

- a) **DOV/17/01225 – Outline application for the erection of 31 dwellings (all matters reserved) – Ferrybridge House, Abbey Road, Dover**

Reason for report – Member call-in by Councillor Jones

- b) **Summary of Recommendation**

Refuse permission.

- c) **Planning Policy and Guidance**

Statute

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

A summary of relevant planning policy is set out below:

Dover District Core Strategy (2010)

CP1 – Settlement hierarchy.

CP6 – Infrastructure.

CP7 – Green infrastructure network.

DM1 – Settlement boundaries.

DM5 – Provision of affordable housing.

DM11 – Location of development and managing travel demand.

DM13 – Parking provision.

DM15 – Protection of the countryside.

DM16 – Landscape character.

Saved Dover District Local Plan (2002) policies

DM27 – Providing open space.

National Planning Policy Framework (NPPF)(2019)

2. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect

- current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

11. Plans and decisions should apply a presumption in favour of sustainable development...

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

91. Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

- a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;
- b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas; and
- c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

108. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

124. The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this...

127. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

130. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions...

170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

172. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

177. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has

concluded that the plan or project will not adversely affect the integrity of the habitats site.

Other considerations

Kent Downs Area of Outstanding Natural Beauty.

Kent Downs AONB Management Plan 2014-2019.

Kent Design Guide 2006.

d) **Relevant Planning History**

DOV/16/00815 – Outline application for the erection of 31 dwellings (all matters reserved) – REFUSED.

DOV/89/01408 – Proposed formation of tractor unit parking and installation of a portacabin office – REFUSED.

DOV/89/00844 - The erection of a two and three storey side extension – GRANTED.

e) **Consultee and Third Party Responses**

DDC Ecology and Landscape – No formal comment made, informal discussion refers back to comments made under proposal DOV/16/00815 – below:

(Note: DOV/16/00815 was an identical proposal, until the applicant formally submitted an amended indicative layout in February 2019. The quantum of development, and development area, remains identical).

"Landscape

The site is on a southern facing slope above the Coombe Valley Industrial Estate. It is within the Kent Downs AONB. Abbey Road is a narrow, single track lane, of considerable age, that is cut into a chalk hillside. To the north of the lane is a very steep chalk grassland slope that then grades into a less steep area of grassland and scrub. To the south of Abbey Road, the land has been subject to much change over time. For instance, directly north of Ferrybridge House a track used to run into what is now the abandoned industrial unit at the far end of the estate. There have been various uses of the land that is within the curtilage of Ferrybridge House and, historically, the site is functionally linked to the valley, rather than the hillside above Abbey Road.

The boundary of the AONB is acknowledged as being poor here as it cuts through the industrial estate. It has been nominated for consideration should boundary changes to the AONB be progressed. Therefore, it may be more appropriate to consider proposed development at Ferrybridge House in the context of the setting of the AONB with particular reference to the land north of Abbey Road.

The Landscape Appraisal accompanying the application is competent [the same document has been submitted for previous and current applications]. However, it is considered that the conclusions regarding the settlement envelope are weak. The site itself has a strong interrelationship with the industrial estate, but not the residential areas, particularly the terraced housing of Barwick Road and St Radigund's Road. (The mixed housing of Deanwood Road which is probably no more distant is within a separate valley).

The position of Ferrybridge House, although historic, appears anomalous, a domestic building at some distance from and above large industrial units. In landscape terms,

there may be value in attempting to relate it more to the built environment. However, to achieve such by residential development on the site may simply create an isolated pocket of dwellings unrelated to the both the neighbouring built and natural environments.

Also, the comments on green infrastructure, below, indicate that the proposal, as it stands, could harm the local visual amenity and the setting of the undeveloped AONB north of Abbey Road.

#### Green Infrastructure

The site is adjacent to existing green infrastructure (GI), protected by Policy CP7 and is fully within the area marked for GI improvements (conserve and create). Developing the site for housing would not conserve GI here. There may be a small opportunity for habitat enhancement, but this would not significantly contribute to the wider habitat network. The proposed layout of the site, in particular the housing to the south, is curious. These dwellings lack any indication of rear gardens and the relationship to the open area is not addressed. This is of importance in understanding how this space could possibly work in a positive fashion both for the future residents and in respect of the AONB. Without such information, the principle of development here is not sound.

#### Ecology [same documents submitted for previous and current applications]

The site is maintained as garden to Ferrybridge House and is recorded in the Kent Wildlife Habitat Survey 2012 as 'improved grassland' with a small area of woodland (to the SE boundary of the site).

