

Public Document Pack



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12 December 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 20 December 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, with a long horizontal stroke extending to the right.

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 4)

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

4 **MINUTES**

To confirm the Minutes of the meeting of the Committee held on 22 November 2018 (to follow).

5 **ITEMS DEFERRED** (Page 5)

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

ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING
(Pages 6 - 9)

6 **APPLICATION NO DOV/18/00242 - SUMMERFIELD NURSERY, BARNSOLE ROAD, BARNSOLE, STAPLE** (Pages 10 - 37)

Erection of 10no. detached and 6no. terraced dwellings, detached garages, formation of a vehicle access and parking (existing buildings to be demolished)

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

7 **APPLICATION NO DOV/18/00751 - LAND AT 5 & 6 WOODSIDE CLOSE, KEARSNEY** (Pages 38 - 44)

Full application for the erection of two semi-detached dwellings with associated parking

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

8 **APPLICATION NO DOV/18/01084 - CO-OP FOODSTORE, PARK STREET, DEAL** (Pages 45 - 72)

Demolition of existing foodstore building, associated retail and residential units, and redevelopment of site to provide a new 1,739 sqm foodstore development with associated car parking and landscaping (resubmission)

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

9 **APPLICATION NO DOV/18/01113 - LAND SOUTH WEST OF FIELDINGS, STONEHEAP ROAD, EAST STUDDAL** (Pages 73 - 95)

Erection of a detached dwelling, formation of vehicle access, creation of parking and associated landscaping (existing garage to be demolished)

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

ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING

10 APPEALS AND INFORMAL HEARINGS

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

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

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

Access to Meetings and Information

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

DOVER DISTRICT COUNCIL

REPORT OF THE HEAD OF REGENERATION AND DEVELOPMENT

PLANNING COMMITTEE – 20 DECEMBER 2018

CONSIDERATION OF THE FOLLOWING ITEMS HAS BEEN DEFERRED AT PREVIOUS MEETINGS

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

1. **DOV/18/00643** **Erection of a dwelling. Land on the west side of Moat Lane, Ash (Agenda Item 10 of 22 November 2018)**

2. **DOV/18/00592** **Outline application for the erection of 5no. detached dwellings with visitors car park and turning head (with appearance, landscaping, layout and scale reserved) (Agenda Item 12 of 22 November 2018)**

Background Papers:

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

MIKE EBBS

Head of Regeneration and Development

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

APPLICATIONS WHICH MAY BE SUBJECT TO PUBLIC SPEAKING

The Reports

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

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

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

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

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

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

Site Visits

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

The following criteria will be used to determine usefulness:

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

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

Background Papers

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

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

IMPORTANT

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

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

The Development Plan

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

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

Human Rights Act 1998

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

The key articles are:-

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

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

Account may also be taken of:-

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

Article 10 - Right to free expression.

Article 14 - Prohibition of discrimination.

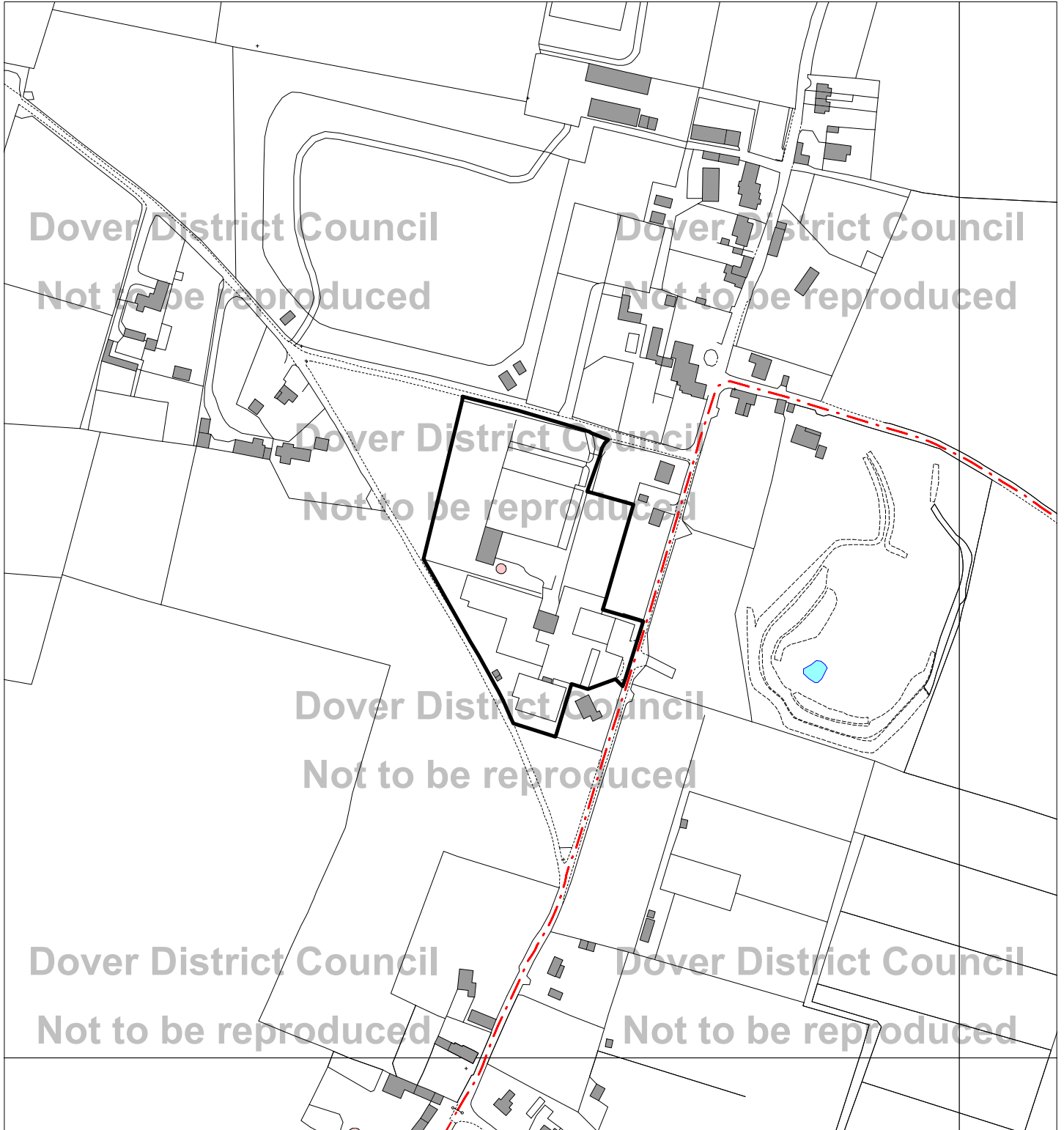
The Committee needs to bear in mind that its decision may interfere with the rights of particular parties, particularly under Article 8 and Article 1 of the First Protocol. The decision should be a balanced one and taken in the wider public interest, as reflected also in planning policies and other material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

(PTS/PLAN/GEN) HUMANRI

PUBLIC SPEAKING AT PLANNING COMMITTEE

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

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Not to scale

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published 2018

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

Application: DOV/18/00242

Summerfield Nursery

Barnsole Road

Barnsole, Staple

CT3 1LD

TR 2774 5627



DOV/18/00242 – Erection of 10no. detached and 6no. terraced dwellings, detached garages, formation of a vehicle access and parking (existing buildings to be demolished), at Summerfield Nursery, Barnsole Road, Barnsole, Staple, CT3 1LD

Reason for the Report

The above application was considered by the Planning Committee at its meeting on 22 November 2018 (agenda item 14) and the report is attached at Appendix 1.

The recommendation of the report at Appendix 1 was for refusal but the Committee resolved to grant permission. Unfortunately the resolution to grant permission was not made subject to any conditions or Section 106 Agreement although there were issues identified in the report that needed to be controlled in the event that permission is granted. The decision notice has, therefore, not been issued and the reason for this report is to correct the oversight and recommend a new resolution that makes the grant of permission subject to conditions and the conclusion of a Section 106 agreement. The applicant has been informed of the necessity to bring the application back to this Committee meeting.

Although the Committee's reasons for resolving to grant permission contrary to the recommendation in the officer's report have been agreed in approving the minutes of the 22 November 2018 meeting it is also necessary for the Committee to confirm that it still wishes to grant permission for those reasons.

Statement of Reasons

The Committee considers that Development Plan Policies CP1, DM1 and DM11 are not consistent with the National Planning Policy Framework and, when combined with the Council's current inability to be able to demonstrate a five year supply of housing land, should be given less weight than that ascribed in the Officer's report. The Committee considers that the application's attributes, in particular: its proximity to local services in both Barnsole and Staple, the provision of 40% affordable housing and the Committee's assessment that any visual impact of the scheme would be very localised and sufficiently mitigated by the proposed replacement indigenous hedgerow planting are material considerations that justify a departure from the Development Plan.

Recommendation

I Should the Committee re-affirm that it wishes to grant permission in accordance with the Statement of Reasons set out in this report:

PLANNING PERMISSION BE GRANTED subject to conditions and completion of a S106 legal agreement to deal with the following matters:

- Standard time condition
- Approved plans
- Provision of accesses
- Provision of visibility splays

- Provision of passing place
- Provision of turning and parking area
- Provision of final hard surfacing of roads and footpaths
- Provision of cycle parking
- Construction management plan
- Full details of foul drainage
- Full details of surface water drainage
- No infiltration other than for those areas which are approved
- Submission of samples of materials
- Submission of full landscaping plan (including timetable for its provision and maintenance programme)
- Protection of existing hedges which are to be retained
- Remove PD rights for roof extensions, outbuildings and means of enclosure to northern, southern, south western and western boundaries of site
- Archaeological watching brief
- Provision of refuse storage
- Provision of ecological enhancements
- Investigation and remediation of any contamination on site
- Secure 40% on-site affordable housing
- Library contribution
- Provision and maintenance of Turtle Dove area shown on plans
- SAC/SPA mitigation payment

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

Appendix 1 – Report considered by Planning Committee at its meeting on 22 November 2018 (agenda item 14).

- a) **DOV/18/00242 – Erection of 10no. detached and 6no. terraced dwellings, detached garages, formation of a vehicle access and parking (existing buildings to be demolished), at Summerfield Nursery, Barnsole Road, Barnsole, Staple, CT3 1LD**

Reason for report: The number of contrary views.

- b) **Summary of Recommendation**

Planning permission be refused

- c) **Planning Policies and Guidance**

Core Strategy Policies

- CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy. Barnsole is not identified as a settlement and therefore falls within the ‘hamlet’ settlement type, which are described as “not suitable for further development unless it functionally requires a rural location”.
- CP3 – Of the 14,000 houses identified by the plan, 1,200 (around 6%) is identified for the rural area (i.e. areas other than Dover, Deal, Sandwich and Aylesham).
- CP4 - Developments of 10 or more dwellings should identify the purpose of the development in terms of creating, reinforcing or restoring the local housing market in which they are located and development an appropriate mix of housing mix and design. Density will be determined through the design process, but should wherever possible exceed 40dph and will seldom be justified at 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.

In rural areas, opportunities for rural exception sites should be supported and consideration given to allowing some market housing to support this. Development should be located where it will enhance or maintain the vitality of

rural communities. Where there are groups of smaller settlements, development in one village may support services in a village nearby. Isolated homes in the countryside should be avoided other than in exceptional circumstances.

- 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 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**

Whilst there have been several applications for the erection of glasshouses, polytunnels and sheds on the site, it is not considered that there is any planning history which is especially pertinent to the determination of the current application.

e) **Consultee and Third Party Responses**

DDC Head of Strategic Housing – Initial comment received 19th April 2018

The application is in respect of a proposed residential development of 16 dwellings which means it is above the threshold at which there is a planning policy expectation that the scheme should include the provision of affordable housing. It is noted that the planning application form acknowledges this and that the applicant is proposing that 6 homes should be provided for social rent. I can confirm that both the number of affordable homes and their size and type would be acceptable.

Subsequent comment received on 7th June 2018

- The 6 'affordable homes' being offered by the developer appear to comprise starter homes to be sold with a discount of 20% off the market price.
- The Housing & Planning Act provides the statutory framework for the delivery of starter homes. The Act defines starter homes as new homes costing up to £250,000 outside of London, to be available at a minimum 20% discount on market value to eligible first-time buyers. The legislation includes provisions to introduce a general duty on planning authorities in England to promote the supply of starter homes, and a specific duty to require a minimum number or proportion of starter homes on certain residential development sites. However, my understanding is that the starter homes legislative provisions are not yet in force and I don't believe starter homes are specifically referred to in the definition of affordable housing set out in the NPPF.
- Currently, the NPPF affordable housing definition includes intermediate housing which are defined as homes for sale and rent at a cost above social rent, but below market levels which can include shared equity housing (shared ownership and equity loans) and other low cost homes for sale and intermediate rent. However, it specifically states that homes that do not meet the definition of affordable housing, such as "low cost market" housing, may not be considered as affordable housing for planning purposes.
- I have no idea what the OMV of the starter homes would be but imagine they are likely to be the maximum set out in the Act - £250k. I'm sure that a 20% discount would make the homes more affordable for some first time buyers including some who would see them as an affordable alternative to shared ownership. However, they would not meet the needs of the majority of people on the Council's housing waiting list who are in need of social rented or affordable rented housing.
- Normally we would be seeking for the affordable housing element of a new housing scheme to comprise a mix of rented and low cost home ownership units (typically a 70/30 mix) however, the Council has agreed higher proportions of shared ownership housing within schemes where this has improved the development viability of the scheme and enabled it to come forward. Any affordable housing for rent that it is delivered through a S.106 agreement is normally used to meet the needs of people on the housing waiting list irrespective of where they currently live. Housing applicants aren't required to specify a location where they want to live and therefore it's not possible to use the waiting list as a data source for determining likely demand.
- To my knowledge there has been no development of affordable housing for rent or shared ownership in the village since the last homes to be developed by the local authority and I imagine that a significant number of the homes originally provided by the local authority have been bought by tenants under Right to Buy. However, the possibility of developing a small number of affordable rented homes in Staple through the Council's Rural Exceptions Site planning policy is currently being explored. The work on this is being undertaken by English Rural Housing Association who have an expertise in this type of development. The development has the in principle support of the parish council and is supported by the results of a recent local housing needs survey. ERHA have identified a site and are designing a scheme with a view to submitting it for planning approval in the near future.

Subsequent comment received 8th June 2018

Our normal starting off point on a S.106 affordable housing negotiation would be to ask for 70% of the affordable units to be social/affordable rent (4 units) and 30% shared ownership (2 units). We would be happy with this but would also be happy for all 6 units to be rented units if it helped make a smaller development such as this, simpler. There may of course be a difficulty in the developer attracting interest from a Registered Provider due to the relatively small number of units. The larger of the developing RPs in our district such as Orbit are unlikely to be interested. We would only know once the developer has approached them. If this was the case then the Council could consider whether it wished to acquire the units itself.

You are correct in assuming that a scheme comprising mainly social rented or affordable rented homes would meet the needs of people with the greatest affordable housing need.

DDC Environmental Health – Due to the historical uses in the areas around the site it is recommended that a multistage condition be attached to any grant of permission regarding the identification and remediation of any contamination on site. It is also requested that a condition be attached regarding the submission and approval of a construction management plan.

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.

KCC Highways and Transportation – *Initial response received 17th April 2018*

The following information is required in order to assess the highway impacts of the proposals:

1. Details of daily vehicle movements associated with the existing use as a nursery, including how these are spread between the two access points;
2. Details of the current permitted use(s) of the site.

Subsequent response received 12th June 2018

I refer to the above planning application and the additional information submitted by the applicant in relation to trip generation.

Whilst the trip generation figures for the proposed residential development are accepted, the trip generation figures suggested for the existing nursery are based on garden centre sites rather than mixed-plant nurseries with retail use. The Planning Authority advise that in their opinion the site could not be used wholly as a garden centre use without requiring planning permission as this would be a significant intensification of the use, materially different in character to the current and past use. As such the suggested trip generation figures for the existing use are likely to be in excess of those which might be generated. Having said that, there would clearly be a level of vehicle trips generated by the existing site and this could be more than the current level of the 'wound down' site if the business were revived and operating at capacity.

The proposed use is likely to generate around 10 two-way trips in the weekday peak hours and around 75 two-way trips across the whole day. These trips are likely to be spread across different parts of the highway network bearing in mind the site's central

location in relation to surrounding employment centres and schools. This means that in the peak hours there are likely to be around 3 two-way trips in Mill Lane and through Staple to the west, and around 7 two way trips in Barnsole Road to the north, with these being further split between Lower Road/Durlock Road (2 trips) and Fleming Road (5 trips). Depending on destination one or two of these latter trips may be on Chalkpit Lane. Whilst the trips associated with the existing use of the site would be subject to seasonal fluctuation and likely to be most intensive at the weekend, I consider it reasonable that there could be around 3 trips generated in the peak hours by staff and/or customers. Overall therefore, the proposals are likely to generate an additional 7 two-way peak hour trips on the highway network, split across routes as indicated above. Whilst Mill Lane and the section of Barnsole Road fronting the site are only wide enough for single file traffic, the low number of existing and proposed vehicle movements means that drivers are unlikely to meet each other very often and, if they do, an existing passing place is available in Barnsole Road together with a proposed passing place in Mill Lane. In terms of Barnsole Road north of the site Lower Road/Durlock Road, Fleming Road and Chalkpit Lane, the anticipated small number of additional trips are unlikely to have a severe impact.

Taking the above into account the proposals are unlikely to have a severe impact that would warrant a recommendation for refusal on highway grounds.

Whilst the proposals may remove existing HGV movements associated with the nursery, access will still be required onto the site for weekly refuse collection. The applicant should therefore check the size of refuse vehicle and particular site access point that will be used by the local authority and submit swept paths to demonstrate that this vehicle can manoeuvre in/out of the site access in an appropriate manner.

I note the internal roads are to remain private and will therefore not be adopted by the highway authority. The amount of car parking proposed is acceptable and unlikely to lead to unacceptable parking on the public highway.

There are unlikely to be any vehicle movements generated by the development in Mill Road to the south of the site. The proposed passing area is therefore not considered to be necessary as mitigation and can be removed.

I shall therefore be pleased to receive the vehicle swept path diagrams referenced above.

Subsequent response received 7th August 2018

I note the swept path diagram submitted for the refuse vehicle but it does not appear to be a full swept path diagram which would show all turning manoeuvres and include the wheel tracking as well as the vehicle body. The size of vehicle also appears smaller than we would normally accept. I also note that it is only shown to use the Barnsole Road access. As previously advised clarification is required from the local authority on the size of vehicle likely to be used and the access point/route through the site it would take. If the vehicle needs to enter/exit via the Mill Lane access then this needs to be checked with swept paths as well.

KCC Economic Development – Request that a contribution of £768.25 be made towards additional book stock for mobile library service attending Staple. KCC also recommend the provision of a High Speed Fibre Optic Broadband connection to the development.

KCC SUDS – *Initial comment received 13th April 2018*

Unfortunately no surface water drainage strategy has been provided for the proposed development. It is therefore recommended that the application is not determined until a complete surface water drainage strategy has been provided for review.

Subsequent comment received 21st June 2018

In principle we have no objections to the proposed drainage strategy, however we would like to see clarification that any soakaway will have an appropriate half drain time of less than 24 hours. In addition, soakaways should be a minimum of 5m away from any building.

Given the sensitivity of the site location with respect to Groundwater Source Protection Zone 3, we recommend that consultation with the Environment Agency is undertaken to confirm that infiltration is feasible.

Should permission be granted, conditions are requested regarding the submission and approval of a surface water drainage scheme; restricting surface water infiltration to those areas which are permitted; restricting occupancy of any of the dwellings until an operation and maintenance scheme is submitted and approved; and restricting occupancy of any of the dwellings until a verification report is submitted to demonstrate that the approved infrastructure is in place and operational.

