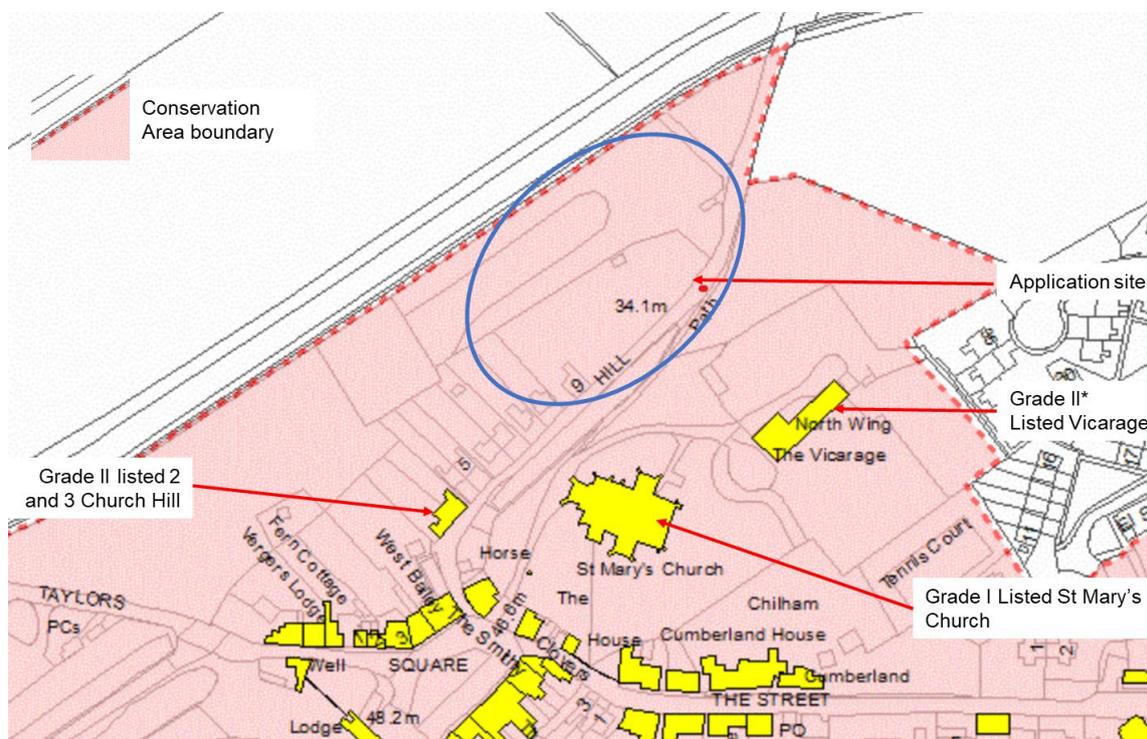


Figure 9 – Application site and nearby listed buildings

59. In accordance with the statutory duties set out in sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, special regard must be paid to the desirability of preserving listed buildings and their settings, or any features of special architectural or historic interest which they may possess. Section 72 of the 1990 Act gives similar protection to buildings and spaces that help establish the special character and appearance of conservation areas.
60. Chapter 16 of NPPF requires that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (para 199). Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification (para 200).
61. When considering the impact of a proposed development on a listed building (including its setting), the NPPG advises that when harm is identified, it should be categorised as either less than substantial harm or substantial harm.
62. The 'setting' of a heritage asset is defined in NPPF as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

