

Public Document Pack



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17 October 2018

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **PLANNING COMMITTEE** will be held in the Council Chamber - Council Offices at these Offices on Thursday 25 October 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 democraticservices@dover.gov.uk.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Nicky', written over a white background. The signature is fluid and cursive.

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 **ITEMS DEFERRED**

There are no deferred items.

ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING

(Pages 6 - 9)

5 **APPLICATION NO DOV/18/00777 - FORMER WILLIAM MUGE HOUSE AND SNELGROVE HOUSE, LEYBURNE ROAD, HAROLD STREET AND GODWYNE ROAD, DOVER, KENT CT16 1RZ** (Pages 10 - 23)

Erection of 3 dwellings (private sale) and 29 apartments (affordable housing) on former William Muge site and 9 dwellings (private sale) and 24 apartments (shared ownership) on former Snelgrove House site with associated parking and landscaping.

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

6 **APPLICATION NO DOV/17/01530 - LAND TO REAR OF MATTHEWS CLOSE & SOUTHWALL ROAD, DEAL, KENT CT14 9PZ** (Pages 24 - 57)

Outline application for the erection of up to 63 dwellings, access, open space, associated infrastructure and groundwork's (appearance, landscaping, layout and scale reserved)

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

7 **APPLICATION NO DOV/18/00663 - PLOTS 17 AND 24 BISLEY NURSERIES, THE STREET, WORTH, KENT CT14 0FD** (Pages 58 - 72)

Erection of six dwellings (replacing two dwellings granted under application number DOV/15/00749)

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

8 **APPLICATION NO DOV/18/00609 - THE WILLOW, BEAUTE LANE, SHATTERLING, KENT CT3 1JN** (Pages 73 - 80)

Erection of a building to facilitate dining/kitchen and utility area.

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

9 **APPLICATION NO DOV/18/00692 - LAND AND GARAGES REAR OF AND INCLUDING 4 & 5 THE DROVEWAY, ST MARGARET'S BAY, KENT CT15 6DH** (Pages 81 - 89)

Variation of Condition 2 (approved plans) to allow changes to approved drawings of planning permission DOV/16/00007 (application under Section 73)

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

- 10 **APPLICATION NO DOV/18/00654 - SITE ADJACENT PLOT 1, ANCHORAGE AND COLLINGWOOD HOUSE, COLLINGWOOD ROAD, ST MARGARET'S-AT-CLIFFE, KENT CT15 6EZ** (Pages 90 - 103)

Outline application for the erection of a detached dwelling (with all matters reserved)

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

- 11 **APPLICATION NO DOV/18/00655 - SITE ADJOINING PLOT 1, ANCHORAGE AND COLLINGWOOD HOUSE, COLLINGWOOD ROAD, ST. MARGARET'S-AT-CLIFFE, KENT CT15 6EZ** (Pages 104 - 117)

Outline application for the erection of a detached dwelling (with all matters reserved)

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

ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING

- 12 **APPEALS AND INFORMAL HEARINGS**

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

- 13 **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 are normally published within five working days of 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: democraticservices@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.

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.

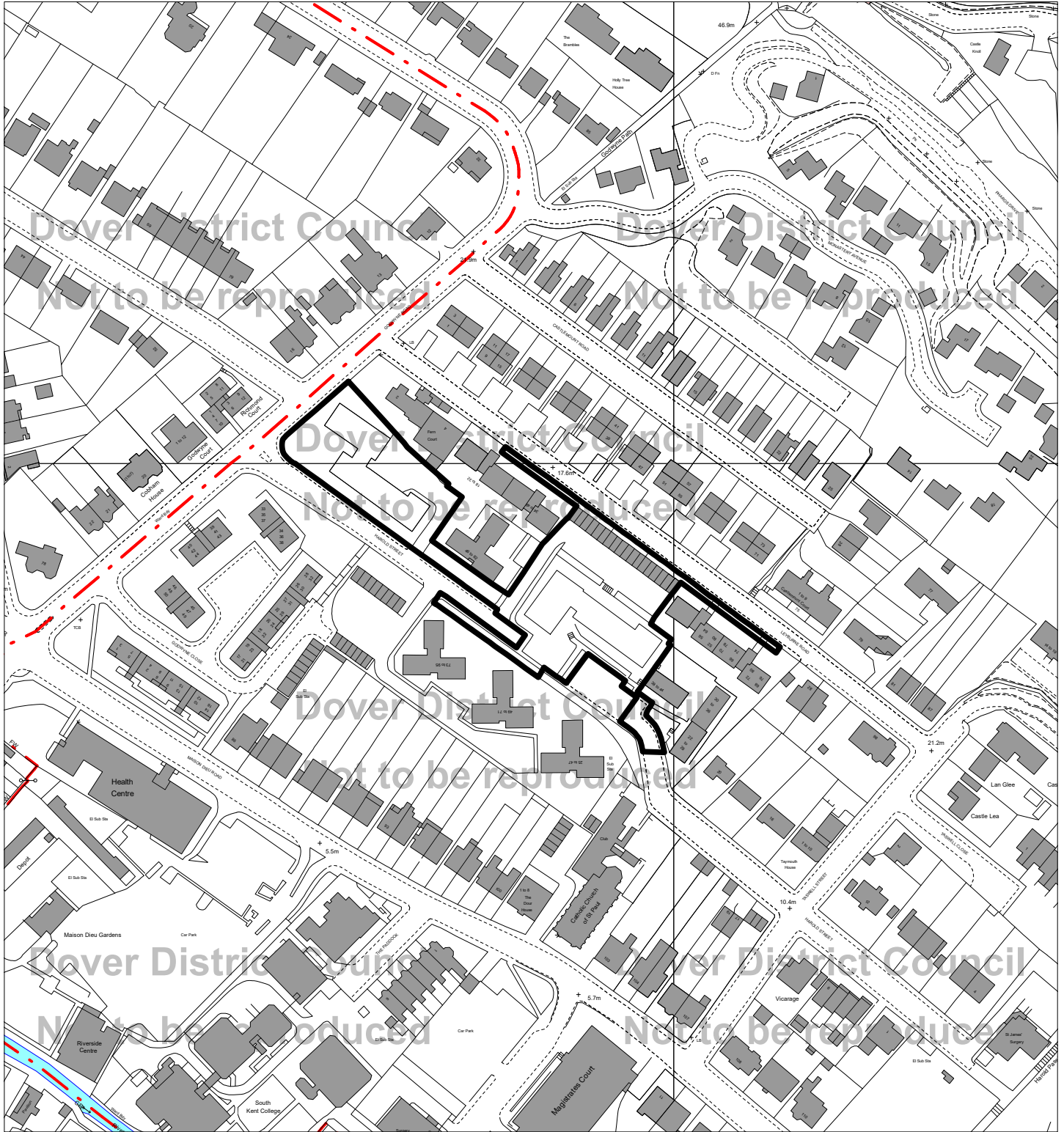
Article 14 - Prohibition of discrimination.

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.



Not to scale

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

Application: DOV/18/00777

**Former William Muge House & Snelgrove House
Leyburne Road, Harold Street and Godwyne Road
Dover
CT16 1RZ**

TR31884199



- a) **DOV/18/00777**
Erection of 3 dwellings (private sale) and 29 apartments (affordable housing) on former William Muge site and 9 dwellings (private sale) and 24 apartments (shared ownership) on former Snelgrove House site with associated parking and landscaping.

Former William Muge & Snelgrove House, Leyburne Road, Harold Street and Godwyne Road, Dover CT16 1RZ

Reason for report: Level of public interest.

- b) **Summary of Recommendation**

Planning Permission be Granted.

- c) **Planning Policy and Guidance**

Dover District Core Strategy (CS)

- Policy CP1 – Dover identified as major centre for development.
- Policy CP4 – Housing quality, mix, density and design.
- Policy CP6 – Development generating a demand for infrastructure requirements.
- 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 DM5 – Affordable housing target of 30% for schemes over 15 dwellings.
- Policy DM11 – Location of development and managing travel demand.
- Policy DM13 sets out parking standards and states that parking should be a design led approach based upon characteristics of the area.
- DM17 – Ground water protection zone.
- DM27 – Open space and play space.

National Planning Policy Framework

- Paragraph 8 – principles of sustainable development.
- Paragraph 108 – Promote sustainable transport modes and safe and suitable access to site.
- Paragraphs 117 and 118 – Promote effective use of land and substantial weight to value of using suitable brownfield land within settlements for housing.
- Paragraph 124 – good design is key aspect of sustainable development. Development should function well, add to the overall quality of an area and are sympathetic to local character and history.
- Paragraph 127 – developments should create places with a high standard of amenity for existing and future users.

- d) **Relevant Planning History**

DOV/14/00597 permission resolved to be granted for two buildings comprising 20 flats on land at Harold Street and Godwyne Road (former

William Muge Site) subject to a Section 106 Agreement. Not completed and application considered as withdrawn June 2016.

DOV/16/00095 permission granted 7 July 2017 for 10 flats and 3 pairs of semi-detached houses on land at Harold Street (former Snelgrove House) and Leyburne Road.

e) **Consultee and Third Party Responses**

Technical consultations

KCC Highways – Agrees that additional vehicle trips unlikely to have effect on capacity of highway network. Notes that proposed no of parking spaces is slightly below guidance in DM13. However agrees results of parking survey and based on own observations, considers there is sufficient on street parking capacity to accommodate peak additional demand i.e. overnight. Requires a number of detailed layout issues to be addressed including possible impact upon highway retaining walls. Holding objections until those matters are addressed.

Southern Water- No foul capacity issues identified but formal consents will be required for connections. Would not normally accept surface water discharges into public network but agrees principle of controlled flows into attenuation tanks, subject to further detailed calculations of existing and proposed flows.

Environment Agency – No objections but requests condition in the event that contamination is found.

Southern Gas Networks – No objections.

Stagecoach – No impact upon services

Environmental Protection Officer – No objections. Recommends conditions regarding contamination and a construction management plan.

KCC Flood and Water Management – Accepts that proposed attenuation with reduced outflow will not increase risk of flooding. Further detailed calculations needed which can be secured through conditions.

KCC Development Contributions – Has assessed potential impact of proposal upon services and has identified a financial need of £81,716 split between projects relating to primary school education, community learning, libraries and social care. Satisfied that all contributions reasonably required in accordance with Community Infrastructure Regulations. Also requests that superfast fibre optic broadband is delivered to all buildings in keeping with objectives of Broadband Delivery UK.

Kent Police – Notes that considerable efforts made to design out crime. Has identified some areas of concern about defensive space and managing entrances. Further meeting held with agent and notes that a number of recommendations have/will be taken on board (note: some of these relate to non planning matters such as detailed design of door locks)

Kent Fire & Rescue - Access arrangements satisfactory.

Natural England – No objections but notes that net increase may result in increased recreational disturbance to coastal Special Protection Areas and RAMSAR sites. Acknowledges that DDC has measures in place to manage impacts.

Dover DC Infrastructure and Delivery Officer – Development will create additional need for open space. In line with adopted formula, a contribution of £10,022 is sought in order to provide additional play equipment in a project delivered by the Council.

Tree & Horticultural Officer - Notes that one of the protected trees offers significant amenity value and its loss will involve a short term impact. However, in view of the proposed replacement planting exceeding the numbers that will be lost, considers that in time the area will be enhanced by significantly augmenting existing tree stock. A condition should be imposed to require 8 heavy standard trees to replace those lost. With regard to pruning of existing trees, is happy that works will be satisfactory provided appropriate arboricultural methodologies are undertaken as set out in the arboricultural report. A condition should be imposed to ensure that.

Third Party Responses

Dover Society – Supportive of scheme in general which will provide affordable and shared ownership housing. Supports design approach. Concerns raised in respect of: Parking – difficult at present with a lot of workers using on street parking. New St. James car park is likely to charge employees shortly which will increase pressures. One space for town houses not enough; lack of clarity on proposed tree planting; queries height relationships with properties on opposite side of Godwyne Road.

Residents Association – 22-44 Harold Street – concerns about lack of parking. Permit parking scheme should be introduced. Should not be an access to the side of 22-44 Harold Street. Pocket park will be a magnet for drug users.

Dover Town Council – Supports scheme provided KCC issues can be resolved.

11 representations (but from 7 different properties) received from local residents expressing concerns for reasons which may be summarised as follows:

Ugly building which will not fit in to local area

4 storey building too high opposite Godwyne Road

On street parking concerns. Difficult to park. Spaces often used by workers.

Anti social behaviour will take place in park area – need lighting and CCTV

Sleeping policemen needed in Leyburne Road.

Steps between Harold Street and Leyburne Road should be omitted

There should be no constructors vehicles parked on nearby roads

Further residents meeting is needed to discuss proposals

- f) 1. **The Site and the Proposal**
- 1.1 The site comprises three parcels of land close to Dover Town Centre and was formally occupied by two buildings known as William Muge and Snelgrove House, which provided 52 units of sheltered accommodation. Both buildings were owned by the Council and were demolished in 2014 because of sub-standard accommodation. The sites are currently vacant.
- 1.2 William Muge was located on the corner of Harold Street and Godwyne Road and has a fall from north east to south west. There are residential properties adjoining to the north, one of which is in hostel use, and further residential properties on the opposite side of Godwyne road. On the corner itself, there are three prominent trees which are protected by a Tree Preservation Order. Snelgrove House was located to the east of William Muge, with a frontage to Harold Street. There are 2/3 storey blocks of flats between the two and to the east of Snelgrove and also on the southern side of Harold Street. The latter are 4 storeys in height but are set down one floor below street level because of differences in heights.
- 1.3 Parking for Snelgrove House was via an access from Harold Street leading to a parking area at the rear, comprising garages. The area is set down well below Leyburne Road to the north because of difference in land levels, so that the roofed area of the garages comprises a hard surfaced parking area itself with access direct to Leyburne Road. It is that area which comprises the third parcel of land forming part of the application site. To either side of that area are further blocks of flats 4 storeys in height, but presenting as 3 above street level, whilst on the northern side of Leyburne Road are semi- detached houses. On front of the former Snelgrove House and splitting Harold Street in two, is a small area of open space which accommodates mature trees.
- 1.4 The architectural character of the area varies considerably with most of the flatted developments being constructed in the 1970s with flat roofs and buff coloured bricks. On the north side of Leyburne Road, the houses have pitched and tiled roofs with tile hanging, whilst on the west side of Godwyne Road there is a further variety in style ranging from traditional Victorian semi-detached villas to more modern developments with mansard roofs. There is unrestricted on street parking along the south side of Leyburne Road, but limited on the northern side as the houses all have shared accesses on to the road. There is further unrestricted on street parking on both sides of Godwyne Road and Harold Street.
- 1.5 The proposal comprises separate development on the three parcels of land.
- 1.6 On the former William Muge site, there would be 3 town houses fronting Godwyne Road, 3 storeys in height and each having a parking space to the front with private gardens to the rear. Adjoining would be an 'L' shaped mainly 4 storey block of flats extending around the corner into Harold Street where it would step down to 3 storeys. 29 affordable 1 and 2 bed flats would be provided in the block with 25 parking spaces and 30 cycle spaces to the rear via an access from

Harold Street. A communal garden area and a refuse bin enclosure would also be provided within that area.

- 1.7 The former Snelgrove House site would accommodate a three storey block of 24 1 and 2 bed shared ownership apartments. 27 parking spaces and 24 cycle spaces would be provided in the existing parking area to Snelgrove House, together with a small area of amenity space.
- 1.8 On the Leyburne Road frontage would be a terrace of 9 dwellings arranged in a 3 storey block but which would present as 2 storeys to Leyburne Road because of the difference in site levels. Each would have a parking space to the front and private rear gardens.
- 1.9 The architectural style would be similar throughout with a contemporary approach chosen but with brickwork which would complement the more traditional London Stock brick of established residential areas nearby. Roofs would be a mixture of flat and grey steel covered mansards. A high level of detailing would be used on the elevations in order to avoid a bland appearance, including deep set window reveals, inset balconies and feature brickwork panels.
- 1.10 To compensate for the loss of the three protected trees on the corner of Godwyne Road and Harold Street, it is proposed to introduce additional mature tree planting on land within the Council's control elsewhere along Harold Street. Additionally, because of existing informal refuse bin arrangements whereby bins for flats within Leyburne Road are currently within the parking area of Snelgrove House, replacement bin enclosures are proposed to the rear of the former Snelgrove House.

2. Main Issues

2.1 The main issues in the consideration of this application are:

- The principle of the development
- Design & Layout considerations
- Highway and parking Issues
- Impact upon residential amenity
- Open space and trees
- Impact from habitat regulations
- Other considerations
- Development contributions

3 Assessment

Principle of the residential redevelopment

3.1 Given the site's location within the urban boundary of Dover, there is no objection in principle to a residential use of the site and it would be consistent with Policy CP1 and DM1 of the Core Strategy. The site is in a highly sustainable location, being within 200m of the Town Centre, and close to local schools and public transport. Additionally, the Council currently has less than a 5 year supply of housing and the

addition of 65 units as a windfall site would make a useful contribution towards that supply.

- 3.2 In addition to the above, the current vacant nature of the 3 parcels of land detracts from the appearance of the area and the proposed development would significantly improve that appearance.
- 3.3 Although the density of development is reasonably high, it is compatible with the surrounding area. Additionally from a practical point of view, low sales values in the immediate area, together with high development costs of the sites involved, has meant that previous schemes have not attracted sufficient investor confidence to be taken forward. In that respect, increased numbers of units will ensure that the scheme can be delivered but with a density that is not out of character with the surrounding area.
- 3.4 The proposed housing mix has a higher number of smaller units than envisaged by the housing mix in Policy CP4 which identifies that 50% of schemes should be 3 or 4 bedroom properties. However, advice from commercial agents was sought by the applicants prior to the submission of the application, who advised that in the light of the surrounding area, with a high mix of flats and apartments, a higher number of smaller units would be more appropriate. That also has implications for viability of a scheme which can be delivered.
- 3.5 Policy DM5 requires that 30% of development should be affordable. In this instance all of the proposed units on the Snelgrove site would be affordable which would amount to 37% of the total. However, in addition, all of the units on the William Muge site will be shared ownership and therefore occupied at less than market values. Taken together, the two forms of tenure will provide an important boost in the supply of affordable housing.
- 3.6 For a combination of the above reasons, the principle of the development is fully supported.

Design and layout considerations

- 3.7 Key design drivers behind the development of the scheme were to: reinforce the prominent corner of the site, to re-establish street frontages in keeping with the pre-war character of the area, avoid poorly conceived areas of open space, and introduce a positive impact on the street scene in Leyburne Road. In these respects, officers consider the scheme will be largely successful.
- 3.8 In terms of layout, the proposals will introduce a more coherent and legible form of development than currently exists in the nearby 1960/70s development, with built form wrapping around the site frontages and largely concealing parking areas from public views. From an overall massing point of view, 3 storeys plus accommodation in a mansard roof on the William Musgrove site will relate satisfactorily to existing development along the opposite side of Harold Street. Similarly, the eastern end of that block reducing to 3 storeys and with the height of the Snelgrove block all at 3 storeys, will ensure satisfactory relationships elsewhere along Harold Street which are

three storey in the main, apart from a 2 storey block at the eastern end of the site. On the Godwyne Road frontage, storey heights compare favourably with buildings opposite with the exception of the 4 storey section on the corner. However, architecturally the corner design itself will provide an imposing presence in street scene views but without over dominating.

- 3.9 On the Leyburne Road frontage, the proposed terrace is considered an appropriate architectural response given that there are linked terraces of flats to either side on the southern side of the road, and the two storey height above street level will work well in overall massing terms.
- 3.10 In terms of overall design approach, the applicant has opted for a deliberately contemporary architectural approach but with a high level of detailing. Given the variety of architectural forms that exist in the locality, officers consider that such an approach is an appropriate response and will provide a unified but distinctive addition to the streetscene. Importantly, the use of a brick which will be similar to that of a traditional London Stock which is used throughout Dover town centre, will provide a contextual reference to the scheme.
- 3.11 A mixture of roofscape will be provided with a mansard and sloping grey coloured steel roof used on the William Muge blocks and town houses on Godwyne Street. This will help to provide a visual link to both buildings, and also a reference to the traditional slate used in the area. Elsewhere, the Snelgrove block and the Leyburn Road terrace will have flat roofs, which are considered more appropriate given the flat roofs of the adjoining development to which they relate.
- 3.12 The scheme will include a high level of architectural detailing on the elevations, including deep window reveals, well proportioned windows, inset balconies and decorative brick panels. All those features will provide interest and quality to the scheme, particularly in terms of avoiding any bland elevations. Further attention to detail will be provided in the form of individual frontages being enclosed by low walls or planting and refuse bin enclosures being of matching brickwork
- 3.13 The applicant has had discussions with Kent Police in relation to crime prevention measures. Details such as increases to boundary walls and active frontages have all improved security and surveillance and in addition to the high level of passive surveillance generally in the scheme, has secured Kent Police's approval in terms of an appropriate design response to limit crime.
- 3.14 The proposed flats would not benefit from permitted development rights; however the proposed houses on Godwyne Road and Leyburne Road would. Given the tight nature of relationships with adjoining buildings and limited rear garden areas, it is considered that future permitted development rights should be withdrawn in order that future proposals could first be considered.

- 3.15 Having regard to the above considerations, officers' view is that the proposals in total will significantly enhance the quality and appearance of the area.

Highway and parking issues

- 3.16 The Transport Statement submitted with the application demonstrates that during peak hours, the site will only generate some 24-28 trips on the local highway network. KCC highways considers that is acceptable and will not cause any congestion issues. Other detailed layout matters which KCC raised concerns about are being addressed and members will be updated at the meeting.
- 3.17 The key highway issue, and which has been raised by several representations, relates to parking issues. In that respect a number of respondents have pointed to the high level of demand for on street parking that currently exists.
- 3.18 In accordance with parking guidelines set out in Policy DM13, the 1 & 2 bed apartments would require 1 space per unit, with the 3 bed town houses either requiring 1 space or 1.5 spaces depending upon whether the site is regarded as edge of centre or suburban. In response, the scheme provides 52 parking spaces for the 53 flats proposed and 1 on site space per each of the proposed 3 bed dwellings. In addition cycle parking will be provided on the basis of 1 per every unit. In overall terms therefore the scheme is only slightly sub-standard compared to recommended standards, which in any case are not prescriptive and as Policy DM13 makes clear, should be a design led process based on characteristics of the site, the locality and nature of the proposed development. In that respect, the proximity of the site to the town centre and all its associated services, together with a number of 1 bedroom flats, is likely to mean that levels of parking may be lower than normal. This is borne out by the 2011 Census data which showed that the level of car ownership for the immediate area was 0.55 vehicles per household.
- 3.19 Notwithstanding the above, officers acknowledge that there is an existing on street parking pressure during day time. It is suspected, and responses from third parties would seem to bear this out, that some of this is attributed towards workers in the town centre wishing to avoid parking charges. Interestingly, at night time the pressures substantially reduce as evidenced by the two parking surveys submitted in support of the application. These were carried out within the local area during the midweek at 0430 hours. Both showed that of 398 on street spaces available in that area, only 194 vehicles were parked which equates to 50% capacity. Accordingly, even if demand for parking from the development involves a marginal need for on street parking, the evidence shows that the area would be able to accommodate it.
- 3.20 A combination of the above demonstrates that the proposed development will not in itself add to any existing problems regarding on street parking. It may well be that measures such as a residents parking scheme is required to address current issues and indeed investigations in that respect are already underway. However that will

require consultation in terms of what form it might take, the extent of the area involved and detailed measures included. Importantly, it is a process that would happen outside of the scope of this application in that it is an existing issue rather than one which would be caused as a result of the development proposal.

- 3.21 For the above reasons, officers consider that the development will be acceptable from a highways and parking point of view and members will note that KCC Highways, as highway authority, shares that view subject to detailed matters being satisfactorily addressed.

Impact upon residential amenity

- 3.22 In terms of any direct impact upon neighbouring properties through overlooking or overbearing effect, the scheme has been carefully designed so as to avoid such issues. Overall relationships with existing adjoining buildings are considered acceptable given the range of 2-4 storey buildings that exist in the area. Although the corner part of the building on Godwyne Road/Harold Street will be higher than those buildings on the opposite side of Godwyne Road, the remainder will be broadly compatible in height and such a relationship is considered acceptable given the width of the road and open nature of the corner at this point, and the fact that the building will be set down below road level. Potential loss of privacy into rear gardens of the new houses on Godwyne Road has been addressed through obscure glazing. Similarly, potential for overlooking into the rear gardens of the new houses on Leyburne Road has been addressed through an increase in the rear boundary wall of the latter. The relationship is now considered acceptable given the tight urban location where some degree of intervisibility is to be expected.
- 3.23 Concerns about anti-social behaviour are noted but some of this is likely to be associated with the run down nature of the current site. The scheme has been designed with natural surveillance of most areas, including amenity and parking areas, which should assist in reducing potential for crime. On specific points, through access from existing steps at the eastern end of the site has now been blocked off.
- 3.24 Through the passage of time, informal refuse arrangements from two blocks of flat fronting Leyburne Road, have been from the rear in the former parking area to Snelgrove House. These will be formalised as part of the proposals so that they will continue to be serviced from the rear. Alternative locations were looked at on the Leyburne Road frontage but these were considered to be unsightly. An additional bin enclosure will be provided at the rear of Nos 18-48 Leyburne Road at the western end of the parking area. Similarly an additional bin enclosure will be provided at the eastern end to serve Nos 52-80 Leyburne Road, although the detailed design needs to be worked up because of site level differences. This can be dealt with through a condition. Officers are satisfied that the arrangements will be visually acceptable as well as practical for the residents concerned.
- 3.25 An additional issue concerns the personal circumstances of an elderly couple who live in a flat on Leyburne Road but currently gain informal access from the rear via the former parking area to the north of

Snelgrove House. This will no longer be available but will be addressed by provision of a stair lift at the front of their flat. Although not forming part of the application, it will be carried out as part of the Council's wider management function of Council owned housing.

