

a) DOV/16/01328 - Outline application for the erection of up to 28 dwellings (30% affordable housing) and creation of vehicular access (to include demolition of 14 Archers Court Road) - Land rear of Archers Court Road, Whitfield

Reason for report – Deferred from 20 April 2017 Planning Committee for:

(a) Further information from the applicant relating to: (i) arrangements for the disposal of foul and surface water, and the overall impact of the proposed development on flood risk in the area; and (ii) the location and width of the access road.

(b) The commissioning of an independent traffic survey, the scope of which to be delegated to Officers in consultation with the Chairman of the Planning Committee.

b) Summary of Recommendation

Planning permission be granted.

c) Planning Policies and Guidance

Legislation

Planning and Compulsory Purchase Act 2004

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that “where in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.”

Dover District Core Strategy (2010)

- CP1 - Settlement Hierarchy
- CP2 - Provision of Jobs and Homes
- CP4 - Housing Quality, Mix, Density and Design
- CP6 - Infrastructure
- DM1 - Settlement Boundaries
- DM5 - Provision of Affordable Housing
- DM11 - Location of Development and Managing Travel Demand
- DM12 – Road Hierarchy and Development
- DM13 - Parking Provision
- DM17 – Groundwater Source Protection
- DM25 - Open Space

Saved policies Dover District Local Plan (2002)

- Policy TR4-A2 Safeguarding Area

Dover District Land Allocations Local Plan (2015)

- DM27 - Providing Open Space

"To meet any additional need generated by development, planning applications for residential development of five or more dwellings will be required to provide or

contribute towards provision of open space, unless existing provision within the relevant accessibility standard has sufficient capacity to accommodate the additional demand. This applies to accessible green space, outdoor sports facilities, children's equipped play space and community gardens in accordance with the standards that are contained in Table 1.2. Applications will also be required to demonstrate a minimum of 15 years maintenance of facilities. The need arising for other types of open space (operational cemeteries, European site mitigation and landscape mitigation) will be assessed on a development specific basis.

If it is impractical to provide a new area of open space in the form of an on-site contribution or there are existing facilities within the access distances contained in Table 1.2 and the capacity of those facilities can be expanded to meet the additional demand, then the District Council will consider accepting a commuted payment for the purpose of funding quantitative or qualitative improvement to an existing publicly accessible open space. Commuted sums will cover the cost of providing and maintaining the improvements."

National Planning Policy Framework (NPPF) (2012)

Paragraph 7 - Identifies the three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles.

Paragraph 11 - states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 14 - Presumption in favour of sustainable development for decision-taking. For decision taking this means approving development proposals that accord with the development plan without delay unless adverse impacts significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted, examples including protected sites under the Birds and Habitats Directives, AONBs etc.

Paragraph 17 - Core planning principles which identify that planning should not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives; proactively drive and support sustainable economic development to deliver the home and thriving local places that the country needs; always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

Paragraph 32 - requires all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Paragraph 49 - Housing applications should be considered in the context of the presumption in favour of sustainable development.

Paragraph 56 - The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 61 - planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 70 – To deliver the social, recreational and cultural facilities and services the community needs which should plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of communities and residential environments; guard against the loss of valued facilities; ensure established facilities are retained for the benefit of the community; and ensure an integrated approach to considering community facilities.

Paragraph 73 – Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision.

Paragraph 103 - When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.

Paragraph 109 - The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, recognising the wider benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible and preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

Paragraph 114 – LPA's should set out a strategic approach, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure.

Paragraph 118 - When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. Where significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Development proposals where the primary objective is to conserve or enhance biodiversity should be permitted. Opportunities to incorporate biodiversity in and around developments, should be encouraged and planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats.

Paragraph 120 - To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues,

responsibility for securing a safe development rests with the developer and/or landowner.

Affordable Housing and Addendum SPD (2011)

Identifies the scale and need for affordable housing to inform that planning obligations sought to secure affordable housing in connection with residential schemes of 15 or more dwellings.

Whitfield Masterplan SPD (2011)

The Whitefield Masterplan SPD sets out a framework for how the expansion of Whitfield should be undertaken, developing principles set out in the Core Strategy. This application site lies outside but adjacent to the proposed area of expansion.

Kent Design Guide (2005)

The guide provides criteria and advice on providing well designed development.

d) Relevant Planning History

DOV/13/00360 - Outline of up to 28 dwellings, construction of vehicular access including demolition of 14 Archers Court Road - Refused. Appeal dismissed on highway safety and capacity grounds.

Applicant's Appeal to High Court was successful and the matter was referred back to the Planning Inspectorate for determination. On 12th January 2016 the Inspector appointed under Appeal ref APP/X2220/A/14/2217154 dismissed the appeal on the grounds that the application would fail to protect local biodiversity and as such would be contrary to paragraphs 17, 109 and 118 of the NPPF. The Inspector considered the effect of the proposal on highway infrastructure and held it would not have a harmful effect on it and as such accords with paragraph 32 of the NPPF.

e) Consultee and Third Party Responses

DDC Principal Infrastructure Officer – No objections, subject to a Thanet Coast and Sandwich Bay SPA financial contribution and the provision of public open space including a LEAP on site.

DDC Trees - No objections as the removal of the large amounts of dead and diseased trees will be beneficial. The majority of the felling of remaining trees lie towards the inner aspect of the site and should not cause an issue as a number of them are of poor value. According to the Arboricultural Impact Assessment there are plans to repopulate the loss of the dead and diseased trees.

DCC Ecology - No objections in principle, species surveys have been undertaken in respect of reptiles, dormice and bats and have confirmed there are no ecological constraints to development. There will be a requirement for ecological protection measures and enhancement and further details will be required at Reserved Matters stage. The use of inappropriate lighting may adversely affect bat foraging and recommendations regarding bats and lighting in the bat survey should be conditioned. In addition some works on site will need to be undertaken or surveyed by a licensed ecologist.

DDC Environmental Health - The applicant submitted a further noise report and Environmental Health would not object subject to a proposed 4.5m high acoustic fence/screen (section 8.5.3 of the report) being put in place. Lower height fencing would not address the noise associated with road traffic.

The criteria and approach to the noise survey is agreed and I am confident that existing noise levels and predicted (2031) reported from traffic on the A2 is robust and represents the current and future position. I note that sound levels likely to be present within the homes (living areas and bedrooms) exceeds recommended indoor ambient noise levels quite considerably and external amenity garden areas where an acceptable desirable noise level of 50 LAeq (dB) is recommended, predicted noise levels require significant robust mitigation. In terms of indoor noise levels, acoustic glazing is recommended and would appear to be sufficient to reduce noise levels to an acceptable level (Section 7.0 Noise Mitigation), the scheme of mitigation should clearly indicate that the spec shown in the report is installed (glazing ventilation).