The ecological appraisal and subsequent documents are considered sound and should development be permitted, the recommendations should come forward as an integral part of a reserved matters application."

DDC Environmental Health – No objection, subject to condition – Notes former use of site as mixed industrial, and requests condition relating to land contamination. Also requests conditions relating to a construction management plan and to hours of construction. Advises an informative relating to burning. A comment is made regarding stacking arrangements in the proposed flat buildings, which would be more appropriately considered at any reserved matters stage.

#### KCC Highways – Recommends refusal

1. The document acknowledges that a 1.5 metre-wide footway is required between the site and the existing footway network in Barwick Road, and proposes such a footway on the south side of Abbey Road. However, as shown on the plan provided by our Highway Definition Team, there is no highway verge in the western section of Abbey Road between the site and Barwick Road, and minimal width of highway verge in the eastern section. The proposed footway cannot therefore be provided within what is considered to be highway verge. The document also acknowledges that retaining structures and excavation of banks would be required, and these are likely to be beyond the 1.5 metre width of footway in order to support it. It has therefore not been demonstrated that the necessary footway can be suitably provided on land within the control of the applicant and/or the highway authority. The section of Abbey Road between the site and Barwick Road is narrow, unlit and subject to the national speed limit, and would therefore be hazardous for pedestrians from the development to use without a footway. I note that public open space is also proposed on the site and this may encourage additional pedestrian use of this unsuitable route.

2. The eastern section of the stretch of Abbey Road between the site and Barwick Road has no passing place and there is insufficient intervisibility between the last passing place and the wider section of Barwick Road, meaning that vehicles may meet

in this narrow section and one will have to reverse back to a passing place. The incidence of this is likely to increase as a result of proposals and an additional passing place with suitable intervisibility is therefore required. The submitted document acknowledges that vehicles will meet and need to pass each other, and suggests that a proposed footway is likely to be overrun by vehicles passing each other. The document suggests that a barrier or posts within the footway would prevent such overrunning but would reduce the width of footway to an unacceptable level, suggesting instead a Traffic Order to prevent parking on the footway supplemented by the placement of signs. These measures are unlikely to prevent overrunning of the footway in this location and a formal passing place is therefore required, which cannot be provided.

3. The document refers to a speed survey to assess visibility requirements at the access, however the survey output data and location of the survey have not been provided. Therefore, whilst the visibility splays shown at the proposed access point are acceptable for the measured speeds indicated, the above information is required to verify those measured speeds. Nevertheless it appears the visibility splay required to the east of the access is outside land under the control of the applicant and/or the highway authority, and could not therefore be provided or maintained.

As the proposals stand I would therefore still recommend refusal, as the development does not provide safe access in accordance with the NPPF.

I would also point out the following:

4. Whilst layout is indicative I would advise that the access road would need to meet Abbey Road at between 80 and 100 degrees, and Abbey Road would need to be widened in the vicinity of the junction, to enable two cars to pass each other and allow suitable access for an 11.3 metre refuse vehicle. The gradient of the access road on the approach to the junction with Abbey Road would need to be in accordance with Kent Design, as would the layout of the access road within the site.

5. Parking provision would need to be in accordance with policy DM13 of the Adopted Dover Core Strategy, for a suburban edge situation. The suggestion in the previous Transport Statement of one parking space per dwelling would therefore be insufficient.

KCC Development Contributions – Seeks the following development contributions:

- Primary education – £69,804 – towards White Cliffs Primary School expansion.
- Secondary education – £86,417 – towards Dover Grammar School for Girls, phase 1 expansion.
- Library book stock – £1488.49 – towards large print books for Dover library.

A further informative is added recommending the provision and adoption of superfast broadband.

South Kent Coast CCG – No comment received at time of publication.

Natural England – Refers to comments under previous application – Proposal falls within requirement to contribute to the Thanet Coast Mitigation Strategy. Guidance offered, but no conclusion, on assessment of Kent Downs AONB impact and impact on protected species.

Environment Agency – No objection, subject to conditions – For the following:

- Contaminated land.
- No infiltration drainage unless approved by the LPA.

And informatives for the following:

- Fuel, oil and chemical storage.
- Waste.

With further information to be provided to the applicant, relating to:

- Source protection zones 1 and 2.
- Contamination.
- Surface water drainage.
- Foul drainage.
- Best practice for developers.

