

Public Document Pack



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15 August 2018

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **PLANNING COMMITTEE** will be held in the Council Chamber at these Offices on Thursday 23 August 2018 at 6.00 pm when the following business will be transacted.

Members of the public who require further information are asked to contact Kate Batty-Smith on (01304) 872303 or by e-mail at kate.batty-smith@dover.gov.uk.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kate Batty-Smith', written over a white background.

Chief Executive

Planning Committee Membership:

F J W Scales (Chairman)
B W Butcher (Vice-Chairman)
P M Beresford
T A Bond
D G Cronk
M R Eddy
B Gardner
D P Murphy
M J Ovenden
P M Wallace

AGENDA

1 **APOLOGIES**

To receive any apologies for absence.

2 **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointments of Substitute Members.

3 **DECLARATIONS OF INTEREST** (Page 5)

To receive any declarations of interest from Members in respect of business to be transacted on the agenda.

4 **MINUTES**

To confirm the Minutes of the meeting of the Committee held on 19 July 2018 (to follow).

5 **ITEMS DEFERRED** (Page 6)

To consider the attached report of the Head of Regeneration and Development.

ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING
(Pages 7-10)

6 **APPLICATION NO DOV/18/00687 - 32 KINSON WAY, WHITFIELD** (Pages 11-15)

Conversion of double garage into habitable accommodation and the erection of a linked porch to connect the existing house and garage

To consider the attached report of the Head of Regeneration and Development.

7 **APPLICATION NO DOV/18/00684 - LAND ADJACENT TO PICA PAU, MOORLAND ROAD, SHEPHERDSWELL** (Pages 16-25)

Erection of detached dwelling and creation of vehicular access

To consider the attached report of the Head of Regeneration and Development.

8 **APPLICATION NO DOV/18/00110 - LAND AT WARREN HOUSE, BUCKLAND LANE, STAPLE** (Pages 26-38)

Outline application for the erection of four dwellings (appearance, landscaping, layout and scale to be reserved)

To consider the attached report of the Head of Regeneration.

9 **APPLICATION NO DOV/18/00139 - BRACKNELL HOUSE, 34 HELENA ROAD, CAPEL-LE-FERNE** (Pages 39-48)

Change of use from residential care home to single residential dwelling

To consider the attached report of the Head of Regeneration and Development.

10 **APPLICATION NO DOV/18/00300 - AYLESHAM SPORTS CLUB, BURGESS ROAD, AYLESHAM** (Pages 49-66)

Erection of two-storey side and three-storey rear extensions to facilitate conversion into nineteen self-contained flats and a public house

To consider the attached report of the Head of Regeneration and Development.

11 **APPLICATION NO DOV/17/01345 - LAND AT CHURCHFIELD FARM, THE STREET, SHOLDEN** (Pages 67-112)

Outline application for up to 48 dwellings (comprising up to fourteen affordable dwellings and up to 34 market dwellings), a care home with up to 64 bedrooms (C2 use), publicly-accessible open space (including children's play area), attenuation pond, and creation of vehicular access (two dwellings to be demolished) (appearance, landscaping, layout and scale of development to be reserved). Proposed amendments to highway arrangements

To consider the attached report of the Head of Regeneration and Development.

12 **APPLICATION NO DOV/17/00056 - PHASE 1A OF WHITFIELD URBAN EXTENSION, WHITFIELD** (Pages 113-126)

Reserved matters application for 26 dwellings including access and estate roads, appearance, landscaping, layout and scale, and stopping up of Napchester Road. Details pursuant to outline permission DOV/10/01011

To consider the attached report of the Head of Regeneration and Development.

13 **APPLICATION NO DOV/18/00201 - MATTHEEUWS TRANSPORT LTD, LAND SOUTH-WEST OF PALMERSTON ROAD, PORT ZONE, WHITE CLIFFS BUSINESS PARK, WHITFIELD** (Pages 127-150)

Change of use of land to form part of existing transportation depot (extension of existing use)

To consider the attached report of the Head of Regeneration and Development.

ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING

14 **APPEALS AND INFORMAL HEARINGS**

To receive information relating to Appeals and Informal Hearings, and appoint Members as appropriate.

15 **ACTION TAKEN IN ACCORDANCE WITH THE ORDINARY DECISIONS (COUNCIL BUSINESS) URGENCY PROCEDURE**

To raise any matters of concern in relation to decisions taken under the above procedure and reported on the Official Members' Weekly News.

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.

- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes will be published on our website as soon as practicably possible after each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Kate Batty-Smith, Democratic Services Officer, telephone: (01304) 872303 or email: kate.batty-smith@dover.gov.uk for details.

Large print copies of this agenda can be supplied on request.

Declarations of Interest

Disclosable Pecuniary Interest (DPI)

Where a Member has a new or registered DPI in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Other Significant Interest (OSI)

Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

Voluntary Announcement of Other Interests (VAOI)

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

Note to the Code:

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

DOVER DISTRICT COUNCIL

REPORT OF THE HEAD OF REGENERATION AND DEVELOPMENT

PLANNING COMMITTEE – 23 AUGUST 2018

CONSIDERATION OF THE FOLLOWING ITEMS HAS BEEN DEFERRED AT PREVIOUS MEETINGS

Members of the Planning Committee are asked to note that the following application(s) have been deferred at previous meetings. Unless specified, these applications are not for determination at the meeting since the reasons for their deferral have not yet been resolved.

- 1. DOV/17/01345** **Outline application for up to 48 dwellings (comprising up to 14 affordable dwellings and up to 34 market dwellings), a care home with up to 64 bedrooms (C2 use), publicly-accessible open space (including children’s play area), attenuation pond, and creation of vehicular access (two dwellings to be demolished) (appearance, landscaping, layout and scale of development to be reserved). Proposed amendments to highway arrangements – Land at Churchfield Farm, The Street, Sholden (Agenda Item 9 of 19 July 2018)**

This item is dealt with elsewhere on the agenda

Background Papers:

Unless otherwise stated, the appropriate application file, the reference of which is stated.

MIKE EBBS

Head of Regeneration and Development

The Officer to whom reference should be made concerning inspection of the background papers is Alice Fey, Support Team Supervisor, Planning Section, Council Offices, White Cliffs Business Park, Dover (Tel: 01304 872468).

APPLICATIONS WHICH MAY BE SUBJECT TO PUBLIC SPEAKING

The Reports

The file reference number, a description of the proposal and its location are identified under a) of each separate item. The relevant planning policies and guidance and the previous planning history of the site are summarised at c) and d) respectively.

The views of third parties are set out at e); the details of the application and an appraisal of the proposal are set out at f) and each item concludes with a recommendation at g).

Additional information received prior to the meeting will be reported verbally. In some circumstances this may lead to a change in the recommendation.

Details of the abbreviated standard conditions, reasons for refusal and informatives may be obtained from the Planning Support Team Supervisor (Tel: 01304 872468).

It should be noted, in respect of points raised by third parties in support of or objecting to applications, that they are incorporated in this report only if they concern material planning considerations.

Each item is accompanied by a plan (for identification purposes only) showing the location of the site and the Ordnance Survey Map reference.

Site Visits

All requests for site visits will be considered on their merits having regard to the likely usefulness to the Committee in reaching a decision.

The following criteria will be used to determine usefulness:

- The matter can only be safely determined after information has been acquired directly from inspecting this site;
- There is a need to further involve the public in the decision-making process as a result of substantial local interest, based on material planning considerations, in the proposals;
- The comments of the applicant or an objector cannot be adequately expressed in writing because of age, infirmity or illiteracy.

The reasons for holding a Committee site visit must be included in the minutes.

Background Papers

Unless otherwise stated, the background papers will be the appropriate file in respect of each application, save any document which discloses exempt information within the meaning of the Local Government (Access to Information) Act 1985.

The Officer to whom reference should be made concerning inspection of the background papers is Alice Fey, Planning Support Team Supervisor, Planning Department, Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ (Tel: 01304 872468).

IMPORTANT

The Committee should have regard to the following preamble during its consideration of all applications on this agenda

1. Section 70(2) of the Town and Country Planning Act 1990 requires that, in dealing with an application for planning permission, the local planning authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that: 'If regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'.
3. Planning applications which are in accordance with the relevant policies in the Development Plan should be allowed and applications which are not in accordance with those policies should not be allowed unless material considerations justify granting of planning permission. In deciding such applications, it should always be taken into account whether the proposed development would cause demonstrable harm to interests of acknowledged importance. In all cases where the Development Plan is relevant, it will be necessary to decide whether the proposal is in accordance with the Plan and then to take into account material considerations.
4. In effect, the following approach should be adopted in determining planning applications:
 - (a) if the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan;
 - (b) where there are other material considerations, the Development Plan should be taken as the starting point and the other material considerations should be weighed in reaching a decision;
 - (c) where there are no relevant policies in the Development Plan, the planning application should be determined on its merits in the light of all material considerations; and
 - (d) exceptionally, a development proposal which departs from the Development Plan may be permitted because the contribution of that proposal to some material, local or national need or objective is so significant that it outweighs what the Development Plan says about it.
5. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, in considering planning applications for development affecting a listed building or its setting, special regard shall be had to the desirability of preserving the building, its setting or any features of special architectural or historical interest which it possesses. Section 72 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas when considering any applications affecting land or buildings within them. Section 16 requires that, when considering applications for listed building consent, special regard shall be had to the desirability of preserving the listed building, its setting, or features of special architectural or historic interest which it has.
6. Section 38(6) of the 2004 Act does not apply to the determination of applications for advertisement consent, listed building consent or conservation area consent. Applications for advertisement consent can be controlled only in the interests of amenity and public safety. However, regard must be had to policies in the Development Plan (as material considerations) when making such determinations.

The Development Plan

7. The Development Plan in Dover District is comprised of:

Dover District Core Strategy 2010
Dover District Land Allocations Local Plan 2015
Dover District Local Plan 2002 (saved policies)
Worth Neighbourhood Development Plan (2015)
Kent Minerals and Waste Local Plan 2016

Human Rights Act 1998

During the processing of all applications and other items and the subsequent preparation of reports and recommendations on this agenda, consideration has been given to the implications of the Human Rights Act 1998 in relation to both applicants and other parties and whether there would be any undue interference in the Convention rights of any person affected by the recommended decision.

The key articles are:-

Article 8 - Right to respect for private and family life, home and correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 1 of the First Protocol - Right of the individual to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

Account may also be taken of:-

Article 6 - Right to a fair trial and public trial within a reasonable time.

Article 10 - Right to free expression.

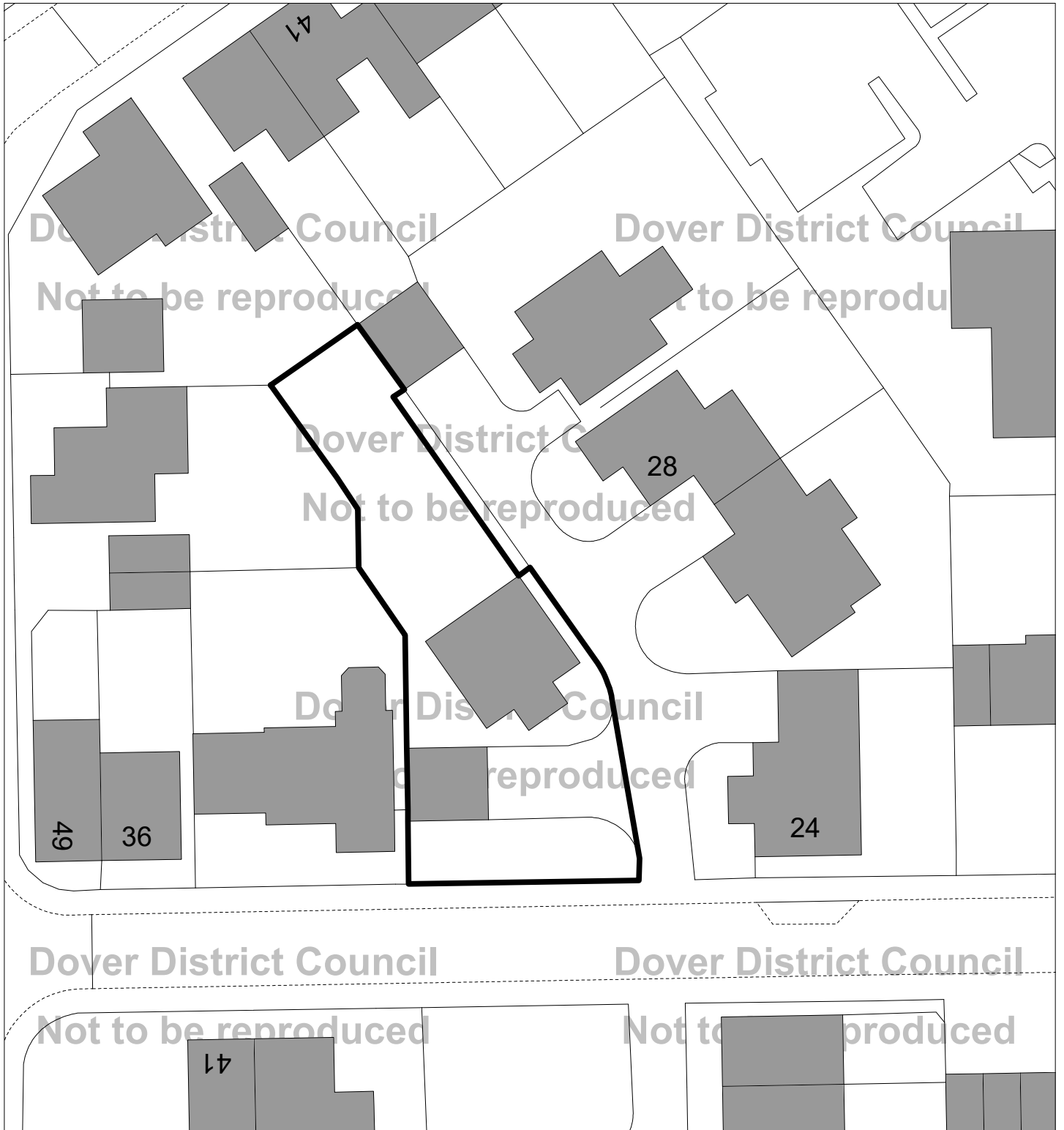
Article 14 - Prohibition of discrimination.

The Committee needs to bear in mind that its decision may interfere with the rights of particular parties, particularly under Article 8 and Article 1 of the First Protocol. The decision should be a balanced one and taken in the wider public interest, as reflected also in planning policies and other material considerations.

(PTS/PLAN/GEN) HUMANRI

PUBLIC SPEAKING AT PLANNING COMMITTEE

1. The scheme for public speaking at Planning Committee only concerns matters relating to the determination of individual applications for planning permission contained in the Planning Committee agenda and not to other matters such as Tree Preservation Orders or Enforcement.
2. The scheme for public speaking will apply at each meeting where an individual application for planning permission is considered by the Planning Committee.
3. Any person wishing to speak at the Planning Committee should submit a written request using this form and indicate clearly whether the speaker is in favour of, or opposed to, the planning application.
4. The form must be returned to Democratic Support no later than two working days prior to the meeting of the Planning Committee.
5. Speaking opportunities will be allocated on a first come, first served basis but with the applicant being given first chance of supporting the scheme. Applicants or agents will be notified of requests to speak. Third parties who have applied to speak will be notified of other requests only when these directly affect their application to speak. The names, addresses and telephone numbers of people who wish to speak may be given to other people who share their views and have expressed a wish to address the Committee. The identified speaker may defer to another at the discretion of the Chairman of the Committee.
6. One person will be allowed to speak in favour of, and one person allowed to speak against, each application. The maximum time limit will be three minutes per speaker. This does not affect a person's right to speak at a site visit if the Committee decides one should be held.
7. Public speakers will not be permitted to distribute photographs or written documents at the Committee meeting.
8. The procedure to be followed when members of the public address the Committee will be as follows:
 - (a) Chairman introduces item.
 - (b) Planning Officer updates as appropriate.
 - (c) Chairman invites the member of the public and Ward Councillor(s) to speak, with the applicant or supporter last.
 - (d) Planning Officer clarifies as appropriate.
 - (e) Committee debates the application.
 - (f) The vote is taken.
9. In addition to the arrangements outlined in paragraph 6 above, District Councillors who are not members of the Committee may be permitted to address the Planning Committee for three minutes in relation to planning applications in their Ward. This is subject to giving formal notice of not less than two working days and advising whether they are for or against the proposals. In the interests of balance, a further three minutes' representation on the contrary point of view will be extended to the identified or an additional speaker. If other District Councillors wish to speak, having given similar notice and with the agreement of the Chairman, this opportunity will be further extended as appropriate.
10. Agenda items will be taken in the order listed.
11. The Chairman may, in exceptional circumstances, alter or amend this procedure as deemed necessary.



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Application: DOV/18/00687

32 Kinson Way

Whitfield

CT16 2FB

TR30354423



- a) **DOV/18/00687 – Conversion of double garage into habitable accommodation and the erection of a linked porch to connect the existing house and garage - 32 Kinson Way, Whitfield, Dover**

Reason for Report: Number of contrary views

- b) **Summary of Recommendation**

Planning Permission be GRANTED

- c) **Planning Policy and Guidance**

Dover District Core Strategy (CS)

Policy DM1 supports development carried out within the urban confines

Policy DM 13 Parking Provision

National Planning Policy Framework (NPPF)

NPPF 2018 Achieving sustainable development (paras 7 – 14)

Achieving well designed places (paras 124-132)

Kent Design Guide Review 2008 – Residential Parking

- d) **Relevant Planning History**

DOV/06/850 granted planning permission for ‘Residential development comprising 123 houses and 54 flats with associated garaging and car parking and infrastructure’ The Permission was subject to condition number 19 of which requires *inter alia* that parking be retained as such. Reason: In order to ensure that adequate parking or garaging is provided and maintained in the interest of road safety and visual amenity

The site was the subject of a complaint in regard to a fence in 2014. It was established that the fence was Permitted Development under the General Permitted Development Order.

Conditions and Covenants

It is understood that there are a number of restrictive covenants on the estate. Such covenants are legal agreements between buyers and sellers of property to which the Council is not a party. Such covenants are not enforced by the Council nor are they a material planning consideration.

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

Whitfield Parish Council have no objection to the application.

Eight local residents object to the proposal, as does the Estate Management Company, on the grounds summarised as follows:

- Loss of two existing parking spaces within garage, inadequate parking within the curtilage potentially leading to more on road parking now and in the future leading to inconvenient to other road users including by constructional traffic
- Contravention of Condition 19 of DOV/06/850 which requires *inter alia* that parking be retained as such
- Loss of privacy due to overlooking from the proposed new windows in the front elevation of the garage
- Development would preclude access to rear garden area for house owner
- Proposal is out of character with estate.
- Traffic associate with construction
- Contravention of restrictive covenants (not a material planning consideration)
- Loss of value of other housing (not a material planning consideration)

1. **The Site and the Proposal**

The Site

- 1.1 The site comprises a modern detached brick and tile house set at the entrance to a small private close off Kinsen Way within the confines of Dover. The house benefits from a detached double garage of brick and tile which is set forward of the dwelling and at about 45 degrees to it.
- 1.2 Forward of the house and between the garage and the main driveway of the close is a tarmacked forecourt on which it is possible to park three cars (two in parallel and one at an angle). Between the forecourt and the highway is a small garden area enclosed by a low wooden picket fence.

The Proposal

- 1.3 The applicant seeks permission to convert the garage to habitable accommodation in the form of an additional bedroom which would include a small en-suite facility.
- 1.4 The existing two single 'up and over' garage doors would be removed and replaced by two side hung twin panel windows with in-fill bricks to match the existing structure.
- 1.5 The proposal also includes a link structure in the form a short corridor which would connect the side of the converted garage to the side of the house and its exiting side entrance. The link structure would be brick with a flat roof incorporating a lantern skylight to provide light to the passageway. There would be ramped disabled access to the front and rear of the link structure immediately adjacent to the side door of the host dwelling allowing access to the front and the rear garden.
- 1.6 A statement included in the application indicates that the applicants, who are both elderly, are in effect 'future proofing' their home to allow accommodation should they become infirm.
- 1.7 At least two parking spaces and potentially three including one in tandem would be retained on the existing driveway.

2. **Main Issues**

- 2.1 The principle of the development
- Car parking provision within the curtilage and the wider area

- Residential amenity
- Street scene and character of the area
- Other matters

Other Issues raised by local residents including restrictive covenants and the value of property are not material planning considerations

3. **Assessment**

3.1 The Principle of the Development

3.2 Core Strategy Policy DM1 supports and encourages development within the confines, accordingly the principle of this proposal is acceptable

3.3 The development proposed would, as the applicant says, future proof the residential unit and the site for different generations of occupants. This approach is supported by the NPPF and accordingly the development proposals are sustainable.

3.4 Car parking within the curtilage and the wider area

3.5 Condition 19 of the base planning permission required that *“No residential unit shall be occupied until space within its curtilage or, alternatively, the space allocated in connection with its use and the vehicular access to it have been laid out and surfaced for the parking or garaging of cars in accordance with the details hereby approved. That space and the vehicular access to it thereafter shall not be used for any purpose other than the parking of vehicles.(Dover District Local Plan Policy TR7). Reason: In order to ensure that adequate parking or garaging is provided and maintained and in the interests of road safety and visual amenity”*

3.6 This condition pre-dates the current Highway Authority Residential Parking Standards which in the case of a 4+ bedroomed house in a suburban area now requires 2 parking spaces. It should also be pointed out that the Highway Authority have now recognised that domestic garages are in reality rarely used for the garaging of cars rather they are used for other domestic purposes including storage, Gyms, Domestic workshops etc. accordingly such spaces are not ‘counted’ by KCC as parking spaces as such.

3.7 The condition was originally imposed for good reason at the time, however, the forecourt of the application property is of sufficient size to comfortably accommodate the required two vehicle parking spaces and indeed a third car space would be possible.

3.8 In addition visits to the area at various times of day have revealed that there is available on road parking in the area. Accordingly, it is not considered that the loss of the garage space would result in harm to road safety or normal amenity in this location

3.9 Residential Amenity

3.10 The two new windows in the proposed development (to replace the garage doors) are looking towards the public realm. The distance between the new windows and those of the facing property opposite would be about 19 metres across the courtyard and access roadway to the rest of the close. I do not therefore consider that there would be any significant loss of privacy to any other local resident.

- 3.11 Off road parking is of course a valuable amenity. However, in view of the availability of on road parking to all residents and the retained driveway parking, it is not considered that the loss of the garaging would cause harm to the amenity of local residents.

Street Scene and Character of the Area

- 3.12 The substitution of two windows for garage doors would have little visual impact on the streets scene or harm to the visual amenity of the area. The proposals are reasonably well designed and finished and there is no harmful impact likely on the street scene and character of the area.

3.13 Other Matters

- 3.14 Issues raised by local residents including restrictive covenants and the value of property are not material planning considerations.

- 3.15 Access to the rear garden by the owner as mentioned by local residents is not an issue for the local planning authority but in any case, the ramped access to doors both side of the link structure would allow such access.

- 3.16 Although there may be some minor disruption due to construction traffic this would be very transient in nature and is unlikely to significantly interfere with the ebb and flow of traffic.

4. Conclusion

- 4.1 Overall, the proposal is a positive form of sustainable development within the urban confines. I consider that the proposal would have no significant harmful impact on parking provision within the site and surrounding area. There would be no significant impact on residential amenity and no significant adverse impact on the character and appearance of the area.

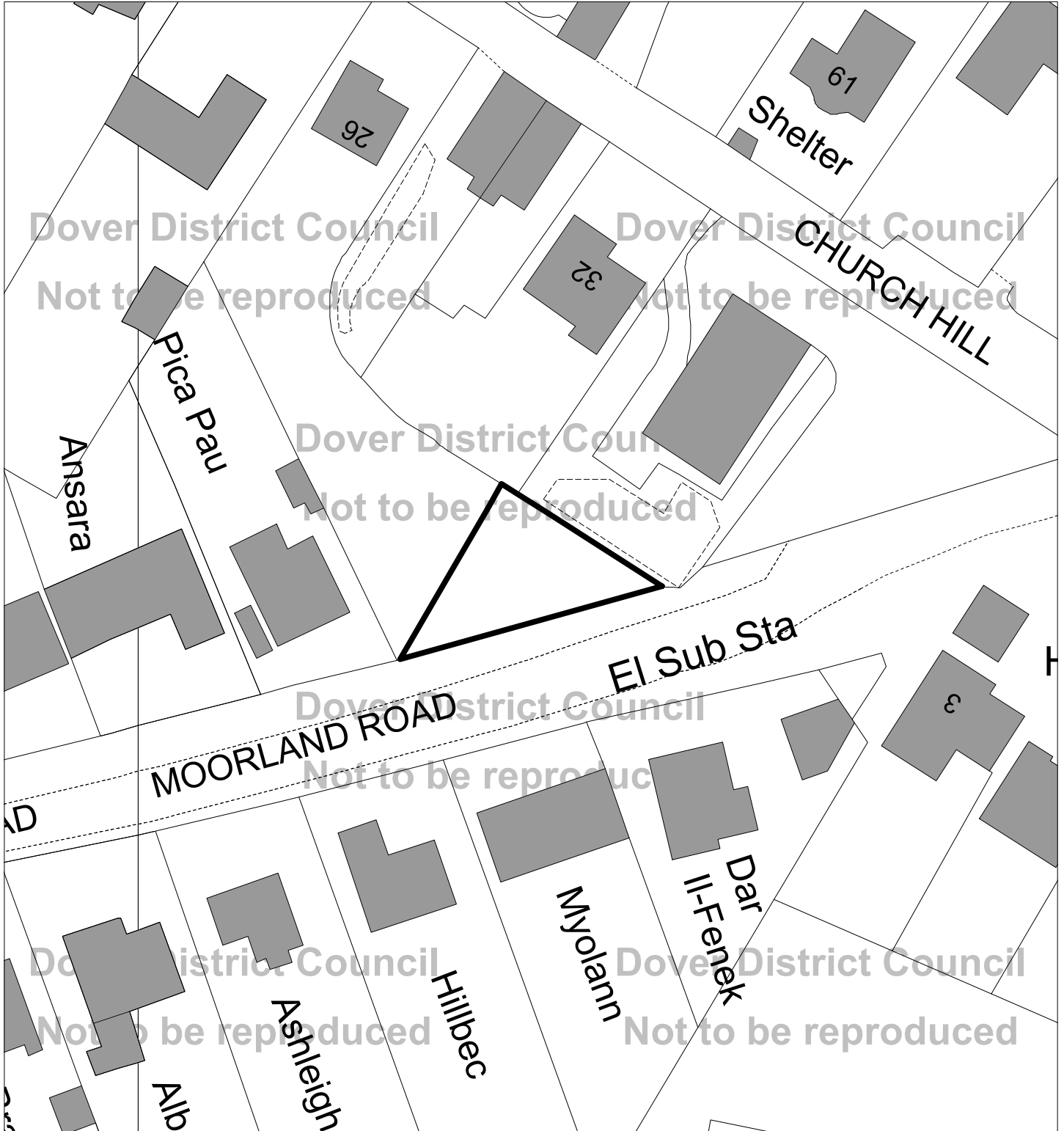
- 4.2 I therefore recommend planning permission be granted

g) Recommendation

- (i) Planning permission be **GRANTED** subject to conditions to include (1) time, (2) compliance with plans and (3) The use of the accommodation hereby permitted shall remain ancillary to the main house and not used as a separate residential unit of accommodation.
- (ii) Powers be delegated to the Head of Regeneration and Development to settle any necessary issues in line with the matters set out in the recommendation and as resolved by planning committee.

Case Officer

Tony Jarvis



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published 2018

Note: This plan is provided for purposes of site identification only.

Application: DOV/18/00684

Land adj; 'Pica Pau'

Moorland Road

Shepherdswell

CT15 7NS

TR26044783



- a) **DOV/18/00684 – Erection of detached dwelling and creation of vehicular access - Land adjacent to Pica Pau, Moorland Road, Shepherdswell**

Reason for report - Number of contrary representations (7)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Development Plan

The development plan for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act (2004) comprises the Dover District Council Core Strategy 2010, the saved policies from the Dover District Local Plan 2002, and the Land Allocations Local Plan (2015). Decisions on planning applications must be made in accordance with the policies of the development plan unless material considerations indicate otherwise.

In addition to the policies of the development plan there are a number of other policies, standards and legislation which are material to the determination of planning applications including the National Planning Policy Framework 2018 (NPPF), National Planning Practice Guidance (NPPG), the Planning (Listed Buildings and Conservation Area) Act 1990, together with other local guidance.

A summary of relevant planning policy is set out below:

Dover District Core Strategy (2010)

Policy DM1- Settlement boundaries

Policy DM13 – Parking provision.

National Planning Policy Framework (NPPF) (2018)

- Paragraph 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development. The objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- Paragraph 124 states that 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.
- Paragraph 127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and landscaping, are sympathetic to local character and history and create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users.

The Kent Design Guide

The guide provides criteria and advice on providing well designed development, emphasising that context should form part of the decision making around design.

d) **Relevant Planning History**

- DOV/15/00213 - Erection of detached dwelling and creation of vehicular access and parking – REFUSED
- DOV/05/01049 – Erection of 3no. garages (single building): GRANTED
- DOV/87/00520 – Erection of a garage: GRANTED

e) **Consultee and Third Party Responses**

Representations can be found in full in the online planning file. A summary has been provided below:

KCC Archaeology: “In this instance, I would suggest that no archaeological measures are required.”

Shepherdswell with Coldred Parish Council: “The Parish Council resolved to recommend refusal on the grounds of over intensive development of the site leading to an overbearing impact on neighbouring properties.”

Public Representations:

Objections

There have been 7 letters of objection from the public consultation of the application, summarised as following:

- The bank is unstable, there is a risk of subsidence
- Overshadowing concerns
- Interlooking concerns
- The proposal would lead to an overdevelopment of the site
- Concerns over accuracy of drawings
- Change in character of Moorland Road
- Proposed dwelling breaks building line
- The parking space will not have a good sight line
- Increased traffic is a concern for the safety of pedestrians
- Further traffic will compound the increasingly crumbling entrance to the road from Church Hill
- The proposal is encroaching
- The plans do not show any soakaways

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

- 1.1 The application site is a triangular plot of land situated on an unmade residential street, Moorland Road, in Shepherdswell. In the northern corner of the site, there is an area of hardstanding, most likely from a previous development, potentially in connection with the approval for three garages under DOV/05/01049. Along both side boundaries of the site, there is a mixture of tall trees, dense hedges and planting that form the boundary treatment, as well as a post and wire fence. The frontage of the site is open.
- 1.2 The approximate dimensions of the site are as follows:
 - 30.3 metres (frontage)
 - 21.3 metres (western boundary)
 - 20.2 metres (eastern boundary)
- 1.3 Neighbouring the site on Moorland Road is Pica Pau to the west and opposite are Myolann and Dar Il-fenek. Properties on Church Hill also border the site, notably Two Saints Church (34 Church Hill), 32 Church Hill and 26 Church Hill (the boundary of which stretches around the rear gardens of intervening neighbours to meet the western boundary of the site. Properties in this location are a mix of single storey dwellings and two storey dwellings that vary in character, appearance, scale and form. The boundary of the site with 34 Church Hill is noticeable in that there is a drop in the land level from the site to number 34 of between four and five metres.
- 1.4 Permission was refused at this application site for the erection of a two storey detached dwelling under reference DOV/15/00213. The application was refused as the development, by virtue of its siting, scale and form in a small plot, set close to the public highway and in some cases at a significantly higher land level than neighbouring properties, would have caused unacceptable overshadowing, overlooking and interlooking in relation to its neighbouring properties, and would have given rise to a cramped form of development when read in the context of the existing street scene.

The Proposal

- 1.5 Permission is sought to erect a single storey dwellinghouse. The dwelling would have two bedrooms, a kitchen/living/dining room and a bathroom. There would be a small garden to the east of the dwelling. One off street parking space would be provided.
- 1.6 The main dwelling would have a shallow pitched hipped roof and would have a flat roof over the front porch. The roof would be finished in interlocking tiles and the external walls would be finished in brickwork and render. The fenestration of windows and doors has not been specified.
- 1.7 There would be a low level picket fence and planted hedge along the front boundary of the site with a new 1.8m close boarded fence to the west and east boundaries of the site.
- 1.8 The off street parking arrangement has been altered since the original submission of the application, where two separate parking spaces were shown.

The proposal now includes one larger parking space in the south-eastern corner of the site measuring 4.4m x 5.9m.

- 1.9 The approximate dimensions of the proposed dwellinghouse are as follows:
- Width along front (south-east) – 8.5 metres
 - Depth along the side (north-east) - 9.85 metres
 - Height to eaves – 2.2 metres
 - Maximum height – 4 metres
 - Gap between dwelling and eastern boundary: 4 metres
 - Gap between dwelling and western boundary: 0.5 metres
 - Set-back from frontage of site: 1.2 metres

2 Main Issues

2.1 The main issues to consider are:

- Principle
- Visual Amenity and Design
- Residential Amenity
- Access, Parking and Highways

3 Assessment

Principle of Development

- 3.1 The site is located within the settlement confines of Shepherdswell and the erection of a new dwellinghouse is considered acceptable in principle, subject to its design details, amenity considerations, highway matters and any other material considerations. Paragraph 11 states that development that accords with the development plan should be approved without delay.

Visual Amenity and Design

- 3.2 It is considered that there is no overriding style of development in the immediate vicinity of the application site. The proposed detached dwellinghouse would be single storey with a low eaves height and a hipped roof. The external walls would be finished in brickwork with rendered sections and the roof would be finished in plain tiles. The single storey dwelling would have a simple design and layout with traditional materials and finish.
- 3.3 The proposed dwelling would be set back from the highway by 1.2 metres with a low level picket fence along the frontage of the site and planted hedge behind it. It is noted that the dwelling would be set further forward (to the south) than other dwellings along Moorland Road, however given the existing and proposed landscaping and the low eaves height and hipped roof of the proposed dwelling, it is not considered that this would have a harmful impact or overbearing on the appearance of this residential road and its streetscene. Regardless, it is a character of Moorland Road that dwellings are not laid out parallel with the highway, so some are further away and some are closer, meaning that there is not a defined building line, as such, which might reasonably be expected to be

followed.

- 3.4 The topography of the site is such that the land falls towards to north. As such, the proposed dwellinghouse would be set down approximately 30cm from the highway initially, with a 70cm drop from the highway level to the finished floor level. The dwelling would be accessed by steps and a ramp. Due to the nature of the site, the proposed dwellinghouse, with its relatively low height, is considered to be a low key form of development that would not appear as intrusive or incongruous within the street scene.
- 3.5 The scale and form of the proposed dwelling are considered to be acceptable for this location and the size of the plot. There would be garden space along the frontage of the site and along the eastern boundary of the site. The dwelling would be set back 1.2 metres into the site, which together with the proposed retention of the existing trees and hedges on the side boundaries and the proposed hedge along the frontage of the site, helps to retain the character and appearance of the immediate area and neighbouring gardens. The proposed materials, design, scale and form are considered to be acceptable and would not result in an adverse visual impact.
- 3.6 The proposed dwelling would be partially visible from the garden areas of neighbouring properties. The proposal includes the erection of 1.8m tall close-boarded timber fencing along both side boundaries of the plot, along with a new hedge and low level picket fence along the frontage. The boundary treatment would help to screen the proposed dwelling to an extent and would reduce any visual impact caused to neighbouring occupiers.
- 3.7 The simple design solution is therefore considered acceptable in this location and it is considered that it would not cause an adverse impact on the visual quality of the character and appearance of the local area.

Impact on Residential Amenity

- 3.8 The application site shares a boundary with Two Saints Church (number 34 Church Hill) which is to the north-east of the application site, number 32 Church Hill (to the north-east), Pica Pau (to the west of the application site), 26 Church Hill (the boundary of which stretches around the rear gardens of intervening neighbours to meet the western boundary of the site).
- 3.9 **26 Church Hill:** The rear garden boundary of this neighbouring site adjoins the western boundary of the application site. The rear garden of number 26 is approximately 55m long. It wraps around the rear gardens of neighbouring properties on Church Hill. There would be one window on the north-west facing elevation of the proposed dwelling, however the proposed 1.8m timber fence would screen this window and therefore no overlooking into the rear garden of number 26 would occur as a result of the proposal. A negligible level of overshadowing to the rear portion of this garden would occur as a result of the proposal; however this is unlikely to cause an adverse impact on the residential amenity of neighbouring occupiers, as the overshadowing would only be caused to the rear-most portion of the garden, which appears to be used for the storage of garden waste. The rear elevation of the neighbouring dwelling is some 55

metres away from the application site. It is not considered that the proposed dwelling would cause any undue overbearing impact on this neighbouring property.