In respect of Air Quality as well as earlier air quality assessments, including a recent air quality report for this area. Nitrogen dioxide and particulates PM10 from road traffic are not at levels whereby National Air Quality Objectives are likely to be breached, both without and with this development. It is confirmed that air pollution does not need to be considered further within this application.

Regarding contamination, a condition is recommended to require further reports and mitigation if contamination were to be identified during works on site.

KCC Highways & Transportation – No objection, bearing in mind the comments made by the appeal Inspector in January this year on the impact of the previous identical development on the highway network. Adequate visibility is available at the access, and the internal layout and associated parking can be dealt with through reserved matters. Accordingly, conditions should be attached including a Construction Management Plan, the provision and permanent retention of vehicle and cycle parking and turning facilities, full highway design details to be submitted for approval, completion of all works prior to occupation and provision and maintenance of the visibility splays prior to the use commencing.

KCC Flood and Water Management – The surface water drainage strategy submitted provides for partial infiltration utilising permeable pavement and an attenuation pond with an outflow. The report recommends that infiltration testing is undertaken. KCC as Lead Local Flood Authority have the following comments:

- a) The site is underlain by superficial deposits with low permeability greater in than 3m in depth and chalk deposits which are freely draining. As there are no surface water sewers or watercourses within the locality and given the underlying geology it would be expected that surface generated on site could be managed on site with no outflow from the site. There should be no concentration of flows off-site.
- b) As no infiltration testing has been undertaken and given the reliance of the drainage strategy on the ability to infiltrate to the ground, information on feasibility of utilising infiltration should be provided before any decision is made as to the feasibility of drainage provision at this site.

Given the uncertainty with the surface water final discharge destination from this development, we object until further information is submitted which demonstrates the feasibility of infiltration or provides a viable alternative.

Additional Comments: The amended documentation submitted in response to our previous objection has been reviewed. The Surface Water Drainage Report states that surface water from the site will be disposed of via deep bore soakaways into the chalk, but no ground investigations can be carried out to demonstrate the feasibility of infiltration as no access to the site is possible. Since the feasibility of infiltration has not been demonstrated and no other viable alternative is proposed, our objection to this proposal therefore still remains.

An analysis of the geological considerations across the site forms the basis of our concerns, and is summarised:

Suggestion was made in the SWD report that the nearby Light Hill site, already approved for development, could be taken as an analogue for the surface water drainage proposals on this current site. However, geographical proximity does not mean that the geology of one area can be extrapolated to another, and a geological review concludes that the thickness of superficial drift at this location is unlikely to be directly comparable to the Light Hill site. A borehole in the public domain in the same geological province and within 500m of the current site records 13m superficial deposits overlying the chalk bedrock. This is not the case at the Light Hill location, where superficial deposits can be expected to be significantly thinner, and are in fact completely absent over a large part of the site where the exposed chalk bedrock will allow direct surface infiltration, an option which is not possible at the current location. Therefore it is advisable that onsite infiltration testing is carried out as per our original recommendation.

The site sits within a Groundwater Source Protection Zone 3, and potable public water supplies are at risk from activities at this location. The EA have indicated that deep infiltration systems will only be considered if it can be justified that a shallower system will not work effectively. This can only be demonstrated with infiltration testing. The design of the proposed deep bore soakaways will need careful consideration, since there is a recommended 10m separation between the base of infiltration and the top of groundwater levels in order to protect the underlying chalk, which is a Principal Aquifer, from contamination. The thickness of superficial deposits across the site could be significant, and site investigation at the location of the proposed soakaways will therefore need to be conducted at the earliest possible opportunity as the results may impact site layout.

KCC Archaeology – The application site lies in an area of archaeological interest arising from recent findings to the south and north. Groundworks associated with the proposed development have the potential to affect buried remains of archaeological interest. It is therefore recommended that a programme of archaeological work is dealt with by condition.

KCC Economic Development – Financial contributions are requested from the developer for the enhanced provision and projects towards community services to include:

- Primary and secondary education (Green Park Primary School & Dover Christ Church)
- Libraries (Dover library)

These contributions should be secured through a Section 106 Legal Agreement as part of any submission. In addition, 1 Wheelchair Adaptable Home should form part of the social housing proposals and the provision of Fibre Optic Broadband across the site should be considered at an early stage.

KCC PROW Officer - Public Right of Way ER54 runs along the southern part of the site. The location of the public footpath on the block plan does not concur with the definitive map. Concerns are raised that the development will directly affect public footpath ER54 and would therefore an objection is raised to the proposal as it stands. The objection would be withdrawn if the applicant indicates an intention to divert the path under the Town and Country Planning Act 1990. To enable this, the development, insofar as it affects the Public Right of Way, must not be started until such time as the Order necessary for its diversion has been confirmed. A further condition is sought requiring no development over the PROW until the confirmation of its diversion or extinguishment. It's advised that it would be beneficial to re-connect public footpath ER54 to the underpass at the A2 roundabout which would greatly improve access to local amenities.

Highways England - No objection based on the information supplied, trips generated will be of a level and distribution that will not materially affect the safety and/or operation of the Strategic Road Network. Any noise mitigation measures will need to comply with DfT Circular 2/13.

Environment Agency - No objection to the proposed development as submitted subject to conditions being imposed with regard to the potential for unidentified contaminated and its remediation and no infiltration of surface water drainage unless approved. The site is classified as a principal aquifer and lies in a Source Protection Zones 2& 3 for a public water supply borehole. No details of a SuDs features are proposed and any scheme will need to be carefully designed to ensure protection of the ground water from pollution and the depth of the unsaturated zone. Deep bore options may not be the most appropriate.

Additional Comments: The outline SuDs drainage proposals may be acceptable at this site if all components are verified. We would need to see all the final design details before we could agree the deep bore elements of the proposals. All infiltration points should be as shallow as possible and only clean water discharge would be permitted to ground at this location. Further design proposals are requested once infiltration testing is completed and specific borehole soakage points have been detailed.

Southern Water - Initial comments raised no objection but it was subsequently advised that a review of capacity was required, which would ultimately involve connecting to Sandwich Road, via the Newlands Road waste water pumping station and stating:

Southern Water Services has undertaken a review of the modelling assessment undertaken for the 28 units. The original assessment did not take account of the flooding now known to occur in the vicinity of manhole reference TR30452901, as this was not recorded on our systems at that time. A rerun of the updated model taking into account of this information indicates that there is detriment to the existing sewerage network with the inclusion of the flows from this development site. Therefore, Southern Water has to amend our previous comments with regards to the availability of capacity to service this particular development. Southern Water would consider this development premature until such time a growth scheme is implemented and completed within the area.