Kent Wildlife Trust – Objects – This part of Dover contributes much to the area's biodiversity, in particular:

Immediately north of the site, and crossing north of Abbey Road – Local wildlife site designation (LWS DO09 St Radigund's Valley) – an extensive area of high quality, unimproved chalk grassland, scrub and ancient calcareous woodland.

Roadside verge north of Abbey Road – Roadside Nature Reserve (RNR DO03) – flower rich chalk grassland regarded as a valuable stepping stone in the council's green infrastructure network.

Objects about the effects of the proposal on the locally designated sites and how the accommodation of dwellings on this site, including hard standing and ground works, along with suburbanisation from any necessary highways works, may destroy a valued and sensitive habitat.

KCC SUDS – Recommends that proposal is not determined until a surface water drainage strategy has been provided:

KCC Archaeology – No objection subject to condition – Programme of archaeological work in accordance with a written specification and timetable.

Crime Prevention Design Advisor – Recommends condition relating to minimising the risk of crime, incorporating the principles of 'Crime Prevention through Environmental Design'.

Southern Water – No comment received at time of publication.

Southern Gas Networks - No objection – Subject to excavations in accordance with HSE publication HSG47 "Avoiding danger from underground services".

Affinity Water Comments – Network reinforcements might be required to support this development. Development is located within a source protection zone (SPZ) thereby requiring that any construction works should be undertaken in accordance with the relevant British Standards and Best Management Practices relating to groundwater pollution risk. Also refers to CIRIA publication C532 "Control of water pollution from construction - guidance for consultants and contractors".

UK Power Networks – No response received, however, the applicants have paid for a plan from UK Power Networks which indicates supplies near to the site.

National Grid Plan Protection – No response received.

Dover Town Council – Objects – Land not in LALP 2015, supports KCC comments regarding access.

River Parish Council – Objects – River Parish Council believes that this proposal is not sustainable and would create additional traffic on roads which already struggle with existing volumes. Furthermore, the reasons for the previous refusal of the proposal are all still valid and we, therefore, believe that the application should not be approved.

Public comments – 16x objections

#### Reasons

- Road not wide enough to accommodate traffic.
- Road not wide enough to accommodate pedestrians.
- Works to accommodate pedestrians could not be accommodated without harm to AONB and rural character.
- AONB location.
- Traffic increase in River.
- Design is insular.
- Ecological impacts.
- Demands on infrastructure.

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

#### The Site

- 1.1. The site is located on the southern side of Abbey Road, and is approximately half way up the northern bank of Coombe Valley. The land rises from south to north. It is broadly triangular in shape with a road frontage of approximately 115 metres. There is an existing access at the western end of the road frontage, leading to a single dwelling – Ferrybridge House, as well as an informal one at the eastern end. Abbey Road is a single width country lane with a speed limit of 60mph.
- 1.2. The site is located within the AONB although its relationship to this is interrupted by the existing commercial development on its south western, southern and south eastern boundaries. All of the commercial development is set at a noticeably lower level than the site. North of the site on the opposite side of Abbey Road, the land rises steeply to the top of the valley slope.
- 1.3. The land level falls from the road towards the south across the site by approximately 20 metres. The site is managed land relating to Ferrybridge House, some of which would be regarded as domestic garden and some is recorded in the Kent Wildlife Habitat Survey as 'improved grassland'. The site has tree screening along its south eastern, south western and northern boundaries. The site is generally screened from Abbey Road by a mixture of trees and shrubs, except for at the access points. The approach to the site has a prevailing rural character. Views are achievable through the site to the AONB beyond.
- 1.4. The site was not assessed as part of the Dover SHLAA in 2009 or 2012. The site was discussed at the examination into the Dover Land Allocations Local Plan, which was adopted in 2015, however, the Inspector made no changes to the plan as a result of this.



- 1.5. Site dimensions are:
- Width – 189 metres (maximum extent).
  - Depth – 106 metres (maximum extent).
  - Area – 1.09 hectares.

