

- a) **DOV/15/01184 – Erection of 31 two and three storey dwellings, together with associated access, car parking and landscaping - Land rear of 114 Canterbury Road, Lydden**

**Reason for report:** Number of contrary views.

- b) **Summary of Recommendation**

Planning Permission be granted.

- c) **Planning Policies and Guidance**

**Core Strategy Policies**

- CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy. Lydden is a village, which is the tertiary focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to essentially its home community.
- CP3 – Of the 14,000 houses identified by the plan 1,200 (around 8%) is identified for the rural area.
- CP4 - Developments of 10 or more dwellings should identify the purpose of the development in terms of creating, reinforcing or restoring the local housing market in which they are located and development an appropriate mix of housing mix and design. Density will be determined through the design process, but should wherever possible exceed 40dph and will seldom be justified to less than 30dph.
- CP6 – Development which generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.
- DM1 – Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM5 – Development for 15 or more dwellings will be expected to provide 30% affordable housing at the site, in home types that will address prioritised need.
- DM11 – Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- DM13 – Parking provision should be design-led, based upon an area's characteristics, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.
- DM15 – Development which would result in the loss of, or adversely affect the character and appearance of the countryside will not normally be permitted.
- DM16 – Development that would harm the character of the landscape will only be permitted if it is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures or it can be sited to avoid or reduce harm and incorporate design measures to mitigate impacts to an acceptable level.

## Land Allocations Local Plan

- LA40 – Land is allocated at Canterbury Road, Lydden for residential development, with an estimated capacity of 40 dwellings. The development will need to meet seven criteria, relating to: its impact on the AONB; the maintenance of the woodland bank to the north; the maintenance of trees to the east; cycle and footway connections are made including, if achievable, to the Primary School; incorporation of SPA mitigation; appropriate connection to the sewerage system; and careful design of lighting to conserve the dark night skies of the AONB.
- DM27 - Residential development of five or more dwellings will be required to provide or contribute towards the provision of open space, unless existing provision within the relevant accessibility standard has sufficient capacity to accommodate this additional demand.

## National Planning Policy Framework (NPPF)

- Paragraph 14 of the NPPF requires that where the development plan is absent, silent or relevant policies are out-of-date development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or, specific policies in the NPPF indicate that development should be restricted.
- Paragraph 49 of the NPPF states that "housing applications should be considered in the context of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of housing sites.
- The NPPF has 12 core principles which, amongst other things, seeks to: proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs; secure high quality design and a good standard of amenity for all existing and future occupants and buildings; take account of the different roles and characters of different areas, promoting the vitality of our main urban areas, recognising the intrinsic character and beauty of the countryside; and actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.
- Chapter four of the NPPF seeks to promote sustainable transport. In particular, paragraph 29 states that "the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas".
- Chapter six of the NPPF seeks to significantly boost the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- Chapter seven requires good design, which is a key aspect of sustainable development.
- Chapter 10 promotes minimising vulnerability to climate change and flooding. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

- Chapter twelve requires that development has regard for its impact on the significance of heritage assets and their settings.

The Kent Design Guide (KDG)

- The Guide provides criteria and advice on providing well designed development.

d) **Relevant Planning History**

DOV/80/01345 – Outline application for residential development (approx. 40 dwellings, shopping facilities and play area) - Refused

DOV/96/00509 – Erection of six detached houses – Granted

DOV/05/01436 – Outline application for the erection of 42 dwellings, doctors' surgery and construction of new vehicular access - Refused

DOV/05/01437 – Outline application for the erection of 24 houses, doctors' surgery and formation of new vehicular access – Appeal Allowed

DOV/09/00294 – Erection of a detached building providing a doctors surgery, construction of vehicular access and associated car parking (reserved matters; access, external appearance, layout and scale pursuant to planning permission DOV/05/01437) – Granted

e) **Consultee and Third Party Responses**

Environment Agency – The site lies within an area which is clear of flooding and any source protection zones, whilst foul sewerage will be disposed of to mains drains. This is therefore a low risk application.

Southern Water – Southern Water cannot accommodate the needs of the development without the provision of additional infrastructure. Section 98 of the Water Industry Act provides a legal mechanism to secure the required infrastructure to accommodate the development. A condition should be attached to any grant of planning permission requiring details of foul and surface water disposal to be agreed in writing by the LPA. Arrangements should be made for the long term maintenance of SUDS facilities.

DDC Environmental Health – It is recommended that, should permission be granted, conditions are attached regarding previously unidentified contamination and the potential for risks associated with landfill gas or ground gas.

Kent County Council Highways and Transportation – No objection to the development, bearing in mind it is an allocated site. Adequate visibility is available at the junction with Canterbury Road to accommodate 31 dwellings. Ideally, a pedestrian access would be provided to the primary school; however there is an existing a short distance to the east of the site. The adoptable internal site layout is now acceptable and sufficient car parking is provided. It is recommended that eight conditions are attached to any grant of planning permission relating to: details of vehicle loading, unloading and turning areas; details of parking for site personnel and visitors; provision of wheel washing facilities; details of measures to prevent the discharge of water onto the highway; provision and retention of car parking; use of a bound surface material for the first 5m of the access; provision and retention of cycle parking; and completion of a series of highway works prior to first occupation.

Kent County Council Contributions – The development would give rise to an increased demand for local services. It is therefore requested that contributions be sought in respect

of primary education, amounting to £73,189.76, and library book stock, amounting to £1488.49.