Open Space & Trees

- 3.26 5 trees are proposed to be removed as part of the development. 2 are of no particular value within the site but 3 on the corner of Godwyne road/ Harold Street are currently protected by a Tree Preservation Order, and of these one, a Hornbeam, is of particular value within the street scene. During informal discussions before the application was submitted alternative layouts were explored to see if the trees could be retained. However, by doing so the viability of the site was significantly affected. From an architectural point of view, there is a good case for a strong feature on the corner itself which is what is now proposed. Additionally, 8 heavy standard sized trees will be sited at appropriate locations along Harold Street on land within the control of the Council, to mitigate the loss. The precise location of these is to be agreed but can be conditioned. In time, these will afford significant amenity value. For these reasons and although regrettable, it is considered that the wider advantages of the scheme going ahead in terms of its all round benefits, justifies the loss of the TPO trees in this instance, and subject to suitable replacement planting. Members will note this view is supported by the Council's Tree & Horticultural Officer.
- 3.27 Elsewhere within the site, the 5 mature trees forming the pocket park on Harold Street will be retained, although subject to lopping and crowns being lifted where they have not been managed for some time. Within the site a mature tree to the rear of the L shaped block will be retained, and elsewhere there will be additional tree planting at key locations within the site.
- 3.28 Given the relatively high density nature of the development, external amenity space is somewhat limited, with a communal area being provided to the rear of the L shaped block and the pocket park being upgraded in front of the larger block at the eastern end. However, all flats will have their own inset balconies as private space and the proximity to the town centre means that there is relatively easy access to areas such as Pencester Park. In that respect, and in accordance with the Open Spaces Strategy and Policy DM27, the applicants have agreed a financial contribution of £10,022 in order to deliver a project to enhance that park. The town houses fronting Godwyne Road and Leyburne Road will all be provided with private rear garden areas.

The Conservation of Habitats and Species Regulations 2017

- 3.29 As part of the Appropriate Assessment required in respect of the above, 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.

- 3.30 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.
- 3.31 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.
- 3.32 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 harmful effects of housing development on the sites.
- 3.33 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). Natural England has been consulted on this appropriate assessment and concludes the assessment is sound. The applicant has agreed to such mitigation which is in the form of a financial contribution of £2,132.
- 3.34 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.

Other Matters

- 3.35 A foul and surface water strategy was submitted with the application. In terms of arrangements for foul water, there is an existing public sewer connection nearby and Southern Water has raised no concerns in connection with any capacity issues. The applicants acknowledge that separate consents will be required under the Water Industry Act in order to secure the required adoption arrangements. Proposals for surface water include the provision of two large attenuation tanks which will control the rate of discharge into the nearby existing surface water sewers, so that it will not exceed the previous run off of the site.

Both Southern Water and KCC as Lead Flood Risk Authority, agree to such an approach, subject to further detailed calculations being provided which can be secured through a suitable condition.

- 3.36. In respect of other matters raised, a flood risk assessment demonstrates that the site lies within a Zone 1 area and as such is at low risk to flooding. An archaeological desk stop study concludes that the site formed part of an agricultural landscape until its medieval development and that since that time potential for remains is likely to be low, partly because of the buildings which have recently been demolished. However, an archaeological watching brief is recommended as a precautionary measure. Finally, KCC has requested that Broadband fibre optic connections are made available to the properties. In that respect the optic connection exists adjacent to the site in Godwyne Road and Building Regulations will ensure that the necessary ducting is provided to individual properties. It is considered that the actual provision of fibre optic broadband is primarily a matter for the developer.

Development Contributions

- 3.37 In addition to the £10,022 as open space contribution and £2,132 towards SPA mitigation, KCC has requested sums of £73,128 for primary education, £3,121 for library books, £1,666 towards community learning and £3,801 towards Social Care, as contributions required to address needs arising from the development. Specific projects have been identified for all the requirements and officers are satisfied that they pass the legislative tests in terms of being necessary, related to the development and reasonably related in scale and kind.
- 3.38 The extent of contributions required totals £93,871 and the applicants have confirmed they are agreeable to that as part of the associated costs of delivering the project. Ordinarily, such sums would be collected as part of a Section 106 Agreement. However, since the Council is applicant in this case, it cannot have a formal Legal Agreement with itself. Following discussions with the Council's solicitor, it has been agreed that the most pragmatic way forward would be by way of internal transfers under the various budget headings. Such an approach is considered to be acceptable given that both the Council and KCC should be regarded as responsible authorities who will spend the funds for their allocated purpose. Should members agree that the development is acceptable, any permission would not be issued until confirmation of the internal transfers having taken place.

Conclusion

- 3.39 The proposed development will provide a well thought out scheme in a highly sustainable location which will provide a valuable contribution towards a number of important planning objectives within the Core Strategy, including the provision of a significant number of affordable housing units and a wider contribution towards housing land supply. The design approach is considered to be of high quality which will lift the quality of built form within the locality, and importantly offer no

distinction between private units and affordable units from a visual point of view. Additionally, the number of units will deliver a viable scheme which will ensure delivery of these important vacant sites, whilst still providing the full extent of the Council's normal range of development contributions.

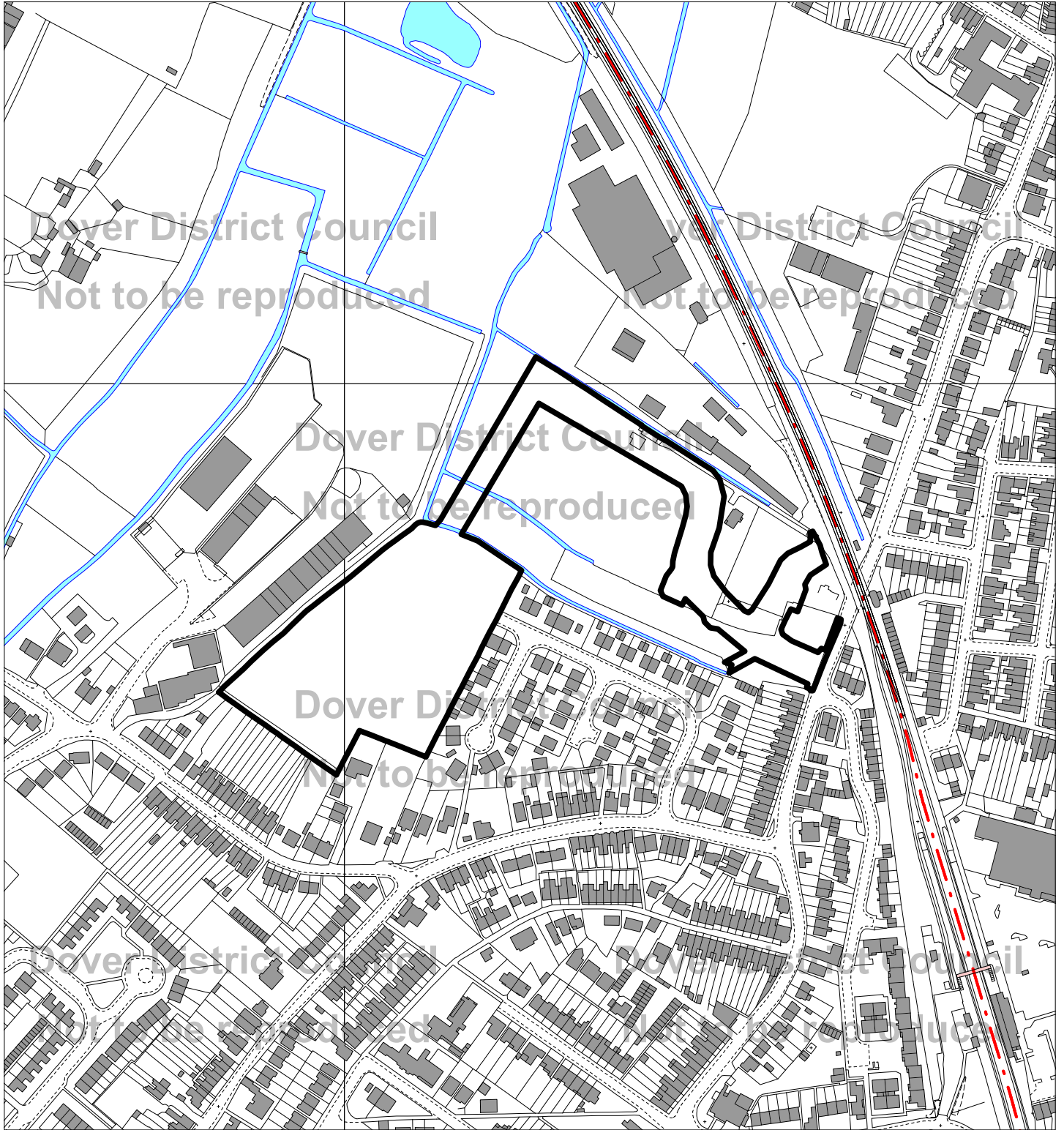
- 3.40 Concerns raised by local representations have either been addressed through this report, or can be controlled through the imposition of appropriate conditions. In that respect, on street parking issues appear to be the biggest area of local concern. Whilst this is fully acknowledged, the analysis above demonstrates that the development itself is unlikely to add to on street parking pressures that currently exist. Those issues need to be addressed through measures beyond the scope of this application. As referred to above, discussions involving potential resident parking schemes in the area are already underway.
- 3.41 Accordingly, officers recommend that permission is granted subject to development contributions being received and the conditions set out below. In respect of the latter, new Regulations now require that any pre commencement conditions need to be agreed with the applicant in the first instance. This will relate to conditions 10, 11 and 17 and officers can confirm that the applicants are agreeable in that respect.

g) **Recommendation**

- I Subject to confirmation of receipt of all Development Contributions as set out in the report above, PERMISSION BE GRANTED subject to the following conditions:-
(1) standard time; (2) approved plans; (3) details of materials; (4) parking and turning provision; (5) cycle provision; (6) refuse and recycling; (7) further detail of refuse bin provision to rear of 52-80 Leyburne Road; (8) details of landscaping scheme to include provision of 8 heavy standard trees as replacement planting; (9) Pruning of existing trees to be carried out in accordance with arboricultural report; (10) further details of surface water disposal and ongoing maintenance; (11) development to be carried out in accordance with construction management plan; (12) archaeological watching brief; (13) further studies if contamination found; (14) removal of permitted development rights for private houses; (15) obscure glazing to be provided to rear of William Muge block; (16) Details of boundary fencing and other means of enclosure; (17) waste management plan; (18) details of phasing to be agreed; (19) levels to be confirmed; (20) details of external lighting.
- II Powers be delegated to the Head of Regeneration and Development to resolve any necessary planning conditions and matters connected with the proposed Development Contributions, in accordance with issues set out in the report and as resolved by the Planning Committee.

Case Officer

Kim Bennett



Not to scale

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Application: DOV/17/01530

**Land to rear of Matthews Close &
Southwall Road
Deal
CT14 9PZ**

TR37085286



- a) **DOV/17/01530 – Outline application for the erection of up to 63 dwellings, access, open space, associated infrastructure and groundwork's (appearance, landscaping, layout and scale reserved)– Land to rear of Matthews Close &, Southwall Road, Deal, CT14 9PZ**

Reason for report: 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. Deal is described as a District Centre, which is the secondary focus for development in the District; suitable for urban scale development.
- CP3 – Of the 14,000 houses identified by the plan 1,600 (around 10%) is identified for Deal, subject to investigation of Middle/North Deal.
- CP4 - Developments of 10 or more dwellings should identify the purpose of the development in terms of creating, reinforcing or restoring the local housing market in which they are located and development an appropriate mix of housing mix and design. Density will be determined through the design process, but should wherever possible exceed 40dph and will seldom be justified to less than 30dph.
- CP6 – Development which generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.
- DM1 – Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM5 – Development for 15 or more dwellings will be expected to provide 30% affordable housing at the site, in home types that will address prioritised need.
- DM11 – Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- DM13 – Parking provision should be design-led, based upon an area's characteristics, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.
- DM15 – Development which would result in the loss of, or adversely affect the character and appearance of the countryside will not normally be permitted.
- DM16 – Development that would harm the character of the landscape will only be permitted if it is in accordance with allocations made in Development Plan

Documents and incorporates any necessary avoidance and mitigation measures or it can be sited to avoid or reduce harm and incorporate design measures to mitigate impacts to an acceptable level.

Land Allocations Local Plan

- 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 confirms that the Government's objective is to significantly boost the supply of homes and requires authorities to seek to deliver a sufficient supply of homes, based on a local housing need assessment. The size, type and tenure of housing for different groups in the community should be assessed and reflected in policies. 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

Local Planning Authorities should identify a five year supply of specific, deliverable sites and identify more broadly supply beyond this.

- 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, having regard for: the need for different types of housing and the availability of land suitable for accommodating it; local market conditions and viability; the availability and capacity of infrastructure and services (including the ability to promote sustainable travel modes); the desirability of maintaining an areas prevailing character; and the importance of securing well-designed, attractive and healthy places. Where there is an anticipated shortfall of land to meet identified need, low densities should be avoided.
- 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 fourteen requires that development should be directed away from areas at the highest risk from flooding. All development in areas which are at risk from flooding should be subjected to the sequential test, which seeks to steer new development to areas with the lowest risk of flooding. Development should not be granted in areas at risk from flooding if there are reasonably available sites in areas which have a lower risk of flooding. Development should also be subjected to the exception test which requires that the development provides wider sustainability benefits to the community that outweighs flood risk and that the development will be safe over its planned lifetime.
- 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. Paragraph 177 states that “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”.
- Chapter sixteen requires that development conserves and enhances the historic environment. An assessment should be made as to whether the development would cause harm to the significance of a heritage asset and, if so, whether this harm would be substantial or less than substantial. Any harm must be weighed against the public benefits of the scheme. 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.

The Deal Transport and Flood Alleviation Model

- Provides an assessment of the transportation and flood issues in Deal and identifies areas with potential to provide housing.

d) **Relevant Planning History**

Whilst it is not considered that there are any previous applications for the application site which are relevant to the determination of the current application, it is considered that applications on the adjoining site (Land on the West side of Albert Road, Deal, CT14 9RB) are relevant:

DOV/15/01290 – Outline application for a mixed-use development incorporating 142 residential units, 960sqm B1 Office, 370sqm of A1, 280sqm of D1, and a link road between Albert Road and Southwall Road (some matters reserved) – Granted

DOV/18/00203 – Variation of condition 11 (foul drainage) of planning permission DOV/15/01290 to allow amendments to the wording of the condition (section 73) – Granted

DOV/18/00892 – Reserved Matters application for the approval of Appearance, Layout, Landscaping and Scale pursuant to DOV/15/01290 for the erection of 141 dwellings and 370sqm of retail (A1) space, together with associated parking and groundworks – Current

e) **Consultee and Third Party Responses**

DDC Head of Strategic Housing – The application is in relation to the proposed development of 63 dwellings. The Council would normally expect that for developments of 15 units or more there would be an on-site provision of affordable housing in accordance with its adopted Affordable Housing Supplementary Planning Document. The SPD states that the Council's preferred approach is to secure 30% of total housing as affordable housing on such sites unless material considerations indicate otherwise and to ensure the type of affordable housing provided will meet an identified local need.

The application form indicates that the developer is only proposing to provide 6 dwellings as intermediate housing. It is not clear from the form whether this will take the form of shared ownership housing which would meet the definition of affordable housing. However, 6 dwellings only equates to 10% of the total and consequently there is a requirement for the developer to demonstrate that there are material considerations which justify a lower percentage provision of affordable housing.

DDC Environmental Health – The site appears to have had little historical use and is low risk. Owing to the size and sensitivity of the development, a limited site investigation is recommended as a precautionary measure, to include a ground gas assessment, which I concur with. Basic radon gas protection measures area also deemed necessary. Conditions are recommended to require that further investigation takes place and, if necessary, any contamination is remediated.

DDC Heritage – The submitted archaeological study notes that no Listed Buildings are affected by the proposed works but with no explanation provided. Nonetheless, due to the large rear garden to 4 Southwall Road (Grade II) and its placement dominantly related to the street, the gap between it and the proposed new development is considerable. In my view there will be no harm to the setting of the listed building.

DDC Infrastructure and Delivery Officer – A 63 house development of the Core Strategy housing mix would create the need for:

- 0.32 ha of accessible green space
- 0.17 ha of outdoor sports facilities
- 0.008 ha of children's equipped play space
- 0.03 ha of allotments / community gardens

Paragraph 4.18 of the planning statement includes the phrase 'A total of 0.42 hectares of open space is provided as part of the illustrate [sic] plan'. Will this precise level of provision be cited in any decision notice? If so, then some of the open space needs could be met on site. However, paragraph 4.18 also states 'It is envisaged that a series of character areas would be further developed in the detailed design of the scheme, as would any specific space typologies, such as play space.' The illustrative designs submitted would not allow for a play area to be provided on site because the largest, centrally located open space is identified as an attenuation pond (or ponds as shown in Design Development Plan 4 on page 25 of the Design and Access statement). Some smaller open spaces may also be provided, but these are not in suitable locations for equipped play.

Given that the centre of the development site lies approximately 750m from the strategic play area at North Deal Playing Field, an off-site contribution to increase the capacity of that site would be appropriate. A suitable contribution may be calculated as follows:

The average size of a play area in our district is 0.01ha. The cost of creating a Local Area for Play and providing 15 years of maintenance has been calculated as £42,520, which equates to a commuted sum of £32,330 presuming interest at 2%. So the need created by this development equates to around 80% of a play area and therefore a suitable sum would be £25,864. I can confirm that the pooling limit of 5 contributions has not been reached for the play area at North Deal Playing Field.

Page 35 of the Design and Access Statement includes the following statement 'The proposed development takes full account of environmental considerations and provides enhancements to ensure the overall effect is positive' Including, under the heading of 'Enhancement of Greenspace and Ecology' 'The delivery of a high quality green infrastructure with public open space usable for active recreation.' However, there is no explanation of the way in which the proposed open spaces will in fact contribute to active recreation and as previously noted the on-site open spaces will primarily function as SUDS. An appropriate way to address this issue would be an off-site contribution towards outdoor sports facilities. A suitable contribution may be calculated as follows:

The adopted Playing Pitch and Outdoor Sports Facilities Strategy identifies a need to increase capacity at the hard courts at Victoria Park so as to meet additional need for outdoor sports expected during the plan period. A project is currently being drawn up in liaison with the Lawn Tennis Association to reconfigure courts, to increase capacity for tennis and possibly also netball. The need for sports facilities arising from the development is 0.174ha or 1,740 m². According to Sport England guidance the area of a doubles tennis court, including run-offs is 669m². So the need arising from this development equates to 2.6 tennis courts. According to LTA guidance the cost of constructing a porous macadam court is £27,000 (<http://www.lta.org.uk/globalassets/venue/support-your-venue/documents/porous-macadam-court-guidance.pdf>), therefore a reasonable contribution may be calculated as £70,000.

Crime Prevention Officer – The applicant has not yet demonstrated that they have considered crime prevention or applied the seven attributes of Crime Prevention Through Environmental Design. If the applicant fails to contact us, this may have an effect on the development with regards to Secure By Design, as awarding it retrospectively can prove difficult and costly. This could also have knock on effects for the future services and duties of the Community Safety Unit and local policing.

NHS – *Initial response received 19th January 2018*

The development would increase the number of patients in the area. The only option available to increase capacity to meet this demand is the internal redesign of the Balmoral Surgery to provide additional clinical space to cater for the occupants of the new development. A plan has been drawn up for this project which would cost £308,625. A proportionate contribution for the development has been calculated as £51,840.

Subsequent response received 12th October 2018

The £360 per occupant has been a figure historically used for NHS requests for contributions as it reflects the capital cost of a surgery for 10,000; £3.6m/10,000 = a £360 per capita payment. This figure has not been updated for many years and is likely not reflective of the cost of building currently, however as the CCGs have only recently taken on delegated responsibility for the S106 process this is something we will look at in the near future.

Due to the nature of the conversion works proposed at Balmoral, on this occasion I accept that a lower contribution could be appropriate and am happy to agree to your calculation below (£14,276.26).

Highways England – No objection

KCC Growth, Environment and Transport – Part of the application site is within 250m of the established Deal Household Waste Recycling Centre which is safeguarded under Policy CSW 16 of the adopted Kent Minerals and Waste Local Plan 2013-30. The existing impacts on the highway network associated with such facilities (traffic and sometimes substantial queuing) will need to be considered alongside the impacts upon the highway network in the area which may incur as a result of the proposed development. Consideration should be given as to whether any potential increased traffic loading pressure on Southwall Road will constrain the continued lawful operation of the safeguarded waste management facility.

When determining the application, Dover District Council should ensure that Kent County Council as Highways Authority have no concerns regarding the above.

KCC Highways and Transportation – *Initial response received 2nd February 2018*

The impact of the development at the A258 London Road/Albert Road junction has not been modelled in the Transport Statement. This modelling should therefore be submitted. I also note there is an existing access track from Southwall Road into the site and it appears this could serve as a pedestrian and cycle link, particularly the latter bearing in mind it would then provide a connection to the existing cycle route in Southwall Road. The applicant should therefore investigate the provision of such a link. I shall be pleased to comment further on the application once the above additional information has been submitted.

Subsequent response received 25th April 2018

I refer to the above planning application including the additional information submitted on 8th March and 17th April. Access to the site is via the link road previously approved between Albert Road and Southwall Road. The proposals are likely to generate approximately 32 two-way vehicle movements in the network peak hours, with around two thirds likely to be to/from the Albert Road direction and one third to/from the Southwall Road direction. The junctions of the link road with these roads have been assessed and can accommodate the additional vehicle movements. These movements are then likely to be distributed and spread out further to the east, south and west of the site such that the additional movements through any one junction are not material.

Whilst it would be preferable to have a pedestrian link to Southwall Road from the southwest corner of the site, this cannot be achieved over land within the control of the applicant or the highway authority, and such access is still available via the approved link road. Whilst not essential in highway terms it appears possible to achieve such a link to Matthews Close to the east of the site, providing a slightly more direct walking route to/from the railway station and town centre, and this could be

dealt with through the reserved matters application. Taking the above into account the proposals are unlikely to have a severe impact on the highway network that would warrant a recommendation for refusal. I therefore 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:
 - (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
 - (d) Provision of wheel washing facilities
 - (e) Temporary traffic management / signage
 - (f) Temporary access arrangements
- Provision of measures to prevent the discharge of surface water onto 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.
- 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).

Informatives are also recommended

KCC Archaeology – The proposed development site lies in an area of archaeological potential arising from known finds from the area and due to its position on the edge of the Lydden Valley. To the south-west of the proposed development site ongoing archaeological investigations are currently examining a rich multi-period landscape, which contains remains of Neolithic, Bronze Age, Iron Age and Romano-British date. These remains include evidence for an extensive agricultural landscape, enclosures and monuments. To the north Late Bronze Age, Iron Age and Romano-British finds are noted at the former Northwall Sandpits, whilst remains of Romano-British date are also recorded to the north-east and to the south.

It is possible that the proposed development may affect important archaeological remains, potentially including a continuation of the important and extensive archaeological landscape currently under investigation to the west at Courtlodge Farm. 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.

KCC Economic Development – The development would give rise to additional demand for infrastructure in order to meet the needs of the development.

Contributions, which have been assessed to be necessary, related to the development and reasonably related in scale and kind, are requested. These contributions comprise:

- Primary Education - £164,538 towards Phase 2 of the expansion of Deal Parochial Primary School.
- Secondary Education - £203,695 towards Phase 1 Dover Grammar School for Girls
- Community Learning - £1615.25 towards IT equipment for the new learners at Deal Adult Education Centre
- Libraries - £3025.26 towards “Digital Den” technology cart for 5-11 year olds at Deal Library
- Social Care - £4804.38 towards Meadowside Social Car Hub in Deal and the provision of 1 wheelchair adaptable home.
- It is also recommended that high speed broadband be provided to the dwellings.

KCC SUDS – The FRA demonstrates that surface water from the proposed development can be accommodated within permeable pavement with a possible overflow pond and control flows off-site to 2l/s.

It is understood that the majority of the site is overlain by superficial tidal flats deposits which are anticipated to be poorly draining and it is anticipated that the water table will be within 3m of the ground surface. We agree that infiltration is unlikely to be feasible at the site but we are concerned that ground water levels may have a bearing on the drainage system design.

We understand that the site is within a defended area with respect to flood risk. Given the nature of the defences, we accept that surface water management measures can be appropriately provided within this area.