#### Proposed Development

- 1.6. The proposed development is an outline scheme for 31 dwellings with all matters reserved. The scheme includes an indicative layout with one access point (involving a formalisation of the eastern access) and a circular access road within the site, which forms the perimeter to open space located in the centre of the site. The current access to Ferrybridge House would be closed off. The indicative plan shows the dwellings laid out facing the access road on its northern side. There is no indication of gardens or how the rear of the dwellings would relate to the proposed open space.
- 1.7. The indicative mix of dwellings is:
- 4 x 1 bed flats.
  - 6 x 2 bed flats.
  - 4 x 2 bed houses.
  - 11 x 3 bed houses.
  - 2 x 3 bed flats.
  - 4 x 4 bed houses.
- 1.8. A number of trees are shown as being removed to make way for the development. New trees are also proposed on the southern and south western boundaries. A play area would be located west of the western access point.
- 1.9. Associated with the scheme but outside of the site boundary, a footpath approximately 1.5 metres in width, is proposed between the site and the end of Barwick Road, along the southern side of Abbey Road. This footpath would require the cutting and removal of some vegetation as well as the creation of retaining structures where the land falls away to the south.
- 1.10. Plans will be on display.

## **2. Main Issues**

- 2.1. The main issues to consider are:
- Consultation period
  - Principle and sustainable development
  - Countryside/landscape impact
  - Ecology
  - Development contributions
  - Highways
  - Other matters

#### **Assessment**

##### Consultation Period

- 2.2. Drawings showing an amended indicative access point were formally submitted to the council on 11 February 2019. These drawings were re-advertised in order not to disadvantage any consultees, however, the consultation period ends the day after the March planning committee meeting (22 March 2019).

- 2.3. Given the considerations as laid out in the report below, and how close the end date of the consultation period is to the committee meeting, it was considered that on balance, the council would not be disadvantaging any particular person or body by reporting the application ahead of the consultation period closing.
- 2.4. As detailed below, the recommendation, subject to member agreement, is to delegate powers for the Head of Regeneration and Development to resolve any reasons for refusal in line with the issues set out in the recommendation, as resolved by the Planning Committee, and as may be indicated in any consultation responses received during the consultation period after the committee meeting.

#### Principle and Sustainable Development

- 2.5. The application site is located outside of and adjacent to the Dover urban settlement boundary. This means that the development proposed, 31 new build dwellings, is not normally acceptable in principle. The site is also located within the Kent Downs Area of Outstanding Natural Beauty.
- 2.6. DM1 sets out in essence that development will not be permitted outside urban boundaries, unless justified by other development plan policies, it is functionally requires such a location, or it is ancillary to existing development or uses. Dover District Council as the local planning authority (LPA) has acknowledged that Policy DM1 no longer carries full weight in the decision making process, due to the need to update the objectively assessed housing need (SHMA 2017). However, the LPA considers nevertheless that the policy does carry significant weight as a primary tool for delivering the district's adopted spatial vision. Accordingly, where the site is located outside of the Dover urban boundary, the presumption is still weighted against the proposal being granted permission, unless it meets the exception criteria of the policy as noted above. The proposal is not considered to meet any of these criteria.
- 2.7. The LPA is currently unable to demonstrate a five year supply of deliverable housing land (on 4 March 2019 the Dover annual monitoring report (AMR) was reported to Cabinet indicating a housing land supply equating to 5.56 years – this is not yet formally adopted due to a call-in period). Accordingly, under the terms of the NPPF at paragraph 11 (footnote 7), this application should be considered in the context of the presumption in favour of sustainable development i.e. permission should be granted unless there are specific policies within the NPPF that provide a clear reason for refusal, or if any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole.
- 2.8. Such specific policies referred to include those relating to development within the AONB, which this proposal represents. NPPF paragraph 172 notes:

“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues... Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
  - b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
  - c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.”
- 2.9. Consideration of the extent to which the presumption in favour of sustainable development might apply is given below and then concluded on at the end of this report.

#### Countryside/Landscape Impact

- 2.10. Great weight is afforded by the NPPF to the conservation of landscape and scenic beauty of the AONB.

- 2.11. Referring to NPPF paragraph 172, and taken in turn:

- a) There are not considered to be any national considerations that overtly advocate the need for this development in this location, beyond the general impetus for housing development. It is considered that the refusal of this development would not negatively affect the local economy to any noticeable degree given the relatively low numbers proposed. Similarly, were the development granted, the benefits to local economy of 31 dwellings would, in the wider context of Dover, be negligible.
  - b) The cost of developing outside of the AONB is considered not to be a factor on which any significant weight should be placed. The most recent land allocations local plan (LALP) was adopted in 2015 and while the LPA cannot currently demonstrate a five year supply of deliverable housing land, land is allocated for residential development across the district. As noted, this site was considered at the examination for the 2015 LALP, but not taken forward. The proposal is, in effect, speculative, and does not conform to any wider spatial vision for the district.
  - c) The presence of the commercial development to the south of the site, which itself is partially within AONB designated land, does detract in part from an argument that the site should be protected purely for its own character. Indeed, this is recognised by the landscape officer's comments on the previously refused application. However, it is not considered that this justifies the further encroachment into AONB designated land. Due to topography, the site is separated from the commercial development by way of height, located clearly above that area, and this is also recognised by the landscape officer's comments, noting that the site is connected in terms of character to the land above, which leads to the top of the valley slope. There is therefore, a detrimental effect that would arise from the carrying out of this development. This is combined with the proposed highways works, which would also alter the character of Abbey Road towards the site with the installation of a footpath and retaining structure and the clearance of vegetation to maintain access visibility splays. The extent to which highways works would be required means that it is difficult to understand how any adequate/successful mitigation works could be implemented.
- 2.12. Core Strategy. Policy DM15 relates to the protection of the countryside. The proposed development, which would result in the loss of countryside and adversely affect its character/appearance, does not meet the criteria of DM15 in so far as: (i) it is not in accordance with allocation made in development plan

documents, (ii) it is not justified by the needs of agriculture, (iii) it is not justified by a need to sustain the rural economy or a rural community and (iv) it could be accommodated elsewhere. The landscape and ecology officer notes that the ecological information submitted with the application is competent and therefore criterion (v) relating to the loss of ecological habitats is considered to be satisfied.

2.13. The proposal is therefore considered to be contrary to policy DM15.

2.14. Policy DM16 relates to landscape character. The proposed development, which it is considered would harm the character of the landscape, which is in the Kent Downs AONB, is not considered to meet the criteria at (i) it is not in accordance with allocations made in development plan documents, or (ii) it is considered that the development and associated works required cannot be sited such that harm caused can be mitigated to an acceptable level.

2.15. The proposal is therefore considered to be contrary to policy DM16.

2.16. In terms of green infrastructure, which is protected by policy CP7, the site is in within an area marked for improvements (conserve and create). The landscape officer has noted previously that developing the site would not conserve green infrastructure. The officer considered the layout of the site to be curious, with no indication of how dwellings might relate to the wider open space.

2.17. The proposal is therefore considered to be contrary to policy CP7.

2.18. Kent Downs AONB Management Plan 2014-2019. The Kent Downs AONB Management Plan sets out that the primary purpose of its designation is to conserve and enhance the natural beauty of the AONB and that its protection and special characteristics and qualities will be pursued and supported. In this case it is difficult to see how the development of this site, in such a prominent and important transitional location, in the manner, or similar, prescribed within the submitted application would achieve the aims and objectives set out in the NPPF or meet intentions of the AONB Management Plan. The development would be likely to be intrusive and thereby harmful and introduce a creeping form of development beyond the existing built form and would be likely to require significant road edge works which would further expose the engineering and operational development required within the site in the development of it.

2.19. Countryside/landscape conclusion. The site is in a transitional location and when travelling west towards it, the commercial development at the end of the valley is screened and set below the site, giving a rural character from the start of Abbey Road onwards. It is considered that the site in its current form, albeit to an extent, managed, provides a buffer to the commercial development beyond and below. Were the application to be permitted, the built form would extend up the side of the valley and to the southern boundary of the highway, creating a hard, developed, edge and harming the prevailing character of this corridor. This would damage the existing visual amenity provided by a green open space and alter the sense of transition provided when travelling along this route. There is significant concern over the layout (albeit assumed to be indicative as all matters are reserved) in respect of the effects and impacts on existing roadside hedgerow at this location – which is considered to contribute towards the rural, country lane environment and character prevailing along Abbey Road. The hedgerow would likely need to be cut down to provide visibility splays in both directions. Additional to this, in order to provide sufficient turning room, the access which currently has an informal character, would need to be significantly

widened and opened up. Taken together, there is significant potential for the character of this part of Abbey Road to be irreversibly harmed.

#### Ecology

- 2.20. As noted above, the advice received from the ecology officer was that the submitted ecology information is sound.
- 2.21. Following the ruling of the European Court of Justice on case C323/17 (People over Wind, Peter Sweetman v Coillte Teoranta), it was determined that mitigation measures could not be taken into account when assessing whether a likely significant impact might occur in relation to habitats sites. Accordingly, an appropriate assessment is required to determine if such an impact is likely, which is the stage prior to any mitigation measures being considered.
- 2.22. Due to the European habitat sites at Sandwich Bay, and the potential for any residential development to affect the integrity of these sites, the following appropriate assessment is necessary.