63. 'Less than substantial harm' and 'substantial harm' are not defined in the NPPF. There is no defined scale to identify level of harm and no guidance about where any threshold lies. However, the NPPG advises that substantial harm is a high test and that it is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The NPPG also identifies that even minor works have the potential to cause substantial harm, depending on the nature of their impact on the asset and its setting.
64. The NPPF also identifies the importance of considering public benefits, stating that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal (para 202).
65. It is clear from the NPPF and NPPG that, having paid special attention to the statutory desirability of preserving designated heritage assets, any harm can be offset by other material considerations, including any public benefits that might be delivered by the proposals, providing they are sufficient enough to outweigh the amount of harm that has been identified.
66. Ashford Local Plan policies ENV13 (Conservation and Enhancement of Heritage Assets) and ENV14 (Conservation Areas) reflect the guidance within the NPPF.
67. It should be noted that, planning permission has previously been granted for the demolition of the Bothy Barn and its replacement with a new dwelling (refer to planning history above) although both permissions have expired. Whilst both previous permissions were assessed against local plan policies that have since been replaced, there have been no material changes to the essence of the policies applied previously. I therefore consider that the principle of the demolition of the Bothy Barn and its replacement with a new dwelling has been established and remains acceptable.
68. It is also noted that planning permission 21/00572/AS has recently been granted for the demolition of no.9 Church Hill, a single storey dwelling in-between Plot C and Plots A and B, and its replacement with a cottage style one and a half storey dwelling.
69. The proposed development would result in visible changes to the character and appearance of the site and Church Hill and therefore a degree of change to the setting of the church and vicarage given their proximity. However, this does not automatically mean that the proposed development is unacceptable. The top, western end, of Church Hill is characterised by linear development of two storey cottage style houses. The lower end of Church Hill is characterised by dense vegetation. A grassy bank and vegetation characterises the whole length of the Hill on its southern side.

70. The proposed development would continue the linear form of built development further down Church Hill, albeit the dwelling frontages would be set further back from the road behind retained trees and vegetation. Due to the difference in land levels and the existence of vegetation along Church Hill, the new dwellings would not be clearly visible from the church and vicarage and vice versa. Whilst some vegetation would be removed from the north-eastern side of Church Hill to make way for the development, I consider sufficient vegetation would remain to ensure that the vegetated character of the Hill would be maintained.
71. I consider that the dwellings would be of an appropriate size and scale and would not dominate the setting of the listed buildings to which I have referred and would not lead to substantial harm to the conservation area. In addition, I consider that the design of the dwellings are in-keeping with the character and appearance of the village (a more detailed assessment of the design of the dwellings is provided below) and the scale, design and massing of the recently approved replacement dwelling for No.9 Church Hill.
72. I consider that the proposed development would preserve, rather than diminish, the significance of these heritage assets. On this basis, I consider that the proposed development would cause less than substantial harm to the historic setting of the listed church and vicarage and to the character and appearance of the conservation area.
73. Given my finding of less than substantial harm, this harm must be weighed against the public benefits of the development (refer to NPPF, para 202). In this respect, I consider that the public benefits of providing three new, well designed, modern, family homes in Chilham, a sustainable location with easy access to local amenities, outweighs the harm identified. I therefore consider the development to be acceptable in respect of its heritage impact.
74. The application therefore complies with Local Plan policies ENV13 and ENV14, and criterion (d) of policy HOU3(a) and criteria (e) of policy HOU5 in respect of its impact on heritage assets.

Site Layout and Building Design

75. Local Plan policy SP6 seeks to ensure that new development is of high quality design and development should adhere to the set of design criteria listed in the policy. New development should also show how it responds positively to local design guidance, such as village design statements.
76. The Chilham Village Design Statement identifies the characteristic features of the village. In terms of materials this comprises red bricks, clay tiles, and black window and door frames. Brick chimneys are also a strong feature. The

Design Statement states that the scale of new buildings should be appropriate to that site and not overwhelm their neighbouring surroundings. The Design Statement also identifies that the ancient narrow lanes leading into the village are an essential part of the area. Their existing character should be respected and any new development should not detract from that.

77. The proposed new dwellings have been sensitively designed to respect the character and local distinctiveness of Chilham. The dwellings are not replicas of the small cottage style buildings at the top of Church Hill, which given the landscape setting of the site, would not be appropriate. Instead their design takes cues from the wider character of the village and, in the case of the replacement Bothy Barn, takes cues from the design of the existing building.
78. The height and scale of the dwellings has been carefully considered so as to complement, and not harm, the character of the Hill. The roof ridgelines to Plots A & B would step down with the gradient of the road and the provision of the first floor rooms within the roofspace via pitched roof dormer windows would ensure that the dwellings would not be over prominent. This would also ensure the dwellings have a scale, massing and design that fits with the context of the site, which would dictate against a larger footprint and greater eaves height design approach. This is demonstrated in the street scene drawing in **Figure 10** below.