Kent County Council as Lead Local Flood Authority have the following comments:

- 1) The discharge rate from the site will need further discussion. The proposed rate is low and may need to be assessed in light of operation of the drainage system.
- 2) It is preferred that any permeable pavement which serves as a positive contribution to the overall provision of attenuation is provided within common areas. Private drives and private parking should not be included within this area. We would seek confirmation at detailed design how these areas will be managed.
- 3) It would be preferred that consideration is given to the positive contribution of the pond area to the overall drainage system. This can provide other benefits to the overall amenity of the development area.
- 4) Any outfall to the ditch system to the north will require consent from the River Stour Internal Drainage Board. Consultation should be undertaken with the IDB to confirm the acceptability of the discharge at this location.
- 5) Further ground investigation would be recommended to confirm the ground water level on the site to finalise the details of design of the pavements proposed within the scheme.

It is recommended that three conditions are attached to any grant of permission, requiring: the submission of a detailed sustainable surface water drainage scheme for approval; the submission of a detailed scheme for the maintenance of the sustainable

surface water drainage scheme for approval; and the submission of a verification report which prevents any occupation until the surface water drainage system has been carried out.

Environment Agency – No objection, subject to conditions being attached to any grant of permission to ensure that: the development is carried out in accordance with the submitted Flood Risk Assessment and, in particular, finished floor levels are set above the design flood level; piled foundations are avoided unless specifically approved; previously unidentified contamination is remediated; and a scheme for foul drainage works is approved and implemented to the satisfaction of the LPA.

Natural England – Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Subject to appropriate mitigation, the proposal should not result in a likely significant effect. Natural England has not assessed the applications impact on protected species.

River Stour Internal Drainage Board – Advice received, but no recommendations are made.

Kent Wildlife Trust – There is no conservation designation specifically associated with this site. However, the development will nevertheless have a residential aspect and therefore consideration needs to be given to the potential increased recreation pressure on the Thanet Coast and Sandwich Bay SPA. Dover district needs to ensure that the proposal adheres to the Mitigation Strategy and makes a financial contribution, in addition to providing on site recreation space.

I note from the Ecology Appraisal (Aspect Ecology, December 2017) that specific surveys were carried out for protected species. It would be recommended that the existing treeline and hedgerows should be retained and enhanced as far as possible and that the residential housing should be designed to accommodate this existing green infrastructure. A lighting strategy should be conditioned in order to reduce impact on this edge habitat and its associated species, such as invertebrates, breeding birds and foraging bats.

Please note the recommendation in the Ecological Appraisal, which recommends that permeability of the site is maintained for the Hedgehog with fence cut-outs at ground level. Kent Wildlife Trust would strongly support this in addition to strategic drop curbs at amenity grassland, well connected with hedgerows and other linear features and raised garden gates.

Kent Wildlife Trust does not object to this proposal, subject to the above recommendations. We look forward to commenting on future stages of this development.

Southern Water – *Initial comments received 29th January 2018*

The exact position of the water main must be determined on site by the applicant before the layout of the proposed development is finalised.

The results of an initial desk top study indicates that Southern Water currently cannot accommodate the needs of this application without the development providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system and as a result increase the risk of flooding in and around the existing area, contrary to paragraph 109 of the National Planning Policy Framework.

Should the Local Planning Authority be minded to approve the application, Southern Water would like the following condition to be attached to any permission.

“Development shall not commence until a drainage strategy detailing the proposed means of foul disposal and a implementation timetable, has been submitted to and approved in writing by, the local planning authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable.”

The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS). Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity.

We request that should this application receive planning approval, the following condition is attached to the consent:

“Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.”

Following initial investigations, Southern Water can provide a water supply to the site. Southern Water requires a formal application for connection and on-site mains to be made by the applicant or developer.

Subsequent comments received 2nd July 2018

Southern Water has undertaken a desk study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that there is an increased risk of flooding unless any required network reinforcement is provided by Southern Water. Any such network reinforcement will be part funded through the New Infrastructure Charge with the remainder funded through Southern Water’s Capital Works programme.

Southern Water and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement. Southern Water hence requests the following condition to be applied:

“Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development”

It may be possible for some initial dwellings to connect pending network reinforcement. Southern Water will review and advise on this following consideration of the development program and the extent of network reinforcement required.

Southern Water will carry out detailed network modelling as part of this review which may require existing flows to be monitored. This will enable us to establish the extent of works required (If any) and to design such works in the most economic manner to satisfy the needs of existing and future customers.

Our assessment of the timescales needed to deliver network reinforcement will consider an allowance for the following:

- Initial feasibility, detail modelling and preliminary estimates.
- Flow monitoring (If required)
- Detailed design, including land negotiations.
- Construction.

The overall time required depends on the complexity of any scheme needed to provide network reinforcement.

Southern Water will seek however to limit the timescales to a maximum of 24 months from a firm commitment by the developer to commence construction on site and provided that Planning approval has been granted

Subsequent comment received 5th October 2018

Southern Water can confirm that there is capacity within the sewer network for this development as long as the connection is into the 450mm public sewer located in Albert Road, therefore the proposed condition should be capable of being met by the developer. We suggest that the reference to long term maintenance should be only applied to any surface water attenuation facility to be installed.

All other comments in our previous letter 29/01/2018 remain valid.

Deal Town Council – Deal Town Council wish to defer decision until further detailed information on the development is provided by the developer

Public Representations – Eight letters of objection have been received, raising the following points:

- There is uncertainty regarding the capacity of the sewerage system, which has caused long standing issues (foul water flooding)
- Permission should not be granted until flooding has been fully resolved and tested over time
- The development is high density and looks cramped
- Insufficient car parking provision
- Increased traffic on the local roads
- Increased air pollution
- Surface water drainage has not been adequately addressed
- The space could be better used for recreation or gardens
- The site is in a flood risk zone

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

- The principle of the development has been accepted on the adjacent site
- This site is the last piece of the jigsaw
- Construction jobs
- The development will secure contributions
- The development will benefit from the infrastructure provided on the adjacent site
- The housing will allow people to get on the housing ladder
- Provision of high quality housing (market and affordable)
- Logical extension to the town

- Sustainable site

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

- Not against the development on a site which can only be used for housing, but concern is raised regarding the proposal for a single access. Parking provision for existing residents should also have been provided.

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

1.1 The site is located to the west of the built up area of Deal, within Flood Risk Zone 3. The areas to the south east, south west (both residential uses) and north west (commercial/industrial uses) of the site are within the settlement confines of Deal, whilst the application site itself is outside of the confines. To the east of the site is the land which was the subject of the approved outline planning application for the development at land at Albert Road and Southwall Road (DOV/15/01290). This permission related to the erection of 142 dwellings, 960sqm of B1 offices, a 370sqm A1 retail unit and 280sqm of D1 non-residential institution (indicatively described as a children's nursery). A new road, designed to provide improved traffic distribution in the area, was also approved to provide a new link between Albert Road and Southwall Road and has been commenced on site.

1.2 The site itself measures approximately 2.5ha and is roughly rectangular in shape. The land is vacant of buildings and agricultural in nature, although it does not appear to have been actively farmed for some time. The site is relatively flat, although there is a slight rise in levels from north to south. There are trees to and hedges to most boundaries, although there are few trees to the south eastern boundary. The largest trees are to be found on the north eastern boundary of the site.

1.3 This application seeks outline planning permission for the erection of up to 63 residential dwellings (C3), an access to the north eastern boundary of the site into the land at Albert Road/Southwall Road, open space, landscaping, infrastructure and groundwork's. The reserved matters are appearance, landscaping, layout and scale, whilst access is to be considered.

2. Main Issues

2.1 The main issues are:

- The principle of the development
- The impacts on the character and appearance of the area
- The impacts on heritage assets
- The impacts on the highway network
- The impacts on neighbouring properties
- The impacts on flood risk and drainage
- The impacts on ecology
- Development Contributions and Infrastructure

Assessment

Principle

- 2.2 The Core Strategy housing allocation for Deal (policy CP3) is 1,600 dwellings. This figure seeks to meet the local needs of the expanding population of Deal, rather than strategic needs. However, there is limited scope to provide such a provision of housing. The LALP identifies land for approximately 800 dwellings and whilst extant planning permissions reduce the deficit, there remains a deficit of housing land to meet the needs of the population of Deal.
- 2.3 The application site is located outside of the defined confines of Deal. Policy DM1 of the Core Strategy states that development will not be permitted on land outside of the confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or is ancillary to existing development or uses. Whilst there is no specific policy relating to the site, the site is referenced within the Land Allocations Local Plan (LALP), which acknowledges that there may be the potential for development in this location and that this could include retail and residential development and a new road.
- 2.4 The land between Albert Road and the industrial units on the Minters Industrial Estate (known as Land on the West side of Albert Road, Deal) has been granted outline planning permission for a mixture of residential and commercial uses, together with the formation of a new access road between Albert Road and Southwall Road. In approving this development, the Committee Report acknowledged that the Albert Road site had been identified within the Middle/North Deal area identified by paragraph 3.67 of the Core Strategy as having an opportunity for urban expansion, which is expanded upon at paragraphs 3.194 and 3.195 of the LALP.
- 2.5 The Deal Transport and Flood Alleviation Model suggests that development be focused towards the Albert Road and Southwall Road area. This study is a material consideration and adds significant weight in favour of residential development in this location. It is acknowledged that this application falls outside of the land which is required to provide the access road, which was secured by the Albert Road development; however, it is considered that the identification of this land as having development potential continues to carry weight.
- 2.6 While the current application site is located outside of the defined settlement confines of Deal, the confines extend to three of the four boundaries of the site (to the south east, south west and north west). In addition, the land to the north east of the site (the Albert Road site, discussed above) received outline planning permission in 2017 for the erection of 142 dwellings together with office, retail and non-residential institution uses. As such, once the Albert Road development is built out, the application site will be surrounded by development.
- 2.7 At present, the Council is unable to demonstrate a deliverable five year housing land supply. Consequently, it is considered that the provision of a significant number of dwellings must carry additional weight in favour of the development. However, whilst the lack of a five year housing land supply increases the importance of, and weight attributed to, securing housing it must be noted that the presumption in favour of sustainable development (the 'tilted balance') does not apply as the application has been subjected to an Appropriate Assessment, which engages paragraph 177 of the NPPF.

- 2.8 Furthermore, it is considered that the site would be well linked to the existing built up area of Deal and would be well linked to the facilities and services of the town, including bus stops, the train station, and the town centre. Whilst a departure from Policy DM1, having regard for the significant weight which must be given to the need to provide housing and the sustainability of the sites location it is considered that, subject to material considerations, the principle of residential development on the site is acceptable.

Character and Appearance

- 2.8 The layout, scale, appearance and landscaping of the proposal are reserved at this outline stage. It is important to note that this application will not be considering the reserved matters and, as such, the determination will not consider whether the indicative details submitted are acceptable; however, an indicative layout plan and parameter plans have been submitted to suggest how the development could be accommodated on the site. Access is not reserved at this stage, with the proposed access road, linking to the approved development on the adjacent site, laid out in detail. This road would link with Albert Road to the south of the site.
- 2.9 The applicant has submitted an indicative layout plan, which suggests that the development would provide street fronting properties in a, predominantly, perimeter block layout. This layout, whilst generally successful, would provide some stretches where side and rear elevations and boundaries front onto usable spaces. In particular, concern is raised regarding the stretch of rear gardens fronting onto the north eastern boundary of the site, the provision of a path to the rear of the four blocks adjacent to the north western boundary and the side elevations and boundary treatments of units 1, 8, 15,27 and 32 which front onto the open space. This would, if replicated in the reserved matters application, produce a poor quality public realm, whilst also working against the principles of designing out crime. Notwithstanding these concerns, the density of development is consistent with the density in the surrounding area, whilst the indicative plan incorporates generously sized open spaces. Whilst some of this space provides multiple functions (such as drainage features) and therefore cannot be altered, it is considered likely that an acceptable layout could be achieved which would have regard for the character of the surrounding area.
- 2.10 Whilst scale is reserved at this stage, an indicative plan has been submitted which suggests that the buildings would be up to three storeys in height, with dwellings rising to between 9m and 13m above ground level and apartment blocks rising to between 9m and 15m above ground level. Alternatively, the submitted design and access statement shows two storey dwellings with pitched roofs. The buildings in the area are typically two storeys in height and so the proposed indicative maximum height would exceed that which informs the character of the area. It is also necessary to have regard for the requirement that finished floor levels are set above the design flood level, although it is likely that this could be accommodated through minor land raising. However, large parts of the site would not be prominent from outside of the site and, as such, taller buildings could be achieved on some parts of the site (north and west) without causing harm. In particular, development towards the north west of the site would be located adjacent to large commercial warehouse type buildings. Consequently, taller buildings to these parts of the site could be achieved. However, development close to the south eastern boundary would be visible from Matthews Close where it would be seen in conjunction with the two storey dwellings on the Close. Consequently,

it is likely that any application for Reserved Matters approval would need to reduce the height of buildings in this location to ensure that the development had respect for the scale of the adjacent development, providing a natural transition to the taller buildings beyond. In considering this, regard has been had for the NPPF (2018) which seeks to strike a balance between optimising the ability of sites to accommodate development, whilst maintaining the prevailing character of an area. Whilst it is therefore likely that the quantum of development proposed could be accommodated on the site successfully, the scale of the dwellings will need to be carefully considered by the applicant and assessed at the reserved matter stage.

- 2.11 Indicative images of the design of the buildings have been submitted which illustrate how the proposed buildings could appear. Again, whilst these images are indicative only, they demonstrate that a high quality design, responding to the character of the area, would be achieved on the site. The appearance of the dwellings suggests traditional two storey dwellings under pitched roofs, which would have chimneys, window cill details and covered front doors. A mixture of materials to provide two distinctive styles of dwelling are also suggested (red brick with roof tiles and yellow/cream brick or render under dark tiles or slate). The indicative dwellings would respond positively to the style of dwellings proposed (albeit not approved) within the current reserved matters application for the site at Albert Road.
- 2.12 The density of the development also provides the opportunity for meaningful landscaping, around the dwellings, road verges, drainage ditches and the 'SUDS landscape'. The indicative layout plan would provide a central open space which could provide informal recreation and, in wet weather surface water storage capacity, together with strips of landscaping to the north eastern and north western boundaries. The site contains trees to its north eastern, north western and south western boundaries. The indicative plans demonstrate that the vast majority of the trees on site could be retained. The trees which would likely need to be removed are largely the lower value category C which have limited longevity and which are located in areas where their amenity value is reduced. Subject to securing a high quality landscaping scheme at the reserved matters stage, including the provision of native replacement trees, the limited loss of lower value trees would be acceptable.
- 2.13 Overall, whilst the layout, scale, appearance and landscaping are reserved, and consequently the indicative details are not for determination, it is considered that these details demonstrate that the site could successfully accommodate the development, albeit amendments would be required at the reserved matters stage.

Heritage

- 2.14 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that "in considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority or Secretary of State should pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses". Regard must also be had for the NPPF, in particular, whether the development would cause any harm to the significance of heritage assets.
- 2.15 There is one listed building within close proximity to the site. Walnut Trees which is Grade II Listed, is located around 52m to the south of the site,

although its curtilage abuts the application site. Other listed buildings (Berkeley House and Sherrard House are located a little further away.

- 2.16 The application has been supported by a Heritage Statement which assesses the significance of these heritage assets and the impacts of the development on that significance. It is noted that, the application site forms a small part of the once rural setting to these listed buildings, which has now largely been eroded by the construction of dwellings around them. The field is surrounded on three sides by development and, once the Albert Road site is built out, completely surrounded. Consequently, the value of the site in providing a rural setting to these buildings is negligible. It is also noted that the scale of the gardens to these properties and the screening effect of vegetation further limits the contribution of the site to their setting. The Councils Principal Heritage Officer has concurred that the development would cause no harm to the setting of listed buildings. As such, having regard for the statutory duty of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the provisions of the NPPF, the development would cause no harm to designated heritage assets.
- 2.17 It is also necessary to consider the developments impacts on non-designated heritage assets, in particular Archaeology. The KCC archaeologist has confirmed that site lies in an area of archaeological potential. Archaeological investigations to the south-west of the site are on-going, but are currently examining a rich multi-period landscape, which contains remains of Neolithic, Bronze Age, Iron Age and Romano-British date. These remains include evidence for an extensive agricultural landscape, enclosures and monuments. To the north Late Bronze Age, Iron Age and Romano-British finds have been discovered at the former Northwall Sandpits, whilst remains of Romano-British date are also recorded to the north-east and to the south.
- 2.18 Having regard for the likelihood of archaeological remains at the site, and given that the application would require re-grading of the land and extensive excavations (for foundations, the laying of roads, the laying of services and drainage features etc.) across the site, there is a reasonable likelihood that the development will impact upon non-designated heritage assets of archaeological importance. It accordance with the NPPF, and having regard for the advice of the County Archaeologist, it is therefore considered reasonable and proportionate to attach to any grant of permission a condition requiring archaeological evaluation of the site, to be followed by further safeguarding and/or investigation measures as required.

Impact on Residential Amenity

- 2.19 The site is bounded by residential properties to its south eastern and south western boundaries. In assessing the impacts on neighbouring properties, regard must be had for the likely need to undertake land raising in order to overcome issues of flood risk. The indicative layout plan shows how dwellings could be set away from the south western boundary with their gardens backing onto the gardens of properties on Southwall Road. This arrangement would result in the proposed dwellings being set away from the boundary by around 12m, providing back-to-back distances (to numbers 10 to 44 Southwall Road) of around 54m. Number 4a and, to a lesser extent, No's 6 and 8 Southwall Road are located closer to the application site than other properties on Southwall Road, being set 3.5m, 18m and 23m away from the site boundary respectively. The indicative layout plan shows that one of the proposed dwellings (plot 37) would be located adjacent to the boundary with

No.4a. The indicative location of this dwelling would be likely to cause some sense of enclosure and would have some potential to cause overlooking if inappropriately designed. However, it is considered that these issues could be overcome at the reserved matters stage through relatively minor changes to the layout and through the considerate design of the dwellings. It is not, therefore considered that this would be a reason to refuse this outline application. Consequently, it is considered that the development proposed could be achieved without causing a loss of amenity to the properties on Southwall Road.

- 2.20 Turning to the south eastern boundary of the site, the site adjoins the boundaries of No.'s 42 and 51 to 67 Matthews Close.
- 2.21 Plots 22 to 26 would back onto the rear gardens of No.'s 53 and 55 Matthews Close. The indicative locations of these dwellings would be around 12m from the rear boundaries of these dwellings and around 13m from the rear projection of No.55. Plot 21 would be located just 8m from the rear elevation of No.59 Matthews Close. These relationships, if replicated in the reserved matters application, would cause a loss of amenity to these neighbours. Plots 7 and 14 would be located close to No.'s 42 and 67 Matthews Close respectively, but would be oriented in line with these properties. Consequently, subject to detailed consideration of their precise location and fenestration design, dwellings in these locations would be unlikely to cause unacceptable harm. Whilst the indicative layout would not be acceptable, causing harm to the living conditions of neighbours on Matthews Close, it is considered that, given the size of the site and the density of the development, the layout could be amended at the reserved matters stage to overcome these concerns.
- 2.22 The proposed dwellings would all be of a reasonable size and would be provided with private rear gardens or, in the case of the flats, would have access to shared communal open space. The indicative layout plan shows that 20m back to back distances between the proposed dwellings can be achieved in a manner which avoids unacceptable levels of overlooking, outlook or light. The application has been supported by a Noise Assessment which demonstrates that, subject to being installed with standard double glazing and acoustically treated ventilation, the proposed dwellings would not be subjected to unreasonable levels of noise. This should be secured by condition. It is further considered that the indicative layout could accommodate refuse and cycle provision.

Impact on the Local Highway Network

- 2.23 Access is not a reserved matter and, as such, the access to the site is for consideration.
- 2.24 The site is well located to access facilities and services. Deal Train Station, which provides regular main line (including high speed) services, is located around 1km away. There are a number of bus stops within 400-500m of the site, again providing regular services on a number of routes. The boundary of the defined town centre is around 600m away by foot.
- 2.25 Traffic generation modelling has been undertaken, having regard for the location of the site and the likely destinations. This modelling, known as TRICS, is a nationally recognised standard methodology for predicting traffic generation from developments. The TRICS assessment utilises actual data from manual counts at other sites across the country. The data sets chosen

must be comparable to the size and type of development being proposed and the conditions in which the site is located. In this instance, the data sets chosen related to: residential developments of a similar size to that proposed by the current application; where surveys were undertaken on week days; where the site was in an edge of town and 'residential zone' location; where local populations are comparable with those found in the area around the application site; and in localities with similar levels of car ownership. The actual trips generated by these developments are then used as an evidence base upon which the likely trip generation from the proposed development can be estimated. Having regard for these actual figures from other developments, KCC Highways and Transportation have advised that they concur with the findings of the submitted assessment, predicting that the development would produce approximately 32 two-way vehicle movements in the network peak hours when the highway network is used most, with around two thirds likely to be to/from the Albert Road direction and one third to/from the Southwall Road direction.

- 2.26 Existing traffic flows have been modelled using traffic survey data obtained in 2014 which has been 'growthed' (i.e. increased to account for development which has occurred since 2014), which provides a baseline for the assessment. The forecasted traffic flows from the development have been modelled, to assess the developments impact on the junctions in the vicinity of the site. Traffic collision data has also been collected for the area to establish whether there are any safety concerns in the area (Albert Road, Southwall Road, London Road, Church Lane and Orchard Avenue). Records for the last five years shows that there have been twelve reported accidents, seven of which were 'slight' and five were 'severe'. These were split by years as follows: 2012, 0 accidents; 2013, 4 accidents; 2014, 4 accidents, 2015, 1 accident; 2016, 1 accident; and 2017, 2 accidents. Whilst there are records of accidents in the area, there are no patterns or clusters (for example, there is no particular junction or stretch of road which is particularly susceptible to accidents).
- 2.27 The application also includes a junction capacity model, known as a PICARDY model. This model is also a nationally recognised standard methodology for estimating, junction capacities, queues and delays, having regard for the vehicle movements to and from the site and the geometry of and visibility from junctions. The model has been set-up to have regard for the most likely routes to and from the site and has regard for the committed development (i.e. planning permissions which are yet to be built out). Given the predicted routes of future residents, the impacts on junctions can be assessed. All movements would access the new link road which was approved on the adjacent site, with around 22 movements (on average one every three minutes) turning right towards Albert Road and around 11 movement (on average one every six minutes) turning left towards Southwall Road. A junction is considered to be approaching capacity when the Ratio of Flow to Capacity (RFC) reaches 0.85 or higher (i.e. the number of vehicles travelling through the junction reaches 85% of its design capacity). At the link road/Albert Road junction the RFC would increase from 0.28 to 0.33 during the AM peak and from 0.16 to 0.18 during the PM peak. At the link road/Southwall Road junction the RFC would increase from 0.24 to 0.26 in the AM peak and from 0.18 to 0.19 in the PM peak.
- 2.28 Impacts on junction in the surrounding area have also been considered. A 5% increase in traffic at a junction is generally considered to represent a potentially material impact. The predicted increases on London Road/Middle

Deal Road is between 0.9% and 1.1%, whilst on London Road/Albert Road an increase of between 1.8% and 2% is predicted, well below the 5% increase which is typically considered to be material. Traffic flows beyond these junction quickly dissipates into the network and, consequently, no other junction would be significantly impacted.

- 2.29 The submitted plans show that the access roads around the site would be 6m in width, sufficient to allow for vehicles to pass each other and to allow for fire appliances, refuse vehicles etc. to navigate the site. Tracking plans have been included with the application to demonstrate how these vehicles could use the site. Additionally, the geometry of roads within the site have been designed such that they are suitable for larger vehicles including fire appliances and refuse vehicles, with turning heads being proposed to allow larger vehicles to both enter and exit the site in a forward gear. Plans have also been submitted which demonstrate that visibility splays of 22m by 2.4m by 22m could be achieved at the junctions within the site, although care will need to be taken to ensure that there are no obstructions within these splays. This could be secured by condition. Likewise, the details of the roads, including the approval of a timetable for the surfacing of the roads to ensure that the wearing surface is laid to serve the development, should be secured by condition.
- 2.30 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. The precise mix of dwellings is unknown at this outline stage, so it is assumed that the mix will conform to the proportions identified in the core strategy (i.e. 15% one-bedroom, 35% two-bedroom, 40% three-bedroom and 10% four-bedroom). Taking this mix, and having regard for the nature of the sites location (i.e. suburban), development would be likely to generate a need for between one (for one and two bedroom dwellings) and two (for three and four bedroom dwellings) parking spaces per dwelling, together with 0.2 spaces per dwelling for visitors. In total, the 63 dwellings proposed would produce a requirement for around 83 spaces for residents, plus 13 spaces for visitors, albeit these figures are described as minimums. The indicative layout provides 106 spaces for occupants and 16 spaces for visitors, significantly exceeding the minimum provision required by Table 1.1 of the Core Strategy. Whilst this layout, and the number of car parking spaces provided will not be secured until the reserved matters stage, the indicative details demonstrate that the site is capable of meeting the need generated.
- 2.31 The construction phase would be likely to require significant vehicle movements, whilst areas would need to be set aside for the parking of construction vehicles to ensure that they are not parked inappropriately. Consequently, it is considered that KCC Highways request for a construction management plan to be secured by condition is reasonable. Likewise, the other recommended conditions, relating to securing details, and ultimate provision, of car and cycle parking, roads, footways and other highway infrastructure, is necessary. Subject to these conditions and for the reasons set out above, it is concluded that the development would cause no unacceptable harm to highway safety or the functioning of the local highway network.

Flood Risk

- 2.32 The site lies within Flood Risk Zone 3. The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).