This position was further clarified due to ongoing planned improvements and revised comments given.

Revised and current comments: Southern Water considers this development premature until such time the capital works planned to provide infrastructure to this area to accommodate future development flows are complete. No development approved by this planning permission shall be commenced until a scheme for the improvement of the existing foul drainage system has been implemented. No occupation and effectively connection to the public sewerage system, of dwellings approved by this planning permission shall occur until each phase of the scheme for improvement of the existing foul drainage system has been completed and confirmation obtained of available capacity within the network and at the treatment works. *(This could therefore be controlled by conditions.)*

There are no public surface water sewers in the area to serve this development. Alternative means of draining surface water are required which should be a SuDS scheme. Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system. An agreed SuDS scheme should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Whitfield Parish Council – object to this application. This application has been subject to various applications, appeals and amendments, and was deferred by Committee for further information, but this information has not been provided and is incomplete.

There is no Traffic Survey report: Decision was deferred by the Committee, but the required report from the traffic survey is not available for comment and appraisal.

Surface Water Drainage Strategy is not fit for purpose: The issue of Sewerage and Wastewater disposal is not addressed. The Surface Water Drainage Strategy is simply a generic response, copied from elsewhere and is full of assumptions. The report is not sure if there is existing drainage infrastructure to the east of the site and does not address the issue that the application was deferred for – the sewerage and wastewater disposal arrangements. The only option for this is to add to the existing mains sewerage from the north of the village up Sandwich Road, which is over capacity and cannot cope with the extra volume from Bowman's Place and a major problem with other proposals. Extra waste at the Southern end of the village means less capacity at the Northern end of the village, including Bowman's Place.

Desktop assessments are not evidence: The Surface Water Drainage Strategy is a desktop assessment with no permeability tests carried out. The report cites the SUDS and drainage system on phase 1 of the WUE as justification for doing the same, but omits that there will be no SUDS on phase 1 since the Developer has chosen not to use this method and is now using another system. Unrealistic and complex maintenance requirements for surface water drainage system that require an extensive and expensive schedule of maintenance to be carried out which will probably not happen, be enforced, especially as the residents will have to pay an annual fee for the work to be carried out in addition to the grounds maintenance charge for the green area.

Section 106 payment for Green Park Primary School: The 106 payment of £3300 per house for schools is spent on expanding Green Park Primary School. Any S106 monies should be used within the Parish and on Whitfield's primary schools.

Acoustic Report inaccurate: The Acoustic Report (updated) still refers to a new 2m fence that will reduce the noise levels but it still does not realise there is already a 2m fence there so there will be no additional noise reduction. The report fails to recognise the requirements of NPPF and World Health Organisation Guidelines, that development should not be allowed where there are excessive noise pollution problems. This is a generic report that does not assess the individual site, or make specific recommendations. Residents of these dwellings will have to live in acoustically sealed units and avoid use of outside areas to not be subjected to unacceptable noise levels.

Land is safeguarded by Policy TR4: The site should not be developed as it is land which has been safeguarded for the A2 Widening /Junction works by Policy TR 4. Although Highways Agency have said there are no current plans for such a scheme, the land has been safeguarded to allow for future road works such as a grade separated junction at the Whitfield Roundabout site and/or any necessary realignment of the existing A2 to facilitate other Roundabout improvements

Land is allocated as open space: The site is allocated as Open Space on the Proposals Map. All such areas must be protected and retained for recreational use and maintain the character of the local area. This important amenity area is well used for recreational purposes and there is evidence of children's camps and other play activities, along with the well worn network of paths that cross the whole site. The area is well utilized.

Site is not included in the Site Allocations or Whitfield SPD: This application is on a Greenfield site that is not included in the Local Plan and it has not been fully appraised by the LDF Site Allocation process or the adopted Whitfield Expansion SPD. The application is, therefore, contrary to guidelines for land use and the aforementioned documents. The application should not be determined in isolation and must be assessed through the Allocation Documents alongside all other proposed developments in the Parish of Whitfield and the wider Dover District.

Adverse effect on existing residents: There is strong local opposition to development of this site. The access road will cause overlooking, security issues, noise and nuisance to existing properties and gardens either side of the access road, resulting in loss of amenity for existing residents. The size and scale of the proposed properties will be unacceptable and affect amenity of property in Archer's Court Road, Courtland Avenue and Newlands.

Unacceptable environmental impact: This application is on a Greenfield site. It's proximity to woodland protected by TPO's has not been assessed for likely future pressure to fell trees, nor does the application state if any protected trees will be removed for the access road or for the development. There is no clear information on requirements to clear trees and saplings not protected by the TPO's in the construction area. Our estimate is that 50 or more unprotected trees will have to be removed. This land is ecologically important for wildlife and should not be developed in an area that is already losing Greenfield land surrounding the village.

Noise from A2 exceeds acceptable levels - Future Residents of this development will suffer excessive noise from A2, too much for residential development. It is unacceptable to have development in an area that will be affected by constant noise to this extent. This is a material consideration that must be taken into account as part of an outline application. The NPPF states that: *"planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;"* While the NPPF has a

“Presumption in Favour of Development” it should be remembered that the NPPF also has a requirement to avoid noise that give rise to adverse impacts on health and quality of life. NPPF 109 clarifies that development should not be allowed in an area where the existing noise levels exceed recommendations. The proposed mitigation measures are inadequate and do not take account of residential use of gardens and outside areas. The site is below the level of the A2 and the surrounding trees concentrate the noise within the site. An earlier DDC report flagged up potential noise implications and the officer commented on the noise of the traffic during a site visit. The World Health Organisation (WHO 1999) Guidelines for Community Noise are far exceeded.

Increased traffic and inadequate access to site: The development will result in an overall increase in traffic onto Archer’s Court Road, the junction with Sandwich Road and onto Whitfield Roundabout, especially at peak times. Access arrangements are inadequate. The access onto Archer’s Court Road in an area where there is regular congestion and queuing to get onto Sandwich Road and the Whitfield Roundabout and will cause additional hazards on this busy and congested road. There is no detail on how the junction and road will be upgraded to accommodate the extra traffic generated by 28 new dwellings and for construction traffic.

No provision or assessment of community and social infrastructure: The application does not appraise or make any provision for providing any of the elements of social and community infrastructure that will be required to support the development contrary to planning requirements. Whitfield, the road network, schools, health care, community services and other infrastructure will be under pressure from the 5750 new houses already proposed for Whitfield. Provision made within the SPD is widely considered to be inadequate and to be delivered too late to meet the growing demand. Extra development will exasperate the situation and the impact is not assessed.