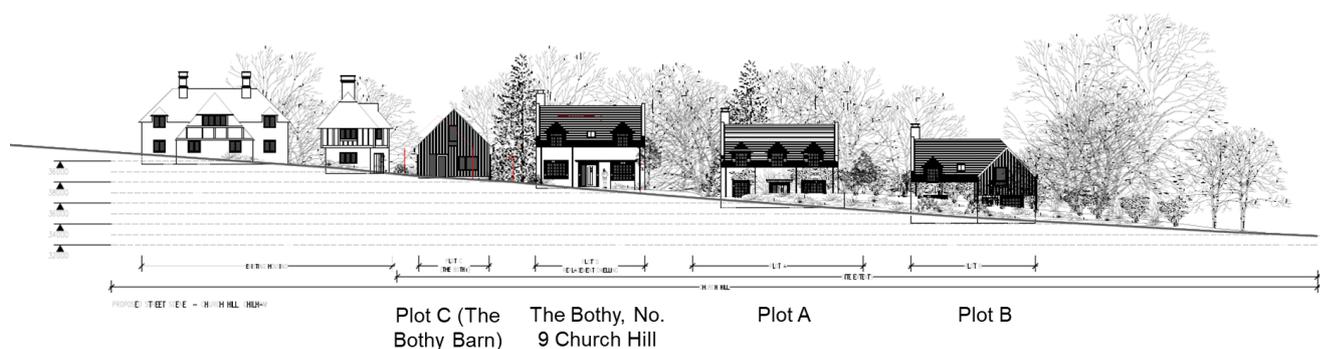


Figure 10: Proposed Streetscene

79. I consider the proposed materials to be appropriate and complementary to the character of Church Hill. The brick detailing on the facades of Plots A and B would add distinctiveness to the dwellings and the larch cladding of the Bothy barn would respect the character of the existing barn building to be demolished.
80. In order to ensure that the quality of materials proposed in the application is maintained in construction, I recommend that a condition be attached to any permission to require material samples and details to be submitted for

approval. Subject to the inclusion of this condition, I consider that the application complies with Local Plan policies SP6, criterion (a) of policy HOU3(a) and criterion (f)(ii) and (iv) of policy HOU5.

Trees and Landscape

Trees

81. A pre-development tree survey and report was submitted with the application. The survey includes the site of the new dwelling already granted planning permission at no.9 Church Hill, which is outside the scope of this planning application. The tree survey identified 40 individual trees and nine tree groups on the site. These trees are all predominantly mature specimens, comprising primarily of Sycamore with occasional Ash, young Oak, Willow, Yew and Apple. Ash dieback is evident across the site with varying degrees of disease evident.
82. There are trees spread across the application site, however the trees primarily within the southern part of the site are impacted by the proposed development, and the new dwelling already granted planning permission at no. 9 Church Hill. The following tree works are proposed.

Tree Number	Species	Category	Works Proposed
G1	Hazel, Sycamore, Norway Maple, Ash	C	Remove a ten metre section from the south western end to provide the site access. Re-pollard the retained trees in the group to previous pollard points at two metres above ground level.
T2, T3	Sycamore	B	Remove to enable development
G4	Small seedling origin Ash	C	
T6 , T7, T8, T46	Willow	C	
T11, T48	Ash	C	
T12	Ash	U	Dead - remove to enable development
T40*, T43	Ash	U	Dead / predominantly dead – remove

T47	Sycamore	C	Remove to enable development
T49	Willow	U	Collapsed - remove to enable development
G34, G44	Ash/Sycamore	B	Removal of dead Ash trees within group (nine in total)

83. All other trees and tree groups on the site will be retained, with remedial works, involving the removal of ivy, crown lifting and pruning, being proposed to G10 and G34 to G45 (inclusive). A plan showing the trees and tree groups to be removed is provided in **Figure 11** below.