Continuing to say that, where development is necessary in such areas, the development should be made safe for its lifetime without increasing the flood risk elsewhere. Where development within areas at risk of flooding is proposed, paragraphs 157 to 161 of the NPPF require that the Sequential Test is applied and, if necessary, that the Exception Test is applied.

- 2.33 The aim of the Sequential Test is to steer development to areas with the lowest risk of flooding. However, development may be permitted where there are no reasonably available sites which are appropriate for the development in areas with a lower probability of flooding. The Exception Test comprises two components. The first is that the development should only be permitted where it would provide wider sustainability benefits that outweigh the flood risk. The second component is that the development must be safe for its planned lifetime, without increasing the risks of flooding elsewhere.
- 2.34 The application has been supported by a site specific flood risk assessment and a sequential test report. These confirm that the site is in Flood Risk Zone 3, where there is a 1 in 200 or greater probability of flooding from the sea in any one year. Floods (from the sea) have been recorded in 1897, 1927, 1953, 1956, 1978, 1990 and 1996. The site is not located in an area identified by the Environment Agency as being at risk of flooding from rivers. The site does benefit from a degree of protection from The Deal Coastal Defence Scheme, which was completed in April 2013 (although it should be noted that these flood defences were designed to protect existing settlements and not to open up land for new development).
- 2.35 There is an established need for housing within the Deal area (incorporating the contiguous built up areas of Walmer, Sholden and Great Mongeham). The Core Strategy allocates a need for 1,600 dwellings, which is geared around meeting local rather than strategic needs. The Land Allocations Local Plan acknowledges that there are limited opportunities for further development within the town. The six allocated sites within Deal provide approximately 800 dwellings. Whilst extant planning permissions (including the approved development on the adjacent site at Albert Road) coming forward will reduce this deficit, there remains an unmet housing need in Deal.
- 2.36 Given that the need for housing in Deal is based on local rather than strategic need, it is considered that it is appropriate that the sequential assessment should focus upon the Deal area. The application has been supported by a sequential assessment, which references the sequential assessment undertaken in relation to the approved application for the neighbouring site at Albert Road and utilises the same three pronged approach to establishing whether any reasonably available and appropriate sites with a lower risk of flooding. Firstly, a sifting process was undertaken to establish where sites of comparable size are located. Secondly, enquiries were made to agents (Tersons, Pearson Gore and BTF) to ascertain whether comparable sites are being offered on the market. Finally, the applicant engaged with the Councils Planning Policy Team to ascertain whether there were any comparable sites coming forward. The process considered sites 20% larger or smaller than that which is currently being applied for to broaden the scope of the results and the potential alternative sites. However, in accordance with National Planning Practice Guidance, sites were only considered if they were 'developable' and 'deliverable'. The applicant's agent has built upon the work carried out in relation to the Albert Road application, confirming that it remains the case that there are no sequentially preferable sites. It is considered that this conclusion is reasonable and therefore the sequential test is considered to have been

passed. This conclusion corresponds with the conclusions made by the Deal Transport & Flood Alleviation Model Study, which identifies the application site (and additional land further to the north) as the preferred focus for residential development.

- 2.37 As the site is located in Flood Risk Zone 3a and is classed as 'more vulnerable' development, it is necessary to apply the Exception Test. The Exception Test is formed of two parts, both of which must be passed. The first part of the test relates to sustainability benefits to the community. The development would provide an additional 63 dwellings in a location which is well related to the facilities and services of Deal and well linked to the public transport network. These dwellings would provide a significant and valuable contribution towards the lack of housing land supply and, in particular the specific lack of housing provision to meet the local needs of Deal. It is considered that this benefit is significant and would outweigh the risks from flooding, albeit this is a very balanced assessment, and, as such, the first part of the Exception Test would be met.
- 2.38 The second part of the test requires that a site-specific flood risk assessment be prepared which demonstrates that the development will be safe over its planned lifetime without increasing flood risk elsewhere. Reductions in flood risk should be sought where possible. The planned lifetime of residential developments is typically considered to be 100 years.
- 2.39 The submitted Flood Risk Assessment establishes the level of risk from various sources of flooding, having regard for climate change. The site is within Flood Risk Zone 3a, where there is an identified risk from flooding from the sea. The site is not, however, identified on the Environment Agency maps as being at risk from flooding from rivers or surface water (although some areas off-site are considered to be at risk), whilst there is a low risk of flooding from rising groundwater. No other risks of flooding have been identified for the application site.
- 2.40 The submitted report also concludes that the site would not be vulnerable to coastal flooding, particularly given the presence of coastal flood defences which provide 1 in 300 year protection. The assessment has also tested the impacts of flooding using a 'design flood event'. The water level, adapted for climate change to 2115, during a 1 in 200 year extreme would be 5.68m AOND. The flood defences in Deal rise to between 6.5m and 7m AOND. Should wave overtopping of the defences occur, flood waters would not reach the site. The report also assesses the flood risks in the event that the flood defences are breached, concluding that there would be a residual risk of flooding if there were a 200m breach in the defences at Sandown Castle. Whilst the risk of flooding is therefore very low, there is a requirement to take a precautionary approach. In such extreme events, flooding of the site could reach 0.4m in depth, with a maximum flow velocity of up to 0.7m/s. The design flood event concludes that it would take 3 hours and 30 minutes for flood waters to reach the site and a further 11 hours and 15 minutes for the flood water on site to reach its maximum depth. It is necessary to consider whether the development can be designed in a manner which ensures that the residual risk of flooding does not harm the safety of the users and does not increase the risk of flooding elsewhere.
- 2.41 In order to ensure the safety of occupants of the dwellings, the applicant has proposed a series of mitigation measures. The Environment Agency have advised that they raise no objections to the application, subject to mitigation

measures being secured. These would require that, inter alia, the development is carried out in accordance with the submitted Flood Risk Assessment and, in particular, finished floor levels are set above the design flood level. It is considered that it would be reasonable to secure this mitigation by condition and, subject to this, the development would be safe over its planned lifetime, thus passing the second part of the exceptions test.

Drainage

- 2.42 The National Planning Policy Statement, at paragraph 163, states that local planning authorities should ensure that flooding is not increased elsewhere, going on to say that development should only be allowed in areas of flood risk, such as this, if it can be demonstrated, inter alia, that it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate. Sustainable drainage systems are designed to control surface water run off close to where it falls and mimic natural drainage as closely as possible.
- 2.43 The Lead Local Flood Authority (LLFA's, in this case KCC) is a statutory consultee, providing professional advice on the provision of surface water drainage. KCC have issued a Drainage and Planning Policy Statement, which sets out how applications will be assessed. In particular, SUDS Policy 1 within this plan sets out the hierarchy for dealing with surface water. The full hierarchy is as follows:
- to ground;
 - to a surface water body;
 - a surface water sewer, highway drain, or another drainage system; or
 - to a combined sewer where there are absolutely no other options, and only where agreed in advance with the relevant sewage undertaker.
- 2.44 KCC, in association with eight other Lead Local Flood Authorities across south east England have also prepared a document called 'Water, People, Places' which provides advice on the incorporation of SUDS into development. This guidance advises that, where a site lies over a water table which is relatively close to the surface, SUDS should be selected and designed to be on the surface or shallow in depth.
- 2.45 The previous applications for the adjacent site acknowledged that there have been serious and repeated issues within the locality, with numerous flooding events within the Albert Road area. The LLFA has investigated one of these flooding events, which occurred on 21st May 2014, concluding that this flood was caused by an electrical fault at the Golf Road pumping station, resulting in the foul sewers backing up with rainwater. Flooding events have typically occurred during periods of heavy rainfall.
- 2.46 The Council has prepared the Deal Flood and Transport Alleviation Model, which formed part of the evidence base for the Land Allocations Local Plan. The report sought to establish the broad extent and general location of future growth in the North and Middle Deal areas, by investigating transport, flood, environment and heritage constraints and opportunities. The study concluded that the application site, the neighbouring site which has now received planning permission and additional land to the north of the site, represents the preferred location.

- 2.47 The application has been supported by a Surface Water Management Strategy (SWMS) which is contained within the Flood Risk Assessment. The existing site, which is undeveloped, discharges surface water in an unmanaged manner, with a mixture of run-off to the on-site drainage ditch and off-site watercourses together with infiltration. The development on the adjacent site will deliver enhancements (widening and clearing drainage ditches and watercourses and unculverting sections of watercourses).
- 2.48 The preference is for surface water to be dealt with on-site by infiltration. If this is not possible, surface water should be discharged to a surface water body. The third approach, if the first two preferred methods are not practicable, is to drain via a combined sewer and, only if none of the preferred approaches are viable, and in exceptional circumstances, surface water can be discharged via a combined sewer.
- 2.49 The SWMS provides a feasibility study which, whilst not a detailed drainage scheme, explores the options which are available to provide a suitable solution. The chosen solution, which has been designed to mimic the existing flows from the site, is to provide permeable hardstandings within the site which will allow water to slowly flow into the existing watercourse, at a maximum rate to 2.0l/s. A shallow basin, lowered by around 300mm, would provide 140sqm of storage capacity which would be sufficient to store water for short periods in extreme weather such that the outflow is maintained at pre-development rates of 2.0l/s. During normal weather conditions the shallow basin could be used for informal recreation. The LLFA have advised that whilst further work needs to be undertaken, they are satisfied that, subject to conditions, surface water management measures can be appropriately provided within the application site. Given that it has been demonstrated that the site could, subject to detailed design, accommodate surface water run-off which would replicate existing run-off, it is considered that the development would cause no increased risk of localised flooding from surface water. Should permission be granted, it will be necessary to include a condition requiring full details of the drainage strategy, including an implementation timetable, verification report to confirm that the approved system has been implemented and details of future maintenance.
- 2.50 Turning to foul drainage it is again acknowledged that there are understandable concerns locally regarding the capacity of the foul sewerage system following flooding events which have caused substantial distress.
- 2.51 This application follows an application for the development of the adjacent site at Albert Road, which was approved in outline subject to a condition requiring details of the proposed sewerage system, including off-site works, and subsequently, an approved application to vary the drainage condition to remove specific reference to the need to carry out off-site pipework improvements. The latter approval followed additional information which was provided by Southern Water to confirm that the capacity of the sewerage network was sufficient to meet the needs of the development at Albert Road.
- 2.52 Foul water from the proposed scheme would drain into the existing foul sewer network. Southern Water have advised that a desk study has been undertaken which indicates that there is currently inadequate capacity in the local network to provide foul sewerage disposal to the proposed development and, as a consequence, off-site works will be required to ensure that there isn't an increased risk of flooding. Whilst off-site works would be funded through the New Infrastructure Charge and Southern Water's Capital Works programme,

Southern Water and the developer would need to work together to ensure that the provision of sewerage infrastructure aligns with occupation (i.e. it is necessary to ensure that there is no occupation until adequate capacity is available. A condition, requiring the applicant to submit a timetable for the delivery of a drainage scheme to meet the needs of the development, has accordingly been recommended.

- 2.53 As previously commented upon, there have been localised flooding events in and around Albert Road, whilst significant and understandable concerns have been raised in this respect by third parties. There has also been inconsistent advice from Southern Water regarding the adjacent site at Albert Road, having first recommended that off-site works were necessary before later advising that no such works were required (nor was it possible for these works to be provided). Given this situation, the Council have sought independent professional advice from a consultant engineer who specialises in providing advice on foul drainage infrastructure.
- 2.54 The consultant's report confirms that flows from the development will be routed through the adjacent Albert Road site and connect into the existing 450mm sewer in Albert Road. This sewer was only recently discovered by Southern Water, who have confirmed that the sewer has "few properties" connected to it.
- 2.55 The peak foul flow from the development has been calculated by the consultant, who has adopted the calculation methodology used by Southern Water which was updated in January 2018 and which has regard for Building Regulation requirements for water usage, concluding that foul flows would be up to 0.33l/s. An additional 4l/s has been allowed for misconnections (i.e. surface water drains which incorrectly discharge into the foul sewer), albeit the consultant considers that it is very unlikely that misconnections would amount to 4l/s, as the development will have new foul and surface water drainage systems designed to current standards. The 450mm pipe could provide a maximum flow capacity of 161l/s. The foul flow from the development would therefore equate to just 0.2% of the capacity of this pipe whilst the precautionary figure of 4.33l/s, accounting for potential misconnections, would equate to 2.6% of the pipes capacity.
- 2.56 Using the same criteria, the Albert Road development would produce a maximum of 9l/s (including surface water misconnections). This combined with the flows from the development proposed by this application (i.e.13.33l/s) would equate to around 8% of the total capacity of the 450mm sewer in Albert Road. Given that Southern Water have confirmed that "few properties" currently connect to this sewer, it must be concluded that this sewer has more than 8% capacity remaining. Consequently, the consultant has advised that the foul sewerage network can accommodate the development without requiring infrastructure improvements. As can be seen, there is a difference of opinion between Southern Water and the Councils consultant. Southern Water have been asked to provide a further comment, who have confirmed that, on the basis that this development drains through the adjacent Albert Road development site, there are no issues in capacity as has been previously demonstrated by Southern Water have previously demonstrated. Consequently, Southern Water agrees with the council's consultant that adequate capacity exists.
- 2.57 It is recommended that a detailed on-site drainage design should be prepared in compliance with the current Sewers for Adoption requirements, prior to the

commencement of the development, which should demonstrate that foul and surface water flows will be separated to minimise risks of surface water entering the public foul sewerage system. Officers are of the opinion that such a condition should also include a timetable for the provision of the on-site infrastructure.

Ecology

- 2.58 It is necessary to consider whether the development would cause harm to protected or notable species or their habit, or harm other ecological designations. In making these assessments, particular regard has been had for the Standing Advice published by Natural England.
- 2.59 The site largely comprises an arable field which, although does not appear to have been actively farmed recently, is generally maintained with little vegetation growth. This area therefore has no features likely to provide habitat for protected or notable species. The boundaries of the site include rows of trees and hedges. Whilst lacking many mature trees and having no veteran trees, being species poor and typically lacking an extensive understory, the network of trees and hedges is of moderate ecological value.
- 2.60 The habitat on site has a potential to support bats, in particular one tree having a moderate potential and two trees having low potential. Survey work has recorded no evidence of roosting activity in these trees. Consequently, whilst there is a negligible risk to bats, the submitted report recommends re-surveying before any trees are removed. The hedgerows provide opportunities for foraging; however, these are to be retained. Whilst the proposals would not directly impact foraging bats, the report recommends that details of external lighting be carefully considered to avoid disturbance.
- 2.61 Reptiles were identified on the adjacent site during previous survey work. The field and treeline are of limited value to reptiles, although some vegetation to the boundaries of the site has some (low) potential to support reptiles. Consequently, the report recommends that safeguards are put in place during the construction period.
- 2.62 The site is unlikely to be of value to amphibians, whilst the nearest pond to the site is a significant distance away. This pond was the subject of a presence/likely absence survey which produces no evidence for amphibians. Consequently, amphibians are not a constraint to development.
- 2.63 The report confirms that the site survey identified no evidence for badger, water vole, rare or notable invertebrates, dormice or any other mammal.
- 2.64 Having regard for the habitat on the application site and the likelihood of various species being affected by the development, a series of mitigation measures are recommended. These include: timing of the works to minimise disturbance; undertaking further surveys to ensure that absent species have not populated the site after the previous surveys were undertaken; providing refugia for species; designing boundaries to allow for the movement of animals; inspecting trees for signs of bats before felling; and producing a detailed lighting scheme to avoid disturbance of bats. These measures can be secured by condition and, subject to these, it is considered that the development would cause no harm to protected species or habitats.

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

- 2.65 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.
- 2.66 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.
- 2.67 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.
- 2.68 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.
- 3.69 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.
- 2.70 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.

Contamination

- 2.71 The site has had little historic use and, as such, has a low risk of contamination. However, given the sensitivity of the end use, Environmental Health have advised that conditions be attached to any grant of permission to require a ground gas assessment and a scheme of investigation and remediation of any previously unidentified contamination, should it be discovered during development. Given the scale of the development and given the distance to the nearest Air Quality Management Area, it is not considered that material harm would be caused in terms of pollution.

Contributions

2.72 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.

2.73 Policy CP6 requires that development which generates demand for addition infrastructure will only be permitted if the necessary infrastructure is either in place or where it can be provided. KCC have advised that the development would place additional pressure on local infrastructure, including primary and secondary education, libraries, community learning, and Social Care. KCC have also advised that there is currently insufficient capacity to meet this need. In order to meet this additional demand, KCC have requested that the development provides the following contributions for the specified projects:

- Primary Education - £164,538 towards Phase 2 of the expansion of Deal Parochial Primary School.
- Secondary Education - £203,695 towards Phase 1 Dover Grammar School for Girls
- Community Learning - £1615.25 towards IT equipment for the new learners at Deal Adult Education Centre
- Libraries - £3025.26 towards "Digital Den" technology cart for 5-11 year olds at Deal Library
- Social Care - £4804.38 towards Meadowside Social Car Hub in Deal and the provision of 1 wheelchair adaptable home.
- It is also recommended that high speed broadband be provided to the dwellings.

KCC have provided details regarding how these costs have been calculated and it is considered that these are necessary and reasonably related to the development and should therefore be sought. Special comment should be made of the request for a contribution towards Dover Grammar School for Girls, which is located some distance from the application site. However, whilst there is some geographic distance from the site, it is one of the closest secondary schools to the site and is likely to draw significant numbers of pupils from the proposed development. Consequently, it is considered that the request meets the relevant tests for developer contributions.

2.74 The NHS have also advised that there is currently insufficient capacity in its doctors surgeries to meet the needs arising from the development. The only option available to increase capacity to meet this demand is the internal redesign of the Balmoral Surgery to provide additional clinical space to cater for the occupants of the new development. A plan has been drawn up for this project which would cost £308,625. The NHS had originally advised that a proportionate contribution for the development would be £51,840, based on a fixed contribution of £360 per patient generated. However, the figure of £360 per patient was generic and not specific to the identified project. Contributions must be proportionate to the additional infrastructure which would be generated by the development. The total cost of the project is identified as £308,625, which would provide space for an increase in patient numbers of 3,113 (equating to £99.14 per additional patient). The development would produce 144 patients (around 4.63% of the total number of patients the project would support). It is therefore considered that a proportionate contribution would be £14,276.26. The NHS have advised that they accept that this

reduced contribution is reasonable and have amended their request accordingly.

- 2.75 Policy DM27 requires that developments contribute towards the provision of open space to meet the needs which will be generated by the development. The Principal Infrastructure and Delivery Officer has advised that the development would create a need for: 0.32ha of accessible green space; 0.17ha of outdoor sports facilities; 0.008ha of children's equipped play space; and 0.03ha of allotments or community gardens. However, due to practical difficulties in providing contributions for all of these uses, the advice has been to concentrate the contributions on the provision of children's play space and outdoor sports facilities. Projects have been identified, comprising 80% of the total cost of a new play area (including 15 years maintenance) at North Deal Playing Field and the cost of providing 2.6 tarmac tennis courts at Victoria Park, both of which are well located to the site and capable of providing increased capacity. The contributions for these projects equate to £25,864 and £70,000 respectively. The applicant has advised that they would prefer to provide an equipped children's play area on site, negating the need for an off-site contribution, the details for which should be secured by condition.
- 2.76 The applicant has advised that the development is unable to provide all of the policy compliant contributions whilst maintaining a viable development. Consequently, the applicant has submitted a Viability Assessment to support their application.
- 2.77 The submission valued the market dwellings at between £195,000 and 295,000, with a Gross Development Value (GDV) for the scheme (including 6 affordable flats) of £15,485,000. Acquisition costs for the site, based on paying a fixed price of £200,000 per acre, were estimated to be £1,106,665. Construction costs for the dwellings were estimated to be £7,004,645, together with a further £2,966,419 to provide utilities, land raising and site preparation, to construct roads, drainage and with £315,000 set aside for developer contributions. Other costs, for example those related to financing, marketing and sales, come to £1,474,493. Consequently, the estimated total costs amount to £12,552,222, leaving a profit of £2,932,778 or 18.94% profit on GDV. This would allow for the provision of six affordable dwellings on site and a pot of £315,000 for developer contributions.
- 2.78 The Councils Viability Consultant questioned a number of the assumptions made within the submitted statement and sensitivity tested the applicants viability appraisal. The consultants considered that the land value of £200,000 per acre could not be justified, initially suggested that a value closer to £60,000 per acre would be more reasonable. Following negotiations, a position of £100,000 per acre was agreed. The applicant's viability statement confirms that there are two ransom payments required to access the site. Planning Guidance does not confirm whether ransom or access payments should be taken into account when considering viability. However, RICS guidance (albeit dating from August 2012) advises that:

“Often, in the case of development and site assembly, various interests need to be acquired or negotiated in order to be able to implement a project. These may include: buying in leases of existing occupiers or paying compensation; negotiating rights of light claims and payments; party wall agreements, oversailing rights, ransom strips/rights, agreeing arrangements with utility companies; temporary/facilitating works, etc. These are all relevant development costs that should be taken into

account in viability assessments. For example, it is appropriate to include rights of light payments as it is a real cost to the developer in terms of compensation for loss of rights of light to neighbouring properties. This is often not reflected in Site Value given the different views on how a site can be developed”.

Given the ambiguity as to whether such payments should or should not be included, the council have sought counsel opinion. This has confirmed that ransom payments can lawfully be taken into account in a viability appraisal. However, counsel also advised that the onus is on the developer to justify why this payment was agreed at that level and the reasonableness for the level of the payment.

- 2.79 The applicants have submitted a letter from their RICS Registered Valuer, which seeks to justify the reasonableness of ransom/access payments. This advises that payments have both been based upon a proportion of the uplift in land value (i.e. the additional land value achieved by the site as a result of becoming accessible). The larger of the two access payments of also accounts for the provision of services up to the edge of the application site. The letter was used in negotiations between the developer and the Council to establish a reasonable access payment across Council land, and has been accepted by the Council's officers within the Property Services team (although this matter is scheduled to be reported separately to the Council's Cabinet meeting later in the year). At the time of writing, this information has not been presented to the Council's Viability Consultant to confirm whether this information is sufficiently robust and justified. However, an update regarding this matter can be provided at the committee meeting.
- 2.80 Concern was initially raised that the purported abnormal costs (ground raising, unusually expensive drainage solutions etc.) had not been evidenced. The applicants subsequently provided specific evidence and costing's for these costs, which has been accepted by the Council's consultant. Finance costs were also questioned, with the applicant adopting the Council's consultant's position. The profit level, initially 20%, was also called into question, with the parties eventually agreeing that a reduced level of 18.5% would be reasonable.
- 2.81 Having regard for the above changes, the Council's consultant re-ran the viability appraisal. The conclusion of the viability exercise is that the development can support the provision of ten on-site affordable dwellings (around 15.9% of the total number of dwellings), contributions totalling £377,678 towards KCC infrastructure (100% of the contributions requested) and £14,276.26 towards increasing NHS capacity (100% of the contribution requested). As such, the development would comply with policy CP6, but would provide just over half of the 30% affordable housing provision sought by Policy DM5. However, it must be noted that DM5 acknowledges that “the exact amount of affordable housing, or financial contribution, to be delivered from any specific scheme will be determined by economic viability having regard to individual site and market conditions”. The flexibility in this policy replicates the approach advocated in the Planning Practice Guidance which allows consideration to be had for viability.
- 2.82 The request for Open Space contributions was received after the viability testing had been run and the requested contributions were not therefore taken into account. However, given that the viability exercise showed a small surplus (and given that the NHS reduced their request due to a miscalculation), the

applicant has agreed that the additional contributions are agreed, as they would not unacceptably prejudice the viability of the scheme. It is considered that the viability of the development has been rigorously examined and tested by independent specialist consultants. These negotiations have increased the number of affordable dwellings to be provided on-site from six to ten and increased the total financial contributions from £315,000 to £461,954.15. It is considered that, even with these increased contributions, the development would remain viable and the applicant has confirmed that they have accepted this position.

2.83 For clarity, the development would fund the following contributions:

- Ten affordable dwellings to be provided on site (around 15.9% of the total number of dwellings proposed)
- KCC contributions comprising:
 - Primary Education - £164,538
 - Secondary Education - £203,695
 - Community Learning - £1615.25
 - Libraries - £3025.26
 - Social Care - £4804.38
- Children's play space – to be provided on site
- Outdoor sports facilities - £70,000
- NHS - £14,276.26

The total contributions amount to ten affordable dwellings and £461,954.15.

Other Matters

2.84 The applicant has submitted a brief Economic Benefits Statement which advises that the construction phase would generate 63 jobs, together with a further 38 indirect jobs, over the two year construction period. The combined direct and indirect construction output (Gross Value Added) of £10.7m. Whilst this is material, it is considered to carry limited weight. The applicant has also advised that the development would deliver a New Homes Bonus which would total £338,000 over a four year period whilst the development, once built, would provide £101,000 of additional council tax payments. The Council are also due to receive an access/ransom payment outside of the planning application. The LPA must have regard for local financial considerations, as far as they are material to the application. In this case, the New Homes Bonus, council tax receipts and access/ransom payment would not make the development acceptable in planning terms and, as such, are not material considerations in the determination of this application. In reaching this conclusion, it is noted that the Planning Practice Guidance states that "it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body". Therefore this is not a material consideration and cannot be attributed weight. Finally, the applicant has advised that the development would produce economic output and expenditure, a proportion of which would likely be spent in the locality. Whilst the occupants of the development would spend in the local area, it is not considered that this perceived benefit is particular to this development and, instead, is a benefit of increasing the local population more generally.