Lydden Parish Council – Object, having regard for the following considerations:

- The need for housing is recognized
- The development would harm the character and appearance of the village, due to the height and design of the buildings
- Some trees have already been removed and it is vital that the remaining trees are retained to provide visual mitigation
- Light pollution should be minimized
- The development should ensure that surface water does not have a detrimental impact on properties
- Sight lines should be provided to the junction of the access road and Canterbury Road
- Comprehensive ecological surveys should be carried out to support the development
- The village amenities are inadequate for a development of this scale
- It is not acceptable that the nature area is for residents only
- The capacities of the village school, children's` play facilities and health facilities should be considered.

DDC Principal Ecologist – The application includes sufficient survey information to allow a condition to be attached requiring a slow-worm translocation strategy to be submitted to the LPA. Any approved strategy should be carried out in full prior to commencement of development.

DDC Principal Infrastructure Delivery Officer – Details of the soft and hard landscaping in the proposed pocket park should be submitted and approved prior to commencement. Provision of playable space as part of this development will be an important benefit to the village; as identified in the Council's adopted play area strategy there is currently no open access play area or playable space in Lydden. The specification should meet the need for children's play created by this development.

The request for Lydden Primary School is reasonable. However, KCC have not evidenced their claim for library contributions in a way that can be supported.

The development will need to provide £1980.55 as mitigation for the in combination impacts on the Thanet Coast and Sandwich Bay SPA and Ramsar site.

Public Representations – Ten letters of objection have been received, raising the following concerns:

- The development is too big for the village
- The village lacks facilities and services
- Additional pressure of facilities and services within the village
- Insufficient play space has been proposed
- Harm to highway safety and the free flow of traffic
- Insufficient car parking
- Lack of affordable housing
- There are problems with surface water drainage from the site
- Insufficient information regarding foul surface water disposal
- The drainage pond is inappropriate
- Harm to the character and appearance of the area, within an AONB
- The application should be supported by updated archaeological and environmental reports

- Screen planting should be incorporated into the development and maintained in perpetuity
- The development should provide a play area for the village
- There is insufficient information regarding protected species
- The development should incorporate sustainable technologies such as solar panels, solar water heating and ground source heat pumps

In addition one letter neither supporting nor objection has been received, raising the following points:

- The plans are difficult to read
- The village has poor broadband
- There are existing highway safety problems in the village

f)

## 1. **The Site and the Proposal**

1.1 The site lies within the settlement confines of Lydden, which is described as being a village within the Settlement Hierarchy at Core Strategy Policy CP1. Villages are the tertiary focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to essentially its home community. The site also designated under policy LA40 of the Land Allocations Local Plan for residential development with an estimated capacity of 40 dwellings. The land to the south of Canterbury Road is designated within the East Kent Downs AONB, whilst the land to the north and south of the village is designated as a Site of Special Scientific Interest. Finally, land to the north of the village is designated as a Special Area of Conservation.

1.2 Lydden sits within a shallow valley on an east to west axis. The village is roughly Y-shaped with linear development along Canterbury Road and Stonehall Road, together with several small cul-de-sacs linked to these roads. Between these two roads is Church Lane which, whilst significantly less developed, includes St Mary the Virgin Church and Lydden Court Farm. The village has a mixed character of buildings, with a historic core around the junction of Canterbury Road and Church Lane, early to mid C20th miners houses to the northern side of Stonewall Road and mid to late C20th development elsewhere. With the exception of the miners houses, which are relatively uniform and typical of early C20th planned housing, the scale form and design of properties varies greatly.

1.3 Lydden contains some facilities and services, commensurate with the size of the settlement. These include a primary school, a church, a doctor's surgery and a public house. This village is also served by regular bus services to Dover and Canterbury.

1.4 The site itself comprises an open parcel of land devoid of buildings. The land falls from south to north, with a steep treed bank to its northern boundary. The site is accessed from Canterbury Road by an access which currently serves a recently built doctor's surgery.

1.5 This full planning application is for the residential redevelopment of the existing site to provide thirty-one predominantly detached dwellings. The dwellings would have a loosely linear layout, with a central block of six dwellings. The buildings would be a mixture of two, two and a half and three storeys in height.

## 2 **Main Issues**

2.1 The main issues are:

- The principle of the development
- The impact of the development on the character and appearance of the area, including on the impact on the setting of the AONB
- The impacts of the development on the living conditions of neighbouring properties
- The impact on the highway network
- Financial viability

## Assessment

### Principle

- 2.2 The site lies within the confines of Lydden on land which is allocated under Land Allocations Local Plan Policy LA40 for residential development, with an estimated capacity of 40 dwellings. The proposal is for the erection of 31 dwellings and, as such, it is considered that the principle of the development is acceptable. Policy LA40 includes seven criteria which must be met by any application for development of the site. These criteria relate to material considerations and will be addressed under the relevant heading later in this report. For completeness, these criteria are as follows:
- i. development proposals are sensitively designed in terms of height and massing in order to ensure the development does not have an adverse impact on the AONB and countryside;
  - ii. the woodland bank to the north is maintained and enhanced ;
  - iii. trees on the eastern boundary retained and incorporated into the design and layout;
  - iv. cycle and footway connections are established to connect to the existing network and if achievable to the Primary School;
  - v. a financial contribution is secured to mitigate the impact on the Thanet Coast and sandwich Bay SPA;
  - vi. development should provide a connection to the sewerage system at the nearest point of adequate capacity; and
  - vii. if street lighting is required this should be designed to minimise the impact of light pollution and conserve the dark night skies of the AONB.
- 2.3 As the District cannot demonstrate a five year housing land supply and having regard for paragraphs 14 and 49 of the NPPF, significant weight should be given to the provision of housing whilst permission should be granted unless the development is unsustainable or specific policies in the NPPF direct that permission should be refused. The assessment of sustainability is a comprehensive exercise, having regard to the three dimensions of sustainable development and paragraphs 18 to 219 of the NPPF, and will be addressed under the relevant headings.