#### The Conservation of Habitats and Species Regulations 2017, Regulation 63: Appropriate Assessment

- 2.23. All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.24. Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in combination with all other housing development within the district, to have an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.25. Following consultation with Natural England, the identified pathway for such an adverse effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.26. The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.27. For proposed housing developments in excess of 14 dwellings (such as this application) the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy requires the applicant to contribute to the Strategy in accordance to a published schedule. This mitigation comprises several elements, including the monitoring of residential visitor number and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education).
- 2.28. Having had regard to the proposed mitigation measures, it is considered that the proposal would not have an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation

measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

- 2.29. The Kent Wildlife Trust has referenced a designated local wildlife site and a designated roadside nature reserve in its objection. These sites are addressed in the NPPF, however, they do not carry equivalent weight to sites with statutory designations. Given that the wildlife sites referenced are either outside of the application site, have a relatively limited interface with the application site, or are affected to a degree by existing traffic movements on Abbey Road; combined with the consultation response made in relation to the submitted ecological survey, it is not considered in these circumstances that these designations in themselves carry enough weight to form part of a reason for refusal.

#### Development Contributions

- 2.30. The applicant acknowledges that the development would attract the requirement for affordable housing in line with Core Strategy policy DM5 i.e. 30% of dwellings to be affordable. In this case 30% of 31 dwellings is 9.3, representing 9 affordable dwellings on site. The applicant has agreed this requirement.
- 2.31. KCC Property Services has also indicated that the proposed development would attract the need for the following contributions:
- Primary education – **£69,804** – towards White Cliffs Primary School expansion.
  - Secondary education – **£86,417** – towards Dover Grammar School for Girls, phase 1 expansion.
  - Library book stock – **£1488.49** – towards large print books for Dover library.
- 2.32. Large print library books are not considered to differ in terms of infrastructure type from any other form of library book and as such, given that five or more contributions have already been sought towards book stock at Dover library, this contribution would not be sought.
- 2.33. A further informative is added by KCC Property Services recommending the provision and adoption of superfast broadband.
- 2.34. Policy DM27, contained within the land allocations local plan, defines the amount of open space contributions required for new development. The application does propose a dedicated play area and the applicants have indicated that if necessary they would work to improve access to this space. The size of the area has not been indicated by the applicants, however, given that this is an outline proposal and the plan is indicative, amendments if necessary, could be secured at a reserved matters stage, were permission to be granted.
- 2.35. The applicants have recognised that the development falls into the category requiring contributions to be made to the Thanet Coast Mitigation Strategy. As described above, the required payment is **£1500.69**, and has been agreed by the applicants.
- 2.36. In total, financial contributions of **£159,210.18**, are sought, of which **£157,721.69** are considered to meet the requirements of the CIL regulations. The applicants have indicated that they are willing to meet these costs.

- 2.37. South Kent Coast Clinical Commissioning Group (CCG). No comments had been received from the CCG at the time of the report being published. Any comments received will be verbally reported to the planning committee.

#### Highways

- 2.38. Kent County Council recommends refusal of the planning application related to the following issues:
- 2.39. 1. The applicant has submitted a speed survey which indicates due to actual speeds on this stretch of road, a 50 metre visibility splay either side of the access is adequate (rather than a 215 metre splay either side). The highways officer raises no objections in relation to this survey and visibility calculation, however, the officer does contend that regardless, the splay cannot be assured to be provided and maintained on land to the east of the access (down the hill) due to a dispute over whether this is highways land. Kent Highways does not agree that this is highways land.
- 2.40. 2. Due to Kent Highways not agreeing that this is highways land and the applicants not being able to prove otherwise, the provision of the footway would rely on the building works on third party land, which cannot be assured.
- 2.41. 3. Travelling east from the site access towards Barwick Road/St Radigunds Road there is a combination of no passing place and insufficient forward visibility/intervisibility. This means that when cars meet, one would be required to reverse back to a passing place. The incidence of this is likely to increase as a result of the proposal and is likely to lead to an overrunning of the proposed footway (assuming one could be provided). The two available options appear to be placing physical impediments within the footway, or a Traffic Regulation Order (TRO) in order to prevent stopping on the footway, complemented by signage. Physical barriers would reduce any provided footway to an unacceptable width, and it is considered that a TRO is unlikely to be effective for these purposes.
- 2.42. It is considered therefore that the development does not provide safe and secure access. While it is also unlikely that these concerns could be adequately addressed or overcome, if they could be, the resultant effect would be to significantly alter and formalise the character of Abbey Road at this point, including hard engineering for a footway, including a retaining structure built onto the bank with associated removal of vegetation, a passing place meeting highways standards and street lighting. It is considered that this would be unduly harmful to the prevailing character and appearance of the location in the AONB.