Conclusions

- 2.85 The principle of the development would be contrary to policy DM1, being outside of the defined settlement confines, but is in an area which has been identified as having potential for meeting the local housing needs of Deal. Having regard for the significant weight which must be given to the need to provide housing and the sustainability of the sites location it is considered that material considerations indicate that a departure is justified in this instance.
- 2.86 The development has been the subject of a viability assessment to consider what level of contributions can be supported by the development. This has been reviewed and challenged and, consequently, the level of affordable housing and contributions has been significantly increased. It is considered that this final provision can now robustly be shown to be the optimum level of contributions which can be provided by the development, without prejudicing its viability (albeit an update will be provided to members regarding the justification for the access/ransom payments).
- 2.87 Special attention has been paid to flood risk and surface and foul drainage, concluding that there are no sequentially preferable sites available, that the development would be safe over its planned lifetime and that the development would not increase the risks of flooding on-site or elsewhere.
- 2.88 Regard has been had for all other material considerations and, subject to conditions, found to be acceptable (or capable of being acceptable, given that appearance, landscaping, layout and scale are reserved). An Appropriate Assessment has been undertaken, which once mitigation is considered, demonstrates that the development would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. For these reasons, it is recommended that outline planning permission be granted.

g)

Recommendation

- I Subject to confirmation regarding the reasonableness of the reported access/ransom payments and the submission and agreement of a s106 agreement to secure affordable housing and contributions, OUTLINE PERMISSION BE GRANTED subject to conditions to include:-
- (1) Standard outline conditions, (2) provision and retention of car parking and turning areas, (3) provision and retention of cycle parking, (4) full details 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, and a timetable for their provision to be submitted with the reserved matters application, (5) details of measures to prevent surface water run-off onto the highway, (6) Archaeology, (7) full details of surface water drainage strategy, including a timetable for the provision of infrastructure, a verification report and a maintenance programme, (8) full details of foul water drainage strategy, including a timetable for the provision of infrastructure, a verification report and a maintenance programme, (9) development in accordance with Flood Risk Assessment, (10) no piled foundations unless agreed, (11) radon gas protection measures, (12) previously unidentified contamination, (13) construction management plan, (14) full details of all external lighting (with no other lighting other than that which is approved), (15) details of permeable boundary treatments to be submitted with the reserved matters application and removal of permitted development rights for boundary treatments, (16) ecological mitigation

measures, (17) noise mitigation, (18) details of the provision of visibility splays to be demonstrated by reserved matters, (19) scheme for the provision of on-site Local Equipped Area of Play.

- 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



Not to scale

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Application: DOV/18/00663

**Plots 17 & 24 Bisley Nurseries,
The Street,
Worth,
CT14 0FD**

TR33525627 & TR3340 5618



- a) **DOV/18/00663 – Erection of six dwellings (replacing two dwellings granted under application number DOV/15/00749 – Plots 17 and 24 Bisley Nurseries, The Street, Worth**

Reason for report: Due to the number of contrary views. The application has also been called to Planning Committee by Cllr Carter, on the grounds that: the development is contrary to the Worth Neighbourhood Development Plan; concerns regarding the capacity of foul sewerage infrastructure; and the development would increase traffic flow problems.

- 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 1,200 (around 8%) is identified for the rural areas.
- CP4 - Developments of 10 or more dwellings should identify the purpose of the development in terms of creating, reinforcing or restoring the local housing market in which they are located and development an appropriate mix of housing mix and design. Density will be determined through the design process, but should wherever possible exceed 40dph and will seldom be justified to less than 30dph.
- CP6 – Development which generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.
- DM1 – Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM5 – Development for 15 or more dwellings will be expected to provide 30% affordable housing at the site, in home types that will address prioritised need.
- DM11 – Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- DM13 – Parking provision should be design-led, based upon an area's characteristics, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.
- DM15 – Development which would result in the loss of, or adversely affect the character and appearance of the countryside will not normally be permitted.

- DM16 – Development that would harm the character of the landscape will only be permitted if it is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures or it can be sited to avoid or reduce harm and incorporate design measures to mitigate impacts to an acceptable level.

Land Allocations Local Plan

- 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.

Worth Neighbourhood Development Plan

- WDP01 – Allocates the wider site for residential development of approximately 30 dwellings, provided that a series of nine criteria are satisfied.

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 confirms that the Government's objective is to significantly boost the supply of homes and requires authorities to seek to deliver a sufficient supply of homes, based on a local housing need assessment. The size, type and tenure of housing for different groups in the community should be assessed and reflected in policies. 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

Local Planning Authorities should identify a five year supply of specific, deliverable sites and identify more broadly supply beyond this.

- 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 highway 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, having regard for: the need for different types of housing and the availability of land suitable for accommodating it; local market conditions and viability; the availability and capacity of infrastructure and services (including the ability to promote sustainable travel modes); the desirability of maintaining an areas prevailing character; and the importance of securing well-designed, attractive and healthy places. Where there is an anticipated shortfall of land to meet identified need, low densities should be avoided.
- 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 fourteen requires that development should be directed away from areas at the highest risk from flooding. All development in areas which are at risk from flooding should be subjected to the sequential test, which seeks to steer new development towards areas with the lowest risk of flooding. Development should not be granted in areas at risk from flooding if there are reasonably available sites in areas which have a lower risk of flooding. Development should also be subjected to the exception test which requires that the development provides wider sustainability benefits to the community that outweighs flood risk and that the development will be safe over its planned lifetime.
- 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. Paragraph 177 states that “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”.
- Chapter sixteen requires that development conserves and enhances the historic environment. An assessment should be made as to whether the development would cause harm to the significance of a heritage asset and, if so, whether this harm would be substantial or less than substantial. Any harm must be weighed against the public benefits of the scheme. 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/15/00749 - Outline application of the erection of up to 32 dwellings with public open space, paddocks and car park for village hall (with some matters reserved) – Granted

DOV/16/01161 - Reserved matters application pursuant to outline application DOV/15/00749 for the details of the appearance, landscaping, layout and scale of 32 dwellings with public open space, paddocks and car park for village hall – Granted

DOV/17/00831 - Variation of condition 17 of planning permission DOV/15/00749 to make amendments to the provision of affordable housing (application under Section 73) - Granted

e) **Consultee and Third Party Responses**

KCC Contributions – Request that the development provides a contribution of £192.06 towards library services. An informative regarding Next Generation Access Broadband is also suggested.

KCC Public Rights of Way – No comments as the changes do not have a direct impact on the existing Public Rights of Way.

Southern Water – The exact position of the public water main must be determined on site by the applicant before the layout of the proposed development is finalised and the main should be protected during construction. A formal application should be made to Southern Water for a connection to the public foul sewer.

Worth Parish Council – Object, as it increases the number of houses on site by four and this increases the pressure on the waste water for the site. The application does not coincide with the Worth Neighbourhood Development Plan.

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

- The development would be contrary to the Worth Neighbourhood Development Plan
- The WDP policy specified a definitive number of houses
- Additional affordable housing will be required
- Southern Water have no intention of improving existing sewers, whilst the development would place additional pressure on the system
- Additional traffic in the village and on the A258 and other roads
- The roads in the vicinity of the site are already unsafe
- Insufficient car parking
- There are concerns regarding flooding
- Inadequate infrastructure to accommodate the development
- The development would erode the character of the village
- There is no need for more houses in the village
- Loss of agricultural land
- The village lacks facilities and services
- Other dwellings have been built in Worth which were not included in the WDP
- There is no evidence that the larger dwellings are unviable

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

1.1 The site lies adjacent to the built up area of Worth, which is defined as a Village within the Core Strategy. Villages are designated as the tertiary focus for development in the rural area. The village is also the subject of an adopted neighbourhood development plan which, sitting alongside the local development plan, sets the planning policies for the area.

1.2 Worth contains a limited range of facilities and services, including an equipped play area, a village hall, a Church, a public house and a primary school. The site is also relatively close to Sandwich, which is defined as a Rural Service Centre and contains a much wider range of facilities and services.

- 1.3 Worth is relatively well served by public transport with bus stops along Deal Road providing hourly services to Deal, Sandwich and Canterbury, whilst the nearest mainline train station (Sandwich) is located around 1.5km to the north. The majority of the facilities and services within the vicinity can be accessed by footpaths, the majority of which are lit.
- 1.4 The site itself is designated within the Worth Neighbourhood Development Plan, at policy WDP01, as a development site for the provision of approximately 30 dwellings. The site was formally used as a plant nursery and included a range of glass houses. Planning permission (DOV/15/00749 and DOV/16/01161) has been granted for the erection of 32 dwellings, following the demolition of an existing dwelling (i.e. a net increase of 31 dwellings), construction of which is nearing completion.
- 1.5 This application seeks full planning permission for the conversion of the two largest dwellings on the site, approved under the previous planning application (DOV/15/00749 and DOV/16/01161) into three dwellings each, thereby providing six dwellings in place of the two dwellings which have been approved. The location, scale and form of the buildings would be unaltered from the approved scheme, whilst the design of the buildings would be varied slightly to provide three entrances in place of one. The rear garden would be subdivided into three.

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
- Drainage

Assessment

Principle

- 2.2 The site lies within an area which has been designated for residential development within the Worth Neighbourhood Development Plan, under policy WDP01. This policy permits development for approximately 30 dwellings, subject to 12 criteria. These criteria relate to material considerations and will be addressed under the appropriate headings within this report.
- 2.3 The approved development on the site allows for the erection of 32 dwellings, following the demolition of one dwelling, providing a net increase in dwellings of 31. The current application would increase the number of dwellings provided by the development from a net increase of 31 to a net increase of 35. As has been set out in many of the representations which have been submitted, the number of dwellings proposed exceeds the number envisaged by WDP01, albeit that number was an approximation. Consequently, there is some tension with that policy.
- 2.4 It is acknowledged that the Council is currently unable to demonstrate a deliverable five year housing land supply, which adds weight in favour of

development which providing housing. Given that the application relates to a site which has been allocated, it must be concluded that the location of the site is sustainable. Notwithstanding the additional weight to be attributed to this benefit, the presumption in favour of sustainable development, or 'the tilted balance', is disengaged, by virtue of the need to undertake an Appropriate Assessment, in accordance with paragraph 177 of the NPPF.

- 2.5 On balance, whilst there is clearly some tension with policy WDP01, given that the site is allocated for residential development, is within a sustainable location and given the unmet need for housing, it is considered that the principle of the development is acceptable. The development will also need to meet the 12 criteria of policy WDP01.

Character, Appearance and Heritage

- 2.6 Regard must be had for how the development would impact upon the heritage assets which are within the vicinity of the site, and their settings, having regard for the Planning (Listed Buildings and Conservation Areas) Act 1990 (The 'Act'). Section 66(1) of the Act states that, 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority, or as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.' As such, it is necessary to have 'special regard' for whether the development would preserve the listed buildings in the vicinity and their settings. Section 72(1) of the same Act, requires that 'special attention' is given to the desirability of preserving or enhancing the character or appearance of a conservation area. Additionally, the NPPF requires that regard must be had for whether the development would harm the significance of both designated and non-designated heritage assets and, where harm is identified (either substantial or less than substantial), consider whether this harm is outweighed by public benefits.
- 2.7 The site does not contain any listed buildings and is not within a conservation area. However, the site does lie adjacent to the Worth conservation area and relatively close to a number of listed buildings. The conservation area and listed buildings all lie to the south east of the site, with the nearest listed building being approximately 140m from the boundary of the application site.
- 2.8 The application does not seek to enlarge or significantly alter the approved buildings which are to be used to provide six dwellings. Consequently, there can be no question that the location, scale or form of the buildings is acceptable. In terms of the detailed design of the building, the scheme would largely retain the appearance of the approved dwellings. To the front elevation of the building, the only change would be a minor alteration to the design of the front door and its side lights. To the side elevations, which would be little seen from public areas, one additional door would be provided on the elevation to the left hand side of the buildings, whilst the approved door to the right hand side of the buildings would be made into a main front door. Additional windows are proposed to each side elevation which would be designed to complement the appearance of the front elevation and would not, it is considered, be detrimental to the character of the building. The changes would result in the loss of the chimney which had been proposed to the side of the buildings, which would be a retrograde change. However, it is not considered that this would be so harmful that it would warrant refusal of the application. To the rear of the property, the only significant changes would be

the loss of Juliet-style balconies at first floor level and their replace with windows. It is considered that this change is neutral.

- 2.9 To the front of the buildings, the hardstanding areas and garages would remain unaltered and would not be split in any way, retaining the appearance of the development as approved. To the rear, it is proposed to split the gardens into three with additional fences. Whilst this would change the character of the gardens, the subdivided gardens and fences would not be highly visible from outside the site, due to the vegetation to the boundaries of the site.
- 2.10 For these reasons, the development would cause no harm to the character and appearance of the area. Likewise, having regard for the provisions of The Act, the development would cause no harm to the significance of listed buildings or the conservation area.

Impact on Residential Amenity

- 2.11 The proposed buildings are set a significant distance away from the nearest neighbouring property which currently exists in the village. However, they would be relatively close to some of the dwellings within the development which is currently under construction.
- 2.12 The location, size and form of the buildings, together with the openings in the front and rear elevations, would not be significantly altered from those proposed by the approved development and, as such, would not cause any increased loss of light, sense of enclosure or overlooking. Furthermore, whilst additional and altered openings are proposed within the side elevations of the buildings, these would face towards the side elevations of buildings under construction or would be well separated from boundaries, such that angled views out of windows would be in excess of 20m from the rear elevations of neighbouring properties or would face towards open areas of land. Consequently, the development would cause no harm to the living conditions of neighbouring properties.
- 2.13 The dwellings themselves would be well sized, naturally lit and have access to a private garden. The submitted plans show that each would be provided with a refuse store and a cycle store. It is therefore considered that the living conditions of future occupants would be reasonable.

Impact on the Local Highway Network

- 2.14 The development would utilise the access road which was granted under the previous application. This access road is of sufficient width to allow two cars to independently access and egress the site respectively, without having to wait on The Street. Swept path (or tracking) plans, which account for the hypothetical location of parked cars, were submitted with the previous application which demonstrated that the configuration of the access road would allow for the safe and convenient access and egress of vehicles, including large refuse lorries. The layout of the access road was therefore considered to be acceptable. Whilst the development would increase the number of vehicles using the access and using the surrounding highway network, it is not considered that this increase would be so significant that it would cause unacceptable harm to highway safety or the free flow of traffic.

- 2.15 The approved access onto The Street includes a pedestrian footpath along the western side of the main access road, which would link to a pedestrian crossing built out to the southern side of The Street, providing safe pedestrian access into the village, where basic facilities and services are provided.
- 2.16 Policy DM13 of the Core Strategy requires that the provision of car parking should be a design led process, based upon the characteristics of the site, having regard for Table 1.1 of the Core Strategy. Given the location of the site and the size of the proposed dwellings, the development should provide two car parking spaces per dwelling. The development would provide these twelve spaces, with two spaces available for each dwelling. However, four of these spaces would be provided as tandem spaces in car ports/garages. Garages are not normally considered to contribute towards parking provision, as they are rarely used as such. The use of tandem spaces is also far from ideal, reducing the usability of these spaces. It is therefore considered that it would be reasonable to include a condition on any grant of permission to require that the car ports remain open, with no garage doors being erected. Visitor parking has not been provided within the site, which is usually required at a rate of 0.2 spaces per dwelling. However, the approved development provided seven visitor spaces, exceeding 0.2 per dwelling. With the additional dwellings now proposed, the visitor provision across the wider site would be exactly 0.2 per dwelling, whilst it is noted that areas would be available for some informal parking. For these reasons, it is considered that the car parking provision would not cause significant harm to the local highway network and would certainly not cause severe harm, which is the relevant test within the NPPF.
- 2.17 As set out above, the development would provide the requisite number of cycle parking spaces.

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

- 2.18 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.
- 2.19 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.
- 2.20 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.
- 2.21 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.

- 2.22 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.
- 2.23 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.

Flooding and Drainage

- 2.24 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.
- 2.25 The site lies within Flood Risk Zone 1, which has the lowest risk of fluvial or sea flooding. As such, the development does not need to be assessed against the sequential or exception tests, as outlined within the NPPF.
- 2.26 Regard must also be had for the developments impacts on localised flooding, in particular regarding foul sewerage and surface water drainage, including whether the development would lead to an increased risk of flooding on-site or elsewhere.
- 2.27 It is worthwhile reviewing the drainage considerations from the previous applications for this site, the outline application DOV/15/00749 and the corresponding reserved matters application DOV/16/01161. Southern Water advised at the outline planning application stage that there was inadequate capacity in the local network to provide foul sewerage disposal to the proposed development. Consequently, they requested that a condition be attached to any grant of permission (condition 15 of the outline permission) requiring full details of on and off site measures for the disposal of foul drainage infrastructure.
- 2.28 Southern Water initially confirmed, in response to the reserved matters application, that condition 15 should not be discharged, as the details for on-site sewerage infrastructure had not been designed to Sewers for Adoption standards, although a subsequent comment confirmed that, subject to the on-site sewerage infrastructure remaining private, the details are acceptable.
- 2.29 Southern Waters initial comment also stated that:
- “the results of carried out further detailed hydraulic assessment of the capacity of the sewerage network indicates that the additional foul flow from the proposed development can be accommodated within the existing network without any improvement works required”.

- 2.30 Subsequently significant, and understandable, concerns were raised by third parties that the development would not provide the improvements to the network which were necessary to accommodate the development. These comments referred to several incidents of flooding within the local area, which appear at odds with the contention that there is adequate capacity. Consequently, Southern Water were asked for further comments to justify their position.
- 2.31 The response provided by Southern Water confirmed that their earlier assessment of capacity was relatively basic and limited to the information which is available (essentially this is a desk based exercise). This initial assessment is therefore subject to change once a more detailed capacity check is carried out in advance of development. This further work demonstrated that there was capacity in the network to discharge the 1.5l per second which would be generated by the previous scheme, if split between two manholes (TR33565001 and TR33565101). Southern Water therefore reconfirmed that this additional evidence demonstrated that, for the previous scheme for 32 dwellings (a net increase of 31 dwellings), there was sufficient capacity to meet the needs of the development without improvements to off-site infrastructure. Southern Water also commented that, in the absence of any such improvements, the previous development “will not exacerbate any existing flooding issues in the area”.
- 2.32 Southern Waters response acknowledged that flooding events had occurred within the locality, but that these were caused by a blockage, private drainage issues and surface water entering the network and not due to insufficient capacity. Southern Water have also confirmed that between 16th September 2016 and the end of 2016, seven maintenance jobs were carried out to improve the operation of the system.
- 2.33 Turning to the current application, the on-site drainage system would likely be very similar to the foul drainage scheme approved under the previous reserved matters application, albeit three connections would be made to each building, as opposed to one. The foul discharge would, however, increase due to the increase in the number of dwellings. Concerns have again been raised by third parties regarding foul drainage and, in particular, that improvements to the existing sewers are not proposed placing additional pressure on the system. Third parties have also advised that misconnections from highway surface drainage are not the cause of previous flooding, contrary to the previous assertions of Southern Water. Southern Water have not raised concerns regarding the capacity of the existing network and have not requested that a condition for details of off-site sewerage infrastructure be attached to any grant of permission. Whilst it is understandable that concerns would be raised, in the absence of evidence that the existing system does not have capacity to accommodate the flows from the additional four dwellings now proposed, it is not considered that a robust reason for refusal could be sustained.
- 2.34 It is acknowledged that the application will not alleviate any existing issues with the network; however, the planning process cannot require overall betterment of the network. A condition requiring details for the on-site drainage infrastructure, together with a timetable for its implementation and a maintenance plan, be secured by condition.
- 2.35 The area covered by impermeable surfaces would not be significantly increased in comparison with the approved development. Consequently, it is

considered that the surface water can be appropriately managed without increasing the likelihood of localised or off site flooding.

Contributions

- 2.36 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. For developments of between 5 and 14 dwellings, a contribution towards the provision of affordable housing, equivalent to 5% of the GDV, should be sought. 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. The second criterion of Policy WDP01 states that 30% of the dwellings on the allocated site should be affordable. The previous application proposed the provision of nine affordable dwellings, equating to 30% of the dwellings proposed by that application. The proposed application would, in conjunction with the previous application, reduce the overall provision across the allocation to 25.7%. However, notwithstanding the requirements of Policy DM5, the NPPF (which post-dates the Core Strategy) advises at 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”.
- 2.37 The development would provide for four additional dwellings and six dwellings overall, falling below the threshold of major development and under the DM5 threshold. Furthermore, the site is not in a designated rural area (defined as National Parks, AONB’s and areas designated as ‘rural’ under Section 157 of the Housing Act 1985). The provision of affordable dwellings on the approved development has already been settled and it is understood that an RSL is already in place to manage the nine units. Given the relatively small number of additional dwellings and the difficulty in attracting an RSL for small numbers of affordable dwellings (one affordable dwelling would amount to 25% provision), it has been agreed that an off-site contribution should be sought. Discussions are, at the time of writing, not complete and so a verbal update will be provided to members on the night of the committee meeting as to the contribution proposed, the calculation which has led to this amount and its acceptability.
- 2.38 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 £192.06 towards library book stock. 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

- 2.39 The outline application for the wider site (DOV/15/00749) was supported by an Archaeological Desk Based Assessment to consider whether the development has the potential to impact upon archaeological remains. Following assessment of that report, a condition was attached to the outline planning permission requiring a programme of archaeological works take place prior to the commencement of the development. An application for the approval of these details was accordingly submitted and granted (CON/15/00749B) and the archaeological scheme has been carried out. Given that the current

application does not propose to alter the location or form of buildings, it is not considered that it has the potential to cause additional impacts to archaeology. Therefore, it will not be necessary to attach an archaeological condition to the current application.

Contaminated Land

- 2.40 The site has a history of low level commercial use, associated with the plant nursery business. As such, whilst there is no known contamination and whilst the site has already been largely built out, there is a reasonable likelihood that previously unknown contamination may be present on the site. The proposed residential use is considered to be a use which is particularly sensitive in terms of contamination. It is therefore considered that it would be appropriate to attach to any grant of permission a condition requiring previously unknown contamination which is identified at the site to be reported, assessed and mitigated, as appropriate.

Other Matters

- 2.41 Third parties have raised a concern that the development would result in the loss of agricultural land. Permission has already been granted for the development of the site, whilst the site is small and has not been used for agriculture for some time. It is not, therefore, considered that the development would result in a material loss of agricultural land.
- 2.42 Concern has also been raised by third parties that no evidence has been provided that the larger dwellings are not viable. However, there is no requirement to consider the viability of the approved scheme and, instead, the current application should be considered on its own merits.