### Character and Appearance

- 2.4 The site is in a sensitive location, being on the edge of the village and adjacent to the Area of Outstanding Natural Beauty (AONB) and open countryside. Regard must also be had for the developments impact on the settings of nearby listed

buildings, in particular St Mary's Church and Lydden Court Farmhouse to the north west.

- 2.5 In assessing the character and appearance of the scheme, consideration has been given to the principles contained within the Kent Design Guide and Building for Life 12.
- 2.6 The site is highly visible from both the AONB to the south and west, and the publicly accessible countryside to the north. Within the village, the site is partially screened by the houses to the south, in views from Canterbury Road. However, from the north, the site is visible in views from Stonehall Road and Broadacre. The site is also prominent from the footpaths which lie to the north and west.
- 2.7 The development would have an organic layout, broadly comprising three cul-de-sac's linking to a central, adopted, access. The areas would form a loose perimeter around the site, of 25 dwellings, with a 'core' containing a further six dwellings and play space. Each of the cul-de-sac's would have a pedestrian link to the next. Whilst the village is predominantly formed of linear, street fronting development, later additions have taken the form of small, intimate cul-de-sac's. As such, it is not considered that the layout of the development is out of character. This layout also prioritises pedestrian movement through the site and would be easily legible.
- 2.8 The main short distance view of the site would be along the access road from Canterbury Road. This view would be terminated by the side elevation of Unit 8 which has been designed to respond to its prominent location. In this view, areas for planting, including for trees, have been provided to soften the appearance of the development.
- 2.9 Lydden predominantly comprises a mixture of one and two storey dwellings, although some two storey properties also contain accommodation within their roofs. The development comprises a mixture of two and three storey dwellings. However, where three storey dwellings have been proposed, these properties either include a floor which is partially below ground level or contains the third floor within the roof space, significantly reducing the bulk of the resultant buildings. It must also be noted that the development lies towards the middle of the village, where views of the buildings would be taken in the context of the surrounding development. For these reasons, it is not considered that the scale of the buildings would cause significant visual harm.
- 2.10 Whilst the scale of buildings within the village has a degree of uniformity, it is considered that this part of Lydden lacks a distinctive character in terms of building design. However, other parts of Lydden display a more distinctive, unifying character, such as the historic core of the village, around the junction of Canterbury Road, Church Lane and Lydden Hill, and the area of early C20th miners housing to the north of the site.
- 2.11 Where a site is located in an area which lacks a strong defining character, Building for Life advises that the appropriate response is to explore how the development can reinforce an existing character or create a new character which responds to the existing character, by introducing new elements but referencing positive forms, proportions, features or materials, to root the development in its context. These aims echo the requirements of the NPPF, which is clear in directing that planning should not "attempt to impose architectural styles or particular tastes" and "should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to promote or reinforce local distinctiveness".

- 2.12 The most prominent character of the site is the landscape and steep sided valley within which Lydden sits. In long views of the village from the surrounding AONB and public footpaths, the most prominent buildings are the miner's houses, the gables of which produce a distinctive silhouette. The detailed design of the development does not seek to replicate the design of buildings within the village. Instead, the design seeks to produce a contemporary architectural style which references key components of the existing buildings in the village. The design of the elevations and the arrangements of fenestrations would be overtly new to the village; however, the proportions and gabled roof forms would respond to the miner's houses to the north. Whilst the design of the building is striking, it is considered that it would provide the development with a strong character and positively reference details which are found in the area. Overall, it is considered that architect has been successful in the approach which has been employed.
- 2.13 The materials to be used in the development, samples of which were submitted with the application, reference the materials used in some of the miners housing, including areas of red brick at ground floor level under shot-blasted cast stone blockwork. Where basement areas are exposed, dark grey blockwork, which is deeply rusticated to create natural texture is proposed. The roofs would be finished in synthetic interlocking 'slates'. Communal areas would include the use of dark block paving whilst retaining structures, which feature prominently throughout the development, would be formed using gabions filled with field flint. These materials, whilst predominantly new to Lydden, reflect the materials used in the miners houses and the natural characteristics of the hillsides around the village. It is considered that these materials are of a high quality and would create a strong character which sits comfortably within its context.
- 2.14 The development includes opportunities for meaningful landscaping through the scheme. A pocket park would be located centrally within the site, which would incorporate trees around its periphery and a small play area towards its centre. Towards the north east of the site is the location of the proposed attenuation pond. The pond itself would include a reed bed filtration system, providing flora which is atypical of most residential development. Together with the visual interest that the pond itself would provide, a reasonably sized landscaped green space would be provided around the pond. Finally, the trees and hedges to the northern, eastern and western boundaries of the site would be retained and enhanced, in accordance with criteria 2 and 3 of Policy LA40, increasing the screening of the site and the general visual amenity of the site and the surrounding area.
- 2.15 In addition to the larger areas of landscaping, areas for the planting of trees are provided between car parking spaces, within front gardens and in retained green spaces which punctuate key views through the development. Finally, each dwelling would be provided with a private garden which, whilst more informal, would allow further opportunities for structural landscaping.
- 2.16 Whilst the site is not within the AONB, the development does have the potential to impact upon the setting of the AONB. Section 85 of the Countryside and Rights of Way Act 2000 states that "in exercising or performing any functions in relation to, or so as to affect, land in an areas of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving or enhancing the natural beauty of the area of outstanding natural beauty". Whilst not planning policy, regard should also be had for the Kent Down AONB Management Plan and the Kent Downs Handbook, which provide advice on how to protect and enhance the AONB.
- 2.17 In accordance with the above Act, particular regard must be had for the impact of the development on the setting of the AONB to the south and the countryside