Environment Agency – The EA have no comments to make as the planning application falls outside of their remit as a statutory planning consultee.

Natural England – Since the development will result in a net increase in residential accommodation, impacts on the SPA and Ramsar sites may result from increased recreational disturbance. The authority has measures in place to manage these potential impacts through the agreed strategic solution, subject to financial contributions being secured. On this basis Natural England is satisfied that the proposal will mitigate against the potential effects of the development on the sites and that the proposal should not result in a likely significant effect.

Natural England has not assessed this application for impacts on protected species.

Regard should be had for Natural England's SSSI Impact Risk Zones.

Southern Water – A formal application for a connection to the public foul sewer will be required. It is requested that an informative be attached to any grant of permission in this respect. Regard should also be had for surface water disposal.

It is requested that a condition be attached to any grant of permission requiring details of the foul and surface water disposal be submitted and approved by the local planning authority.

East Kent PROW – No comments

Stagecoach South East – Stagecoach does not operate buses in the vicinity of this development, so it would have no material impact on their operations.

NHS – The development would increase local population. The area is covered by one surgery – The Wingham Surgery, which is a branch of Aylesham Medical Practice. Investment is required to bring the surgery up to modern standards in order to future proof primary care service delivery to the area. The development would produce total occupancy of 48.1 people. A contribution of £360 per patient has been requested,

totalling £17,316. No specific project is identified. A number of risks are identified should the contribution not be provided.

Kent Fire and Rescue – The means of access is considered satisfactory.

Staple Parish Council – Object until further information or evidence of wider scope of consideration is received (i.e. KCC should consider wider transport infrastructure and vehicle movement).

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

- The site is outside of the settlement confines whilst the nearest settlement, Staple, is identified as only being 'low density development consisting of one or two dwellings'
- Increase in traffic on single track lanes
- Vehicle movements on roads pose an increased danger to dog walkers, people with push chairs, ramblers, tourists and people on horseback
- Walking routes from the site are via narrow lanes with no footpaths
- The bus service through the village was recently terminated/substantially reduced
- The road network could not support construction vehicles
- Vehicles cause damage to properties in the area
- Affordable housing should not be located in a village with no amenities and transport issues
- The development would be out-of-character
- Impact on the settings on listed buildings
- Too many dwellings are being proposed
- The area does not have the infrastructure to support this development
- The nearest medical facilities, schools and shops are approximately 2km away
- There is a bird sanctuary for highly endangered Turtle Doves across the road from the site
- There is a thriving hedgehog population in the beech hedges neighbouring the site
- Impact on the residential amenities of neighbours
- Increased air pollution
- There is insufficient water pressure in the area
- Other applications for development in the area have been refused

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

- It is a well-designed scheme and would be a visual enhancement
- Additional housing will allow young people to remain in the area
- The scheme will provide an improved access
- Reduction in traffic generation compared to the existing use
- The site is 'brownfield' or previously developed land
- The development includes the provision of affordable housing
- The development will help to support facilities and services, including the public house
- The scheme will benefit wildlife

One neutral representation has also been made, making the following observations:

- Small rural developments are supported and it is pleasing to see that ecology will be protected, but concern I raised that too many housing are being proposed.
- The number of dwellings should be significantly reduced
- The scheme would be out of character in this quiet rural location
- Increased traffic
- The transport data is misleading

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

- 1.1 The site lies outside of any settlement confines, as defined on the Proposals Map and is therefore considered to be within the countryside. The site also sits within the Eastry Arable and Woodland Clumps Landscape Character Area. Staple, defined as a Village, is located around 600m to the west of the application site. Ash is around 2.8km away, Eastry around 4km away and Sandwich around 6km away.
- 1.2 The site is relative flat, but falls gradually from south to north. The site, which is roughly rectangular and is currently used as a plant nursery with an element of retail, is bounded by hedges to its northern, western and south western boundaries. The site is located within Ground Water Protection Zone 3.
- 1.3 The application seeks permission for the erection of sixteen dwellings, which would comprise two terraces (each of three dwellings) of affordable dwellings and ten detached market dwellings. All of the dwellings would be two storeys in height, with the exception of one market dwelling which would be two storeys, but with rooms in its roof. The buildings would be between 9m and 9.8m in height. The materials would be a mixture of red brick, white weatherboarding and red clay hanging tiles, under Kent peg tiled roofs.
- 1.4 The dwellings would be located towards the perimeters of the site around the internal access road and a central green with a pond. The internal roads would access the road network at Mill Lane and Barnsole Road, with the internal access road providing a continuous link between the two. Thirty-six open car parking spaces together with ten double garages are proposed. Replacement hedges and planting are proposed.

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 the highway network
 - The impacts on neighbouring properties
 - The impacts on ecology
 - Development Contributions and Infrastructure

Assessment

Principle

- 2.2 The application site is located outside of the defined confines of Staple and is therefore considered to be within the countryside for the purposes of planning.

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. The development is not justified by other development plan policies, whilst the development does not functionally require a rural location. The development would not be ancillary to any existing development or use. Therefore the application is contrary to Policy DM1 of the Core Strategy. The principle of the development would also be contrary to Policy DM11, as set out later in this report.

- 2.3 Notwithstanding the fact that the site is outside of the settlement confines, it is worthwhile to have regard for the status of Staple and its identified role in providing housing. Staple is defined as Village by policy CP1 of the Core Strategy. The role of Villages, which are the lowest identified settlement type (hamlets not being identified) in the hierarchy, is to provide the “tertiary focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to essentially its home community”. The Land Allocations Local Plan (LALP) also identifies Staple as a Village, specifically confirming that Barnsole (where the current application site is located) is a hamlet (i.e. not a defined settlement and therefore not suitable for further development). The LALP advises that, at the time it was written, Staple had a Church, a recreation ground, a public house, a village hall and an hourly bus service.
- 2.4 The LALP identifies a need for additional housing in Staple and made a change to the settlement confines in order to provide a site capable of accommodating one or two dwellings. No further development was deemed to be necessary and the LALP was found to be sound by the Inspector at examination. However, since the LALP was published in 2015, permissions have been granted in Staple for seventeen dwellings (plus six dwellings under the prior approval procedure), whilst the pub in Staple has closed (although the pub in Barnsole remains open) and the hourly Stagecoach bus service has been terminated, making the area significantly less sustainable than it had been previously. The change to the settlement confines of Staple, described as creating an opportunity for one or two dwellings in the LALP, eventually gained planning permission for four dwellings, whilst planning permission was granted at the Three Tuns Public House for a total of nine dwellings. In addition, a site at the northern end of Barnsole Road was granted planning permission at appeal for four dwellings. Furthermore, six dwellings have been granted prior approval in the vicinity of Staple.
- 2.5 Whilst the principle of the development is contrary to the development plan (Policies DM1 and DM11), it is important to note that, at present, the Council is unable to demonstrate a deliverable five year housing land supply. 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. A recent appeal decision at Walmer, Deal concluded that the Council has approximately 4.5 years supply of housing (albeit this pre-dates the publication of the revised National Planning Policy Framework (NPPF)). Given this position, Policy DM1 is now considered to have some reduced weight in the decision making purposes as it has a limiting effect on the supply of land for housing and in this regard, and against the backdrop of not being able to demonstrate a five year supply of deliverable housing land, that the weight to apply to this policy is more limited. Policy

DM11 is also affected; however, it is considered that this policy closely correlates with the NPPF and continues to carry significant weight.

Character and Appearance

- 2.6 The site lies within the countryside, where Policy DM15 applies. This policy states that development which would result in the loss of, or adversely affect the character or appearance of the countryside will only be permitted in exceptional circumstances. In addition, Policy DM16 generally resists development which would harm the character of the landscape. It is considered that both of these policies accord with the NPPF and, as such, carry full weight.
- 2.7 In order to inform the consideration of a developments impact on landscape character, regard should be had for the Dover District Landscape Character Assessment, which divides the district into 12 landscape character areas. The site lies to the northern edge of the 'Eastry Arable and Woodland Clumps' landscape character area, just below the boundary of the 'Staple Farmlands' landscape character area. The key characteristics of the 'Eastry Arable and Woodland Clumps' area is described as: gentle ridge and valley topography of the Downs; small settlements enclosed; orchards and vineyards; poplar shelter belts; arable land; rectangular fields follow northeast-southwest direction; native hedgerows and isolated trees; strong seasonal variation; mixed building types; light settlement; minor roads; and a footpath network. In terms of the character of built form, the area is described as having "isolated houses and farmsteads and small clusters of houses frequent the area, linked by a network of narrow lanes", whilst "the series of small settlements with open arable land in-between form a pattern and rhythm across the landscape". The key characteristics of the 'Staple Farmlands' area are largely the same of those of the 'Eastry Arable and Woodland Clumps' area, albeit the land is flatter. The built form in this character area is described as, "building types, materials and ages are varied with a rich mixture of traditional and modern Kentish oasthouses, used for drying hops, Flemish gable ends, relating to the historic integration of the Dutch, and flint material, relating to the underlying geology of the wider area. There are a number of isolated houses and farmsteads spread throughout the character area, which support these characteristics. The settlement of Staple, however, includes a mix of modern brick houses within a higher density".
- 2.8 Locally to the site, it is considered that within the area to the east of Staple, buildings tend to be grouped in clusters (in accordance with the Landscape Character Assessment appraisal). These clusters are all present on the pre-C20th maps, with the exception of one group to the north of Lower Road, albeit most have grown since that time. The application site forms a triangle of land between three of these clusters, Barnsole, Summerfield and the former location of a windmill. The application site had, with the exception of a small farmstead to its north eastern corner, been vacant of buildings until the C20th.
- 2.9 The buildings within the clusters are typically very low density, sporadically located and of diverse scale and design, with each building (or short terrace) differing from the next. The majority of the buildings face towards the roads, however, the separation from the road varies considerably, with some buildings directly addressing the roads and others set back by a significant distance. It is considered that the unplanned, sporadic and diverse character of the clusters produces a strong defining character to the area.

- 2.10 The existing site does depart from the character of the clusters, accommodating glass houses, poly tunnels and potting sheds spread across much of the site. However, whilst these buildings have significant floor areas, their height is limited. Moreover, the site is predominantly bounded by tall hedges, albeit these hedges include Leylandii, such that the buildings on site are not prominent from outside the site, other than in views from the entrances to the site.
- 2.11 The proposed development seeks to construct sixteen two-storey dwellings (albeit plot 10 would also have rooms in its roof). Whilst a relatively low density scheme compared with average development densities across the district, it would be of higher density than that which is found within the Barnsole/Summerfield area. The layout of the scheme, whilst utilising an organic road plan, retains a planned, orderly pattern of development which fails to have regard for the unplanned “scattered” character which is prevalent.
- 2.12 The proposed buildings would be of significant scale, with six terraced dwellings of around 100sqm each and ten detached dwellings of between 114 and 236sqm and reaching heights of between 9 and 9.6m. Whilst buildings of similar, or even larger, size can be found in the vicinity, they are typically set in larger plots, retaining a sense of spaciousness.
- 2.13 The dwellings have been sensitively designed, are well proportioned and would utilise a high quality materials palette typically used for rural developments (albeit the white painted weatherboarding proposed to some dwellings is used scantily in the area and rarely as it has been proposed in the current application).
- 2.14 The area around the site is relatively flat, but falls gradually from south to north. The application has been supported by a Landscape and Visual Impact Assessment (LVIA) which considers the landscape character of the site and the surrounding area, viewpoints from where the site is or may be visible and the impacts of the development. The broad locations of the viewpoints chosen for the assessment are considered to be reasonable, although closer views of the site from Mill Road must also be considered. In order to assess the impacts of the development on the character of the landscape, a standard methodology will be used which considers the sensitivity to change, the magnitude of change and the significance of impacts, having regard for potential mitigation.
- 2.15 It is considered that, of longer distance views identified in the report (7 to 13), the development would have a neutral impact, due to the distance at which the views would be taken (i.e. a low sensitivity to change) and the screening effect of existing buildings and vegetation. Whilst some benefits and disbenefits are identified (primarily the benefits being the removal of Leylandii hedges and the disbenefits being the views gained of the roofs of the proposed dwellings), it is considered that these impacts are broadly balanced. Issue is taken, as will be set out in more detail later on in this section, with the degree to which the presence of dwellings would cause an adverse effect and the degree to which vegetation would mitigate these impacts.
- 2.16 Viewpoints closer to the site are significantly more affected by the proposed development. In the view from the main entrance to the site on Barnsole Road, the car park, several single storey glasshouses and a potting shed are currently visible. Summerfield Nursery House and, to a lesser degree, Holly Cottage are noticeable. The proposed development would introduce an

access with a raised table and one dwelling to its right hand side adjacent to the road. Furthermore, views into the site would be possible, including areas of car parking, garages and around five dwellings (with glimpse views of other dwellings also possible). The character of this part of Barnsole Road is largely influenced by the narrow width of the road and the lack of prominent buildings. The greenhouses, to a degree, depart from this, but retain the agrarian character of the lane. Whilst the assessment of the applicant is that the greenhouses are 'detractors', it is not considered that they have more than a minor negative impact on views. The application, however, would introduce a very suburban, engineered character to this narrow lane, significantly departing from the scattered, rural character which prevails. It is considered that, in this view, the development would cause a moderate adverse effect.

- 2.17 The LVIA identifies a viewpoint from the junction of Barnsole Road and Mill Road, although it is considered that this viewpoint should be 'extended' to also consider that impacts from Mill Lane. From here very little built development is currently visible (Summerfield Nursery House and Mill Cottage/Mill House). The existing buildings, greenhouses etc. on the application site are just visible over the boundary hedge, against the backdrop of the Leylandii hedge. The submitted LVIA considers that the benefit of removing the Leylandii hedge which forms a backdrop outweighs the harm caused by the erection of dwellings, considering that the proposed dwellings may be "glimpsed" with only "fragmented partial views of rooflines and chimneys". This conclusion cannot be reconciled with what is apparent on site. The rooflines of the existing glasshouses can be 'glimpsed' at present; however, the proposed dwellings would be approximately twice the height of these glasshouses. As such, the proposed dwellings would, it is considered, form dominant and significantly detracting features in this view, which would significantly outweigh the benefit of losing the Leylandii hedge. It is considered that, in this view, the development would cause a moderate adverse effect.
- 2.18 From the junction of Mill Road and Mill Lane the main feature is the Leylandii hedge, with an open field (with stored vehicles) and, beyond, the properties on Barnsole Road to the left hand side of the view and Mill House and Mill Cottage to the right hand side. From this viewpoint, the benefit of removing the hedge would be most appreciated, as a length in excess of 100m, highly visible from this viewpoint, would be removed. This hedge would be replaced by a native hedgerow, above which the development would be visible. In particular plots 8, 9 and 10 (which include dwellings and garage buildings) would be located in relatively close proximity (between 8 and 20m) to this boundary. Other dwellings may also be visible in the background of views. Being a newly planted hedge, in the short and medium term, it would provide limited screening of the development. In the long term, this hedge would increase in height, depending on the species, density, maintenance etc.; however, it is highly unlikely that the hedging would reach as high the eaves of the building. Having regard for the perspective available from this viewpoint, it is considered that the buildings would remain prominent features, detracting from the rural character. Balancing the benefit against the disbenefit, it is concluded that a minor adverse effect would be caused.
- 2.19 From Mill Lane, adjacent to the second access, the existing view comprises Summer Lodge and its garden to the left hand side, which is bounded by hedges over which the roof of Holly Cottage is visible. To the right hand side and directly abutting the road, is the row of Leylandii, which is a detractor. The development would significantly alter this view. The open 'airspace' over the polytunnels (permitting views of trees beyond) would be replaced by the side

gable elevation of plot 12. The existing access to the centre of the view would be engineered to create an access with a raised table and footpaths. To the right hand side, the Leylandii hedge would be removed and replaced with a native hedgerow. However, two dwellings and a garage would be located in close proximity (less than 5m) to this boundary. Consequently, the dwellings would create highly dominant features from the road. Balancing the benefit against the disbenefits, it is concluded that a moderate adverse effect would be caused.

- 2.20 Regard has been had to the degree of proposed mitigation, i.e. the planting of native hedgerows and the enhancement of privet hedges. However, the proposed dwellings would rise to between 9 and 9.6m in height. Whilst these hedges would reduce the visual impacts of the development, it is highly unlikely that, even once the hedges have become established, they would effectively screen dwellings (not least due to the hedges being in the rear gardens of dwellings where it would undesirable to have tall hedges).
- 2.21 Overall, it is considered that the development would introduce an overtly planned layout development, at density which would fail to relate to the density of development in the area, creating a pattern of development starkly at odds with that of the surrounding area, described by the Inspector for the appeal site to the north as “scattered” and described in the Landscape Character Assessment as: “isolated houses and farmsteads and small clusters of houses frequent the area, linked by a network of narrow lanes”. Whilst the removal of evergreen hedges is positive, the retained and new hedges would fail to mitigate the visual impacts of the development. It is therefore considered that the development would cause substantial harm to the character and appearance of the area and to the character of the countryside and landscape, contrary to Core Strategy Policies DM15 and DM16.

Heritage

- 2.22 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.
- 2.23 There are two groups of listed buildings which are located relatively close to the application site, one to the north and one to the south (the groups signifying the ‘clusters’ of buildings which characterise the area’).
- 2.24 The group to the south is located around 110m away and comprises four listings (three dwellings and a well). The closest of the proposed dwellings would be around 140m from the closest listed building within this group, Summerfield House. Given the separation distance, it is not considered that the development would impact upon the settings of these buildings.
- 2.25 To the north is a second group of four listed buildings. This time, three of these buildings are dwellings and one, the closest to the site, is a pub. Again, the development would be set a reasonable distance away from these listed buildings, with the closest of the proposed dwellings to the pub being 65m away. Given this distance, together with the intervening vegetation, it is not

considered that the development would impact upon the setting of these 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.

- 2.26 It is also necessary to consider the developments impacts on non-designated heritage assets, in particular Archaeology. The KCC archaeologist has not provided a comment regarding the application; however, it does not follow that the lack of a comment means that archaeology is not a constraint. In the absence of a comment, historic maps and the Kent Historic Environment Records have been checked to establish whether the site has potential to contain non-designated heritage assets of archaeological value. The records show that there is a post-medieval dispersed plan farmstead at the application site, chalk workings and a lime kiln to the east and various farmsteads, outbuildings and a brewery around the Black Pig Public House. To the west was a corn mill. It is acknowledged that the site contains various buildings and hardstandings; however, these do not cover the site and it is likely that they will have limited foundations. Given the sites location, to the southern extent of the hamlet of Barnsole (Summerfield being a separate hamlet beyond open fields to the south), it is considered that there is a potential for the site to contain non-designated heritage assets of archaeological value and, as such, should permission be granted, it is considered that it would be reasonable and proportionate to include a condition which requires an archaeological watching brief to take place during construction.