Conclusions

- 2.43 The site forms part of the housing allocation under policy WDP01 of the Worth Neighbourhood Development Plan; however, this policy states that the allocation should provide for approximately 30 dwellings. The previous approval allowed a net increase of 31 dwellings, whilst the current application would increase this to 35 dwellings. There is therefore some tension between this application and the policy. However, there is a need for dwellings in the district, the site is in a relatively sustainable location, would not increase the amount of development proposed (the buildings would not be increased in size) and would be acceptable in all other material respects. Policy WDP01 sets out 12 criteria (relating to detailed matters) to be assessed when considering applications. The development, by utilising the as approved buildings with only minimal alterations, would meet all of these criteria, with the exception of criterion 2, which requires that 30% of the dwellings built on the site are affordable. As discussed above, given that nine units on the site will be delivered as affordable dwellings and this application proposes a relatively small number of dwellings, and having regard for the Affordable Housing SPD and its Addendum, it would be proportionate and pragmatic to seek a contribution towards affordable housing. An update will be provided to members, such that the weight attributed to the contribution can be given due weight.
- 2.44 So, the benefits of the scheme, namely the provision of four additional family dwellings in a sustainable location, which cause no demonstrable harm, must be weighed against the disbenefits, namely increasing the number of

dwellings above the approximate number identified by Policy WDP01 and reducing the proportion of affordable dwellings within the scheme (although the overall number of affordable dwellings would remain the same and a financial contribution towards affordable housing would be provided). Whilst it is necessary to balance these factors, it should be noted that the 'tilted balance' (the presumption in favour of sustainable development, described at paragraph 11 of the NPPF) does not apply. Given the lack of demonstrable planning harm and given the contribution the development would provide towards the Districts five year housing land supply, 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:-

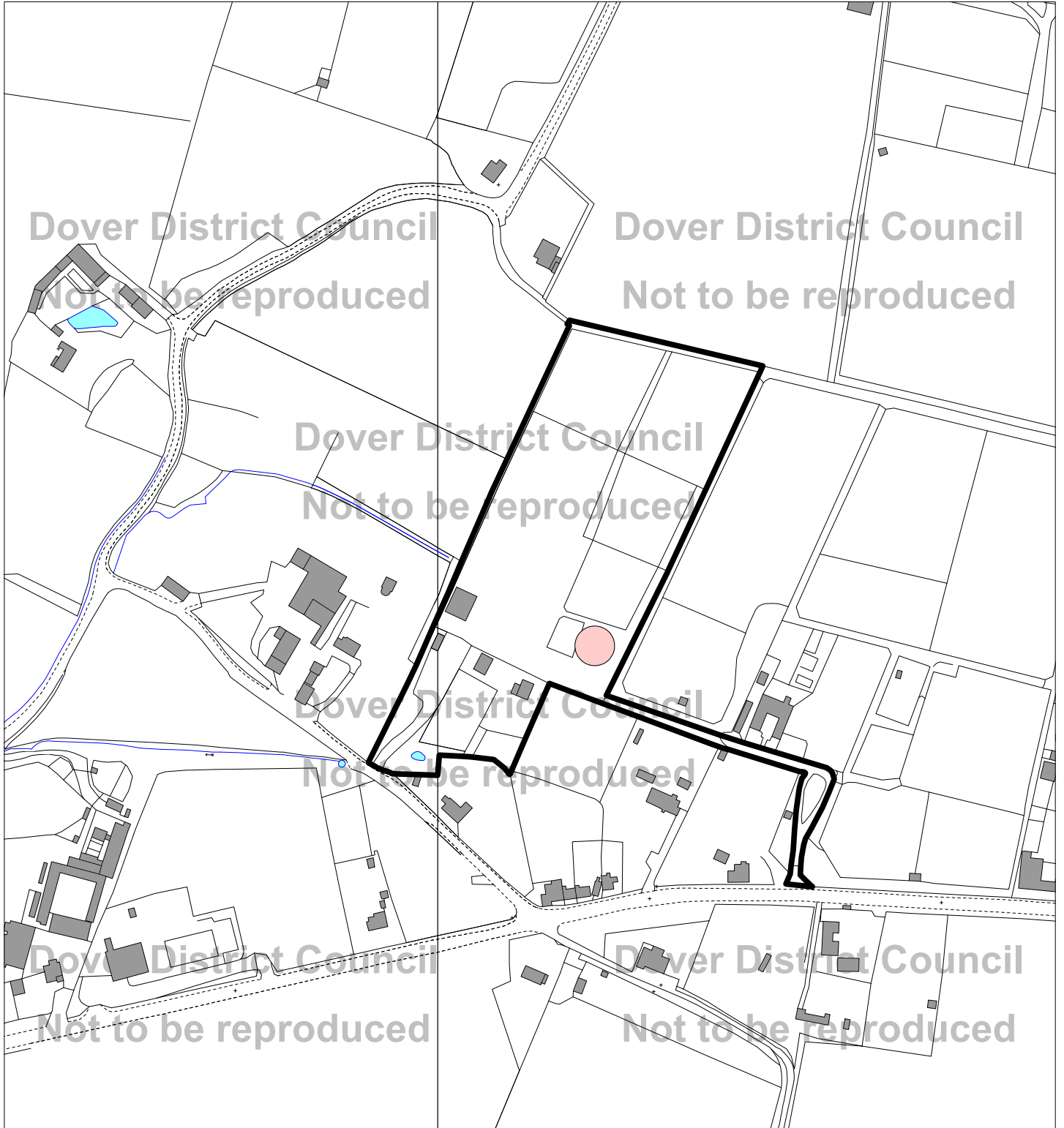
(1) standard time limits, (2) approved plans, (3) samples of materials, (4) full details of hard and soft landscaping, (5) provision of access, car parking and turning areas prior to first occupation (including use of a bound surface material), (6) provision and retention of cycle parking, (7) full details of foul drainage including a timetable for the works and a maintenance programme, (8) previously unidentified contamination, (9) provision of refuse storage, (10) removal of permitted development rights for means of enclosure, (11) car ports for Plots 17A, 17B, 17C and 24B to remain open (with no garage doors)

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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Application: DOV/18/00609

**The Willow
Beaute Lane
Shatterling
CT3 1JN**

TR2095854



a) DOV/18/00609– Erection of a building to facilitate dining/kitchen and utility area, The Willow, Beaute Lane, Shatterling, CT3 1JN

Reason for Report: Member call-in on grounds of impact on character and appearance of the countryside.

b) Summary of Recommendation

Planning permission be granted

c) Planning Policy and Guidance

Dover District Core Strategy 2010

- DM1 - Development within the built confines
- DM15 - Protection of the countryside
- DM16 - Protection of the landscape

National Planning Policy Framework (NPPF) 2018

- Paragraph 8 – the three objectives of sustainability
- Paragraph 11 – presumption in favour of sustainable development
- Paragraph 61 – size type and tenure of housing provision for all sections of the community
- Paragraph 127 – seeks high quality design
- Paragraph 170 – decision should contribute to and enhance the natural and local environment where possible.

d) Relevant Planning History

DOV/02/01339 – Retention of extensions to existing mobile home – Granted

DOV/98/00319 – Stationing of three mobile homes – Granted

DOV/95/00494 – Stationing of three mobile homes – Granted

The history of the site is somewhat complex and therefore the above decisions have been broken down for accuracy.

The 1995 permission was to a Mr Lee (different from and unrelated to the current applicant) who was granted permission for the stationing of 3no. mobile homes.

The current applicant, Mr H. Lee, applied to renew this permission (as it was personal to the previous Mr Lee) and was granted permission for the stationing of 3no. caravans. Subsequent to this, extensions were added to one of the caravans.

The 2002 permission allowed for the retention of the extensions to the main caravan and the stationing of 2no. additional caravans. Within the conditions, permission was granted for a dwelling (it was considered that the static caravan with the extensions

was tantamount to a dwelling) but no permitted development rights were removed. The permission was personal to Mr Henry Lee and his immediate family.

e) **Consultees and Third Party Responses**

Staple Parish Council: Raised objections on the grounds that: 1) the building is too big for the approved number of residents on site; 2) concerns regarding materials to be used and drainage and pollution; 3) DDC policy does not stipulate that permanent structures must be provided.

Environmental Health: No concerns were raised.

KCC Archaeology: No comments had been received at the time of the report. However, the site is listed as an archaeological site and therefore an archaeological watching brief would be considered reasonable in this instance.

Third Party Representations: One comment was received neither supporting nor objecting to the application which sought to clarify the agricultural access track to the site from the A257. It was noted that there is no objection to the service block proposed.

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

- 1.1 The site is accessed from Beaute Lane, to the north of the hamlet of Shatterling, off of the A257 between Ash and Wingham. There are a number of residential properties, both to the north and south of the site. The area is characterised by relatively modest dwellings situated within larger open gardens, typical to the rural, countryside location. The majority of dwellings are accessed from the A257 (including an agricultural access lane to the application site) but three other properties apart from the application site are accessed via Beaute Lane; a single lane road.
- 1.2 The application site has an overall area of approximately 2 hectares. There is a lawful dwelling on the site and 3no. caravans (including 1no. tourer). The site is largely rectangular in shape but steps in towards Beaute Lane and behind Shatterling Court Bungalow and is largely enclosed by mature vegetation to all boundaries.
- 1.3 The land slopes up from Beaute Lane for a short distance then levels out across the majority of the site. The driveway, paved in concrete block pavers, is enclosed by a double gate with parking provision for up to 10 no. vehicles to the west side. There is also an agricultural access track which serves Greenacres and over which the land has rights but it is not to be used for any purpose except for agricultural access (this was a condition of the 1995 and 1998 permissions).
- 1.4 The dwelling and caravans are located to the Beaute Lane end of the site and are separated from the rest of the site by a row of pollarded trees. There are a few outbuildings adjacent to the caravans, alongside the western boundary with Shatterling Court Farm which are all used for storage with one which has room for a guest to stay (these outbuildings are immune from enforcement

action - See Section 3.17 for more detail). The outbuildings surround a piece of grassed land above a concrete-lined cesspool.

- 1.5 To the north of the site, there are five paddocks laid out for the keeping of horses enclosed by post and rail fencing but is otherwise open land. A public footpath runs through the northern end of the site (EE148A) which appears to have been diverted around the paddocks towards the northernmost boundary. There are no records of permissions being obtained to divert the public footpath. There is a stable block adjacent to the paddock closest to the stationed caravans (See Section 3.17 for detail).
- 1.6 The proposal is for the erection of a service block which would provide toilet and bathing facilities, utility and laundry facilities and a kitchen/dining area. The building would be connected to the existing cesspit (30,000ltr), sited towards the south-west boundary with Beaute Lane and would measure 16.5m by 8.25m with an eaves height of 2.3m and a ridge height of 5.3m. The ridge height has been amended during the course of the application and was originally submitted at a height of 6.6m. This was considered unjustifiably high for this countryside location and a reduction in height was sought to reduce the visual impact. This amendment was subject to a further period of re-consultation.
- 1.7 The bottom metre of the proposed elevations would be constructed in brick with black timber weatherboarding above. The roof would be clad in blue/black slate. The windows would be double-glazed with timber frames and stained dark brown. There would be two windows on both the north and south elevations. The rear elevation would have three windows, a single door and a set of French doors (to the dining area) whilst the front elevation (facing the driveway) would have 4 no. windows and a single timber door.
- 1.8 Information has been provided in support of the application which outlines the personal circumstances of the applicants. The main issue is the lack of adequate facilities for an on-site family of 12 people, combined with the deteriorating mobility of one of the family members. There is only one caravan with full cooking and bathing facilities; the others have had these removed. The facilities would be shared between the occupants of the site.

2. Main Issues

- Principle of Development
- Personal Circumstances
- Impact on the visual amenity, countryside and landscape
- Impact on residential amenity
- Other matters

3. Assessment

Principle of Development

- 3.1 The application site is beyond the built confines as defined by Policy CP1 of the Core Strategy and is in the countryside for planning purposes. Policy DM1 of the Core Strategy would require any development in the countryside to be ancillary to an existing lawful use of the land or the proposed development functionally requires such a location. The amenity block would be ancillary to the lawful use of the land (a site with a personal permission for

a dwelling and the stationing of 2 no. caravans). The development would provide up-to-date washing, cleaning and living facilities for the occupants of the site. Therefore it is considered that the proposal is Policy DM1 compliant, subject to other material considerations set out below.

- 3.2 Personal Circumstances: The justification given for the size of the proposed building is to meet the needs of the 12 resident family members and to provide disabled washing facilities for a member of the family with mobility difficulties which would appear to be progressively worsening. It is considered that the provision of 3 no. toilets, 3 no. showers and a bathing area would appear to be reasonably justified for 12 people. The utility/laundry room, whilst large, would provide the space for storage, washing and sorting of laundry for the number of residents. The kitchen and dining room would provide a space for the residents to eat together, and the space needed to prepare food for the residents (and an additional 18+ family members when they occasionally visit). These day-to-day needs have proven difficult to manage within the confines of a caravan kitchen and given that the two remaining caravans have had the majority of ablution facilities removed to give more internal space in the caravans without the need for extensions. This family have been lawfully on this site since before 1998 and the applicant has life-long connections to the local area. The applicant's children (now grown with their own families) attended local schools. It is considered that there is sufficient personal justification for the proposed development on this site which, in conjunction with DM1 compliance, would justify the principle of this proposal.

Impact on the visual amenity, countryside and landscape

- 3.3 The existing vehicle access slopes up to the site and provides the only location for public views into the site from Beaute Lane. Given the existing planting and the layout of the site, it is unlikely that the proposed service/utility block would be highly visible to any significant degree.
- 3.4 There may be some private views through the mature vegetation on the boundaries. If possible, it would be from the garden of Shatterling Court Bungalow to the south or from the grounds of Shatterling Court Farmhouse to the west. It is considered however, that these views would be very limited and would be unlikely to result in any visual or residential harm.
- 3.6 The proposed service block would be visible from the public footpath which runs through the north end of the site but this would be at a distance of over 150m and partially obscured by the existing dwelling and stationary caravans and pollarded tree line and would therefore be seen in the context of the mature vegetation behind (on the boundary with Shatterling Court Bungalow).
- 3.7 DM15 of the DDC Core Strategy would permit development which could adversely affect the character and appearance of the countryside provided it cannot be accommodated elsewhere and it does not result in the loss of ecological habitats. The service block functionally requires a site in close proximity to the existing dwelling and caravans and the site chosen is a grassed area currently used as a lawn/amenity space which is unlikely to provide any habitat. It is acknowledged that the proposal would result in some additional visual clutter to the site through the provision of a permanent structure, but this is not considered likely to result in detrimental harm to the countryside. Apart from the public footpath, there would be no wider views

into the site from the surrounding countryside given the density of mature vegetation to all boundaries and the siting of the service block, beyond a tree line and the existing caravans on site, largely mitigates the views from the footpath. As such, it is considered that the proposal would be Policy DM15 compliant.

- 3.8 DDC Core Strategy Policy DM16 permits development which could result in harm to the character of the landscape provided the development can be sited to avoid or reduce the harm or mitigate the impacts to an acceptable level. This site is not within a protected area, although it is within an impact risk zone around a SSSI. Views from the protected land would be negligible and the siting of the proposed service block, adjacent to the built form of the village along with the screening to the east, west and south by mature vegetation and largely screened from the north by the existing caravans and tree line, would be likely to mitigate any undue harm to the character or appearance of the wider landscape. The proposal is considered to be compliant with Policy DM16.
- 3.9 It is considered therefore that the erection of a service block of the design and scale proposed would not be likely to result in any undue harm to the visual amenity, street scene, countryside or landscape and would be compliant with the National Planning Policy Framework, specifically Paragraphs 61, 127 and 170 and Core Strategy policies identified above.

Impact on residential amenity

- 3.10 The nearest residential neighbours measured from the nearest point of the proposed service block to the boundary or dwelling are:
- Greenacres to the east- 65m to the shared boundary and 140m to the dwelling;
 - Shatterling House to the south-east – 25m to the shared boundary and 95m to the dwelling;
 - Shatterling Court Bungalow to the south – 3m to the shared boundary and 25m to the dwelling;
 - Shatterling Court Farmhouse to the west- 25m to the shared boundary and 75m to the dwelling.
- 3.11 As noted previously, the site is largely enclosed to all boundaries by mature vegetation which for the most part obscures any views between the application site and any neighbouring dwellings and their gardens.
- 3.12 The proposed service block would have windows or doors to each of the four elevations; it is considered that both the distances and the vegetative screening would be likely to mitigate against any residential amenity concerns to Greenacres, Shatterling House and Shatterling Court Farmhouse and their associated gardens.
- 3.13 There would be windows in the south elevation in close proximity to the shared boundary however, this boundary is very well screened and any views would be largely mitigated by the existing landscaping. If any views were possible, they would be of the driveway to the neighbouring dwelling and at a very oblique angle to the neighbouring dwelling.

- 3.14 Therefore the proposed service block would be unlikely to raise any amenity concerns and would not lead to a loss of outlook, loss of light or have an overbearing impact or result in interlooking to any neighbouring property. It is considered therefore that it would be unlikely to cause any undue harm to the residential amenities of any neighbouring dwellings, and as such the proposal would be compliant with the National Planning Policy Framework in this regard.

Other Matters

- 3.15 There are unlikely to be any highways implications related to this development as this proposal does not propose any extra pitches or stationed caravans on the land.
- 3.16 It is noted that planning enforcement conducted investigations on this site in relation to possible breaches of planning legislation. These, whilst related to the site as a whole, did not have any direct bearing on the determination of this planning application which, as illustrated above, is considered justified in planning terms.
- 3.17 The applicants, as granted under the 2002 permission, were allowed a dwelling and to station 2 no. caravans on the site. No other buildings or structures were included in the application or the permission. As such, the existing 4 no. storage outbuildings, the stables, touring caravan, paddocks and fencing, were erected without the benefit of planning permission. However, based on historic aerial photographs, the buildings have all on the site for more than 4 years. The aerial photographs also show evidence of the keeping of horses on this site for more than 10 years; with established paddocks in the 2008 aerial photo. The structures and horse keeping use would now be immune from enforcement action through the passage of time. This also holds true for the touring caravan which has been on site for many years.

Conclusions

- 3.18 It is considered that the proposed service block would be unlikely to result in undue harm to the visual amenity or street scene of the area nor to the character of the countryside or the scenic beauty of the landscape and would be compliant with Paragraphs 127 and 170 of the National Planning Policy Framework (2018) and DM1, DM15 and DM16 of the Core Strategy (2010).
- 3.19 It is considered that the proposed service block would also be unlikely to result in any undue harm to the residential amenities of the adjacent dwellings and would comply with Paragraph 127 of the National Planning Policy Framework (2018).
- 3.20 On balance, the proposal is considered a sustainable form of development and along with the personal circumstances and justification for the application is considered to be compliant with the National Planning Policy Framework (2018). It is therefore concluded that planning permission should be granted with conditions.

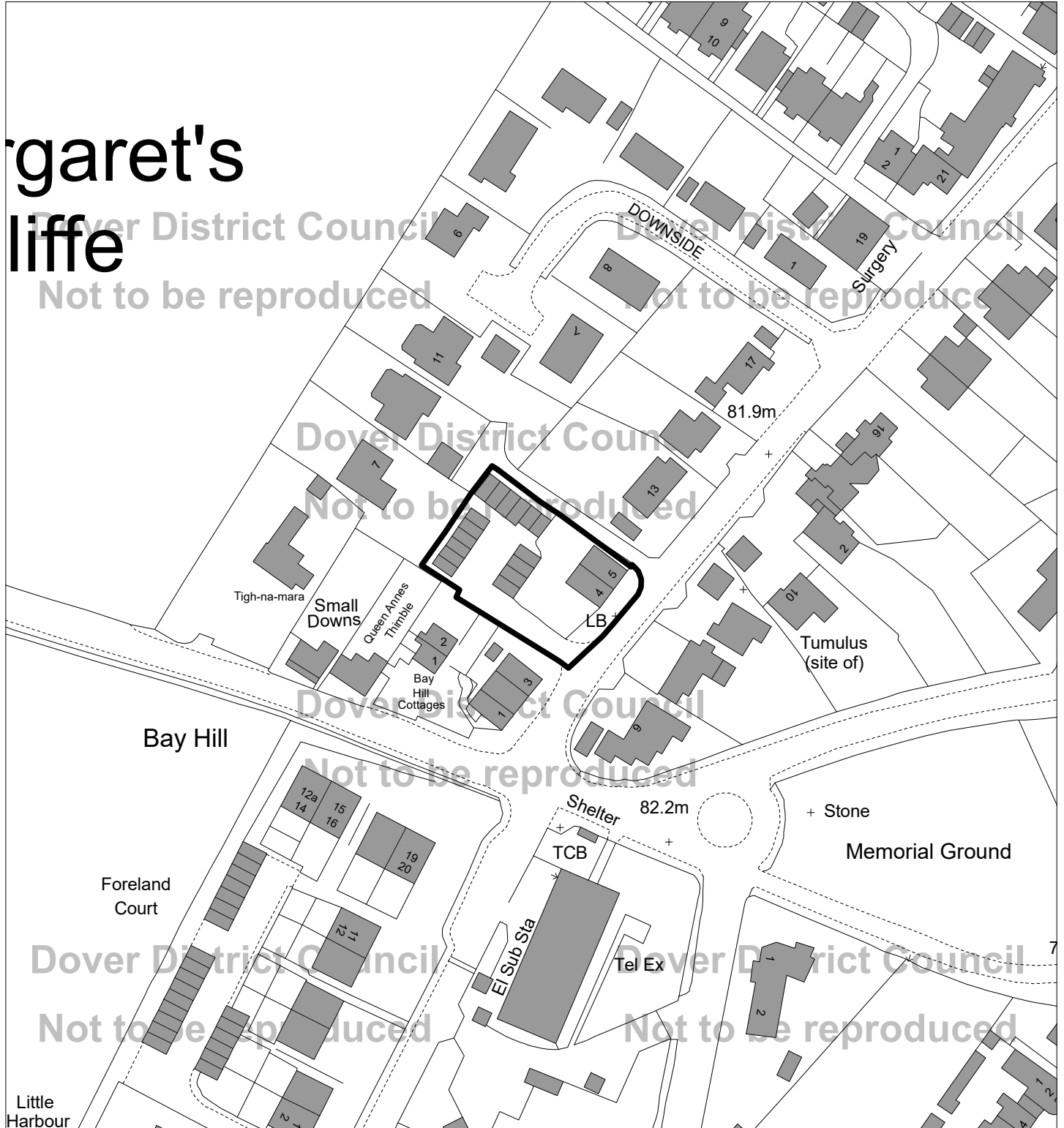
g) Recommendation

- I Planning Permission BE GRANTED subject to the following conditions:
 - 1) 3 year time commencement; 2) in accordance with approved plans; 3) material samples to be submitted; 4) no business use at any time; 5) sole use of Mr Henry Lee and immediate family
- 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 the Planning Committee.

Case Officer

Andrew Wallace

St Margaret's Liffe



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Application: DOV/18/00692

Land and Garages rear of and including 4 & 5

The Droeway

St. Margaret's Bay

CT15 6DH

TR 3635 4449



- a) **DOV/18/00692– Variation of Condition 2 (approved plans) to allow changes to approved drawings of planning permission DOV/16/00007 (application under Section 73) at Land and Garages rear of and including 4 and 5 The Droveaway, St. Margarets, CT15 6DH**

Reason for Report: Number of third party representations received.

b) **Summary of Recommendation**

Planning permission be granted

c) **Planning Policy and Guidance**

Dover District Core Strategy 2010

- DM1 - Development within the built confines

National Planning Policy Framework (NPPF) 2018

- Paragraph 8 – the three objectives of sustainability
- Paragraph 11 – presumption in favour of sustainable development
- Paragraph 61 – size type and tenure of housing provision for all sections of the community
- Paragraph 127 and 131 – seeks high quality design
- Paragraph 177 – where an appropriate assessment is required, the presumption in favour of sustainable development does not apply.

d) **Relevant Planning History**

DOV/16/00007 – Erection of three dwellings and change of use of the ground floor of 4 and 5 The Droveaway from commercial to a residential flat and associated parking and landscaping (garages to be demolished) – Granted

DOV/13/01020 – Erection of four dwellings – Refused

DOV/02/01339 – Erection of 2no. semi-detached dwellings, 1no. attached dwelling and the change of use of no. 4 and 5 The Droveaway to form 2 flats, associated parking and landscaping (existing garages to be demolished) - Granted

e) **Consultees and Third Party Responses**

St Margarets Parish Council: Object as considered overdevelopment of the site.

KCC Highways: KCC Highways were not re-consulted in this instance as they noted on the 2016 application that it was a non-protocol application. They did note at that time that the loss of garage spaces (independent of a dwelling) was not controllable through planning.

Third party Reps: 13 Objections were submitted

- overdevelopment resulting in further demands on local infrastructure
- visitor parking would be used for the dwellings
- the new roof would be too high and out of keeping
- loss of privacy to gardens
- exacerbate existing parking and traffic concerns in The Droveaway
- proposed dwellings would be out of keeping with existing properties
- inadequate parking provision
- access for delivery vehicles would be restricted

f) 1. Site and the Proposal

- 1.1 The site is located to the north-western side of The Droveaway in St Margarets. The site, prior to the 2016 permission, was formed of 4 and 5 The Droveaway (with a retail unit at ground floor level and a first floor flat) and 18 garages to the rear. The vehicle access to the garages is located to the south-western boundary of the site. Currently, the garages have been largely removed and some works have commenced in line with the 2016 permission.
- 1.2 There are residential neighbours to each boundary, with large detached dwellings on the opposite side of The Droveaway. The driveways for Nos. 6, 8 and 8a The Droveaway are immediately opposite the application site access and proposed visitors parking.
- 1.3 The 2016 permission granted approval for the formation/erection of 5 residential units; 2no. semi-detached dwellings to the rear with integral garage and carports (Units 1 and 2), conversion of Nos. 4 and 5 The Droveaway to a ground floor and first floor flat (Units 4 and 5), and the erection of an attached dwelling to the south-west end of No.4 The Droveaway (Unit 3). Parking for Units 1, 2, 4 and 5 was largely to the rear of the site whilst Unit 3 would benefit from a private driveway for two vehicles. Each unit formed two storey, two bedroom dwellings and adequate parking was provided.
- 1.4 This application seeks to make alterations to the approved scheme under Section 73. There are a number of alterations proposed which, for the sake of clarity, have been outlined in sections 1.5 to 1.9 below.
- 1.5 Units 1 and 2 – It is proposed to change the roof line as permitted to allow for habitable space in the roof. This would not result in a higher ridge or eaves height but would change the pitch of the south-east facing roof slope (facing the rear of Units 3-5) to a steeper pitch to allow for the provision of a room in the roof space of both units. Roof lights would also be inserted into the roof; each dwelling would have two roof lights (one facing to the north-east, and one facing to the south-west). The sill heights for the roof lights would be a minimum of 1.7m. These rooms, whilst habitable, cannot be considered bedrooms as they would be unable to comply with building regulations with regards to fire safety (no appropriate form of egress).
- 1.6 The other alteration proposed to Units 1 and 2 is the removal of the garage to Unit 2 and the widening of both units at ground floor level whilst retaining the carports (one parking space per unit within the carport).
- 1.7 Unit 3 – It is proposed to add an extra bedroom to this property through a first floor side extension, left open below to allow for car parking. The main roof across the three contiguous units would not be altered from that allowed

however, there would be a new, lower hipped roof to the side above this extension. The extension would be approximately half the depth of the host dwelling, with the rear elevation in line with the main rear-facing elevation of the host dwelling. It would not impact on parking provision for this unit.