beyond the village, in particular in important views of the site from the north. Within these views, the development would be seen in conjunction with, and a continuation of, the rest of the village. The scale and form of the development would also integrate into the existing village. For these reasons, it is not considered that the development would harm longer views of the village, the setting of the AONB or the character of the landscape.

- 2.18 The site and the surrounding area are particularly susceptible to increases in light pollution and consequently, criterion 7 of policy LA40 requires that “if street lighting is required this should be designed to minimise the impact of light pollution and conserve the dark night skies of the AONB”. As such, the external lighting within the development will need be kept to the minimum required to provide a safe environment. Where external lighting is required, it should be designed in such a way to avoid light spill, sky glow and light intrusion outside the site. Details of lighting columns have been submitted for the adoptable areas of the highway, comprising directional down lighting which will be switched off between midnight and 5:30am. Subject to a condition requiring details of all external lighting, it is considered that this solution would significantly reduce the visual impact of the development at night.

#### Heritage Assets

- 2.19 Regard must be had for how the development would impact upon listed buildings, and their settings, having regard for the Planning (Listed Buildings and Conservation Areas) Act 1990 (The 'Act'). Section 66(1) of the Act states that, 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority, or as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.' As such, it is necessary to have 'special regard' for whether the development would preserve the listed buildings in the vicinity of the site, and their settings. Additionally, the NPPF requires that regard must be had for whether the development would harm the significance of both designated and non-designated heritage assets and, where harm is identified (either substantial or less than substantial) consider whether this harm is outweighed by public benefits.
- 2.20 The nearest listed buildings to the site, are 138-140 Canterbury Road which lie 145m to the west. These buildings are a significant distance away from the site and it is not considered that the characteristics of the site contribute to the setting of these buildings, particularly given the built up nature of Canterbury Road to either side of these heritage assets. Furthermore, the development would not block or unacceptably alter any important views of these buildings. As such, it is not considered that the significance of these listed buildings or their settings would be harmed by the development.
- 2.21 To the north west are the Grade II\* listed Church of St Mary and the Grade II listed Lydden Court Farmhouse, which are approximately 190m and 220m from the site respectively. The Church, in particular, is an important landmark building within the village, featuring in many important views due to its location and scale. Despite this, in views from Canterbury Road, the Church is not highly visible and the development would not therefore impact upon any views from the south. In closer views of the Church from Church Lane, the development would be visible above the height of the vegetation to the northern and western boundaries of the site. Whilst the development would, therefore, alter the setting of the listed building, it is noted that at present the setting in these views is that of the buildings within the village. The development would be well separated from the Church, retaining a generous undeveloped buffer and, having regard for this together with the existing

context of the Church, it is not considered that the change to the setting of the Church would be harmful. Furthermore, it is noted that the development will condition the provision and retention of landscaping, which will significantly reduce the prominence of the development in the landscape.

- 2.22 There is a further cluster of listed buildings located approximately 350m to the west. However, given the separation distance and relationship between the application site and these buildings, the development would have no impact on these buildings or their settings.
- 2.23 There have been few archaeological finds within the vicinity of the site, whilst a significant proportion of the site is made ground. Recent archaeological work at The Former Hope Inn, 144 Canterbury Road, revealed little significant archaeology. As such, it is not considered that there is a reasonable likelihood that the development will impact upon heritage assets of archaeological interest. Consequently it is not considered that it would be reasonable to require a programme of archaeological work in this instance.

#### Living Conditions

- 2.24 The site is bounded by residential areas to its north and south, whilst to the east and west is the Primary School and open fields respectively. As such, the only potential impact on residential amenity relates to the properties on Broadacre to the north and Canterbury Road to the south.
- 2.25 The closest property on Broadacre is set approximately 63m away from the nearest part of the retaining wall to Units 24 to 28 and approximately 70m from the rear elevations of these properties. Whilst these buildings would rise to three storeys and be at a significantly higher level than the properties on Broadacre (rising to approximately 15m above the level of the reed bed attention pond), it is considered that given the separation distance, no loss of light, sense of enclosure or overlooking would be caused.
- 2.26 The proposed buildings would be sited closer to the properties on Canterbury Road, with the closest separation distance being approximately 38m. The buildings at this part of the site would rise 10m to their ridge, but would be set at a significantly lower level than the properties on Canterbury Road. Having regard for the separation distance, the scale of the dwellings and the relative levels of the proposed dwellings and the dwellings on Canterbury Road, it is not considered that any loss of light, sense of enclosure or overlooking would be caused.
- 2.27 The proposed houses would all be of generous sizes and would be naturally lit and ventilated. All would have access to reasonably sized outdoor amenity spaces and have been laid out in a manner which reduces overlooking between properties. Refuse storage has been provided in integrated stores to the front of each dwelling which are easily accessible from each dwelling and easily accessible on collection days. Overall, it is considered that future occupiers would have an acceptable standard of accommodation.