Impact on Residential Amenity

- 2.27 Typically, properties outside the application site are located a significant distance away. Three properties, to the east of the site, are closer and require more detailed consideration. These properties are Summer Lodge, Holly Cottage and the dwelling which is associated with the application site (and is under the ownership of the applicant).
- 2.28 Summer Lodge would be located around 30m from the nearest of the proposed dwellings (plot 12). As such, no significant loss of light or sense of enclosure would be caused. Whilst the side elevation of plot 12 would be close to the boundary with Summer Lodge, this side elevation would not contain any windows. Rear facing windows in plot 12 would provide only long distance, angled views towards Summer Lodge. No other proposed dwellings would cause any significant loss of light, sense of enclosure or overlooking and, therefore, the living conditions of Summer Lodge would not be unacceptably harmed.
- 2.29 Plot 12 is located directly to the rear of Holly House, set approximately 30m away from its rear elevation and around 18m away from the rear boundary of this neighbour. Given these distances, no unacceptable loss of light, sense of enclosure or overlooking would be caused.
- 2.30 Summerfield Nursery House is under the ownership of the applicant; however, regard must still be had for whether the development would unacceptably impact upon the residential amenity of this dwelling. The rear elevation of plot 1 would be around 8m from the boundary with Summerfield Nursery House and around 13m from the western corner of Summerfield Nursery House itself. It is considered that this distance is sufficient to avoid unacceptable loss of light or sense of enclosure. Whilst the existing and proposed dwellings are in relatively close proximity to each other, having regard for the orientation of the

buildings and the areas of Summerfield Nursery House which would be overlooked, on balance, it is not considered that the level of overlooking would be sufficient to warrant refusal.

- 2.31 The proposed dwellings would all be of a reasonable size and would be provided with private rear gardens. The layout plan shows that, typically, the dwellings would be well-separated from each such that unacceptable overlooking, loss of light or a sense of enclosure would not be caused. The rear elevation of plot 7, would be relatively close to the side elevation (and rear garden) of plot 6, the respective rear and side elevations of which would be around 12m from each other. Whilst this relationship is not ideal, it is considered that, due to the orientation of the buildings and subject to securing vegetative boundary screening as shown on the plans, the impact on the living conditions of plot 6 would not be so harmful that refusal would be warranted. Refuse storage could easily be catered for, subject to condition.

Impact on the Local Highway Network

- 2.32 The applicant submitted that the vehicle movements generated from the existing use of the site could be compared to a retail garden centre and, consequently, assessed the number of vehicle movements which could be generated by the existing use to be around 540 two-way movements per day. The existing use generates very few vehicle movements, particularly as the business is in decline. Whilst, should this decline reverse, vehicle movements may increase, the applicant's comparison is not accepted, as the characteristics of the site are materially different from a retail garden centre. KCC consider that, at present, the site is likely to generate around 3 peak hour movements, albeit there would likely be seasonal fluctuations and additional weekend movements.
- 2.33 It is considered that the proposal would, having regard for trip generation from similarly sized and located developments, generate around 75 two-way trips throughout the day, with around 10 two-way trips being within the weekday peak hours. These would be split into around 7 movements along Barnsole Road to the north (further split down into 5 movements along Fleming Road and 2 movements along Lower Road/Durlock Road) and 3 movements along Mill Lane and into Staple. Consequently, there would be an increase in peak hour vehicle movements. The roads in the immediate vicinity of the site are narrow, single lane rural roads with few opportunities for vehicles to pass each other and are therefore poorly equipped to accommodate additional vehicle movements. However, the development does propose one new passing place on Mill Lane which could be used by the roughly 30% of vehicles travelling to and from the site along this road (together with existing traffic), providing some mitigation. It is also considered that the closure of the existing business would remove HGV's from the local network, providing a modest benefit (although refuse, delivery vehicles would still need to gain access from time to time). Whilst, overall, the development would place additional pressure on the restricted local road network, it is concluded that this would not amount to an unacceptable impact on highway safety or a severe cumulative impact.
- 2.34 The applicant has submitted a tracking plan which demonstrates that a 10.5m long vehicle could access and leave the site in either direction along Barnsole Road. Whilst the tracking plan does not demonstrate how vehicles would then navigate around the site, given the width of the internal roads and the sizes of the turning areas on site, it is unlikely that manoeuvring within the site would be problematic. Given the geometry of Mill Lane it is questionable whether this

access complies with current access standards for larger vehicles (albeit it is understood that this access is currently used for delivery vehicles). However, it is not considered that this uncertainty is a significant issue, due to the acceptability of the Barnsole Road access. For these reasons the proposed accesses to the site and the layout of the internal access road are considered to be acceptable in highway terms.

- 2.35 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 location of the site falls within the 'Suburban Edge/Village/Rural' category, where two-bedroom dwellings are usually required to be provided with 1.5 spaces each and three, four and five bedroom dwellings are usually required to be provided with 2 spaces each. In addition 0.2 visitor spaces should be provided for each dwelling. Plots 1-6 (two two-bedroom dwellings and four three-bedroom dwellings are proposed) would each be provided with two spaces, albeit these are tandem spaces. Whilst the use of tandem spaces is not ideal, being less convenient than independently accessible spaces, it is noted that the spaces are reasonably sized. The private dwellings, which would be a mixture of three, four and five bedroom dwellings, would each be provided with two independently accessible spaces together with a double garage. Whilst garages do not normally count towards car parking provision (often being used for storage and other domestic uses), these dwellings would still be provided with the requisite number of parking spaces. In addition to the allocated car parking, four visitor spaces are also proposed. The sixteen dwellings would create an overall need for 3.2 visitor spaces. Overall, the number of spaces provided would meet the need generated by the development. Whilst the tandem spaces is unfortunate, given the size of these spaces, the availability of visitor spaces and the very limited likelihood of vehicles parking on the highway, it is considered that the car parking provision is acceptable. Cycle parking could be secured by condition.

Flood Risk and Drainage

- 2.36 The site lies within Flood Risk Zone 1, where the risk of flooding from rivers or from the sea is lowest. Consequently, the sequential and exception tests need not be applied. However, it is still appropriate to consider whether the development would be liable to, or increase the risks of, localised flooding.
- 2.37 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 incorporate 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.
- 2.38 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.
- 2.39 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.
- 2.40 Initially KCC were concerned that a surface water drainage strategy had not been submitted with the application. However, following reconsultation, KCC confirmed that no objection was raised to the proposed drainage strategy, provided that soakaways were designed and located appropriately. It was also suggested that the EA be consulted; however, on doing so, the EA declined to comment due to the limited scale of the application. The site is located within Groundwater Protection Zone 3. Whilst Policy DM17 of the Core Strategy restricts infiltration in Groundwater Protection Zones 1 and 2, it does not restrict infiltration in Zone 3, albeit it will still be necessary to ensure that the detailed design of the infiltration system ensures that contamination is not caused. KCC recommend that, should permission be granted, conditions be attached regarding: the submission and approval of a surface water drainage scheme; restricting surface water infiltration to those areas which are permitted; restricting occupancy of any of the dwellings until an operation and maintenance scheme is submitted and approved; and restricting occupancy of any of the dwellings until a verification report is submitted to demonstrate that the approved infrastructure is in place and operational. In order to ensure that the development does not cause localised flooding or contamination of groundwater, such conditions would be reasonable.
- 2.41 Turning to foul drainage, Southern Water have raised no concerns regarding the capacity of the local foul drainage infrastructure. Notwithstanding this, it is considered that it would be necessary to attach to any grant of permission a condition requiring full details of on and, if necessary, off-site foul drainage works, including a timetable for the implementation of the works (demonstrating that the development will not be occupied until it is adequately serviced and a verification report is provided which demonstrates that the approved infrastructure has been constructed), and a maintenance programme.

Ecology

- 2.42 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.
- 2.43 The site largely comprises hardstanding, glasshouses, polytunnels and other buildings and structures. The open areas of land appear to be used for the growing of plants. The boundaries of the site include rows of trees and hedges, many of which are evergreen Leylandii type.
- 2.44 The applicant has submitted a Preliminary Ecological Appraisal for the site. This document confirms that there are no existing ponds within the site, and limited habitat, suitable for amphibians. Whilst there are six records of amphibians within 1km of the site, there are no records within 100m. It is therefore considered unlikely that great crested newts will be present on the site. The site provides limited habitat for reptiles, whilst the habitat which is present (low brambles and grass) is cut back and prepared for perennials

each year and sprayed regularly. The site is also isolated from other potential habitat, whilst no reptiles have been observed at the site. Consequently, it is unlikely that reptiles are present on the site. The site has the potential to support breeding birds, although there are no signs of barn owls on the site. The site is unsuitable for hazel dormice, badgers and bats. Other mammals, such as hedgehogs, rabbits, moles, field voles and foxes are likely to use the site. Whilst these species are not a constraint to development, they are afforded protection from unnecessary suffering and so should be protected during construction. The report concludes that trees to be retained should be protected during construction, whilst precautions are recommended to prevent unnecessary suffering to mammals. Ecological enhancements have also been recommended. It is considered that the submitted report provides a reasonable assessment of the likely habitats and species on the site and its recommendations are accepted, with the exception of the extent to which birds have been considered.

- 2.45 Concerns were raised with the applicant that the development of the site may have particular implications on Turtle Doves, which are a UK Priority Species under Section 41 of the Natural Environment and Rural Communities Act 2006. This Act places a duty on Local Planning Authorities to have regard for to the purpose of conserving biodiversity, under Section 40.
- 2.46 The application site is closely adjacent to an RSPB supported site and records of Turtle Doves. Whilst there are no known, verified records of Turtle Dove on the application site itself, the habitats on the site (boundary hedging) are consistent with the habitat utilised by Turtle Doves. Adopting a precautionary approach, and attaching significant weight due to the overall level of decline in the species, it is necessary for the application to demonstrate that the development would protect or minimise impacts on, and work to halt the overall decline in, Turtle Doves, having regard for the Councils duty under the Section 41 of the Natural Environment and Rural Communities Act 2006 and the NPPF more generally.
- 2.47 In response, the applicants have submitted an Addendum to their Preliminary Ecological Appraisal, to specifically address the likely impacts on Turtle Doves. The report advises that much of the site is unsuitable for Turtle Doves, whilst the activity on the site would disrupt potential nesting pairs. However, the hedgerows provide some potential for Turtle Doves. The report confirms that the applicants own a parcel of land opposite the Staple Turtle Dove Reserve which, due to the seasonal nature of wallflower production has supported Turtle Doves. The applicant has consulted with the Staple Turtle Dove Reserve and the recommendations made have been incorporating into the scheme (extensive planting of suitable hedge and tree species, the setting aside of land outside of the application site but under the control of the applicant and the formation of a pond). Consequently, the report concludes that the development would not be expected to have a negative impact on Turtle Doves and may well be of benefit. It is considered that the addendum report provides a reasonable account of the likely impacts on Turtle Doves and, as such, subject to conditions being attached to any grant of permission to secure mitigation and enhancements (in respect of all of the species identified in this section), the development would provide a modest overall enhancement to ecology.

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

- 2.48 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. Regard has been had for the applicants shadow Appropriate Assessment.
- 2.49 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.
- 2.50 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.
- 2.51 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.
- 3.52 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.
- 2.53 Having had regard to the proposed mitigation measures and having had regard for the applicants shadow Appropriate Assessment, 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

- 2.54 The areas adjacent to the site have historically been used for activities which may have caused contamination (a brewery, a chalk pit and lime kiln and filled ground). Given this, and having regard for the sensitivity of the end use, Environmental Health have advised that conditions be attached to any grant of permission requiring investigation and remediation of any contamination on site. It is considered that such a condition would be reasonable.

Contributions

- 2.55 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. The applicant has submitted that six dwellings will

be provided as affordable dwellings, equating to 40% of the overall number of dwellings proposed.

- 2.56 The normal starting point is that 70% of the affordable dwellings will be social/affordable rent and 30% will be shared ownership. However, the councils Head of Strategic Housing has advised that, where relatively few dwellings are proposed (such as this), 100% social/affordable rent would be acceptable, as this tenure meets the needs of people with the greatest affordable housing need. It is also acknowledged that, since the application was submitted, the definition of affordable housing has been expanded within new NPPF and now includes: affordable housing for rent; starter homes; discounted market sales housing; and other affordable routes to home ownership (shared ownership, relevant equity loads, other low cost homes for sale and rent to buy). However, should permission be granted, it is considered that this could be clarified through a condition requiring the submission of a scheme for the provision of affordable housing.
- 2.57 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 library provision. 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 project:
- Request that a contribution of £768.25 be made towards additional book stock for mobile library service attending Staple.

KCC also recommend the provision of a High Speed Fibre Optic Broadband connection to the development. KCC have provided details regarding how the contribution has been calculated and it is considered that these are necessary and reasonably related to the development and should therefore be sought. Consequently, it is considered that the request meets the relevant tests for developer contributions. There is no policy requirement to provide High Speed Fibre Optic Broadband and, as such, it would be unjustifiable to require that this infrastructure be provided by the development.

- 2.58 Policy DM27 requires that developments contribute towards the provision of open space to meet the needs which will be generated by the development. No requests have been made for open space contributions and it is noted that the Staple Recreation Ground, which provides play equipment, is located a short distance from the site. Consequently, it is not considered that a contribution for open space provision would be justified.
- 2.59 Subject to securing the provision of affordable housing and library contributions, it is considered that the development would comply with policies DM5 and CP6 of the Core Strategy.

Planning Balance

- 2.60 As set out within the principle section of this report, the council is currently unable to demonstrate a deliverable five year housing land supply. 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. The applicant has sought to demonstrate that paragraph 177 is at odds with paragraph 11, having the effect that paragraph 11 (the 'tilted balance') should be reengaged after an Appropriate Assessment has taken place, provided no likely significant adverse effect would be caused. The council do not accept this interpretation, which does not stand up to scrutiny. Indeed, the Secretary of State, in a recent 'called-in' appeal, acknowledged the implications of paragraph 177 for disengaging the 'tilted balance'. The disapplication of the 'tilted balance' represents a changed circumstance since an appeal relating to a site to the north of Barnsole Road (discussed in more detail at paragraph 2.62 of this report) was determined.

- 2.61 The site is located on a narrow lane, which lacks footpaths and is very poorly lit at night. The nearest bus stops providing high quality (once an hour or better) services are located around 2.8km away by road in Ash. The applicant has advised that Staple Parish Council's website shows bus services which serve Staple. However, the website only confirms that commercial bus services have ceased and that the community are investigating options for providing some services directly. The nearest train station, Sandwich, is located 6.5km away by road. A short distance to the north of the site is a pub, which also provides basic foods, such as bread, milk, cheese, biscuits, baked beans, tea etc. together with household essentials such as washing up liquid, tooth paste and tooth brushes. Whilst this is a valuable resource, it would not overcome the need to make regular journeys for groceries. There is a post box opposite the pub. Staple Village Hall and the recreation ground are located around 450m to the north west and Staple Church is around 1km to the north west. The nearest settlements providing reasonable levels of facilities and services (shops, medical facilities, library, primary school etc.) are Ash, around 3km away to the north, and Eastry, around 4km away to the south east. The nearest town providing a fuller range of facilities and services (train station, secondary school, supermarket etc.) is Sandwich, around 6km to the east (although the facilities and services in Sandwich are typically around 6.5km away). Given the distances, the convenience and safety of walking and cycling routes and the lack of convenient public transport, it is considered that there is no realistic alternative but to travel by car, whilst such travel would be over not inconsiderable distances. It is therefore considered that the site is not sustainably located, contrary to paragraph 78 of the NPPF, which requires that "housing should be located where it will enhance or maintain the vitality of rural communities" and would fail to prioritise pedestrian and cycle movements or facilitate access to high quality public transport, contrary to paragraph 110 of the NPPF. For the same reasons, the development would be contrary to Policy DM11 of the Core Strategy.
- 2.62 The site is around 350m to the south of a site which was granted planning permission at appeal for four dwellings (DOV/16/00470 and APP/X2220/W/16/3157696). This appeal decision is a material consideration in the determination of the current application. In allowing the appeal, the Inspector commented, at paragraph 4, that the pattern of development was 'scattered'. At paragraph 5, the Inspector placed reliance on the bus service, which has since ceased. At paragraph 9, it is confirmed that the presumption in favour of sustainable development (or the 'tilted balance') was applied whilst, in the same paragraph, considers that the appeal site was 'semi-rural'. Finally, at paragraph 11, the Inspector confirms that "the unique characteristics of the site mean that a precedent for other development sites would not be set". Whilst the appeal site is relatively close to the application site, the scale and character of the two schemes varies significantly, whilst

there have been material changes in circumstance since the appeal was determined (disapplication of the 'tilted balance'; the cessation of the bus service in the village; and the additional housing which has since been granted). Consequently, the relevance of the appeal scheme to the determination of the current application is limited.

- 2.63 The NPPF, at paragraph 8, sets out the three objectives to achieve sustainable development: economic; social and environmental.
- 2.64 In terms of the economic objective, the development would remove an existing employment generating use. However, the application has been supported by a marketing appraisal which, it is considered, demonstrates that the existing business is not viable. The development would produce a short-term economic benefit during the construction phase.
- 2.65 Turning to the social objective, the development would provide additional dwellings which would provide a meaningful contribution to the councils housing land supply. In particular, significant weight in favour of the development is attributed to the provision of affordable dwellings (albeit there is little evidence that this housing is required to meet a local (Staple) need). The development would provide customers to/users of the facilities and services in Staple and Barnsole (i.e. the Church, the pub, the village hall and the recreation ground). However, it is likely that occupants of the development would travel significant distances by car to meet the vast majority of the day to day needs.
- 2.66 Finally, in terms of the environmental objective, the development would reduce the number of HGV's and commercial vehicles on the local road network, although it is considered that there would be an increase in vehicle movements overall when balanced against the potential use of the site (the likelihood of movements generated from the existing site increasing towards its potential is significantly reduced, by virtue of the applicants evidence that the site is not viable). There would likely be an increase in vehicle movements compared to the existing operation. There would be little alternative but to use cars to reach the majority of day-to-day facilities and services and these journeys would be over a significant distance. It has also been concluded that the development would harm the character and appearance of the area, materially altering the rural character of this part of the countryside, described by the Inspector as being an area of "scattered built development". This harm is attributed substantial weight. The development would, with conditions, mitigate its impacts on ecology and provide a modest enhancement.
- 2.67 Overall, the development would provide 16 dwellings, of which 6 would be affordable. This benefit is attributed significant weight. The modest ecological benefits and short term economic benefits are attributed limited weight. However, it is considered that the site is located such that it would require long journeys by car to reach the majority of the day-to-day facilities and services. Whilst this is tempered by the additional support occupants of the development would provide to the limited facilities and services available in the locality, overall it is considered that the location of the site would cause moderate harm. The development would produce a density and layout of development which is wholly at odds with the scattered built development which informs the character of Barnsole Road. This harm is attributed substantial weight. Balancing these benefits and disbenefits, it is concluded that there would be a significant overall disbenefit and, consequently, it is not

considered that the proposal represents sustainable development, as defined by the NPPF.

Conclusions

- 2.68 The principle of the development would be contrary to policy DM1 and DM11, being well outside of the defined settlement confines and failing to meet any of the identified exemptions. The application is therefore contrary to the development plan.
- 2.69 It is considered that the site is located where occupants of the development would be reliant upon unsustainable forms of transport and would need to travel significant distances in order to access day-to-day facilities and services. Moreover, the development would introduce an overtly 'planned' development layout within an area which has an irregular, low density rural layout to dwellings, described by an Inspector as "scattered built development". This would cause substantial harm to the character of the area. Whilst the development would provide some benefits, principally the provision of housing which would include 40% affordable housing, it is not considered that these benefits are sufficient out outweigh the harm caused and do not provide a material circumstance for setting aside the conflict with the development plan. Regard has been had for all other material considerations. For these reasons, it is recommended that planning permission be refused.