- 3.10 **32 Church Hill:** This neighbouring dwelling is located to the north-east of the application site. Only a small portion of the rear boundary of number 32 is shared with the application site. The eastern boundary of the application site has planting, trees and hedges along it which helps to screen the application site from views into and from neighbouring properties. There is also a drop of between 4 and 5 metres down to Church Hill and the rear garden area of number 32, which together with the existing screening, protects the neighbouring property from any adverse impacts of the proposed dwellinghouse. It is not considered that the proposal would lead to an adverse impact on the residential amenity enjoyed by these neighbouring occupiers by way of a demonstrable level of overshadowing, undue overbearing or overlooking into the private amenity spaces of this neighbouring property.
- 3.11 **Two Saints Church, 34 Church Hill:** Where the application site adjoins 34 Church Hill, the difference in land level is between 4 and 5 metres. There are existing trees, planting and hedges on the shared eastern boundary of the application site which are due to be retained and a 1.8m tall timber close boarded fence would be installed. The maximum height of the proposed dwelling would be 4 metres at the ridge of the hipped roof; however the eaves height would be 2.2 metres and there would be a gap between the proposed dwelling and the shared boundary of 4 metres. The boundary treatment (both existing and proposed) would screen the proposed dwelling, largely, from the neighbouring dwelling and it is not considered that the proposal would have an unduly overbearing impact on these neighbouring occupiers. The screening would also prevent the neighbouring property from being overlooked. The existing trees and hedgerow already cause some level of overshadowing to the rear garden and driveway of Two Saints Church. The 4 to 5 metre drop in land levels between the application site and this neighbouring property means that any overshadowing effect caused by the proposed development is unlikely to be materially worse than the existing situation.
- 3.12 **Pica Pau, Moorland Road:** This neighbouring property is sited to the west of the application site. Pica Pau is set further to the north than the proposed dwelling. Given the siting of this neighbour and the proposed screening to the side boundaries of the application site, it is considered that no undue overlooking would result from the proposal. A negligible level of overshadowing may be caused to the side (east) of this neighbouring property during the morning, however this would subside by midday and it is not considered that this would cause an adverse impact to the residential amenity enjoyed by the neighbouring occupiers.

Wider Amenity Impact

- 3.13 The dwellings on the southern side of Moorland Road, particularly Dar Il-Fenek and Myolann, are sited directly to the south of the application site. The proposed dwelling would be set down from the road level, and the windows on the front elevation are set at an angle, with the bedroom window facing towards the south-

east, away from the dwellings opposite. It is considered that the privacy of these neighbouring dwellings would be preserved. As the dwellings opposite the site are sited directly to the south no overshadowing would be caused to them as a result of the proposed dwelling.

- 3.14 As some of the neighbouring properties are in close proximity to the proposed dwelling, it is considered reasonable to restrict permitted development rights for any further extensions, enlargements or alterations to the dwelling and to the roof, to further protect the residential amenity and privacy of neighbouring occupiers. Subject to such a condition, the proposal is considered to adequately protect the residential amenity enjoyed by neighbouring occupiers and is therefore acceptable in this regard.

Access, Parking and Highways

- 3.15 The proposal is for one dwelling accessed from an unclassified road, therefore it falls outside of the KCC Highways consultation protocol. The proposed dwelling would be accessed via Moorland Road, which is an existing residential road. In terms of the parking arrangement to serve the proposed dwellinghouse, originally two parking spaces were proposed, one either side of the dwelling. However it was felt that this parking arrangement was contrived and would negatively affect the appearance of the proposal within the streetscene. Accordingly, one off street parking space has been provided in the south-eastern corner of the site, which, together with available on street parking immediately outside the proposed dwelling, is considered to meet the design led aspect of policy DM13. To ensure highway safety, a condition requiring the provision and maintenance of visibility splays onto Moorland Road is proposed.

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

- 3.16 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.
- 3.17 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 a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 3.18 Following consultation with Natural England, the identified pathway for such a likely significant 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.
- 3.19 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.

- 3.20 Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.
- 3.21 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant 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.

4. Conclusion

- 4.1 The proposal is considered acceptable, overcoming the reason for refusal of application DOV/15/00213. The design solution is considered to be sympathetic and it would not significantly detract from the character and appearance of the streetscene. It is considered that no significant or adverse impact would be caused to neighbouring occupiers and that the residential amenity enjoyed by neighbouring occupiers would be adequately preserved. The proposal is considered acceptable in terms of parking, access and highway safety. Given the limited scale of the proposed development, it is considered that the development would be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy and is therefore considered acceptable in this regard. The proposal is considered acceptable in all other material aspects. Accordingly the development would comply with the aims and objectives of the NPPF, and is considered to represent sustainable development bringing with it the benefit of additional housing in an area with limited supply in accordance with the aim of the NPPF, to boost housing supply.

g) Recommendation

- I. PERMISSION BE GRANTED subject to the following (summarised) conditions:

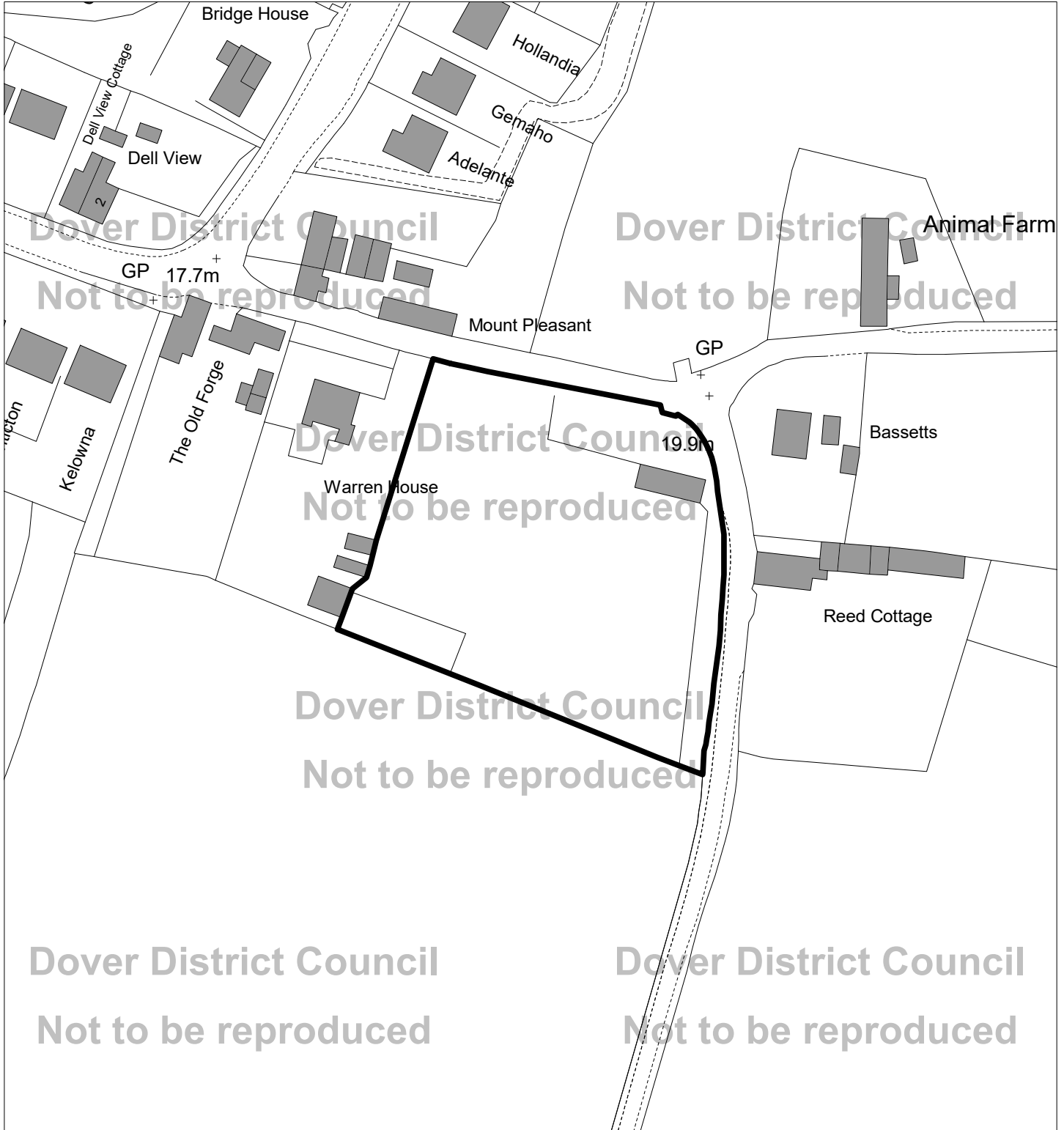
(1) Standard time condition (2) Approved plans (3) Samples of the materials for the external surfaces of the building to be submitted (4) Hard and soft landscaping scheme, including means of enclosure, to be submitted and approved (5) Restriction of PD rights for alterations, enlargements and extensions, no further access to be created (6) Refuse storage as indicated (7) Cycle storage as indicated (8) Retention of parking space (9) Ground levels, sections and details of earthworks to be submitted (10) Sustainable drainage scheme to be submitted (11) Bound surface for driveway (12) No surface water run-off onto highway (13) Visibility splays to be provided and maintained (14) Construction Management Plan to be submitted

- II. Powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by planning committee

Case Officer

Elouise Mitchell

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Application: DOV/18/00110

Land at Warren House

Buckland Lane

Staple

CT3 1JY

TR27245650



- a) **DOV/18/00110 - Outline application for the erection of four dwellings (appearance, landscaping, layout and scale to be reserved) - Land at Warren House, Buckland Lane, Staple**

Reason for report: no of representations

- b) **Summary of Recommendation**

Refuse planning permission.

- c) **Planning Policies and Guidance**

Development Plan

The development plan for the purposes of section 38(6) of the Planning and Compulsory Purchase Act (2004) comprises the Dover District Council Core Strategy 2010, the saved policies from the Dover District Local Plan (2002) and the Land Allocations Local Plan (2015). Decisions on planning applications must be made in accordance with the policies of the development plan unless material considerations indicate otherwise.

A summary of relevant planning policy is set out below:

Core Strategy Policies

- CP1 – Location and scale of development must comply with the Settlement Hierarchy. Staple is a Village; identified as a tertiary focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to its home and adjacent communities
- CP6 – Development which generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.
- DM1 – Settlement Boundaries. Development not permitted outside urban or rural boundaries unless alternative policies allow.
- DM11 – Location of Development and Managing Travel Demand.
- DM13 – Parking standards
- DM15 - states that development which would result in the loss of, or adversely affect the character or appearance, of the countryside will only be permitted if it is:
 - i) In accordance with allocations made in Development Plan Documents, or
 - ii) Justified by the needs of agriculture; or
 - iii) Justified by a need to sustain the rural economy or a rural community;
 - iv) It cannot be accommodated elsewhere; and
 - v) It does not result in the loss of ecological habitats.

Provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character.

- DM16 - states that development that would harm the character of the landscape, as identified through the process of landscape character assessment will only be permitted if:
 - i) It is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or
 - ii) It can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level.

Dover District Council Local Plan 'saved' policies (DDLDP)

There are no saved local plan policies that are relevant to this application.

Dover District Land Allocations Local Plan (2015)

There are no relevant policies in this plan.

National Planning Policy Framework 2018 (NPPF)

- Paragraph 2 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 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental. These three overarching objectives are interdependent and need to be pursued in a mutually supportive way.
- Paragraph 11 states that where development accords with an up-to-date development plan it should be approved without delay; or where there are no relevant policies or the most important policies for the determination of the application are out of date, then also granting consent. Where there is a clear reason for refusing the proposed development due to conflict with an area/asset of particular importance (as identified in the framework); and/or where any adverse impacts of granting permission significantly and demonstrably outweigh the benefits, when taking the Framework as a whole, then planning permission should be refused.
- Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
- Paragraph 47 ‘Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing’.
- Chapter five of the NPPF seeks to significantly boost the supply of housing, requiring Local Planning Authorities to identify specific deliverable sites sufficient to provide five years’ worth of housing.
- Chapter nine of the NPPF seeks to promote sustainable transport.

- Chapter twelve seeks to achieve well-designed places, with the creation of high quality buildings and places being fundamental to what planning and development process should achieve.
- Chapter fifteen requires that the planning system contributes to and enhances the natural and local environment, by recognising the intrinsic character and beauty of the countryside, protecting valued landscapes, geological conservation interests and soils, recognising the value of ecosystems, minimising impacts on, and where possible enhancing, biodiversity, preventing pollution and remediating contamination.
- Paragraph 177 states 'The presumption in favour of development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.'

Other Documents

The Kent Design Guide (KDG)

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

d) **Relevant Planning History**

80/00292 Kitchen extension - withdrawn

89/00275 Boarding Kennels – withdrawn

89/00746 Erection of stables – granted

95/00413 – Extension to dwelling - granted

e) **Consultee and Third Party Responses**

Staple Parish Council: recommend refusal based on the following concerns:

a) There is already a significant water pressure problem on Buckland Lane and this development would be detrimental to the water service at nearby properties.

b) Buckland Lane already has safety concerns, particularly since the removal of the bus service, which is particularly dangerous for pedestrians with buggies and young children walking to the pre-school. The Council cannot envisage anyway that a safe driveway to the proposed development could be built. In conjunction with access problems safe parking would also be difficult to arrange.

Principal Ecologist: - no comment

Southern Water: No objection. However, they point out that there is no public foul sewer in the vicinity/area of the site and alternative means of foul sewerage will need to be examined. If a septic tank is proposed or private waste water then the Environment Agency will need to be consulted. Arrangements will need to be made for the long term maintenance of SUDS.

Public Representations: 9 letters of objection and 9 letters of support.

The reasons for objection are summarised as follows:

- Safety – brought about by increase in traffic from the site and through the village
- Stretch of Buckland Road between the proposed site access and The Old Forge is particularly dangerous.
- Lack of footpaths is already a concern for parents with small children, walkers cyclists and horse riders.
- The site access is on a blind bend and visibility problems are exacerbated by the steep banks to the site
- Aylesham expansion is already having a noticeable impact on the traffic volume and rat running.
- Insufficient passing bays on the road
- Loss of privacy to properties opposite the site
- Impact on Grade II Listed Building
- Impact on roosting turtle doves on southern boundary of Warren House
- Services – problems with low water pressure in the village; older villagers will be forced out due to the decline in services, loss of the village shop, post office, pub and school
- Land allocation – this site does not form part of a land allocation
- Loss of grade 1 agricultural land
- Siting on higher land unacceptable
- Impact on electricity supply
- Two mile walk to the gp from the village

Non- material objections were submitted in relation to damage to existing properties and increase in littering.

The comments in support of the application are summarised as follows:

- Improved access
- New family housing is needed
- Ideal site for a small development – secluded location
- More residents would support the demand for more facilities in Staple
- Could bring about reinstatement of buses and community facilities which in turn will prevent the village from dying
- Convenient location to the village hall, pre-school and youth club
- The village needs growth
- Location is well screened, will not have an adverse impact on the village

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

The Site

- 1.1 The application site is approximately 0.40 hectares in size and is situated in the Parish of Staple. The site is located on the eastern side of Staple and only the existing dwelling is within the village boundary. The site currently forms part of the garden land of the property Warren House. The existing dwelling (a detached chalet bungalow) is on the southern side of Buckland Lane, an unclassified road, with a stepped pedestrian access to the front elevation; vehicular access is gained at the eastern end of the site. The proposed area for development is currently laid to lawn and has a stable block on the northern side.
- 1.2 The site is on land elevated from Buckland Road by approximately 1.5m. The site does not fall within any specific designation. The northern side of the site is bounded by close board fencing and an external view of the stables. The eastern and southern boundaries have native boundary hedging.

- 1.3 Warren House is opposite a property called Mount Pleasant to the north. To the eastern end is Animal Farm, the Bassetts and a Grade II Thatched listed building – Reed Cottage. To the south is open farmland and Buckland Road which leads to Aylesham.
- 1.4 The site is to the south-east of the centre of Staple; the village has limited amenities which comprise a Church and a village hall. It is understood that the bus service is no longer operational.

The Proposal

- 1.5 The application seeks outline planning permission for the erection of four detached dwellings. All matters, save for access, are reserved for future consideration. The application is not accompanied by any indicative drawings, draft layout or design concepts.
- 1.6 Drawings have been submitted showing the realignment of the existing access where it adjoins Buckland Lane. The proposed gradient is stated not to exceed 1:10 for the first 6m and drainage is proposed to prevent surface run off onto the public highway.

2. Main Issues

- 2.1 The main issues for determination are as follows:
 - The principle of the development
 - Impact on the character and appearance of the locality
 - Impact on Highway Safety
 - Impact on ecology
 - Residential amenity
 - Other material considerations

3. Assessment

The Principle of Development

- 3.1 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. This advice is reiterated in paragraph 2 of the NPPF.
- 3.2 The site is located within the Parish of Staple. Under Policy CP1 of the Core Strategy, Staple is identified as a Village. The function of a village is stated as being a 'Tertiary focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to essentially its home community'.
- 3.3 However, the site is located outside the settlement boundary of the defined village of Staple. Policy DM1 presumes against development in such a location (beyond settlement confines) unless justified by other development plan policies, none of which apply here. The proposal is therefore contrary to Policies CP1 and DM1.

- 3.4 Policy DM11 seeks to manage travel demand and states that development that would generate travel will not be permitted outside rural settlement confines unless justified by development plan policies. There are no other policies which support the principle of the development and as such the proposal is also contrary to Policy DM11.
- 3.5 At the present time the Council is unable to demonstrate a 5 year housing land supply. Paragraph 49 of the NPPF applies whereby relevant policies for the supply of housing should not be considered up to date and this can be a reason for engaging the 'tilted balance'.
- 3.6 Relevant policies in the development plan can also be out-of-date for reasons other than lack of a 5 year housing land supply and thereby also be a trigger for the 'tilted balance'. In March 2017 DDC Cabinet agreed to commence the review of the Core Strategy and LALP through the preparation of a single local plan. The decision to review the CS and LALP is an acknowledgement that in some cases the evidence base is out of date. With regard to this application, it's recognised that policies in the Core Strategy (Policies CP2 & CP3) are not up to date.
- 3.7 The objectives of Policies CP1, DM1 and DM11 are considered to be broadly consistent with the aims and objectives of the NPPF. That said there is an element of tension between the current framing of DM1 and CP1 and the advice in the Framework/NPPG to the effect that blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence. It's recognised that the evidence underpinning these Core Strategy policies would now warrant review. For decision making purposes this has some effect on the weight to apply to Policies DM1 and CP1.
- 3.8 Whilst there are two potential reasons to engage the 'tilted balance' paragraph 177 of the NPPF states 'The presumption in favour of development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.' This issue of Appropriate Assessment is discussed in more detail later in this report.
- 3.9 Paragraph 79 of the NPPF requires that local planning authorities should avoid new isolated homes in the countryside unless the proposal fits within the following special circumstances:
- The building was of an outstanding or innovative nature;
 - Would provide a rural workers dwelling;
 - Would be the optimum viable use for a heritage asset;
 - Would re-use redundant buildings that would lead to an enhancement of the immediate setting
- 3.10 The term 'isolated' is not defined in the NPPF but within the special circumstances reference is made to farm workers dwellings or conversions of redundant farm buildings which, of course, are unlikely to be wholly isolated by their nature. Isolated also is a reflection of where something is more remote and away from other places, buildings and the like. It is not considered that the proposed dwellings would be 'isolated' in the dictionary sense; it is the issue of the harm that would be caused were the proposal to be permitted.

- 3.11 As set out above, the application site is located within the open countryside where the Core Strategy restricts development unless it falls within specific criteria. Policies DM15 and DM16 seek to protect the countryside and landscape character. Their objectives are consistent with the NPPF and both policies are applicable to the assessment of the application.
- 3.12 The NPPF is clear in its guidance however, that the Framework does not change the statutory status of the development plan as the starting point for decision making. In this case, the proposal is contrary to the Development Plan. The report will, however, consider whether there are material considerations which indicate that permission should be granted, contrary to the development plan.
- 3.13 As such, the test for this application is whether or not the proposal would give rise to adverse impacts that would significantly and demonstrably outweigh the benefits. The report considers, in the context of the NPPF and the tilted balance in particular, whether any other material considerations exist which would justify granting planning permission contrary to the Development Plan.

Impact on the Character and Appearance of the Locality

- 3.14 The application site falls within the Character Area 8 of the Dover District Landscape Character Assessment: Staple Farmlands. The key characteristics of the area are identified as follows:
- Gently undulating land
 - Open views
 - Little tree cover and open arable land
 - Insignificant enclosure
 - Native hedgerows
 - Mixed buildings; minor roads; footpath network
- 3.15 Essentially, the pattern and rhythm of the landscape is of open arable nature with fields and farmland characterising the area.
- 3.16 Policy DM15 seeks to protect the countryside. Development will only be permitted if it is in accordance with allocations made in the development plan, is justified by the needs of agriculture, or justified by a need to sustain the rural economy or a rural community. In addition it must be shown that development cannot be accommodated elsewhere and does not result in the loss of ecological habitats. This application is not submitted on the basis of agricultural need; it is not in accordance with any allocations and is not required to sustain a rural economy or rural community. Notwithstanding letters of support stated it will provide 'affordable housing', it has not been submitted as a rural exception site. Therefore the proposal is considered not to be in accordance with policy DM15.
- 3.17 Policy DM16 states that development that would harm the character of the landscape will only be permitted if it is in accordance with allocations made in the development plan, incorporating any necessary mitigation; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate impacts to an acceptable level.
- 3.18 The relevant landscape character assessment recognises the open character of the area. Nearby dwellings are sporadic and of low density. Outside of the immediate buildings in the locality is open countryside with far reaching views

bordering either side of Buckland Road as it exits the village. This proposal would alter the grain of development at the edge of this village and provide a denser edge than existing.

- 3.19 The appeal site itself is largely undeveloped mown grass enclosed by predominantly hedgerows. Its undeveloped nature (save for a low impact stable block and small hen house), contributes to the wider open countryside.
- 3.20 Notwithstanding the lack of detail submitted with the application, it is apparent from a site visit that the new dwellings, if permitted, would be visible from the junction of Buckland Lane and The Street; the elevated level of the site would exacerbate this impact further. Whilst there is currently boundary hedging around the site, this will need to be managed and will not in itself screen the development. Whilst the design of the dwellings has been reserved for future consideration, the proposal, by virtue of creating dwellings together with surfaced accesses, parking areas, enclosures and domestic paraphernalia would introduce an urbanising development in this location. The development would erode the rural character and appearance of this location.
- 3.21 Accordingly, the development is considered to be unacceptable in terms of its impact on the character and its effect on the countryside. It is contrary to Core Strategy policies and the guidance contained in the NPPF.

Highways

- 3.22 The proposed development is for four additional dwellings accessed from an unclassified road on an existing, but to be improved, access. As such, it falls outside of the KCC highways consultation protocol.
- 3.23 Extensive objections have been received that the existing access is already a highway safety issue and to intensify the use, even if 'enhanced', would simply exacerbate the problem and that the intensified use would potentially cause even greater conflict with farm traffic and other road users.
- 3.24 The likely volume of traffic generation from the four dwellings would not be likely to cause a severe impact on the highway network. There is a short distance from the site to the junction with The Street where the footway begins; it is not considered that this short distance would justify a reason for refusal on highway grounds. Accordingly, there is no objection to the proposal on highway safety or impact.

Impact on Ecology

- 3.25 Under the Natural Environment and Rural Communities Act (2006), "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity". In order to comply with this 'Biodiversity Duty', planning decisions must ensure that they adequately consider the potential ecological impacts of a proposed development.
- 3.26 The National Planning Policy Framework states that "the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible." Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System states that "It is essential that the

presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision.”

- 3.27 The application was not accompanied by any ecological survey; however, having regard for Natural England Standing Advice, it is not considered that the site provides any habitat likely to be used by any protected species, save for breeding birds. Moreover, it has been commented by an objector that a pair of breeding turtle doves are present within the site, which are a UK Priority Species under Section 41 of the Natural Environment and Rural Communities Act 2006. This Act places a duty on Local Planning Authorities to have regard for to the purpose of conserving biodiversity, under Section 40.
- 3.28 The application site is around 600m from an RSPB supported site and records of Turtle Dove. Whilst there are no verified records of Turtle Dove on the application site itself, the habitats on the site (boundary hedging) are consistent with the habitat utilised by Turtle Dove. Vegetation on site is contained on the boundaries and within the site is a well maintained lawn. This application is in outline and, as such, the precise location, form and scale of development is not known. However, it is concluded that the boundary vegetation could be retained by way of condition, whilst disturbance to birds could be reasonably avoided through directing where dwellings could be located and the scale and form they would take. It is noted that the site is, at present, in active use and that this use is not restricted. Adopting a precautionary approach, and attaching significant weight due to the overall level of decline in the species, it is considered that the application could be carried out in a manner which protects and minimises impacts on, and halt the overall decline in, biodiversity, provided stringent conditions are attached to any grant of permission (comprising restricting the development to areas away from vegetation and retention and enhancement of existing vegetation). It is therefore considered that, having regard for the Councils duty under the Section 41 of the Natural Environment and Rural Communities Act 2006, the development would not be contrary to the National Planning Policy Framework, subject to conditions.
- 3.29 In light of the above considerations, there are no objections on the grounds of ecology.

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

- 3.30 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.
- 3.31 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 a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.

- 3.32 Following consultation with Natural England, the identified pathway for such a likely significant 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.
- 3.33 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.
- 3.34 Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.
- 3.35 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant 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.

Residential Amenity

- 3.36 The closest dwelling to the application site is the thatched listed property opposite. As this is an outline application only, it may be possible to design a layout to respect the privacy of the existing properties close to the site. This would be a reserved matter issue. It is therefore considered that there would be objection with regard to overlooking/privacy at the principle stage.

Other Material Considerations

- 3.37 In support of the application, reference has been made to an appeal decision at another site in the nearby Hamlet of Barnsole (Land at Barnsole Road). In respect of this case, the main issues identified by the inspector were the effect of the proposal on the character and appearance of the area – not dissimilar to this case. Barnsole is linked to Staple by two main roads and was described by the inspector as forming a single community with Staple. However, at the time of the appeal decision the inspector gave weight to the bus service, which is no longer in existence, reasoning that this added to the sustainability of the location. The appeal proposal was considered by the Inspector to relate to its setting and have limited impact on the character and appearance of the locality. In this instance the site is elevated, on a corner plot and more exposed when approaching the site from the south. The proposed development would alter the character of this approach to Staple and add to the density immediately adjacent to the open countryside. It is therefore considered that the appeal decision is not a like for like assessment and does not carry significant weight in the determination of the current proposal.

Sustainability

3.38 Staple is no longer served by a local bus service and as such, public transport is not considered a viable alternative to private transport. As such, there would be no alternative but to travel by private car.

3.39 It is therefore considered that the proposal would conflict with policy DM11.

4. Conclusion/Planning Balance

4.1 The proposal is for outline planning permission for four detached dwellings of unidentified size, scale, design and mass. The site is in an elevated position at the edge of the village boundary. The boundary was purposely drawn to exclude the substantial garden from falling within the village boundary. It could reasonably be concluded that this was a conscious decision to identify the end of the acceptable 'built development' and the start of the more open rural character of the area.

4.2 Even without indicative drawings, suggesting the extent of the potential built form of the development, the footprint and resulting scale of four detached dwellings will alter the character of this rural landscape.

4.3 It is not contended that the proposal is to be considered as a rural exception site under paragraph 77 of the NPPF. Nor has it been put forward as falling within paragraph 79 which allows new dwellings in the countryside under certain circumstances.

4.4 It is acknowledged that the categorisation of the settlement of Staple as a village means that, in principle, development of a suitable scale to reinforce its role as a provider of services to the local community may be acceptable – (albeit the application site is not within the village). However, due to the characteristics of the application site, the harm caused would outweigh the benefits of development in this location. The proposal is therefore contrary to policies DM1, DM11, DM15 and DM16 of the Dover District Core Strategy where new development outside of existing settlement boundaries is resisted and the highest level of protection is given to landscape protection.

4.5 In the absence of information to demonstrate to the contrary, it is considered that the proposal would cause harm to the rural character and appearance of the area.

4.6 Overall the development is inconsistent with the aims and objectives of the NPPF and Development Plan. The assessment of this report is that due to the siting of the proposal and the impact on the landscape and locality as a whole, the proposed development would cause significant harm to the character and appearance of the countryside for the reasons stated. There are no other material considerations that would weigh in favour of the development. Accordingly it is considered that this application is unacceptable, and as such it is recommended that planning permission be refused.

(g) Recommendation

1. REFUSE PLANNING PERMISSION for the reasons given below:

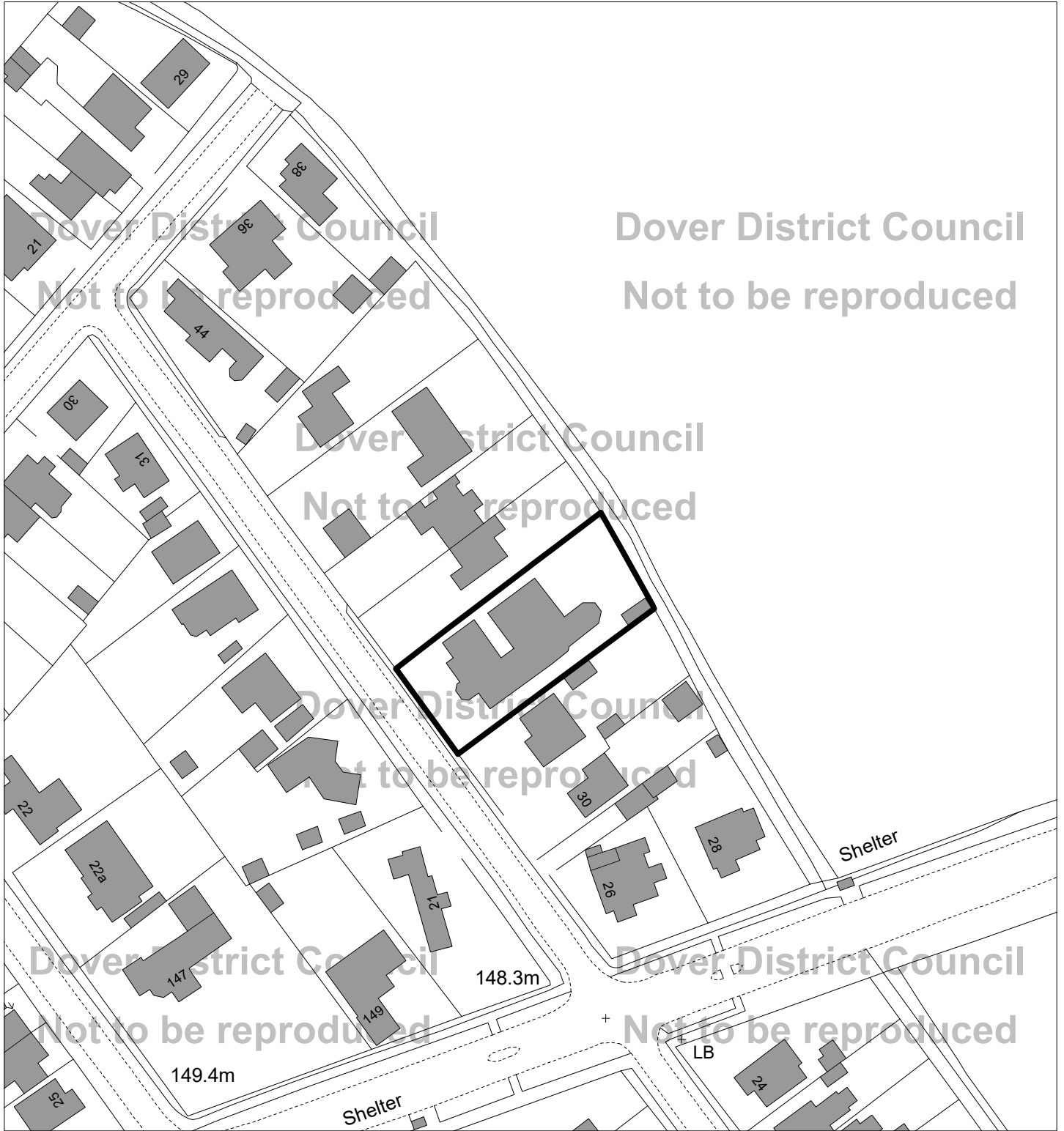
1) In the absence of information to demonstrate otherwise, the proposed development, if permitted, by virtue of its siting, would result in an incongruous, intrusive, and unsustainable form of development, bringing about significant harm to the character and appearance of the countryside. The

proposal would be highly visible within its rural setting. The proposal is therefore contrary to Policies DM1, DM11, DM15 and DM16 of the Dover Core Strategy and NPPF paragraph 79.

Case Officer

Amanda Marks

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Application: DOV/18/00139

**Bracknell House
34 Helena Road
Capel-le-Ferne
CT18 7LQ**

TR25263873



a) **DOV/18/00139 – Change of use from residential care home to single residential dwelling - Bracknell House, 34 Helena Road, Capel-le-Ferne**

Reason for report: Number of letters of contrary views.

b) **Summary of Recommendation**

Planning permission should be granted.

c) **Planning Policy and Guidance**

Dover District Council Core Strategy

- Policy CP1 states ‘the location and scale of development in the District must comply with the settlement Hierarchy. The Hierarchy should also be used by infrastructure providers to inform decisions about the provision of their services’.
- Policy DM1 states that ‘development will not be permitted outside the confines unless specifically justified by other plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses’.
- Policy DM11 states ‘Development that would generate travel will not be permitted outside the urban boundaries and rural settlements unless justified by development plan policies. Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made, well served by a range of means of transport’.
- Policy DM13 sets out ‘provision for parking should be a design led process based upon the characteristics of the site, the locality, the nature of the proposed development and its design objectives’.

National Planning Policy Framework (NPPF) 2018

- Paragraph 8 sets out 3 dimensions to sustainable development – the economic, social and environmental role which should not be undertaken in isolation.
- Paragraph 10 states ‘that at its heart there is a presumption in favour of sustainable development.’
- Paragraph 11 states that, development which accords with an up-to-date development plan should be approved without delay and where the development plan is absent, silent or out of date this means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole’.
- Paragraph 12 states that the NPPF does not change the statutory status of the development plan.
- Chapter five of the NPPF seeks to deliver a sufficient supply of homes.
- Chapter nine promotes sustainable transport, requiring that the planning system should actively manage patterns of growth in support of this objective; although opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- Chapter eleven requires that land is used effectively, including the promotion and support of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.
- Chapter twelve confirms that 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. 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.

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, taking into account any local design standards or style guides in plans or supplementary planning documents.

Other Guidance/Relevant Matters

Kent Design Guidance.

d) Relevant Planning History

DOV/10/00133 – Variation of condition 3 of planning permission DOV/78/01284 to allow for the provision of 22 bedspaces – Granted.

DOV/09/00065 – Erection of a single storey side extension, erection of a pitched roof and alterations to fire escape – Granted.

DOV/05/00523 – Erection of a single storey rear extension – Granted.

e) Consultee and Third Party Responses

Capel Parish Council

Against, unless conditions are imposed in respect of the original submission.

This application refers to a change in use from a residential care home to a single residential dwelling. It is difficult to see this property as a single residential/normal family home dwelling due to its size i.e 19 bedrooms as shown in the application and proposed layouts and it is suggested that further research is ascertained from the applicant before this application is determined.

Helena Road is a quiet residential road with limited parking. There is a well mature hedge along the boundary to the site, which appears to have been omitted from the application. This has potential to attract a significant number of motor vehicles, with insufficient parking either on side or on the road. Before granting conditions must be imposed to balance the provision of parking spaces to the number of people potentially residing in a 19 bedroom house and also, the retention of the mature hedge along the boundary. Any change to a House of Multiple Occupation or flats would require a separate application and/or Licence Application. Subject to the above comments, we have no further objections or comments to the application, assuming DDC are satisfied all current and building regulations are met.

Following the amendments:

The applicant appears to have made some effort to answer the concerns of local residents with the revised plans and questions raised by the Parish Council. The Parish Council's comments on future use made previously still apply. There is still no mention about retaining the hedges, which are well mature, along the boundary to the site and the Parish Council still have concerns, as it does appear to be insufficient parking arrangements for a residence of this size, if a family home with the amount of bedrooms proposed.

Subject to this comments and on the basis of information provided, we have no further objections or comments in principle to the application for change of use, assuming Dover District Council are satisfied all current planning and building regulation requirements are met.

Following re-advertisement:

- Capel-le-Ferne Parish Council are confused as to the true intentions of the applicant and it is difficult to see how this will be a single residential dwelling with the current number of bedrooms.
 - This seems a ridiculous development for a private dwelling. There are limited parking spaces for that number of rooms and seems to suggest that it may be considered for Bed and Breakfast or House of Multiple Occupancy requiring a separate application and/or Licence Application. All this would not suit the narrow road.
 - Capel-le-Ferne Parish Council see no reason to change the original comments on this application: i.e.;
- Therefore, Capel-le-Ferne Parish Council are still against this application with the lack of provision of parking spaces to the number of people potentially residing in a 19 bedroom house and also, the retention of the mature hedge along boundary. Any change to a House of Multiple Occupation or flats would require a separate application and/or Licence Application. This application refers to a change in use from a residential care home to a single residential dwelling. It is difficult to see this property used as a single residential/normal family home dwelling due to its size, i.e. 19 bedrooms as shown in application*

and proposed layouts. Helena Road is a quiet residential road with limited parking. There is a well mature hedge along the boundary to the site, which appears to have been omitted from the application. This has potential to attract a significant number of motor vehicles, with insufficient parking either on site or on the road.

Public Rights of Way Officer

The proposed change of use has no impact on the Public Right of Way Bridleway ER252 which passes adjacent to the rear of the site.