#### Impact on the Highway

- 2.28 Policy DM12 of the Core Strategy requires that developments provide suitable access arrangements, whilst policy DM13, being informed by Table 1.1, requires that development provides a level of car and cycle parking which balances the characteristics of the site, the locality the nature of the proposed development and design objectives.

- 2.29 The proposal seeks to utilise the existing access into the site from Canterbury Road which serves the car park for the doctor's surgery. The geometry of this access is designed to adoptable standards, has a bell mouth junction with Canterbury Road and is of sufficient width to allow two cars to pass each other. KCC Highways have commented that the junction provides adequate visibility to serve the proposed development.
- 2.30 Tracking plans have been submitted which demonstrate that a 11.2m refuse lorry could navigate the site, including all of the roads laid out to adoptable standards. As such, these vehicles would be able to get close to every property within the development on collection days. In addition a maintenance vehicle 8.01m in length would be able to access the slope adjacent to the SUDS area. Plans have also been submitted which show that vehicles would have reasonable forward visibility around the site and when exiting driveways, ensuring that the layout would be safe for pedestrians and vehicles.
- 2.31 Policy DM13 of the Core Strategy requires that the provision of car parking should be a design led process, based upon the characteristics of the site, having regard for Table 1.1 of the Core Strategy. The development comprises 13 three-bed dwellings and 18 four-bed dwellings, all of which (based on Table 1.1) would generate a need for two car parking spaces and 0.2 additional visitor spaces. All of the proposed dwellings would be provided with at least two car parking spaces, whilst some would be provided with an additional third space. The car parking provision for Unit 1 takes the form of two tandem spaces which is not ideal, reducing the usability of the spaces. However, it is noted that this has resulted from the provision of areas for landscaping which, given the visibility of this part of the site from the south, is considered to be a reasonable compromise. In addition to the dedicated parking for each dwelling, six visitor spaces would be provided, spread across the site. The need for visitor spaces equates to 6.2 and, as such, the provision of six spaces is considered to be acceptable. Overall, it is considered that the development reaches an appropriate balance between providing sufficient car parking to meet the needs of the development, whilst ensuring that the site does not become unacceptably dominated by car parking and providing meaningful landscaping.
- 2.32 The development includes the provision of areas for cycle parking throughout the site, in dedicated stores, promoting the use of this sustainable means of transport. As such, subject to a condition, adequate provision for cycling would be made. Having regard for the aforementioned considerations, it is considered that the development would not cause any significant harm to the local highway network.
- 2.33 KCC Highways and Transportation have requested that a number of matters are secured by condition. It is accepted that all of the requests are reasonable and appropriate and should be secured by conditions.
- 2.34 It is acknowledged that the development does not include a pedestrian link between the site and the school, as specified by criteria four of LA40. Whilst this is unfortunate, the applicant has confirmed that discussions have taken place with the school, who were resistant to an access from the site to avoid the need to staff and secure the additional access. There is an existing access to the school on Canterbury Road, a short distance to the east. The applicant has endeavored to provide more direct access to the school but, as such provision is not solely in their gift, has been unable to do so. However, having regard for the existing access, it is not considered that it would be reasonable to refuse permission on this basis.

## Contamination

- 2.35 There is no known contamination on the site; however, the site does have a history of containing various small agricultural buildings throughout the C20th. The ground levels within the site have also been manipulated. Whilst it is unlikely that there is contamination on site, Environmental Health have recommended two conditions, requiring the reporting of any previously unidentified contamination on the site, should it be discovered, and requiring the submission of an assessment of the sites potential for landfill gas or ground gas. It is considered that these conditions are a proportionate response to the risk.

## Ecology

- 2.36 In accordance with the Habitats Directive and the Wildlife and Countryside Act 1981, it is necessary to ensure the application (a 'project') does not harm a European Site. The Land Allocations Local Plan establishes that residential development across the district will cause in combination effects on the Pegwell Bay and Sandwich Bay SPA and Ramsar Site. However, the LALP also provides a suggested mitigation against these cumulative impacts of development, setting out a mitigation strategy to avoid potential impacts, comprising a financial contribution to provide monitoring and wardening at Sandwich Bay and towards the Pegwell Bay and Sandwich Bay Disturbance Study. The applicant has agreed to pay this contribution, amounting to £1980.55. Consequently, it is not considered that the development would cause a likely significant effect on the SAC or SPA. A legal agreement will be required in order to secure this contribution.
- 2.37 In furtherance to the impacts on the off-site Thanet Coast and Sandwich Bay, Ramsar, SAC and SPA, regard must be had for whether the development would cause any harm to habitats or species on or adjacent to the application site, having regard for Natural England's Standing Advice.
- 2.38 The application has been supported by a Ecological Report for the site, which considers both the flora and fauna of the site.
- 2.39 The site has been assessed as being unremarkable floristically; however, the site does have the potential to support bats, badger, hedgehog, nesting birds, amphibians and reptiles.
- 2.40 Mature trees to the northern periphery of the site have the potential to provide roosting opportunities for bats, although no bats or signs of bats were observed by the ecologist; however, it is expected that bats forage and commute within the area. The development would be unlikely to have a significant negative impact on bats, provided the mature trees to the northern periphery are protected and any external lighting is designed so as to maintain dark skies.
- 2.41 Signs of badger were observed during surveys of the site, including a path through the site and damage to reptile fencing. Whilst there are no badger setts within the site, setts are known to be present close to the site. The report recommends that routes through the site are not blocked by development and excavations are either covered over night or are provided with ramped escape routes. It is considered that these measures should be secured by condition.
- 2.42 The site contains coarse vegetation which is suitable reptile habitat. Despite the previous erection of reptile fencing and clearance of the site, recent surveys have identified that slow worms and lizards are present. As such, without mitigation, these populations would be negatively impacted. Presence/absence surveys were undertaken in 2014 which identified a low to moderate population of slow worms

and a low population of lizards. A further survey was carried out between April and May 2016, when a low population of slow worms was found to be present. No lizards were identified. Given the size of the population within the site, the mitigation proposed within the Scoping Survey, comprising humane capture and translocation to a receptor area to the north east of the site, would be feasible.