#### Other Matters

##### EIA

- 2.43. The LPA is required to adopt a Screening Opinion under the EIA Regulations 2017 (as amended) due to the proposal being in a defined "sensitive" location. The thresholds set out in Schedule 2 10(b) (Urban development projects) do not apply. In this case statutory consultees have raised no issues with regards to the Schedule 3 – selection criteria for screening Schedule 2 development. The characteristic type, location and potential impact characteristics of the development in isolation, cumulatively and in combination with other development have been considered and the conclusion drawn is that whilst in planning terms and in isolation, as such the development would result in material

harm (for the reasons set out in this report), as far as the wider environmental effects are concerned those effects and impacts would not require mitigation measures sufficient to require an EIA.

#### KCC SUDS Team

- 2.44. The Kent County Council SUDS team has recommended that the application is not determined until a surface water drainage strategy has been provided. No strategy has been provided, and neither has this been pursued with the applicant due to the proposal being considered to be unacceptable in principle. Were members minded to support the development proposal, it is not considered to be a technically insurmountable issue and as such, this could be addressed through a pre-commencement condition.

#### Previously Developed Land

- 2.45. The design and access statement considers that the site conforms to the definition of previously developed land. However the site comprises garden land, and land beyond that garden land to Ferrybridge House. Garden land is not defined as previously developed land and with regards to any development on the remaining land evidence of such development as such is fairly limited. Historic aerial imagery indicates that in 1960 land around the site was used for some form of agricultural holding or allotments – this would also not be considered previously developed land. In the 1990 image some form of earthworks appears to be in progress in the eastern portion of the site, with evidence of exposed chalk. However, by 2002, there is no evidence of development on the site beyond that of Ferrybridge House.

### **3. Sustainability and Conclusion**

#### Sustainability

- 3.1 To assess any impacts of the development, it must be considered in terms of the dimensions of sustainable development as set out in paragraph 7 of the NPPF. These are economic, social and environmental. In undertaking the assessment it should be recognised that the proposed development is outline with all matters reserved, so while indicative layouts have been submitted to demonstrate a possible development scenario, a reserved matters application would be required to confirm such details. Consequently, it is the principle of the application that is being considered.

#### Economic Impact

- 3.2 The development would bring some economic benefits in terms of the development contract for 31 dwellings, although this would be finite in terms of time. The development would also provide 31 new dwellings for residents, although there is no certainty about where these people would come from or, accordingly, how much additional economic benefit for the area that would represent. Some benefit would be available to local shops in the vicinity, however, for a wider range of facilities that the new residents might support, they would need to travel beyond the immediate area i.e. outside of Coombe Valley. Accordingly, this limits the contribution that the proposal makes to the economic role that the planning system seeks to achieve.

#### Social Impact



- 3.3 In terms of the social role, the occupants of the new dwellings would to some degree become part of the local community and support the viability of local services e.g. schools and nurseries, health facilities etc. Furthermore, 30% of the total number of housing units would be affordable housing. These are social benefits weighing in favour of the proposal.
- 3.4 However, it is considered that the proposed location of the development does not lend itself to creating social cohesion. The eastern extent of the site is approximately 245 metres removed from the western extent of the existing residential development in Coombe Valley. The road between the site and the nearest residential development is a single width, unlit country lane, with limited forward visibility and no dedicated footpath, which rises significantly towards the site from that existing development. It is considered that this route would be less than suitable for parents with children, the elderly or less mobile. The nearest bus stop is located at the existing residential development in Coombe Valley and there is no suggestion that the bus service would or could serve the proposed development. The site is bounded to the south west, south and south east by existing commercial development that would not assist in creating a safe and usable link to the edge of the existing community at the western end of Coombe Valley. Accordingly, taken together, it is considered that the location of the proposed development, in principle, would not assist in creating an environment in which a community might develop or be supported to develop, and which would lead to an over reliance on the use of private motor vehicles.