- 1.8 Units 4 and 5 – It is proposed to return these two building back to two single family dwellings rather than retain the first floor flat and convert the ground floor to a flat as allowed in the 2016 permission. There would be little difference in external appearance apart from the provision of separate garden spaces and the re-introduction of front doors to both units.
- 1.9 Parking provision – It is proposed to increase the number of on-site parking spaces (apart from the carports of Units 1 and 2 and the driveway of Unit 3) to a total of 8. This reflects the fact that Units 4 and 5 would be dwellings rather than flats as allowed and under DM13, would require the provision of 1.5 parking spaces in this location. The parking spaces would be allocated as follows: an additional allocated parking space for each of Units 1 and 2, single allocated parking spaces for Units 4 and 5, and 2no. parking spaces for visitors to the rear and two additional visitor parking spaces to the front of the site. There is no changed to the proposal parking provision of Unit 3.
- 1.10 The drawings submitted with DOV/16/00007 showed the provision of an access route to 2 Bay Hill Cottages which is not shown on the revised drawings. The provision of this access was not a requirement of the original permission and there is a principle access to this dwelling from Sea Street/Bay Hill. If a legal right of way exists across the application site for the use of 2 Bay Hill Cottages, this is a civil matter and would not have a bearing upon the determination of this variation of condition application.

2. Main Issues

- Principle of Development
- Impact on the visual amenity and street scene
- Impact on residential amenity
- Impact on highways and parking
- Ecology
- Appropriate Assessment

3. Assessment

Principle of Development

- 3.1 The principle of the development was established by planning permission DOV/16/00007. The application site is within the confines of St Margarets and would be compliant with Policy DM1 of the Core Strategy.

Background to 2016 permission

- 3.2 Permission was granted (under delegated powers) for a small housing development on a brownfield site within St Margarets. At the time of the report, there were 3no. third party objections; the Parish Council did not

object to the proposal. The concerns raised included the loss of parking through the loss of the garages (10 of which were in use at the time), overdevelopment of the site and impact on neighbours. The proposal was evaluated on Ecology impacts, highways considerations (including the loss of the garages which cannot be controlled by planning), residential amenity, visual impact and on the loss of a retail space and the development was found to be acceptable. The proposed amendments within the current application would not run contrary to any previous assessments or negotiations for this site.

Impact on visual amenity and the street scene

- 3.3 Of the variations to the permitted scheme proposed, there are a few main areas which could potentially impact on visual amenity and street scene. These are: alterations to the roof above Unit 2, the installation of roof lights in Units 1 and 2, the formation of dwellings in place of the permitted flats in Units 4 and 5, and the erection of the first floor side extension/carport to Unit 3. There are no variations to the proposed external finish materials; these remain tiled roofs, brick and render elevations and white uPVC windows and doors as approved by planning permission DOV./16/00007.
- 3.4 The alteration to the roofline of Units 1 and 2 would be visible in public views but only at oblique angles. Wider views of these units would be largely screened by existing buildings, Unit 3 and existing vegetation. The clearest view would be along the private access road to Nos. 7, 9 and 11 The Droveaway, set behind the application site. Some screening would be provided by an existing large, mature deciduous tree which will be retained. The site slopes down towards the rear and given that the proposed new ridge height would be 7.5 m, it would sit below the existing ridge height of Units 4 and 5 which is almost 9m in height. As such, the end elevation of Unit 2 would be unlikely to result in an incongruous feature nor would it be unduly prominent in the street scene.
- 3.5 There are new roof lights proposed in the roof of Units 1 and 2. However, those to the front roof slope would not be unduly visible from the highway (only perhaps in limited views across the gardens of the Bay Hill Cottages) whilst the rear facing roof lights would be seen only at an oblique angle from The Droveaway. The existing dwelling to the north-east, No. 13 The Droveaway, would largely obscure the views of these roof lights. However, roof lights are not an unusual feature of dwellings in this area and would therefore not be out of keeping. It is considered therefore that the roof lights would be unlikely to result in harm to visual amenity or to the street scene.
- 3.6 In the 2016 permission, the existing shopfronts on Units 4 and 5 were to be replaced with large windows, with access to the flats from a side walkway (to the north end). It is now proposed to re-form the original two single family dwellings which would have pre-dated the shop use, and replace the shopfronts with new front entrance doors and new windows to serve the kitchens in the units. This would return the building to a more domestic character and would be more in keeping with the surrounding forms of development than the large windows and side access originally allowed through the 2016 permission. The materials proposed would be the same as those allowed through the 2016 permission. As such, it is considered that the proposal would be unlikely to result in any undue harm to the character of the

area and would result in an enhancement (albeit minor) to the surrounding residential area.

- 3.7 The proposed first floor side extension to Unit 3 (forming a carport below) would be visible in views from The Drove way to the south-west of the application site; the extension would be screened by the host dwelling in views from the north-east along The Drove way. The extension would be designed to match the host dwelling and would therefore be unlikely to appear incongruous or unsympathetic to the host dwelling. The siting of the extension, to align with the rear elevation of the host dwelling and set back from the highway by 8.5m approximately, would somewhat mitigate the visual impact of the extension. The extension is visually 'lightened' through the open carport below, and the lower hipped roof above which would clearly result in a subordinate extension. As such, it is considered that the proposal for a first floor side extension would be unlikely to result in harm to visual amenity or the street scene.
- 3.8 The other variations from the approved scheme, such as the minor alterations to the landscaping, the additional parking provision and the other alterations to Units 1 and 2 would be unlikely to result in any harm given the very limited public visibility of these aspects of the proposal. It is considered therefore that the proposed amendments would not be likely to result in any undue harm to visual amenity or the street scene and would accord with the aims and objectives of the National Planning Policy Framework (2018), specifically Paragraph 127 and 131.

Impact on residential amenity

- 3.9 The alteration of the two flats allowed for Units 4 and 5 to two dwellings would not result in any new windows to the side or at first floor level which would result in any overlooking or loss of privacy. There would be no increase to the built form of these units. As such, this proposed change from the allowed 2016 scheme would be unlikely to result in any increased loss of light, sense of enclosure, loss of outlook or loss of privacy, interlooking or overlooking. As such, it would not be likely to result in any undue harm to residential amenity.
- 3.10 The proposed first floor side extension/car port to the south-west elevation of Unit 3 would increase the built form of the street-facing development. Whilst there is no window proposed in the rear elevation of the extension, there is a window to the front elevation and a small window serving the en-suite bathroom. The building to the south-west is formed of retail units. To the rear of these retail units, there are dwellings (Bay Hill Cottages) which could be impacted by the proposed window in the bathroom. It would be reasonable, in the interests of safeguarding the amenity of the occupants at the Bay Hill Cottages from overlooking or loss of privacy (albeit quite minor), to require this window to be obscure glazed with a sill height of no less than 1.7m above the floor level.
- 3.11 The alteration of the roof pitch above Unit 2 could result in some impact on residential amenity, specifically through the potential for the loss of light to habitable spaces to the proposed Units 4 and 5 and to No.13 The Drove way. This aspect was not discussed in the 2016 report however, given the overall ridge height and the distance to No.13 The Drove way, it is unlikely that the proposal would result in a loss of light or sunlight to the neighbouring

occupants. The position of the proposed altered roof line, would throw shadow onto the private access road to Nos. 7, 9 and 11 The Droveway, and perhaps as far as the garage of No.13. As such, it is unlikely to result in a loss of light to the habitable spaces of No.13 or any other neighbouring dwelling.

- 3.12 The provision of roof lights to the front and rear roof slopes of Units 1 and 2 could result in a perception of overlooking. An additional section drawing was requested from the applicants to illustrate that all roof lights would have a sill height of 1.7m minimum above the internal floor level and therefore, actual overlooking or loss of privacy would not be to unacceptable levels and views would be upwards rather than down into the neighbouring gardens (no adjacent dwelling is at such an angle that views from the roof lights would result in interlooking). There is approximately 13m from the front elevation of Units 1 and 2 and the boundary with Bay Hill Cottages, and over 20m to the nearest of these dwellings. With the existing and proposed boundary treatments, including close boarded fencing and existing vegetation, it is unlikely that the front-facing roof lights would result in a perception of overlooking. The rear facing roof lights would likely be visible from the gardens of several neighbouring dwellings. Given the proximity of the garden space of No.13 The Droveway, it is unlikely that the roof lights would be unduly visible, except perhaps in views from the far side of their garden. It is considered that the perception of overlooking to this property would not result in undue harm in this instance.
- 3.13 Given the above, it is unlikely that any amenity harm would result from the proposed amendments to the approved housing development and that the proposal would comply with the aims and objectives of the National Planning Policy Framework (2018) in this regard, and specifically Paragraph 127.

Impacts on highways and parking

- 3.14 A number of concerns have been raised with regards to the potential for increased vehicle movements into and out of the application site with the associated highway safety risks given the narrowness of both the site's vehicle access and The Droveway itself and that the proposal, due to the intensification of the site through the provision of additional bedrooms, the parking provided would not be adequate and result in increased parking pressures locally.
- 3.15 The vehicle access as existing would remain largely unchanged as a result of these proposed changes. It should be noted that this site had 16 garages prior to the commencement of works and as such, there could have been a large number of vehicle movements through the existing access for a number of years. The 2016 proposal and the current proposed amendments would not worsen the potential situation and would likely result in an improvement if compared with the garaging being used fully with 16 vehicles parked on site. There would be only 8no. vehicle parking spaces under the current proposal to make use of the existing vehicle access. I accept that it is likely that the dwellings could result in more vehicle movements than have been typical for this site for a number of years however, given the visibility possible from the existing access, it is considered that the proposal would be unlikely to result in any additional highway safety concerns.

- 3.16 DM13 of the DDC Core Strategy states that, as guidance, a 1-2 bedroom dwelling, in a village location, should be provided with 1.5 parking spaces per unit whilst 3 bedroom dwellings in a village location should be provided with 2 independently accessible parking spaces. Both Units 1 and 2 have 2 independently accessible parking spaces and as such, comply with DM13. Units 4 and 5 have one allocated parking space each but through the provision of 4 visitor parking spaces, the equivalent of more than 1.5 spaces per unit would be achieved and thereby accord with DM13. Unit 3 would have 2 parking spaces although not independently accessible. However, given the additional visitor parking spaces and the proximity to services it is not considered problematic for Unit 3 to have parking 'in series'.
- 3.17 Overall, it is considered that the proposed variations to the 2016 permission would be unlikely to result in harm with regards to highway safety nor result in undue parking pressure for on-street parking. The proposed variations are considered acceptable in this regard and would comply with Policy DM13 of the Core Strategy.

Ecology

- 3.18 A preliminary ecology appraisal was submitted with the 2016 application which confirmed there was no presence of any protected species, and included recommendations to works to trees to take into account the potential for birds and bats. This assessment has not altered since the 2016 permission was granted.

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

- 3.19 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.
- 3.20 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in combination with all other housing development within the district, to have an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 3.21 Following consultation with Natural England, the identified pathway for such an adverse effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.
- 3.22 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.
- 3.23 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.

- 3.24 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

Conclusions

- 3.25 It is now a requirement of any planning application for the provision of new housing to undertake an Appropriate Assessment. Whilst this was not undertaken as part of the original application, the conclusion of the assessment does not alter the acceptability of the scheme.
- 3.26 It is considered that the proposed amendments to the approved housing development would be unlikely to result in undue harm to the visual amenity or street scene of the area and would be compliant with Paragraphs 127 and 131 of the National Planning Policy Framework (2018) and DM1 of the Core Strategy (2010).
- 3.27 It is considered that the proposed amendments to the approved housing development would be unlikely to result in any undue harm to the residential amenities of the adjacent dwellings and would comply with Paragraph 127 of the National Planning Policy Framework (2018).
- 3.28 It is therefore concluded that a variation of condition should be granted with appropriate conditions applied and re-applied.

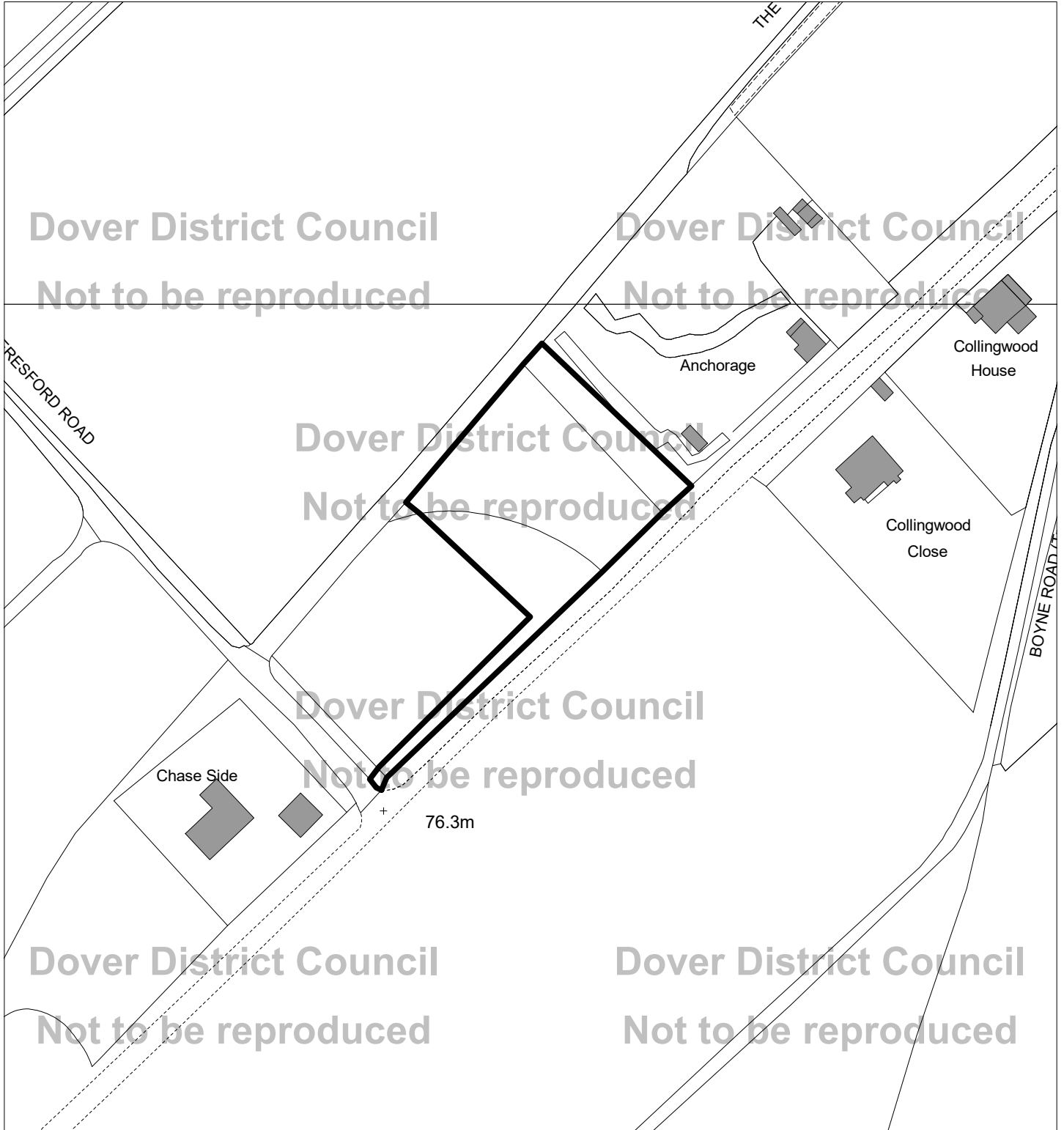
g) Recommendation

- I Planning Permission BE GRANTED subject to the the following conditions:
- 1) 3 year from 01/04/2016; 2) in accordance with approved plans; 3) Window in Unit 3 en-suite bathroom to have sill no lower than 1.7m above the internal floor level; 4) re-apply/alter necessary conditions of 2016 permission.
- 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 the Planning Committee.

Case Officer

Andrew Wallace

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Application: DOV/18/00654

Site Adj Plot 1

Anchorage and Collingwood Cottage

Collingwood Road

St Margarets At Cliffe, CT15 6EZ

TR35884596



- a) **DOV/18/000654 – Outline application for the erection of a detached dwelling (with all matters reserved)**

Site adjacent to plot 1, Anchorage and Collingwood Cottages, Collingwood Road, St Margaret's at Cliffe, CT 15 6EZ

Reason for report – Number of contrary representations (17).

- b) **Summary of recommendation**

Refuse permission.

- c) **Planning policy and guidance**

Statute

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

A summary of relevant planning policy is set out below:

Dover District Core Strategy (2010)

CP1 – Settlement hierarchy.

DM1 – Settlement boundaries.

DM11 – Location of development and managing travel demand.

DM15 – Protection of the countryside.

DM16 – Landscape character.

Saved Dover District Local Plan (2002) policies

None applicable.

National Planning Policy Framework (NPPF)(2012)

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

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

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet

the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

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

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

For decision-taking this means:

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

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

79. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply...

- e) the design is of exceptional quality, in that it:
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

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

127. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

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

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

131. In determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

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

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing 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. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

172. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and

enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

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

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

Other considerations

Kent Downs Area of Outstanding Natural Beauty (AONB)
AONB Management Plan 2014-2019

d) **Relevant planning history**

(Adjacent) DOV/15/00701 – Erection of two detached dwellings, creation of vehicular access and parking (existing dwellings to be demolished) – GRANTED.

e) **Consultee and third party responses**

DDC Ecology/Landscape – **Objects** – The proposal is for development of land immediately adjacent to what was plot 1 on the 15/00701 application is curious as it has reduced the curtilage of plot 1 according to the drawings submitted with 15/00701 and allocated that to a far more substantial area to the southwest. That being the case, this is not a proposal for development within an existing curtilage, but actually a proposal for new development within the AONB countryside.

If a proposal is to be considered within the context of NPPF Paragraph 55 [***now paragraph 79 under the 2018 NPPF***], it must be in detail, for otherwise how can a balance between exceptional quality and the protected landscape be achieved. The principle of permitting development here, through authorising an outline application, is an incorrect approach. This situation is not the same as in 15/00701 as there the application was dealing with replacement properties.

Notwithstanding that, it is considered that even were this an application in detail, the concern would be of urbanisation of the countryside within the AONB.

DDC Environmental Health – **Considered, no observations.**

KCC Archaeology – **No objection** – Subject to condition.

Southern Water – **No objection** – Subject to informative about sewer connection.

St Margaret's Parish Council – **Objects** – Development is within the AONB.

Public comments

Objections x 22, Support x 17

Objections

- Effect on trees, many of which have already been cut down.
- Traffic implications.
- Ecological concerns.
- These are new properties, not replacements.
- Site is in the AONB.
- Site is outside of settlement boundaries.
- Proposed dwelling of no benefit to local community.
- These would be intrusive on the local landscape.
- Potential for precedent.
- 'Existing' access has never previously existed.

Support

- This puts the site to good use.
- This would fall in line with new builds and complement them.
- No trees will be removed.
- Developer will protect remaining trees.
- Exciting addition to road in a redundant space.

f) **1. The site and the proposal**

The site

- 1.1. The site is located on the north western side of Collingwood Road in St Margaret's at Cliffe. The site is outside of settlement boundaries and is located in the Kent Downs AONB.
- 1.2. The site comprises a cleared area, which is currently being used to store building materials, and trees.
- 1.3. At this location, Collingwood Road is predominantly rural in character, with some sporadic residential development to the east and south west. Approximately 250 metres to the north/north east is the East Valley Farm farmyard.
- 1.4. Adjacent to the north east of the site is the redevelopment of the former Anchorage and Collingwood cottages, which was permitted under DOV/15/00701. The new dwellings are contemporary in character and appearance, and make use of the landform, where the site on which they are located drops away from road level.

- 1.5. Opposite the site to the south east is open countryside. Running behind the site to north west, in a south west/north east direction is The Chase, an undesignated track used by walkers and horse riders. Beyond The Chase, the land falls to the north west into a dry valley, before rising to the unmade Nelson Park Road on the opposite side of the valley.
- 1.6. The site would be accessed from Beresford Road to the south west, although there is no current access.
- 1.7. Site dimensions are:
 - Depth – 50 metres.
 - Width – 47 metres (94 metres including access track).

Proposed development

- 1.8. The proposed development is outline in form with all matters reserved for the erection of a single dwelling. Access would be taken from Beresford Road to the south west, via a 47 metre access track.
- 1.9. Given that the proposal is outline with all matters reserved, no details of appearance, scale or layout have been submitted.
- 1.10. Immediately south west of the site is land subject to planning application DOV/18/00655 for a single dwelling, also owned by the applicant for this application.
- 1.11. Plans will be on display.

2. Main issues

- 2.1. The main issues to consider are:
 - Principle of development.
 - Environmental screening.
 - Appropriate assessment.
 - Design, street scene and rural amenity.
 - Residential amenity.
 - Highways and traffic impact.
 - Ecology and trees.

3. Assessment

Principle of development

- 3.1. The proposed development is located approximately 315 metres outside (north east) of settlement confines in a rural location, within the Kent Downs AONB. The nearest settlement boundary is that of the Nelson Park development at the south western end of Collingwood Road. Normally, therefore, under the terms of

policies CP1 – Settlement hierarchy and DM1 – Settlement boundaries, the proposal would be unacceptable in principle.

3.2. Dover District Council cannot currently demonstrate a five year supply of deliverable housing land. In addition, by undertaking the process of updating its housing need evidence base (Strategic Housing Market Assessment (SHMA) 2017), the council has acknowledged that its policies relating to the supply of housing within the Core Strategy (CP2 and CP3) are out of date. Under the terms of the NPPF, each of these considerations would typically mean that the presumption in favour of sustainable development is engaged.

3.3. The presumption in favour of sustainable development, under paragraph 11 of the NPPF, states:

d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; 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.*

3.4. In addition to the assessment of the application against the NPPF taken as a whole, footnote 6 under (d)(i) also notes:

The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change.

The site is acknowledged as being located within the Kent Downs AONB, which in itself provides a very strong safeguard against development which might be assessed as being inappropriate in particular for aesthetic and character reasons.

3.5. The ruling of the Court of Justice of the European Union (CJEU) in the case of the People over Wind and Sweetman concluded that ecological mitigation measures could not be factored in at the habitat screening stage. This was the approach that the LPA had been using in relation to the assessment of whether residential developments would have a likely significant effect on the European sites at the Thanet Coast and Sandwich Bay. The correct approach has been determined to be that if a likely significant effect cannot be ruled out then an

appropriate assessment must be undertaken, which will consider the effect of the development, or otherwise, on the European sites.

- 3.6. The consequence of this approach is that in reference to paragraph 177 of the 2018 NPPF, due to the need for an appropriate assessment to be undertaken, the presumption in favour of sustainable development does not apply.
- 3.7. In light of the above, it remains the position of the LPA that regardless of the position on the housing land supply calculation, and paragraph 177, DM1 does have some reduced weight following the update of the SHMA and this is acknowledged when determining applications in particular those outside of the adopted settlement boundaries. Each proposal must be assessed against the policies of the development plan as the starting point, factoring in any material consideration, including those within the NPPF.
- 3.8. Subject to the consideration of these elements below, the starting point remains that his proposal is considered to be unacceptable in principle.

Environmental screening

- 3.9. The proposed dwelling is located within the Kent Downs AONB. Therefore it is correct to screen the proposal in order to understand whether an environmental statement is required to accompany the proposal.
- 3.10. Assessed against The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, the proposed development is not categorised as schedule 1 development. The development is categorised as an urban development project under schedule 2, 10(b), however, it does not exceed the thresholds of 150 dwellings, or 5 hectares. Therefore, the LPA does not consider that an environmental statement is required.

Appropriate assessment

- 3.11. As addressed above, the proposed development requires that an appropriate assessment be undertaken in relation to the potential effects of recreational pressure on the European sites at Thanet Coast and Sandwich Bay.
- 3.12. The following appropriate assessment has been undertaken on that basis.
- 3.13. *The Conservation of Habitats and Species Regulations 2017
Regulation 63: Appropriate Assessment*
- 3.14. *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.*
- 3.15. *Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in*

2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in combination with all other housing development within the district, to have an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.

- 3.16. *Following consultation with Natural England, the identified pathway for such an adverse effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.*
- 3.17. *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.*
- 3.18. *Given the limited scale of the development proposed by this application, a contribution towards the Council's 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.*
- 3.19. *Having had regard to the proposed mitigation measures, it is considered that the proposal would not have an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that any harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.*

Design, street scene and rural amenity

- 3.20. Due to the proposed development being outline in form with all matters reserved, it is difficult to understand what the effects of the proposal might be in terms of how the street scene is affected, whether a design could be accommodated, and how this may or may not affect the rural amenity of the localised and wider area.
- 3.21. As noted, the site is located within the Kent Downs AONB, which is nationally designated for its landscape character, and under these terms, is equivalent in status to a national park.
- 3.22. Accordingly, putting aside the in-principle objection to the proposal, for a development otherwise to be acceptable, it would need to be able to demonstrate that no harm would result from its construction, or that any harm is capable of being effectively mitigated.
- 3.23. **Policy DM15** relates to the protection of the countryside. The policy states the

following:

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.

3.24. The agent contends that the site is partially residential curtilage because it overlaps with the permitted residential development immediately to the north east. As such, the agent contends that policy DM15 does not apply. This is not considered to be an accurate interpretation of the policy due to the permitted development not yet having been completed. In any case, the majority of the site is outside of the overlapping area. It is considered, therefore, that the development would result in the loss of countryside.

3.25. In addition, given that the development is outline in form with all matters reserved, this makes an accurate assessment of its effect on the countryside difficult. It is considered reasonable in these circumstances, particularly given the AONB designation of the site and surrounding area, and the urbanising form of development proposed, to adopt a precautionary approach and to take the position that harm cannot be ruled out.