A Number of letters of objections have been received and are summarised below:

- Twenty bedrooms does not constitute a family home, more likely to be bedsits;
- This is not taking into consideration the neighbours and the village;
- There will be security issues and parking issues;
- The property has been on the market for the last two years after its closure as a residential care home and has recently been removed off the property market although not sold;
- The property would be difficult to convert back to a residential home;
- Concerns are that the developer would take the opportunity to use it as an opportunity for a commercial multi-occupancy property without seeking change of use again.
- An HMO would not be in keeping with the other properties on this scale in the village;
- There are omissions to the application as there is a hedge and leylandii hedge at the front of the property;
- There would be the removal of a hedge and a replacement fence looking into a neighbours garden;
- If this was to be bedsits there would be concerns over the increase in cars and parking, extra noise and rubbish;
- It is rumoured the hedge would be removed to increase the driveway down the side of the premises to make parking for multi occupancy to the rear of premises;
- Currently the road cannot take a possible 20 plus cars parked hampering the ingress and egress of existing premises, and will increase the risk of accidents on the road;
- Following the closure of Bracknell House as a residential home it appears the owner is struggling to sell it in its current state, despite changing estate agents and reducing the price over the past couple of years.
- The online selling brochures states its ideal for conversion so why has the applicant requested planning permission when planning permission isn't required to convert to a single residential dwelling;
- Presuming it is used as an HMO there would have to be communal parking; Helena Road is a quiet street which could not accommodate an influx or so many additional vehicles making it impassable and problematical;
- It seems the application is for the owners financial gain and not in consideration of the current residents or in keeping with the wider village layout;

Following the revised plans, the following objections were received:

- All the ground floor now seems to be reception rooms which are an improvement but some of the rooms have just been relabelled bedrooms;
- It looks like the elderly, disabled lady doesn't seem to have living and sleeping accommodation on the same floor which doesn't seem to make sense in a house of this magnitude;

- Still have concerns over the future use of this property, as it does not fit the bill of being a single residential dwelling;
- If a change of use is allowed, the property should be closely monitored and the boundary hedges should remain and adequate parking maintained on the property;
- How do four adults need all the proposed amount of bedrooms and toilets in one house, it can only mean that the HMO in due course, creating extra noise, vehicles parking in an already busy road;

Following re-advertisement:

- The building is not a residential family property
- The intention is to use the property as a house of multiple occupancy
- There is conflict regarding the boundary hedge

f) 1. The Site and Proposal

The Site

1.1 The application site is located to the north east of Helena Road within a residential area. Helena Road is characterised by a mixture of different architectural styles and designs. To the north west is 36 Helena Road, a bungalow set off the road, to the south west is a detached dwelling with an established hedgerow separating the application site from number 32 Helena Road.

1.2 The application site is a substantial building which has been used as a privately owned and run residential care home which closed in the 30th October 2015. The building has a conservatory to the front elevation to form a porch and a single storey side extension attached to the north west and visible within the street scene. To the rear there are a number of extensions including a fire escape and garden area. An established hedgerow forms the rear boundary and there is an established row of conifer trees to the front boundary.

The Proposal

1.3 Planning permission is sought for the change of use from private residential care home to single residential dwelling. The care home was privately run and was closed on the 30th October 2015 following a CQC report. The care home provided 20 bedrooms, 2 kitchens, 2 lounge/diners, 1 sitting area, and 2 conservatories. Parking was provided to the front of the property with approximately 6 spaces. The property has been vacant since the closure in 2015. The applicant has provided an email stating the property was marketed as an investment for a private dwelling by the local estate agents in Folkestone and Purple bricks agency in the period of between 2015 and 2017.

1.4 The internal alterations would see the conversion of this building into a seven bedroom dwelling, with three reception rooms, study, office, dining room, lounge and bathrooms for use by a family and an elderly dependent. The parking area will be retained to the front of the property.

1.5 The application was re-advertised following the submission of drawings showing how the potential buyers of the property wish to alter and utilise the building once the change of use has been approved and once they have purchased the building. However, this could have led to uncertainty as to whether these works are proposed as part of the current application. These works do not form part of the current application, which is for a change of use of the building only. The application was re-

advertised a second time to clarify this point. Whilst not forming a part of this application, or being conditionable, the amended drawings do indicate how the potential buyers intend to use the building as a single family dwelling.

- 1.6 Concerns have been raised by third parties that the intention is to use the building as a house of multiple occupation. However, should permission to be granted, this would in no way allow such a use to occur. The only lawful use which would be as a single dwellinghouse.

2. **Main Issues**

- 2.1 The main issues for consideration of this application are:

- The principle of the change of use in this location;
- Design and impact on the character and visual amenity of the area;
- The potential impact on residential amenity;
- Highways and parking.
- Other matters

3. **Assessment**

Principle of Development

- 3.1 The application site is located within the Settlement boundary of Chapel Le-Ferne and therefore falls to be assessed against Policies CP1 and DM1 of the Core Strategy. Policy CP1 identifies Capel-Le-Ferne as a local centre for development in the district; suitable for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to its home and adjacent communities. For these reasons the proposal is considered to comply with these policies.
- 3.2 Paragraph 3.38 of the Dover District Councils Adopted Core Strategy 2010 states 'it is important to understand the purpose of housing development in a particular area as this has a substantial bearing on the approach towards appropriate design and house type issues'. Within Capel Le-Ferne there is a need to reinforce and reflect the existing character whilst taking any opportunities to improve design standards. The proposed work would provide an opportunity to reinforce the character of this residential street and improvements would be made to bring the building up to current residential standards and therefore conforms to the aims and objectives of the Dover District Core Strategy.
- 3.3 In addition to this the National Planning Policy Framework recognises that 'local planning authorities should identify and bring back into residential use empty housing and buildings in line with local housing and empty homes strategies. They should normally approve planning applications for change of use and any associated development from commercial buildings where there is a need for additional housing in that area provided there are not strong economic reasons why such development would be inappropriate. In this instance Bracknell House was marketed between the periods of 2015 and 2017 with no interest. KCC were consulted and did not respond in respect of keeping it as a residential home. The District is short on housing supply and in its own extremely modest way, the proposal would generate an additional dwelling to add to supply in the District.
- 3.4 The site is located within the built confines of Capel and is in a sustainable location. The NPPF sets out that development that is sustainable development should be

approved without delay. Accordingly it is considered that the proposal is acceptable in principle.

Design and Impact on the Character and Visual Amenity of the Area

- 3.5 The application site is a residential care home within a residential street in Capel Le-Ferne. The proposal is for a change of use application and as such the proposal would not result in any physical alterations and therefore the proposed development would not have an adverse impact on the character and appearance of the street scene and is therefore considered acceptable in this respect.
- 3.6 Concerns have been raised over the loss of the hedgerow to the front of the application site and in the original submission the applicants had omitted on the planning application form that there were hedges on the site. This element of the application form has now been rectified and the applicant has confirmed the conifer trees and hedges to the front of the property are to be retained. The proposed change of use would not result in an adverse impact on the character and the visual amenity of the area as there would not be any physical alterations to the appearance of the building.

Impact on Residential Amenity

- 3.7 Bracknell house is located in a quiet residential street, therefore the use as a residential care home is abnormal in this location. The use as a residential care home would have created a degree of noise and disturbance due to the comings and goings from staff and visitors visiting the site throughout the day and night. The change of use would therefore provide a modest benefit.
- 3.8 There are no enlargements to the building and the window positions and orientations are not proposed to be altered. The proposed use is considered compatible with the adjoining residential uses and would not have an adverse effect on the amenities of the occupiers in terms of privacy or undue noise disturbance.

Highways

- 3.9 The existing parking provisions allow off street parking for approximately six cars and therefore meets the criteria required by Kent Highway Services and confirms with policy DM13 (parking provision) of the Dover District Council Core Strategy.

Other Matters

- 3.10 The original plans received did not demonstrate how the existing building would be used as a single dwelling house and concerns were raised over the potential of the building to be used as a house of multiple occupancy. Amendments were sought which demonstrate the proposed internal layout as a residential dwelling. In any case, a planning application would need to be submitted and approved for a change of use as an HMO.
- 3.11 It should be noted the use of a residential care home is classified as a C2 by the Town and Country Planning (use classes) Order 1987 (as amended). The permitted use from a C2 use could be a state funded school or registered nursery, this could be dealt with as a prior notification and has the potential to have a greater impact on the residential amenity and parking issues raised by local residents.

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

- 3.12 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.
- 3.13 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 a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 3.14 Following consultation with Natural England, the identified pathway for such a likely significant 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.
- 3.15 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.
- 3.16 Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.
- 3.17 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant 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.

4. **Conclusion**

- 4.1 At the heart of the National Planning Policy Framework there is a presumption in favour of sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Bracknell House was a privately owned and run facility, the use of which could not have been safeguarded as such. Although the loss of a care home is regrettable, due to the facilities provided for an ageing population, the use has already ceased and the property lies vacant. The proposal is considered a suitable use of the land and buildings in providing much needed housing in a sustainable location and is considered accepted as there are not any overriding reasons why planning permission should not be granted.

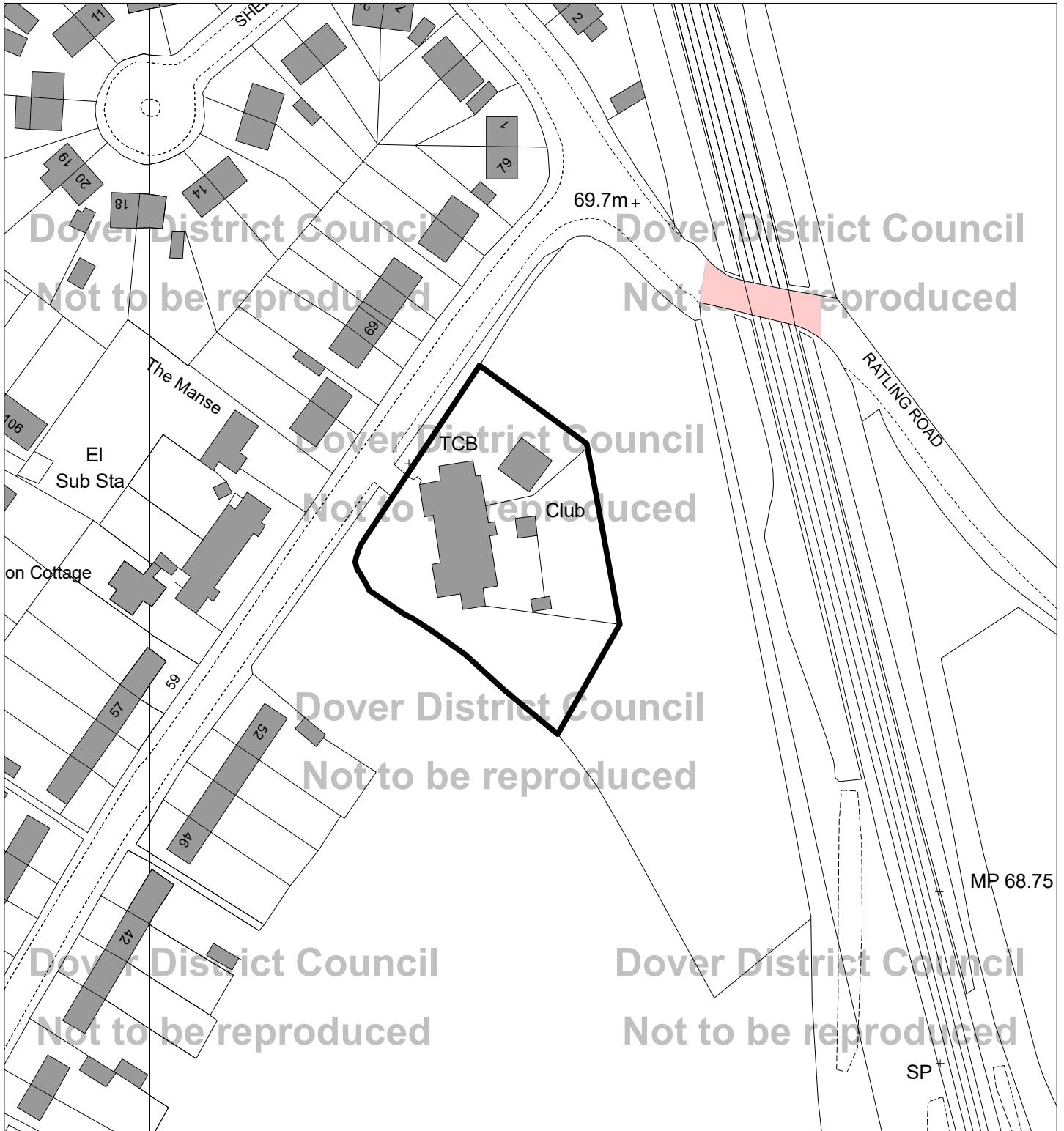
g) **Recommendation**

- I. PERMISSION BE GRANTED subject to conditions set out to include, in summary 1) standard time restrictions 2) carried out in accordance with the approved details.
- II. The powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation, and as resolved by the planning committee.

Case Officer

Karen Evans

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Application: DOV/18/00300

Aylesham Sports Club

Burgess Road

Aylesham

CT3 3AU

TR24065270



- a) **DOV/18/00300 – Erection of two-storey side and three-storey rear extensions to facilitate conversion into 19 no. self-contained flats and a public house; formation of vehicular access and parking (mixed Use Class C3 and A4) – Aylesham Sports Club, Burgess Road, Aylesham**

Reason for report: Called-in by Cllr Keen due to very strong local community concerns regarding the loss of a community facility and inadequate replacement bar, and due to the number of contrary views.

- b) **Summary of Recommendation**

Planning permission be granted

- c) Planning Policies and Guidance

Core Strategy Policies

- CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy.
- CP3 – Of the 14,000 houses identified by the plan 1,000 (around 7%) is identified for Aylesham.
- CP4 - Developments of 10 or more dwellings should identify the purpose of the development in terms of creating, reinforcing or restoring the local housing market in which they are located and development an appropriate mix of housing mix and design. Density will be determined through the design process, but should wherever possible exceed 40dph and will seldom be justified to less than 30dph.
- CP6 – Development which generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.
- DM1 – Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM3 – Permission for commercial development in the rural area, will be granted, provided it is at a rural service centre or local centre and is consistent with the scale and setting of the settlement, or it is at a village provided it would not generate significant travel demand and is consistent with the scale and setting of the settlement. In all cases the development should be within the settlement confines, unless no suitable site exists, in which event it should be located adjacent to the settlement unless there is a functional requirement for it to be located elsewhere.
- DM4 – Beyond the settlement confines, the re-use or conversion of structurally sound, permanent buildings will be granted: for commercial uses; for community uses; or for private residential use in buildings that are adjacent to the confines. In all cases the building to be converted must be of a suitable character and scale for the use proposed, contribute to the local character and be acceptable in all other respects.

- DM5 – Development for 15 or more dwellings will be expected to provide 30% affordable housing at the site, in home types that will address prioritised need.
- DM11 – Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- DM13 – Parking provision should be design-led, based upon an area's characteristics, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.
- DM15 – Development which would result in the loss of, or adversely affect the character and appearance of the countryside will not normally be permitted.
- DM16 – Development that would harm the character of the landscape will only be permitted if it is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures or it can be sited to avoid or reduce harm and incorporate design measures to mitigate impacts to an acceptable level.
- DM24 – Planning permission for the change of use of a rural pub will only be granted if its loss would not harm the economic and social viability of the community that it serves or, if such harm would occur, it has been adequately demonstrated that the use is no longer viable and genuine attempts to market the premises as a pub have failed.

Land Allocations Local Plan

- DM27 - Residential development of five or more dwellings will be required to provide or contribute towards the provision of open space, unless existing provision within the relevant accessibility standard has sufficient capacity to accommodate this additional demand.

National Planning Policy Framework 2018 (NPPF)

- Paragraph 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.
- Paragraph 11 states that decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (including where an LPA cannot demonstrate a five year housing land supply), granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance (set out in footnote 6) 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
- Paragraph 12 states that the NPPF does not change the statutory status of the development plan.

- Chapter five of the NPPF seeks to deliver a sufficient supply of homes. Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site unless:

a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and

b) the agreed approach contributes to the objective of creating mixed and balanced communities

Where vacant buildings are to be reused or redeveloped, the affordable housing contribution should be reduced by a proportionate amount equivalent to the existing gross floor space of the existing buildings.

To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

- Chapter six seeks to, inter alia, support a prosperous rural economy by retaining and developing accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
- Chapter eight promotes healthy and safe communities. This includes the promotion of social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. Developments should be safe and accessible, so that crime and disorder and the fear of crime and disorder do not undermine the quality of life or community cohesion. Policies and decisions should plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments; guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; and ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.
- Chapter nine promotes sustainable transport, requiring that the planning system should actively manage patterns of growth in support of this objective; although opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Chapter eleven requires that land is used effectively, including the promotion and support of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.
- Chapter twelve confirms that 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. 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.

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, taking into account any local design standards or style guides in plans or supplementary planning documents.

- Chapter fifteen requires that biodiversity is protected and enhanced by promoting the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identifying and pursuing opportunities for securing measurable net gains for biodiversity.
- Chapter sixteen requires that development conserves and enhances the historic environment. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

The Kent Design Guide (KDG)

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

d) **Relevant Planning History**

DOV/15/01113 – Change of use and conversion of existing sports club to provide 21no. self-contained flats to include two storey side extensions(to north and south) and two storey rear extension – Withdrawn.

DOV/16/00192 - Change of use and conversion of existing sports club to provide 21 self-contained flats to include two storey side extensions (to north and south) and three storey rear extension – Refused and dismissed at appeal

DOV/17/00736 - Erection of a two storey side and rear extension to facilitate conversion into 21no. self-contained flats and creation of parking (existing dwelling to be demolished) - Refused

e) **Consultee and Third Party Responses**

Crime Prevention Officer – The applicant has addressed crime prevention in their application, but has not contacted Kent Police to discuss the scheme.

KCC Highways and Transportation – *Original response received 4th May 2018*

The combined total parking requirement for the proposed flats (23) and public house (14) is 37 spaces. The parking for the public house is a maximum figure and it is likely that some patrons will walk/cycle in this location; therefore the total of 33 spaces provided on the site is acceptable. However, this means that 10 spaces should be available for the public house element. I also note that only two of the spaces currently shown for the public house are likely to be usable in the constrained layout indicated. The site layout therefore needs to be amended to resolve the above.

Clarification is required on the proposed servicing arrangements for the public house, the anticipated number and size of service vehicles, and where such vehicles will park.

Subsequent response received 7th August 2018

I refer to the amended plans submitted for the above and note that access is now available for the likely size of delivery vehicle, together with improved parking for the pub. I therefore now have no objections in respect of highway matters subject to the following being secured by condition:

- Submission of a Construction Management Plan before the commencement of any development on site to include the following:
 - Routing of construction and delivery vehicles to / from site
 - Parking and turning areas for construction and delivery vehicles and site
 - personnel
 - Timing of deliveries
 - Provision of wheel washing facilities
 - Temporary traffic management / signage
- Provision and permanent retention of the vehicle parking spaces shown on the submitted plans prior to the use of the site commencing, including the use of the four visitor spaces shown on the flat site for customers of the pub when necessary.
- Use of a bound surface for the first 5 metres of the accesses from the edge of the highway.
- Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.
- Completion of the new access shown on the submitted plans including the necessary vehicle crossing in the footway, prior to the use of the site commencing.
- Provision and maintenance of 43 metres x 2 metres x 43 metres visibility splays at the new access with no obstructions over 1 metre above carriageway level within the splays, prior to use of the site commencing.
- Provision and maintenance of 2 metres x 2 metres pedestrian visibility splays behind the footway on both sides of the new access with no obstructions over 0.6m above footway level, prior to the use of the site commencing.
- No gates to be erected at either access.

KCC Economic Development – Request that contributions towards library book stock (for Aylesham Library), totalling £960.32, are provided. No contributions are requested for primary or secondary school places. It is also requested that an informative is attached, recommending that the developer provide superfast broadband.

KCC SUDS – No comment

Environmental Health – No objection, subject to conditions covering: a scheme of sound insulation from the railway; a scheme of sound insulation between the pub and residential areas; unsuspected contamination; and a construction management plan.

Southern Water – At present, there is insufficient capacity to provide foul sewerage to the development without increasing the risk of flooding, unless network reinforcement is undertaken. This will be provided through the New Infrastructure changes; however, Southern Water request that a condition be attached to any grant of permission to ensure that the occupation of development be phased to align with the delivery of sewerage infrastructure to prevent an increased risk of flooding.

There are no dedicated public surface water sewers in the area, so an alternative means of draining surface water is required.

Alternatively, foul and surface water could be connected to the existing system, if flows were proven to be no greater than existing flows. A condition is recommended requiring full details of foul and surface water drainage be submitted for approval.

Aylesham Parish Council – Object:

- Loss of another community asset
- Lack of infrastructure and facilities within the village
- Lack of affordable housing
- Lack of car parking
- Additional traffic and congestion
- Harm to the character and appearance of the area
- An application has been lodged with Historic England to list the application building
- The application does not address crime prevention
- Concerns regarding foul and surface water disposal
- The application would lead to a greater loss of public floor area (public house and upstairs multi-functional space)
- The loss of the building would be contrary to DDC's Heritage Strategy

Public Representations – Twenty-four letters of objection have been received, raising the following points:

- Insufficient car parking
- There is no need for flats in Aylesham
- Additional traffic
- Other facilities are needed, not houses or pubs
- Lack of amenities in the village
- The development would be out-of-keeping with the street
- Noise
- There has been peace and quiet since the pub closed
- Loss of property value
- The proposed pub, and its kitchen, is too small

- The proposed pub would not be viable
- The pub garden would necessitate the closure of a PROW
- The building is more than a bar, it was a multi-functional space for the community
- The loss of public floor space would be greater than the application has presented
- A strong condition should be attached, if permission is granted, to guarantee the continuing provision of a community facility
- The building is a heritage asset and regard should be had for the Heritage Strategy
- An application has been lodged to have the property listed by Historic England
- The building should be an old peoples home

Seven letters of support have been received, raising the following points:

- It would be good to have a village pub again
- Provision of affordable housing
- There will be plenty of parking, although most people will walk
- The previous pub was not viable, so flats for older people (down-sizing) and young people (first time buyers) would be perfect
- The front elevation of the building would enhance the appearance of the immediate locality
- The reduced size of the pub would make it more viable
- There is a need for more housing (particular flats for young people)

On neutral letter has been received, raising the following points:

- There were instances of crime and disorder at the former pub
- There are lots of facilities in the village
- The investment in the site and overheads would be a huge risk
- The flats would provide an opportunity for young people to buy a house in the village
- People choose not to use the facilities which are available

- f)
1. **The Site and the Proposal**
 - 1.1 The site lies to the east of Aylesham, outside of the settlements and within the countryside. To the south is a designated public Open Space. This part of Aylesham has a strong character of two storey semi-detached and terraced dwellings. The application site, together with several buildings to the north west of the site, departs from this character.
 - 1.2 The application site itself is removed from other built development. It contains the public house building, a detached manager's house and outbuildings to the west, all of which are currently vacant. The buildings formed part of the social offering of Aylesham and are contemporary (circa. 1920's/1930's) with the construction of the village, which was a planned settlement related to mining in the area.
 - 1.3 This application proposes the erection of two-storey side extensions and a part two storey, part three storey rear extension to allow the conversion of the building into 19 one and two bedroom flats and a public house with a floor area of 135sqm, following the demolition of the existing manager's house and outbuildings to the rear of the property. Hard landscaping, to provide access and parking space for 33 cars and cycle parking, and soft landscaping is

proposed around the building. The pub would be provided with an external seating area of around 100sqm.

2. **Main Issues**

2.1 The main issues are:

- The principle of the development
- The impact on the character and appearance of the area
- The impact on neighbouring properties
- The impact on the highway network
- Contributions
- Ecology

3. **Assessment**

Principle of Development

3.1 The lawful use of the existing site is that of a public house, albeit the building has been vacant for some years now. Policy DM24 of the Core Strategy seeks to restrict the loss of public houses in some instances, stating that:

“Planning permission will only be granted for the change of use of a rural [sic] pub if its loss would not harm the economic and social viability of the community that it serves or, if such harm would occur, it has been adequately demonstrated that the use is no longer commercially viable and genuine and adequate attempts to market the premises [sic] as a pub have failed”.

3.2 In considering a previous appeal in relation to application DOV/16/00192 (‘the 2016 application’), the matter of whether the use of the building was subject to Policy DM24 was considered. The Inspector commented that whilst the parties disputed whether the premises are a pub or social club, the building includes “a licenced bar, seating areas and a function room on the first floor, and this is capable of forming a social role”. Consequently, the Inspector applied Policy DM24, assessing the proposal as a pub.

3.3 It is not considered that Aylesham is served by an alternative, comparable offer and, as such, the loss of the pub would have the potential to harm the economic and social viability of the community. The applicant has identified a number of other facilities which have bars or meeting halls which can be rented out and some third parties have also referenced these in their representations; however, none of these facilities provide the same opportunities for social cohesion and informal recreation. This is backed up by the Inspector’s findings when she considered the 2016 application commenting that the nearest pubs to the site are about 2km away. Whilst it was also acknowledged that the Aylesham Welfare Leisure Centre has a public bar which can be hired out for events, the Inspector concluded that “if the appeal were allowed, this would reduce the availability of local facilities for the day-to-day needs of the community that can easily be reached on foot. Proposals for around 1000 new dwellings in the village would also be likely to further increase demand for such facilities”.

3.4 Since the previous applications for this site, the scheme has been amended to retain part of the ground floor as a public house. The proposed pub floor

space would equate to around 135sqm which would include a seating area for around 50 people, a 6m long bar, a kitchen of around 12sqm and toilets. By way of comparison, the existing building has a floor space of around 575sqm, comprising a ground floor (approx. 300sqm) containing a bar, seating area toilets and service areas and a first floor (approx. 275sqm) containing an open hall area (formerly used for dances, boxing, functions etc.), a smaller bar and further toilets. The proposal would undoubtedly substantially reduce the amount of floorspace which would be occupied by the pub use and the functionality of the resultant pub would be reduced compared to what the building had previously offered. Concerns have been raised by third parties regarding this lack of functionality, in particular the loss of the multi-functional space at first floor level, the reduction in the number of people who could attend the premises at any one time and the limited size of the kitchen (which could limit the type and range of food available).

- 3.5 The relevant policy test, as described by DM24 is whether the loss [my emphasis] of a pub would harm the economic and social viability of the community that it serves. This application would not result in the loss of a pub and, whilst significantly smaller, it is not considered that the reduced size would be such that the building could not function as a pub or that it would be bound to fail financially. Indeed, evidence has been submitted which (whilst falling short of demonstrating that that existing pub is no longer commercially viable, for the purposes of the second limb of policy DM24), does provide evidence which suggests that the size of the existing premises would present a challenge to any owner and therefore, the reduction in the size of the pub may help to allow the pub to be sustained into the future.
- 3.6 Having regard for the conclusions set out above, it is considered that the principle of reducing the size of the pub, by allow a part change of use is not contrary to Policy DM24 and, as such, is acceptable.
- 3.7 It is also necessary to consider whether the proposed change of use to flats is acceptable. The site lies outside of the settlement confines of Aylesham, which terminate to the western side of Burgess Road and a short distance to the south west across the access into the public open space. Policy DM1 generally restricts development outside of settlement confines, although exception can be made where development would be, inter alia, “justified by other development plan policies”.
- 3.8 Policy DM4 allows for the re-use or conversion of structurally sound, permanent buildings outside of confines provided that, for residential use, the building is adjacent to the confines. The application site is directly adjacent to the confines and, as such, it is considered that the proposed residential use is justified by policy DM4, albeit the development should be of a suitable scale, contribute to local character and be acceptable in all other planning respects. These matters will be addressed later in the report. It is also noted that the reuse of the building is supported by paragraph 79 of the NPPF.
- 3.9 Notwithstanding the conclusions above that the principle of the development is acceptable, the Council accepts that it cannot, currently, demonstrate a five year housing land supply. As such, it is considered that addition weight must be given in favour of the application. However, whilst the weight to be applied to the provision of housing is increased, as this application is the subject of an Appropriate Assessment (which will be detailed below), the tilted balance is disengaged by paragraph 177 of the NPPF.

Character, Appearance and Heritage

- 3.10 The site lies adjacent to the settlement confines of Aylesham, within the countryside. Whilst it is within the countryside, the site is seen in the context of the village in views from the countryside and in the context of the playing fields and railway line from the village. The site is not, therefore, considered to contribute to the open character of the countryside or the landscape.
- 3.11 Notwithstanding the above, the development must still ensure that it responds to its context, in terms of the scale, density, massing, height, landscape, layout and materials of the area. The site is visible, and at points prominent, in views from the north, west, south and, to a lesser extent due to tree cover and buildings on Ratling Road, east.
- 3.12 The side extensions to the building would produce a well-balanced, symmetrical building and would be subservient in scale compared with the existing building. The fenestration and overall design would respond positively to the regular, orderly arrangement of the front elevation of the existing building. In views from Burgess Road, it is therefore considered that side extensions, whilst producing a substantial building, would not harm the character and appearance of the area.
- 3.13 In considering the 2016 application for the site, which sought to extend and alter the existing building in a comparable manner to that proposed now, concerns were raised that the extensions to the rear of the building would be visible from the public open space to the south of the site and from various points along Ackholt Road, from where it was considered by officers that the scale of the building, and the introduction of a bulky second floor, would harm the character and appearance of the area. Consequently, the second reason for refusal of the 2016 application related to character and appearance. However, in dismissing the subsequent appeal, the Inspector remarked that:

“the rear extension would be no greater in height than the existing roof ridge, and the flat roofs of the two rear wings would reduce the bulk of this element of the proposal. The separate two storey house and other outbuildings at the rear of the social club are to be demolished, and although there would be an overall increase in built form, the rear of the property is enclosed by mature conifer trees along the side and rear boundary and faces out onto woodland and the railway line beyond, and so the visual impact of the rear extension would be limited from Burgess Road”.

The Inspector continued:

“When seen in longer range views from the south and west across the adjacent open space the development would appear as a substantial building. However, the existing social club is greater in scale than the surrounding properties, which are predominantly modest semi-detached and small terraced blocks of two storeys in height. Consequently the prominence of the proposed development within the streetscene would not appear unduly incongruous”.

- 3.14 As such, the Inspector disagreed with the second reason for refusal relating to the character and appearance of the area and the appeal was not dismissed on this basis. The current application proposes identical extensions to the building as the 2016 appeal. Attaching significant weight to the findings of the

Inspector, it is considered that it would be unreasonable to refuse the current application on the basis of character and appearance.

- 3.15 The building is contemporary with the formation of Aylesham, which was a planned development designed by the notable Sir Patrick Abercrombie. This planned development included a range of leisure and welfare facilities, including the application site. The Dover Heritage Strategy includes several chapters which are relevant to the current application. The Settlement chapter of the strategy provides a useful, if brief, overview of the history of Aylesham, stating:

“Snowdown colliery, first opened in 1907 and re-launched in the 1920s, had the greatest effect on settlement in the District. In order to house the miners an entirely new settlement was laid out at Aylesham. A 650 acre site was purchased and housing built for 650 families. The settlement was developed according to a single masterplan designed by Sir Patrick Abercrombie. Although parts of the plan were never implemented, the majority of the design was constructed, including a series of roads framed by Cornwallis Avenue, Milner Crescent and Hyde Place that were shaped to resemble a mine pit head. Despite a substantial extension of Aylesham to the south-west the bulk of the original design remains intact as an important example of early twentieth century industrial town planning”.

Whilst the building is not part of the industrial landscape above the coal fields themselves, The East Kent Coal Fields chapter of the strategy states:

“Emphasis should be given to conservation of the remaining assets of the coal field and in particular the remains of the colliery buildings and those buildings in the settlement areas that provided a focus for the community [my emphasis]”.

Clearly the application building provided such a focus, being part of the planned community at Aylesham.

- 3.16 It is considered that the building is of social and historic significance, both to the residents of Aylesham and more generally. Whilst KCC’s archaeological officer has not commented on this application, I adopt his comments in relation to the 2016 application (which is both recent and identical the current application) that, should permission be granted, a condition should be attached requiring a programme of building recording.
- 3.17 Third parties have advised that an application was made to Historic England to have the building considered for listing; however, this application was rejected by Historic England on 9th July 2018. The report which rejects the listing of the building concludes that:
- The building is of modest architectural interest. It is a rather uninspiring example of the neo-Georgian style common in the 1930s for public and commercial buildings. The original symmetrical composition has been compromised by the later additions and loss of many of the original windows;
 - The attribution to Sir Patrick Abercrombie is not proven; and
 - The social history of the village of Aylesham and its association with the East Kent coalfields is of clear local and planning interest but the building was constructed as a British Legion Club, rather than having

been specifically built as a miner's social club, thus there is no direct connection to the mining industry.

It is understood that an appeal has been lodged against the decision to reject the application to list the building. This application/appeal for listing is not in itself material to the determination of the current application. The matter would only become material if and when the building is included on the statutory register. Notwithstanding this, the assessment of the application has considered the building as a non-designated heritage asset.

Impact on Residential Amenity

- 3.18 The development would be well separated from the nearest neighbouring properties, which lie to the north west of Burgess Road, at a distance of around 10m. Whilst the proposal would site a two storey extension adjacent to the north western boundary of the site, having regard for the separation distance which would be maintained, together with the height of the extension and the location of windows, it is not considered that any unacceptable loss of light, sense of enclosure or overlooking would be caused. No other properties would be harmed by the development.
- 3.19 The proposed public house would be in relatively close proximity to existing residential properties and third parties have raised concerns regarding noise and disturbance. However, regard must be had for the fact that the lawful use of whole of the existing building is for a public house. As such, it is not considered that the development would exacerbate noise and disturbance. Moreover, the reduction in the size of the pub would likely be less than that of the existing use, were it to be reoccupied (which would not require planning permission).
- 3.20 The proposed flats would be of a reasonable size, whilst each habitable room would be served by a window, providing natural light and ventilation. A refuse store would be provided to the front of the site which would have convenient access to the highway for collection. Concern has been raised by environmental health that, without mitigation, the dwellings may be subject to unacceptable levels of noise from the adjacent flats, due to noisier rooms being location adjacent to quieter rooms. However, this concern would be overcome, should a suitably worded condition be attached to any grant of permission requiring that a scheme of sound insulation measures is submitted for approval. Likewise, concern has been raised regarding noise transfer between the public house and the neighbouring flats which, again, could be mitigated through the use of a similarly worded condition.
- 3.21 The development would entail significant construction works, which has the potential to cause unacceptable impacts on neighbours. Consequently, Environmental Health have requested that a condition be attached to any grant of permission requiring the submission and approval of a Construction Management Plan, to include details of dust control, noise and vibration control and limiting working hours to between 08:00 and 18:00 Monday to Friday, 08:00 to 13:00 hours Saturday and no noisy activity taking place on Sundays or Bank Holidays. It is considered that, given the proximity of neighbouring dwellings, such a condition would be reasonable.

Impact on the Local Highway Network

- 3.22 The site lies adjacent to the confines of Aylesham. The development would provide 33 off-street car parking spaces within the site.
- 3.23 The spaces for the flats would be accessed via the existing access which serves the pub car park. The parking for the small pub car park would be provided with a new access. The locations of both accesses would provide adequate visibility when leaving the site.
- 3.24 Policy DM13 of the Core Strategy requires that the provision of car parking should be a design led process, based upon the characteristics of the site, having regard for Table 1.1. Table 1.1, which relates solely to the residential element of this application, suggests that one and two bedroom flats within village edge/rural locations, such as this, should provide a minimum of one space per unit. In addition 0.2 car parking spaces per unit (3.8 across the site) should be provided. As such, the residential element should provide 23 car parking spaces. Parking provision for the public house should be informed by KCC Guidance SPG4. This recommends that, given the size of the pub a maximum of 14 car parking spaces should be provided (it should be noted that there is no defined minimum number of spaces). Aylesham is relatively well served by public transport, including bus and train services within walking distance. The public house would, in this instance be of a size which would likely draw its trade from the local area and would be unlikely to attract significant numbers from further afield. Given the limited size of the kitchen facilities, it is also likely that a significant proportion of sales would be from the wet trade. It is considered that these factors would be likely to limit the number of patrons driving to the site.
- 3.25 In total the development would provide 33 car parking spaces. 4 spaces would be provided for patrons of the public house to the north of the building. 25 would be provided for the proposed flats, located to the east and south of the building. Finally, a further 4 spaces would be provided to the west of the building, which would be available to both patrons of the public house and visitors to the flats. Overall, given the particular characteristics of the development and its location, it is considered that this number is acceptable. Whilst the split of spaces would provide an over provision of residential spaces and an under provision of spaces for the public house, on balance it is not considered that this would be sufficient to cause a significant adverse impact on the local highway network (and certainly not a severe cumulative impact).
- 3.26 The spaces and areas for turning within the residential part of the site are considered to be satisfactory and would result in a usable provision of car parking and space for vehicles to manoeuvre. As originally submitted, the car park for the public house would have been constrained, with slightly undersized car parking spaces and only limited turning space, reducing the usability of this area. However, amendments have been received which have amended the layout of this area to ensure that all the spaces would be usable. The application has also demonstrated that delivery vehicles could access the site and stop away from the highway whilst deliveries take place. As such, it is not considered that the development would cause severe harm to the local highway network or cause an unacceptable impact on highway safety.
- 3.27 Concern has also been raised that the development would increase the number of vehicles on the local highway network. Whilst it is appreciated that, in particular, Burgess Road is relatively narrow the site is well linked to the wider roads beyond, such as Ratling Road. Whilst the development would undoubtedly increase vehicle movements at times, it is unlikely that this would

be significant. The previous application was not refused on the grounds of highway impacts, whilst the Inspector at appeal did not criticise this aspect of the development.