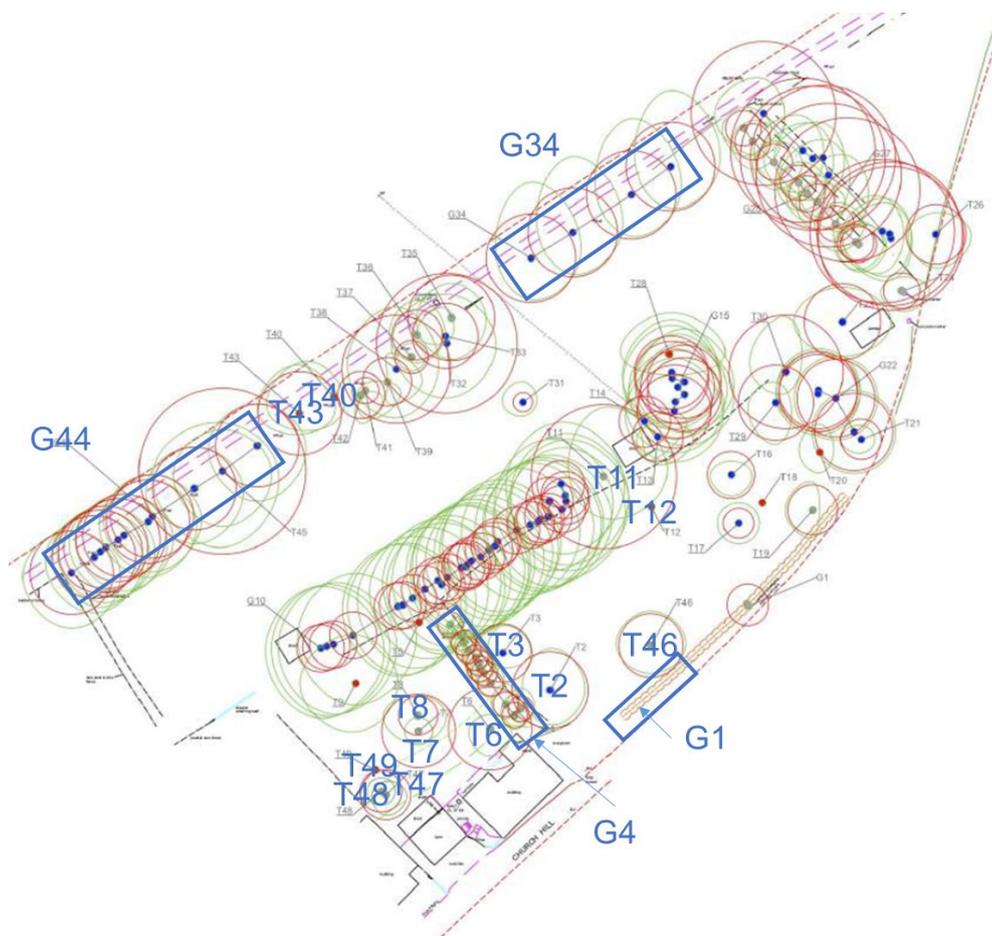


Figure 11: Proposed tree removal

84. The majority of the trees to be removed are categorised as either ‘U’ (unsuitable for retention) or ‘C’ (low quality and value). Two category ‘B’ trees, which are trees of moderate quality and value, are proposed for removal.

There are no category 'A' trees, which are trees of high quality and value, on the site.

85. The applicant's report concludes that the arboricultural impact of the proposed development is low. The Council's tree officer has reviewed the proposed tree works and raises no objection. The officer considers that owing to a common driveway, the retention of frontage trees, the proposed indicative planting, and the main line of trees that give Church Hill its rural character as the transition from the village to countryside is largely retained. The frontage trees are proposed to be re-pollarded. These works are necessary as the unions will not support significant growth. This will have an impact on the amenity of the area, but is necessary. The removal of a section of the frontage trees will have an impact on the Conservation Area but may be mitigated with targeted planting.
86. The mature trees across the middle of site, and crucially, the majority of the trees on the northern boundary adjacent to the A252, are to be retained and are protected by virtue of being in a Conservation Area. The trees internal to the site that will need to be removed are not of such stature and quality that their removal will be of significant impact.
87. I therefore conclude that the tree works proposed would not have a significant detrimental impact upon the character and appearance of the site or the conservation area. The majority of the trees along the Church Hill frontage would be retained and the majority of the trees to be removed are of low arboricultural value. I also note that new tree planting is proposed on the site as part of the development. It will be important to ensure that substantial new tree planting is secured as part of the development and therefore a condition should be attached to require the submission of a detailed tree planting plan, including details of species and size to ensure the verdant quality of the site is maintained.
88. In order to protect the trees to be retained, I recommend conditions to ensure appropriate tree protection measures are put in place during construction. With these conditions I conclude that the development would not result in significant or unacceptable harm to the trees on the site.