3.26. Assessment against the criteria of the policy is therefore considered to be necessary. The proposal does not accord with the criteria under (i), (ii) and (iv), it has not been shown to be required to sustain the rural economy or a rural community, so does not accord with criterion (iii); and no information has been submitted which demonstrates the ecological implications of the proposal meaning that it does not accord with (v).

3.27. **Policy DM16** relates to landscape character. The policy states the following:

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.*

3.28. As noted above, it is considered reasonable to take a precautionary approach and assess the proposal against the two criteria of the policy, regardless of the detailed elements of the scheme being unknown. The proposal is not in

accordance with criterion (i) and due to the nature of the outline application, cannot be considered to meet the requirements of criterion (ii).

- 3.29. **Outstanding or innovative design.** Consideration has also been given to paragraph 79 of the NPPF regarding whether a dwelling in such a location can be justified on the basis of the design being of an exceptional quality, whether it is truly outstanding or innovative, and whether it would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. Given that the site is approximately 315 metres from the defined settlement boundary of the Nelson Park estate at St Margaret's at Cliffe and any dwelling would be located in a cluster of existing dwellings, the proposal is not considered to be in an isolated location. Therefore, the strong justification offered by paragraph 79 is not considered to be relevant in this instance, however, a similar principle does apply at paragraph 131, directing that great weight should be given to outstanding or innovative designs, subject to considerations including how a proposal fits with the overall form and layout of its surroundings. As assessed with policies DM15 and DM16, and alluded to by the DDC Ecology and Landscape officer, the outline nature of the proposal makes such a consideration unfeasible, therefore leading to the conclusion that it cannot be justified under the terms of paragraph 131.
- 3.30. Accordingly, due to the nature of the application, and the prevailing policy position on the site, the proposal is not considered to be acceptable under the terms of policies DM15 and DM16, and given the direction under paragraph 172 of the NPPF which gives great weight to conserving/enhancing the AONB, is also considered to be contrary on that basis.

Residential amenity

- 3.31. Due to the proposal being an outline application, it is not possible to make an accurate analysis of any potential effects on residential amenity, however, it is likely given the size of the site and its context, that any reserved matters proposal could adequately design out any adverse effects.

Highways and traffic/travel impact

- 3.32. The proposal does not contain any precise details of access, or details of design in relation to the provision of off-road parking. It is likely, however, given the relatively low traffic nature of the highways at this location, that were the development to proceed to reserved matters stage, these issues could be adequately addressed.
- 3.33. The proposed development is located 735 metres away from the nearest bus stop, which by itself is considered to be in excess of the distance that somebody would consider to be acceptable to walk to access public transport. In addition the route is only half-lit and provides a dedicated footpath for only half its distance. It is considered therefore that the development would likely be served predominantly by private motor vehicle and that alternative methods of travel for accessing day to day needs would be unlikely. This is contrary to the principles

of sustainable development and in part undermines the basis for seeking to direct development to defined settlements. Accordingly, the proposal is contrary to the requirements of policy DM11.

- 3.34. In sustainability terms therefore, the highways impact of the proposal is considered to be unacceptable.

Ecology and trees

- 3.35. No ecology or trees information has been submitted with the proposal. Given the robust in-principle objection to development at this location it was not considered appropriate or cost-effective to seek such information from the applicant. However, if the principle of the development was considered to be acceptable then such information would have been sought from the applicant due to the need to understand if protected species or habitats would be harmed by the development, or if any healthy tree specimens should be protected, particularly given the AONB status of the location.
- 3.36. It is apparent that some trees on site have already been removed for the purpose of storing building materials in connection with the development permitted under DOV/15/00701. These trees were not protected under any order; however, such clearance gives an indication of the effect of permitting development on site.

Sustainability and conclusion

- 3.37. The proposed development is considered to be unacceptable.
- 3.38. The site is located in the AONB outside of settlement boundaries, where there is no justification for the proposal. The site is considered to be unacceptable in principle, and due to the need to undertake an appropriate assessment, the presumption in favour of sustainable development does not apply.
- 3.39. However, it is nevertheless considered prudent to assess the proposal against the three principles of sustainable development i.e. the economic role, the social role and the environmental role.
- 3.40. **Economic role.** It is considered that the development would provide a time limited economic benefit in terms of the construction contract. The development may also represent a longer term economic benefit to the area, if its residents were from outside of the district. This, however, would be limited in scale.
- 3.41. **Social role.** The development would likely represent a limited benefit to the area, if the eventual residents were not local, therefore, representing an increase in the local population, which would in a limited way, help to support the local community and any facilities.
- 3.42. **Environmental role.** The proposed development is considered to have the potential to result in significant harm in environmental terms. Were the proposal to go ahead, it would result in the loss of countryside and would most likely and

in the absence of details to demonstrate to the contrary, result in undue harm to the AONB designated landscape. The applicant has not submitted supporting details relating to local ecology nor to the trees located on and around the site. In addition, the site is located 735 metres away from the nearest bus stop, along a route which for approximately half of the distance does not have a dedicated footpath or street lighting. Therefore, the likely reality is that the proposed development would be reliant on the private motor vehicle for travel, also representing a degree of environmental harm.

3.43. **Conclusion.** The proposed development, while potentially representing small benefits in terms of its economic and social aspects, is considered to have the potential to represent significant environmental harm, particularly where the proposal is not adequately supported in terms of information submitted. On this basis in addition to being contrary to the development plan, the proposal would not be sustainable in form, contrary to the objectives of the NPPF.

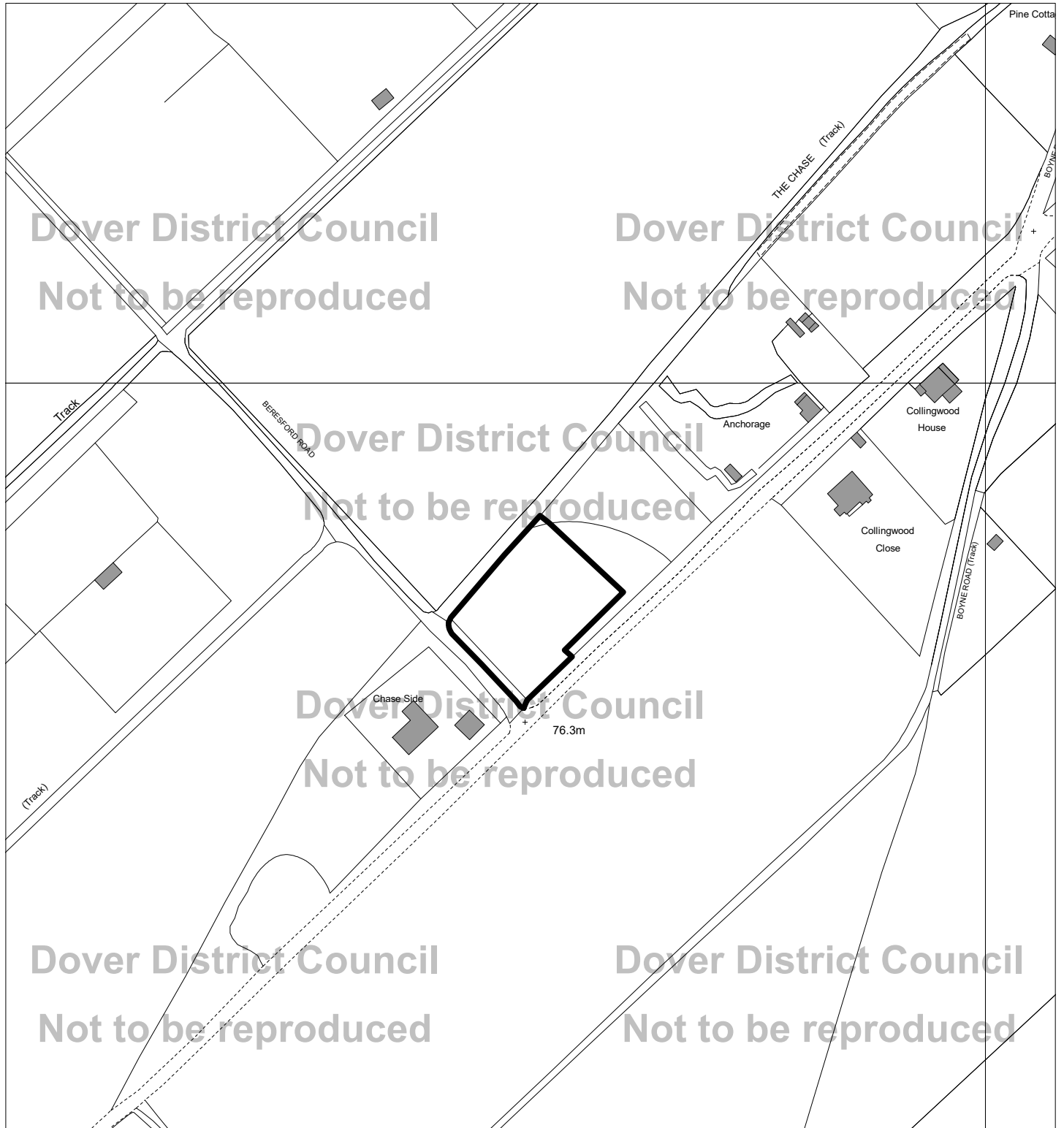
3.44. The recommendation is therefore to refuse permission.

g) **Recommendation**

- I. Planning permission be REFUSED, for the following reason: (1) The proposed development, if permitted, by virtue of its location outside of settlement boundaries in a countryside location within the nationally designated Kent Downs AONB, would result in an unsustainable form of urbanising development, an unjustified loss of countryside and harm to landscape character; and would give rise to an over reliance on the private motor car as the primary means of transport, contrary to Core Strategy policies CP1, DM1, DM11, DM15 and DM16 and the aims and objectives of the NPPF at paragraphs 2, 8, 11, 78, 124, 127, 130, 170, 172 and 177 in particular.
- II. That powers be delegated to the Head of Regeneration and Development to settle any reason for refusal in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case officer

Darren Bridgett



Not to scale

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

Application: DOV/18/00655

Site adjoining Plot 1

Anchorage & Collingwood House

Collingwood Road

St. Margaret's-at-Cliffe, CT15 6EZ

TR35844592



- a) **DOV/18/000655 – Outline application for the erection of a detached dwelling (with all matters reserved)**

Site adjoining Plot 1, Anchorage & Collingwood House, Collingwood Road, St. Margaret's-at-Cliffe, CT15 6EZ

Reason for report – Number of contrary representations (10).

- b) **Summary of recommendation**

Refuse permission.

- c) **Planning policy and guidance**

Statute

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

A summary of relevant planning policy is set out below:

Dover District Core Strategy (2010)

CP1 – Settlement hierarchy.

DM1 – Settlement boundaries.

DM11 – Location of development and managing travel demand.

DM15 – Protection of the countryside.

DM16 – Landscape character.

Saved Dover District Local Plan (2002) policies

None applicable.

National Planning Policy Framework (NPPF)(2012)

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

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

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet

the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

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

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

For decision-taking this means:

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

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

79. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply...

- e) the design is of exceptional quality, in that it:
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

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

127. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

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

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

131. In determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

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

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

172. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and

enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

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

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

Other considerations

Kent Downs Area of Outstanding Natural Beauty (AONB)
AONB Management Plan 2014-2019

d) **Relevant planning history**

(Adjacent removed) DOV/15/00701 – Erection of two detached dwellings, creation of vehicular access and parking (existing dwellings to be demolished) – GRANTED.

e) **Consultee and third party responses**

DDC Ecology/Landscape – **Objects** – The proposal is for development of land immediately adjacent to what was plot 1 on the 15/00701 application is curious as it has reduced the curtilage of plot 1 according to the drawings submitted with 15/00701 and allocated that to a far more substantial area to the southwest. That being the case, this is not a proposal for development within an existing curtilage, but actually a proposal for new development within the AONB countryside.

If a proposal is to be considered within the context of NPPF Paragraph 55 [***now paragraph 79 under the 2018 NPPF***], it must be in detail, for otherwise how can a balance between exceptional quality and the protected landscape be achieved. The principle of permitting development here, through authorising an outline application, is an incorrect approach. This situation is not the same as in 15/00701 as there the application was dealing with replacement properties.

Notwithstanding that, it is considered that even were this an application in detail, the concern would be of urbanisation of the countryside within the AONB.

DDC Environmental Health – **Considered, no observations.**

KCC Archaeology – **No response.**

Southern Water – **No objection** – Subject to informative about sewer connection.

St Margaret's Parish Council – **Objects** – Development is within the AONB.

Public comments

Objections x 23, Support x 10

Objections

- Effect on trees, many of which have already been cut down.
- Traffic implications.
- Ecological concerns.
- These are new properties, not replacements.
- Site is in the AONB.
- Site is outside of settlement boundaries.
- Proposed dwelling of no benefit to local community.
- These would be intrusive on the local landscape.
- Potential for precedent.
- 'Existing' access has never previously existed.

Support

- This puts the site to good use.
- This would fall in line with new builds and complement them.
- No trees will be removed.
- Developer will protect remaining trees.
- Exciting addition to road in a redundant space.

f) **1. The site and the proposal**

The site

- 1.1. The site is located on the north western side of Collingwood Road in St Margaret's at Cliffe, at its junction with Beresford Road. The site is outside of settlement boundaries and is located in the Kent Downs AONB.
- 1.2. The site is covered by mature trees.
- 1.3. At this location, Collingwood Road is predominantly rural in character, with some sporadic residential development to the east and south west. Approximately 250 metres to the north/north east is the East Valley Farm farmyard.
- 1.4. 47 metres north east of the site is the redevelopment of the former Anchorage and Collingwood cottages, which was permitted under DOV/15/00701. The new dwellings are contemporary in character and appearance, and make use of the landform, where the site on which they are located drops away from road level.
- 1.5. Opposite the site to the south east is open countryside. Running behind the site to north west, in a south west/north east direction is The Chase, an undesignated

track used by walkers and horse riders. Beyond The Chase, the land falls to the north west into a dry valley, before rising to the unmade Nelson Park Road on the opposite side of the valley.

- 1.6. The site would be accessed from Beresford Road to the south west, although there is no current access.
- 1.7. Site dimensions are:
 - Depth – 38 metres.
 - Width – 50 metres.

Proposed development

- 1.8. The proposed development is outline in form with all matters reserved for the erection of a single dwelling. Access would be taken from Beresford Road to the south west, via a proposed access track.
- 1.9. Given that the proposal is outline with all matters reserved, no details of appearance, scale or layout have been submitted.
- 1.10. Immediately north east of the site is land subject to planning application DOV/18/00654 for a single dwelling, also owned by the applicant for this application.
- 1.11. Plans will be on display.

2. Main issues

- 2.1. The main issues to consider are:
 - Principle of development.
 - Environmental screening.
 - Appropriate assessment.
 - Design, street scene and rural amenity.
 - Residential amenity.
 - Highways and traffic impact.
 - Ecology and trees.
 - Other matters.

3. Assessment

Principle of development

- 3.1. The proposed development is located approximately 315 metres outside (north east) of settlement confines in a rural location, within the Kent Downs AONB. The nearest settlement boundary is that of the Nelson Park development at the south western end of Collingwood Road. Normally, therefore, under the terms of policies CP1 – Settlement hierarchy and DM1 – Settlement boundaries, the proposal would be unacceptable in principle.

3.2. Dover District Council cannot currently demonstrate a five year supply of deliverable housing land. In addition, by undertaking the process of updating its housing need evidence base (Strategic Housing Market Assessment (SHMA) 2017), the council has acknowledged that its policies relating to the supply of housing within the Core Strategy (CP2 and CP3) are out of date. Under the terms of the NPPF, each of these considerations would typically mean that the presumption in favour of sustainable development is engaged.

3.3. The presumption in favour of sustainable development, under paragraph 11 of the NPPF, states:

- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
- i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶ ; 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.*

3.4. In addition to the assessment of the application against the NPPF taken as a whole, footnote 6 under (d)(i) also notes:

The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change.

The site is acknowledged as being located within the Kent Downs AONB, which in itself provides a very strong safeguard against development which might be assessed as being inappropriate in particular for aesthetic and character reasons.

3.5. The ruling of the Court of Justice of the European Union (CJEU) in the case of the People over Wind and Sweetman concluded that ecological mitigation measures could not be factored in at the habitat screening stage. This was the approach that the LPA had been using in relation to the assessment of whether residential developments would have a likely significant effect on the European sites at the Thanet Coast and Sandwich Bay. The correct approach has been determined to be that if a likely significant effect cannot be ruled out then an appropriate assessment must be undertaken, which will consider the effect of the development, or otherwise, on the European sites.

- 3.6. The consequence of this approach is that in reference to paragraph 177 of the 2018 NPPF, due to the need for an appropriate assessment to be undertaken, the presumption in favour of sustainable development does not apply.
- 3.7. In light of the above, it remains the position of the LPA that regardless of the position on the housing land supply calculation, and paragraph 177, DM1 does have some reduced weight following the update of the SHMA and this is acknowledged when determining applications in particular those outside of the adopted settlement boundaries. Each proposal must be assessed against the policies of the development plan as the starting point, factoring in any material consideration, including those within the NPPF.
- 3.8. Subject to the consideration of these elements below, the starting point remains that his proposal is considered to be unacceptable in principle.

Environmental screening

- 3.9. The proposed dwelling is located within the Kent Downs AONB. Therefore it is correct to screen the proposal in order to understand whether an environmental statement is required to accompany the proposal.
- 3.10. Assessed against The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, the proposed development is not categorised as schedule 1 development. The development is categorised as an urban development project under schedule 2, 10(b), however, it does not exceed the thresholds of 150 dwellings, or 5 hectares. Therefore, the LPA does not consider that an environmental statement is required.

Appropriate assessment

- 3.11. As addressed above, the proposed development requires that an appropriate assessment be undertaken in relation to the potential effects of recreational pressure on the European sites at Thanet Coast and Sandwich Bay.
- 3.12. The following appropriate assessment has been undertaken on that basis.
- 3.13. *The Conservation of Habitats and Species Regulations 2017
Regulation 63: Appropriate Assessment*
- 3.14. *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.*
- 3.15. *Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in*

combination with all other housing development within the district, to have an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.

- 3.16. *Following consultation with Natural England, the identified pathway for such an adverse effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.*
- 3.17. *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.*
- 3.18. *Given the limited scale of the development proposed by this application, a contribution towards the Council's 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.*
- 3.19. *Having had regard to the proposed mitigation measures, it is considered that the proposal would not have an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that any harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.*

Design, street scene and rural amenity

- 3.20. Due to the proposed development being outline in form with all matters reserved, it is difficult to understand what the effects of the proposal might be in terms of how the street scene is affected, whether a design could be accommodated, and how this may or may not affect the rural amenity of the localised and wider area.
- 3.21. As noted, the site is located within the Kent Downs AONB, which is nationally designated for its landscape character, and under these terms, is equivalent in status to a national park.
- 3.22. Accordingly, putting aside the in-principle objection to the proposal, for a development otherwise to be acceptable, it would need to be able to demonstrate that no harm would result from its construction, or that any harm is capable of being effectively mitigated.
- 3.23. **Policy DM15** relates to the protection of the countryside. The policy states the following:

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.

3.24. The proposed development would result in the loss of countryside, therefore, assessment against the criteria of the policy is necessary. In addition, given that the development is outline in form with all matters reserved, this makes an accurate assessment of its effect on the countryside difficult. It is considered reasonable in these circumstances, particularly given the AONB designation of the site and surrounding area, and the urbanising form of development proposed, to adopt a precautionary approach and to take the position that harm cannot be ruled out.

3.25. The proposal does not accord with the criteria under (i), (ii) and (iv), it has not been shown to be required to sustain the rural economy or a rural community, so does not accord with criterion (iii); and no information has been submitted which demonstrates the ecological implications of the proposal meaning that it does not accord with (v).

3.26. **Policy DM16** relates to landscape character. The policy states the following:

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.*

3.27. As noted above, it is considered reasonable to take a precautionary approach and assess the proposal against the two criteria of the policy, regardless of the detailed elements of the scheme being unknown. The proposal is not in accordance with criterion (i) and due to the nature of the outline application, cannot be considered to meet the requirements of criterion (ii).

3.28. **Outstanding or innovative design.** Consideration has also been given to paragraph 79 of the NPPF regarding whether a dwelling in such a location can be justified on the basis of the design being of an exceptional quality, whether it is truly outstanding or innovative, and whether it would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. Given that the site is approximately 315 metres from the defined settlement boundary of the Nelson Park estate at St Margaret's at Cliffe and any dwelling

would be located in a cluster of existing dwellings, the proposal is not considered to be in an isolated location. Therefore, the strong justification offered by paragraph 79 is not considered to be relevant in this instance, however, a similar principle does apply at paragraph 131, directing that great weight should be given to outstanding or innovative designs, subject to considerations including how a proposal fits with the overall form and layout of its surroundings. As assessed with policies DM15 and DM16, and alluded to by the DDC Ecology and Landscape officer, the outline nature of the proposal makes such a consideration unfeasible, therefore leading to the conclusion that it cannot be justified under the terms of paragraph 131.

- 3.29. Accordingly, due to the nature of the application, and the prevailing policy position on the site, the proposal is not considered to be acceptable under the terms of policies DM15 and DM16, and given the direction under paragraph 172 of the NPPF which gives great weight to conserving/enhancing the AONB, is also considered to be contrary on that basis.

Residential amenity

- 3.30. Due to the proposal being an outline application, it is not possible to make an accurate analysis of any potential effects on residential amenity, however, it is likely given the size of the site and its context, that any reserved matters proposal could adequately design out any adverse effects.

Highways and traffic impact

- 3.31. The proposal does not contain any precise details of access, or details of design in relation to the provision of off-road parking. It is likely, however, given the relatively low traffic nature of the highways at this location, that were the development to proceed to reserved matters stage, these issues could be adequately addressed.
- 3.32. The proposed development is located 735 metres away from the nearest bus stop, which by itself is considered to be in excess of the distance that somebody would consider to be acceptable to walk to access public transport. In addition the route is only half-lit and provides a dedicated footpath for only half its distance. It is considered therefore that the development would likely be served predominantly by private motor vehicle and that alternative methods of travel for accessing day to day needs would be unlikely. This is contrary to the principles of sustainable development and in part undermines the basis for seeking to direct development to defined settlements. Accordingly, the proposal is contrary to the requirements of policy DM11.
- 3.33. In sustainability terms therefore, the highways impact of the proposal is considered to be unacceptable.

Ecology and trees

- 3.34. No ecology or trees information has been submitted with the proposal. Given the

robust in-principle objection to development at this location it was not considered appropriate or cost-effective to seek such information from the applicant. However, if the principle of the development was considered to be acceptable then such information would have been sought from the applicant due to the need to understand if protected species or habitats would be harmed by the development, or if any healthy tree specimens should be protected, particularly given the AONB status of the location.

Other matters

- 3.35. KCC Archaeology did not respond to the consultation on this application. However, given the response to DOV/18/00654, it would appear reasonable to conclude, if necessary, that any issues could be dealt with by condition.

Sustainability and conclusion

- 3.36. The proposed development is considered to be unacceptable.
- 3.37. The site is located in the AONB outside of settlement boundaries, where there is no justification for the proposal. The site is considered to be unacceptable in principle, and due to the need to undertake an appropriate assessment, the presumption in favour of sustainable development does not apply.
- 3.38. However, it is nevertheless considered prudent to assess the proposal against the three principles of sustainable development i.e. the economic role, the social role and the environmental role.
- 3.39. **Economic role.** It is considered that the development would provide a time limited economic benefit in terms of the construction contract. The development may also represent a longer term economic benefit to the area, if its residents were from outside of the district. This, however, would be limited in scale.
- 3.40. **Social role.** The development would likely represent a limited benefit to the area, if the eventual residents were not local, therefore, representing an increase in the local population, which would in a limited way, help to support the local community and any facilities.
- 3.41. **Environmental role.** The proposed development is considered to have the potential to result in significant harm in environmental terms. Were the proposal to go ahead, it would result in the loss of countryside and would most likely and in the absence of details to demonstrate to the contrary, result in undue harm to the AONB designated landscape. The applicant has not submitted supporting details relating to local ecology nor to the trees located on and around the site. In addition, the site is located 735 metres away from the nearest bus stop, along a route which for approximately half of the distance does not have a dedicated footpath or street lighting. Therefore, the likely reality is that the proposed development would be reliant on the private motor vehicle for travel, also representing a degree of environmental harm.

3.42. **Conclusion.** The proposed development, while potentially representing small benefits in terms of its economic and social aspects, is considered to have the potential to represent significant environmental harm, particularly where the proposal is not adequately supported in terms of information submitted. On this basis in addition to being contrary to the development plan, the proposal would not be sustainable in form, contrary to the objectives of the NPPF.

3.43. The recommendation is therefore to refuse permission.

g) **Recommendation**

- I. Planning permission be REFUSED, for the following reason: (1) The proposed development, if permitted, by virtue of its location outside of settlement boundaries in a countryside location within the nationally designated Kent Downs AONB, would result in an unsustainable form of urbanising development, an unjustified loss of countryside and harm to landscape character; and would give rise to an over reliance on the private motor car as the primary means of transport, contrary to Core Strategy policies CP1, DM1, DM11, DM15 and DM16 and the aims and objectives of the NPPF at paragraphs 2, 8, 11, 78, 124, 127, 130, 170, 172 and 177 in particular.
- II. That powers be delegated to the Head of Regeneration and Development to settle any reason for refusal in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case officer

Darren Bridgett