- 3.28 The application proposes a cycle store to the side of the building, which is capable of accommodating at least 19 cycles. Subject to this being secured by condition, it is considered that the development would provide sufficient cycle parking provision.
- 3.29 For these reasons, the application is considered to be acceptable in highway terms.

Ecology

- 3.30 In accordance with previous findings under the 2016 application, the two main buildings on the site have a high and moderate potential for bats respectively. It was recommended that a species specific survey to establish the presence or absence of bats, together with an estimation of their population be provided. Such a report was provided during the course of the appeal and was accepted by the main parties and the Inspector. The report concluded that bat activity recorded during the surveys was low, and no bats were found to be roosting within the buildings on site. In addition, no signs to suggest historic or recent use were recorded during the building inspections. Consequently, it is not considered that bats are a constraint to development.
- 3.31 The statement also identified a high potential for reptiles. Whilst the appeal against the 2016 application was in part dismissed due to the lack of a reptile survey, such a survey has now been submitted. The presence/likely absence survey undertaken (which has been accepted as reasonable) demonstrates that the site supports a very low number of reptiles and, as such, habitat manipulation is an appropriate method for protecting reptiles. A condition should be attached to any grant of permission to secure the proposed mitigation.

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

- 3.32 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.
- 3.33 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 a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 3.34 Following consultation with Natural England, the identified pathway for such a likely significant 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.

- 3.35 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.
- 3.36 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). The applicant has agreed to fund this mitigation.
- 3.37 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant 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.

Drainage

- 3.38 The existing buildings on the site, if reoccupied would generate their own surface water and foul water discharges, albeit the development would be likely to increase foul water flows. Southern Water have requested that, should permission be granted, conditions should be attached requiring full details of schemes for the provision surface water and foul water drainage. In particular, unless the applicant can demonstrate that existing potential flows are equal to or greater than the flows which would be generated by the development, new infrastructure would be required. Whilst there are funding mechanisms in place to secure payments for such work, conditions would be required to ensure that the delivery of the infrastructure takes place in advance of the occupation of the development. Consequently, such conditions would be reasonable.

Contributions

- 3.39 Core Strategy Policy DM5 requires that for schemes of more than 15 dwellings an on-site provision of affordable housing, amounting to 30% of the dwellings proposed, will be required. However, the policy also acknowledges that the exact amount of affordable housing, or financial contribution, to be delivered from any scheme will be determined by economic viability, having regard to individual site and market conditions.
- 3.40 Concerns have been raised by the Councils Head of Strategic Housing that the provision of 30% affordable housing with blocks of flats is difficult to achieve. The comment in full reads:

“It would seem that the proposed development comprises a single block of apartments and I recognise that incorporating different tenures within a single block can be problematic. It may therefore be appropriate to consider the possibility that the affordable housing could be commuted off-site by way of either financial or land contribution”.

3.41 The applicant has held discussions with Registered Social Landlords, but no offers have been received. This was also the case when the previous application had proposed an entirely residential development of 21 no. flats. Consequently, and following advice, the applicant has adopted the method for determining off-site contributions from development, which is ordinarily used for smaller schemes. This method for securing contributions for the off-site provision of affordable housing requires that a payment equivalent to 5% of the Gross Development Value of the housing development be secured. Negotiations have taken place between officers and the application to agree likely sales values, having regard for recent sales of comparable properties in the area. The new build flats within the Aylesham Village Expansion have not been considered, as these would attract a premium, being purpose built new builds; however, two flats in Aylesham have recently sold for £125,000 and £145,000 respectively. Whilst these both provide two bedrooms each, they are around 45 to 55sqm in size, so are comparable to the flats within the application scheme. Based on an average sales price of £140,000 (which is considered to be reasonable, given the bedroom and floor area sizes of the development), the GDV of the scheme would be £2,660,000 and, therefore, the required contribution (5% of this figure) would amount to £133,000. The recently published NPPF, consolidating advice which had previously been found in the Planning Practice Guidance, advises (paragraph 63) that:

“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount”

Footnote 28 confirms that the ‘proportionate amount’ should be “equivalent to the existing gross floorspace of the existing buildings”. The proposed development would utilise 481.6sqm of floorspace to create 1,202.7sqm of residential floorspace (with other floorspace being retained for use as a public house). This equates to around 40% reuse of the vacant building being reused as described by paragraph 63 and, as such, a 40% vacant building credit should be applied to the contribution of £133,000. This would reduce the figure to £79,800. The applicant has confirmed agreed this figure and confirmed that this can be secured by legal agreement.

3.42 KCC have advised that the development would place additional pressure on local library services, for which there is currently insufficient capacity. To meet the needs generated by the development, KCC have therefore requested a contribution of £960.32 towards library book stock for Aylesham Library. It is considered that this is necessary and reasonably related to the development and should therefore be sought. The applicant has agreed to provide this. No other contributions have been sought.

Archaeology

3.43 The site is in an area of high archaeological potential, with crop marks and chance finds being discovered. The proposal seeks to extend the existing building and these extensions could impact upon previously unknown heritage assets of archaeological importance, in particular from the digging of foundations and services. It is therefore recommended that, should permission be granted, an archaeological watching brief take place to ensure that any features are appropriately recorded.

4. **Conclusion**

- 4.1 The principle of the development accords with policies DM4 and DM24, retaining a pub. Whilst the reduction in size would limit the range of services, activities and events which would be offered, it would be of a reasonable overall size to provide a valuable community function and would meet the terms described in the policy.
- 4.2 The scale, form and design of the proposed extensions and alterations of the scheme has already been considered by the Inspector at appeal, when it was determined that the development would cause no harm to the visual amenity of the area or the living conditions of neighbouring properties.
- 4.3 It is considered that the development would be acceptable in all other material respects, albeit the assessment of the acceptability of the parking arrangements is a balanced one. The development would provide a valuable contribution towards the Districts five year housing land supply and, consequently, this benefit must be attributed significant weight. Overall, it is considered that the application is acceptable and it is recommended that permission be granted.

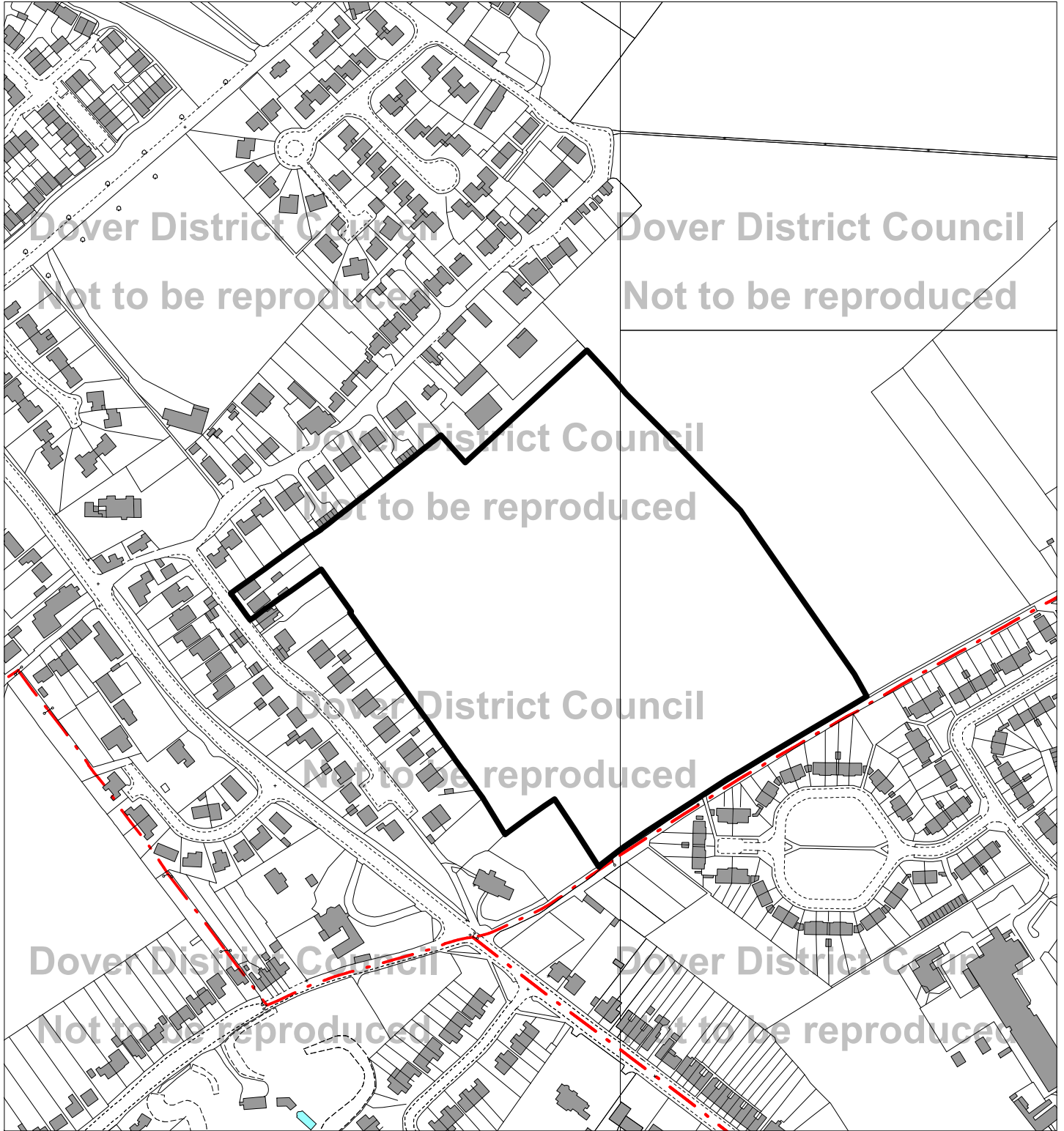
g) **Recommendation**

- I Subject to the submission and agreement of a S106 agreement to secure contributions, PERMISSION BE GRANTED subject to conditions to include:-
- (1) approved plans, (2) samples of materials, (3) full details of hard and soft landscaping, (4) scheme of sound insulation, (5) provision and approval of a timetable for the implementation of the residential dwellings and the public house, (6) provision of access, car parking and turning areas prior to first occupation (including use of a bound surface material), (7) provision and retention of cycle parking, (8) provision and retention of access, (9) provision and retention of visibility splays, (10) construction management plan, (11) No gates to access (remove permitted development rights), (12) full details of foul drainage including a timetable for the works and a maintenance programme, (13) full details of surface water drainage including a timetable for the works and a maintenance programme, (14) previously unidentified contamination, (15) ecological mitigation and enhancements, (16) provision of refuse storage, (17) programme of building recording, (18) Archaeology
- II Powers to be delegated to the Head of Regeneration and Development to settle any necessary planning conditions and to agree a s106 agreement, in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Luke Blaskett

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Not to scale

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Application: DOV/17/01345

Land at Churchfield Farm

The Street

Sholden

CT14 0AL

TR35895236



- a) **DOV/17/01345 – Outline application for up to 48 dwellings (comprising up to 14 affordable dwellings and up to 34 market dwellings), a care home with up to 64 bedrooms (C2 use), publicly-accessible open space (including children's play area), attenuation pond, and creation of vehicular access (two dwellings to be demolished) (appearance, landscaping, layout and scale of development to be reserved). Proposed amendments to highway arrangements – Land at Churchfield Farm, The Street, Sholden**

Reason for report – Number of third party contrary comments.

- b) **Summary of Recommendation**

Grant 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 development plan policy is set out below:

Dover District Core Strategy (2010)

CP1 – Settlement hierarchy.
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.

Dover Land Allocations Local Plan (LALP) (2015)

DM27 – Providing open space.

Saved Dover District Local Plan (2002)

None applicable.

Kent Minerals and Waste Local Plan 2013-2030 (2016)

DM7 – Safeguarding mineral resources.

National Planning Policy Framework (NPPF)(2018)

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 [***including where a five year supply of housing land cannot be demonstrated***], 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.

12. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan... permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

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

- a) promote social interaction... 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... 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... for example through the provision of safe and accessible green infrastructure... and layouts that encourage walking and cycling.

98. Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks...

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.

109. Development should only be prevented or refused on highways grounds of there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

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...

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...
- 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...

177. The presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.

193. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Other considerations

Planning (Listed Buildings and Conservation Areas) Act 1990.

Church of St Nicholas – grade II* – listed 11 October 1963

“Parish church. C13 with C14 fenestration and tower, C17 porch, all heavily restored late C19. Knapped flint and plain tiled roof. Nave and chancel north porch and west tower. Three stage tower with string courses corner buttresses and parapet. Nave with restored Y-tracery windows and buttresses, chancel stepped in with renewed lancets, and low windows to north and south. North porch C17 of red brick on flint, the end wall rebuilt C19 in brown brick. C19 doorways. Interior: plain chamfered tower door, fine C15 chancel arch on round responds with moulded octagonal capitals and bases, and wave moulded outer order carried all the way round the arch. The inner reveals of chancel lancets are original C13 work. C19 roofs, of crown posts in the nave. The nave extends to north of chancel and tower as if aisled on plan. The north doorway C15, with attached shafts and moulded surround. C19 fittings, including bad marble reredos. Monuments: large series of black and white marble wall plaques, early and mid C19 Neo-classical, the best to Sarah Curling, d. 1845, with draped urn and enriched bracketed base, signed J. Milligan, Portland Rd, London, and Jane Harvey, d.1842, with a sarcophagus on claw feet, with fasces on the sides, and small coffin over, signed E. Gaffin, Regent St. London. Originally a chapelry of Northbourne. (See B.O.E. Kent II, 1983, 460).”

Tomb chest and vault and headstone about 2 and 5 metres north of Church of St Nicholas – grade II – listed 24 March 1987.

GV II Tomb chest and vault and headstone. Tomb chest to William Hild, Pilot of Deal, d.1674, and members of his family to 1696. Red brick chest with plinth on barrel vaulted and part rendered vault. Moulded marble top slab with inscription. Headstone

to William Salmon, d.1713. About 3 feet high with heavily scrolled shoulders with death's head motif.

Tomb chest and headstone about 1+5 metres east of Church of St. Nicholas – grade II – listed 24 March 1987.

Tomb chest. Late C17. Moulded and inscribed top slab on red brick chest on plinth. Inscription illegible. Headstone to Elizabeth Ratley, d.1776. About: 3 feet high, with scrolled shoulders and palm frond surround to heraldic achievement.

d) **Relevant Planning History**

DOV/17/01153 – Screening opinion – proposed residential development – ENVIRONMENTAL STATEMENT NOT REQUIRED.

e) **Consultee and Third Party Responses**

For original comments – please see first report (19 July 2018) – attached as Appendix 1.

DDC Ecology – in relation to the need for an appropriate assessment, and NPPF paragraph 177, please see report section below.

Natural England – in relation to the need for an appropriate assessment, and NPPF paragraph 177, please see report section below.

Sholden Parish Council – in reference to the Inclusive Transport Strategy 2018:

“Sholden Parish Council would like to refer the Planning Committee to the summary of chapter eight: it says:-

“We will recommend that local authorities pause the development of shared space schemes while we review and update the Department’s guidance”.

Chapter Eight, sub-paragraph 11 goes into much more detail:

“While we consider CIHT (Chartered Institute of Highways and Transportation” and DPTAC’s (Department of Transport...) recommendations and how to take them forward, we are requesting that local authorities pause any shared space schemes incorporating a level surface they are considering, and which are at the design stage. We are also temporarily suspending Local Transport Note 1/11. This pause will allow us to carry out research and produce updated guidance”.

It seems to us in Sholden Parish Council that this new instruction to Councils very much impacts on the Greenlight access plans at the top of The Street? That is, no level surface footway should now be considered?”

KCC Highways – Further comment on shared surfaces, following Sholden Parish Council comment on this matter:

“The concern appears to be in relation to the use of shared spaces by disabled people, particularly the visually impaired, some of whom expressed concern that such schemes were difficult to navigate and left them feeling excluded. In this particular case the street is already a shared space and has been used as such for many years. The proposals improve the existing shared space by highlighting the presence of pedestrians to drivers and providing a different colour surface for pedestrians. In terms of the visually impaired or blind, if necessary a small kerb upstand could be included which would help identify the pedestrian route to these users but still allow overrun by

vehicles as necessary. This again would be an improvement over the existing shared space arrangement.”

South Kent Coast Clinical Commissioning Group (CCG) (NHS) – As confirmation, the CCG would apply the same formula to the care home part of the scheme ie 64 x 1 (assumed single occupancy rooms) x £360 = £23,040 in addition to the £40,435.20 already requested. (£63,475.20 in total)

I reiterate the feedback from the local practices – there are already a significant number of care home residents registered in Deal and an additional home of this size will have a destabilising effect on local primary care provision.

The number of GPs in Deal is falling, and combined with additional patients with complex needs, often with multiple co-morbidities and requiring more home visits than other patients, the additional pressure on the local healthcare system would likely put existing patients at risk as services become stretched. The fact that the need is concentrated in one place does not detract from the issue that unless there is care package arranged independently for residents, a local GP will be required to take on the patients and potentially have more time away from their surgery, thus reducing contact hours available at the practice and reducing the number of appointments available to patients.

DDC Infrastructure officer – informal discussion – please see report section below relating to NHS.

KCC Archaeology – comments – “It is possible that the proposed development may affect important archaeological remains, potentially including a continuation of the important and extensive archaeological landscape investigated archaeologically at Timperley Fields and visible as crop- and soil- marks on Sholden Downs. I therefore recommend that provision is made in any future planning consent for the archaeological evaluation of the site, to be followed by further safeguarding and/or investigation measures as required. The following condition covers what would be required:

AR5 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:

- i. archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
- ii. following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.”

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

The Site

- 1.1. The site is located behind (east of) the junction of The Street and Vicarage Lane in Sholden, east of the A258 London Road, and west/north west of Middle Deal (adjacent to Diana Gardens).
- 1.2. The site is related to the old Churchfield Farm, but has not been farmed in recent memory. The site is covered by overgrown vegetation and scrub, with some intermittent areas of tree coverage, and is private land, although there are walking tracks worn into the ground. The site is level with the land at Vicarage

Lane, but is higher than The Street, particularly when moving towards the north east. The site is currently accessed from an old farm track, come residential access, between numbers 30 and 32 The Street.

- 1.3. The site is immediately adjacent to the rear of dwellings on The Street and Vicarage Lane, on its north western and south western boundaries respectively. Along its south eastern boundary is public footpath ED56. The north eastern boundary of the site opens out on to open farmland and on to the southern end of the Timperley Place development.
- 1.4. Adjacent to the southern corner of the site is the grade II* listed Church of St Nicholas, and its churchyard. Two tombs within the yard are grade II listed.
- 1.5. The Street and Vicarage Lane retain village and suburban characters respectively. The junction of The Street with the A258 London Road, the main access into Deal or Sandwich, is narrow and intimate in character, with visibility partially restricted by the road orientation and close boundaries on both sides, with no pedestrian footway. The Street is served by a regular bus service during the main hours of the day.
- 1.6. Approximate site dimensions (as seen from Vicarage Lane) are:
 - Depth – 258 metres (including access), 210 metres (not including site access).
 - Width – 267 metres.
 - Site area – 5.6 hectares.

Proposed Development

- 1.7. The proposed development is an outline application that comprises the erection of up to 48 dwellings and up to a 64 bedroom care home. Matters of layout, appearance, scale of development and landscaping are reserved.
- 1.8. The indicative drawing shows the development focused in the western section of the site, with an L shaped section of land bordering the north east and south east site boundaries.
- 1.9. This section of land would be set aside for the following:
 - 0.73 hectares existing woodland and copses
 - 0.74 hectares proposed structure planting
 - 0.45 hectares proposed SUDS
 - 0.31 hectares proposed LEAP and kickabout area
 - 1.06 hectares species rich grassland
 - 0.11 hectares retained scrubland

As well as including footpath links to the existing footpath ED56, running adjacent to the south east site boundary, on a south west – north east axis from London Road to Church Lane. This would equate to 60% of the site not being developed for housing or the care home.

- 1.10. The single vehicular access to the development would be taken from Vicarage Lane, where numbers 1 and 2 would be demolished. Around this junction parking would be restricted by double yellow lines. Six compensatory layby parking spaces would be created near to the junction within the site.

1.11. Works are proposed to The Street between its junctions with Vicarage Lane and London Road. This would comprise resurfacing with coloured blocks – black for the main carriageway and red for an indicated footway. At the junction with London Road, the footway would be built out into the carriageway to meet to the south western end of the proposed footway.

1.12. Plans will be on display.

2. Assessment

Deferred for Site Visit

2.1. At the Planning Committee meeting on 19 July 2018 members resolved to defer this application for a site visit on 21 August 2018, at 8am, for the following reasons: (i) Understand traffic movements in the vicinity of the site; (ii) Assess the proposed access and proposed off-site highways works at the junctions of The Street/London Road and The Street/Vicarage Lane; (iii) Assess the landscape impact of the proposals; (iv) Assess the visual impact of the proposals on the character and appearance of Sholden; (v) Assess whether the proposals would cause any harm to the setting of the Grade II*-listed St Nicholas Church; and (vi) Understand the potential for motorised vehicle traffic to use footpath ED56 as a shortcut between Timperley Place/Church Lane and the proposed development site.

2.2. The outcome/discussion of the site visit will be reported at the meeting of planning committee on 23 August 2018.

2.3. Since the meeting on 19 July 2018, the following issues have arisen in relation to the determination of the proposal.

NPPF 2018 – paragraph 177 – Ecological impacts, appropriate assessment and the presumption in favour of sustainable development

2.4. The position reported to planning committee on 19 July 2018 with regard to the ruling of the European Court of Justice (ECJ), the need for an appropriate assessment, and more widely, the application of the presumption in favour of sustainable development (the ‘tilted balance’), was that it was necessary to undertake an appropriate assessment for this application. It was further reported that an appropriate assessment was undertaken by the local planning authority (LPA), which concluded that there would be, “no likely significant effect from the proposed housing development on the Thanet Coast and Sandwich Bay SPA and Ramsar sites”. Natural England were satisfied with this assessment “providing that all mitigation measures are appropriately secured in any permission given”.

2.5. The two positions were somewhat contradictory, while the LPA concluded that there would be no likely significant effect, Natural England sought mitigation measures as part of any permission. It is considered logic would dictate that, if mitigation is required, there must be a likely significant effect.

2.6. Additionally, following the July committee meeting, this matter has been reviewed by the council’s principal ecologist and legal advice has been sought. This has concluded that, whilst some evidence has been provided which indicates residential development in the district may not cause a significant effect, it has not been sufficiently demonstrated that such an effect would not be

caused, having regard for the precautionary principle. Consequently an appropriate assessment must be undertaken.

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

- 2.7. 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.
- 2.8. 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 a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.9. Following consultation with Natural England, the identified pathway for such a likely significant 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.
- 2.10. 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.
- 2.11. 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).
- 2.12. Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant 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.”
- 2.13. In addition to this change in position, paragraph 177 of the NPPF (previously addressed under paragraph 119) states that the presumption in favour of sustainable development does not apply to any application requiring an AA because of its potential impact on a habitats site.
- 2.14. Accordingly, where the report of 19 July 2018 was written in the context of the presumption in favour of sustainable development being in effect, this report is no longer written in that context.
- 2.15. In ecological terms, it is important to note that the proposed development is still considered to be acceptable, but only subject to the appropriate mitigation

measures being secured. In terms of how the council had approached matters for residential developments prior to the ruling of the European Court of Justice (addressed in the report of 19 July 2018), the outcome in this case is very similar, but with the order in which mitigation can be factored in moved to a later point of the consideration process, and appropriate assessments now becoming a mandatory part of that process.

- 2.16. Where the presumption in favour of sustainable development no longer applies, this is considered below in the sustainability conclusion and general conclusion.

Proposed Highways Works/Sholden Parish Council comments

- 2.17. Sholden Parish Council has referred the planning committee to paragraph 8.11 of the Inclusive Transport Strategy 2018, which states:

“While we consider CIHT and DPTAC’s recommendations and how to take them forward, we are requesting that local authorities pause any shared space schemes incorporating a level surface they are considering, and which are at the design stage. We are also temporarily suspending Local Transport Note 1/11. This pause will allow us to carry out research and produce updated guidance.”

- 2.18. The position of KCC Highways in this instance is that the proposed works to The Street, between the junctions of Vicarage Lane and London Road, are not to introduce a shared surface, as the pedestrian use of the road with a dedicated footpath means that it is de facto already a shared surface and has always been so.

- 2.19. The works proposed by the applicant would bring about some formalisation of the shared surface and by providing visual cues that a pedestrian or pedestrians might be present, is likely to improve the existing functioning of this section of the highway. Accordingly, the proposal is considered to be a benefit on these terms.

NHS Contribution Request

- 2.20. At the meeting of planning committee on 19 July 2018 it was reported that the NHS had not responded in relation to the proposed care home, except in so far as to comment that the home could not be supported, or that a financial contribution should be sought if a recommendation to grant permission were to be made.

- 2.21. Since that meeting, the NHS has responded with the comment that, while still maintaining a position of not being able to support the impact of the care home on the operation of the local GP surgeries in the area, an additional request of £23,040 has been made toward the fitting out of the Balmoral surgery (total – £63,475.20).

- 2.22. The reasoning of the NHS that it cannot support the proposal is that it would adversely affect its ability to provide GP services. However, its request for contributions in relation to the care home, further considered below, effectively acknowledges that the proposal can be made acceptable in planning terms. Subject to a section 106 obligation on these terms, the impact identified by the NHS cannot be considered to be a lawful reason for refusal, because it can and would be mitigated.

- 2.23. The applicant has queried the NHS request in line with their comments regarding any ‘new’ occupants of the care home coming from within a 3 mile/10 minute

drive radius, logic follows that the care home would not be creating any new patient demand, and as such, the request made by the NHS is not reasonably related to the development – thereby not meeting the test of CIL regulation 122. However, it is recommended that the position of the local planning authority should be pragmatic, i.e. that while the applicant is quoting an expected radius from within which occupants of the care home will move, this cannot be guaranteed. The NHS, while maintaining a position that the care home cannot be supported, has nevertheless requested a financial contribution towards the fitting out of the Balmoral surgery. Accordingly, it is considered that the impact of the care home, by virtue of a request being made, can be accommodated.

2.24. In the report of 19 July 2018, the infrastructure officer had suggested that a contribution fairly and reasonably related in scale and kind to the development would be £13,492 (not £40,435.20), on the following basis:

- 48 dwellings would result in 112 people.
- Each person would equate to 0.08m² of floor space
- Each m² of floor space would cost £1,686.
- $112 \times 0.08\text{m}^2 = 8.96\text{m}^2$
- $8.96 \times £1,686 = £13,492$.

2.25. However, this calculation was inaccurate, and should have read £15,106.56.

2.26. On the same basis, a further 64 people would increase the contribution sought to £23,738.88,

- $112 + 64 = 176$
- $176 \times 0.08\text{m}^2 = 14.08\text{m}^2$
- $14.08 \times £1,686 = £23,738.88$.

2.27. The applicant has indicated that they are also willing to be pragmatic in these circumstances and meet the funding request.

Sustainability Conclusion

2.28. The implication of the European Court of Justice ruling in relation to the effect of a development on a European ecological site and the need to undertake an appropriate assessment, in combination with paragraph 177 of the revised NPPF, is that the tilted balance does not apply to the consideration of this planning application, regardless of whether the council can demonstrate a five year supply of deliverable housing land, or whether the relevant policies of the local plan are considered to be up to date.

2.29. Nevertheless, any adverse impacts and benefits of the proposal remain the same.

Economic Role

2.30. The proposed development would bring economic benefits in terms of time limited construction contracts. It would also bring longer term benefits, the proposed care home facility would bring with it a number of jobs, likely permanent and flexible, full time and part time. The largest economic benefit would come as a result of the number of people that would live within the individual dwellings, depending that is, on the degree to which these people might be new to the area, or moving within the area. These people would support the local economy to varying degrees, potentially with increased levels of local

spending. The site would no longer be productive farmland, however, this site has not been farmed in recent memory and the resultant effect of the development of sites accessed from Church Lane in particular, is that this site has become more difficult to access and farm profitably as part of a larger concern. In economic terms, it is considered that the benefits of the development would outweigh any adverse impacts.

Social Role

- 2.31. As noted above, this development would bring with it new residents that could become part of and strengthen the existing community. The proposed care home would provide a social facility for an identified existing [and in the future, more critical] need, and this is considered to be a benefit in absolute terms. The proposed development would contribute to the council's five year land supply calculation and would also deliver 14 affordable houses, in accordance with the NPPF aim to significantly boost the supply of homes. There would also be planning obligations in support of local primary and secondary schools. New recreational facilities would be delivered for local children, as would newly accessible open space, to be secured in perpetuity. The comments of the CCG are taken into account and this represents a potential adverse effect of the proposal – it is noted that the proposed care home is considered to represent a potentially unacceptable strain on local GP surgeries, however, the CCG has now a financial contribution in relation to this. In terms of the social role, and the respective benefits and adverse impacts of this scheme, it is considered that the benefits ultimately outweigh any harm.

Environmental Role

- 2.32. The environmental impact of the proposal is considered to be more balanced. There is a loss of countryside involved in the proposal, although in terms of character, as previously addressed, this is not necessarily considered to be harmful. Countering the absolute loss of countryside is the delivery of open space to be retained in perpetuity, along with an enhancement of the existing trees and vegetation around parts of the site, based on a precautionary principle, which would provide an ecological corridor for any local species. The development would bring with it activity where there has been none for a number of years, including increased travel movements in and around the proposed new junction between the site and Vicarage Lane, and between the junctions of The Street and Vicarage Lane, and The Street and London Road. However, it has been shown in the transport assessment, and through a safety audit, that these movements can be accommodated at peak times, such that there are no objections from KCC Highways or from Highways England. In heritage terms, the location of the grade II* listed church is acknowledged and addressed by way of an indicative site layout that refrains from placing any dwellings within the setting of the church, to the degree that it both maintains views to it from the neighbouring countryside, and has raised no objection from the DDC heritage officer. The environmental aspects of the proposal are considered to be balanced, but in terms of adverse impacts outweighing benefits, this is not considered to be the case.

3. Conclusion

- 3.1 It is acknowledged that the presumption in favour of sustainable development does not apply in determining this application. Nevertheless, the proposed development is still considered to be acceptable.

- 3.2 The statutory basis for determining an application is that the decisions are made in accordance with the development plan unless material considerations indicate otherwise.
- 3.3 The proposed development is outside of the settlement boundary and as such is not in accordance with the development plan. The development, however, does provide for new housing against the context of the NPPF, one aim of which remains to significantly boost the supply of new homes.
- 3.4 As assessed in the original report, it is considered that the development would provide a range of benefits being in a sustainable location adjacent to the existing urban area, where there are no statutory objections, and where no significant harm has been identified. It is concluded that this represents a material consideration which indicates permission should be granted contrary to the development plan.
- 3.5 Reviewing the proposal, it is acknowledged that it is in outline in form, so consideration in this case is against an indicative layout. However, as noted, there are elements of this which are fixed i.e. the proposed access, and other elements which would be difficult to alter i.e. the location of open space, which is to be secured in perpetuity through a legal agreement, and which provides an appropriate setting for the grade II* listed church, as well as ecological enhancement measures.
- 3.6 Although paragraph 177 of the revised NPPF stipulates that if an appropriate assessment is required, the titled balance does not apply, it is correct to acknowledge that an appropriate assessment was undertaken and, subject to the mitigation payment being made, the development would not cause a likely significant effect.
- 3.7 There is not considered to be undue harm arising to the character of the countryside or the immediate vicinity, even accepting that some countryside would be lost to the development, and the separation of Middle Deal and Sholden, although reduced in terms of distance, would now be defined with no further narrowing possible at this location.
- 3.8 Concerns have been raised about the amount of traffic and transport movements that would be associated with the proposal, however, the applicants have demonstrated to the satisfaction of both KCC Highways and Highways England that any impacts would not be severe. The applicants propose works to the junction of The Street with London Road, and to the highway of The Street from that point north east as far as the junction with Vicarage Lane. These works would assist with the operation of this section of The Street, for both vehicles and pedestrians.
- 3.9 In terms of what has been identified as a shared surface, and the concerns raised by Sholden Parish Council – these are acknowledged, however, due to that surface already functioning as such, the proposed works are considered to be a benefit, as commented by KCC Highways.
- 3.10 The proposed development would meet all compliant planning obligations and policy required contributions, so in this regard, is seen to be addressing its own impacts, such that benefits might be provided to the local communities.
- 3.11 There are no flooding or drainage concerns and the site can be adequately serviced by the full range of utilities.

3.12 It must be acknowledged that the NPPF has been revised since the July committee meeting. However, except where discussed in this report, it is not concluded that the changes materially affect the conclusions reached in the previous committee report (Appendix 1).

3.13 Accordingly, in light of the presumption in favour of sustainable development not applying, the benefits of the proposal, combined with harm not being identified, remain such that the recommendation is to grant permission.

g) **Recommendation**

- I. Planning permission be GRANTED, subject to the signing of a section 106 legal agreement, and planning conditions, including the following: (1) Reserved matters – layout, appearance, scale of development, landscaping (2) RM application time limit (3) Approved drawings (4) Commencement time limit (5) Affordable housing (6) Contamination investigation and verification (7) Construction management plan (8) Surface water drainage scheme and verification (9) Foul sewage (10) Biodiversity enhancement (11) External lighting (12) Soft and hard landscaping, including means of enclosure (13) Archaeology (14) Finished floor levels (15) Samples (16) Highways – no surface water on to highway (17) Highways – bound surface (18) Highways – vehicle parking and turning facilities (19) Highways – cycle parking (20) Highways – completion of site access before occupation (21) Highways – completion of improvements to The Street before first occupation (22) Highways – completion of roads, footways, footpaths, verges, junctions, street lighting sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture in accordance with approved details by X time (23) Highways – completion of works between adopted highway and dwelling before occupation of dwelling – footways and/or footpaths; carriageways, turning facilities, highway drainage, visibility splays, street lighting, street name signs and highway structures (if any) (24) Highways – provision and maintenance of visibility splays onto Vicarage Lane (no obstructions above 1 metre in height) (25) Highways – driver visibility splays (26) Highways – pedestrian visibility splays (27) Highways – pedestrian and cycle connections to ED56 (28) Site levels (29) Details of earthworks (30) Arboricultural method statement (31) Wildlife enhancement scheme (32) Refuse and recycling storage (33) Broadband connection (34) Residential sprinklers (35) Surface water drainage – infiltration drainage to be agreed (36) Surface water drainage – no building to be occupied until verification of drainage scheme.
- II. That powers be delegated to the Head of Regeneration and Development to settle the detail of the section 106 agreement in relation to the delivery, management and ongoing maintenance of the proposed open space and ecological enhancement land.
- III. That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Darren Bridgett

Appendix 1 – Planning Committee Report of 19 July 2018

- a) **DOV/17/01345 – Outline application for up to 48 dwellings (comprising up to 14 affordable dwellings and up to 34 market dwellings), a care home with up to 64 bedrooms (C2 use), publicly accessible open space (including children's play area), attenuation pond, and creation of vehicular access (two dwellings to be demolished) (appearance, landscaping, layout and scale of development to be reserved). Proposed amendments to highway arrangements – Land at Churchfield Farm, The Street, Sholden, Deal**

Reason for report – Number of third party contrary comments.

- b) **Summary of Recommendation**

Grant 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 development plan policy is set out below:

Dover District Core Strategy (2010)

CP1 – Settlement hierarchy.
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.

Dover Land Allocations Local Plan (LALP) (2015)

DM27 – Providing open space.

Saved Dover District Local Plan (2002)

None applicable.

Kent Minerals and Waste Local Plan 2013-2030 (2016)

DM7 – Safeguarding mineral resources

National Planning Policy Framework (NPPF)(2012)

12. This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place.

14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - 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; or
 - specific policies in this Framework indicate development should be restricted.

17. Core planning principles... 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...
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings...
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas... recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it; actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

32. 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:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- 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.

49. Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

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...

69. The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities... Planning... decisions... should aim to achieve places which promote...

- safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas.

70. To deliver the social, recreational and cultural facilities and services the community needs, planning... decisions should...

- plan positively for the provision... of... community facilities... and other local services to enhance the sustainability of communities and residential environments...

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...

75. Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks...

132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting...

Other considerations

Planning (Listed Buildings and Conservation Areas) Act 1990.

Church of St Nicholas – grade II* – listed 11 October 1963.

"Parish church. C13 with C14 fenestration and tower, C17 porch, all heavily restored late C19. Knapped flint and plain tiled roof. Nave and chancel north porch and west tower. Three stage tower with string courses corner buttresses and parapet. Nave with restored Y-tracery windows and buttresses, chancel stepped in with renewed lancets, and low windows to north and south. North porch C17 of red brick on flint, the end wall rebuilt C19 in brown brick. C19 doorways. Interior: plain chamfered tower door, fine C15 chancel arch on round responds with moulded octagonal capitals and bases, and wave moulded outer order carried all the way round the arch. The inner reveals of chancel lancets are original C13 work. C19 roofs, of crown posts in the nave. The nave extends to north of chancel and tower as if aisled on plan. The north doorway C15, with attached shafts and moulded surround. C19 fittings, including bad marble reredos. Monuments: large series of black and white marble wall plaques, early and mid C19 Neo-classical, the best to Sarah Curling, d. 1845, with draped urn and enriched bracketed base, signed J. Milligan, Portland Rd, London, and Jane Harvey, d.1842, with a sarcophagus on claw feet, with fasces on the sides, and small coffin over, signed E. Gaffin, Regent St. London. Originally a chapelry of Northbourne. (See B.O.E. Kent II, 1983, 460)."