Landscape

89. The site currently has a verdant character and it is important to ensure that this character is maintained in the proposed development. The proposed dwellings would be set back from the road, with much of the trees and vegetation to the site frontage maintained. Dwellings located with a more intimate relationship to the road (as per other properties to the west) would not enable substantial retention of that vegetation. As explained above, some

trees would be removed, however I consider that the verdant character will be maintained in the development and it would not result in significant harm in accordance with criteria (c) of Local Plan policy HOU3(a)

90. With regard to landscape, criterion (f)(iii) of Local Plan policy HOU5 requires that the development includes an appropriately sized and designed landscape buffer to the open countryside. The proposed site plan demonstrates that a sizable area of landscape would be maintained between the proposed new dwellings and the northern site boundaries. The applicant states that they intend to strengthen the vegetation and tree screen to the rear of the site and to the north eastern boundary, alongside the informal footpath. I consider these measures, alongside the proposed site layout, would ensure that an appropriately sized landscape buffer is maintained.

Ecology

91. Local Plan policy ENV1 states that proposals that conserve or enhance biodiversity will be supported. Proposals for new development should identify and seek opportunities to incorporate and enhance biodiversity.
92. An Ecological Scoping Survey has been submitted with the application. The Survey identified 70 species of plants and animals on the site. With regard to plants, those found on the site were typically poor, which is likely to be due to the past management of the site. There were no unusual or uncommon or protected plant species found and the habitat types were common ones which are widespread under the same conditions throughout the country.
93. A good population of slow worms were found, these will need to be translocated to a suitable receptor site, or one will have to be created for them well in advance. The application includes the creation of a reptile receptor site to the rear of, and outside the residential curtilages of, the Bothy Barn and No.9 The Bothy. This receptor site was agreed as part of the planning permission for the redevelopment of No.9 The Bothy. An outline proposal for capturing and translocating reptiles has been submitted, however, should planning permission be granted, further details of the capture and translocation methods are required and their implementation needs to be secured via a planning condition.
94. Apart from fieldfare, no notable species of birds were recorded. However, a few additional species might be expected to occur on or over the site at other times of year. There was potential nesting habitat throughout the woody vegetation.
95. Three species of bats were recorded flying over or in the survey site, however no bat roosts were found on the site. Although the Survey recommends that

bat boxes should be provided as a matter of course, as part of the development. The applicant has confirmed that a “dark corridor” can be retained on the site (notwithstanding the proximity of the A252). I consider that the provision of this corridor can form part of the ecological/biodiversity enhancement measures to be secured via condition, if planning permission is granted.

96. On the basis of the information submitted by the applicant and the advice provided by the County Council, I consider that the proposed development would conserve biodiversity on the site and that sufficient opportunities to incorporate and enhance biodiversity on the site can be secured as part of the development. The proposed development therefore complies with Local Plan policy ENV1, criterion (d) of policy HOU3(a) and criterion (e) and (f)(ii) of policy HOU5 in so far as they relate to biodiversity.

Residential Amenity

97. The proposed development would not result in overlooking to existing neighbouring properties. Nor would it be overbearing and/or result in the loss of light to neighbouring properties. No harm to residential amenity of neighbouring property would therefore result from the development. Criterion (b) of policy HOU3(a) and criterion (f)(v) of policy HOU5 are therefore met.
98. The dwellings would all meet the Nationally Described Space Standards in accordance with Local Plan policy HOU12. The dwellings would also include large garden spaces in accordance with Local Plan policy HOU15. I also consider the dwellings are of sufficient size to comply with the requirements of Policy HOU14 and Building Regulations Part M4(2). I consider that the proposed new dwellings would provide a good standard of amenity for future residents.