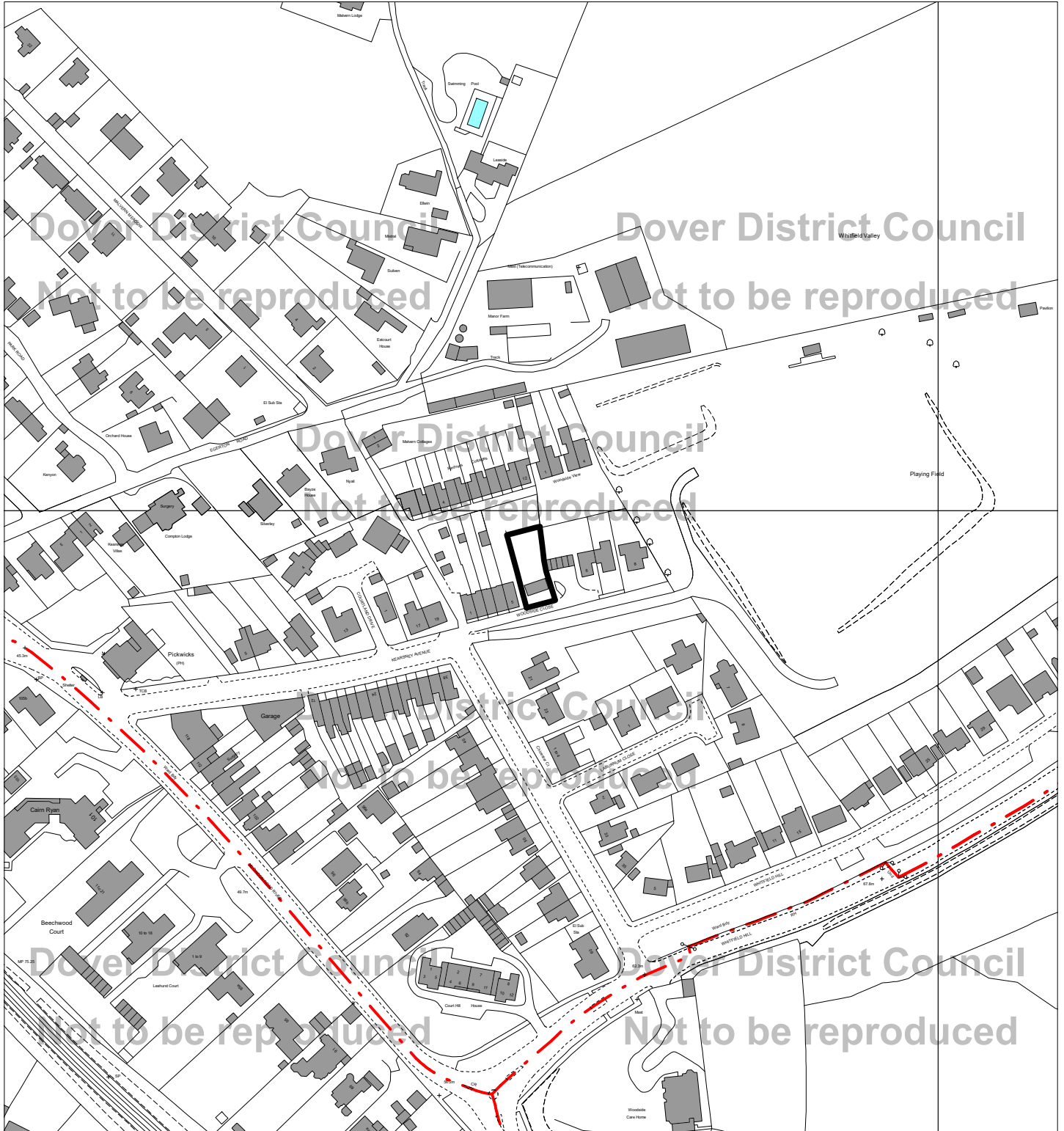
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Recommendation

- I PERMISSION BE REFUSED for the following reasons:-
- (1) The site is located outside of any urban boundaries or rural settlement confines, in a rural location which would be dependent upon the private car to access day-to-day facilities and services. As such, and in the absence of any special circumstances which indicate otherwise, the proposed development represents an unjustified, unsustainable and inappropriate form of development within the countryside, contrary to Dover District Core Strategy Policies CP1, DM1 and DM11 and paragraphs 78, 102, 103, 110 and 170 of the National Planning Policy Framework.
- (2) The proposed development, by virtue of its layout and density, together with the scale and uniformity of design of the dwellings, would create a development starkly at odds with the informal, scattered character of development, causing substantial harm to the rural character and appearance of the area, contrary to Dover District Core Strategy Policies DM15 and DM16 and paragraphs 124, 127 and 130 of the National Planning Policy Framework.
- II Powers to be delegated to the Head of Regeneration and Development to settle the reasons for refusal, 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/18/00751

Land between 5 & 6

Woodside Close

Kearsney

CT16 3BP

TR29324396



- a) **DOV/18/00751 – Full application for the erection of two semi detached dwellings with associated parking**

Land at 5 & 6 Woodside Close, Kearsney

Reason for report: Number of contrary views.

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policies and Guidance**

Core Strategy (CS) Policies

- CP1 identifies Dover (including the built-up parts of the parishes of River, Temple Ewell and Whitfield) as a Secondary Regional Centre suitable for major focus for development in the District.
- DM1 - Development will be permitted within the settlement boundaries
- 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.

National Planning Policy Framework (NPPF)

- NPPF – Section 12 seeks to achieve well designed places. Paragraph 127 is particularly relevant as it seeks to ensure developments function well and add to the overall quality of the area, are visually attractive and are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- Section 2 of the NPPF seeks to achieve sustainable development. Paragraph 11 sets out that for decision taking 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 the NPPF 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 of the Framework taken as a whole.
- Section 5 of the NPPF seeks to ensure the delivery of a sufficient supply of homes. In this respect, the Council does not currently have a 5-year supply of housing sites.

- Paragraph 177 of the NPPF applies in relation to the Thanet Coast SPA.

The Kent Design Guide (KDG)

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

d) **Relevant Planning History**

There is no relevant planning history.

e) **Consultee and Third Party Responses**

Parish Council: Concerned with the impact upon wildlife.

Southern Water: No objections, subject to satisfactory connections being applied for and made to the public sewerage system.

Public Representations: There have been 9 objections received from the public consultation exercise. The objections are summarised as follows:

- The proposal would give rise to harm to highway safety.
- The proposal would necessitate the use of a private access and would give rise to inconvenience and inconsiderate parking and turning movements.
- The period of construction would lead to obstructions and inconvenience.
- Not enough information has been submitted to address concerns over the construction of the development on adjacent properties.
- The proposal would increase the problems currently associated with surface water run-off.

A few of the letters that have been received refer to land outside the application site - the loss of garden land to the north of the site; the subsequent impact upon wildlife and the increase in parking and associated vehicular movements in front of Redvers Cottages and Woodside View (Officer comments: This land is shown to be outside the application site, although within the applicants' control and therefore is not under consideration).

A few of the letters raise matters that are private and not in the public interest.

1. **The Site and the Proposal**

- 1.1 The application site falls within the urban boundary of Dover, within Kearsney.

- 1.2 The site is currently occupied by a single building that was last used in connection with No.5 Kearsney Avenue (the nearest house) as a garage/workshop. It is constructed of single skin brickwork under a corrugated sheet roof.
- 1.3 The application land is served by a private access leading from Kearsney Avenue, which is owned and maintained by the residents.
- 1.4 The access serves the application site, but it is understood that the applicants' rights to use the access do not extend further east – beyond the site.
- 1.5 The site rises steeply to the rear of the existing building up to Redvers Cottages and Woodside View to the north.
- 1.6 To the west of the site is a terrace of 5 two storey Victorian cottages. Immediately to the east is a row of lock up garages with an open forecourt. Further east there are a further three dwelling houses – served by the private access.
- 1.7 To the south of Woodside Close the topography of the land falls away and drops down to the access serving the KCC Youth Campsite.
- 1.8 The wider area has an eclectic mix of house types, constructed in different eras, comprising; terraced, semi-detached and detached housing.
- 1.9 The proposed development comprises the erection of a pair of two storey semi-detached houses. The application scheme has been revised since its initial submission to seek to improve the quality of the design and layout. In both dwellinghouses, the accommodation comprises a lounge and kitchen/diner on the ground floor with two bedrooms above. The dwellings are set back from their side boundaries and each dwelling provides access to reasonably sized rear gardens. The dwellings are set back from the private access to accommodate a single car parking space across the width of each plot.

The building (the pair) has a rectangular form, with its main entrance in the front elevation with access to each front door across the front parking bay. The building is finished in yellow facing brickwork on the ground floor, white coloured render on the upper floor and with a gable ended artificial slate roof. The architectural articulation includes a storm porch over the front door, a red brick soldier course across the building, which visually separates the ground and first floor levels, and contains mainly rectangular double glazed fenestration.

2. **Main Issues**

- 2.1 The main issues are:
 - The principle of the development
 - the impact of the proposals on the character and appearance of the area
 - the impact upon residential amenity

- the impact upon highway safety
- The effect on the integrity of the Thanet Coast and Sandwich Bay Special Protection Area

Principle of Development

- 2.2 The proposal has been amended following concerns raised by officers regarding design.
- 2.3 The application site is located in the urban area of Dover, close to all amenities for day to day needs. The location is therefore sufficiently sustainable. It satisfies the requirements of Policy DM1 in that the site falls within the urban boundary.
- 2.4 As such, the principle of development in this location is acceptable, and considered to be in accordance with planning policy.

Character and Appearance

- 2.5 The proposed building (pair of houses) would suit the residential character of the area. The building appears as a cottage-styled pair of dwellings with simply designed elevations and built form, but with some architectural articulation to provide some visual relief and interest.
- 2.6 The design of the building is appropriate to the existing design context; in particular the nearby Victorian cottages (1-5 Woodside Close) to the west with the use of appropriate materials, textures and colours. The dwellings would be visible from public vantage points, but would not be prominent, incongruous or appear out of context in the street scene.
- 2.7 The existing site is previously developed (containing a brick building) and within the urban boundary. It is considered that in the context of the site and the street scene the proposal is sympathetic to local character and would improve the overall quality of the area.

Residential Amenity

- 2.8 The proposed dwellinghouses have similar front and rear building lines to the terraced development to the west; although the front building line is set slightly further back than the adjacent terrace to allow a parking bay to be provided in front of each house.
- 2.9 The proposed houses do not have side windows and the orientation of the proposed houses follow the orientation of the adjacent cottages. This enables views from the rear elevations to be mostly along the rear gardens of adjacent properties and not across them.
- 2.10 The proposed houses are a good distance from those properties to the north (Redvers Cottages and Woodside View). With the significant fall in the topography of the land, the proposed two storey development would not affect or interrupt the outlook from those properties to any material extent.

- 2.11 With regard to the references made to inconvenience that might be caused by cars turning and parking along the access - as this is a private road and the applicants do not have a right to the private access east of the site, this is not a matter that falls to be considered in the public interest.

Highway Safety

- 2.12 The concerns expressed through the public consultation responses are not matters which are controllable by the Highway Authority. The size of the proposed parking bays meets the KCC Guidance for parking spaces, and therefore they would be able to accommodate the parking of a reasonably sized vehicle without the vehicle crossing over or into the private access.

SPA Conservation

- 2.13 Applying a pre-cautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within the district, to have an adverse effect on the integrity of the protected SPA and Ramsar sites. Following consultation with Natural England, the identified pathway for such an adverse effect is an increase in recreational activity which causes disturbance, pre-dominantly by dog-walking, to the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.14 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. For proposed housing developments in excess of 14 dwellings the SPA requires the applicant to contribute to the Strategy in accordance with a published schedule. This mitigation comprises several elements, including monitoring and wardening.
- 2.15 Having regard to the proposed mitigation measures and the level of contribution currently acquired from larger developments, it is considered that the proposal would not have an adverse effect on the integrity of the SPA and Ramsar sites. The mitigation measures will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

Overall Conclusion

- 2.16 There is a need for the Council to increase its supply of housing in the District. For a proposal of this scale (two houses) and location (within the urban boundary) the ability to make a small contribution towards the housing requirements should be welcomed unless adverse harm to the public interest can be identified and demonstrated. With the current 5 year deficit in housing land supply, the sufficiently sustainable location of the site and the absence of demonstrable harm caused by the proposal, it is considered that the application should be supported.

g)

Recommendation

- I PERMISSION BE GRANTED, subject to the imposition of the following conditions: i) Standard three years to implement permission; ii) The application to be built in accordance with the approved drawings; iii) the submission of samples of all external finishes for prior approval; iv) the provision of the front parking spaces before the houses are first occupied and permanently retained thereafter; v) the submission of cycle and refuse storage facilities for prior approval; vi) No further openings to be inserted into the upper floors of the dwellings; vii) Removal of permitted development rights for extensions (to the building and roof); viii) Prior approval required for the existing and proposed levels of the site and ground floor thresholds ix) hard and soft landscaping to be submitted for approval.

- II Powers be delegated to the Head of Regeneration and Development to settle any necessary wording in line with the recommendations and as resolved by the Planning Committee.

Case Officer:

Vic Hester



Not to scale

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Application: DOV/18/01084

Co-op Foodstore

Park Street

Deal

CT14 6AG

TR 3759 5265



- a) **DOV/18/01084 Demolition of existing foodstore building, associated retail and residential units, and redevelopment of site to provide a new 1,739 sqm foodstore development with associated car parking and landscaping (resubmission)**

Co-op Foodstore, Park Street, Deal, CT14 6AG

Reason for report – Number of contrary views (21)

- b) **Summary of recommendation**

Planning Permission be Granted, subject to conditions.

- c) **Planning Policies and Guidance**

Core Strategy Policies (2010)

CP1 - Settlement Hierarchy

CP5 – Sustainable Construction Standards

CP6 – Infrastructure

DM1 - Settlement Boundaries

DM11 - Location of Development and Managing Travel Demand

DM12 – Road Hierarchy and Development

DM13 - Parking Provision

DM17 – Groundwater Source Protection

DM22 – Shopping Frontages

Land Allocations Local Plan (2015) (LALP)

National Planning Policy Framework (NPPF) (2018)

Paragraph 2 states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 8 - Identifies the three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles.

Paragraph 11 - Presumption in favour of sustainable development for decision-taking (known as the tilted balance)

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

Paragraph 38 - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

Paragraph 47 - Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.

Paragraph 54 - Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Paragraph 55 - Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

Paragraph 85 - Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

Paragraph 86 - Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

Paragraph 106 - Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport (in accordance with chapter 11 of this Framework). In town centres, local authorities should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.

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

Paragraph 124 - The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 127 Planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 155 & 157 - When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.

Paragraph 163 - When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.

Paragraph 165 - Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should: a) take account of advice from the lead local flood authority; b) have appropriate proposed minimum operational standards; c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and d) where possible, provide multifunctional benefits.

Paragraph 170 - The planning system should protect and enhance valued landscapes, recognising the wider benefits of ecosystem services and minimise impacts on biodiversity and providing net gains in biodiversity. Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 175 - When determining planning applications, local planning authorities should apply 4 key principles: protection of biodiversity; development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it should not normally be permitted; development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

Paragraph 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.

Paragraph 178 - To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

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

Paragraph 189 - In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to

the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Paragraph 190 - Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

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

National Planning Policy Guidance – Ensuring the vitality of town centre (2014)

LPA's should plan positively to support town centre to generate local employment, promote beneficial competition within and between town centres, and create attractive, diverse places where people want to live, visit and work.

Kent Design Guide (2005)

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

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

Section 72(1) states that, 'In the exercise, with respect to any building or land in a conservation area, of any powers under any of the provisions mentioned in sub-section (2), **special attention** shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

d) Relevant Planning History

DOV/18/00535 - Demolition of existing foodstore building, associated retail and residential units, and redevelopment of site to provide a new 1,739 sqm foodstore development with associated car parking and landscaping - Refused

DOV/18/00728 – Screening opinion for proposed supermarket – EIA not req.

- A number of previous planning applications relating to the existing building including new shopfronts, change of use applications, plant and associated minor applications.
- Various Advertisement Consent applications for signage and a number of applications in relation to works to trees on the site.

e) Consultee and Third Party Representations

DDC Heritage – No Objection - The site is partly within the Deal Middle Street Conservation area. The elevations of principle concern are that to Park and West Street.

- Demolition of the existing building is acceptable. It is of limited to no value to the conservation area, although has some features which are sympathetic to the area.
- To Park Street, the design of the unit seeks to reflect the grain of the area through the use of a series of columns which with the variation of materials and louvres help to visually break-up the massing of the unit.
- The materials reflect those within the conservation area.
- The reuse of the arched windows in the design is a positive reflection of the heritage of the site. By removing the existing colonnade structure these architectural features are more visible within the street.
- The view into the conservation area from West Street is strongly residential in character and the existing unit is essentially hidden by the large tree (which is covered by a TPO) and the landscaping to West Street which sits outside the conservation area. The tree is to be retained and the boundary landscaping replaced and reinforced.

In my view the proposed development has been designed with consideration to the character and appearance of the conservation area, and consequently causes no significant harm.

DDC Policy and Regeneration - From a policy perspective, the starting point is that the site is located within Deal Town centre; the Park Street frontage is located within a Secondary Shopping Frontage. Policy DM22 in the Adopted CS supports A1 uses on the ground floor which means that the proposal would be consistent with Policy DM22. Owing to the fact that it is located in the town centre, the proposal does not need to undertake a site sequential test as it would be in accordance with NPPF which directs this type of development to town centre locations as it would facilitate and support linked town centre shopping trips.

The ‘Dover District Council Retail and Town Centre Needs Assessment, 2018’, identifies that there was a Deal & Sandwich combined need for 500 sqm and 1,000 sqm by 2037. Whilst this Assessment does not break down the need for convenience floorspace between Deal and Sandwich, this forecast need for additional floorspace has taken into account the existing Co-op foodstore. This means that if the existing building was lost to alternative use, the need for new convenience floorspace in the Deal & Sandwich area would need to be added to the forecast need. From a planning policy perspective, the proposed use is a main town centre use and would, therefore, be in accordance with the NPPF and NPPG.

DDC Head of Inward Investment - The District Council’s Corporate Plan for the period 2016-2020 has an overarching vision of securing a prosperous future for Dover district, which will be a place where people, want to live, work, invest and visit. Priority One, being a Thriving Economy, includes the need to focus, among other matters on:

- Enabling and supporting growth of the economy and opportunity for investment and jobs;

- Attracting new businesses and jobs, and supporting existing businesses in the district; and
- Promoting the district as an area to invest in as well as a tourism destination.

In setting out the Council's Corporate foundation, it is appropriate to consider the history and context of retail in Deal, the implications of the application, the importance of the underlying inward investment and planning context.

Planning Committee may recall that earlier applications for major out of town retail supermarket expansion were submitted for sites at Sholden and Walmer. The resultant refusals of the applications ultimately led to the development of the Sainsbury store in West Street, which has acted as focal point and enabled, supported and facilitated linked trips with the existing High Street. This has resulted in and maintained the attractiveness of the High Street to a range of national retailers and local independents, leading to a recent "High Street of the Year" accolade. Notwithstanding this, the High Street, along with many other adjacent areas, is not immune from decisions which impact at a local level. For example, this can be evidenced by the recent decision by New Look to close their outlet in Deal, Nasons in Canterbury and several outlets at Westwood Cross.

Having engaged in multiple retailer based discussions over the past 15 years, it is evident that that footfall, customer spending power and potential draw is vital in supporting investment decisions. The application by Aldi, represents a multi-million expression of confidence in Deal, coming at a time where confidence in the retail sector in the High Street is, perhaps, as challenged as it has been for many years. If approved, the application will bring circa fifty jobs to the locality, along with a successful, modern retail model that is much demand in many other localities in Kent situated in immediate proximity to the High Street with even greater capability for linked-trips. It will also present a powerful message that Dover is open for business, as envisaged through the Corporate Plan.

The importance of this approach, can best be expressed by a recent comment from Eamonn Boylan, Chief Executive of the Greater Manchester Mayoral Combined Authority who said ".....Developers are like sheep. Where one goes, others follow. ..." To refuse the application would, in my submission, have the opposite effect, sending out an entirely wrong message at a time when the High Street and locality needs maximum support through the confidence that an Aldi retail use would bring.