Tomb chest and vault and headstone about 2 and 5 metres north of Church of St Nicholas – grade II – listed 24 March 1987.

GV II Tomb chest and vault and headstone. Tomb chest to William Hild, Pilot of Deal, d.1674, and members of his family to 1696. Red brick chest with plinth on barrel vaulted and part rendered vault. Moulded marble top slab with inscription. Headstone to William Salmon, d.1713. About 3 feet high with heavily scrolled shoulders with death's head motif.

Tomb chest and headstone about 1+5 metres east of Church of St. Nicholas – grade II – listed 24 March 1987.

Tomb chest. Late C17. Moulded and inscribed top slab on red brick chest on plinth. Inscription illegible. Headstone to Elizabeth Ratley, d.1776. About: 3 feet high, with scrolled shoulders and palm frond surround to heraldic achievement.

d) **Relevant Planning History**

DOV/17/01153 – Screening opinion – proposed residential development – ENVIRONMENTAL STATEMENT NOT REQUIRED.

e) **Consultee and Third Party Responses**

DDC Regeneration (Planning Policy) – The proposed development is contrary to policy DM1, by virtue of its location outside of the settlement boundary. No further designations have been made which identify any other purpose for this site e.g. protected open space, or the prevention of coalescence. Dover District Council cannot demonstrate a five year supply of deliverable housing land, which along with the evidence in the revised SHMA relating to the objectively assessed housing need, means that the presumption in favour of sustainable development contained in paragraph 14 of the NPPF (the tilted balance), is relevant to the determination of this application.

The policy manager suggests that if open space is to be retained in perpetuity, it may be feasible to transfer the land to the management of the parish council, subject to their agreement.

DDC Infrastructure officer – comments regarding open space requirements that would arise from the proposed development, as required by policy DM27. Notes the following requirements:

- Accessible green space 0.25 ha
- Outdoor sports facilities 0.13 ha
- Children's equipped play space 0.007 ha
- Allotments / Community Gardens 0.023ha

In relation to NHS request – a proportional payment would equate to £13,492.

Ecological mitigation contribution for Thanet Coast and Sandwich Bay SPA and Ramsar site is £2,188.

DDC Ecology – no objection in relation to the site specific recommendations in submitted ecological report. In relation to any potential impact on the Thanet Coast and Sandwich Bay SPA, an appropriate assessment has been undertaken and determined that the proposal would not result in adverse impacts on the SPA, subject to securing mitigation payments.

Natural England – no objection – subject to the following comments:

Thank you for your email dated 20th February 2018 consulting Natural England on the above application. I can advise that Natural England has no objection to the proposal providing that the housing element makes the appropriate contribution to your

authority's Thanet Coast SPA Mitigation Strategy. Our advice is that no contribution is required from the care home element as residents are likely to be infirm and therefore unlikely to make use of the SPA for recreational purposes.

FOLLOWING RULING OF EUROPEAN COURT OF JUSTICE
PEOPLE OVER WIND AND SWEETMAN – 12 APRIL 2018
(RELATING TO HABITATS REGULATIONS ASSESSMENTS)

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

DDC Trees – concurs with recommendations in tree protection plan; and the relevant recommendations in the ecological scoping report.

DDC Heritage – advises no harm to the setting of the listed building (St. Nicholas's Church), and no need to consult Historic England.

DDC Head of Strategic Housing – no objection – subject to the following comments: The number of affordable homes proposed is 14 which represents 30% of the 48 of C3 residential dwellings. It is proposed that the 14 dwellings are split on a 70/30 ratio between homes for social rent (10 dwellings) and an intermediate tenure (4 dwellings). The Council would normally expect intermediate dwellings to take the form of shared ownership housing.

The proportion of affordable housing proposed and the tenure split is considered acceptable.

The proposed unit types within the two forms of tenure are also set out in the statement. The mix of unit types appears to be appropriate but may need fine tuning following discussions with potential affordable housing delivery partners. The applicant has stated he is willing to discuss an alternative mix of house types if the Council feels this would better reflect housing need in the district.

Normally a C2 use class would not be subject to a requirement to provide affordable housing. However, the Council will need to satisfy itself that the scheme does comply with this planning use class as there have been instances where 'extra care' housing has been incorrectly classed as C2. However, it is noted that the application refers to the provision of a 'care home' rather than extra care.

DDC Environmental Health – no objection – subject to conditions for:

- Dust management plan.
- Construction management plan with hours of working restricted as follows:
 - Mondays to Fridays 08.00 – 18.00
 - Saturdays 08.00 – 13.00
 - And at no time Sundays and Bank Holidays.
- Land contamination investigation and remediation.

KCC Highways – no objection – subject to conditions and following comments:

I refer to the additional information submitted for the above on 4th May and 11th May and confirm the proposed improvements to The Street are acceptable. The proposed development is anticipated to generate approximately 30-35 two-way vehicle movements in the peak hours (including the afternoon school pick-up period), although this is considered to be a robust figure and may well be less bearing in mind there are three primary schools, bus stops, a railway station and Deal town centre within a reasonable walking distance of the site. All of these movements will be along Vicarage Lane to/from the site access and most if not all will also be along the section of The Street between Vicarage Lane and the A258 London Road. Neither of these sections of road are heavily trafficked and both are low-speed environments. The movements are then likely to disperse on multiple routes such that the increase at nearby junctions on the A258 is not significant and substantially less than the usual variation in daily flow.

The section of The Street between Vicarage Lane and London Road has no footway and has effectively operated as a shared surface, where pedestrians have mostly used the southern edge of the street for many years without any apparent significant problems. The greatest number of existing vehicle and pedestrian movements appears to occur during the afternoon school pick-up period, when some parents are collecting children from Sholden C of E Primary School in London Road. There have been no recorded personal injury accidents in the 10 years to the end of September 2017 in this section of The Street. The development will also introduce additional pedestrian movements to and from the site, although most of these are unlikely to be in this section of The Street bearing in mind the other routes available towards other primary schools, bus stops, the railway station and the town centre.

The development proposals include improvements to the existing situation in The Street with a marked pedestrian route along the southern edge of the street at the same level as the carriageway, to provide increased safety for pedestrians and highlight their presence to drivers whilst retaining room for vehicles to pass each other when necessary. The pedestrian route is a different surface colour/treatment (red block paving) and the remaining width of road is also changed to charcoal block paving with an entry paving band of contrasting material at each end, to help drivers identify that they are in a different environment to London Road and Vicarage Lane. At the junction with London Road the existing visibility for pedestrians crossing northbound is poor, obstructed by an existing boundary wall. This is improved by building out the end of the existing footway in London Road so that a pedestrian can see past the first section of adjacent boundary wall before stepping out into the road. This build-out also allows the marked pedestrian route to connect directly to the existing footway network in London Road. These proposals have been independently safety audited and the works will be carried out by the developer through a legal agreement with the highway authority.

Visibility at the junction of Vicarage Lane with The Street is limited both to the west for drivers exiting Vicarage Lane and for drivers turning right into Vicarage Lane, by existing boundary walls. However, the visibility available is acceptable based on the measured speed of vehicles. Visibility to the east for drivers exiting Vicarage Lane is also acceptable based on measured speeds. The proposed site access onto Vicarage Lane can provide acceptable visibility with the removal of some existing on-street parking in the vicinity of the access, as shown on the submitted drawing number 162228/SK/04 Rev. E. A total of nine potential parking spaces would be removed, with six being relocated into a lay-by in the site access road. Additional on-street parking is available if necessary in other sections of Vicarage Lane. The removal of on-street parking would be achieved through an extension of the existing double yellow lines at

the junction with The Street and would also provide an improved, unimpeded route for refuse, delivery and emergency vehicles to both the site and the rest of Vicarage Lane.

The southern boundary of the site adjoins Public Footpath ED56 (Church Lane Path) which provides a pedestrian route towards local schools and Deal town centre. The footpath is being widened and upgraded to also allow use by cyclists as part of the Church Lane development to the east. Connections from the proposed site to this route will enable residents to walk or cycle to the local schools and the town centre, and such connections can be resolved through any reserved matters application (although the requirement for such connections should be a condition on the outline consent). A separate pedestrian/cycle/secondary emergency access was also originally shown between the site and The Street via the existing access to Churchfield Farm, however this has now been removed from the proposals. The Fire Service have confirmed that the proposed main access off Vicarage Lane is sufficient for their purposes and other pedestrian and cycle connections to the site will be available, so this previously shown access is not considered necessary to make the proposals acceptable. Parking restrictions and additional lay-by parking are also proposed which will effectively provide a clearer route along Vicarage Lane and into the site than is currently available.

Access for construction traffic will need to be suitably managed and this can be achieved through submission of a Construction Management Plan which can be secured by condition.

Taking all of the above into account, on balance the proposals are unlikely to have a severe impact on the highway network that would warrant a recommendation for refusal, subject to the following being secured by condition:

- Submission of a Construction Management Plan before the commencement of any development on site to include the following:
 - a) Routing of construction and delivery vehicles to / from site;
 - b) Parking and turning areas for construction and delivery vehicles and site personnel;
 - c) Timing of deliveries (these will be restricted to outside school drop-off and pick-up times);
 - d) Provision of wheel washing facilities;
 - e) Temporary traffic management / signage;
 - f) Site access arrangements.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Use of a bound surface for the first 5 metres of each private access from the edge of the highway.
- Provision and permanent retention of vehicle parking and turning facilities prior to the use of the site commencing in accordance with details to be submitted to and approved by the Local Planning Authority.
- Provision and permanent retention of secure, covered cycle parking facilities prior to the use of the site commencing in accordance with details to be submitted to and approved by the Local Planning Authority.
- Completion of the site access onto Vicarage Lane as shown on the submitted plans or amended as agreed with the Local Planning Authority prior to first occupation.
- Completion of the improvements to The Street as shown on the submitted plans or amended as agreed with the Local Planning Authority prior to first occupation.
- The proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and

constructed in accordance with details to be submitted to and approved by the Local Planning Authority.

- Completion of the following works between a dwelling and the adopted highway prior to first occupation of the dwelling:
 - a) Footways and/or footpaths, with the exception of the wearing course;
 - b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).
- Provision and maintenance of the visibility splays shown on the submitted plans at the site access onto Vicarage Lane with no obstructions over 1 metre above carriageway level within the splays, prior to the use of the site commencing.
- Provision and maintenance of driver visibility splays at all road junctions and vehicular access points within the site prior to first occupation, in accordance with details to be submitted to and approved by the Local Planning Authority.
- Provision and maintenance of pedestrian visibility splays at all vehicular access points within the site prior to first occupation, in accordance with details to be submitted to and approved by the Local Planning Authority.
- Provision of pedestrian and cycle connections to Public Right of Way ED56 (Church Lane Path) prior to first occupation, in accordance with details to be submitted to and approved by the Local Planning Authority.

I would also request that all dwellings include charging facilities for electric/hybrid vehicles (a minimum of an external domestic plug socket adjacent to each parking space with the ability for this to be upgraded to a charging station).

INFORMATIVE: (Relating to highway approvals and consents).

Highways England – no objection – subject to the following comments:

We assessed the originally submitted Transport Assessment (TA), noting that Traffic Figures had not been provided; these Figures have now been supplied and considered. On this basis, we are satisfied that the proposals will not materially affect the safety, reliability and/or operation of the SRN (the tests set out in DfT C2/13 para 10 and DCLG NPPF para 32). Accordingly we do not offer any objections or requirements relating to the proposal, and enclose our HEPR form to this effect.

KCC PRoW – no objection – subject to informative relating to no storage of materials on footpath ED56.

Stagecoach – no objection – subject to the following comments:

The nearest bus stop is in The Street, opposite The Sportsman PH, which is served once per hour by Route 80 on Mondays to Saturdays. This provides direct services to Deal and Dover, and to Sandwich, with most buses continuing from there to Canterbury as Route 43. However, the stop does not meet current disabled access standards, there is no pavement access from the proposed development, and the only access to the proposed development is off Vicarage Lane, so the walk to/from the bus stop will be somewhat circuitous.

We also have concerns about the possible increase in traffic levels in The Street, especially given the lack of pavements, and the capacity of the junction with London Road. This is likely to be detrimental to buses exiting The Street into London Road.

KCC Infrastructure (education, libraries etc.) – no objection – subject to the following obligations and informative:

- Primary education – towards an extra classroom at Hornbeam Primary School – £152,904.

- Secondary education – towards phase 1 expansion at Dover Grammar School for Girls – £189,290.
- Libraries – towards large print books at Deal Library – £2,208.73.
- Fibre optic broadband – to work with next generation broadband providers to deliver superfast broadband – informative.

KCC Minerals and Waste – no objection – subject to following comments:

The proposed application site is located within a Minerals Safeguarding Area (MSA) as defined by Policy CSM 5 Land-won Minerals Safeguarding of the adopted KMWLP. The proposed development site is coincident with a MSA within the Dover district with the safeguarded economic mineral being Brickearth (Other Areas) - Ashford, Canterbury, Dover, Shepway.

The Minerals and Waste Planning Authority for Kent notes the correspondence dated 25th April 2018 between Greenlight Developments in relation to minerals and waste policy DM 7 which is provided in the planning application documentation. The correspondence endeavours to invoke criterion 2 of Policy DM 7 of the KMWLP stating the prior extraction of the mineral would not be economic, viable or practicable.

The Minerals and Waste Planning Authority is of the view that the above position is not one evidenced by any investigation of the deposit. However, given the lack of any recent historic mineral workings to supply a brick making facility in the locality, it is considered unlikely that the safeguarded deposit is of economic importance to the brick making industry currently. Therefore, exemption criterion 1 of Policy DM 7 of the adopted KMWLP can be invoked to allow an exemption from the presumption to safeguard the mineral deposit. Furthermore, there is a distinct potential for adverse local residential amenity impacts that would be associated with the prior extraction of any mineral and its onward transportation. Therefore on this occasion, the Minerals and Waste Planning Authority does not object and has no further comments to make.

KCC Archaeology – no comments received.

Environment Agency – reviewed – no comment.

KCC Lead Local Flood Authority (LLFA) – no objection – subject to conditions:

1. Detailed sustainable surface water drainage scheme.
2. No occupation until confirmation of implementation and long term management of sustainable drainage scheme have been submitted to and approved in writing by the LPA.
3. Infiltration allowed only where details have been submitted and approved by the LPA.
4. No occupation of buildings until verification of sustainable drainage system being operational.

Fire officer – no objection – subject to the following comments:

Following examination of the plans the provision of an access roadway of 3.7m in width which allows an appliance to within 45m of all points within the dwelling must be provided. Alternatively the installation of a domestic sprinkler system in the dwelling will increase the distance of Fire Service access to 90m of all points within the dwelling.

In addition, turning facilities should be provided in any dead end access route that is more than 20m long.

South Kent Coast Clinical Commissioning Group (CCG) (NHS) – objects to care home, requests contribution relating to proposed residential dwellings:

Care home residents are generally patients that have high levels of health care need, often with multiple co-morbidities and requiring more frequent home visits than other patients registered in the area. The CCG has discussed this application with local practices and we are concerned that the extra demands placed on primary care by the development of a new 64 bed care home will put existing practice populations at risk as services become further stretched. Deal already has a significant number of care home residents registered with local practices and an additional home of this size will have a destabilising effect on local primary care provision.

Given this, the CCG is unable to support the application for a new care home in Sholden. Should the development be approved, the CCG would look to the council and developer to assist in the development of a funding package to support the delivery of care.

In terms of a S106 application for the remainder of the application, should planning for the 48 dwellings be approved, the CCG would seek a capital investment in order to complete the fit out of the upper floor at Balmoral Surgery... The total indicative cost of the scheme would be in the region of £308,625 – broken down into £260,985 building cost, £32,640 IT and telephony costs and a further £15,000 to include professional fees. The current NIA of the building is 991 sqm, the proposed expansion would create an additional 183 sqm of usable space.

In respect of this application a developer’s contributions is required as follows:

Predicted Occupancy rates	Total number in planning application	Total occupancy	Contribution sought (Occupancy x £360)
Unknown size	48	48 x 2.34 = 112.32	£40,435.20

KCC (Nursing homes) – no comments received.

Rural consultant – no objection – subject to following comments:

The land concerned is rectangular in form; it is overgrown and appears to have been disused, or at least not in productive agricultural use, for many years (aerial imagery suggests this lack of use goes back to at least 1990). A recent Agricultural Land Quality report finds the land to comprise about 3.7 ha of very good Grade 2 quality potential, but this is compromised by the encroachment of some 1.9 of poor quality Grade 4 land, so that the Grade 2 land has an irregular “L” shape.

Para 112 of the NPPF states: “Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality”.

In the High Court judgement in *Telford & Wrekin v Sec State etc. & Gladman Developments Ltd.* [2016] EWHC 3073 it was held (para. 38) that NPPF 112:

“is simply an instruction (i) to “take into account” the economic and other benefits of the best and most versatile agricultural land which does not confer any particular level of protection and (ii) to “prefer” the use of poorer quality land if significant development of agricultural land is necessary, which applies to all agricultural land, not just BMV land. It is not a prohibition on the use of BMV agricultural land, nor a restriction on development in principle; it does no more than to encourage the relocation of proposed development onto poorer quality agricultural land if available”.

It was noted, in para. 42 of the judgement, that much of the surrounding land around Telford is BMV land – as appears to be the case in the Sholden and Deal area – and that “no alternative site comprising poorer quality land was put forward”.

This High Court decision was also a case where the Council concerned (like Dover) has already approved/allocated housing sites on other BMV land – two examples being DOV/13/00945 at Sholden, and the land at Campbell Road/Spitfire Way, Hawkinge.

From this Court judgement, and from other recent planning appeal decisions in which relatively little significance has been placed on the loss of BMV land, it appears that to successfully argue loss of BMV land as a reason for refusal, a Council would have to be able to demonstrate that the development is unnecessary, as it could take place on sufficient other feasible sites, of lower quality land than the application site.

I am not personally aware whether or not there are sufficient alternative feasible local sites of lower land quality.

In summary, this is a disused site with a relatively small amount of BMV land, in an awkward shape. The overall impact of the loss of BMV land, having regard to the availability or otherwise of other suitable alternative sites, as well as the availability or otherwise of a robust 5-year local housing land supply, are matters for the Council to take into account in the overall planning balance in cases of this type. However it would seem inappropriate to afford undue significance to the issue of BMV agricultural land loss in this particular instance.

Southern Water (clean water supply) – (included in submitted Utilities Statement) – no objection, provides details of necessary works to supply the site.

Southern Water (drainage) – (included in submitted Utilities Statement) – no objection, confirms adequate capacity in local sewerage network to accommodate expected foul flow.

UK Power Networks – (included in submitted Utilities Statement) – no objection, provides details of necessary works to supply the site.

Southern Gas Networks – (included in submitted Utilities Statement) – no objection, provides details of necessary works to supply the site.

Crime Prevention Design Advisor – no objection – makes reference to developer not applying seven attributes of Crime Prevention Through Environmental Design (CPTED). Outlines approved documents.

Sholden Parish Council – objects – comments as follows:

(1) Site Context, Policy Context & Need

- This site has been considered for development in the past and rejected, (*EDAW Report 2006 & site reference PHS009, Site Allocations Document 2010 preferred option for housing*).
- Dover District Land Allocations Local Plan (*Adopted January 2015*), excludes this site. Policy LA13, (*Land between Sholden & Deal*), reflects this decision. Application DOV/10/01012, (*Persimmon Development*), granted development on land between Sholden and Deal stating that the ‘development must not have an adverse impact on the setting of Sholden’. Furthermore, policy LA13 incorporates the importance of St Nicholas Church, the wider landscape and the

creation of a 'soft edge', between the proposed development, surrounding countryside and the church.

- The site is currently a sanctuary for wildlife which has migrated from the areas that are now Sholden Fields and Timperley Place.

The application would be contrary to CS Policy DM15 Protection of the Countryside

The application would be contrary to CS Policy DM16 Landscape Character

- Separation between the village of Sholden and Deal is historic. Elizabeth Welch, DDC Senior Planner, (*Pre-application advice response, June 2016*), clearly points out that, 'the site is considered important in retaining separation between Sholden and Deal and in order to provide this function must remain undeveloped.'
- Furthermore, Mrs Welch's pre-application advice response does not encourage the development of the site and notes that the plan is contrary to local policies and a number of national policies.
- Development on this site would be contrary to Policy CP7 Green Infrastructure Network which replaces OS4 Local Plan Policy Green Wedges. DDC Policy & Projects Manager Adrian Fox, (*email to Sholden Parish Council, September 2016*), states that although the area is not identified as a 'green gap', '.....it is, however protected by general countryside policies which I believe has already been advised to Sholden Parish Council by Mike Ebbs.'
- The plan would be contrary to Core Strategy Policy DM1 as being outside Deal's urban boundary, has previously been assessed and rejected (*see above*).
- Dover District Council Monitoring Report 2015/2016 (*March 2017*) clearly indicates that the Council has a sufficient supply of housing land to meet the Objectively Assessed Needs, (OAN), until 2023/24, (*Housing, Paragraph 7.59*).
- Sholden is saturated. The number of new builds, (500+), has doubled the size of the village over the past 5 years. KCC's Business Intelligence Statistical Bulletin, (*October 2017*), indicates a population increase in Sholden & Middle Deal Ward of 3.6%, (280), in the period 2015 to 2016. To compare other wards in the same period, Mill Hill is up 0.9%, Walmer 0.7% and North Deal -0.0%. These figures do not include the completion of the Timperley Place, (*Persimmon site*) or Garden Close which is considered to be a 'windfall' site and will be included in the authority's overall housing supply.
- DDC, as a pilot authority for the register of Brownfield sites, (*42 sites currently registered, DDC Monitoring Report 2015/2016, March 2017, paragraph 7.22*), should lead the way in pushing for delivery on these sites before allowing development on a site that is clearly contrary to Core Strategy Policies.
- The refusal for permission of Site application DOV/17/00280, (*Former Kumor Nursery and demolition of 121, Dover Road, Sandwich*), sets an important precedent and is comparable to this application in terms of the contravention of Core Strategy Policies and that the site is landlocked requiring demolition of 1 building for access.
- It must be noted that Persimmon have applied to build an additional 70 homes, (*DOV/16/01476*), thereby extending their current development at Timperley Place.

Site Access

- Demolition of 2 bungalows is needed to gain access to this landlocked site. Bungalows are in short supply and make up a large part of Sholden's street scene. Bungalows benefit people with mobility issues.
- Access from the site into Vicarage Lane will result in fewer on road parking spaces. Vicarage Lane is a designated cycle path which joins up to Church Lane, (currently being up-graded), and then to the wider network.

- Access from Vicarage Lane into The Street is blind as visibility splays are compromised due to the built environment. There are no pavements. The Street is narrow. The area now is a danger to pedestrians particularly children. A primary school not 100 meters away.
- Access from The Street onto the A258 London Road is problematic due to amount of traffic and the physical environment of the junction.
- Access from the A258 into The Street, compromised as the point made above.
- Emergency Access to the site is from The Street via the driveway between 2 houses. The Street at this point is very narrow. Reliable anecdotal evidence exists that access is impossible for larger vehicles. A recent incident left a vehicle stuck and a wall damaged. A site visit from Kent Fire & Rescue is essential.

Highways

- The additional traffic from this development will have a significant impact on an already compromised local road network where access too and from the A258 is constricted as already described. A258 tailbacks are frequent in both directions. Air quality from traffic poor.
- On-going traffic counts/surveys carried out in Deal and its environs a few weeks ago by Dover District Council indicate acknowledgement by the council of the issues local people face daily. The roads in Deal are not fit for purpose. Significant improvements in infrastructure are needed before any more development takes place.
- Traffic movements reported by Greenlight are unrealistic. It is clear that an assessment of traffic movements is essential which reflects a true picture of the issues at the junction of The Street with the A258 and the junction from The Street into Vicarage Lane.
- Assessment of other junctions needed: London Road/Mongeham Road and impact on Upper Deal roundabout
- A site visit from Kent Highways is essential.

The application would be contrary to CS Policy DM11

The application would be contrary to CS Policy DM12

Infrastructure

- Roads are at capacity, GP's surgeries are full, Sholden Primary School is at full capacity, travelling is essential. Power supply to Sholden is constantly interrupted by cuts or low power. The evidence strongly indicates that this application is not sustainable.

The application would be contrary to CS Policy CP6 Infrastructure

Care Home

- South Kent Coast Clinical Commissioning Group have responded that the area already has a significant number of care homes and cannot support this application. Furthermore, the current demands on primary care from new developments have increased pressure on existing services stretching them to their limit. An additional care home 'will put existing practice populations at risk'. Vehicle movements to and from the care home have been significantly underestimated. Noise and light pollution will affect existing residents. Car parking is inadequate. Care packages that encourage elderly people to stay at home appears to be the current trend.

Conclusion

- The site has been considered and rejected and there is no good reason why it should be re-considered now.
- Separation between Sholden and Deal must be maintained.
- The site is not sustainable.
- Site visits by KFRS and Highways are crucial.
- Should this application go to Planning Committee, a site visit by them is crucial.

(2) Comments relating to DOV/17/01345 Land at Churchfield Farm Amended description, amended details, re-advertisement dated 23 April 2018. In addition to the councils comments strongly objecting to the application, (13 December 2017), the council would like to make further comments based on the amended application of 23 April 2018. The council strongly objects to the application. The removal of the contentious emergency access exiting into The Street, has resulted in only one access which is essentially a cul de sac within a cul de sac. The current site, if permission is granted and including the additional properties in Vicarage Lane, a cul de sac, will exceed the max number of homes (50) for a cul de sac situation and therefore the need for an additional emergency access is essential. In addition, this does not take into account emergency evacuation of the care home. Furthermore, parking spaces allotted to the care home (18) is inadequate.

(3) Sholden Parish Council strongly objects to the highways amendment as it does not in any way render the junction / road any safer for pedestrian use or road users. The visibility in this part of The Street is poor. There is a safety problem here as vehicles are often forced into the middle of the road in order to exit onto the A258 while at the same time creating a collision course for vehicles entering into The Street from the A258. The visibility is poor. The layout is unacceptable. This is a dangerous, narrow and busy road / junction as per our initial comments. The measures set out in this amendment do not go any way in alleviating the highways issues here.

Public comments – 9x support, 94x object

Support

- Need for good quality accommodation for elderly.
- Proposal will improve wasteland character of area.
- Proposal respects existing residents with open space provision.

Object

- Highways – visibility, blind bend, traffic movements, pedestrian safety, school children.
- Care home – no need and not supported by CCG, disturbance and light pollution.
- Housing need already met.
- Loss of green space.
- Infrastructure cannot support scheme.
- Cumulative effect of development in the area.
- Fewer sustainable transport options.
- Emergency access concerns (before removed).
- Concern that rest of site will be developed.
- Build on brownfield land instead.
- Surface water flooding risk.
- Land will be sold on and the scheme will be amended.
- Utilities issues.
- Loss of ecology.
- Contaminated land.
- Need to retain Sholden as a village.
- Loss of views.

- Does not accord with the local plan.

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

1.1. The Site

- 1.2. The site is located behind (east of) the junction of The Street and Vicarage Lane in Sholden, east of the A258 London Road, and west/north west of Middle Deal (adjacent to Diana Gardens).
- 1.3. The site is related to the old Churchfield Farm, but has not been farmed in recent memory. The site is covered by overgrown vegetation and scrub, with some intermittent areas of tree coverage, and is private land, although there are walking tracks worn into the ground. The site is level with the land at Vicarage Lane, but is higher than The Street, particularly when moving towards the north east. The site is currently accessed from an old farm track, come residential access, between numbers 30 and 32 The Street.
- 1.4. The site is immediately adjacent to the rear of dwellings on The Street and Vicarage Lane, on its north western and south western boundaries respectively. Along its south eastern boundary is public footpath ED56. The north eastern boundary of the site opens out on to open farmland and on to the southern end of the Timperley Place development.
- 1.5. Adjacent to the southern corner of the site is the grade II* listed Church of St Nicholas, and its churchyard. Two tombs within the yard are grade II listed.
- 1.6. The Street and Vicarage Lane retain village and suburban characters respectively. The junction of The Street with the A258 London Road, the main access into Deal or Sandwich, is narrow and intimate in character, with visibility partially restricted by the road orientation and close boundaries on both sides, with no pedestrian footway. The Street is served by a regular bus service during the main hours of the day.
- 1.7. Approximate site dimensions (as seen from Vicarage Lane) are:
- Depth – 258 metres (including access), 210 metres (not including site access).
 - Width – 267 metres.
 - Site area – 5.6 hectares.

Proposed Development

- 1.8. The proposed development is an outline application that comprises the erection of up to 48 dwellings and up to a 64 bedroom care home. Matters of layout, appearance, scale of development and landscaping are reserved.
- 1.9. The indicative drawing shows the development focused in the western section of the site, with an L shaped section of land bordering the north east and south east site boundaries.
- 1.10. This section of land would be set aside for the following:
- 0.73 hectares existing woodland and copses
 - 0.74 hectares proposed structure planting
 - 0.45 hectares proposed SUDS
 - 0.31 hectares proposed LEAP and kickabout area

- 1.06 hectares species rich grassland
- 0.11 hectares retained scrubland

As well as including footpath links to the existing footpath ED56, running adjacent to the south east site boundary, on a south west – north east axis from London Road to Church Lane. This would equate to 60% of the site not being developed for housing or the care home.

- 1.11. The single vehicular access to the development would be taken from Vicarage Lane, where numbers 1 and 2 would be demolished. Around this junction parking would be restricted by double yellow lines. Six compensatory layby parking spaces would be created near to the junction within the site.
- 1.12. Works are proposed to The Street between its junctions with Vicarage Lane and London Road. This would comprise resurfacing with coloured blocks – black for the main carriageway and red for an indicated footway. At the junction with London Road, the footway would be built out into the carriageway to meet to the south western end of the proposed footway.
- 1.13. Plans will be on display.

2. Main issues

- 2.1. The main issues to consider are:
 - Policy position/principle of development.
 - Design, street scene, visual amenity, and countryside impact.
 - Residential amenity.
 - Highways and transport assessment.
 - Site drainage.
 - Minerals.
 - Ecology and trees
 - Affordable housing and planning obligations.
 - Other matters.
 - Sustainability conclusion.

3. Assessment

Policy Position/Principle of Development

- 3.1. The site is outside of but adjacent to the Deal urban boundary (at Sholden). Policy DM1 makes exceptions for developments to be permitted outside of the settlement boundaries where it can be shown that the proposed development is justified by other development plan policies, it functionally requires such a location, or it is ancillary to existing development or uses. The proposed development does not meet any of the exceptional circumstances noted in policy DM1, therefore it is considered contrary to policy DM1 and would not normally be acceptable in principle.
- 3.2. Policy DM11 seeks to manage travel demand and states that development that would generate travel will not be permitted outside of urban boundaries unless justified by development plan policies. There are no other policies which support the principle of the development and as such the proposal is also contrary to Policy DM11.

- 3.3. NPPF paragraph 12 reiterates section 38(6) of the Planning and Compulsory Purchase Act 2004 i.e. that decisions must be made on the basis of the plan led system, unless material considerations indicate otherwise.
- 3.4. A recent appeal decision at Walmer, Deal (DOV/17/00487) concluded that the Council has approximately 4.5 years supply of housing. Given this position, Paragraph 49 of the NPPF applies whereby relevant policies for the supply of housing should not be considered up to date and the 'tilted balance' set out at Paragraph 14 of the NPPF is engaged i.e. permission should be granted unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits.
- 3.5. In March 2017, the DDC Cabinet agreed to commence a review of the Core Strategy and Land Allocations Local Plan (LALP). In so doing, it was acknowledged that the evidence base underpinning some of the policies of these plans is no longer up to date – a fact which also triggers the application of the 'tilted balance'. With regard to this application, it's recognised that policies in the Core Strategy (Policies CP2 and CP3) for the supply of housing are not up to date.
- 3.6. Paragraph 215 of the NPPF also states that in cases where development plan policies pre-date the NPPF (as is the case here), "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."
- 3.7. The objectives of Policies CP1, DM1 and DM11 are considered to be broadly consistent with the aims and objectives of the NPPF. That said, while DM1 is framed to safeguard the countryside, it also has a limiting effect on the supply of land for housing and in this regard and against the backdrop of not being able to demonstrate a five year supply of deliverable housing land, the weight to apply to policies CP1 and DM1 are therefore more limited.
- 3.8. Policies DM15 and DM16 seek to protect the countryside and landscape character. Their objectives are consistent with the NPPF and both policies are applicable to the assessment of the application.
- 3.9. Arising from the above, while the starting point remains that the decision must be made in accordance with the development plan unless material considerations indicate otherwise, this approach must be adopted having proper regard to the 'tilted balance' i.e. whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.
- 3.10. The proposal as submitted is contrary to the development plan. This report will consider, in the context of the NPPF and the titled balance in particular, whether any other material considerations exist which would justify granting planning permission contrary to the development plan.

Design, Street Scene, Visual Amenity, and Countryside Impact

- 3.11. In terms of design, it should be noted that the application is currently outline in form, with matters of appearance, landscaping, layout and scale of development to be reserved. Therefore, the exact nature of the proposal in this regard cannot currently be guaranteed. However, given the submitted indicative layout and wider constraints of the site, i.e. with three sides of the site bordering existing

development, a reasonable idea of any final outcome is considered to be demonstrated – should permission be granted.

- 3.12. The characteristics of the proposal are that in street scene terms, the proposed development is screened by existing residential properties on The Street and Vicarage Lane. There may be views through to the development but these would likely only be intermittent. One of the main effects on the street scene would be the demolition of numbers 1 and 2 Vicarage Lane to provide the vehicular access. In visual terms it is not considered that the loss of these dwellings would be particularly harmful as they possess no overriding architectural merit.
- 3.13. The other key effect on the street scene and appearance of the area would be the proposed works to the highway for the primarily visual demarcation of a pedestrian footway in The Street between its junctions with Vicarage Lane and London Road (on its south eastern side). Physical works are proposed e.g. the buildout of the footway at the junction with London Road and the change of road surface to blocks, however, in terms of physical separation, alterations are limited. The proposed works would alter the appearance of the highway at this section, however, in terms of overall effect, this change is not considered to be harmful.
- 3.14. The impact of the proposal on the countryside is most accurately considered from the north and north east of the site, where the land opens up into arable fields. Given that existing development surrounds the site on its north west, south west and south east boundaries, the area of influence from which the proposed development can impact the open countryside is relatively narrow.
- 3.15. Footpath EE392A, running east from the north eastern corner of The Street across to the Persimmon development at Timperley Place, and bridleways EE385, running north from The Street along Marsh Lane towards Southwall Road, and ED4, extending north west from the western end of Southwall Road; all provide public vantage points at a range of close and long distances.
- 3.16. It is considered that the view of the development from public vantage points would not be harmful to the wider rural character of the area, for a number of reasons. The pattern of development since the 1990s has infilled most of the open gaps along Church Lane, with development that has extended from Middle Deal into the fields of Court Lodge Farm, including where this land has been allocated for housing in the LALP. The effect is that where the site did provide an end stop to what was contiguous farmland on its north eastern boundary, it now appears more as an undeveloped parcel of land interrupting the prevailing urban form. The site itself is partially hidden to the south and south west of Timperley Place – historic aerial photographs show that it has not been used to grow crops for at least 28 years, or managed for at least 15 years.
- 3.17. Any development of this site, and it should be noted that a large proportion of the site is proposed to be undeveloped/enhanced for open space and biodiversity purposes, would be seen in the context of the existing built form behind the site (when viewed from the north and north east) and to the sides.
- 3.18. The loss of what has now become overgrown scrubland would not, it is considered, result in undue harm. The proposed areas set aside for public open space in perpetuity could interact with a managed and designed urban edge – the proposal could provide a tangible benefit to the character of the area. In addition, long range views of St Nicholas's Church could be secured in perpetuity (subject to the future use of the land immediately to the north east of the site).