Overdevelopment of existing Village: It is unacceptable to have any further sites developed in Whitfield. This application has not been assessed as part of the Whitfield Masterplanning process or the LDF Site Allocations Process and should not be considered for approval. Smaller developments and infill within existing Whitfield built area will have a massive impact on the density of the existing Village and on the feeling of overcrowding within Whitfield. Whitfield is already suffering from continuous applications for backland development. With the expansion of Whitfield it is vitally important that the existing village character is retained. Increasing the density of the existing area with further development is unacceptable.

Five Year Housing Supply: A historic housing shortfall from some years makes any ad-hoc and environmentally unsuitable application acceptable. Especially in light of the fact that in the past few years land has been reserved for over 8,000 dwellings in the District. There is adequate land supply for the next 5 years.

Whitfield Parish Council ask that this application is rejected or, at the very least, deferred until a site visit can take place to assess the impact it will have on the local area, residents, the flora and fauna and the degree of noise generated by the A2 Trunk Road.

Third Party Representations - 12 letters of objection have been received, raising the following issues:

- Cumulative impact of development in area
- Pressure on local highway infrastructure

- Adverse impact on highway safety
- Adverse impact on biodiversity
- Loss of trees subject to TPO's
- Loss of open space
- Loss of wooded area
- Generation of noise and light pollution
- Proximity to existing properties would give rise to loss of privacy and overlooking and loss of amenities
- Adverse health impacts due to traffic increase
- Scheme no different to what was refused planning permission and dismissed on appeal

f). The Site and Proposal

- 1.1 The site is a triangular parcel of land which lies between the rear of the residential properties off Archers Court Road and the A2. The site is heavily overgrown and is subject to a Tree Preservation Order (No. 8 1981). It is currently accessible via a Public Right of Way (ER54) running along the southern part of the site connecting the underpass on Whitfield Roundabout with Archers Court Road and continuing through the field towards the A258. The site is immediately outside the Whitfield Urban Expansion (WUE) area but within the urban settlement boundary of Dover. It is not therefore subject to the SPD criteria for infrastructure provision in the WUE. The site sits below the level of the A2 and has an area of 1.6 hectares. It is allocated in the Core Strategy as protected open space. The site is situated in Flood Zone 1 and in Groundwater Source Protection Zones 2 & 3. The site is also an Archaeological Protection Area.
- 1.2 It is understood that the site once formed part of a caravan site but is now residual land from the road works to the A2. Part of the site remains under the A2 safeguarding designation (Saved Policy TR4). To the north west of the site are mostly detached dwellings with large rear gardens on Archers Court Road, to the north semi-detached dwellings on Courtland Avenue and to the east is a residential development dating from 1980's and 90's of detached and semi-detached dwellings on Newlands.
- 1.3 The proposal is for outline planning permission for 28 dwellings, 30% of which would be affordable housing. At this stage a housing schedule has not been provided. All matters are reserved except for the means of access. The proposal would involve the demolition of 14 Archers Court Road, a detached two storey dwelling, to facilitate the creation of a new vehicular access into the site. The proposed access road would be 5.5m wide and includes a 2m footpath to the east, traffic calming, parallel car parking and a turning head to serve the development.
- 1.4 The indicative layout plan identifies a building with an L-shaped footprint with rear gardens to the units. A community public open space with a wildlife pond is proposed in the central section of the site. This would include a Locally Equipped Play Area (LEAP). A landscape buffer/screen zone is shown to be incorporated along the A2 boundary with the woodland to the east to be managed. A 2m high acoustic fence is also shown along the A2 boundary.
- 1.5 A draft s106 agreement has also been submitted in support of the application.

2. Main Issues

2.1. The main issues to consider are:

- Background
- Principle of Development
- Highway Matters
- Drainage and Flood Risk
- Ecology and Biodiversity
- Impact on Trees
- Public Right of Way
- Visual and Residential Amenities
- Noise and Air Quality
- Archaeology
- Contamination
- Planning Obligations

Background

- 2.2 The previous application under ref. DOV/13/00360 was refused on the ground that the local highway infrastructure did not have the capacity to absorb additional traffic movements generated by the development, taking into account the increased traffic that would be generated by other developments using the highway network.
- 2.3 The applicant lodged an appeal against this decision and the appeal was dismissed by the Planning Inspector. This decision was successfully challenged in the High Court by the appellant and the matter was referred back to the Planning Inspectorate for determination. On 13th January 2016, this appeal was dismissed. In the decision, the Inspector considered the main issues were the effect of the proposed development on the local highway infrastructure and its effect on local biodiversity.
- 2.4 The Inspector did not find the proposal, together with the impact of other developments, would result in a severe cumulative impact on the local highway infrastructure and determined that the development was in accordance with paragraph 32 of the NPPF. He advised that the LPA were unable to provide cogent evidence that there was insufficient capacity in the local highway network to accommodate a 'relatively small development' that was supported by a Transport Statement and Technical Note. Therefore the sole reason for refusal was overturned by the Planning Inspector.
- 2.5 However, the Inspector did find that there was a lack of sufficient information submitted in respect of the impact on biodiversity and could not be certain that the proposal would not result in significant harm to biodiversity, as identified in paragraph 118 of the NPPF. Consequently, the proposal would fail to achieve one of the core planning principles in paragraph 17 of the NPPF, namely to conserve and enhance the natural environment. In this regard it was concluded that the proposed development would fail to protect local biodiversity and was contrary to paragraphs 17, 109 and 118 of the NPPF.
- 2.6 The Inspector also found in favour of matters such as the provision of affordable housing and the residential use of the site, noting the proposal would provide a positive social and economic role but its failure on the environmental aspects of paragraph 17 outweighed the benefits of the proposal and the appeal was dismissed.