- 2.43 The development would be unlikely to impact upon amphibians as there are no records of great crested newts within 5km of the site whilst the site does not present optimal conditions. As such, no specific mitigation is required; however, the recommendations in relation to reptiles will also benefit amphibians.
- 2.44 The development would not impact upon any bird species afforded special protection, but does have the potential to disturb nesting birds. Consequently, the report recommends that no works take place between March and August (the nesting bird season), unless the site is checked for nesting birds by a suitably qualified ecologist.
- 2.45 The Council's Principal Ecologist has confirmed that, subject to a condition being attached to any grant of permission requiring full details of a scheme for the translocation of slow worms to be submitted and approved by the Local Planning Authority, the application is acceptable. The translocation scheme will need to be carried out in full prior to the commencement of the development.

#### Contributions

- 2.46 Core Strategy Policy DM5 requires that for schemes of this scale, the Council should seek an on-site provision of 30% affordable housing. However, the policy confirms that the amount of affordable housing or financial contribution to be delivered will be determined by economic viability having regard to individual site and market conditions. The Council's Delivering Affordable Housing SPD states that the Council will have regard to the particular costs associated with development and whether the provision of affordable housing would prejudice other planning objectives that need to be given priority.
- 2.47 In accordance with Policy DM27 of the Land Allocations Local Plan, the development would also be expected to provide Open Space on site, or a contribution towards off-site provision, to meet the Open Space demand which would be generated by the development. In this instance, the development would include the provision of a small play area towards the centre of the site, the provision of which will provide a valuable contribution to the area as the village currently lacks a publicly accessible play area. Subject to the provision and maintenance of this area being secured, including high quality landscaping, the development would meet the requirements of Policy DM27.
- 2.48 Kent County Council have advised that the development would increase demand for local facilities and services and, where there is currently inadequate capacity to meet this need, contributions should be sought to provide infrastructure improvements proportional to meet the need generated. In this instance, KCC have advised that there are insufficient primary school places and it has therefore been requested that the development provides a contribution of £73,189.76 towards increasing the capacity of Lydden Primary School. This request relates to a specific project which would be closely related to the site and is for a proportionate sum. It is therefore considered that this request has been justified and accords with the requirements of the CIL Regulations. Additionally, KCC have requested a contribution of £1,488.49 towards library book stock. Whilst evidence has been submitted which demonstrates that there is an existing shortfall in the provision of books, which the development would exacerbate, no site has been identified to

receive these books. Furthermore, some of the local libraries to the site, such as Dover, have already received the maximum number of permissible contributions. It is not, therefore, considered that KCC have demonstrated that there is a deliverable project which is directly and reasonably related to the development or that the contribution would not exceed the pooling limits for contributions. This request cannot, therefore, be sustained.

- 2.49 The applicants have submitted a financial viability assessment which seeks to demonstrate that the development is unable to provide contributions for affordable housing. The assessment does, however, confirm that financial contributions would be available, which would meet the requested Habitats Regulations mitigation and the contributions in respect of primary school and Open Space provision within the site. In these circumstances the Council will expect 'open book' negotiations and that specialist independent advice in assessing the economic viability of development will be sought. In this instance the Council has instructed Dixon Searle to carry out the assessment.
- 2.50 It is important to emphasise that arriving at an accurate picture on viability is not a precise science. The outcome of any appraisal relies on inputting a range of cost and value assumptions, variations of which, even by modest degrees, can result in material changes to conclusions. The approach adopted is to independently assess and interrogate the applicant's assumptions and arrive at an agreed position.
- 2.51 Dixon Searle presented an initial assessment of the applicant's viability appraisal in May. Within this assessment, it was confirmed that the benchmark land value, finance costs, building costs, contingencies, professional and technical fees, sales costs and site specific costs, which are all based on industry standards, are reasonable. Some concern was raised regarding the abnormal costs which have been applied in the applicant's appraisal, which require further justification to demonstrate the reasonableness of these figures. The sales values of properties within a 1 mile radius of the site have been reviewed, which suggests that (adding a 10% uplift in values on the basis of being new-build) a value of approximately £254/sq.ft could be achieved, slightly above the £231/sq.ft which has been adopted by the applicants. It was also confirmed that a developer profit, whilst at the higher end of the typical range (15-20%) was not unreasonable. Whilst most of the assumptions made by the developer have been agreed, it was concluded that further evidence and pressure testing was required before Dixon Searle would agree that no affordable housing could be achieved within a viable development.
- 2.52 Following the initial review of viability, the applicants submitted further information and discussions took place between the applicant's viability assessor and Dixon Searle. Subsequently, Dixon Searle provided an update to their initial report, commenting on the remaining points in dispute. Having regard for the additional evidence which was submitted and following further pressure testing, Dixon Searle are of the opinion that all reasonable interrogation of the scheme has been exhausted and have concluded that the development cannot be made viable, should an element of affordable housing, or an affordable housing contribution, be sought. Removal of the projected 'loss' included in the applicants viability appraisal, the overall developer profit would reduce to approximately 15.6%.
- 2.53 Whilst there are differences in the approach and values arrived at between the applicants viability report and Dixon Searle viability, the result in both instances is that the development would be unviable were affordable housing to be sought. Having regard for the wording of Policy DM5, together with the Council Supplementary Planning Document "Delivering Affordable Housing Through the Planning System" and its Addendum, it is not considered that the development

would be viable were affordable housing to be sought. The contribution towards increasing the capacity of Lydden Primary School and the provision of play space (and its maintenance) which meet the CIL regulations will, however, be sought, via a legal agreement.