Highway Safety and Parking

99. Concerns have been raised by local residents about the impact of the development on highway safety and parking, the width of Church Hill and the junction with the A252.
100. In terms of parking, the development complies with the Council’s car parking standards set out in Local Plan policy TRA3(a), with the provision of two off-street parking spaces for the two-bed dwelling and three off-street parking spaces for both four bed dwellings.
101. Church Hill is bounded on one side by a steep bank and the road is narrow in parts, particularly at its junction with the Square. Existing vehicles use the lane and the development would result in an increased use of the lane by

resident vehicles. However, I consider that the scale of the development is not sufficiently great to result in an increase in traffic at a level that would be harmful to highway safety. The road's speed restriction of 20 mph and the constrained nature of the road encourages reduced vehicle speed and does not create an environment that discourages walking or cycling.

102. Vehicles serving the development would be required to use the junction of Church Hill and the A252. Church Hill is one way and therefore the junction is only served by vehicles entering the A252. While it is acknowledged that the A road is well used and experiences high speeds at times, the speed restriction is 40 mph and recent works by the County Council have been undertaken to calm traffic.
103. I consider that the development can be safely accessed from the local road network work, that traffic can be accommodated by local roads and that the development would not result in harm to highway safety. The application therefore complies with Local Plan policies TRA7 and criteria (e) and (g) of policy HOU3(a) and criteria (c) of HOU5.

Sustainability and Climate Change

104. The development is located in a sustainable location where it will not be necessary for the occupiers of the dwellings to use private motor vehicles to access every day services and facilities.
105. The applicant has advised that the dwellings will be constructed to ensure they are efficient, this will include water efficiencies. This matter is dealt with by Local Plan policy ENV7 and I recommend this is covered by planning condition. In order to enhance the sustainability of the development I recommend that, if planning permission is granted, a condition be attached to require electric vehicle charging points to be provided for each dwelling.

Drainage

106. The site lies within Flood Zone 1 and therefore has a low risk of flooding and is appropriate for housing development. The applicant has advised that a drainage scheme will be implemented that will include a suitable surface water strategy to ensure that flood risk is not exacerbated elsewhere. I consider it appropriate for a condition to be attached, if permission is granted, to require the submission of details of the strategy for dealing with surface water. Subject to this condition, I consider the proposed development complies with Local Plan policies ENV6 and ENV9.

Impact on Designated Sites (Stodmarsh)

107. The site falls within the ‘Stour Lower’ Operational Catchment Area. The Council has received Standing advice from Natural England (NE) regarding the water quality at the nationally and internationally designated wildlife habitat at Stodmarsh Lakes, east of Canterbury, which in particular includes a Special Area of Conservation (SAC), a Special Protection Area for Birds (SPA) and a Ramsar Site.
108. The effect of the advice implies that this proposal must prima facie now be considered to have a potentially significant adverse impact on the integrity of the Stodmarsh Lakes. Therefore an Appropriate Assessment (AA) under the Habitats Regulations 2017 (as amended) would need to be undertaken and suitable mitigation identified to achieve ‘nutrient neutrality’ as explained in NE’s advice, in order for the Council to lawfully grant planning permission.
109. Under the Council’s Constitution, the Head of Planning and Development has delegated authority to exercise all functions of the Council under the Habitats Regulations. This includes preparing or considering a draft AA, consulting NE upon it, and amending and/or adopting it after taking into account NE’s views.
110. In the case of this application, it is very likely that an off-site package of mitigation measures will be required in order for the development to achieve ‘nutrient neutral’ status and in the absence of such measures (or any others) having been identified and demonstrated to be deliverable, it is not possible to conclude, at this moment in time, that the scheme would be acceptable in respect of this issue.
111. However, work commissioned by the Council has commenced on identification of a package of strategic mitigation measures that should enable relevant developments within the Borough’s River Stour catchment (where the NE advice applies) to come forward on a ‘nutrient neutral’ basis, subject to appropriate obligations and conditions to secure the funding and delivery of the mitigation before occupancy of the development.
112. Therefore, on the basis that this proposal is considered to be otherwise acceptable in planning terms (subject to planning conditions), I recommend that a resolution to grant planning permission should also be subject to the adoption by the Head of Planning and Development (having consulted NE) of a suitable Appropriate Assessment to address the Habitats Regulations, to the effect that the proposed development will not adversely affect the integrity of the SAC, SPA and Ramsar Site (by achieving nutrient neutrality), and to secure any necessary additional obligation(s) pursuant to a Deed of Variation and/or planning conditions that are necessary in order to reach that Assessment and ensure that at the time of occupancy the necessary mitigation is in place.