Assessment

Principle of Development

- 2.7 The application site lies within the urban settlement confines of Dover, a regional centre identified in Policy CP1 of the Core Strategy, where major development that reinforces its role as a provider of services is appropriate. The proposal is therefore considered to be in accordance with Policies CP1 and DM1 of the Core Strategy, as it is within the settlement boundaries and is therefore considered appropriate, in principle, for residential development.
- 2.8 The NPPF confirms that applications must be determined in accordance with the development plan unless material considerations indicate otherwise and that sustainable development which accords with the development plan should be approved without delay. On 1 March 2017 Cabinet agreed that the 2015/2016 Annual Monitoring Report be approved, which included the most recent housing supply figure of 6.02 years. This meets the Government requirement that local planning authorities should be able to demonstrate a 5 year supply of deliverable housing land and therefore a 5 year land supply can be demonstrated. Consequently the policies set out in the Core Strategy and Land Allocations Local Plan are to be given full weight in the decision making process.
- 2.9 However, at the time of the determination of the earlier planning application and the appeals the LPA could not demonstrate a 5 year supply of housing land and the District's housing policies were not in accordance with the NPPF. Nevertheless, this position was not a key issue at the time of these decisions and was not considered relevant in the determination by the Planning Inspector. In the context of Paragraphs 14 & 49 of the NPPF, it was determined that the site could satisfactorily accommodate a residential development and was considered to be a sustainable housing development and location.
- 2.10 One of the NPPF's key objectives is to deliver a choice of high quality homes that widens opportunities for home ownership and creates sustainable, inclusive and mixed communities. This objective is reflected in Policy CP4 of the Core Strategy which aims to ensure that the housing meets the needs of the present and future generations. The Strategic Housing Market Assessment (SHMA) identifies a demand for market housing based on a projection of newly formed households in the District. This application contains no details of the proposed dwelling mix and therefore consideration of the SHMA and justification for a proposed housing mix will need to be submitted at Reserved Matters stage should planning permission be granted.
- 2.11 Policy DM5 of the Core Strategy seeks residential development of 15 dwellings or more to provide the provision of 30% affordable housing of dwelling sizes that address the prioritised needs in the SHMA, reflecting NPPF's objectives. The application is proposing to provide 30% affordable housing in the form of 8 social rented units that would be broadly in line with Policy DM5. Further details of the affordable housing provision can be controlled by a condition and is acceptable in principle at this stage.
- 2.12 The site is designated as Protected Open Space in Policy DM25 of the Core Strategy and despite being overgrown, does have value as an informal recreation area. Policy DM25 does not permit development which would result in the loss of open space unless:
- i there is no identified qualitative or quantitative deficiency in public open space in terms of outdoor sports sites, children's play space or informal open space;
 - or

- ii where there is such a deficiency the site is incapable of contributing to make it good; or
 - iii where there is such a deficiency the site is capable of contributing to making it good, a replacement area with at least the same qualities and equivalent community benefit, including ease of access can be made available; or
 - iv the case of a school site the development is for educational purposes; or
 - v in the case of small-scale development it is ancillary to the enjoyment of the open space; and
 - vi in all cases except point 2, the site has no overriding visual amenity interest, environmental role, cultural importance or nature conservation value.
- 2.13 The application would result in the loss of an area of protected open space and it has not been demonstrated in the application submission whether there is no identified qualitative or quantitative deficiency in public open space as set out in criteria i of Policy DM25. However, criteria iii states that where a site is capable of contributing to making good, a replacement area with at least the same qualities and equivalent community benefit, including ease of access, could be acceptable. An integral part of this proposal is the provision of a substantial area of public open space including a LEAP and the future management of the retained woodland/trees. Therefore the well-managed area of open space being proposed would achieve a wider community benefit than the existing space and would, with the public footpath, provide safe and enhanced pedestrian access to local amenities and services.
- 2.14 The proposed retention and enhancement of an area of public open green space adjoining a public footpath would therefore improve informal surveillance. This would be subject to an agreed layout to include the incorporation of a LEAP, which could be controlled by a condition. In addition, a significant number of trees are proposed to be retained and managed as part of the development which would further enhance the local area and the open space provision. Accordingly and on balance it is considered that the development would not conflict with the objectives of Policy DM25 of the Core Strategy and as such residential development would be acceptable in principle and in line with Policy DM25.
- 2.15 It is also important to note that the Inspector, in considering the last appeal, acknowledged that the proposed development had the potential to enhance the area of open space and raised no in principle objection to a residential development on this site.

Highway Matters

- 2.16 The relevant Core Strategy policies are DM11, DM12 and DM13. DM11 requires planning applications for development that would increase travel demand to be supported by a systematic assessment to quantify the amount and type of travel likely to be generated and include measures that satisfy demand to maximize walking, cycling and the use of public transport. 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.
- 2.17 Policy DM12 requires that developments that would involve the construction of a new access onto a trunk or primary road will not be permitted if there would be a significant increase in the risk of crashes or traffic delays unless the proposals can incorporate measures that provide sufficient mitigation. Whilst Policy DM13 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.

- 2.18 Full details of the means of access are submitted under this application which includes a single 5.5m wide access road to serve the site from Archers Court Road, which would reduce to 4.8m away from the junction. The access road will include traffic calming with a 2m wide pedestrian footpath. Although only an indicative layout, car parking spaces are proposed throughout the development in the form of parallel parking and parking bays adjacent to the open space.
- 2.19 The Planning Inspector in the last appeal did not agree that the proposal would have a severe cumulative impact on the local highway network and was of the view that the development was in accordance with paragraph 32 of the NPPF. The appeal was therefore not dismissed on highway grounds. This current application is for the same quantum of development and is supported by the same evidence considered by the Planning Inspector when reaching his conclusion in January 2016.
- 2.20 KCC Highways have raised no objection to the application, subject to conditions, as the scale and mix of development associated with this application does not depart from that of the appeal decision and therefore the scope of the assessment remains unchanged. The Transport Statement and Technical Note submitted in support of the application identify that the impact of the proposal on the junction with Archers Court Road and Sandwich Road would not require any form of mitigation to support an additional 28 dwellings. The conditions recommended include the provision and maintenance of the visibility splays with no obstructions over 1 metre above carriageway level within the splays and the submission of a construction management plan.
- 2.21 Local Plan Policy TR4 identifies land along the A2 to be safeguarded for any future widening of the A2. However, Highways England has confirmed there are no current plans to undertake any road widening and have raised no objection. Policy TR4 should not therefore be a constraint to development.
- 2.22 Nevertheless, at Planning Committee on 20th April 2017 Councillors raised concerns regarding the high volumes of traffic experienced on Archers Court Road and the ability of the highway junctions to cope with the increased traffic from 28 additional dwellings. The application was therefore deferred for an independent traffic survey to be commissioned and undertaken to assess existing traffic levels on Archers Court Road and the junction with Sandwich Road. A Traffic Study was therefore commissioned by the local planning authority with the scope agreed with the Chairman and Ward Councillor. The final report was issued on 15th September 2017.
- 2.23 The Traffic Study assessed and surveyed existing traffic flows at morning and evening peak periods at the Sandwich Road junction and Whitfield roundabout to generate existing flow scenarios. The additional vehicle movements generated by the proposed development were then added to the existing flows. It was concluded that both junctions had spare capacity to accommodate the additional traffic predicted as part of this proposed development. In addition, the impact on queues are not expected to increase by more than 1.2 PCU's (cars). Therefore it is unlikely that a detrimental impact on the highway network would be caused by development and the results confirm the position identified in the applicants transport statement and technical note. The cumulative impact on the highway network of recent developments in the Whitfield area has also been raised as a concern; however, Members did not seek an assessment of the cumulative impacts in the independent traffic study that was commissioned.