With regard to Planning Policy, the National Planning Policy Framework, July 2018, articulates the importance of achieving sustainable development and ensuring the vitality of town centres. I do not repeat the underpinning policy expectations as these will no doubt need to be outlined in the wider body of the report and weighed in the balance. In conclusion though, I fully support the application in question.

DDC Tree and Horticultural Officer – Objection – Comments submitted in relation to the previous application relating to the same development expressed concerns over the loss of mature trees. It was recommended that trees T5, T7, T8 and T11 be retained due to their significant combined amenity value. Plans submitted as part of this re-submission show the retention of T11 which is welcomed but still show the loss of T5, T7 and T8. It is accepted that the retention of the trees T5, T7 and T8 is not without issue whereby the poplars are likely to decline or cause concerns in an urban environment in the relatively near future. Additionally, both T5 and T7 have grown in very close proximity and as a result have unbalanced crowns when viewed as individual specimens. Removal of either of these trees would leave the other

exposed to mechanical forces that they are not adapted to, making them vulnerable to failure. This therefore rules out the possibility of removing the more problematic poplar growing adjacent to the oak. Despite the above, the short term impact on the area through the removal of all trees will be of significant detriment and on balance I object to the scheme in its current form.

Should the application be approved, for those trees currently proposed for retention, the tree protection measures are deemed adequate on the basis that existing hard surfacing will be retained as part of the new scheme. This will provide sufficient protection in combination with the protective fencing as shown on amended tree protection plan (1117-001 & 1117-CHE Rev B). Details of the proposed fencing should be secured through condition to be submitted for approval.

With regard the landscaping scheme proposed, details of the planting systems relating to all trees as shown on the drawing V1117-CHE-L01 Rev B will need to be submitted for approval if the scheme is approved. The suitability of Tilia for the proposed tree planting along the front boundary is questionable in view of the epicormic growth associated with this species and also the potential for honeydew to adversely impact on cars parked below. More suitable species to be considered are cultivars of Acer campestre or Corylus colurna.

It is understood that a sum of £15k has been offered by the developer to be spent on tree planting elsewhere within the confines of Deal Town Centre, should consent be granted. Opportunities for tree planting on council owned land in this location are currently limited to a small number of sites (currently St George's Garden of Rest and two replacement trees for Middle Street car park). In order that this money can be utilised fully, it is requested that consideration is given by the developer to the possibility of having this money transferred to DDC without the imposition of any clause restricting the amount of time in which it can be spent.

DDC Ecologist – No comment

DDC Environmental Health – No Objection – (As per previous application) The noise assessment considers the impact of the development using BS:4142:2014 and assesses the impact of fixed mechanical plant, car park noise, service yard noise (deliveries) and any changes in road traffic noise. The conclusions of the report are accepted in respect of car park noise and changes in road traffic. No precise details of mechanical plant (refrigeration, chillers etc.) are known at present and control of noise breakout from these can be dealt with by condition.

In respect of deliveries the report indicates that deliveries between 23:00 – 06:00am may potentially cause some disturbance to local residents. It is therefore recommended that a suitable condition limiting deliveries to the store to: 06:00 – 23:00 Mon – Sat and 08:00 – 18:00 Sundays. It has subsequently been confirmed that 21:00 hours on Sunday would be acceptable for this location.

No details have been submitted in respect of Construction/Demolition Management and I would therefore recommend that a suitable condition for a Construction Management Plan.

The Brownfield Solutions Desk Study and Geoenvironmental Assessment Report submitted with this application have been reviewed. In terms of human health protection, the requirement for radon protection measures at the site is noted, and the potential for localised contamination. I do not consider that the proposed development could be potentially unviable in terms of human health, and recommend

that any planning approval be subject to the standard contaminated land conditions to align with the EA's suggested conditions.

KCC Highways – No Objection - I am satisfied that the proposals are unlikely to generate a significant increase in peak hour vehicle trips compared to the existing foodstore, retail units and residential units which are to be removed.

The amount of car parking proposed is acceptable with the management strategy identified, ensuring that the car park is not free and is therefore unlikely to result in a significant increase in demand for spaces and associated vehicle trips, even with the additional 13 parking spaces proposed compared to the existing number.

The access arrangements to/from the highway remain the same as for the existing store and the revised internal servicing/delivery arrangements still provide adequate access and turning facilities for delivery vehicles.

The proposed trees along the West Street boundary will need to be maintained clear stemmed to a minimum height of 2.1 metres above the adjacent footway level, and planted with root guards to prevent root encroachment under the highway.

Whilst not currently a policy requirement, paragraph 105 of the NPPF refers to the need to ensure an adequate provision of spaces for charging plug-in and ultra-low emission vehicles. I would therefore request that 10% of the parking spaces are fitted out with appropriate charging facilities and a further 10% are fitted with ducting, etc. to allow conversion in the future as demand increases.

The following should be secured by condition: Construction Management Plan, measures to prevent the discharge of surface water onto the highway, provision and retention of the vehicle parking spaces and in accordance with the parking management strategy submitted, prior to the use of the site commencing, provision and retention of the vehicle loading/unloading and turning, provision and retention of the cycle parking facilities and proposed trees on the West Street boundary to be maintained clear stemmed to a minimum height of 2.1 metres above footway level and planted with root guards to prevent root encroachment under the highway.

Whilst not highway issues I would also point out the following:

- The width of footpath along the western side of the proposed building may be restricted by parked cycles.
- The landscaping proposals appear to remove the unmade but well-worn path between Park Street and the existing pay-and-display parking spaces at the eastern end of the site.

KCC SuDS – No objection - The drainage strategy proposed within the Flood Risk Assessment (September 2018) is acceptable. The proposal for a 50% reduction in runoff rates compared to the current site is a significant improvement, however this should be considered a maximum allowable discharge rate and we would expect every effort to be made to achieve closer to greenfield run-off rates in the final design due to flood risks elsewhere in this surface water and sewer catchment.

As part of the detailed design stage, we would expect to see updated drainage calculations submitted that show the proposed drainage scheme is capable of managing surface water up to and including the 1 in 100 year storm event plus an additional 20% climate change allowance.

As this is a full application, we request pre-commencement conditions are attached to this application because further details of the proposed drainage system are

necessary before any work on site can take place. This ensures the proposed drainage strategy is suitable to manage surface water for the site and to not increase the risk of surface water flooding. Conditions in relation to the submission of a suitable suds scheme on site and its maintenance.

KCC Archaeology – No objection - The application is accompanied by an Archaeological Desk-Based Assessment prepared on behalf of the applicant by Cotswold Archaeology. The desk-based assessment provides a reasonable account of the archaeological background of the area. The assessment does however perhaps somewhat underplay the site's potential for containing archaeological remains of Romano-British and early medieval date, given the past finds made at the nearby Odeon Cinema site (the Ocean Rooms). During the construction of the cinema a Roman patera (shallow bowl) along with another vessel of possible Romano-British or early medieval date. The nature of the finds suggests they may come from a burial context.

The submitted desk based assessment notes that the groundworks arising from the development proposals "*could result in disturbance to, or loss of, any buried archaeological features that may be present*". I therefore suggest that provision be made in any forthcoming planning consent with a condition for a programme of archaeological works.

Highways England – No objection - Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and, as such, Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs, as well as in providing effective stewardship of its long-term operation and integrity. We will therefore be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN, in this case, particularly the A2.

We note that the application is a resubmission of application reference DOV/18/00535. Our previous response to DOV/18/00535 (dated 20 August 2018), indicated that whilst we did not agree with aspects of the Transport Statement, we were satisfied that the proposals would not materially affect the safety, reliability and/or operation of the existing SRN. We therefore offered no objections or requirements relating to the proposal. We note that the scheme has not changed, and the updated Transport Statement contains only minor amendments to the impact assessment. Our previous conclusions therefore remain the same.

On this basis, whilst we do not agree with aspects of the trip generation methodology and that the proposed development will result in a "*marked reduction in net trip attraction as a result of the proposed development*", we are nonetheless satisfied that any additional traffic associated with the new Foodstore will not materially affect the safety, reliability and/or operation of the SRN (the tests set out in DfT C2/13 para 10 and DCLG NPPF para 32). We therefore offer no objection to the proposals.

Environment Agency – No objection to the proposal provided conditions are imposed on any permission granted relating to contamination assessment, and verification, safeguarding contamination condition and no infiltration or piling without approval.

Groundwater The submitted documents show that there is a low risk from contamination present at the site. However controlled waters are particularly

sensitive in this location because the proposed development site is located upon a Principal aquifer.

The Geo-Environmental Assessment Report has made a number of recommendations for further work that are deemed necessary to progress the site to construction phase. These recommendations include completion of gas monitoring programme and further investigation in previously inaccessible areas. We now look forward to receiving an updated report with this information included.

The Site Investigation by Brownfield Solutions Ltd has found that the ground conditions beneath the site are not conducive for infiltration drainage. An alternative means of surface water disposal will have to be adopted at this site.

With respect to any proposals for piling through made ground, we would refer you to the EA guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected By Contamination: Guidance on Pollution Prevention". NGWCL Centre Project NC/99/73. We suggest that approval of piling methodology is further discussed with the EA when the guidance has been utilised to design appropriate piling regimes at the site. The guidance should be available on www.gov.uk.

Flood risk Provided the finished floor level of the proposed retail development is set at 5.61maODN (as per the recommendations of the accompanying Flood Risk Assessment), we have no objection to this development. Whilst the site lies within a defended Flood Zone 3, this 'less vulnerable' development is appropriate for the area, and the raised floor level should be adequate mitigation for the residual risk.

We would recommend that the management of the store registers for our Flood Warning service, and that an up-to-date and readily available flood warning and evacuation plan is prepared. Further consideration should also be given to the utilisation of appropriate flood resilient construction techniques (for example, the use of non-return valves on the foul/surface water drainage system to prevent off-site flooding affecting the site).

Southern Water – No objection - Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer. We request that should this application receive planning approval an informative to this effect is attached to the consent. Southern Water now supports this stance and seeks through appropriate Planning Conditions (further details of means of foul and surface water disposal) to ensure that appropriate means of surface water disposal are proposed for each development.

The amended drainage strategy provides sufficient evidence of compliance with Part H3 of Building Regulations relating to hierarchy for surface water run off disposal. Also the provided information proves the levels of existing surface water flows contributing to the public foul sewerage network. Southern Water will allow the communication with public foul sewerage network of surface water run off flows at levels no greater than existing; the discharge of run off shall not exceed existing rates and shall be secured by the use of flow restriction devices.

The applicant's drainage layout proposals indicate that the diversion is proposed of a sewer that is deemed to be public due to changes in legislation that came in to force on 1st October 2011 regarding the ownership of sewers. Any diversion proposals of public sewers shall be approved and agreed by Southern Water under Section 185 of the Water Industry Act before proceeding on site.

Deal Town Council - No objections raised and fully support the contribution of £15,000 offered towards the replanting of trees.

Third Party Representations: To date 396 letters of representation have been received; 21 objecting to the proposed development and 369 letters of support. The objections have been made on the following grounds:

- Loss of 11 trees and greenery in Deal
- Loss of existing shops and café
- Loss of Co-op which will be missed by residents
- The design of the new building is not appropriate for this site or Deal
- The store design is generic and could be anywhere
- The store will ruin this small town
- Replacement by a huge ugly building
- Loss and impact of wildlife esp. birds
- Aldi will employ less staff than Co-op
- Mature healthy trees should be kept
- Trees are good for the environment and health
- Replacement will not address the loss
- Loss of trees will be a loss to Deal and its charm, they are part of the character and have high visual and environmental value to the local community
- The trees are covered by a TPO (1981) so should be protected
- The trees deal with pollution
- Any new building should be to high environmental standards and be sustainable
- Loss of mature trees is not sustainable
- Cause major disruption to local residents
- Why do all 11 trees need to be removed, there should be a compromise
- The ecological loss of the trees should be fully considered
- The trees play a vital function on this site
- There should be an entrance from the village square for those on foot
- Bland frontage to Park Street and no smaller units to link with the High Street
- Not in scale with Park Street
- The back of Queen Street properties will be more visible, a brick wall could reduce this impact
- No housing proposed to replace the units lost
- Red brickwork isn't suitable in this location
- Retention of the existing trees does not make the site unviable

Letters of support raise the following points:

- Support for Aldi coming to Deal and providing more choice
- The new store will bring more people into the town
- Support for this type of store in Deal and its residents
- The existing building is outdated and needs replacing
- Appropriate modern development for Deal
- More people will stay in Deal to shop and benefit local businesses
- Will replace run down and empty units
- New jobs and redevelopment of the area
- Provides an alternative and competition to Sainsbury's
- The existing trees are damaging the surfaces and causing accidents, this will only get worse if retained
- The trees are being replaced in more suitable positions

- Will improve facilities in Deal
- Will stop the need to shop out of town
- The Co-op building is ugly
- The new housing justifies another supermarket in Deal
- Existing units have been relocated

f) The Site

- 1.1 The application site is situated in Deal town centre to the north of the High Street and is situated off Park Street. It is therefore a central location for a supermarket. The site is bounded to the east by Park Street and to the north by West Street. To the south and west are the rear of buildings in the High Street and Queen Street. Most of these have been extended and altered over the years, including some rear sitting out areas at various levels. Access including servicing and parking to a number of these properties is through the existing car parking area. To the north on the opposite side of West Street is Sainsbury's supermarket and associated car parking. To the west on Queen Street is an old cinema building now used as a club. On the opposite side of Park Street are a row of terrace Victorian residential properties although some have been converted to commercial uses.
- 1.2 The site itself is occupied by the Co-op building fronting Park Street that includes a Co-op that is planned to close, four individual units including a shop, café and dry cleaners fronting Park Street and nine residential units at an upper level. These are accessed via an external staircase to the south of the building. The rest of the site is occupied by surface car parking and vehicular access from Park Street and West Street. The building is two storeys in height, dating back to the 1980's and is a bulky building of a poor quality design. The Park Street elevation has colonnade/arches at ground level and projecting bay windows at second floor level. Two of the individual retail units have a projecting canopy roof over the footpath.
- 1.3 There are 15 mature trees on the site situated at the boundaries of the site and within the existing car parking area. These comprise Beech, Sycamores, Oak and Lime trees and six of these trees are covered by a Tree Preservation Order (TPO) No. 11, 1981. The trees covered by the TPO are two Lime trees adjacent to Park Street, two Sycamores adjacent to the western boundary, a Beech tree adjacent to the footpath and an Oak tree in the centre of the existing car park. There is also a public footpath close to the north western corner of the site connecting the site with Queen Street. This is at a higher level than the rest of the site and drops in level along the site boundary.
- 1.4 The site is partly sited in the Deal Middle Street Conservation Area, which is also covered by an Article 4 Direction removing the right for residential properties to make some external changes. The Park Street frontage also forms part of the secondary retail frontage in Deal. The site is also partly within an Archaeological site and Flood Zones 2 and 3.

The Proposal

- 1.5 The application is a re-submission of the proposal for a replacement foodstore on the site to be occupied by Aldi. The existing building is to be demolished and the whole site redeveloped to form an Aldi foodstore with associated car parking, servicing, access and new tree planting and landscaping. The retail unit would be sited in a similar position to the existing building with a retail floor area of 1,254sqm. The building would be of a two storey scale although accommodation would largely be at ground level only.

The dimensions of the building would be 61m long by 31m wide with a maximum height of 8.5m.

- 1.6 The elevations and design of the building would comprise a double mono-pitched roof with the second roof slope off-set and projecting beyond the main roof and sloping in the opposite direction. This would be finished with composite roof panels (anthracite grey) with aluminium coping detail. The elevations are largely to be white render or anthracite grey cladding panels and a black engineering brick plinth. All glazing, which includes full height glazing to the northern elevation, will also be anthracite grey with an aluminium canopy to this elevation and wrapping around the western elevation. High level windows are proposed to the east and western elevations. Plant will be at roof level in a recessed section of the roof. The building will be constructed to be BREEAM 'very good' standard.
- 1.7 The design of the building is bespoke for the site and context with the eastern Park Street elevation more sympathetically treated to reflect the former chapel on the site and incorporates the original stone arched windows that are also incorporated in the existing building. This elevation also seeks to replicate the existing form of the terrace on Park Street with a brick elevation and inset arches to create a façade and a rhythm to the building. This elevation also incorporates louvres at the eaves height of the adjacent terrace to reduce the scale and appearance of the building and simple steel columns. The louvres also reduce the potential for overlooking from staff areas.
- 1.8 The entrance elevation will have full height glazing wrapping around the western corner and creating an active frontage to the northern elevation, facing West Street and the adjoining car park. Adjacent to the northern elevation will be a small 'village square' including some informal seating centred around the two existing and retained trees adjacent to Park Street.
- 1.7 The external works would involve a redesign and layout of the existing car park area including the removal of trees. The existing vehicular access from West Street will be retained to provide a one-way car parking layout and an ANPR camera at the entrance will manage the car park. 104 car parking spaces are proposed, including five disabled spaces and 8 parent and child spaces. Adjacent to the western elevation will be a covered trolley park area. It is proposed to remove 10 trees from the site, including three Sycamore (T2), Beech (T4) and Oak (T5) covered by the TPO. Six trees are to be retained (including three TPO trees) and 12 replacement semi-mature trees will be planted along the West Street boundary and across the car parking areas. Further low level planting is also proposed with a red brick boundary wall surrounding the car park. The hard surfacing material is largely proposed to be tarmac with paving adjacent to the entrance.
- 1.8 The existing access from Park Street would be retained along with the existing rights of access to properties backing onto the site. This includes space for servicing. 19 existing car parking spaces would be retained and five additional spaces created. This access would also be retained for servicing of the foodstore with a service ramp and retaining wall. This area and the proposed car parking would be separated by a 1.8m high close boarded fence.
- 1.9 The following documents have been submitted in support of this application:
 - Planning and Heritage Statement
 - Design & Access Statement

- Transport Statement
 - Landscaping Scheme
 - Arboricultural Assessment and Method Statement
 - Tree Protection Plan
 - Flood Risk Assessment and Drainage Strategy
 - Environmental Noise Report
 - Statement of Community Involvement
 - Archaeological Assessment
 - Geoenvironmental Assessment Report
 - Desk Top Study and Risk Assessment Report (contamination)
 - Draft Unilateral Undertaking for a £15,000 contribution towards the provision of street trees in Deal town centre.
- 1.10 Further to the refusal of the initial application (DOV/18/00535) additional supporting information has been submitted in respect of the regeneration and economic benefits of the proposal; that there is no local or national planning policy support for mixed use developments that justifies the retention of the existing residential units and the loss of the trees to enable the development is off-set by a legal agreement to provide a £15,000 contribution for new and replacement trees in Deal town centre.
- 1.11 All proposed signage would need to be the subject of a separate Advertisement Consent application.