### Drainage

- 2.54 Criteria 6 of Policy LA40 requires that the development provides a connection to the sewerage system at the nearest point of adequate capacity. The site would generate approximately 1.5l/s of foul drainage discharge. The applicant has liaised with Southern Water prior to submitting the application and has established that the sewer in Canterbury Road has insufficient capacity to meet the needs of the development; however, there is capacity in the network for a gravity connection to the sewer adjacent to Stonehall Road. As such, subject to a condition being attached requiring full details of this connection, the foul sewerage needs of the development can be met.
- 2.55 The existing site is undeveloped and, as such, surface water drains naturally. This takes the form of infiltration to ground, although some representations have commented that in recent years some water has drained from the site to neighbouring properties. The proposal would increase the impermeable areas of the site, including 3,231sqm of roofs and 5,342sqm of roads and driveways (including the already constructed access road which serves the doctors surgery). Whilst the site overlies chalk, which is relatively permeable, there site includes upper deposits which are less permeable. As such, there is a need to provide a drainage system which allows for water to be stored and discharged slowly to ensure that the surface water is discharged within the boundaries of the site. The proposed solution includes 31 crated storage soakaways and ring soakaways for clean roof water and a 277sqm reed bed attenuation pond for all drainage from the access roads which would, in turn, link to 4 larger and deeper soakaways. The capacities of the proposed system for storing and discharging surface water has been modelled by the applicants engineers, demonstrating that it would exceed the requirements placed upon it in the event of a 1 in 100 year storm, including a 30% allowance for climate change. As such, subject to a condition requiring the implementation and maintenance of the system, the site would not cause any localized surface water flooding either on or off site.

### Overall Conclusions

- 2.56 The site lies within the settlement boundaries on land which is allocated by Policy LA40 of the Land Allocations Local Plan for residential development of up to 40 dwellings. It is therefore considered that the principle of the development is acceptable. Furthermore, weight must be given in favour of the development by virtue of the council's lack of a five year housing land supply.
- 2.57 It is considered that the development would cause no harm to the character and appearance of the area (including the setting of the AONB and the countryside), the local highway network or the amenities of neighbouring properties. Whilst the application does not provide affordable housing, the applicant has submitted reasonable justification for this in the form of a viability assessment. Furthermore, the development would be acceptable in all other material respects. For these reasons, it is recommended that planning permission be granted.

g)

### Recommendation

- l Subject to the submission and agreement of a s106 agreement to secure contributions, PERMISSION BE GRANTED subject to conditions to include:-

(i) approved plans, (ii) development in accordance with submitted samples, (iii) full details of hard and soft landscaping, (iv) provision of certain highway works in advance of first occupation, (v) provision and retention of cycle parking, (vi) provision and retention of access, (vii) construction management plan, (viii) provision and retention of visibility splays, (ix) full details of foul drainage including maintenance, (x) full details of surface water drainage including maintenance, (xi) removal of permitted development rights relating to extensions, enlargements, alterations, (xii) assessment of landfill gas and ground gas, (xiii) previously unidentified contamination, (xiv) details of reptile translocation, (xv) ecological enhancements, (xvi) badger mitigation, (xvii) details of lighting (xviii) provision of refuse storage (xix) details of measures to prevent the discharge of surface water onto the highway (xx) use of a bound surface material for the first five metres of the accesses.

- II Powers to be delegated to the Head of Regeneration and Development to settle any necessary planning conditions and to agree a s106 agreement, in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Luke Blaskett



## Appendix 1

**For: Dover District Council**

**Review of Applicant Submitted Viability Position**

**- BRIEF UPDATE**

**114 Canterbury Road, Lydden**

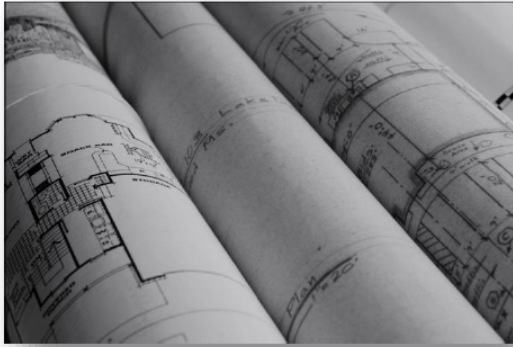
**9<sup>th</sup> August 2016**

(DSP ref. 16411B)

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## Contents

<b>Notes and Limitations</b>	<b>2</b>
<b>Viability review and follow-up process</b>	<b>3</b>