Five Year Housing Land Supply Position

113. The Council's latest published Housing Land Supply position, as of 31st July 2021, is 4.54 years. Given that a five year supply of housing land cannot be demonstrated and is therefore a material consideration, ordinarily the tilted balance in paragraph 11(d) of the NPPF applies.
114. However, in the circumstances of this particular application at the current time the 'tilted balance' does not apply due to the effect of Reg. 63(5) in that NPPF footnote 7 and para. 181 provide, collectively, that the tilted balance only applies if and when an appropriate assessment has concluded that the proposal will not adversely affect the integrity of the protected site in question – in this case, Stodmarsh lakes. At present, this is not the case – and thus, under Reg. 63(5), it would not currently be lawful to grant permission in any event.
115. It is important, however, to pay regard to the Council's housing land supply position and the guidance contained in para. 11 of the NPPF which reinforces the need to permit proposals which are in accordance with the Development Plan. I consider this lends added weight to my Recommendation further below.

Human Rights Issues

116. I have also taken into account the human rights issues relevant to this application. In my view, the "Assessment" section above and the Recommendation below 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).

Conclusion

117. In conclusion, the Development Plan supports the principle of residential development within and on the edge of sustainable villages, such as Chilham, subject to compliance with the criteria in policies HOU3(a) and HOU5 and other relevant policies and guidance.
118. The proposed development would have less than substantial harm to the character and setting of the Chilham Conservation Area and the setting of the listed St Mary's Church and Vicarage, However, the benefits of delivering three new family homes in a sustainable location with good access to local services and public transport would outweigh this harm. In addition, the development would not harm the setting of the AONB. The development

would be a modest addition to Chilham village and, due to its scale and design would be in keeping with the character of the area.

119. No harm to residential amenity is envisaged and the development is acceptable in terms of its impact on the highway.
120. Currently, insufficient information has been provided to allow the Council to assess the impact of the proposal on the Stodmarsh Special Area of Conservation (SAC) Special Protection Area (SPA), and Ramsar Site under the Habitats Regulations. Therefore, the recommendation to grant planning permission is subject to the adoption, under delegated powers, of an Appropriate Assessment to the effect that the development would not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary obligation(s) and/or conditions in this respect.

Recommendation

Permit

- A. Subject to the applicant first submitting information to enable an Appropriate Assessment under the Habitats Regulations 2017 (as amended) to be adopted by the Assistant Director - Planning and Development which identifies suitable mitigation proposals such that, in his view, having consulted the Solicitor to the Council and Natural England, the proposal would not have a significant adverse effect on the integrity of the Stodmarsh SAC, SPA and Ramsar Site alone or in combination with other plans or projects; and with delegated authority to the Development Management Manager or the Strategic Development and Delivery Manager, in consultation with the Solicitor to the Council, to enter into a section 106 deed of variation agreement/undertaking to add, amend or remove planning obligations and/or planning conditions as they see fit to secure the required mitigation and any associated issues relating thereto; and,**
- B. Subject to planning conditions and notes, including those dealing with the subject matters identified below, (but not limited to that list) and those necessary to take forward stakeholder representations, with wordings and triggers revised as appropriate and with any ‘pre-commencement’ based planning conditions to have been the subject of the agreement process provisions effective 01/10/2018**

Conditions

1. Standard time condition

2. Development carried out in accordance with the approved plans
3. Programme of archaeological work
4. Materials to be approved
5. Detailed drawings of windows, doors and roof overhangs
6. Landscaping Scheme, including replacement trees
7. Hedgerow protection
8. Tree protection
9. Details of boundary treatments
10. Reptile Mitigation Strategy
11. Bat-sensitive lighting
12. Biodiversity Enhancement
13. Ecology Mitigation and Management Plan
14. Drainage
15. Retention of vehicle parking spaces
16. Electric vehicle charging points
17. Water efficiency
18. Code of Construction Practice
19. Removal of permitted development.
20. Site inspection

Note to Applicant

1. Working with the Applicant
2. List of plans / documents approved
3. Bird nesting season

4. Highways informatives

Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site (www.ashford.gov.uk). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference //AS)

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