- 2.24 It has therefore been established, through the application submission, appeal decision and the independent traffic study that the proposed development will not have a significant or detrimental impact on highway capacity or safety and the development is therefore acceptable in the regard and in accordance with paragraph 32 of the NPPF.

Drainage and Flood Risk

- 2.25 The site lies within Flood Risk Zone 1, where there is the lowest risk of flooding. However, given the size of the site, it is appropriate to consider whether the development would be likely to lead to localised on or off-site flooding. The NPPF, paragraph 103, states that local planning authorities should ensure that flooding is not increased elsewhere and priority should be given to the use of sustainable drainage systems. In furtherance to this, the Planning Practice Guidance states that sustainable drainage systems should be designed to control surface water run-off close to where it falls and replicate natural drainage as closely as possible.
- 2.26 A Flood Risk Assessment (FRA) and a Surface Water Drainage Strategy have been submitted in support of the application. The site also lies on a principle aquifer as well as in Groundwater Source Protection Zones 2 & 3. The FRA demonstrates that the proposal will be safe in terms of flood risk for its life and will not increase the flood risk elsewhere. The Surface Water Drainage Strategy identifies that infiltration drainage is proposed to deal with all surface water and run-off by infiltration into the subsoil, so that there will be no increase in run-off from the site as a result of the proposed development. This will be in the form of soakaways, porous paving, rainwater harvesting and an attenuation pond to deal with an increased run-off during storm events.
- 2.27 In respect of foul drainage, Southern Water initially confirmed that there was sufficient capacity in the foul sewer system to accommodate the additional flows from this development. Due to the known capacity issues with the foul sewer system in the Whitfield area, clarification was sought on this position. Subsequently, following a review of the modelling assessment undertaken, it was identified that there would be increased flooding and capacity issues at an existing manhole that would be to the detriment of the existing sewerage network as a result of this development. Southern Water therefore identified that the development was premature until such time as upgrading works had been undertaken by Southern Water.
- 2.28 This position was further clarified as other recently approved development proposals in Whitfield have a bespoke planning condition attached seeking details of the means of foul water disposal to be submitted to the LPA at the pre-reserved matters stage. As a result, and to be consistent with conditions on other development sites in the local area (including those in the WUE), Southern Water has further reviewed their position. They have now formally clarified that, although the development is premature in respect of their planned capital works to provide improved infrastructure and capacity in the area to accommodate additional future flows, a bespoke planning condition could be imposed to effectively control development until the planned upgrading works have been undertaken. This is on the basis that this development is an outline planning application and would be unlikely to be occupied prior to the planned completion of the works in 2020. The following condition is therefore suggested:

'No occupation of the dwellings approved by this planning permission shall occur until the relevant phase of the Southern Water planned capital works scheme for improvements to the foul sewerage network and its capacity has been completed, with confirmation obtained of the availability of capacity in the network to be submitted and approved by the local planning authority.'

- 2.29 Such a planning condition would therefore effectively control additional flows into the system until the necessary sewerage infrastructure is in place, but would not prevent development commencing while the works are taking place (which could be seen as unreasonable for an outline planning application) where only the principle of development is being established. With such a condition therefore addressing the issues raised in respect of foul water disposal on the site, it is now considered this particular matter, in this case, has been adequately resolved.
- 2.30 In terms of surface water disposal, the method of an infiltration SuDS system is acceptable in principle however, infiltration testing has not yet been undertaken on site to confirm the final design of the SuDs system to be implemented. This could therefore be either a deep bore system or if ground conditions allow a shallower sub-surface system. It is expected that one of these designs can be implemented.
- 2.31 As a result the EA have not raised an objection in principle but have identified the need for infiltration testing to finalise the SuDS design and subject to conditions in respect of the protection of groundwater and pollution prevention due to the site being situated on a Principle Aquifer and in Groundwater Source Protection Zones 2 & 3. However, KCC Flood and Water Management, the Lead Local Flood Authority, have raised an objection due to the need for infiltration testing to enable the design of the SuDS proposals and as this has not been demonstrated the details submitted cannot be agreed at this stage.
- 2.32 Nevertheless, it is the view of Officers that the detailed elements of the surface water drainage strategy can be dealt with at a later date and can be conditioned at this stage. It is suggested that a condition to require full details of the surface water drainage strategy and its management at the reserved matters stage can address these outstanding concerns. In addition, conditions can be included to ensure the protection of the groundwater quality and pollution prevention. In conclusion, it is considered that with these conditions, the drainage aspects relating to this development have or can be addressed and the proposed drainage measures for this outline proposal are therefore adequate at this stage and accords with the relevant policies and the NPPF identified above.

Ecology and Biodiversity

- 2.33 In accordance with the Habitats Directive 1992 (to ensure the precautionary principle is applied) and the Wildlife and Countryside Act 1981, it is necessary to ensure the application has no adverse impact on European Sites. The LALP establishes that residential development across the district will cause, in combination, effects on the Thanet Coast and Sandwich Bay SPA. The LALP seeks to address these cumulative impacts by setting out a mitigation strategy to manage 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 in principle to a contribution. The contribution required would be £1,968.82 and a s106 legal agreement could secure this contribution. Consequently, it is not considered that the development would cause a significant effect on the SAC or SPA.
- 2.34 In furtherance to the impacts on the off-site designations, regard must be had for whether the development would cause any harm to habitats or species on or adjacent to the application site, in accordance with paragraphs 109 and 118 of the NPPF. In addition, regard must be had for Natural England's Standing Advice. The application has been supported by a Phase 1 Ecological Survey which considers both the flora and fauna of the site, as well as Bat, Dormouse and Reptile Species

Surveys.

- 2.35 The Inspector in the decision letter dismissing the appeal against the earlier scheme cited insufficient evidence, given the likelihood of protected species being present on the site. The Inspector also took account of Planning Practice Guidance which states that an ecological survey will be required in advance of a planning decision if the type and location of development is such that the impact on biodiversity may be significant and the existing information is lacking or inadequate. Surveys should not be required by condition except in exceptional circumstances and no such exceptional circumstances were presented to the Inspector. The appeal was therefore dismissed due to the lack of ecological information submitted.
- 2.36 These submitted surveys have been assessed by the Council's Ecologist who has noted that the surveys were undertaken by a competent ecological consultancy and no ecological constraints to development were found. They identified that there was no evidence of reptile and dormouse activity on the site but the site was being used by a number of different species of bats for foraging and commuting. There will, therefore, be a requirement for ecological protection measures to be addressed by way of conditions to mitigate any potentially adverse impacts on biodiversity. In particular, external lighting is a key consideration due to bats using the site and no details have been submitted. Lighting on the site will need to be appropriately mitigated and controlled with the type, level of illuminance, direction and levels of light spill controlled. This can be addressed at reserved matters stage and can be included in the condition listing requirements for the reserved matters stage. It is therefore concluded that the scheme is now acceptable in ecological terms, subject to conditions and would accord with paragraphs 17, 109 and 118 of the NPPF. The concerns raised by the Inspector in the appeal decision have therefore been adequately addressed.