2. Main Issues

Introduction

- 2.1 This application is a resubmission of a previous planning application ref: DOV/18/00535 that was resolved to be refused by Planning Committee on 20th September 2018 on the following grounds:
1. *The proposed loss of trees on site will result in harm to the visual amenities of the street scene and the town centre, with a respective loss of green infrastructure contrary to paragraphs 127 and 170 of the NPPF.*
 2. *The loss of residential units will result in the loss of dwellings within Deal town centre contrary to national planning policy and guidance which seeks to encourage mixed use developments and urban living in particular Paragraph 85 of the NPPF.*
- 2.2 Since this decision, issued on 26th September 2018 it was therefore agreed with the applicant that the application would be resubmitted in the same form but with additional information to address the grounds of refusal and on this basis the application would be reported back to Planning Committee for determination as soon as practical. On this basis the applicant indicated that it was not proposed at this time to appeal against the refusal.
- 2.3 A Unilateral Undertaking was also submitted with the application for the payment of £15,000 towards new and replacement trees in Deal town centre. The contents of this undertaking have been agreed in principle and at the time of writing the Unilateral Undertaking is in the process of being signed and completed. The applicants have also agreed to the pre-commencement

conditions being proposed as required under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

2.4 The main issues to consider are:

- Principle of Development
- Existing Residential Accommodation
- Impact on the Conservation Area and Street scene
- Trees and Landscaping
- Drainage and Flooding
- Highway Considerations
- Archaeology
- Noise and Pollution Considerations
- Impact on Residential Amenities

Assessment

Principle of Development

- 2.5 Section 38 of Town and Country Planning Act requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 2.6 The application site lies within the urban settlement confines of Deal identified in Policy CP1 of the Core Strategy, to be appropriate for development and development that reinforces its role as a provider of local services. The proposal is therefore considered to be in accordance with Policies CP1 and DM1 of the Core Strategy, as it is considered appropriate, in principle, for new development.
- 2.7 The site is also situated within Deal Town Centre, being just to the north of the High Street, with the Park Street frontage also identified as a Secondary Shopping Area under Core Strategy Policy DM22. Policy DM22 identifies that ground floor uses in the secondary shopping area should only be allowed for A1 – A5 uses. The proposal is for an A1 use and therefore complies with policy DM22.
- 2.8 Furthermore, the Dover District Council Retail and Town Centre Assessment 2018 has forecast a combined current need in Deal and Sandwich for 500-1000sqm of retail floorspace by 2037. This forecast has included the existing floorspace at the Co-op, therefore any loss of this existing floorspace would further add to the proposed retail need in the local area that would need to be addressed on alternative sites that may not be centrally located.
- 2.8 Being situated in a central town centre location and the replacement of an existing foodstore, the proposed retail development would also not required to undertake a sequential test as referred to in paragraph 86 of the NPPF. The retail impact of such a proposal does not therefore require assessment and the central location for a town centre use is acceptable in principle and in line with the NPPF and the NPPG (Ensuring the vitality of town centres). The NPPG also refers to the need to promote beneficial competition and create vibrant and viable town centres where development should encourage vitality and provide a positive approach to the quality of car parking provision. The proposed retail development would therefore be in line with the NPPG.
- 2.9 In the absence of an up to date development plan policy for convenience floorspace paragraph 11 of the NPPF states that planning permission should

be granted without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The NPPF seeks sustainable development which is identified in paragraph 8 as having three dimensions being economic, social and environmental. The applicants have put forward a case that the proposed development fulfils all these roles by providing a sustainable, positive and high quality regeneration scheme for central Deal. In addition paragraph 11 states decisions should apply a presumption in favour of sustainable development.

2.10 The applicant's case identifies that the proposed development would provide the following:

- Multi-million pound investment and wider economic benefits;
- Retail job retention, with up to 50 new ALDI job opportunities;
- Positive regeneration and delivery of a high quality and sustainable development within Deal Town centre;
- Improved retail choice in Deal through the provision of a new discount foodstore, significantly increasing footfall within the town centre;
- Enhancement of the Conservation Area setting and local street scene;
- Increased on site car parking which would allow linked trips with the town centre;
- Net increase in trees across the site, in addition to enhanced landscaping;
- Enhanced pedestrian link through the site.

2.11 The Council's Head of Inward Investment has further identified the economic benefits of the proposal which are in line with the Corporate Plan (2016-2020) which has an overarching vision of securing a prosperous future for Dover with the first priority being a thriving economy that includes the need to focus on enabling and supporting growth and opportunities for investment and jobs; attracting new businesses and jobs and promoting the district as an area to invest. It has been highlighted that Sainsbury's in West Street has assisted and facilitated linked trips with the High Street and this has resulted in and maintained the attractiveness of the High Street leading to the recent "High Street of the Year" award. However footfall, customer spending and potential draws are vital in supporting investment decisions. He has stated;

"The application by Aldi represents a multi-million expression of confidence in Deal, coming at a time where confidence in the retail sector in the High Street is, perhaps, as challenged as it has been for many years. If approved, the application will bring circa fifty jobs to the locality, along with a successful, modern retail model that is much demand in many other localities in Kent situated in immediate proximity to the High Street with even greater capability for linked trips. It will also present a powerful message that Dover is open for business, as envisaged in the Corporate Plan."

It is concluded that to refuse the application would have the opposite effect on the local economy.

2.12 It is therefore established that the principle of retail development on this site is accepted and strongly accords with both national and local planning policies, particularly where the regeneration and economic benefits of the proposal are significant and are a strong factor to weigh in the planning balance, however, other material considerations need to be taken into account in the assessment of the proposal and are discussed further below.

Existing residential accommodation

- 2.13 In terms of the loss of the nine existing residential units and the second reason for refusal of the previous application, there is no national or local policy requirement for their retention on site or for residential mixed use sites in central locations. Whilst there is an overall net reduction of nine units, these could be provided elsewhere within the town centre and it would be unlikely that their loss (and in the context of the wider benefits of the scheme) could be successfully defended as a reason for refusal at a planning appeal.
- 2.14 The applicants have also put forward that it is well established that residential properties above foodstore developments conflict between the amenity of residents and operational requirements of the retailer. *“Whilst paragraph 85 of the NPPF states that ‘residential development plays an important role in ensuring the vitality of town centres’ and encourages residential development on appropriate sites in the town centre, this encouragement places no policy requirement for mixed use development to be delivered on all sites. It is a case of encouraging mixed use where appropriate and when it can be accommodated on a site, whilst taking account of the overall planning balance.”*
- 2.15 *“Consideration also needs to be given to the requirements of the retailer and the requirement of retail policy to consider a town centre first approach to identifying opportunities. Aldi have been particularly flexible in terms of progressing with a constrained town centre opportunity as opposed to progressing with an out of centre alternative which could have better met their requirements.”*
- 2.16 *“The benefits of Aldi locating at this central location as set out elsewhere in this statement therefore need to be balanced against the loss of nine residential units. With reference to paragraph 11 of the NPPF, there is a presumption in favour of the proposed development, and any adverse impact associated with the loss of dwellings would not ‘significantly and demonstrably outweigh the benefits’.”*
- 2.17 The loss of the nine residential units, although regrettable, is not supported by planning policy. In addition, although residential accommodation is encouraged in paragraph 85 of the NPPF in central locations, the same paragraph also refers to the need to promote the vitality and viability of town centres by allowing them to grow and diversify in a way that responds to rapid changes in retail and other sectors as well as retain and enhance existing markets and, where appropriate, re-introduce or create new ones. The loss of the existing residential units when taking into account the planning balance is therefore of limited weight with limited policy support.

Impact on the Conservation Area and Street scene

- 2.18 The site is mostly situated within the conservation area, which is a designated heritage asset, with the line of the conservation area cutting across the site along the northern elevation of the existing building. Therefore all land north of the northern building line is outside of the conservation area. This includes all the trees in the car park except 2 (both of these are covered by the TPO and one is to be retained and one is to be removed due to disease and replaced with a semi-mature tree nearby). The site therefore either affects the character and appearance of the conservation area or affects its setting.

Paragraphs 189,190 & 193 of the NPPF deal with the impact of development on a heritage asset and the significance of any impact.

- 2.19 The Heritage Officer has advised that the loss of the existing building is acceptable as it was of limited value to the conservation area and the key elevations are those to Park and West Street being the proposed eastern and northern elevations respectively. It is commented that the proposed Park Street elevation seeks to reflect the grain of the area and the terrace of Victorian properties opposite, through the use of a series of columns which with the variation of materials and louvres visually break up the mass of the proposed elevation. Furthermore the use of the arched windows in the Park Street elevation is considered to be a positive reflection of the heritage of the site and the removal of the existing colonnade structure will allow these to be more visible in the street. Overall the materials are considered to reflect those found in the conservation area and are acceptable.
- 2.20 From West Street, the conservation area is viewed as residential in character as the existing Co-op building is largely obscured by the mature Lime trees which are covered by a TPO and are to be retained, along with the landscaping within the car park which is to be replaced and reinforced. As a result the impact on the character and appearance of the conservation area causes no significant harm and overall the proposed development has been designed with consideration for the character of the conservation area.
- 2.21 The proposed development is therefore not considered to have a significant impact on the significance of the conservation area as a heritage asset or its setting and conflict has been minimised through the design of the proposed building. The proposal therefore accords with paragraphs 189,190 & 193 of the NPPF and results in less than substantial harm to the heritage asset and the overall public benefit outweighs any potential harm.
- 2.22 It should be noted that there is a listed building fronting Queen Street and adjacent to the old cinema building. This building is however a reasonable distance from the application boundary and its setting has already been compromised through existing development, in particular the old cinema building. It is not therefore considered relevant in respect of this application to consider the impact on the setting of this listed building any further.
- 2.23 In terms of the design of the building Aldi have advised that a bespoke design has been put forward for this site, due to being sited within the conservation area. As discussed above the impact on the conservation area and its setting are considered appropriate for this site's context. The overall design is modern but considered to be of a high quality for this type of retail development. The use of a varied roof form, a variety of materials, aluminium detailing and joinery and the different elements of the Park Street elevation, discussed above, are all considered to complement the site's context and will improve the design quality above the existing 1980's building which has a limited contribution to the character of the area or the street scene.
- 2.24 The proposed red bricks for the Park Street elevation and also the boundary wall to the car park have been identified as perhaps not the most appropriate colour for Deal and it may be that yellow stock bricks are more appropriate within the context of the site. However, it is recommended that material samples and details are submitted for all the proposed external materials on the building including the bricks. Further consideration of the most appropriate brick colour can therefore be considered further at this stage in consultation with the Heritage Officer.

- 2.25 The proposed building is also proposed to achieve a very good BREEAM standard, which would accord with policy CP5 of the Core Strategy and national standards for sustainable non-residential buildings. The building would therefore be more energy efficient and more sustainable than the existing building on-site and a significant improvement to the standard of the building on site.
- 2.26 The proposed design and its impact on the street scene and character of the area is therefore appropriate in this sensitive location and is considered to accord with paragraphs 124 & 127 of the NPPF. It would therefore result in a sustainable form of development in the town centre that would overall and on balance have a positive impact on the street scene, town centre and the character and appearance of the conservation area. This would also accord with the legal requirements set out in Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended).

Trees and Landscaping

- 2.27 In terms of the existing trees on site there are 15 mature trees on the site situated at the boundaries of the site and within the existing car parking area. Six of these trees that are covered by the No. 11 1981 Tree Preservation Order (TPO) which are two Lime trees adjacent to Park Street, two Sycamores adjacent to the western boundary, a Beech tree adjacent to the footpath and an Oak tree in the centre of the existing car park. The other 9 trees on site are not covered by the TPO but are all fairly mature and comprise Poplar, Birch, Ash, Plum and Sycamore.
- 2.28 The proposal includes the retention of three of these TPO trees and the removal of a Sycamore (T2), a Beech (T4) and an Oak tree (T5). In addition a further seven trees are proposed to be removed with a total of 10 trees to be removed and five to be retained including 3 covered by the TPO. All of the trees including those covered by the TPO are category B or C trees, 4 category B trees are proposed to be removed. It should be noted that only the trees adjacent to Park Street, being the two mature Lime trees that are to be retained as part of the proposal, are considered to affect the setting of the Conservation Area. Replacement tree planting is sufficient to overcome the loss of the trees along the West Street boundary, which is outside of the conservation area. The loss of these trees does not therefore affect the setting of the conservation area.
- 2.29 The removal of 10 existing trees has caused a significant level of local opposition to the loss of these trees on the site with a number of objections and significant media coverage. The objections predominantly refer to the loss of the trees, their significance to the visual amenities and character of the site and the wider character of Deal and the benefit the trees have in terms of controlling pollution, mental wellbeing and the need to protect ecology and biodiversity.
- 2.30 The Council's Tree Officer has raised an objection to the loss of so many of the trees on the site and the short term detrimental impact this will have on the visual amenities of the immediate area as a result. However, he is in agreement with the tree survey and need for some of the trees to be removed due to their poor form or showing the signs of dieback, this includes two of the trees covered by the TPO, being T4 - the Beech tree adjacent to the footpath and T2 – a Sycamore adjacent to the western boundary. However it is considered that 3 trees including 1 tree covered by the TPO should be retained, these are T5 – Oak, T7 – Poplar and T8 Poplar. He states:

“It is accepted that the retention of the trees T5, T7 and T8 is not without issue whereby the poplars are likely to decline or cause concerns in an urban environment in the relatively near future. Additionally, both T5 and T7 have grown in very close proximity and as a result have unbalanced crowns when viewed as individual specimens. Removal of either of these trees would leave the other exposed to mechanical forces that they are not adapted to, making them vulnerable to failure. This therefore rules out the possibility of removing the more problematic poplar growing adjacent to the oak.”

- 2.31 It is therefore accepted by the Tree Officer that 7 of the proposed trees to be removed would be acceptable on this site. This is a different view from those expressed locally by residents which does not distinguish between the condition of the trees, rather the visual impact of their removal, as a whole. It should also be highlighted that five key trees on the site are proposed to be retained and incorporated into the redevelopment proposal which would minimise the visual impact of those to be removed.
- 2.32 The 3 trees that the Tree Officer considers should be retained are all situated within the existing car parking area and are sited with proposed car parking spaces or the one-way system through the proposed car park layout. Their retention would therefore result in a complete redesign of the whole site and the loss of car parking spaces. To retain T8 – Poplar would require a full redesign, including the siting of the building and although a large and important tree it is not covered by a TPO and would cause significant problems regarding the redevelopment of the site if retained. On this basis it is unlikely this could be retained under the current plans. The retention of Trees T5 and T7 (Oak and Poplar) would result in the potential loss of 2 car parking spaces and therefore could potentially be retained.
- 2.33 During the course of the initial application, discussions were ongoing with the applicants in respect of the concerns regarding the loss of the trees on site and the harm this causes to the visual amenities of the local area. Consequently, the applicants revised their Arboricultural Report to address the views of the Tree Officer and also redesigned a section to the car park to retain T11, a Silver Birch that was also identified initially by the Tree Officer as necessary for retention. This resulted in the loss of some car parking spaces. The applicants are aware of the high level of concern regarding the loss of the trees on the site and continued discussions have been unable to secure the retention of any more of the trees identified by the Tree Officer. It is on this basis that the application needs to be considered.
- 2.34 The applicants have put forward supporting justification for the loss of the identified trees and previously stated that:
- “...our team has considered whether it would be possible to retain further existing trees. The scheme simply would not be viable for Aldi if T5, T7 and T8 were retained, as they occupy central positions in the site, and would not allow a satisfactory level of car parking which is key to Aldi being competitive in the food market...it was however, “determined that through minor revisions the layout, it is possible for T11 (Silver Birch) on the West Street and Park Street corner to be retained.”*
- 2.35 The applicants have therefore clearly identified that it is not possible to retain those trees and also highlighted the proposal includes the proposed planting of 12 new semi-mature trees on site to off-set the loss proposed which will also be supported by appropriate infrastructure to enable them to establish

and grow to mature trees. The applicants have highlighted that this represents a comprehensive and costly new planting scheme on the site.

- 2.36 The applicants have also proposed a contribution through a Unilateral Undertaking of £15,000 towards the provision of off-site tree planting in Deal town centre to off-set the loss on site, which they have advised would equate to the planting of 3 semi-mature trees. Whilst such a contribution could be of benefit to the town, any contributions in respect of development proposals need to comply with the legal tests set out in The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations). These require that development contributions must comply with three specific legal tests, being necessary, related to the development, and reasonably related in scale and kind. Notwithstanding the views expressed in the last committee report (DOV/18/00535), it is the view that the £15,000 contribution towards off-site tree planting would comply with the required legal tests. This is following further consideration that the impact of the loss of the trees is of such a significant material consideration in the assessment of the application that any measures to minimise the visual harm to the wider town centre area are also a material consideration in relation to this application. On this basis, the offer of a contribution to off-set the loss of the trees on site would be reasonably related to the proposed development and any visual harm to the Deal town centre as a result of their loss. The figure also relates in scale to the replacement of three trees, as there are three TPO trees that would be lost on site. In addition, being specifically related to Deal town centre ensures the scope of the proposed new trees are within a relatively close position in relation to the site. As a result the proposed contribution is considered to comply with the three legal tests identified above and therefore the CIL Regulations.
- 2.37 The proposed contribution also highlights the level of concern that has been expressed in relation to the existing trees and their significance to the area, along with the commitment of Aldi to take this site forward, whilst addressing, where possible, measures to overcome the impact of the loss of the trees on the site and the impact on the visual amenities of the town centre.
- 2.38 Furthermore discussions with DDC Property Services and the Tree Officer have identified two sites on Council owned land and in close proximity to the application site where trees could be planted. These are St George's Garden of Rest (on West Street) and two replacement trees at Middle Street car park (to the east). It has also been requested that the contribution is ring fenced and also to be used for the maintenance of trees in the town centre. This has been accepted by Aldi and this contribution will therefore be put towards off-site replacement trees in the two identified areas and the maintenance of trees within Deal town centre which will ensure tree coverage across the town centre and their long term protection. This money therefore enables the protection of the trees and visual amenities of the town centre to off-set the loss of trees on the application site which is a significant material consideration in the determination of this application.
- 2.39 It has been highlighted in the media that some of the existing trees were possibly planted in memory of 3 school boys that were killed on the site in the Second World War. Unfortunately there appears to be no definitive record of where or which trees they are and no record of this currently on site. It would appear from the age of the trees that this is likely to include the two Lime trees on Park Street, which are to be retained. Ongoing discussions with the applicants have identified that Aldi would be prepared to include a plaque of some form to recognise the importance of the trees; however without any

definitive information or record of the trees it is not possible at this stage to require this as part of any approval.

- 2.40 The purpose of the planning system is to weigh up sometimes competing issues in respect of development proposals in line with development plan policies and the NPPF. The NPPF at paragraph 11 also makes it clear that any adverse impact should significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Whilst the proposal would result in a short-term adverse impact through the loss of locally significant trees and an impact on visual amenity, this would not significantly and demonstrably outweigh the benefits of the proposal to Deal in terms of the other positive sustainable factors discussed in this report, the contribution towards off-site tree planting and maintenance and the regeneration of this site, which would also result in economic benefits and environmental benefits in terms of the design of the building and the enhancement of this part of the conservation area. All these factors therefore need to be taken into account in weighing up the proposal and the overall planning balance.
- 2.41 In view of the above and the replacement tree planting being proposed, along with a contribution towards off-site tree planting, it is on balance, accepted that there is sufficient justification for the removal of these trees to enable the redevelopment of the site and although not an ideal outcome and one which is regretful, due to the importance of the trees in this context, the overall benefits of the proposal outweigh their loss.
- 2.42 Notwithstanding the above, the proposed tree protection measures and the detailed elements of the proposed landscaping scheme including the proposed tree species need further consideration and these aspects can all be address by suitable conditions. These will ensure the long term protection of the retained trees and that the proposed landscaping is appropriate and fully maintained on site, to ensure the replacement planting adequately overcomes and mitigates, as far as possible, the loss of the trees being proposed to minimise the impact on the visual amenities of the local area.