## 1. Notes and Limitations

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- 1.1.1 The following does not provide formal valuation advice. This review and its findings are intended purely for the purposes of providing Dover District Council (DDC) with an independent check of, and opinion on, the planning applicant's viability information and stated position in this case.
- 1.1.2 This document has been prepared for this specific reason and should not be used for any other purpose without the prior written authority of Dixon Searle Partnership (DSP); we accept no responsibility or liability for the consequences of this document being used for a purpose other than for which it was commissioned. To the extent that the document is based on information supplied by others, DSP accepts no liability for any loss or damage suffered by the client.
- 1.1.3 We have undertaken this as a desk-top exercise as is appropriate for this stage and level of review. For general familiarisation we have considered the site context from the information supplied by the Council and using available web-based material. We have not visited the site.
- 1.1.4 To this point we have assumed that the information supplied to DSP to inform and support this review process was been supplied by the planning applicant on a **COMMERCIALLY CONFIDENTIAL BASIS**; hence DSP's assumption is that the previous review detail, is still to be treated sensitively with regard to its use. However, DSP envisages that this update may be used more widely, if required by DDC, as it contains no commercially sensitive information.

## 2. Viability Review and follow-up process

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- 2.1.1 Dixon Searle Partnership (DSP) was commissioned by Dover District Council (DDC) to carry out an independent review of the Viability Study (VS), appendices and appraisal supplied to the Council by the applicant's agent Turner Morum on behalf of the applicant Pentland Homes Ltd. This was undertaken in respect of the proposed development of 31 semi-detached and detached houses, comprising 13 no. 3-beds and 18 no. 4-beds together with associated access, car parking and landscaping; DDC's planning reference is 15/01184.
- 2.1.2 DDC required our opinion as to whether the viability figures and position put forward by the applicant were reasonable. We therefore considered the information submitted, in some detail as part of a rigorous review process. DSP's approach is one of "pressure-testing" any assumptions that we consider to require review. This is done through our report, which is shared with the applicant. The aim is to seek to make sure that a suitable balance or compromise is found between the acknowledged commercial development needs and community sustainability matters, including affordable housing and any necessary development mitigation (s.106). On the commercial side this includes the generation of a suitable minimum profit for risk reward and, often, as a key to securing development funding; and the generation of a sufficient land value to bring the site forward.
- 2.1.3 DSP reported its findings and views on the viability submission through its report provided to DDC in May 2016.
- 2.1.4 To recap, our overview of the viability submission concluded with the following summary points:
- We found the general approach of the submission to be suitable and also considered many of the submitted assumptions not to be unreasonable in respect of this particular scheme.
  - We said that in our view the scheme might be considered to be fairly finely balanced in viability terms.
  - With this in mind, we conformed our view that it was unlikely to be possible to secure the full affordable housing (AH) policy content (35% - i.e. 5 to 6 units) on

this occasion. We suggested that the Council would most likely need to consider some compromise, but also stated our view that that should be part of a balanced, two-way process.

- Overall our view was that a nil AH outcome was not necessarily the best could be supported here. We suggested therefore that exploration should take place to see if a viable compromise could be reached – by pressure-testing certain areas of the viability position (assumptions – i.e. appraisal inputs) and reconsidering how that comes back together after doing so.
- In terms of detail on assumptions, there were, for example, differences of opinion on the GDV (sales value) of the scheme and although comparables are not readily available, we were of the opinion that possibly this had been understated. We also provide our opinion that a rigid profit view should not be held – i.e. in contributing to reaching a more balanced position, some profit flexibility should be part of the discussion.
- We also raised queries over the abnormal costs allowances included.

2.1.5 We considered that adjustments should not be ruled out and that it could be possible to show a considerable swing in the appraisal outcomes – potentially from a significant deficit (a financial shortfall of £0.5m plus as submitted) to a scheme supporting approximately 10% affordable housing whilst also showing a small surplus. We should stress again that these were only indications put forward consistent with the pressure-testing theme. That switch involved the closing of a significant viability gap.

2.1.6 As we stated, this counter position was based on making adjustments to key assumptions, as described within our report, but was also necessarily subject to any views the applicant had on our further points in reconsidering the viability position.

2.1.7 This assessment has continued to receive the attention of DSP Directors Rob Searle and Richard Dixon who have many years combined experience in the development industry working for Local Authorities, developers, Housing Associations and in consultancy. As consultants now working exclusively with Local Authorities we have a considerable track record of assessing the viability of schemes and the scope for Local Authority planning obligation requirements.

- 2.1.8 We now have to report that, as discussed with our DDC officer contact, we reached to the point where we think it is difficult to take this case further in a viability sense. This is because, on balance, with what we consider to be reasonable assumptions in place the scheme does not reach sufficiently positive viability to provide a surplus for the support of AH. Overall, the values and other assumptions re-settled after review are in our view not unreasonable positions as compromises.
- 2.1.9 Overall, therefore, from our viability review perspective we consider that having pressure-tested this as far as is possible, it has not proved possible to move the viability positively to the extent that would support an affordable housing element or contribution. The scheme looks likely to not be able to provide this. Of course we can only review the scheme in front of us, so this finding is proposal specific only. Another proposal may support a different outcome. Equally, on both sides of this we cannot know how the costs and values and therefore the relationship between those will actually pan out until the scheme is fully completed and sold.
- 2.1.9 Consistent with our review report, this brief update does pre-determine any Council positions, but merely sets out our opinion – on viability only - having undertaken the viability review and subsequent follow-up to explore and test the uncertainties that we raised through that.
- 2.1.10 Again, DSP will be happy to assist DDC with anything further on this review.

Brief Update Report Ends

9th August 2016

Support to DDC and report provided by:

Richard Dixon BSc (Hons) MRICS CIHM

Rob Searle BSc (Hons) MSc CIHM