- 3.19. **Policy perspective, current and historical.** The 2002 Dover District Local Plan identified the site as a green wedge under policy OS4. This policy is no longer in force and in district-wide terms was superseded by Core Strategy policy CP7 – Green infrastructure network. Figure 3.6 of the Core Strategy illustrates the green infrastructure network but in accordance with the figure 3.4 identifies the site as an intended urban extension, or at least, as an area of search for such an extension.
- 3.20. The detailed land allocations in this part of Deal subsequently came forward through land allocations in the 2015 Dover District Land Allocations Local Plan (LALP) defined in part by a planning application for the current Timperley Place development.
- 3.21. The detailed allocations for this area excluded the application site from the urban boundary but did not go so far as specifically designating it for alternative purposes such as public open space (figure 3.6 of the LALP). Historically, looking back at work undertaken by EDAW in 2006, titled “Consideration of potential housing sites – land between Deal and Sholden”, the site was considered under one option for development adjacent to Diana Gardens, while seeking to use the rest of the site as publicly accessible open space.
- 3.22. Consideration of the site as part of the preparation for the LALP was undertaken on the basis of the wider potential urban extension, where it was considered at that point in time that allocation of the entire area was not appropriate. In terms of reference to the site itself, the setting of the church was identified as a consideration, but nothing further was noted.
- 3.23. The reasoned justification to policy LA13 – Land between Deal and Sholden (being built out as Timperley Place) states at paragraph 3.176:
- “Land to the west of the site, currently in agricultural use must also be retained to ensure that there is separation between the settlements of Sholden and Deal...”
- 3.24. Given that the site has not been in agricultural use for at least 28 years, and that the Core Strategy was adopted in 2010, the planning policy manager confirms that this specific site is not referred to by 3.176.
- 3.25. It is therefore considered that the application site, beyond being outside adjacent to the settlement boundary, rather than inside adjacent to the boundary, has not been identified for any overriding form of protection – and accordingly, there is no further justification requiring this.
- 3.26. **Policy DM15 – Protection of the countryside.** This policy states that development that would result in the loss of, or adversely affect the character or appearance, of the countryside will only be permitted if it is:
- In accordance with allocations in the local plan; or justified by the needs of agriculture; or justified by a need to sustain the rural economy or a rural community; it cannot be accommodated elsewhere; and it does not result in the loss of ecological habitats.
- 3.27. The development would result in the loss of countryside by virtue of being outside of settlement boundaries, although as addressed above, it is not considered to adversely affect the character or appearance of the countryside. In terms of the criteria, the proposed development is not justified by an allocation, it

is not needed to sustain the rural economy or a rural community, and in terms of the location of housing sites, it could most likely be debated that this development could be located elsewhere. Therefore, it is considered that the proposal is contrary to policy DM15.

- 3.28. **Policy DM16 – Landscape character.** This policy states that development which would harm the character of the landscape as identified through a landscape character assessment, would only be permitted if it is:

In accordance with allocation in the local plan and incorporates any necessary avoidance or mitigation measures; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate impacts to an acceptable level.

- 3.29. In accordance with the assessment above, it is not considered that the development would harm the character of the landscape. In any case, it is also considered that the proposal could adequately incorporate design measure to mitigate any adverse impacts, including a condition requiring details of lighting to be submitted. The proposal is therefore considered to be in accordance with policy DM16.
- 3.30. In general terms therefore, it is not considered that the proposed development would result in harm in terms of its indicative design, how it would affect the street scene, or how it would impact the character or appearance of the wider countryside. It is, however, contrary to the criteria of development policy DM15 regarding protection of the countryside. Under the terms of the presumption in favour of sustainable development, this conflict is further considered below.

Residential Amenity

- 3.31. A number of concerns have been raised by local residents in relation to the effects from development on their homes, which neighbour the site on three of its boundaries. It should be noted that the proposed development is outline in form, with matters of access in detail. Accordingly, the layout and scale of development has not been set, but what has been illustrated in the indicative layout drawings submitted with the proposal is likely to be followed to some degree, as certain parameters, such as the retention of public open space in perpetuity, providing a defined gap between Middle Deal and Sholden would in reality most likely be retained in the location shown. As such, the concerns of residents can be assessed to a degree at this stage, with further consideration possible at reserved matters stage, were the development to be granted permission.
- 3.32. **Overlooking.** The location of dwellings behind existing dwellings has led to concerns about overlooking into private amenity areas. These concerns are understandably focused where the site backs on to existing dwellings on The Street and on Vicarage Lane. Dwellings located further into the site would be unlikely to give rise to the same concerns. In any case, at this stage, detailed elevations have not been submitted with the application, and the layout is not finalised. Accordingly, it is expected that were outline permission to be granted, such details could be addressed through matters of design and layout at the reserved matters stage.
- 3.33. **Overshadowing.** The dwellings on The Street are typically sited at a higher level than the highway, with the site being at a slightly higher level still. Accordingly, the detailed design of any development would need to factor in sufficient distances behind existing dwellings, in particular those on The Street due to

topography and relative locations i.e. any new dwellings being located to the south and east, such that when shadows are cast, these would not unduly harm existing residents.

- 3.34. **Access disturbance.** The vehicular site access requires that two dwellings, 1 and 2 Vicarage Lane, are demolished for a road to be formed. This leads to some concern regarding the potential effect on the residents living at 5 Vicarage Lane and 2, 4, 6, 8 and 10 The Street (where the road would run adjacent to these rear boundaries). This does inevitably result in traffic movements in close proximity to parts of these dwellings where previously there had been none. Countering this potential disturbance, the applicant proposes to erect garden walls along these boundaries (within the site boundary), which would help to attenuate noise and provide a greater degree of security – such detail could be secured by planning condition. Additional to the erection of garden walls, the width of land provided by the demolition of the two dwellings means that the vehicular access would be set off of the residential boundaries and due to the proximity of the new junction with Vicarage Lane, vehicles would not be moving fast when passing, therefore reducing any sound levels. This is a fine level of consideration, however, it is considered that on balance, the proposed access arrangements are not unduly harmful due to the mitigating factors of the proposal.
- 3.35. In residential amenity terms therefore, it is considered that the proposed development is acceptable, primarily due to the principal considerations being able to be addressed at reserved matters stage, should the proposal be granted permission.

Highways and Transport Assessment

- 3.36. **Transport assessment.** Following the submission of further information in support of the transport assessment, Highways England and KCC Highways have both raised no objection to the proposed development. In both cases, traffic count data was requested to understand the potential impacts on modelled junctions.
- 3.37. The modelled scenarios are as follows:
- 2017 (based on count data)
 - 2022 (forecast year base (using background growth data), plus committed development)
 - 2022 (forecast year base, plus committed development, plus proposed development)
- 3.38. The modelled junctions in this case were at the following locations:
- London Road/The Street
 - London Road/Mongeham Road
 - London Road/Manor Road
- 3.39. Highways England was satisfied that this information demonstrated that there would be no severe effect on the functioning of the strategic road network (SRN), the nearest part of which in this case is the A256 connecting the A2 at Whitfield to the A299 at Manston.

3.40. The tables shown below are based on agreed modelling extents with KCC Highways.

AM Peak Junction	Total junction inflows (vehs/hr)			Changes		
	Base year (2017)	Forecast year base (2022) + committed	Forecast year base (2022) + committed + proposed			
	A	B	C	B-A	C-A	C-B
London Road/ The Street	1403	1456	1491	53	88	35 (2.5%)
London Road/ Mongeham Road	1610	1670	1690	60	80	20 (1.2%)
London Road/ Manor Road	1704	1781	1797	77	93	16 (0.9%)

PM Peak Junction	Total junction inflows (vehs/hr)			Changes		
	Base year (2017)	Forecast year base (2022) + committed	Forecast year base (2022) + committed + proposed			
	A	B	C	B-A	C-A	C-B
London Road/ The Street	1402	1447	1479	45	77	32 (2.3%)
London Road/ Mongeham Road	1543	1593	1612	50	69	19 (1.2%)
London Road/ Manor Road	1734	1799	1813	65	79	14 (0.8%)

3.41. The development is modelled to give rise to 35 two way movements in the AM peak and 32 two way movements in the PM peak.

3.42. Typically, a material change is considered to occur when traffic flows at a junction change by 5% or more. Below this, any changes are considered to be within daily variances. The largest increases are seen at the junction of The Street and London Road, with a 2.5% increase in the AM peak and a 2.3% increase in the PM peak.

3.43. The effect of the development on the junctions of The Street with London Road, London Road with Mongeham Road, and the London Road/Manor Road mini roundabout are shown to be within daily variances. Accordingly, the effect of the

development itself is considered to be negligible and certainly not severe, which is the test set out in NPPF paragraph 32.

- 3.44. **Pedestrian safety.** KCC Highways did maintain a concern regarding the functioning of the short stretch of road from the junction of Vicarage Lane and The Street, to the junction of The Street and London Road. This section of road is used by parents for dropping off and collecting children attending Sholden primary school. There is no footpath on either side of this section, which is narrow and has some impaired visibility due to a bend and high brick wall. The concern was that the increased flow of traffic from the site at this location might have led to pedestrian/motor vehicle conflict, particularly at school drop off/collection times.
- 3.45. **Scheme resolution.** The applicants propose a scheme, which would see the road at this section paved in blocks, rather than tarmac, with a red coloured section denoting the pedestrian footpath. The footpath itself would be at grade with the road, except where it would be built out at the junction of The Street and London Road. As there would be no physical build out into the main part of the highway, vehicles would still be able to use this junction as now, with no impediments to tracking. However, the visual alterations to the highway, would provide cues for pedestrians and those driving vehicles, about the nature of how the road is used at this location. Given the future baseline assessment (with development) for this junction and the relatively low vehicular use of the junction at present, particularly in terms of how often larger vehicles, such as buses, pass by, this is considered to be acceptable and demonstrates, with the support of the safety audit, that in traffic terms, the development can be accommodated.
- 3.46. **Parking on street.** The new junction between the site and Vicarage Lane would require double yellow lines either side and opposite on Vicarage Lane. This would result in the loss of some parking space, albeit only where there are currently no crossovers. The proposed junction drawings show layby parking for six vehicles within the site, which would provide adequate compensatory parking, particularly as discussed, at school drop off and collection times.
- 3.47. **Emergency access.** The scheme as originally submitted included an emergency access using the existing farm track off of The Street, between numbers 30 and 32. This was partly intended to satisfy the needs of Fire and Rescue, however, the Fire Officer has subsequently confirmed that this access is not required. This is due in part to the width of the proposed main access at Vicarage Lane, i.e. allowing fire appliances to drive around the side of the highway if necessary. Were outline permission to be granted, domestic sprinkler systems could be secured through condition if they were considered necessary, i.e. to add resilience.
- 3.48. **Policy DM11.** This policy states that development outside of the urban boundaries that generates travel movements will not be permitted. In that respect, therefore, the proposed development is contrary to policy. It should, however, be noted that the primary aim of this policy is to discourage development in rural locations that would be reliant on the use of the private motor vehicle due to limited or non-existent sustainable transport options. In respect of this development, it is well served by bus routes running along The Street (80) and London Road (69 and 81). There are also walking and cycling options to the centre of Deal. Given that the urban boundary extends beyond the site towards Sandwich and around the site towards Middle Deal, it is considered that although the development would be outside of urban boundaries, enough alternative travel options exist that in context, mean it would be difficult to sustain

a reason for refusal based on this policy.

- 3.49. In the wider context, with information from the transport assessment, and proposed works to the highway, the development is considered to be acceptable from a highways/transport perspective.

Site Drainage

- 3.50. **Flood zone.** The site is located entirely within flood zone 1, so in terms of flood risk in relation to coastal flooding or from rivers, the site is at least risk.
- 3.51. The Environment Agency has reviewed the proposed development and has no comments.
- 3.52. **Surface water.** Nevertheless, the flood risk assessment does propose flood risk mitigation measures, including raising the finished floor levels of dwellings 150mm above surrounding ground levels, and incorporating soakaways, surface water attenuation and storage measures into the design of the development. Modelling shows that there would be adequate storage on site for all storms up to the 100 year plus 40% climate change storm. The proposed measures would be secured through planning condition, were permission to be granted.
- 3.53. KCC as the lead local flood authority (LLFA) has no objections, subject to conditions.
- 3.54. **Foul water.** Southern Water have indicated that foul flows from the proposed development can be accommodated in the local sewerage network. The submitted drainage strategy notes that connection to the sewer network may be subject to a pumped solution, and therefore, space has been retained on the indicative masterplan for a pumping station, should this be necessary. A condition is recommended to ensure the provision of a foul drainage scheme at the reserved matters stage.
- 3.55. It is considered that the drainage proposals for the site are acceptable in all regards and would not result in undue harm to neighbouring residents or surrounding areas.

Minerals

- 3.56. Policy DM7 of the Kent and Medway Minerals and Waste Local Plan identifies at the strategic level areas of the county which may coincide with mineral deposits. The site itself (with a caveat for pinpoint accuracy) potentially coincides with brick earth deposits. The policy states that:

“DM7 – Safeguarding mineral resources

Planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding, where it is demonstrated that either:

1. the mineral is not of economic value or does not exist; or
2. that extraction of the mineral would not be viable or practicable; or...”

- 3.57. There are seven potential exceptions to policy, however, for the purposes of this application, only 1 and 2 are considered relevant. The applicant and Kent County Council, in its role as the local planning authority for minerals and waste, have taken different views, with the applicant contending that part 2 applies, due to the confined nature of the site and the residential uses that neighbour it; whereas

KCC considers that part 1 applies.

- 3.58. I do consider that there would be a case regarding part 2 of the policy applying, however, in any event, KCC has raised no objection, therefore the proposed development of this land in respect to sterilising the potential future use/extraction of any minerals present, is considered to be acceptable.

Ecology and Trees

- 3.59. **Survey.** The ecological scoping survey identified that the site is considered to be of value at the local level to nesting birds, foraging bats and common reptiles (common lizard and slow-worm). No evidence of badger setts has been recorded, although some mammal holes attributed to fox use are considered to be old badger sett entrances. Dormouse surveys have been undertaken due to local sightings but no presence has been evidenced.
- 3.60. **Mitigation.** A range of appropriate and proportionate ecological mitigation and enhancement measures have been put forward, some on a precautionary basis. These include specific measures aimed at ensuring no offence is committed in relation to impacts on faunal species during the construction phase. In addition, the retention and enhancement of existing woodland and tree belt habitat, extensive new shrub and tree planting, new species rich grassland creation and new wetland provision will deliver a diverse mix of functionally linked, species rich habitats.
- 3.61. **Trees.** Trees on site are not of any particular notable quality, however, the submitted tree protection information shows that a large part of the existing trees are proposed to be retained. This is in part linked to the proposed ecological mitigation scheme addressed above. The retention and enhancement of existing trees, it is considered, would help to enhance the wider appearance of the site and in general terms, is considered to be acceptable.
- 3.62. The DDC ecology and tree officers have raised no objections to the proposals.
- 3.63. **Layout.** The indicative development footprint has been minimised, enabling the provision of an extensive public realm area to be enhanced for the benefit of biodiversity, within which habitat retention, enhancement and creation can be brought forward. These provisions, it is considered, would give rise to a significant benefit over the current situation.
- 3.64. **Thanet Coast and Sandwich Bay SPA and Ramsar sites.** Following the judgement of the European Court of Justice in the case of People over Wind and Sweetman on 12 April 2018, it has been ruled that ecological mitigation measures are unable to be factored into the consideration of development proposals at the screening stage. Therefore, an appropriate assessment of the site was required to be undertaken in relation to the potential impact of the proposed scheme on the SPA. The appropriate assessment, which incorporated survey data from visitors to the SPA, and a 'shadow appropriate assessment' undertaken by the developers was accepted by Natural England, subject to a mitigation payment being secured as part of any grant of permission.
- 3.65. Subject to its consideration at the correct stage of the decision making process, the ecological mitigation scheme that the council has been operating is still considered to be an adequate and appropriate approach to addressing the potential for impacts resulting from a given development. This operates in the form of financial contributions towards a warden resource at the SPA. The

contribution in this instance is calculated at **£2,188**, which the applicant has indicated they are willing to pay.

Affordable housing and planning obligations

- 3.66. Affordable housing. Policy DM5 requires that for developments of 15 or more dwellings, 30% of those dwellings should be affordable. Typically the housing department at the council will liaise with registered providers to agree a tenure split i.e. social rent/affordable rent/shared equity. For 48 dwellings, the provision of on site affordable housing required is 14. The developer has indicated that this provision can be accommodated without it affecting the viability of the site. The provision would be secured through planning condition were permission to be granted.
- 3.67. Planning obligations. Development proposals above ten dwellings typically incur infrastructure contribution requirements. The key regulations that govern how and when contributions (planning obligations) can be sought, are set out in the Community Infrastructure Levy (CIL) regulations 2010. Regulation 122 states that planning obligations may only constitute a reason for granting planning permission for the development if the obligation is:
- a. necessary to make the development acceptable in planning terms;
 - b. directly related to the development; and
 - c. fairly and reasonably related in scale and kind to the development.
- 3.68. Regulation 123 further limits the use of planning obligations:
(3) A planning obligation ("obligation A") may not constitute a reason for granting planning permission to the extent that—
- a. obligation A provides for the funding or provision of an infrastructure project or type of infrastructure; and
 - b. five or more separate planning obligations that—
 - i) relate to planning permissions granted for development within the area of the charging authority; and
 - ii) which provide for the funding or provision of that project, or type of infrastructure, have been entered into before the date that obligation A was entered into.
- 3.69. **Kent County Council** is the key infrastructure provider for a number of services including education and libraries. KCC has requested the following:
- Primary education – towards an extra classroom at Hornbeam Primary School – £152,904.
 - Secondary education – towards phase 1 expansion at Dover Grammar School for Girls – £189,290.
 - Libraries – towards large print books at Deal Library – £2,208.73.
 - Fibre optic broadband – to work with next generation broadband providers to deliver superfast broadband – informative.
- 3.70. In total, KCC has requested £344,402.73. Of this request, it is considered that the education element meets the tests of regulations 122 and 123. Five obligations have already been entered into for book stock at Deal Library. It is not considered that specific large print books can be differentiated in terms of infrastructure types and therefore the pooling limit has been met. The total obligation therefore considered acceptable, and agreed by the applicant, is **£342,194**.

- 3.71. The **South Kent Coast Clinical Commissioning Group (CCG)**, the NHS, has partially objected to the proposal on the basis that the local GP surgeries in Deal cannot sustain the type of clinical requirements that would be placed on them by the residents of a new nursing home in the area. While the CCG has commented that it does not support the new care home, it has also stated that should the council be minded to grant permission then it would look to work with the applicant to formulate a care package. This said, having requested the CCG to explore this particular issue further there has been no specific response. Accordingly, in relation to the care home and any requirements that it might place on local GP surgeries, no further request has been made of the applicants.
- 3.72. The CCG has also made the following request for funding relating to the proposed 48 dwellings, for the fit out of the upper floor of the Balmoral Surgery – £40,435.20. The council's infrastructure officer has commented that this requirement does not appear to be based on a proportionate calculation – accepting the CCG expectation that the 48 dwellings might be occupied by 112 people. Accordingly, the infrastructure officer has re-calculated the figure, so that is fairly and reasonably related to the development in scale (in accordance with 122(c) above). The revised request, therefore, is **£13,492**, which the applicant has indicated would be met.
- 3.73. **Open space.** Based on 48 dwellings and a 64 bedroom care home, the council's infrastructure officer has calculated, in accordance with policy DM27, that the development should provide for the following amounts of open space:
- Accessible green space – 0.25ha.
 - Outdoor sports facilities – 0.13ha.
 - Children's equipped play space – 0.007ha.
 - Allotments/community gardens – 0.023ha.
- 3.74. The application proposes open space/ecological enhancement areas as follows:
- Existing woodland and copses – 0.73ha.
 - Proposed structure planting – 0.74ha.
 - Proposed SUDS – 0.45ha.
 - Proposed LEAP and kickabout area – 0.31ha.
 - Species rich grassland – 1.06ha.
 - Retained scrubland – 0.11ha.
- 3.75. The infrastructure officer advises that the proposed LEAP and kickabout area, while not providing for formal outdoor sports, would be an acceptable contribution for outdoor sports facilities and children's equipped play space.
- 3.76. In relation to the requirement for accessible greenspace, it is considered that this is adequately covered within the remaining set aside land. This does raise a question about this conflicting with land set aside for ecological enhancement purposes, however, at this stage there would appear from the land budget that there is adequate land to accommodate both requirements.
- 3.77. The exact details of how this land would be delivered, managed and maintained for these purposes would need to be resolved, whether this entails a land transfer and commuted sum for ongoing maintenance, or the formation of a management company funded by future residents. If permission were to be granted, officers would seek delegated power to resolve the details of any such arrangement as part of a section 106 agreement.

- 3.78. Relating to allotments, Sholden Parish Council is the responsible authority for allotments at this location, but have not requested or provided evidence towards contributions for allotment space in this case.
- 3.79. **Thanet Coast and Sandwich Bay SPA/Ramsar mitigation scheme.** Using the mitigation scheme calculation, the required contribution for this development is **£2,188**, which the applicant has agreed to.
- 3.80. Accordingly, financial contributions from the scheme total **£357,874**. Added to the financial contributions, would be 14 on-site affordable dwellings, on-site open space, and highways improvements.

Other Matters

- 3.81. **Care home concern – CCG (NHS).** The applicant has responded to the CCG regarding the concern expressed about the care home placing undue pressure on the functioning of local GP surgeries. It is contended that the care home would not necessarily lead to an increase in the relevant population of the local area i.e. occupants are most likely expected from a 10 minute drive/3 mile radius, which is the typical approach taken within the care home sector.
- 3.82. In other words, the applicant states that the demand already exists regardless of the whether the care home is constructed. This would appear to be supported in recent comments from KCC strategic commissioning (under DOV/17/01268), which notes that the over 65 population of the district is expected to increase regardless from 22,720 (2011) to 30,750 (2021), and to 39,950 (2031). Given that no solution, as such, has been pursued by the CCG, this is not considered to be a reason that could sustain grounds for a refusal.
- 3.83. **Heritage and listed building.** Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires that special regard is had to the desirability of preserving the setting of listed buildings. The Church of St Nicholas is grade II* listed, however, it is considered, and supported by the heritage officer, that the indicative layout of development, especially in regard to the existing development at Vicarage Lane, would not harm the setting of the listed building. (Two tombs within the churchyard are also listed – grade II). Existing views toward the church from the adjacent countryside would not be blocked by this development, and it is considered, given the condition of the land since at least the 1990s, the indicative proposed landscaping could actually be seen as a benefit in terms of setting.
- 3.84. **Archaeology.** The site is identified as being in an area of archaeological potential, however, the county archaeologist has not responded to the planning consultations that have been undertaken. It is considered prudent in this case to use a planning condition that would require any archaeological find to halt works on site until such time as a scheme of investigation is submitted to and approved in writing by the local planning authority.
- 3.85. **Agricultural land.** The submitted soil report notes that the land has been stripped of topsoil and its agricultural quality is now somewhere around grade 4. The rural consultant notes that there is an L shaped area of land (3.7ha) which has been confirmed as grade 2, whereas an area of grade 4 land (1.9ha) does compromise and encroach on this. Best and most versatile (BMV) agricultural land coincides with grades 1, 2 and 3a. Accordingly, there would be a loss of around 3.9ha of BMV land. In terms of how significant this is, the rural consultant

comments as follows:

“The overall impact of the loss of BMV land, having regard to the availability or otherwise of other suitable alternative sites, as well as the availability or otherwise of a robust 5-year local housing land supply, are matters for the Council to take into account in the overall planning balance in cases of this type. However it would seem inappropriate to afford undue significance to the issue of BMV agricultural land loss in this particular instance.”

- 3.86. Given the nature of the site and development which has begun to break up wider arable fields to the north east, the loss of this land, which is also acknowledged as being ‘compromised’, is not considered to be harmful.

Sustainability Conclusion

- 3.87. Noted above in the policy position/principle of development section, is the acknowledgement that the council is currently determining planning applications not only in reference to policies in the development plan, but also in reference to the presumption in favour of sustainable development. The presumption effectively states that if the adverse impacts of a development do not significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole, permission should be granted.
- 3.88. Accordingly, the consideration of the scheme, detailed above, should also explicitly be made against the three roles of sustainable development – the economic role, the social role and the environmental role.
- 3.89. **Economic role.** The proposed development would bring economic benefits in terms of time limited construction contracts. It would also bring longer term benefits, the proposed care home facility would bring with it a number of jobs, likely permanent and flexible, full time and part time. The largest economic benefit would come as a result of the number of people that would live within the individual dwellings, depending that is, on the degree to which these people might be new to the area, or moving within the area. These people would support the local economy to varying degrees, potentially with increased levels of local spending. The site would no longer be productive farmland, however, this site has not been farmed in recent memory and the resultant effect of the development of sites accessed from Church Lane in particular, is that this site has become more difficult to access and farm profitably as part of a larger concern. In economic terms, it is considered that the benefits of the development would outweigh any adverse impacts.
- 3.90. **Social role.** As noted above, this development would bring with it new residents that could become part of and strengthen the existing community. The proposed care home would provide a social facility for an identified existing [and in the future, more critical] need, and this is considered to be a benefit in absolute terms. The proposed development would contribute to the council’s five year land supply calculation and would also deliver 14 affordable houses, as well as planning obligations in support of local primary and secondary schools. New recreational facilities would be delivered for local children, as would newly accessible open space, to be secured in perpetuity. The comments of the CCG are taken into account and this represents a potential adverse effect of the proposal – it is noted that the proposed care home is considered to represent a potentially unacceptable strain on local GP surgeries, however, the CCG has not commented further in terms of any solution to address this issue. In terms of the social role, and the respective benefits and adverse impacts of this scheme, it is

considered that the benefits ultimately outweigh any harm. The obligations are noted in terms that they are required to make the development acceptable, however, the concern regarding GP surgeries could potentially have been addressed in this manner also, were a scheme proposed.

- 3.91. **Environmental role.** The environmental impact of the proposal is considered to be more balanced. There is a loss of countryside involved in the proposal, although in terms of character, as previously addressed, this is not necessarily considered to be harmful. Countering the absolute loss of countryside is the delivery of open space to be retained in perpetuity, along with an enhancement of the existing trees and vegetation around parts of the site, based on a precautionary principle, which would provide an ecological corridor for any local species. The development would bring with it activity where there has been none for a number of years, including increased travel movements in and around the proposed new junction between the site and Vicarage Lane, and between the junctions of The Street and Vicarage Lane, and The Street and London Road. However, it has been shown in the transport assessment that these movements can be accommodated at peak times, such that there are no objections from KCC Highways or from Highways England. In heritage terms, the location of the grade II* listed church is acknowledged and addressed by way of an indicative site layout that refrains from placing any dwellings within the setting of the church, to the degree that it both maintains views to it from the neighbouring countryside, and has raised no objection from the DDC heritage officer. The environmental aspects of the proposal are considered to be balanced, but in terms of adverse impacts outweighing benefits, this is not considered to be the case.
- 3.92. **Overall.** It is considered that where there are adverse impacts of the proposal, taken across the three roles of sustainability that planning must balance, the adverse impacts are not shown to demonstrably or significantly outweigh the benefits.

4. Conclusion

- 4.1 The proposed development is considered to be acceptable.
- 4.2 The proposal is outline in form, so consideration in this case is against an indicative layout, however, as noted, there are elements of this which are fixed i.e. the proposed access, and other elements which would be difficult to alter i.e. the location of open space, which is to be secured in perpetuity through a legal agreement, and which provides an appropriate setting for the grade II* listed church, as well as ecological enhancement measures.
- 4.3 There is not considered to be undue harm arising to the character of the countryside or the immediate vicinity, even accepting that some countryside would be lost to the development, and the separation of Middle Deal and Sholden, although reduced in terms of distance, would now be defined with no further encroachment possible at this location.
- 4.4 Concerns have been raised about the amount of traffic and transport movements that would be associated with the proposal, however, the applicants have demonstrated to the satisfaction of both KCC Highways and Highways England that any impacts would not be severe. The applicants propose works to the junction of The Street with London Road, and to the highway of The Street from that point north east as far as the junction with Vicarage Lane. These works would assist with the operation of this section of The Street, for both vehicles and

pedestrians.

- 4.5 The proposed development would meet all compliant planning obligations and policy required contributions, so in this regard, is seen to be addressing its own impacts, such that benefits might be provided to the local communities.
- 4.6 There are no flooding or drainage concerns and the site can be adequately serviced by the full range of utilities.

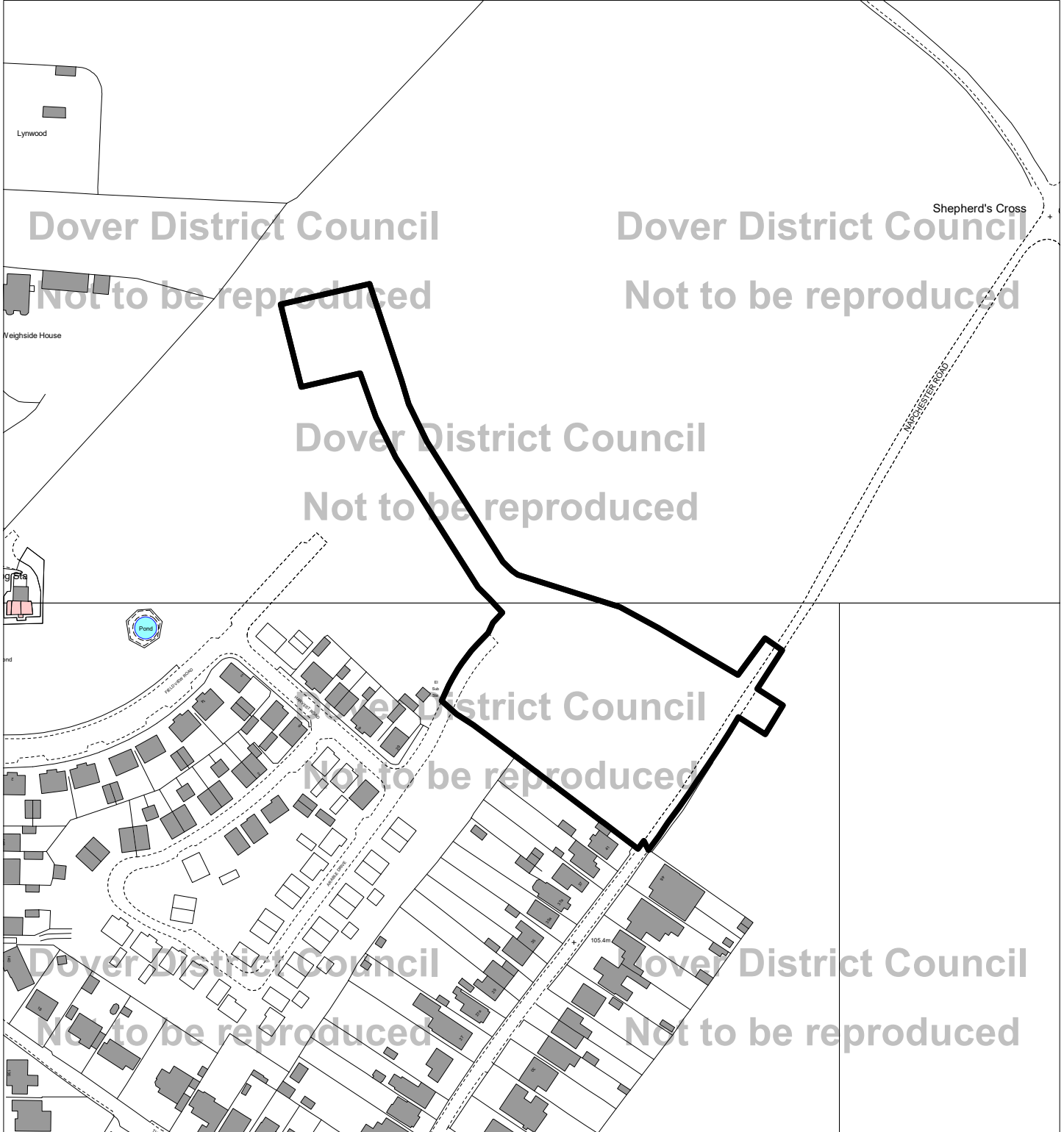
g) **Recommendation**

- I. SUBJECT TO the completion of a necessary S.106 agreement covering payment and any relevant management issues set out in this report, planning permission be GRANTED, subject to the following planning conditions, including:
(1) Reserved matters – layout, appearance, scale of development, landscaping
(2) Time limit and period for reserved matters submissions
(3) Approved drawings
(4) Commencement time limit
(5) Affordable housing
(6) Contamination investigation and verification
(7) Construction management plan
(8) Surface water drainage scheme and verification
(9) Foul sewage – At the same time as the submission of the reserved matters, full details of a Scheme for the provision of foul drainage for the site shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include the design of all sewerage infrastructure and a timetable and programme for the provision of the foul sewerage infrastructure.
(10) Biodiversity enhancement
(11) External lighting
(12) Soft and hard landscaping, including means of enclosure
(13) Archaeology
(14) Ground levels
(15) Samples
(16) Highways – no surface water on to highway
(17) Highways – bound surface
(18) Highways – vehicle parking and turning facilities
(19) Highways – cycle parking
(20) Highways – completion of site access before occupation
(21) Highways – completion of improvements to The Street before first occupation
(22) Highways – completion of roads, footways, footpaths, verges, junctions, street lighting sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture in accordance with approved details by X time
(23) Highways – completion of works between adopted highway and dwelling before occupation of dwelling – footways and/or footpaths; carriageways, turning facilities, highway drainage, visibility splays, street lighting, street name signs and highway structures (if any)
(24) Highways – provision and maintenance of visibility splays onto Vicarage Lane (no obstructions above 1 metre in height)
(25) Highways – driver visibility splays
(26) Highways – pedestrian visibility splays
(27) Highways – pedestrian and cycle connections to ED56
(28) Site levels
(29) Details of earthworks
(30) Arboricultural method statement
(31) Wildlife enhancement scheme
(32) Refuse and recycling storage
(33) Broadband connection.
- II. That powers be delegated to the Head of Regeneration and Development to settle the detail of the section 106 agreement in relation to the delivery, management and ongoing maintenance of the proposed open space and ecological enhancement land.
- III. That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Darren Bridgett

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Not to scale

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Application: DOV/17/00056

Phase 1A

Whitfield Urban Extension

Whitfield

TR30404595



- a) **DOV/17/00056 – Reserved matters application for 26 dwellings including access and estate roads, appearance, landscaping, layout and scale, and stopping up of Napchester Road. Details pursuant to outline permission DOV/10/01011 - Phase 1A of Whitfield Urban Extension, Whitfield**

Reason for report – Number of contrary comments.

- b) **Summary of Recommendation**

Grant permission.

- c) **Planning Policy and Guidance**

Development Plan

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 development plan policy is set out below:

Dover District Core Strategy (2010)

CP1 – Settlement hierarchy.
CP6 – Infrastructure.
CP11 – The managed expansion of Whitfield.

The site to the west, north and east of Whitfield is allocated for an expansion of Whitfield comprising at least 5,750 homes supported by transport, primary education, primary health and social care, utility services and green infrastructure together with retail, financial and professional offices, eating and drinking establishments (Use Classes A1 to A5). Planning permission will be granted provided:-

- i. Any application for development is preceded by, and is consistent with, a masterplan for the whole site which has been agreed by the Council as a Supplementary Planning Document;
- ii. The proposals relate to the whole allocated development or if less do not in any way prejudice the implementation of the whole development;
- iii. The proposals include a phasing and delivery strategy that is related to the provision of all forms of infrastructure and the creation of neighbourhood centres;
- iv. An access and transport strategy is developed that maximises the potential for walking, cycling and use of public transport, especially to the town centre and the White Cliffs Business Park area, includes link/distributor roads to connect the site to the surrounding network, identifies access points to the site and between the site and the existing settlement, safeguards land for a park and ride facility and identifies construction access arrangements that do not disrupt existing residents;
- v. An energy and water strategy is developed that will be capable of enabling the development throughout its lifetime to meet proposed national stepped requirements for sustainable construction under the Code for Sustainable Homes but enables residential buildings to achieve a minimum of Code for Sustainable Homes level 4 with immediate effect from adoption of the Core Strategy, non-residential buildings to achieve BREEAM excellent standard and schools to achieve zero carbon rating;

- vi. Existing hedgerows and tree lines are, wherever possible, retained and enhanced to form the basis of a green infrastructure network that connects with the wider network and also incorporates open spaces for recreational and other purposes, including the provision of facilities to deflect likely urbanisation and recreational pressures arising from the development away from the Lydden and Temple Ewell Downs Special Area of Conservation;
- vii. The design creates neighbourhood centres and incorporates a landmark building and foreground buildings and creates vistas and focal points using retained trees and having particular regard to relationships with the access and transport, energy, water and green infrastructure strategies;
- viii. The mix of market housing is designed to broaden Dover's market offer and appeal and assist in attracting families and people of working age into the District while the provision of affordable housing should address prioritised need; and
- ix. The proposals demonstrate how the development would protect the setting of listed buildings and integrate with existing residential areas while not causing any significant adverse effect on the amenities of existing residents.

DM13 – Parking provision.

DM15 – Protection of the countryside.

DM16 – Landscape character.

Whitfield Urban Extension SPD

The SPD carried forward the requirements in Policy CP11 of the adopted Core Strategy to provide a framework for the preparation of subsequent planning applications proposing to develop the site and aims to give certainty to local people and developers. It enshrined the need for good design and high standards of amenity. The document states that the preference is for a progressive anti-clockwise phasing of the development starting from the south east, but identified some sub phases which could come forward early, which includes the extension between Sandwich Road and Napchester Road where the application site is located. The SPD is, of necessity, based upon a set of assumptions, informed by evidence, about the needs and impacts of the development. As development progresses, there will be a need to monitor the actual characteristics of the development, review the resultant information and use it to inform the preparation and determination of subsequent phases (monitor, review and adjust). This should include monitoring of matters such as housing mix, population forecasts, traffic impacts and forecasts, infrastructure needs and delivery, usage and management of green infrastructure, and impacts on European designated wildlife sites.

Saved Dover District Local Plan (2002) policies

None applicable.

National Planning Policy Framework (NPPF)(2018)

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...

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.

d) **Relevant Planning History**

DOV/10/01011 – Outline planning application for the construction of a new community hub/district centre, comprising BRT hub; health and social care centre (Class D1); retail space (Class A1-A3); and 100 no. 2-5 bed residential units including 6no. supported living units (Class C3) provision of learning and community campus to incorporate new 420 place 2fe primary school including early years provision and provision of access arrangements, all associated car parking, infrastructure and landscaping, with all matters reserved for future consideration – GRANTED.