Drainage and Flood Risk

- 2.43 The site is situated in Flood Risk Zone's 2 & 3 and it is appropriate to consider whether the development would be likely to lead to localised on or off-site flooding. The NPPF paragraph 163 states that local planning authorities should ensure that flooding is not increased elsewhere and priority should be given to the use of sustainable drainage systems.
- 2.44 A Flood Risk Assessment (FRA) and an Outline Drainage Strategy have been submitted in support of the application. The FRA demonstrates that the proposal will be safe in terms of flood risk for its life and will not increase the flood risk elsewhere. This is due to the limited change between the existing site and the proposal in terms of its built form and therefore accords with the requirements of the NPPF. The EA have however suggested that the occupier signs up to the Flood Warning Service and that an evacuation plan is prepared along with the need to design in flood resilient construction techniques and the use of non-return valves on the drainage system to prevent off-site flooding affecting the site. This can be addressed with an appropriate informative.
- 2.45 The Drainage Strategy was originally proposed to be soakaways but it was identified that infiltration drainage of surface water at the site is not feasible

due to the ground conditions and the only option to deal with surface water run-off flows is by discharging into the public foul sewer network. Therefore all water from the site will discharge into the combined foul sewer system as surveys of the current site and car parking area have identified the surface water from the site already discharges surface water into the sewer system without any attenuation. Consequently, there is unlikely to be a significant change to the existing flow rates. Southern Water has therefore confirmed that there is sufficient capacity in the sewer system to accommodate the flows from this development and such a system is acceptable on this site.

- 2.46 Nevertheless, there is a need to control the flow rates and to minimise the impact of using the existing sewer discharge. KCC SuDS have therefore been in discussion with the applicants in respect of the expected peak flow rates and the need to take into account climate change for the lifetime of the development (this is to be finalised through a condition). An attenuation tank will therefore be used and shall be sited to the rear of the building/in the car park to control surface water flow rates, which will result in a reduction of the current flows rates and discharge from the site, and an improvement on the existing drainage system.
- 2.47 The proposed system, although not a sustainable drainage system, will ensure there will be no increase in run-off from the site as a result of the proposed development as all water will be diverted to the existing sewer system. In terms of planning policy, the NPPF paragraph 165, although making it clear that major developments should incorporate SUDS system does clearly state that such a system is acceptable if there is sufficient justification and clear evidence that a sustainable drainage system would not be appropriate. This has clearly been evidenced for this proposal and the development therefore accords with paragraph 165 of the NPPF. KCC SuDs, the EA and Southern Water have all therefore accepted this approach in principle subject to some detailed design requirements that can be controlled through conditions and form part of the recommendation.

Highway Considerations

- 2.48 The relevant Core Strategy policies are DM11 and DM13. DM11 requires planning applications for development that increases travel demand to be supported by an assessment to quantify the amount and type of travel likely to be generated and should include measures that satisfy demand to maximize walking, cycling and the use of public transport. Whilst DM13 requires that development provides a level of car and cycle parking which balances the characteristics of the site, the locality, the nature of the proposed development and design objectives. A transport statement was provided with the application which sets out traffic and trip generation figures, operational characteristics and link capacities.
- 2.49 The site is an existing retail site and car park with similar patterns of travel and use, the site is also situated in the town centre where such travel movements are to be expected and accounted for in the road network, as such Highways England and KCC Highways have not raised an objection in principle and there is not considered to be a significant increase in traffic on the strategic highway network. Although there is a small disagreement over the conclusions, overall KCC Highways are satisfied that the proposal is unlikely to generate a significant increase in peak hour vehicle trips compared to the existing foodstore, retail and residential units.

- 2.50 KCC Highways have also confirmed that the level of proposed car parking is acceptable and will provide 13 additional spaces. The use of an AMPR camera to control and manage the car park ensures the car park is not free to use and therefore unlikely to result in a significant increase in demand for spaces and associated vehicle trips. DDC Parking Services have also confirmed that the management of the car parking proposed is acceptable in principle and a AMPR system has recently been introduced at the Sainsbury's car park opposite the site. The two existing access points to the highway have not been amended and are therefore acceptable along with the revised servicing and delivery arrangements.
- 2.51 KCC have raised some concerns regarding the position and height of the proposed trees adjacent to the public highway and the potential for overhanging of the highway and the need to remain clear stemmed for 2.1m above the adjacent footpath. The site clearly has a number of existing trees, many of which are in close proximity to the public footpath and many overhang to a certain degree which adds to the character of the area. The applicants have also commented that the public footpath is between 3.6m to 4.5m along West Street, the existing trees overhang and there is a need to maintain the character of the street scene. This aspect therefore needs to be addressed further by condition taking into account the existing site arrangements. KCC have also identified a number of other conditions including root protection measures to prevent encroachment onto the highway, along with the protection of car parking, cycle parking facilities and delivery facilities including the need to submit for approval a Parking Management Strategy. These conditions have all been included in the recommendation.
- 2.52 With the imposition of these conditions no highways objection is raised and the proposed development is therefore acceptable in terms of the impact on the local highway and there would be no severe highway impact. The proposal therefore accords with policies DM11 and DM13 of the CS and paragraphs 106 and 109 of the NPPF.

Archaeology

- 2.53 The application site lies partly within an archaeological site arising from the Romano-British and early medieval periods. Groundworks associated with the proposed development therefore have the potential to cause disturbance to, or loss of buried remains of archaeological interest. An Archaeological desk-based assessment was submitted with the application. Consequently, KCC Archaeology has recommended that a further programme of archaeological works on site can be dealt with by condition. This addresses any potential archaeology on site and accords with paragraphs 193 and 199 of the NPPF.

Noise and Pollution Considerations

- 2.54 Noise: In terms of the impact of noise from the site and use, this has not been specifically raised by nearby local residents who already experience a certain level of noise from the existing commercial uses on the site. However, it is necessary to control noise as far as possible from such a use, even where it is a replacement of a very similar use. This has been addressed by the applicants with the submission of an Environmental Noise Report, which has been expertly assessed by DDC Environmental Health Officers. In terms of planning policy, noise is addressed in paragraph 180 of the NPPF and

requires that noise impact from development should mitigate and reduce potential adverse impacts and avoid noise giving rise to significant adverse impacts on health and quality of life. The National Policy Statement for England (NPSE) is also relevant when considering the impacts of noise from development.

- 2.55 The submitted report considers the impact of the development using BS 4142:2014 and assesses the impact of fixed mechanical plant, car park noise, service yard noise and any changes to road traffic noise. The conclusions of the report are accepted in respect of car park noise and changes in road traffic. No details have at this stage been provided of the design of the mechanical plant (refrigeration, chillers, air conditioning etc.), although the siting of all plant has been identified, but this can be controlled by a condition in terms of noise levels. In addition it is suggested that conditions to control the hours of delivery between 06:00 to 23:00 Monday to Saturday and 08:00 to 21:00 on Sundays and an Environment Construction Management Plan to be submitted for approval are required. DDC Environmental Health has therefore raised no objection following consideration of this report subject to the above conditions. This approach also accords with paragraph 180 of the NPPF and the proposed development subject to the above is therefore acceptable in this regard and appropriately addresses any potential impact on residential amenities.
- 2.56 It should be noted that the existing uses do not have a condition controlling hours of operation and therefore it is not considered necessary in this central location to impose such a restriction. The proposed development and suggested conditions would already result in a betterment of the control of noise from the existing store, however if Members were inclined to include such a condition it is suggested that hours of opening to the public should be 08:00 to 22:00 Monday to Saturday and 11:00 to 17:00 on Sunday.
- 2.57 Ground: In terms of ground contamination it has been identified that the site is subject to some contamination although there is considered to be a low risk and information was submitted with the application to clarify this position. The EA have identified that the submitted report has made a number of recommendations for further work to progress the site to construction phase. This includes completion of a gas monitoring programme and further investigation in previously inaccessible areas. The additional requirements including a remediation strategy and verification report can be addressed by suitable contamination conditions which have all been included in the recommendation. DDC Environmental Health are also in agreement that such conditions are necessary in relation to the development. With the imposition of such conditions the proposed development therefore accords with paragraph 178 of the NPPF and this aspect has been suitably addressed for this site.

Impact on Residential Amenities

- 2.58 For the reasons already discussed, it is considered that any impact on residential amenities has been addressed through the design of the development and the significant visual improvement in respect of the existing building, particularly along the Park Street elevation where there are a number of residential properties on the opposite side of the road. Furthermore, a number of conditions are proposed to control potential noise from the use which go beyond the controls on the existing building and associated uses. Being that this is a town centre location and an existing

retail site it is considered that the impact on the residential amenities of nearby properties is acceptable and accords with paragraph 127 of the NPPF.

Conclusion

- 2.59 The proposal is for the redevelopment of the existing Co-op site and the overall regeneration of the site to provide an Aldi foodstore. It is clear that there are many benefits to the proposal overall which largely accord with planning policies at a local level and those of the NPPF. Specific detailed consideration of the various elements of the proposed development have been discussed above and the proposal is considered to be appropriate for the site including its design and resulting in a less than substantial harm impact on the character and appearance of the conservation area. The proposal is also considered to be a benefit to the town centre of Deal and its continued vitality and enhancement.
- 2.60 Nevertheless, the visual impact in respect of the loss of mature trees on site has raised a considerable level of local objection and concern, even though the Aldi store has largely been supported within Deal. Discussions with the applicants to attempt to retain more trees on site which would be the most beneficial outcome, to minimise the detrimental impact on visual amenity, have confirmed that as many trees as possible have been retained in the proposal. A number of the trees on site (including 2 TPO trees) are in decline and would need to be removed at some point and the retention of further trees and in particular the 3 trees identified by the Tree Officer would bring into question the viability of the site for the applicant or would result in a complete redesign of the layout. Therefore although it is regretful that mature trees are being lost, this has been considered in detail and 12 replacement semi-mature trees are proposed to minimise the visual impact along with a contribution of £15,000 towards off-site tree planting and maintenance.
- 2.61 As discussed above, applications need to be considered in terms of the presumption in favour of sustainable development. It has been identified that the proposed development largely complies with the social, economic and environmental aspects of sustainable development, albeit, results in the loss of 10 mature trees. Applications also need to be considered in the planning balance and the loss of the mature trees would not significantly or demonstrably outweigh the benefits of the proposal when assessed against the policies of the NPPF when taken as a whole. For these reasons the application is recommended, on balance, for approval as it complies with the development plan policies and NPPF policies identified above and would bring a high quality and positive regeneration on the existing site. This would therefore enhance the vitality and viability of Deal town centre for the future.

3. Recommendation

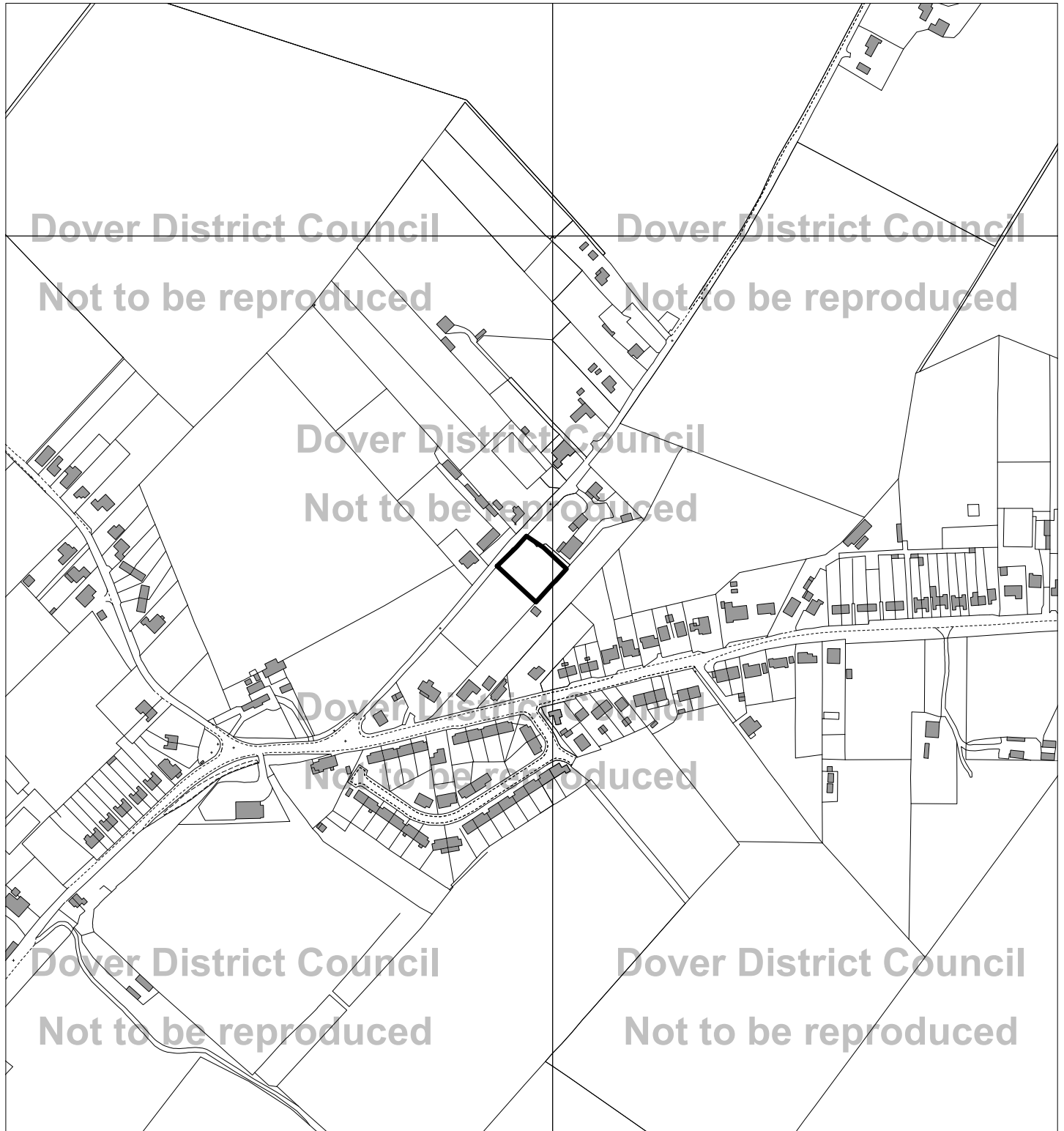
- I. PLANNING PERMISSION BE GRANTED subject to a Unilateral Undertaking to secure £15,000 towards tree planting and maintenance in Deal town centre and subject to the following conditions to include:
- 1) Standard Time
 - 2) Approved Plans list
 - 3) Details of external materials
 - 4) Programme of archaeological works
 - 5) Scheme of sustainable urban drainage
 - 6) Maintenance of sustainable urban drainage system
 - 7) Remediation strategy

- 8) Contamination verification report
- 9) Contamination safeguarding
- 10) No infiltration drainage
- 11) No piling without consent
- 12) Construction Management Plan
- 13) Construction Environmental Management Plan
- 14) Control of noise from plant equipment
- 15) Details of foul and surface water disposal
- 16) Provision and retention of car parking spaces and submission of a parking management strategy
- 17) Vehicle loading and unloading and turning facilities
- 18) Provision and retention of cycle parking
- 19) Details of external lighting and street furniture including seating
- 20) Retention of trees
- 21) Detailed hard and soft landscaping scheme to be submitted for approval including root guards to prevent encroachment under the highway, planting systems and boundary treatments
- 22) BREEAM 'very good' standard
- 23) A1 Use Class only
- 24) Control of delivery hours 06:00 : 23:00 Mon – Sat & 08:00 : 21:00 Sun
- 25) Tree protection measures/fencing
- 26) Landscape maintenance and management plans including measures to provide clear stems of 2.1m

Informatives: In relation to highways, southern water connections and the use of flood resilient construction methods and the use of the Flood Warning Service.

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

Case Officer: Lucinda Roach



Not to scale

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

Application: DOV/18/01113

Land SW of Fieldings

Stoneheap Road

East Studdal

CT15 5BU

TR 3198 4974



a) **DOV/18/01113**

**Land SW of Fieldings, Stoneheap Road, East Studdal, CT15 5BU
Erection of a detached dwelling, formation of vehicle access, creation of
parking and associated landscaping (existing garage to be demolished).**

Reason for report: Number of contrary representations

b) **Summary of Recommendation**

Planning Permission be refused

c) **Planning Policy and Guidance**

National Planning Policy Framework (NPPF) 2012.

- Paragraph 8 sets out 3 dimensions to sustainable development – the economic, social and environmental role which should not be undertaken in isolation.
- Paragraph 11 states that decisions should apply a presumption in favour of sustainable development. For decision – making this means approving plan without delay or
 - Where there are no relevant plan policies, or the policies which are most important for determining the application are out-of-date granting permission unless;
 - The application of policies in this framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed or
 - 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 47 sets out ‘planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise;

- Paragraph 105. 'If setting local parking standards for residential and non – residential development, policies should take into account;
 - a) The accessibility of the development;
 - b) The type, mix and use of development;
 - c) The availability of and opportunities for public transport;
 - d) Local car ownership; and
 - e) The need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.

- Paragraph 109 states 'Development should only be prevented or refused on highways grounds if there would be unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Paragraph 124 sets out '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.
- Paragraph 127 states '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, whilst not preventing or discouraging appropriate innovation or change (such as increased densities);
 - d) Establish or maintain a strong sense of place, using the arrangements 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 or community cohesion and resilience'
- Paragraph 130 sets out ' Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions, taking account any local design standards or styles in plans or supplementary planning documents'.
- Paragraph 131 states '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 within the overall form and layout of their surrounding'.
- Paragraph 170 sets out amongst other things 'Planning policies and decisions should contribute to and enhance the natural and local environment by
 - 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);
 - Minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- Paragraph 175 sets out amongst other things 'When determining planning applications, local planning authorities should apply the following principles;
 - 1) If significant harm to biodiversity resulting from a development cannot be avoided (through relocating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;'

Dover District Core Strategy (CS)

Policy CP1 states the location and scale of development in the District must

comply with the settlement Hierarchy. The Hierarchy should also be used by infrastructure providers to inform decisions about the provision of their services.

Policy DM1 states that development will not be permitted outside the confines unless specifically justified by other plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.

Policy DM11 states that development that would generate high levels of transport will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies.

Policy DM15 states that any development which would result in the loss of, or adversely affect the character and appearance of the countryside will only be permitted if it is:

- I) in accordance with allocations made in Development Plan Documents
- II) or justified by the needs of agriculture,
- III) or justified by a need to sustain the rural economy
- IV) or a rural community, it cannot be accommodated elsewhere and 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.

Land Allocations Local Plan

Policy LA35 – sets out the land allocations designated for residential development at East Studdal.

Other Guidance/ relevant matters

- Kent Design Guide

d) **Relevant Planning History**

DOV/15/00796 – Outline application for the erection of a detached dwelling (all matters reserved) – refused 16th October 2015.

DOV/16/00057 – Erection of a single dwelling ('Meisterstuck Haus' eco home) and garage with landscaping and ecological enhancements – Refused. Appealed and dismissed.

PE/18/00109 – pre application advice was given and to summarise it set out - The issue still remains the access onto the road - whilst I can see that you have designed this in a way to reduce its impact in comparison to the original proposal, we are still of the view that any access goes to the heart of the Inspector's decision. I don't think we will be supporting the proposal.

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

Dover District Environmental Health Officer

Having considered the supporting documentation for this application I have no objection to it. Should planning permission be granted, however, I recommend that the following conditions are applied:

In the event that, at any time while the development is being carried out, contamination is found that was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared. The results shall be submitted to the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

During construction no noisy activity shall take place outside of the following hours:

Monday to Friday 0800 to 1800 hours

Saturday 0800 to 1300 hours

With no noisy activity taking place on Sundays or Bank Holidays.

Dover District Councils Principle Ecologist: 6th November 2018.

Slow worms – The report assumes that the on-site population is part of a larger population associated with gardens. The proposal appears to be to translocate onto neighbouring land off-site. If so, the effect will be to concentrate the population in a smaller land area and some habitat enhancement should be provided. Is the land within the control of the applicant? If not, then a S106 agreement would be required to ensure the enhancement and continued management of the receptor land in a manner suitable for slow worms.