Impact on Trees

- 2.37 A TPO covers the site and was made because "the trees provided a line of visual amenity to the locality of Whitfield and a natural screen to the housing in Archers Court Road and the adjoining housing estates, which should otherwise be prominent in an open landscape when viewed from the south, in particular the A2 Jubilee Way". The TPO covers a number of different tree species and was made in 1981. A number of the trees listed are no longer present and some of the remaining trees are dangerous or dead, with the lack of maintenance being a key factor in this die back and decline. However the remaining trees make a significant contribution to public visual amenity and should be retained.
- 2.38 The application submission includes a Landscape and Arboriculture Assessment and the scheme proposes the retention of a tree/landscaped buffer zone to the southern/A2 boundary. The location of the proposed dwellings towards the north of the application site also facilitates the retention of a large number of trees within the overall site. Furthermore it is also proposed to retain and enhance the tree planting to all boundaries of the site, with works taking place to the retained trees that is considered to be good horticultural practice. The indicative site layout is also identical to the previous proposal under DOV/13/0360 and the Tree Officer had no objections in principle as the removal of the large amounts of dead and diseased trees that would be beneficial arboriculturally. In addition, the majority of the trees proposed to be felled lie towards the inner section of the site and should not cause a visual amenity impact as a high number are poor quality specimens of limited value.

- 2.39 It is also noted that the Landscape and Arboricultural Assessment includes proposals to repopulate the loss of the dead and diseased trees and there is a need for management of the existing woodland due to the neglect over the past few year. Any permission could therefore be subject to conditions requiring tree protection measures during the construction phase, details of tree retention, management, with further details requiring submission at reserved matters stage. The impact on the trees on site, covered by a TPO have been and can be appropriately addressed and managed to ensure their long term enhancement, thus ensuring the impact on visual amenity is maintained throughout.

Public Right of Way

- 2.40 The Public Right of Way (PROW) ER54 runs along the southern section of the site, however, its location shown on the submitted block plan does not concur with the PROW definitive map. Concerns have therefore been raised by KCC that the development will directly affect the public footpath. KCC have also advised that it would be beneficial if the ER45 connected to the underpass at the roundabout which would greatly improve access to local amenities. At this stage, the application is in outline form only and it is clearly the intention to retain the PROW and incorporate it into the proposed layout. The plans submitted are only indicative therefore it will be necessary for the line of the PROW to be clarified at a later date.
- 2.41 In addition, KCC have identified that they would withdraw their objection if the applicants identified their intention to divert the path through formal proceedings. In response to this, it is important to note that the granting of planning permission does not grant the right to close, alter or build over a right of way in any way, even temporarily. It is a criminal offence to obstruct a right of way unless the necessary legal order has been made, confirmed and brought into effect. Furthermore, planning conditions should not be used to duplicate matters regulated under other legislation and it would be inappropriate for conditions to be used to seek compliance with a separate legal process relating to diversion (should this be necessary).
- 2.42 However, to clarify the position of the PROW and ensure it is not affected by the development, a planning condition is suggested that requires no development to take place until the confirmation is submitted of the route of the PROW within the context of the proposed development and/or its diversion or extinguishment has been obtained under formal proceedings. As a result, the PROW on site is not considered to be a constraint to development.

Visual and Residential Amenities

- 2.43 Local concerns have been raised in relation to the siting and layout of the proposal and the impact this will have on existing residential amenities. Whitfield Parish Council has identified that the proposal would increase the density of Whitfield and would not retain its village character. Although the proposal represents a form of backland development, its cul-de-sac form is not completely out of character with the existing pattern of development in the local area. A density at circa 16 dwellings per hectare is being proposed and this would be commensurate with that of Whitfield Village, which is around 20 dwellings per hectare. It is not therefore considered that the proposed development is out of character in the wider context of Whitfield.
- 2.44 The indicative layout plan is the same as for the previous application and those considered at appeal. It identifies an L-shaped layout to the proposed buildings which is considered to be acceptable as it would be set back between 18-20m from

the site boundaries that would retain a significant proportion of the existing trees and landscaping. All the properties are shown to have private rear gardens and amenity space that would have an outlook onto a public open space and tree/landscape buffer along the southern boundary of the site. In terms of the impact on the amenities of existing residential properties, the proposed built form would be set back from all the respective residential boundaries with a substantial tree screen between the existing and proposed dwellings. As a result the impact is limited from the proposed building form. The proposed access road would be sited between two existing residential properties, but again would be sited away from the boundaries with landscaping and a hedge to both sides and its impact has therefore been mitigated. The indicative layout therefore shows that a scheme for 28 units could be achieved on the site without having an adverse impact on the character and appearance of the surrounding area or a sufficiently detrimental impact on the residential amenities of existing residential properties.

- 2.45 The retention and enhancement of a significant proportion of the existing tree planting along the site boundaries and especially the southern boundary would mean that views into the site from the surrounding area and views across from the A2 would be limited. The retention of the tree screen to the southern boundary also maintains the visual amenity and natural screening line for the existing housing in Archers Court Road, Newlands and Courtland Avenue. The proposed development would therefore largely retain existing landscape features and is likely overall to have a neutral impact on the visual amenities of the immediate and wider area.
- 2.46 With regard to other residential amenity concerns, the distance from the existing dwellings is sufficient to overcome any adverse issue with regard to privacy and overlooking and detailed matters with regard to mass, elevational treatment and materials are all matters which would be considered at the reserved stage. The proposed impact on visual and residential amenities is therefore appropriate and in line with the planning policies identified above.