DOV/13/00607 - Reserved matters application for 74 dwellings (landscaping, access, scale, layout and appearance) details pursuant to outline permission DOV/10/1011 phase 1A (amended details) – GRANTED.

e) **Consultee and Third Party Responses**

DDC Regeneration and Delivery (Planning Policy) – informal discussion – site is allocated in local plan and benefits from an outline planning permission.

DDC Environmental Health – no objection.

DDC Ecology – consulted, no comment made.

DDC Trees – consulted, no comment made

DDC Strategic Housing – supports - The application is supported by the Council's Head of Strategic Housing. The 26 affordable homes proposed for the site represent the normal 30% affordable housing planning policy requirement in respect of the Whitfield Phase 1A development. There is a clearly identified need for more affordable homes within the district and the proposed development will provide a balanced mix of house types to meet the needs of different household sizes.

KCC Highways – The highways officer has no objections to the proposal subject to conditions being imposed, a number of which are already in force through the outline permission. One new condition would relate to visibility splays where private driveways join the highway adjacent to the cycle paths.

KCC Archaeology – consulted, no comment made.

KCC SUDS - We have no objection in principle to the approval of reserved matters and note the proposals for surface water drainage will be subject to future discharge of

conditions applications for the detailed design – provides detailed comments in relation to discharge of conditions.

Environment Agency – no objection – low environmental risk.

Southern Water – no objection – Southern Water would have no objections to access, appearance, landscaping, layout and scale for the above development.

It appears that applicant is proposing a divert a public sewer shown on our records. Southern Water requests a formal application for sewer diversion under S185 of Water Industry Act 1991 in order to divert any public sewer.

Furthermore our previous comments included with outline application are unchanged and valid.

Affinity Water – consulted, no comment made.

EDF – consulted, no comment made.

Southern Gas Networks – no objection, subject to comments about safe working.

National Grid – consulted, no comment made.

Crime Prevention Design Advisor – proposed condition requiring that risk of crime is minimised through design features.

Whitfield Parish Council – comments/objects:

Whitfield Parish Council understands that this application is likely to be accepted by DDC Planning Committee as it is in accordance with the WUE SPD. However, the Parish Council still have major concerns about; the extent of the overall development plans for Whitfield; lack of utility infrastructure up-grading; the lack of provision for social and community infrastructure and services; and that such large-scale development remains to be contrary to the wishes of the majority of Whitfield Residents.

Whitfield Parish Council further requests that the Planning Committee places conditions in line with the Councils objections on any permission granted and that those conditions can only be amended after public consultation and by further consideration by the Members of the Planning Committee at a full Planning Committee Meeting and not decided or varied by delegation to Officers and discussion outside of the Planning Committee meetings

Whitfield Parish Council objects to this application on the following grounds:

1. There is the possibility of overlooking and overshadowing of the existing properties on Napchester Road by plot numbers 1, 2, 26, 25, 22, 23, 24, and 21.
2. The scale and proximity of No 22 will have an overbearing and imposing impact on the existing property and its garden and the amenity of its use by the occupants.
3. The site adjoins one of the lower density areas of Whitfield, which is predominantly single storey bungalows, so a high density development of 2 to 3 storey dwellings will have significant adverse effects on local landscape, character and views to and from the site. A significantly larger buffer zone is required between the development and existing properties to avoid overbearing impact and overshadowing of existing properties
4. There has been a lack of specific consultation about the closing off of Napchester Road with the local Residents. Although the application has been

- advertised, it is not obvious that the closure of Napchester Road is an integral part of the application.
5. There is no indication of the diversion route existing through traffic and regular users will be expected to use, or of any upgrading of that route, once Napchester Road is closed.
 6. Safeguards for existing Public Rights of Way and access to the countryside throughout construction must be made as a condition of this application.
 7. The WUE spine road is shown on the plans, but there is no indication if the road will be built to connect with Sandwich Road or Archers Court Road as part of this application, or when this will happen. Further clarification is required.
 8. The speed limit at the junction from Phase 1a onto Sandwich Road is currently 40mph and should be lowered to 30mph, in addition to the mitigation and traffic calming measures originally proposed for the development, which have yet to be installed. There is a significant risk of serious collision here. This development adds an extra 26 properties to Phase 1a, to a total of 100 dwellings, and the 30 mph speed limit through Whitfield should be extended beyond the developments access road.
 9. Construction Traffic must be properly controlled with access being only from the North of Whitfield. A condition must be put in place to exclude all construction traffic from using Sandwich Road through the Village.
 10. Adequate wheel washing facilities and enforcement must be a condition of this application.
 11. The Developer must sign up to a Considerate Construction Code of Practice to control and limit; hours during which construction works are permitted; light pollution; noise and vibration from site activities and vehicles
 12. There is insufficient information to demonstrate that the development will be adequately supported by sufficient infrastructure.
 13. Arrangements for monitoring and management of traffic for the whole of the Whitfield UE are inadequate and lacking in the necessary detail to ensure safeguards to control and mitigate increased traffic volume that will be generated from the built development and during construction. This application should include a proportionate contribution for the proper control and monitoring of the increased traffic that was an integral part of the Masterplanning process is missing from all subsequent applications. Requirements for Transport Infrastructure Contributions, Transport Management Fund, Vehicle Monitoring Scheme, Traffic Management Plan, or Transport Coordinator that were all features of the earlier Masterplanning process in the SPD Consultation.
 14. The Sports facilities contribution should be used within Whitfield and not used for off-site provision elsewhere in the District.
 15. Any contribution towards the Health and Social Care Centre in the Village Centre must result in the centre being built and services being provided from the Centre, rather than an empty plot of land for future use at an undetermined time. The rapid growth in the population of Whitfield necessitates immediate provision of Health and
 16. Social Care Services, which are currently at capacity.
 17. There has been an ongoing problem with sewerage and surface water capacity during the first stages of this development. Sewerage & foulwater drains, pumping capacity and surface rainwater drainage provision is currently over capacity with the new housing adding to the existing problems. There must be full assessment of water supply, foulwater and wastewater disposal as part of the utility provision.

There are currently problems with local flooding and backing up of the sewerage system that the development will link into: These issues must be addressed before any further development takes place.

Guston Parish Council – consulted, no comment made.

Langdon Parish Council – Neutral but with following comments:

- Langdon Parish Council has experienced difficulty in responding to this application in isolation without being made aware of the progress in and changes to the entire Whitfield development over time.
- The council requests information on the timescale for the implementation of the infrastructure associated with the development.
- The council has concerns about the impact on the rural landscape of three storey buildings.

Public comments (2x support, 35x object)

Support

- Closing Napchester Road is a good proposal.

Objections

- Block of flats not in keeping, concern that this will set a precedent.
- Concern about accessing Church Whitfield.
- Development should be of a lower density.
- Consideration should be given to providing recreational areas.
- Speed limit in Sandwich Road should be lower.
- Concerns about infrastructure.
- Foul water and surface water flooding, this will exacerbate existing situation.
- Creation of an illegal pond as part of Abbey Homes development.
- Insufficient parking provision.
- Health and social care services are inadequate.
- Concern relating to construction traffic.
- Sports contribution required.

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

1.1. The Site

- 1.2. The development site is part of phase 1A of the Whitfield Urban Expansion (WUE), allocated under policy CP11, with further detail included in the WUE supplementary planning document (SPD). Phase 1A (granted outline permission under DOV/10/01011) was identified as a part of the WUE that could come forward ahead of the agreed wider phasing plan included in that document i.e. an anti-clockwise sequential approach starting south of Archers Court Road.
- 1.3. Phase 1A included its own phasing plan, consisting of sub-phases, which allowed for the development of 74 market dwellings – the Abbey Homes development accessed off of Field View Road – the reserved matters application for which was DOV/13/00607.
- 1.4. Under the agreed phasing plan, this site, located between Napchester Road and Arable Drive, was identified for affordable housing.
- 1.5. The site is rectangular in shape, orientated on a north west/south east axis, and is currently used as arable farm land. Access to the site is taken primarily from Field View Road (where it joins Sandwich Road), Harvest Road and Arable Drive. Arable Drive currently terminates in the farm land, forming a small part of the north west site boundary. Subject to the proposal (detailed below), access would also be taken from Napchester Road.

- 1.6. Neighbouring the site on its south western boundary are 70 Arable Drive and 41 Napchester Road.
- 1.7. Site dimensions are:
- Depth – 70 metres.
 - Width – 105 metres.
 - Access distance from Sandwich Road – 237 metres.

Proposed Development

- 1.8. This application is submitted by Dover District Council for reserved matters, which are identified as: appearance, landscape, layout and scale; for the erection of 26 affordable dwellings. Access was considered, and approved, at the outline stage.
- 1.9. The application involves the partial construction of estate roads, involving the continuation of Arable Drive to meet up with a section of the proposed WUE spine road (which would run from the A2 around the existing built area of Whitfield and to the A256 Whitfield bypass).
- 1.10. Napchester Road would be stopped up beyond the end of the existing built up area, north east of number 41. At this point a turning head would be created and bollards installed to block through traffic. Where Napchester Road continues beyond this point it would be converted partially into an access road for a number of dwellings, and would be bisected by the proposed spine road, beyond which it would function as a country lane in a similar arrangement to that which currently exists.
- 1.11. The proposed dwellings would be set in a perimeter formation with a combination of rear courtyard parking and dedicated off road driveway parking. Five layby spaces are proposed on the spine road frontage. Both sides of the spine road would incorporate mixed pedestrian and cycle paths at the appropriate width.
- 1.12. The dwellings would be comprised as follows:
- 1.13. Type A, 2.5 storey corner block, 6x 2 bedroom flats.
- Dimensions:
- Depth – 7.1 metres.
 - Width (corner to corner) – 23.3 metres.
 - Eaves height – 7.1 metres
 - Ridge height – 11.1 metres.
- 1.14. Type B, 2 storey corner block, 2x 1 bedroom flats, 2x 2 bedroom flats.
- Dimensions:
- Depth – 7.1 metres.
 - Width (corner to corner) – 23.3 metres.
 - Eaves height – 5 metres.
 - Ridge height – 9 metres.
- 1.15. Type C, 2x 2 bedroom semi-detached blocks (4 dwellings in total).

Dimensions:

- Depth – 9 metres.
- Width – 11 metres (block), 5.5 metres (individual).
- Eaves height – 5 metres.
- Ridge height – 8.4 metres.

1.16. Type D, 4x 3 bedroom semi-detached blocks (8 dwellings in total).

Dimensions:

- Depth – 10.1 metres.
- Width – 11.2 metres (block), 5.6 metres (individual).
- Eaves height – 5 metres.
- Ridge height – 8.8 metres.

1.17. Type E, 1x 3 bedroom semi-detached block (2 dwellings in total).

Dimensions:

- Depth – 10 metres.
- Width – 11.2 metres (block), 5.6 metres (individual).
- Eaves height – 5 metres.
- Ridge height – 8.8 metres.

1.18. Type F, 2x 4 bedroom detached dwellings (2 dwellings in total).

Dimensions:

- Depth – 9.5 metres.
- Width – 7.2 metres.
- Eaves height – 5 metres.
- Ridge height – 8.8 metres.

1.19. The proposed buildings would incorporate design typical of suburban development and similar to that of the 74 dwellings which already exist south west of the site. This would incorporate steep pitched, tiled roofs, some dormer windows, and a combination of brick and weatherboard elevations. The 2.5 storey corner block would incorporate balconettes (Juliet balconies) with glazed balustrades.

1.20. Low level hedge planting is proposed throughout the development with specimen tree planting proposed intermittently along the spine road frontage.

1.21. Plans will be on display.

2. Main issues

2.1. The main issues to consider are:

- Principle of development.
- Design, street scene, visual and rural amenity.
- Residential amenity.
- Highways and traffic impact.
- Drainage.
- Other matters.

3. Assessment

Principle of Development

- 3.1. The proposed development is located on land allocated as part of the wider Whitfield Urban Expansion. Under the WUE SPD this part of the WUE is identified as being able to come forward ahead of the wider WUE phasing and, in any case, the principle of development is accepted by the granting of outline permission under DOV/10/01011, for among other things, 100 dwellings, of which this reserved matters application relates to a sub-phase.
- 3.2. Abbey Homes has constructed 74 dwellings, and this application represents the remaining 26.
- 3.3. Therefore, the principle of development is accepted, subject to the proposed details, and in wider terms – not necessarily a consideration of this application – meeting the requirements of the conditions placed on the outline approval under DOV/10/01011.

Design, Street Scene and Visual Amenity

- 3.4. As noted above, the design of these dwellings takes cues from the 74 dwellings that have already been constructed as part of the Abbey Homes development to the south west of the site. Accordingly, the aesthetic incorporates brick and weatherboard elevations, with steep pitched tiled roofs.
- 3.5. Seen adjacent to the single storey dwellings on Napchester Road, the proposed dwellings are of a different and more contemporary suburban style. While these are different, it is not considered that the existing dwellings on Napchester Road exhibit a strong unified design style, i.e. it is varied, that would necessitate a continuation of this style or indeed restrict the design of the new dwellings.
- 3.6. The WUE, being a large, holistic extension to the existing village, is creating its own design character. Due to the scale of the allocation, this will necessarily evolve as the Masterplan is built out. Accordingly, this application proposes a character which, whilst referencing the traditional design of the neighbouring dwellings, would have an identifying character of its own and this approach is considered to be acceptable. This is also considered to be true in this case in relation to the proposed 2.5 storey building, which while acknowledged to be tall (11.1 metres at the ridge and 7.1 metres at the eaves), will in time be part of a neighbourhood with notably dense areas of development. The recently updated NPPF also encourages the use of higher densities where possible to optimise the potential of the site. This building will itself provide a reference point within the neighbourhood and act as a landmark in providing legibility for new and existing residents in their daily movements and is therefore supported.
- 3.7. Opposite the site in future development, the Masterplan for phase 1A provides for a primary school i.e. a building with an institutional design character, so it is correct to note that at the location of this site, there will be various design influences which will all need to be accommodated.
- 3.8. The proposed development incorporates low level hedge planting and some specimen tree planting that is intended to help create a boulevard character along the spine road frontage, the true effect of which is subject to future sub phases maintaining the same aesthetic and landscaping approach. This is a little hindered by the highways officer's requirement for five layby spaces along the southern edge of the carriageway, however, as noted, subject to future phases and sub phases of the WUE maintaining a strong approach in this regard (which would be secured due to the terms within the approved Masterplan), some

variations can be accommodated.

- 3.9. In terms of rural amenity, while at present the development would be facing on to a field, ultimately the development will be close to the heart of the new Whitfield village centre and its effect on the rural character of the area will be negligible at that point in time.
- 3.10. Accordingly, given that the key consideration of this development is in relation to its appearance, landscaping, layout and scale i.e. the reserved matters identified under the outline permission for DOV/10/01011, the proposed development is in the main part considered to be acceptable.

Residential Amenity

- 3.11. Some public objections to the scheme have been concerned with the potential for harm to arise in relation to residential amenity. Given that the site is presently neighboured only on one side, the potential for these effects is considered to be relatively limited.
- 3.12. The two properties that could be impacted by the proposal, by virtue of proximity, are 70 Arable Drive and 41 Napchester Road.
- 3.13. **70 Arable Drive.** This dwelling is part of the new estate constructed by Abbey Homes. The closest proposed dwellings are number 1 and numbers 26 and 25. In terms of number 1, it does incorporate a side facing window at first floor level, however, this serves an ensuite room and is limited in size. Additionally, it would face towards the side elevation of number 70, so no harm is considered to arise from this proposed dwelling. Numbers 26 and 25 were originally orientated such that their rear windows would face over the rear garden of number 70 at a distance of approximately 8 metres. The applicant has revised the orientation of these dwellings to be side on to the neighbouring garden, such that number 26 is now the only consideration in this regard. Now at a distance of 5 metres, from the dividing boundary, there is a small side facing landing window. Although small, this window would be conditioned to be obscure glazed.
- 3.14. **41 Napchester Road.** The closest dwellings to 41 Napchester Road would be the re-orientated number 26 and the side facing number 22, each at distances of 5 metres from the dividing boundary. A potential concern, considered to be overcome, in the re-orientation of number 26 would be of first floor front windows facing along the length of the rear garden of number 41. The reason that this relationship is considered to be acceptable is due to number 26 facing into the site rather than towards number 41, and facing towards number 22, such that any views that might be achievable are likely to be largely obscured. The side facing elevation of number 22 would contain one window at first floor level, which would be above the stairwell. Given the distance to the dividing boundary, it is considered appropriate to condition that this window would be obscure glazed. The rear elevation of number 22 is located such that the impact of the first floor windows has also been considered. Due to the windows facing slightly away from number 41, as a result of the orientation of the proposed dwelling, it is considered that any views towards the rear garden or rear elevation of number 41 would be sufficiently oblique not to result in any harm being caused.
- 3.15. In terms of both numbers 70 and 41, overshadowing is not considered to be an issue, as the dwellings would be located north and east of the existing dwellings and their gardens. After mid-morning any shadow that might be cast towards the existing properties would have passed, and would remain that way for the rest of

the day.

- 3.16. Accordingly where the proposed new dwellings interact with existing dwellings, any harm is considered to have been mitigated. In terms of relationships between new dwellings, whilst these are in some cases in relatively close proximity to one another, this relationship is typical of a new housing development and is generally accepted. Any impacts, or otherwise, on residential amenity, are therefore considered to be acceptable.

Highways and Traffic Impact

- 3.17. The layout of the proposed development has been evolved in conjunction with the highways officer throughout the consideration of the proposal. This includes the provision of five layby spaces on the spine road frontage and the proposed parking arrangements to the rear of units 9 to 14.
- 3.18. The highways officer has commented that the stopping up of Napchester Road would need a traffic regulation order (TRO), however, this is considered to be acceptable and while it is acknowledged that to take a through route towards Church Whitfield or West Langdon might not now be so direct, in terms of the later development of the WUE, this will represent a benefit to local residents and maintain the relative quiet of their road.
- 3.19. The applicant is obliged by legal agreement to deliver the section of spine road illustrated as part of the wider WUE. Where it would bisect Napchester Road, effectively creating a crossroad, the applicant did originally intend to create stubs for the rest of the spine road (from future neighbouring developments) to link to. However, the area originally submitted for this purpose was not within the application boundary of the outline permission under DOV/10/01011 and as such has been removed from this proposal.
- 3.20. The applicant has also removed a section of the site red line that was to cover the future development of the spine road, as well as a highways drainage basin. This is because the applicant preferred to focus on the identified reserved matters element of the proposal. The layout of the internal roads would be sufficient to meet the needs of the development and allow vehicles to access, manoeuvre and exit the site in a forward gear.
- 3.21. The development would provide on-site car parking spaces in accordance with the levels set out in table 1.1 of the Core Strategy. Accordingly, all highways elements of the proposal are considered to be acceptable, subject to standard highways conditions.

Drainage

- 3.22. It is acknowledged that the existing 74 dwellings have been subject to a number of drainage incidents including the overflowing of foul sewers into the streets and public areas, caused by surface water flows during heavy rainfall. Typically, surface water and foul water disposal is separated to ensure that this does not occur, however, it is understood that a number of historic misconnections have been made that have resulted in this situation arising.
- 3.23. Some remedial works have been undertaken, involving some misconnections being corrected and it is understood that Southern Water is in the process of approving a scheme of works to its network to address this matter. However, there is currently no confirmation of when any such proposal might be delivered.

- 3.24. There is understandable concern among existing residents of the Abbey Homes development relating to the potential for 26 new dwellings to make this situation worse.
- 3.25. For the consideration of this application, however, drainage matters have already been considered and, in effect, consented to be dealt with by condition under the outline permission DOV/10/01011.
- 3.26. The relevant condition, number 35, reads:
- “None of the dwellings within each of the agreed phases shall be occupied until works for the disposal of sewage and foul water have been provided on the site to serve that phase, in accordance with details including a schedule and programme of works that shall be submitted to and approved in writing by the Local Planning Authority prior to the development of that phase taking place. The development shall be carried out in accordance with the agreed schedule and programme. Reason: To ensure adequate measures are made for the disposal of sewage and foul drainage and sewage.”
- 3.27. Accordingly, while this matter is of undoubted concern, the relevant decision in regard to it has already been taken. It is considered that this decision, incorporating the condition as detailed above, is sufficiently stringent, with safeguards incorporated, that no new foul sewage could enter the sewerage network without relevant identified works for its accommodation having already been undertaken.
- 3.28. Accordingly, drainage matters in relation to this proposal are considered to have been addressed, and the scheme is considered acceptable in this regard.

Other Matters

Advertisement of the Proposal

- 3.29. The latest amendments to the scheme were not advertised or consulted on. These amendments included the removal of the highways drainage basin, and the removal of the highways stub at the proposed Napchester Road crossroads. Other elements that have altered since the proposal was last advertised include the reorientation of proposed units 25 and 26, and the inclusion of five layby parking spaces. In making the decision not to readvertise, the key consideration was whether anyone would be disadvantaged as a result. All amendments were considered not to result in a disadvantage, or were considered sufficiently immaterial (such as the layby parking spaces), such that this approach was considered to be acceptable.

Planning Obligations/Section 106

- 3.30. A number of comments were made during the consultations on this proposal that made reference to planning obligations and suggested that infrastructure needed to be delivered as part of the proposal. Due to being a reserved matters proposal, the relevant legal agreement has already been signed at the outline permission stage, which deals with necessary contributions, including education, health and open space provision (skate park). It is notable that this application is for the provision of a 100% affordable housing scheme. The proposal is therefore considered to be acceptable in this regard.

Archaeology

- 3.31. No response was received from the county archaeological officer, however, an archaeological condition is in force on the outline permission.

Ecology

- 3.32. No ecological concerns have arisen from this proposal, due to being on farmed arable land, which does not hold sufficient opportunity for habitats to form or protected species to be present. In reaching this conclusion, regard has been had for Natural England standing advice.

4. Conclusion

- 4.1 The proposed development is considered to be acceptable in all regards. The applicant has worked with the local planning authority to ensure that the proposal is acceptable in design terms and does not result in harm to the amenity of neighbouring residents.
- 4.2 A key consideration when making the recommendation on this proposal has been how drainage issues are dealt with. It is acknowledged that the existing foul sewage issues in connection with the Abbey Homes development are not in the interests of public health or local amenity. However, the foul sewage element of this proposal has already been addressed through the outline permission, and no further sewage would be allowed into the network from this development until an adequate scheme has been implemented. Accordingly, permitting this development under those circumstances is considered to be a reasonable and proper approach in planning terms.
- 4.3 The provision of affordable housing is a necessity in contemporary society. The Dover Strategic Housing Market Assessment (February 2017) identifies a need of 167 affordable units every year. This development would therefore provide a meaningful contribution towards meeting the identified affordable housing need.
- 4.4 No harm is considered to arise from this proposal; indeed, it is considered to be beneficial and would form one part of the wider delivery of the Whitfield Urban Expansion. Accordingly, the recommendation is to grant permission.

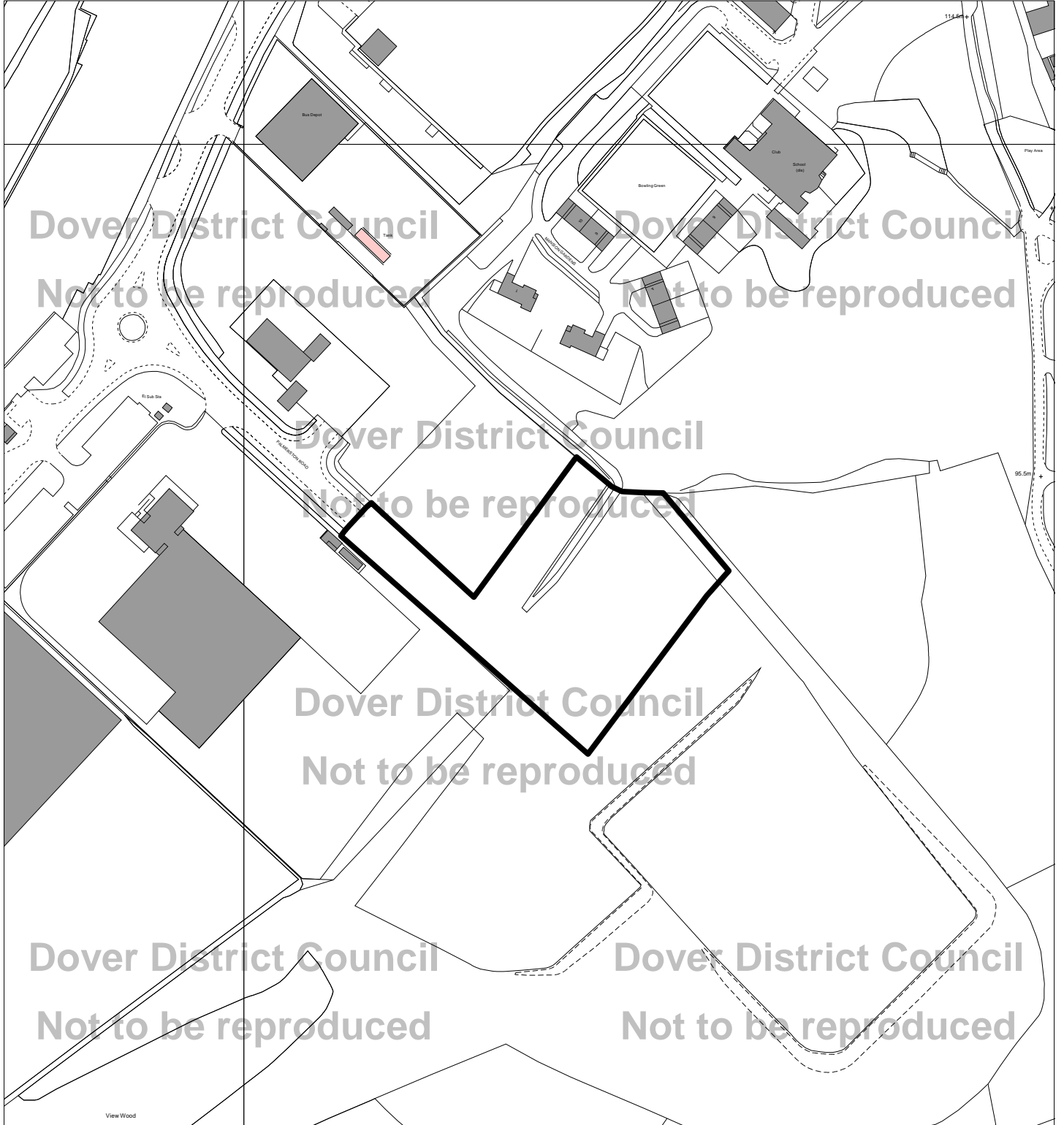
g) Recommendation

- I. Planning permission be GRANTED, subject to conditions, including the following: (1) Time limit (2) Approved drawings (3) Materials (4) Landscaping scheme, including means of enclosure (5) Obscure glazing, first floor side elevation, units 26 and 22 (6) PD removal from houses – classes A and B (7) Refuse bins (8) Cycle storage (9) Parking areas (10) Bound surface (11) Visibility splays in relation to cycle paths (12) No surface water onto highway (13) Timetable for stopping up Napchester Road (14) Treatment of highway stopped ends – details.
- II. That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Darren Bridgett

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Not to scale

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Note: This plan is provided for purposes of site identification only.

Application: DOV/18/00201

Mattheeuws Transport Ltd

Land SW of Palmerston Road, Port Zone

White Cliffs Business Park

Dover

TR30114381



- a) **DOV/18/00201 - Change of use of land to form part of existing transportation depot (extension of existing use) - Mattheeuws Transport Ltd: Land south-west of Palmerston Road, Port Zone, White Cliffs Business Park, Whitfield**

Reason for report – Number of contrary views (31)

- b) **Summary of Recommendation**

Planning Permission be Granted, subject to conditions.

- c) **Planning Policies and Guidance**

Core Strategy Policies (2010)

CP1 - Settlement Hierarchy

CP6 – Infrastructure

DM1 - Settlement Boundaries

DM11 - Location of Development and Managing Travel Demand

DM13 - Parking Provision

DM17 – Groundwater Source Protection

Land Allocations Local Plan (2015) (LALP)

National Planning Policy Framework (NPPF) (2018)

Paragraph 2 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 8 - 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 - Presumption in favour of sustainable development for decision-taking (known as the tilted balance).

Paragraph 12 states that development which accords with an up-to-date development plan should be approved and development which conflicts should be refused unless other material considerations indicate otherwise.

Paragraph 109 - Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, can be cost effectively mitigated to an acceptable degree, or the residual cumulative impacts on the road network would be severe.

Paragraph 124 - 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 127 - 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 155 & 157 - 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 163 - When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment.

Paragraph 165 - Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

- a) take account of advice from the lead local flood authority;
- b) have appropriate proposed minimum operational standards;
- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
- d) where possible, provide multifunctional benefits.

Paragraph 170 - The planning system should protect and enhance valued landscapes, recognising the wider benefits of ecosystem services and minimise impacts on biodiversity and providing net gains in biodiversity. 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 and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 175 - When determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity 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;
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

Paragraph 178 - 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.

Paragraph 180- Planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (inc. cumulative effects) of pollution on health, living conditions and the natural environment and aim to mitigate and reduce to a minimum and adverse impacts on health and quality of life arising from noise from new development; and identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Noise Policy Statement for England

Kent Design Guide (2005)

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

d) **Relevant Planning History**

DOV/16/01472 - Change of use of land to a lorry parking facility – Withdrawn

DOV/17/01247 - Screening Opinion for a proposed lorry park – Environmental Statement Not Required

e) **Consultee and Third Party Responses (Summarised)**

DDC Environmental Health – Initial Objection.

Following the submission of a revised Noise Impact Assessment: I refer to the above and confirm that I have now reviewed the amended acoustic assessment dated June 2018.

Noise: Though the amended acoustic report states that the magnitude of noise impact during the night will be moderate, it also predicts that this will diminish over time and it is our view that any noise impacts may also be mitigated through the application of an acceptable noise management plan. Such a plan should include, but not be limited to acoustic barriers, restrictions on the use of vehicle horns, reversing alarms, radio/stereos, etc. and also advocate the use of banksmen to assist the lorries with parking safely further reducing the use of reversing alarms on site, the use of electrical hook-up points for any refrigerated units to be parked on site and the operation of a traffic management system/route to reduce the need for vehicles reversing where possible. A condition is required in respect of the submission of a noise management plan.

Air Quality: The AQ Assessment report examines the impact of the lorry park development in respect of both construction activities and air pollution concentrations with regard to AQ Objectives. The approach to this is accepted as is the modelling. A

correction factor was applied to modelled NOx results due to a difference identified in the verification. The adjustment factor is accepted.

Appendix 2 shows the site location and 'Existing Receptors' (ER01 – 05). Section 4.1 identifies these as being close to the road network where traffic levels change. I assume these receptors were selected as they represent the route that HGVs will use to access the park. Modelling results conclude that for the operational phase of this development, the increase in vehicle traffic does not give rise to a significant impact (NO₂ or PM10 concentrations) on local air quality. These conclusions are accepted.

The lorry park, if allowed, has the potential for up to 59 lorries and 38 cars to be parked within a relatively small area. It is possible that engines will be running on idle for significant periods of time and this itself is likely to generate elevated levels of NO₂ and PM10. No consideration of this is given in the report.

In respect of the construction phase, section 5.1 (and Table 5.1) identifies the impact of earthworks, construction and trackout as being Low Risk. IAQM Guidance clearly identifies that

An assessment will normally be required where there is: • a 'human receptor' within: - 350 m of the boundary of the site; or - 50 m of the route(s) used by construction vehicles on the public highway, up to 500 m from the site entrance(s).

The attached plan from the Able Acoustics Noise Assessment shows residential receptors 71-77 Friars Way (Circa 190.4m) 23-24 Old Park Hill (Circa 131.9m). Whilst it may well prove to be the case that construction dust impact may be 'Low', these residential receptors are not considered in the Accon report. The prevailing wind in this area is reported as being from the south-west. In view of this, I would recommend that consideration to the above should be included within the report and any mitigation measures necessary identified.

Contaminated Land: A safeguarding land contamination condition should be applied.

Lighting: While Environmental Health at this stage has no detail of any lighting on the application, I would recommend the following informative relating to lighting

We would draw the developer's attention to the institution of lighting engineer's guidance notes for the reduction of obtrusive light when considering any lighting to the site. This can be at the construction stage or during plans for the occupation of the development. I would ask the developer to pay particular attention when considering any lighted signage at the front of the planned development.

Further Comments: With regard to noise, I have considered the submitted Noise Management Plan and believe that it is satisfactory. I am particularly pleased to note that no refrigerated units will be permitted on the site. I would recommend that a suitable condition be applied that ensures that the site operates in accordance with the Noise Management Plan at all times, perhaps with the facility for periodic review if that is permissible.

DDC Tree and Horticultural Officer – The proposed block plan shows the site largely sited away from any trees. The northernmost part of the site is located in close proximity to a small area of woodland protected by TPO 2017, 19, however, it is considered that there is sufficient distance between the boundary of the site and

this area of woodland for the development to proceed without a conflict between the two occurring.

The block plan cites a strip of land running along the north eastern boundary as a landscape buffer. It is recommended that planting of this area with native shrubs and trees is secured through the imposition of a planning condition should consent for the scheme be given. A planting plan, details of written specifications; schedules of species, sizes and proposed numbers/densities should be provided for agreement

KCC Highways – Initial Objection.

Following the submission of additional information: Based on additional information the trip generation of the existing business the proposed expansion is likely to generate around 7 two-way HGV movements in the network peak hours, which is unlikely to have a severe impact on the highway network.

The amended block plan showing both the existing and proposed parking is acceptable, however in order to condition a parking layout across the whole site it will be necessary to provide a plan showing the same (i.e. with existing parking to be relocated having been removed from the plan). This can be dealt with by condition.

I also note that there is an existing electronically-controlled gate at the site entrance which drivers currently have to stop and wait to open. With the increase in use of the site by HGV's there is the potential for more than one lorry to arrive at any one time and therefore have to wait on the highway. The management and operation of the gate will therefore need to change to ensure the highway is not obstructed by waiting vehicles. This can be dealt with by condition.

I therefore now have no objection in respect of highway matters subject to the following being secured by condition:

- Use of the application site as an extension to the existing business, i.e. not as a commercial lorry park available to third parties.
- Provision of parking across the whole transportation depot in accordance with a plan to be submitted to and approved by the Local Planning Authority.
- Management of the entrance gate to ensure no obstruction of the highway by waiting vehicles, in accordance with details to be submitted to and approved by the Local Planning Authority.

KCC SuDS: Objection - At present we are unable to recommend the approval of the application for the following reasons:

1. The calculated greenfield runoff rate is given as 2l/s/Ha and all outfalls should be limited to this amount, the proposal to utilise 4l/s is therefore not acceptable.
2. The half drain time demonstrated in the calculations is not acceptable - the design should achieve half drain times of less than 24 hrs and this should be based on the 2l/s/Ha runoff rate.
3. In general we do not promote the use of a pumped solution given the ongoing maintenance liabilities associated with pumping stations and with consideration of sustainable development.
4. We would recommend the applicant refers to section 26 of Part E of Ciria's SuDS design manual, specifically tables 26.2 through 26.4 which gives guidance on Water

Quality Management Design Methods and could facilitate a design which would enable infiltration.

5. Our records fail to show a Surface Water sewer within the vicinity of the work. Should no alternative other than a connection to the sewer be found we will require to see evidence from Southern Water off acceptance to this proposal.

6. We note that the Environment Agency have objected to the development due to concerns with possible contamination to the aquifer, until they are accepting of the proposals we will not be able to recommend approval.

It should be noted that we do not object in principle to the site being developed, however the proposed drainage strategy must seek to dispose of surface water within its natural catchment and demonstrate the SuDs principles to be applied to the later detailed design work.

We would recommend the application is not determined prior to a drainage strategy being agreed and would urge the applicant to undertake discussions with KCC as the LLFA to discuss the surface water drainage proposals for this site in greater detail.

We would encourage the applicant to consider an alternative discharge method for surface water and consider the greater costs associated with installation of a pumping station for the life-time of the development.

We would recommend that the application is not determined until it is fundamentally demonstrated that it is not practical to design a gravity drainage system, which mimics natural flow paths as much as possible for the proposed development.

Following the submission of further information: - Revised comments awaited – to be reported verbally to Planning Committee

Highways England – Initial Objection.

Following the submission of additional information: Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the Strategic Road Network (SRN), in this case the A2 at Whitfield.

Our previous response, requested additional information on staff parking and trip generation to allow consideration of the potential impact of the proposals and identified if any additional assessment was required. This has now been provided.

Parking Provision Clarification: The application seeks an extension of the existing Distribution Depot in Palmerston Road, with increased capacity for 59 HGV spaces and 38 car parking spaces. It is understood that the proposed 38 car parking spaces will be used to relocate staff parking from the existing Depot. We require clarification on whether the existing staff car parking area (which will be vacated) will be used for HGVs, and if so if these spaces are included in the additional 59 HGV spaces quoted. This has now been clarified – the existing staff parking area is proposed to be used for HGV circulation and not for HGV parking.