Dover District Councils Natural Environment Manager 7th December 2018.

The following would make the development questionable

Issues with the survey

- The refugia were not put out until October, which, although the report notes it was a mild October, is too late in the season to accurately assess the relative population size – it may be wise to assume that the peak adult count of 4 is an underestimate and one should assume that the actual size of the slow-worm population is good rather than low;
- Furthermore, only one week was left between the deployment of the refugia and starting the surveys – this is on the short side

Issues with the proposals

- Given that it is likely that the relative population size is an underestimate, the proposed receptor site (roughly calculated as 45 sq metres) is too small.
- It appears that the receptor site would be part of the garden of the new property –how would the occupiers of the dwelling manage the area for reptiles?
- Is the receptor site currently in a state to receive animals or does it need to develop?
- Is there any other enhancement for reptiles other than leaving the grass long?

Kent Highway Services

Referring to the above description, it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If there are any material highway safety concerns that you consider should be brought to the attention of the HA, then please contact us again with your specific concerns for our consideration.

Sutton Parish Council – support the application.

Third Party Responses

Two letters of objection have been received which may be summarised as follows:

- Having read the appeal decision in relation to the previous application made for planning permission on this site, it appears that very little has changed in relation to paragraph 15 of the refusal and it would appear the application has not addressed the issues of reptiles mentioned in the ecological report. These issues were flagged up at an early stage in broad terms by the council when considering previous applications which essentially the applicant has failed to address;
- The views of the immediate neighbours who are against these plans must be respected and their views taken into consideration when making a decision;
- The present proposal is not dissimilar from the previous one, so why have the Parish Council reversed their decision;
- Frogs and newts are still on the land, why has this been overlooked or ignored;
- The location is at a pinch point within Stoneheap Road, opposite entrances to Pine Bank and Highfield Stables. At the peak of the day when traffic is at its highest vehicles accessing and egressing the highway are at risk. There has already been road traffic accident within the lane nearby. The Parish Council have done traffic surveys in other parts of the village and put up DIY please slow down signs which blew down, not to my knowledge in Stoneheap Road;
- There seems to be support from members of the village who do not live near Stoneheap Road. They don't have to put up from members of the village who live nowhere Stoneheap Road, they don't have to put up with the rat run;

- Although they supply neighbours they do not own the infrastructure pipework;
- The applicant will have to find an alternative water supply pipe as its over stretched to say the least;

Fourteen letters of representations have been received and are summarised below:

- This is an imaginative plan with thought having been given to address the objections to and refusal of prior plans.
- East studdal is a community which needs investment and any proposals which thoughtfully integrate a new dwelling into the landscape in such a way that the visual amenity is enhanced;
- The Council would need to ensure that ground works completed exactly as to the plan since the positive visual amenity;
- The positive visual amenity of this project is critically dependent on the ground levels being correct;
- The biodiverse roof and external landscaping are critical elements of the plan to deliver a positive outcome;
- The eco friendly design will blend into the surroundings and be unobtrusive;
- The access to the property is more than adequate for vehicles and although the road is narrow the line of sight for anyone coming out of the area is clear
- The owner has cleared the land over recent years and his proposal will ensure the land does not become a dumping ground for rubbish.
- The applicant has put a lot of thought into the application;
- It will enhance the visual amenity of the area;
- It appears the applicant has addressed the issues which resulted in refusal of the previous application;
- Sustainable, eco builds should be supported;
- It is an innovative environmentally friendly proposal;
- It will sit beautifully with the surrounding landscape;
- The design, with its biodiverse green roof is modern and innovative;
- The dwelling is not large or obtrusive and the importance of the ecology has been carefully considered;
- The property should fit easily alongside the rich diversity of the area;
- The small areas of infill are a better way of increasing housing stock rather large more intrusive developments;

- The design is in keeping with the local surroundings and would not be intrusive of that area;
- The proposed planting of trees and shrubs would enhance and be in keeping of the local fauna and encourage wildlife
- Vehicle access to the proposed building and parking area would not be a problem to other traffic/pedestrians;
- This is a building that will be ecologically sound;
- Building should be encouraged and held up as an example;

(f). 1.The Site and the Proposal

1.1 The site comprises a field covering 0.14 hectares on the south east side of Stoneheap Road, outside the confines of East Studdal. The site is bounded by hedges/trees. Within the site, there is evidence of a number of trees which have been cut down as well as the substantial and strong established roadside hedgerow which once formed part of a more expansive hedge line along Stoneheap Road (which had been subject of discussion in the previously refused scheme). The site rises to the south east from the road.

1.2 The area including the application site is rural/agricultural in character and appearance. There is sporadic development on the north west side of Stoneheap Road and a detached bungalow and some outbuildings to the north east of the site. Stoneheap Road is a rural lane.

1.3 The proposal is for a single storey detached dwelling, formation of vehicle access, creation of parking and associated landscaping (the existing garage is to be demolished).

1.4 The dwelling would be set back from Stoneheap Road by approximately 18 metres. The creation of the dwelling would include a substantial amount of engineering works to ensure the dwelling would be set into the existing topography of the land with a green roof. The dimension of the dwellinghouse would be an L shaped dwelling measuring approximately 16 metres (width) x 8 metres (length) and the height of the eaves would be 3 metres with a ridge of 5 metres. The dwelling would be constructed in timber cladding and brickwork with projecting courses and aluminium framed windows, under a green roof.

1.5 The plans show a proposed landscaping scheme which includes a number of different types of species.

1.6 By way of background, planning permission was refused for a single dwelling on the site (DOV/16/00057). The decision was appealed but the appeal was dismissed. This current application has been submitted as a follow up scheme.

2. Main Issues

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

- The principle of new dwelling in this location.
- Design/appearance
- Potential impact in the rural environment and street scene.
- The impact upon residential amenity.
- Transport/travel.
- Ecology
- Sustainability overview.

Assessment

Principle of Development

3.1 The starting point for the determination of any planning application is the development plan. Policy CP1 of the core strategy identifies the location and scale of development for settlements in terms of hierarchy. East Studdal, the closet settlement to the site is defined as a village which is suitable for an appropriate scale of development that would reinforce its role as a provider of services to essentially its home community. Land is allocated within the village for 30 dwellings. However, the site falls outside of the settlement confines of East Studdal .

3.2. The planning inspectorate slightly adjusted the defined settlement in the DLALP which runs tightly behind the frontage development along Downs Road some distance to the South. Consequently the site lies in the countryside for policy purposes and policies DM1 and DM15 apply which restrict new housing to that which functionally requires a rural location.

3.3 Policy DM1 of the core strategy identifies that development on land outside rural settlement confines will not be permitted unless specifically justified by, amongst other things, other development plan policies or it functionally require such a location. The proposed dwelling would be located outside the confines. The proposal does not meet any of the circumstances where development outside of the settlement confines would exceptionally accord with Policy DM1 and, therefore, the development is contrary to this policy.

3.4 Policy DM15 also seeks to resist development which would result in the loss of, or adversely affect the character or appearance of the countryside, except in certain circumstances. This policy reflects the NPPF's aim of, inter alia, having regard for the intrinsic character of the countryside and focusing development in sustainable locations. The development would result in the loss of countryside and would not meet any of the first three criteria of Policy DM15, whilst the development (one dwelling) could be accommodated elsewhere. Furthermore, as will be set out later in this report, the development would adversely affect the character and appearance of the countryside and would result in the loss of ecological habitats. The development would therefore be contrary to Policy DM15.

3.5. 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 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.

3.6 The presumption in favour of sustainable development, under paragraph 11 of the NPPF, states 'that where policies which are most important for determining the application are out of date, permission should be granted unless particular policies of the framework (for example relating to irreplaceable habitats) provides a clear reason or where the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the National Planning Policy Framework, read as a whole.

3.7. 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.

3.8. 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. Consequently, when assessing the NPPF, a 'flat balance' applies.

3.9. 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 and DM15 do 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 considerations.

3.10. 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.

3.10. Subject to the consideration of these elements below, the starting point remains that his proposal is considered to be unacceptable in principle.

The impact on the Character and Appearance of the area

3.11 A previous planning application was refused and dismissed at appeal by virtue of its location, design, scale and accompanying works, resulting in an unjustified, sporadic form of development, which would have been visually intrusive detrimental and harmful to the character and appearance of the street scene. The previously refused dwelling has been designed to be set back within the plot and was low profile in being a single storey when seen from the road. At the time of the appeal the inspector concluded the development would noticeably erode the verdant character of the approach to the village and consolidate the existing built development along both sides of the road, with no buildings immediately to the south east or south west and the proposal could not be considered as infilling in an existing built up area.

3.12 The National Planning Policy Framework sets out that 'in determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help the standard of design more generally in an area, so long as they fit with the overall form and layout of their surroundings.

3.13 The proposed development is a single storey L shaped dwelling measuring 8 metres in depth x 16.5 metres in length, with an eaves height of 2.5 metres and a maximum height of 5 metres. The proposed materials would consist of brickwork with projecting courses, wood cladding, aluminium windows and doors with a 'green roof' over to allow plants and grasses to grow.

3.14 The topography of the land rises to the south east from the road. The applicant is proposing to cut into the existing land levels of the site to set the dwelling within an engineered hollow to reduce the prominence of the dwellinghouse within the street scene. It is accepted the dwelling would not be highly prominent from within the street scene.

3.15 However, that said, whilst the proposed dwelling would be set down within the ground level of the site, the green roof would be visible by approximately 2.5 metres from Stoneheap Road, due to the topography of the land. Given proposed engineering works, the land levels would be significantly altered and the roof would be visible and be seen as an artificial mound within the street scene and would result in a change to the intrinsic character of the natural environment within this location.

Street Scene/rural environment

3.16 The development, including the associated engineering works related with the construction of the access and driveway, would also be readily evident in and from the street. These works are considered to be unsympathetic and intrusive.

3.17 One of the core planning principles of the NPPF is to protect the intrinsic and character and beauty of the countryside. Policy DM15 states that any development which would result in the loss of, or adversely affect the character and appearance of the countryside will only be permitted if it is:

- I) in accordance with allocations made in Development Plan Documents.
- II) or justified by the needs of agriculture,
- III) or justified by a need to sustain the rural economy
- IV) or a rural community, it cannot be accommodated elsewhere and 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.

3.18 To provide an access onto the site significant engineering works would be required which would alter the existing natural landscape. These works would involve cutting into the existing ground level to provide a driveway consisting of tarmac immediately off the highway which would amalgamate into porous bound resin and continue into a substantial parking courtyard with stone setts laid. The access and courtyard would be readily visible from the street scene given the land level at the edge of the highway. To achieve this, the applicant is proposing to re-profile the land levels with an incline towards the rear of the site, with the spoil being used to create a bank around the

sides of the site. A large bank would be visible towards the rear of the site, which would be exacerbated by the rise in the land which is already significantly higher to the rear. These land banks would not sit comfortably within the prevailing landscape and it is considered would appear as a contrived feature within the street scene and within the wider landscape contrary to the aims and objectives of policy DM15 and the National Planning Policy Framework.

3.19 Paragraph 127 (d) of the National Planning Policy Framework sets out that planning decisions should ensure that developments establish or maintain a strong sense of place and development should be visually attractive as a result of good architecture, layout and effective landscaping and be sympathetic to local character and history, including the surrounding built and landscape setting.

3.20 The applicant is proposing a landscaping scheme either side of the driveway and a section of hawthorn hedge along the road to try and mitigate against the potential impact the proposed dwelling would have within this rural location and street scene. The proposed planting would be uncharacteristic within Stoneheap Road and within the surrounding area. This would be further exacerbated by the requirement to ensure visibility splays can be achieved and maintained resulting in the need to set the landscaping back within the application site. At the time of the previously refused scheme the applicant had proposed to plant a hedgerow behind visibility splays. The inspectorate concluded on this matter that the overall built up residential nature of the site would be clearly apparent to passers-by in sharp contrast to the existing undeveloped paddock. For these reasons it is considered the proposal does not overcome the previous reasons for refusal or the dismissed appeal.

3.21 The type of planting has been chosen to try to fully screen or disguise the proposed development behind the landscape which would undoubtedly result in a high magnitude of change to the site. It is therefore considered the proposal would appear as an artificially engineered feature within the landscape due to the topography, character and appearance within the prevailing landscape contrary to policy DM15 of the Dover District Core

Strategy and the aims and objectives of the National Planning Policy Framework, in particular paragraphs 127 and 170.

Impact upon residential amenity

3.22 Given the position of the dwelling within the site and the positioning of the windows, it is considered the proposed dwelling would not result in any overlooking of the private amenity space currently enjoyed by the occupiers of the adjacent dwellings.

Transport/travel

3.23 The application site would be able to accommodate the required 1.5 parking spaces.. The proposal would therefore comply with the aims and objectives of policy DM13 of the Core Strategy.

3.24 Policy DM11 of the Dover Core Strategy sets out 'development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. The nearest bus stop is over 285m away from the site in Homestead Road to the south west, which provides an infrequent bus service (2 per day Monday to Friday, 1 on Saturday and none on Sunday). In the recent dismissed appeal the inspector concluded 'from its junction with Downs Road, Stoneheap Road is a narrow, single carriage lane with hedges both sides, no footways and only limited street lighting. As a result the road has the character of an unspoilt rural lane with the scattered residential development in the vicinity of the appeal site being detached from the main village'

3.26 Due to the limited level of facilities, lack of footpath and street lighting it is expected that the occupants of the proposed dwelling would have to primarily rely on car journeys for basic day to day needs which is something the NPPF seeks to avoid.

3.27 Overall the proposal is considered to be in an unsustainable location due to its links to facilities and services and the lack of public transport. The proposal would be contrary to DM11 of the Core Strategy and the aims and objectives of the National Planning Policy Framework.

Ecology

3.28 The Natural Environment and Rural Communities Act 2006 requires that every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. Biodiversity is a material consideration in planning and the PPG on the Natural Environment states that “Information on biodiversity impacts and opportunities should inform all stages of development ...” and that “an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate.”

3.29 In this case the applicant has submitted an ecological scoping survey. Dover District Councils Principle Ecologist raised concerns as it was considered the report assumed the on-site population is part of a larger population associated with gardens. The proposal initially sought to translocate onto neighbouring land off-site. The effect would have been to concentrate the population in a smaller land area and some habitat enhancement would be needed. If this land is not within the control of the applicant then a section 106 agreement would be required to ensure the enhancement and continued management of the receptor land in a manner suitable for slow worms.

3.30 To try and overcome this, the applicant proposed a receptor site within the south west front corner of the site. Advice has been received from Dover District Councils Natural Environment Manager who has raised issues with the report in that artificial refugia were not put out until October, which, although the report notes it was a mild October, is too late in the season to accurately assess the relative population size. Given this, it was advised that it may be wise to assume that the peak adult count of 4 is an underestimate and one should assume that the actual size of the slow-worm population is good rather than low; Furthermore, only one week was left between the deployment of the artificial refugia and starting the surveys, which is considered too short a period. In respect of the receptor site it is considered given that it is likely that the relative population size is an underestimate that the proposed receptor site (roughly calculated as 45 sq metres) is too small.

As the receptor site would be part of the garden of the new property, and it is unclear how the residents would manage the area for the reptiles. Further concerns are whether the receptor site is currently in a state to receive animals and if there are any other enhancements for reptiles other than leaving the grass long.

3.31 In this case it is considered the ecological survey and the proposed mitigation measures do not go far enough to safeguard the ecology on the site contrary to the requirements of paragraph 99 of ODPM circular 06/2005. Given that other significant concerns have been raised with the proposal that are considered sufficient to justify a recommendation for refusal, the applicant has not been asked to go to the expense of overcoming this concern.

Sustainability overview

3.31 Paragraph 78 of the National Planning Policy Framework sets out 'to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where it will support local services. Where there are groups of smaller settlements, development in one village, may support services in a village nearby.

3.32 The Dover District Settlement Review and Hierarchy describes East Studdal as a "settlement which has lost one shop/post office since the local plan survey and now only has one store". However, a recent visit to the village revealed that there was no shop (it has been converted to a house). The community facilities include two halls, one is a small village hall the other is a Parish Community Centre. There are no other facilities and services. Given the limited facilities the addition of a single dwelling in a location which would be detached from and poorly related to the village, this would neither enhance or maintain the vitality of the rural community and be contrary to the aims and objectives of the National Planning Policy Framework in particular paragraph 78.

3.33 Sustainable development is identified throughout the National Planning Policy Framework. There are three dimensions to sustainable development and consideration of these roles should not be taken in isolation as they are interdependent. They are set out in the NPPF being: economic, social, and environmental.

Economic role: The proposed development is a single residential dwelling. The economic benefit involves temporary employment during construction. However it is considered that bearing in mind the siting of the new dwelling, it would provide only a very limited contribution to the community in economic terms.

Social role: The development would provide an extra dwelling, which would contribute in a very modest way towards meeting the housing needs of the district. However it has to be borne in mind that the development is only for a single dwellinghouse outside the confines, which is not where policy intends new housing development to be located. It should also be borne in mind land is already allocated within the village for housing development. The NPPF identifies that there is a need for accessible services. It is therefore considered this development has a limited value in social terms.

Environmental role: The applicant is proposing to use a 'green roof' which could accommodate some planting and grasses and additional planting to replace the hedge that was removed following the refusal of the original submission. However this has to be considered against the resultant harm to the wider natural environment which includes the re-profiling of the landscape, the erosion of the rural character of the area and the introduction of development into the open countryside away from public transport links. Substantial weight against the development is also attributed to the loss of ecological habitat, for which no appropriate mitigation has been proposed.

3.34. It is acknowledged that there are limited benefits as far as the sustainable objectives of the NPPF are concerned. However these benefits have to be weighed against those matters which give significant cause for concern which are referred to above and further into this report.

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

3.35 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.

3.36 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.

3.37 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.

3.38 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.

3.39 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.

3.40. 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.

Conclusion.

3.41 The proposed is for a dwelling outside settlement confines which would be contrary to the development plan.. Although the proposal would result in a dwelling which would contribute towards the Councils 5 year housing deficit on a windfall site, the contribution would be very minimal.

3.42 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. There are some benefits of the development by means of the green roof and additional planting, but taken within the wider context of sustainability, it would cause harm, being a sporadic form of development which would result in material harm to the character and appearance of the street scene and the surrounding rural character and appearance of the area. In addition to this the mitigation measures in respect of the protected species are not considered adequate to preserve the biodiversity.

3.44 The level of harm would result from the proposed in respect of an unjustified dwelling beyond the built confines of the village and harm to the setting and appearance of the countryside and the rural street scene. Accordingly the development is unacceptable and it is recommended that planning permission be refused for the reasons set out in the report.

(G) Recommendation

PERMISSION BE REFUSED for the following reasons

- I. The proposed site lies outside of the defined settlement confines and within the countryside, resulting in the loss of countryside, failing to recognise the intrinsic character and beauty of the countryside and failing to achieve a sustainable pattern of development, contrary to

Core Strategy Policies DM1, DM11 and DM15 and paragraphs 8 and 170 of the National Planning Policy Framework.

- II. The proposed development, by virtue of its location, the creation of a vehicular access, the excavation and land raising and the height and roof form of the dwelling, would create a visually intrusive form of development which would cause substantial harm to the unspoilt rural character and appearance of the area, contrary to Core Strategy Policy DM15 and paragraphs 127 and 170 of the National Planning Policy Framework.

- III. The proposed site provides a habitat for reptiles (slow worms), which are a protected species. The application has failed to demonstrate that an appropriate receptor site would be secured to mitigate for the loss of habitat and, consequently, the development would adversely affect the reptiles as a protected species contrary to paragraph 175a of the National Planning Policy Framework and paragraph 98 of Circular 06/2005 'Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System'.

Case Officer - Karen Evans