Noise and Air Quality

- 2.47 A revised Noise Impact Assessment has been submitted in support of this planning application. This includes an assessment of the current noise levels (background noise) on site which should be noted exceeds all recommended standards for residential developments (both internally and externally), due to the A2 directly adjacent. The submitted report also considers the options for noise mitigation measures to prevent traffic noise impacting on the proposal and to enable internal noise levels in the proposed building and external noise levels in the proposed rear gardens to fall within appropriate limits. The report concludes that noise levels can be made acceptable through enhanced acoustic glazing of all windows and doors and mechanical ventilation which would address noise levels within the proposed buildings. Externally and a 2m high acoustic fence along the southern boundary with the A2 is proposed and also at either end of private garden areas of the indicative development block.
- 2.48 DDC Environmental Health broadly accept this approach but has advised that noise in residential gardens can only be mitigated through the erection of an acoustic fence/screen of 4.5 metres in height along the southern boundary. The proposed layout plan has now been submitted to indicate a 4m high acoustic fence along the southern boundary instead of the 2m high acoustic originally proposed. However, further details of the proposed acoustic fence and the other acoustic mitigation measures need to be required by condition to ensure noise is appropriately mitigated and addressed. Nevertheless, the proposed development can in principle control the

impact from noise from traffic associated with the A2 and therefore subject to conditions a residential development is appropriate on this site. As a scheme is capable of addressing the noise concerns it therefore adequately addresses the relevant paragraphs of the NPPF.

- 2.49 Environmental Health have raised no objections with regards to Air Quality impacts, as frequent monitoring takes place in respect of the A2 and both Nitrogen dioxide and particulates PM10 from road traffic are not at levels whereby National Air Quality Objectives are likely to be breached, both with and without this proposed development. Therefore air pollution does not need to be considered further in respect of this application and accords with the relevant guidance and the NPPF.

Archaeology

- 2.50 The application site lies in an area of archaeological interest arising from recent findings to the south and north of Whitfield. Groundworks associated with the proposed development therefore have the potential to affect buried remains of archaeological interest. Consequently, KCC Archaeology has recommended that a programme of archaeological work on the site can be dealt with by condition. This suitability addresses any potential archaeology on site and accords with the relevant section of the NPPF.

Land Contamination

- 2.51 The likelihood of contaminants on site is limited due to the previous use of the land, nevertheless, as the proposed end use is residential it is susceptible to risks of contamination. A condition would therefore be required to ensure that should any contamination be identified during construction then further investigation, remediation and/or mitigation measures would need to be submitted and approved should planning permission be granted.

Planning Obligations

- 2.52 The applicant has submitted a Draft Section 106 Agreement in relation to obligations necessary to make the development acceptable in planning terms. The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) require that requests for development contributions must comply with three specific legal tests, being necessary, related to the development, and reasonably related in scale and kind.
- 2.53 Policy CP6 sets out that development that generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either already in place or there is a reliable mechanism to ensure that it will be provided at the time it is needed. It is considered the tests have been duly applied in the context of this planning application and give rise to the following specific requirements.
- Secondary education - £2359.80 per house and £589.95 per flat, towards Dover Christ Church School expansion.
 - Primary Education- £3324 per house and £831.00 per flat, towards Green Park Primary School expansion.
 - Library - contribution towards book stock at Dover library of £1344.44.
 - Thanet Coast and Sandwich Bay SPA – contribution of £17.44 per one bed unit; £35.47 for a two bed unit; £53.21 for a three bed unit and £70.94 for a four bed unit.

- Public Open Space – The provision of a community space scheme to include a LEAP, future management scheme of the open space and woodland and the completion of the LEAP before occupation of any dwellings on site.
 - Healthcare contribution – as required (figure to confirmed)
 - Payment of all associated legal costs.
- 2.54 The full range of contributions required by this development is being met by this proposal and have been agreed in principle, subject to clarification of the healthcare contribution.

Conclusion

- 3.1 This application is for outline planning permission for up to 28 dwellings of which 30% will be affordable and the demolition of 14 Archers Court Road to facilitate a new vehicular access onto the site. All matters are reserved apart from access into the site. A previous scheme was refused planning permission for highway reasons, appealed and following a legal challenge to the High Court, the Planning Inspectorate had to reconsider the application at appeal. The second appeal was dismissed but the sole reason related to the insufficient provision of information to demonstrate that the site would not give rise to significant harm to biodiversity and therefore contrary to paragraphs 17 and 109 and 118 of the NPPF, the original highways reason for refusal was not upheld.
- 3.2 The current scheme is a resubmission which does not propose any material changes to the application previously considered, other than providing additional supporting information to address the Inspectors concerns, namely bat, reptile and dormouse surveys. The evidence provided relating to ecology is considered satisfactory and fully addresses the concerns raised by the Inspector.
- 3.3 The report identifies the suitability of the site for residential development and expands on the relevant considerations. In respect of highway matters various reports have identified that the proposed development will not give rise to highway safety or capacity issues, KCC Highways and Highways England have raised no objection and the Planning Inspector found that the proposal was in accordance with paragraph 32 of the NPPF and was therefore acceptable in this regard. Officers remain aware of the concerns of Members in respect of highway matters, particularly those expressed on Archers Court Road. However, in the absence of tangible documented evidence, and in the light of the independent traffic assessment commissioned by the LPA, would strongly advise that this matter has been satisfactorily addressed, in this case, and that no undue harm would result.
- 3.4 In terms of foul and surface water drainage, although concerns have been raised locally and by statutory consultees, it is clear that in the long term these issues can be overcome with a suitable SuDS proposal and connection to the foul sewerage system at a later date. Therefore no 'in principle' objection has been raised. As a result It is recommended that as this application is in outline form only and the proposal will not give rise to a risk of flooding, conditions can be included which address the relevant and outstanding concerns.
- 3.5 It is considered that the proposal is in accordance with national and local planning policies and accords with the objectives in the NPPF relating to achieving economic, social and environmental benefits. The proposal constitutes a sustainable form of development and taking into account the recent appeal decision, being a significant

material consideration, is recommended for approval, subject to a s106 agreement and conditions.

g) **Recommendation**

- I. PLANNING PERMISSION BE GRANTED subject to a Section 106 legal agreement to secure necessary planning contributions/infrastructure and subject to the following conditions to include:

(1) Outline time limits (2) Submission of details of foul drainage for approval to LPA prior to submission of Reserved Matters (3) Reserved matters to include layout, elevations, floor plans, sections through the application site and adjoining land, floor levels and thresholds, building heights, samples of materials, refuse storage and street scene (4) Approved plans (5) Construction Management Plan (6) Highway requirements (7) Affordable housing provision (numbers, type, tenure, location, timing of construction, housing provider and occupancy criteria) (8) Full landscaping details (9) Protection and retention of trees (10) Reporting of unexpected land contamination (11) Details of surface water drainage (SuDS) and infiltration rates and maintenance thereof (12) Ecological mitigation and enhancements (13) Details of noise mitigation and erection of an acoustic fence (15) External lighting scheme (16) Submission of a programme of Archaeological works (17) Details of LEAP (18) Route and clarification of PROW (19) No occupation until sewerage infrastructure capacity has been confirmed.

- II. Powers to be delegated to the Head of Regeneration and Development to settle any necessary planning conditions and to agree Section 106 agreement, in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Lucinda Roach