#### Environmental Impact

- 3.5 The proposed development is located within the Kent Downs Area of Outstanding Natural Beauty (AONB). The NPPF directs that AONBs, along with national parks, should be afforded the highest status of protection in relation to landscape and scenic beauty. As previously noted, the NPPF directs that permission for major developments in the AONB should be refused unless there are exceptional circumstances where it can be shown that the development is in the public interest. It is not considered that in this case that there are exceptional circumstances which justify the proposal.
- 3.6 The landscape officer does note that the AONB boundary at this location might be the subject of amendments at any future review and that it may be more appropriate to consider the application in terms of the setting of the AONB in particular that of the northern valley slope above Abbey Road to the north of the site. However, it is also noted that in attempting to relate the site to the existing built environment with a residential development, the result may be an isolated pocket of dwellings unrelated both to the neighbouring built and natural environments.

#### Conclusion on Principle and Sustainability

- 3.7 Dover District Council cannot currently demonstrate a five year supply of deliverable housing land. Accordingly, the assessment of the proposal is undertaken in accordance with NPPF paragraph 11 and the three core principles of sustainable development, as considered above. The key consideration is if the adverse impacts of the proposal demonstrably outweigh the benefits.
- 3.8 In this case, the benefits of the proposal can be considered to be the provision of 31 new dwellings, some of which would be affordable, and the, albeit limited, economic benefits. However, this has to be considered against how the development would function in social terms, as a detached settlement, which

would not provide sustainable transport linkages to the existing residential development, and facilities, in the area. In terms of the environmental harm caused, development of the site would alter the prevailing rural character at this location and extend the built form to the southern highway boundary.

- 3.9 To make the development acceptable in highway terms would require significant works to the boundary treatment, comprising mature hedgerow removal to create any required visibility splay beyond the extent of the site frontage onto Abbey Road and were that splay achievable, along with engineered footways, retaining structures, vehicle passing places and any necessary street lighting, the existing edge of settlement transitional character and rural street scene would be unduly harmed.
- 3.10 While an indicative layout plan has been provided, it is unclear how the proposed dwellings could be accommodated and successfully relate to the existing land form.
- 3.11 The significant adverse impacts of the proposal are not considered to be outweighed by what are considered to be limited benefits. The proposed development is therefore considered unacceptable.

g) **Recommendation**

I. Planning permission be REFUSED, for the following reasons:

(1) The proposed development, if permitted, by virtue of its location outside of the Dover urban boundary, detached and isolated from the existing residential settlement in Coombe Valley with inadequate pedestrian links connecting to that settlement, would represent a socially and environmentally unsustainable, and spatially incongruous, form of development, contrary to the aims and objectives of Core Strategy policy DM1 and the aims and objectives of the NPPF at paragraphs 8, 11, 91, 127, 130, and 172 in particular.

(2) The proposed development if permitted, by virtue of its character, location, siting and form would result in an inappropriate and poorly related development at odds with its sensitive and transitional countryside/edge of settlement location. This would lead to the loss of open countryside, which would have an adverse and harmful effect upon this distinctive rural landscape and the natural beauty of the Kent Downs Area of Outstanding Natural Beauty, resulting in a loss of green infrastructure, contrary to Core Strategy policies CP7, DM15 and DM16, the aims and objectives of the NPPF at paragraphs 127, 130, 170, and 172 in particular, the Kent Design Guide and the Kent Downs Area of Outstanding Natural Beauty Management Plan 2014-2019.

(3) In the absence of sufficient information to demonstrate otherwise, it is not possible to determine, in the interests of highway safety, that the proposed access can achieve acceptable highway visibility standards, south east from the proposed access, in a manner that ensures the safe operation/use of the access on to Abbey Road. Accordingly the proposal is contrary to the aims and objectives of the NPPF paragraphs 124 and 130 and contrary to the Kent Design Guide: Supplementary Guidance – Visibility (Interim Guidance Note 2).

(4) In the absence of sufficient information to demonstrate otherwise, it is not possible to determine, in the interests of pedestrian and highway safety, that on Abbey Road between the site and the junction of Barwick Road/St Radigund's Road, sufficient space is available within highway land to accommodate a

connecting pedestrian footway and a single vehicle passing space, which would enable the safe use of the highway for travel between those locations. Accordingly the proposal is contrary to the aims and objectives of the NPPF paragraphs 8, 91, 124, 127 and 130 and contrary to the Kent Design Guide: Supplementary Guidance – Visibility (Interim Guidance Note 2).

- II. That powers be delegated to the Head of Regeneration and Development to settle any reasons for refusal in line with the issues set out in the recommendation, as resolved by the Planning Committee, and as may be indicated in any consultation responses received during the consultation period after the committee meeting.

Case Officer

Darren Bridgett