Trip Generation: Trip generation has been estimated using surveys undertaken at the existing Truck Stop on Menzies Road. It is unclear why a survey of the application site cannot be used, given that the proposal is for an extension of the existing Depot to enable more efficient parking and increased capacity for the applicants' own vehicles only. The trip generation figures provided are based on two short surveys undertaken on the 15th and 16th December. This time of year is typically "quiet" for drivers as the majority of Christmas deliveries have been undertaken, therefore they

surveys may not represent “typical” operation. In addition, the short periods over which the surveys were undertaken do not enable confirmation of Peak Hours of operation.

Further information has now been provided, supplied by the Client for April 2018.

The Transport Statement states that vehicles will be simply diverting from either the north bound or south bound journey to park overnight after/before leaving/joining the ferry. Whilst HGVs will likely be diverting from the A2 to the proposed lorry parking facility, this will induce additional turning movements on Whitfield Roundabout.

We therefore require further information to support the trip generation assumptions used within the assessment. This information is required to enable consideration of how the additional HGVs may impact on the operation of the A2 at Whitfield Roundabout due to changes in turning movements. Once further trip generation information has been received, the potential impact of the proposals and any additional assessment required can be considered further.

Approximately 20 arrivals and 20 departures are estimated per day, based on existing movements. The resultant trip generation is 2 arrivals / 1 departure in the AM Peak, and 1 arrival / 2 departures in the PM Peak.

We understand that the additional parking is to be provided for the Client’s vehicles that currently use facilities in Calais or Verne. Therefore the majority of HGVs will arrive from mainland Europe, park overnight and then return to mainland Europe the next day. Minimal trips are therefore estimated to be travelling to / from the A2 West (less than one arrival / departure in Peak Hours). The predominant movement is to / from the A2 East.

It is noted that the HGVs are likely to already been travelling on the A2, and therefore the trip generation relates to changing turning movements rather than additional trips. On the basis of the above assessment, it is unlikely that three additional Peak Hour turning movements will significantly impact the safe and efficient operation of Whitfield Roundabout.

It is unclear how the provision of 59 spaces relates to estimated demand for 20 arrival and 20 departure trips. There is potential that this is either an over provision on spaces compared to demand, or an underestimate of trip generation. However; even tripling the trip generation estimate (to bring total daily vehicles in line with the full occupancy of the spaces as a worst-case), it is not considered that there would be substantial increase in turning movements on the A2.

On the basis that the proposals will generate minimal additional traffic on the SRN, we are satisfied that they will not materially affect the safety, reliability and/or operation of the existing SRN. Therefore we do not offer any objections or requirements relating to the proposal.

Environment Agency – Objection - We object to the proposed development, as submitted, because there is insufficient information to demonstrate that the risk of pollution to controlled waters is acceptable or can be appropriately managed. We recommend that planning permission is refused on this basis.

Reasons: The proposed development, of extended large scale lorry parking, presents a high risk of contamination that could impact controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is within Source Protection Zone (SPZ) 2 for an abstraction used for the supply of water

for human consumption and is located upon Principal aquifer. The outline documents submitted in support of this planning application have not demonstrated that the level of risk posed by this proposal is fully understood and it fails to give adequate assurance that the risks of pollution can be managed. The risk therefore remains unacceptable. This planning application has therefore failed to meet the requirements of paragraphs 109, 120 and 121 of the National Planning Policy Framework. The development could result in release of priority hazardous substances and result in pollution of controlled waters.

Overcoming our objection: The applicant should provide information to satisfactorily demonstrate to the local planning authority that the risk to controlled waters has been fully understood and can be addressed through appropriate measures. This information should include:

1. Further information on the proposed imported engineering fill characteristics.
2. The surfacing and drainage for the proposed facility is inadequately detailed for such a sensitive setting. Additional information on pollution incident management, drainage and attenuation is required including any proposed surfacing design and materials.

Site specific information: This site is in a sensitive area with respect to strategic public water supply for Dover. Although measures are proposed that would to some degree mitigate the risk from any extension to lorry parking at the site, there are concerns about the scale of such development in such a setting. Further background information on the site, the proposed design of surfacing and the quality standards for import of any sub base materials are required. An assessment of the actual operation of the proposed facility, detailed drainage plans and surfacing requirements should be submitted to support this application, in order that a proper assessment can be made of the potential risks in such an important public water supply catchment.

Following additional clarification: We now better understand the proposed means of creating the proposed lorry park extension, and can remove our objection to the proposal providing the following conditions are imposed on any permission granted.

- Contamination safeguarding
- Surface water drainage design submitted for approval
- Details of imported materials submitted for approval
- Verification of the above imported materials.

Any earthworks/remediation must be carried out in a strictly controlled manner to ensure that releases are not allowed to air, land or controlled waters, which could cause pollution, harm or nuisance. Temporary surface water controls and management of any materials movement on site is critical to ensure protection of controlled waters underlying the site.

Informative: The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during land development works and intended for re-use are waste or have ceased to be waste.

Developers should ensure that all materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site

Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would wish to object to the application operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

Any re-use of excavated materials not undertaken formally using the CLAIRE DoWCoP would require an environmental permit for deposit, unless materials are solely aggregates from virgin sources, or from a fully compliant Quality Protocol aggregates supplier. Any deposit of materials outside of these scenarios could be subject to enforcement actions and/or landfill tax liabilities.

Southern Water -

Comments awaited – to be reported verbally to Planning Committee

Kent Wildlife Trust: Objection - The application site lies in close proximity to the Old Park Hill Nature Reserve. The Reserve forms a large part of the Whitfield Down and Buckland Down Local Wildlife Site (LWS-DO15). The LWS is designated for its range of habitats including woodland, scrub, chalk grassland and neutral grassland supporting Adonis blue butterflies and reptiles. Kent Wildlife Trust and the Port of Dover are restoring Old Park Hill by re-establishing woodland management and converting overgrown scrub into a mosaic of scrub with chalk grassland.

Extending the company's lorry park to the east will bring development much closer to this valued habitat, risking harm to the wildlife it supports. Lorry movements, vehicle headlamps and yard lighting have the potential to disturb protected species such as bats, breeding birds, badgers and dormice. The NPPF (section 11 and paragraph 123) and Core Strategy Policy CP7 establish the fact that these considerations are material to the determination of this planning application.

Although I welcome the provision of a 15m landscape buffer along the most sensitive part of the northern boundary, the applicant does not appear to have assessed the risk of disturbance (from vehicle manoeuvring, headlamp intrusion and yard lighting) on wildlife in the LWS. This information is essential to determining the nature and specifications for the landscape buffer by indicating, for example, the extent to which lighting and noise barriers need to be installed alongside native tree and shrub plantings as part of the buffer treatment.

In the absence of this information, I must conclude that wildlife will be harmed significantly and that the application fails to satisfy national and local planning policy requirements. I have no objection, in principle, to the proposal and would welcome the opportunity to review my position in the light of the further information, nevertheless, I object to the application in its present, incomplete form.

Whitfield Parish Council – Objects to this application. Despite the reduction in the proposals from application DOV/16/01472 Whitfield Parish Council's previous objections and concerns remain.

This site borders a residential area and the potential noise disruption and loss of amenity a lorry park extension will cause to residents is significant. The application would cause an increase in traffic volume in the local area, especially on Whitfield roundabout and the feeder roads. Effects on local water supply, natural environment, flora and fauna also need to be considered.

Further Comments: Whitfield Parish Council objects to the proposed change of use of this land to a lorry park. The Parish Council also fully supports the reasonable and

justified objections by local Resident to this change of use. The application is flawed and should not go to committee in its present form.

The application is for overnight lorry parking, yet there is no condition that the lorry park is vacated through the daytime. During periods of delays on Channel crossings, the Park will remain full for the duration. The applicant's claim that the majority of the HGV's arrive from 5.00pm to 10.00pm, and leave from 3.00am to 6.00am, and the site generally clear by 7.30am is without substance. HGV's will arrive and depart according to the constraints of driving hours regulation and times booked onto the ferry. Lorries using the facility will arrive and depart throughout the day adding to the problems on Whitfield Roundabout. An average of one HGV movement every 2 minute. The applicant claims this will cure the illegal overnight parking problems in the area, and puts this forward as the justification for the application.

Last year 2,591,286 HGV's passed through the port - That's over 7,000 a day. For every driver who decides to go to the lorry park, there are another ten who will not and still park on the local roads. The application omits the necessary mitigation measures for the environmental impacts the plan will cause. There are no details of contributions to infrastructure improvements for the local road network. There are no facilities planned for the lorry park, only to share facilities based at Priority Freight.

The objections to the application are on the following material grounds:

1. Disturbance and loss of amenity a lorry park will cause to nearby Residents.

By its very nature. the activities associated with a lorry park will cause unacceptable air, noise and light pollution that will affect local Residents to varying degrees, dependant on distance, weather conditions and wind direction. There are a number of residential properties on Old Park Hill, Elysium Park, Friars Way and Pilgrims Way within 100 to 200 metres of the site and many more within 300 metres.

The inevitable noise will cause unacceptable antisocial disturbance to Residents at all hours of the day and night from lorry activities and movements, their engines and refrigeration units which will cause considerable issues to the residents in the proximity.

While it may be deemed as tolerable during normal working hours, during the evening, night time and early morning, the arrival and departure of lorries, starting of engines, revving of engines, activation of air brakes, audible reversing warning devices, and continual operation of refrigeration units will be a significant intrusion to the quality of life of Residents. Whilst a noise survey may well show the average level to be below that required for noise mitigation measures and double glazing for Residential properties to be put in place, the intermittent nature and randomness of the noise is unacceptable and will disturb sleep and other activities.

The noise and disturbance of up to 600 daily movements of HGV's to and from the site will affect the wider area of Whitfield, Old Park and Archer's Place throughout the 24 hour period, 7 days a week. Local Residents report that, depending on the wind direction, they can hear the truck movements and refrigeration units from Priority Freight, particularly in the still of the night. The combined effects from the engine emissions of 300 additional lorries starting

from cold (especially in winter) and moving around the site is unacceptable in a Residential Area Air monitoring equipment must be installed to give real-time warnings of unacceptable levels of air pollution and a condition must be placed on the operator to immediately close the site whenever the levels are reached.

The site will require floodlighting for compliance with health and safety regulations. The resultant light pollution and loss of 'dark sky' is unacceptable in a residential area

Many Residents cite their reasons for choosing to live in their properties is the semi-rural nature of the area. This industrialisation of the vicinity will have unacceptable adverse consequences to the enjoyment and amenity that Residents currently enjoy in this relatively peaceful and tranquil area.

The District Council rightly state in every Planning agenda that decisions must comply with the requirements of the Human Rights Act 1998, particularly Article 1 of the first Protocol, the "Right of the individuals to the peaceful enjoyment of their possessions" (including their home). This right can only be withdrawn "in the public interest" and that it may also require positive measures to protect property to be taken. This application is not in the public interest and does not contain any positive measures to protect property and the owner's right to enjoy that property.

2. The increase in traffic volume in the local area, especially on the Whitfield Roundabout and the feeder roads.

Whitfield Roundabout is frequently operating at capacity. While there is a need for one major truck stop serving the A2 trunk road for Port Traffic, this should be in one location, away from residential areas, which is properly served and accessed by the local road network. To have a number of smaller lorry parks in the urban Dover area only spreads the traffic congestion and nuisance over a wider area. This application is on the same estate as another truck stop (Priority Freight) but will have an additional capacity 3 times the size. There will be an additional 600 HGV's leaving and entering the Port Zone, putting pressure on Whitfield roundabout and all feeder roads, especially at peak times.

There is already planned development in Whitfield for 5,750 new homes, 3 new primary schools, relocation of the new Leisure Centre, the new Lidl Supermarket and final development of Phase 2 of the White Cliffs Business Park. All this in addition to extra traffic already generated from the recent new retail stores and KFC Drive-in and frequent congestion caused by the refuse transfer station (which generates in excess of 66,000 vehicle movements per month), will result in increasingly frequent gridlock in the area.

3. The loss of potential employment opportunities to the local area.

The site is on an industrial park which brings valuable employment opportunities to the District. This change of use is from use as storage and warehousing with associated operator and administration employment opportunities to a use which will require minimal staffing and is, therefore, a reduction in local employment potential which is contrary to the Local Plan. Change of use, especially without mitigation of the adverse affects on; the local Residents; traffic congestion; local

biodiversity and water supplies, is contrary to Dover District Council's Core Strategy and Planning Policies.

4. The effects on the local Water Supply, Natural Environment, Flora and Fauna.

This change of use and development will have an unacceptable environmental impact on the habitat and wildlife on the chalkland designated areas of Old Park Hill. Any land cleared would also effect the environment as it is all protected trees and badger sets.

The site is above the catchment area for water abstraction for the public water supply for Dover. There is an unacceptably high risk of a major pollution incident from the site and the contents and loads of lorries using the site, affecting the water supply.

There are no Emergency Contingency Plans or adequate mitigation measures included in this application.

Third Party Representations: To date 31 letters of representation have been received; objections have been made on the following grounds:

- Local residents will detrimentally affected by the application
- Impact on the environment especially next to a local nature reserve/wildlife site
- Proposal unsuitable in this location due to proximity of local residents
- Run off of chemicals from the site affecting ground water, residents and wildlife
- Increased noise, pollution and nuisance
- Other sites are more suitable with better access
- The land should be used for employment purposes
- Ecological impacts have not been assessed
- Existing HGV uses including refrigerated units, horns and reversing noise are all already audible and will only get worse
- Further light and air pollution
- Whitfield roundabout cannot cope with any further increases
- This is the wrong location for a lorry park
- Impact on local residential amenities, their health and quality of life
- Increase in traffic and traffic impacts
- Road infrastructure cannot cope with existing levels
- Noise mitigation and controls should be a key consideration
- Existing noise levels are already above WHO guidelines
- Concerns that existing noise pollution can only get worse
- Precedent for larger scheme will be established.
- This development will have a long term impact on noise, health and sleep of nearby residents especially movements in the early hours of the morning.
- There are huge flaws in the level of information provided in support of this application.
- Why should local residents be subjected to further pollution
- The enjoyment of homes and gardens is already affected by noise which will only increase further.

- Increased in traffic will make using existing local facilities including the new sports centre harder and more unsafe, particularly for children.
- More litter and anti-social behaviour
- How will increase in run-off from the site be addressed
- The special character of the chalk downs of the local nature reserve will be detrimentally affected.
- The submitted acoustic reports are flawed with the wrong readings taken at the wrong time of the day a fresh report should be submitted
- Most movement s will take place very early in the morning affecting residents
- There are already noise complaints from existing businesses

f) 1. The Site and Proposal

- 1.1 The application is situated off Menzies and Palmerston Road in the Port Zone of White Cliffs Business Park in Whitfield. The Port Zone area is predominantly commercial in character but also has a mix of uses including two churches, bowling green, transport museum and maritime training centre. The commercial uses are also mixed including some offices but mainly transport/haulage related companies with the Priority Freight, Truck Stop Café and Stage Coach on nearby sites. However there are also a significant number of residential dwellings in relatively close proximity to the area, including Friars Way and Elysium Park and Old Park Hill. There is also a local wildlife site to the south east (Old Park Hill Nature Reserve) that wraps around the hill side.
- 1.2 The application site is currently an unused grassed area to the south east of Mattheeuws Transport's current site on Palmerston Road. Mattheeuws Transport is one of a number of companies operated under Romac Ltd who are the applicants. The current haulage site is largely hardsurfaced with HGV and car parking. There is a large existing maintenance building, some offices and a welfare building with toilet and shower facilities. The site is accessed via an electronically controlled gate and security hut/building.
- 1.3 The site itself is relatively level and grassed although has been recently cleared. It forms part of a larger site, also grassed and cleared, that has been the subject of a recent planning application, which was subsequently withdrawn, for a larger commercial lorry park. Wrapping around the larger site is the Old Park Hill Nature Reserve which forms part of the Whitfield Down and Buckland Down Local Wildlife Site, the woodland of which is adjacent to the boundary and is fenced off with a post and rail and/or chain link fencing and is clearly visible from the application site. The site is protected for its range of habitats including woodland, scrub and chalk grassland and is home to a number of protected wildlife species (bats/badgers/dormouse and breeding birds).
- 1.4 The site is also situated at the top of Old Park Hill, with Groundwater Zones 2 and 3 and a principle aquifer for the supply of drinking water. There is also a TPO area of woodland to the north east of the site.

The Proposal

- 1.5 The submitted application is for an extension of the existing transportation depot and change of use of this land to accommodate an additional 59 HGV 's and provide an expanded and secure 24 hour parking facility for the wider

Romac company that includes Mattheeuws Transport. The additional site area is 7860sqm in size.

- 1.6 The application would involve the re-organisation of the existing HGV and car parking spaces on the current site and the provision of 59 extra HGV spaces and 38 car parking spaces. The site will be hardsurfaced and fenced with a metal palisade fence and no additional lighting is proposed. A 15m wide landscaped buffer is proposed adjacent to the northern boundary to protect the trees and local wildlife site from the proposed development and this will be planted with native species.
- 1.7 In terms of the operation of the site the HGV parking is for the current operators to accommodate their own vehicles to meet current and projected demand for freight transportation in their own company. This will also allow consolidation of the existing depot arrangements and dedicated staff and driver car parking spaces. The applicants state that the current site is not large enough to accommodate HGV's at peak times and HGV's within the company are having to find alternative parking arrangements adding to the existing street parking of HGV's experienced within Kent and Dover. The existing welfare facilities on site will provide toilets and showers and refreshments would be provided at The Truck Café at Priority Freight.
- 1.8 The site will be continually manned with permanent staff on site who will direct traffic through the site to enable most HGV's to leave the site in forward gear, reducing the need for reversing noise on entering and leaving the site. The applicant also does not operate or manage refrigerated HGV's and noise from such vehicles and the need to run engines will not be a factor on this site. However, if this changes electric hook up points would be installed to enable the engines to be switched off.
- 1.9 The site works will be regrading of the land, a sub base and impermeable membrane to prevent migration of water and contaminants into the formation level and ground water. The sub-base layer will direct water to an oil interceptor and pump to discharge into the existing surface water sewer.
- 1.10 Further information has also been submitted in respect of the need for lorry parks within Kent and Dover and the ongoing issues with lorries parking on roads in the local area; including the support from Government, KCC and Highways England to this approach.
- 1.11 The following documents have been submitted in support of this application:
 - Planning and Design & Access Statement
 - Transport Statement and further supporting information
 - Revised Acoustic Impact Assessment
 - Drainage Impact and Flood Risk Assessment and further supporting information
 - Air Quality Assessment
 - Preliminary Ecological Appraisal
 - Topographical Survey
 - Noise Management Plan
- 1.12 Since the original submission, additional information has been submitted in support of the application to address and clarify traffic data and movements

and drainage impact. In addition a revised Acoustic Impact Assessment and Noise Management Plan have been submitted and have been the subject of a re-consultation process. The red line of the application has also recently been amended to include the proposed landscape buffer to the north within the red land rather than the blue land. This has not been subject to a further period of re-consultation but as the use and proposed works have not been altered this does not prejudice nearby residential properties.

2. Main Issues

The main issues to consider are:

- Principle of Development
- Highway Considerations
- Noise and Pollution Considerations
- Drainage and Flooding
- Ecology and Landscaping

3. Assessment

Principle of Development

- 3.1 In terms of the principle of development of this site there are no specific local plan policies that relate to the provision of lorry parking facilities, however, there is a clear need to encourage investment and business within the District and local businesses should be retained and are encouraged to expand within Dover and the District. The Mattheeuws Transportation Depot is an existing business within the Port Zone on White Cliffs Business Park in Whitfield. It is next to or in close proximity to a number of similar uses including the Priority Freight lorry park and is some distance from residential properties. Whitfield generally has been identified as an area for new development and urban expansion. The application site is within the settlement confines although on an unallocated site and is therefore in accordance with policies DM1 and CP1 of the Core Strategy where the principle of new development has been established.
- 3.2 The existing site also plays a key role in the use of the Port by freight companies and will continue to do so into the future. The need to support the role of the Port and its role nationally therefore needs to be enhanced where possible to assist in the needs of the port and the national supply of goods. Mattheeuws Transport and its associated companies operating from the site currently provide a service to support this role and have identified a need to improve and expand their current site to enable the business to keep up with demand and provide overnight parking for their lorries prior to the distribution of goods across the country. This is therefore an existing business in Dover seeking to expand the provision of HGV parking for its effective operation. This is supported in general terms in local and national planning policies with the NPPF placing great importance on building a strong and competitive economy.
- 3.3 The need for HGV lorry parks is an ongoing issue in Kent and is often discussed in the press, with a current round of public consultation recently taken place on how this matter should be resolved. DDC and KCC are actively involved in these discussions along with Highways England with the most recent view that a number of smaller lorry parks are likely to be a better

solution than one large site. However progress on this important issue is slow due to the traffic, environmental and pollution issues surrounding such developments.

- 3.4 However, should be made clear that this is not an application for a general lorry park, but an expansion of an existing depot and is also separate from the larger (300) lorry park application (DOV/16/01472) put forward on the wider site that was formally withdrawn earlier this year. This may come forward at a later date but should be considered separately in relation to this proposal.
- 3.5 Nevertheless, other material considerations are also relevant to such a proposal and shall be discussed in more detail below, however policy CP6 of the CS does refer to the need to provide infrastructure provision within the District to serve development and policy DM17 identifies the needs to protect ground water in the District.

Highway Considerations

- 3.6 The relevant Core Strategy policies are DM11 and to a lesser degree DM13. DM11 requires planning applications for development that increases travel demand to be supported by an assessment to quantify the amount and type of travel likely to be generated and should include measures that satisfy demand to maximize walking, cycling and the use of public transport. Whilst 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. A transport statement was provided in the original submission which sets out traffic and trip generation figures, operational characteristics and link capacities.
- 3.7 Highway capacity concerns and movement of HGV's were initially raised by KCC Highways and Highways England in respect of the impact on the local and strategic highway network of the proposed use, in particular during peak hours on Whitfield roundabout and the need for more information related to the specific/existing transport business and additional survey data over a 7 day period. This additional information was therefore requested and duly submitted with further information submitted to further clarify the previous concerns.
- 3.8 This information clarified that the proposed expansion of the lorry parking facilities is likely to generate around 7 additional two-way HGV movements in the network peak hours which is unlikely to have a severe impact on the highway network. Most journeys are also likely to be diverted from a south or a north bound journey from or to the port using the A2 rather than the generation of new journeys and it is only the pattern and change to turning movements that requires assessment. These changes and the small number of additional movements is therefore unlikely to significantly impact the safe and efficient operation of Whitfield roundabout.
- 3.9 In the initial plans it was also unclear how the new car parking arrangements would affect the existing car and HGV parking layout on the depot. It has been clarified that the existing car parking spaces will be lost to form and allow HGV access and circulation into the extended site.
- 3.10 As a result of the additional information KCC Highways and Highways England have withdrawn their initial objections. However this was on the

basis of a number of highway conditions in relation to the use of the site. These include the need to address concerns with the use of the electronically controlled entrance gate; to ensure HGV do not have to wait on the highway; the submission of a clearer HGV and car parking plan across the whole site' and restriction of the use to the existing occupiers and not to be used as a commercial lorry park to third parties. With the imposition of these conditions no highways objection is raised. All these conditions have been included and the proposed development is therefore acceptable in principle in terms of the impact on the local and national highways. The proposal therefore accords with policies DM11 and DM13 of the CS and paragraph 109 of the NPPF.

Noise and Pollution Considerations

- 3.11 In terms of noise impact, this has raised a considerable level of concern with local residents who already experience noise from the existing commercial uses on the adjacent sites. It is also an understandable concern that has been addressed in some detail by the applicants with the submission of an Acoustic Impact Assessment, which has been expertly assessed by DDC Environmental Health Officers. In terms of planning policy noise is addressed in paragraph 180 of the NPPF and requires that noise impact from development should mitigate and reduce potential adverse impacts and avoid noise giving rise to significant adverse impacts on health and quality of life. The National Policy Statement for England (NPSE) is also relevant when considering the impacts of noise from development.
- 3.12 Unfortunately the Acoustic Assessment originally submitted was a resubmission of the report submitted for the larger lorry park proposal on the wider site and therefore contained inaccurate information and was not site specific. DDC Environmental Health also raised a number of concerns in respect of the level of survey information submitted and the need for noise impact to be more appropriately assessed. An objection was therefore raised. A revised and updated Acoustic Assessment report was therefore requested and submitted.
- 3.13 The revised report has sought to address the points raised by Environmental Health and has been updated to be site specific. The outcome of the report is the use of the site as a lorry parking facility would result in a low impact when assessed against BS 4142:2014. All noise readings outside buildings will be below targets and night noise guidelines designed to protect the public from noise. The submitted report identifies that noise impact during the day will be minor and during the night will be moderate. The report recommends a noise management plan is prepared for the site to minimise noise across the site and the use of a banksman to assist lorries with parking safely and minimise reversing. It is further recommended that the site operates a traffic management system to further reduce the need for HGV's to reverse. This has subsequently been submitted by the applicant.
- 3.14 DDC Environmental Health agree with the methods and findings identified in this report and have removed their objection subject to a condition requiring compliance with the submitted Noise Management Plan. This approach also accords with paragraph 180 of the NPPF and although there are concerns locally that the noise surveys have been appropriately undertaken, the findings have found no significant harm from noise from the proposed use. The proposed development, subject to the Noise Management Plan and the above condition, is therefore acceptable in this regard.

- 3.15 In respect of the assessment of potential air pollution an Air Quality Assessment has been undertaken and submitted in support of the application. This has utilised existing air quality data in the area and then assessed in accordance with recognised standards the impact from the proposed change of use/extension of the depot. This has concluded that the impacts from the development on annual mean concentrations will not exceed the Air Quality Assessment Levels and there will be a negligible impact on local air quality which will not result in a significant adverse effect on air quality. In terms of air quality from the construction phase, the report identifies a negligible impact if mitigation measures are undertaken during construction which are identified as minimising construction activities through good management i.e. wheel washing/damping down etc.
- 3.16 DDC Environmental Health agree with the approach taken, method, data and the conclusions in respect of the operational phase, however they have identified that no consideration has been given in respect of engines idling on site. Concern has been raised in respect of the assessment of the construction phase and has highlighted that residential receptors have not been appropriately assessed in the report and mitigation measures to minimise air pollution during construction may be required as a result. EH concerns have been raised with the applicant, however, have not been addressed further. Nevertheless, construction mitigation measures to minimise dust also form part of the construction management plan condition that will be included if development is found to be acceptable. It is therefore considered that any such mitigation measures could be addressed through this condition rather than the need for a revised Air Quality report, the findings of which are largely considered by EH to be acceptable in principle.
- 3.17 On this basis, the report submitted and with the further control under the construction management plan condition the impact on air quality as a result of the development is, on balance, accepted and sufficiently controlled. This therefore accords with paragraph 181 of NPPF.
- 3.18 In terms of ground contamination it has not been identified that the site is subject to any form of land contamination and therefore a ground contamination safeguarding condition has been added in case any contamination is found during ground works. The development therefore accords with paragraph 178 of the NPPF.
- 3.19 In respect of potential light pollution from the proposed development, no external lighting is being proposed to serve the depot extension and therefore no details have been provided. Nevertheless, to safeguard this position and to address any potential future demand for lighting on the site a condition has been included to confirm there shall be no lighting on the site, but if considered necessary at a later date, full details of any proposed lighting shall be submitted for approval. This therefore safeguards this position and controls any future scheme to ensure the potential for light pollution is minimised, including the impact this could have on protected species on the adjacent wildlife site. In addition, an informative is also included to highlight the need for any lighting to have regard to the institution of lighting engineer's guidance to reduce obtrusive light. This would therefore be in line with paragraph 180 of the NPPF.

Drainage and Flood Risk

- 3.20 The site lies within Flood Risk Zone 1, where there is the lowest risk of flooding from rivers or from the sea. 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 163 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.
- 3.21 A Flood Risk Assessment (FRA) and Drainage Impact Report 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 Drainage Impact Report identifies that infiltration drainage is not proposed to deal with surface water and run-off due to the nature of the use and the potential for pollution to infiltrate into the ground water supply. All surface water is therefore proposed to be collected by the use of an impermeable membrane at the formation level. A subbase will therefore be laid which shall direct water to an oil interceptor and pump to discharge into the existing surface water sewer on site. This system although not a sustainable drainage system will ensure there will be no increase in run-off from the site as a result of the proposed development as all water will be diverted to the sewer system. In terms of the NPPF paragraph 165 allows such a system if there is sufficient justification and clear evidence that a sustainable drainage system would not be appropriate.
- 3.22 The EA initially objected to the proposed means of surface water disposal but have withdrawn their objection following clarification by the applicant of the proposed works. This is subject to a number of conditions to require further information in respect of details of the surface water drainage design and construction; specification and method of working for any imported materials, before works commence on site; and a verification report to demonstrate works have been undertaken as approved. Although initial concerns were raised by the EA in respect of the risk of pollution to controlled waters and insufficient information, due to the sensitivity of the ground waters at this location, the scheme being proposed does not allow surface waters to infiltrate into the ground and therefore subject to being undertaken in accordance with the suggested conditions is unlikely to harm controlled waters. The EA are therefore satisfied that the proposed surface water drainage is acceptable in principle and accords with paragraph 180 of the NPPF.
- 3.23 KCC SuDs have also objected to the proposed surface water disposal but have recently been provided with additional information and their revised comments have yet to be received at the time of writing this report. It is expected these can be reported verbally to planning committee. Their concerns relate to the proposed run-off rates, use of a pumped system and its maintenance requirements and the lack of a sustainable drainage strategy for the site which should be considered further. They also require acceptance of the proposed surface water drainage system from the EA and Southern Water before they can consider the system being put forward. In respect of the run-off rates it is expected this can be addressed through the design of the system, along with the concerns raised with a pumped system that could be addressed through a condition. In terms of the need for a SuDS system for surface water drainage, although this is the recommended approach, this is a

potentially highly polluting use above a principle aquifer in a Groundwater Source Protection Zone. For this reason a SuDS system has not been put forward and this would accord with paragraph 165 in certain justified circumstances. For these reasons, it is considered by the EA to be an acceptable approach on this site and is considered to be a reasonable approach for surface water for this type of development on this site. The revised comments, may withdraw KCC SuDS objection, if not, it is considered this matter can be adequately addressed and therefore the recommendation includes a request for a resolution to give delegated powers for Officers to continue to address this matter and enable a decision to be issued without the need for the application be to reported back to Planning Committee (unless this matter cannot be resolved).

- 3.24 In addition, a representation from Southern Water is also outstanding at this stage and is required to clarify the increased use of a surface water sewer and whether this is acceptable. This response would also clarify KCC SuDS response and no determination of the application can be made until this matter is adequately addressed and an acceptable surface water drainage system is agreed by all parties. As a result, the recommendation of the report is to allow delegated authority to continue the dialogue with the relevant parties to address these outstanding issues appropriately. If however, the matters cannot be adequately resolved and dealt with by reasonable conditions the application will be reported back to Planning Committee for further consideration.
- 3.25 Although this is not a clear recommendation at this stage, it allows for the application to progress with some certainty for the applicant, due to the pressing need for this development and the expansion of an existing transport business in Dover to partially address a District and County wide need for additional lorry parking facilities.

Ecology and Landscaping

- 3.26 The application site is in close proximity to the boundary of a Local Wildlife Site, Old Park Hill Nature Reserve forming part of the Whitfield Down and Buckland Down Local Wildlife Site which is a local designation for the protection of its range of habitats including woodland, scrub and chalk grassland and is home to a number of protected wildlife species including bats, badgers, dormouse and breeding birds and their habitats. The wildlife site forms the hillside to the south of the larger site and is currently demarcated by a post and rail and chain link fencing.
- 3.27 The application includes the planting of a 15 metre wide landscape buffer to the north eastern boundary which is in closest proximity to the Local Wildlife Site. This is proposed to be planted with native tree species and a landscaping and maintenance conditions have been included to ensure this is appropriately planted for this location. In addition, a Tree Preservation Order (TPO) 2017 No. 19 in Mansion Gardens includes a number of important trees to the north of the application site. This TPO does not directly adjoin the site and would also be adjacent to the proposed landscape buffer. A Preliminary Ecological Appraisal has been submitted in support of the application.
- 3.28 This concludes that the application site has limited ecological value overall although it is evident that the site was cleared fairly recently. In terms of the

impact on the wildlife site adjacent, there is not considered to be a direct link with the wildlife site, but there would be the potential for in-direct impacts on this designation, which has been appropriately assessed in the Preliminary Ecological Survey. The report also found there was limited impact on protected species as the proposed construction works do not extend into the Local Wildlife Site and there is also a 15m wide landscape buffer proposed adjacent. However there is an existing Ash Tree that has the potential to be used by bats. The agent has verbally confirmed that this is sited within the 15m landscape buffer and therefore will not be affected directly by the proposed development.

- 3.29 The report also sets out options to enhance the biodiversity of the site through appropriate native planting to the 15m wide landscape buffer and the submission of an Environmental Management Plan to include matters such as potential lighting, dust, deadwood left in piles etc. to ensure that any potential adverse impact upon the adjacent habitat is avoided, mitigated or compensated for. The provision of these measures can be controlled by a condition and would further enhance the biodiversity of the site, which should be encouraged. A condition for the submission of an Environmental management Plan is therefore included and although largely addressed by other conditions, this specific report would seek to address the ecological aspects only including the further consideration of the Ash Tree identified above.
- 3.30 In addition, it has been identified through discussions that the boundary enclosure around the site needs to be of a solid construction to minimise light spill from headlamps and minimise the interaction and indirect impacts between the application site and the nearby Local Wildlife Site. This has been conditioned and further details of the proposed enclosure need to be submitted for approval. Such a condition along with the 15m wide landscape buffer and Environmental Management Plan will address as far as practical the potential impacts on the adjacent Local Wildlife Site.
- 3.31 Kent Wildlife Trust have however highlighted their concerns and have suggested further assessment of the impact is required. They have therefore raised an objection on the grounds of incomplete information and the development failing to satisfy the requirements of the NPPF.
- 3.32 The most relevant paragraph of the NPPF is 175 which deals directly with the impact on habitats and biodiversity. On consideration of this specific paragraph there would be no significant harm to biodiversity as a result of this development, measures have been put on place to minimise and mitigate potential indirect impacts, the site is not an SSSI, the development will not result in the loss of irreplaceable habitats and measures have been put in place to incorporate biodiversity enhancement. For these reasons, the proposed development would accord with paragraph 175 and not be likely to adversely impact any protected species, or their habitat, in accordance with The Wildlife and Countryside Act 1981 and the Habitats Regulations. The adjacent TPO will also not be directly affected by the proposed development. The development is therefore appropriate in this regard subject to the proposed landscape buffer; measures and conditions identified above and is in accordance with the NPPF.

4. **Conclusion**

The relevant matters are set out in the report and address the key issues for consideration in respect of this development. There are no other material considerations relevant to this application. Subject to the resolution of the surface water drainage strategy and continued discussions with KCC SuDS and Southern Water, the proposed scheme is considered to be acceptable in principle and will improve lorry parking facilities for the existing business, which will have some benefit for continued lorry parking issues and concerns around the District and Dover. There are no policy considerations that would justify a reason for refusal and subject to appropriate conditions would be in accordance with the NPPF and associated policy guidance. The application is therefore recommended for a resolution to continue discussions on the proposed surface water drainage system and delegated authority to approve once this matter has been adequately addressed by Officers.

g) Recommendation

- I. Powers be given to the Head of Regeneration and Development to continue a dialogue with KCC SuDS and Southern Water to address these outstanding matters and settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by Planning Committee.
- II. PLANNING PERMISSION BE GRANTED subject to the following conditions to include:
 - 1) Standard Time
 - 2) Approved Plans list
 - 3) Details of Landscaping scheme and planting
 - 4) Development in accordance with the submitted Noise Management Plan
 - 5) Safeguarding land contamination
 - 6) Site to be used by Romac/Mattheeuws Transportation services only
 - 7) Details of HGV and car parking layout submitted for approval
 - 8) Landscaping maintenance plan submitted for approval
 - 9) Details of a solid means of boundary enclosure
 - 10) Construction Management Plan
 - 11) No external lighting or scheme submitted for approval
 - 12) No refrigerated lorries on site or a scheme for the provision of electrical hook up points to be submitted for approval.
 - 13) Surface water drainage design submitted for approval
 - 14) Details of imported materials submitted for approval
 - 15) Verification of the above imported materials
 - 16) Environmental Management Plan submitted for approval

Informatives:

1. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.
2. We would draw the developer's attention to the Institution of Lighting Engineers' guidance notes for the reduction of obtrusive light when considering any lighting to the site. This can be at the construction stage or during plans for the occupation of the development. I would ask the developer

to pay particular attention when considering any lighted signage at the front of the planned development.

3. The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during land development works and intended for re-use are waste or have ceased to be waste. Under the Code of Practice:
 - excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
 - treated materials can be transferred between sites as part of a hub and cluster project formally agreed with the EA.
 - some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site

Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would wish to object to the application operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. The Environment Agency recommends that developers should refer to:

- the Position statement on the Definition of Waste: Development Industry Code of Practice and;
- the Environmental regulations page on GOV.UK

Any re-use of excavated materials not undertaken formally using the CLAIRE DoWCoP would require an environmental permit for deposit, unless materials are solely aggregates from virgin sources, or from a fully compliant Quality Protocol aggregates supplier. Any deposit of materials outside of these scenarios could be subject to enforcement actions and/or landfill tax liabilities.

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

Case Officer

Lucinda Roach