

Public Document Pack



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10 April 2019

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **PLANNING COMMITTEE** will be held in the Council Chamber at these Offices on Thursday 18 April 2019 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.

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
P J Hawkins
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 21 March 2019 (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/19/00035 - KEARSNEY ABBEY, ALKHAM ROAD, TEMPLE EWELL, DOVER** (Pages 10-16)

Installation of a permanent sculpture

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

7 **APPLICATION NO DOV/19/00105 - LAND ADJACENT TO 44 FOSTER WAY, DEAL** (Pages 17-28)

Erection of a detached dwelling with associated parking and creation of vehicular access (existing boundary wall to be removed)

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

8 **APPLICATION NO DOV/18/01119 - PHASE 4, AYLESHAM VILLAGE EXPANSION, AYLESHAM** (Pages 29-43)

Reserved matters application for Phase 4 pursuant to application DOV/15/00068 for 91 dwellings; associated infrastructure, access, landscaping, layout, scale and appearance for a development of up to 1,210 dwellings, and discharge of planning conditions 57, 58, 61, 63, 64, 67, 77, 78, 84, 85, 86, and 88 pursuant to application DOV/15/00068 (Phases 1B2 and 1B3)

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

9 **APPLICATION NO DOV/18/00592 - LAND REAR OF STATION ROAD, WALMER, DEAL** (Pages 44-58)

Outline application for the erection of five detached dwellings with visitors' car park and turning head (with appearance, landscaping, layout and scale reserved)

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

10 **APPLICATION NO DOV/18/00221 - 62 CASTLE STREET, DOVER** (Pages 59-87)

Erection of a six-storey building comprising flexible Class A1, A2, A3 and A4 uses (ground floor) and flexible Class A1, A2, A3 and A4 uses and B1 (first floor) and the formation of 28 flats (2nd-5th floor); separate commercial and residential access; associated commercial bin storage; secure residential bin and cycle storage; gated rear service yard; four parking spaces; communal roof garden at third-floor level and associated works

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

ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING

11 APPEALS AND INFORMAL HEARINGS

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

12 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 – 18 APRIL 2019

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/18/00592 Outline application for the erection of five detached dwellings with visitors' car park and turning head (with appearance, landscaping, layout and scale reserved) – Land rear of Station Road, Walmer (Agenda Item 12 of 22 November 2018)**

This item is dealt with elsewhere on the agenda

Background Papers:

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

MIKE EBBS

Head of Regeneration and Development

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

APPLICATIONS WHICH MAY BE SUBJECT TO PUBLIC SPEAKING

The Reports

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

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

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

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

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

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

Site Visits

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

The following criteria will be used to determine usefulness:

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

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

Background Papers

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

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

IMPORTANT

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

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

The Development Plan

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

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

Human Rights Act 1998

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

The key articles are:-

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

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

Account may also be taken of:-

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

Article 10 - Right to free expression.

Article 14 - Prohibition of discrimination.

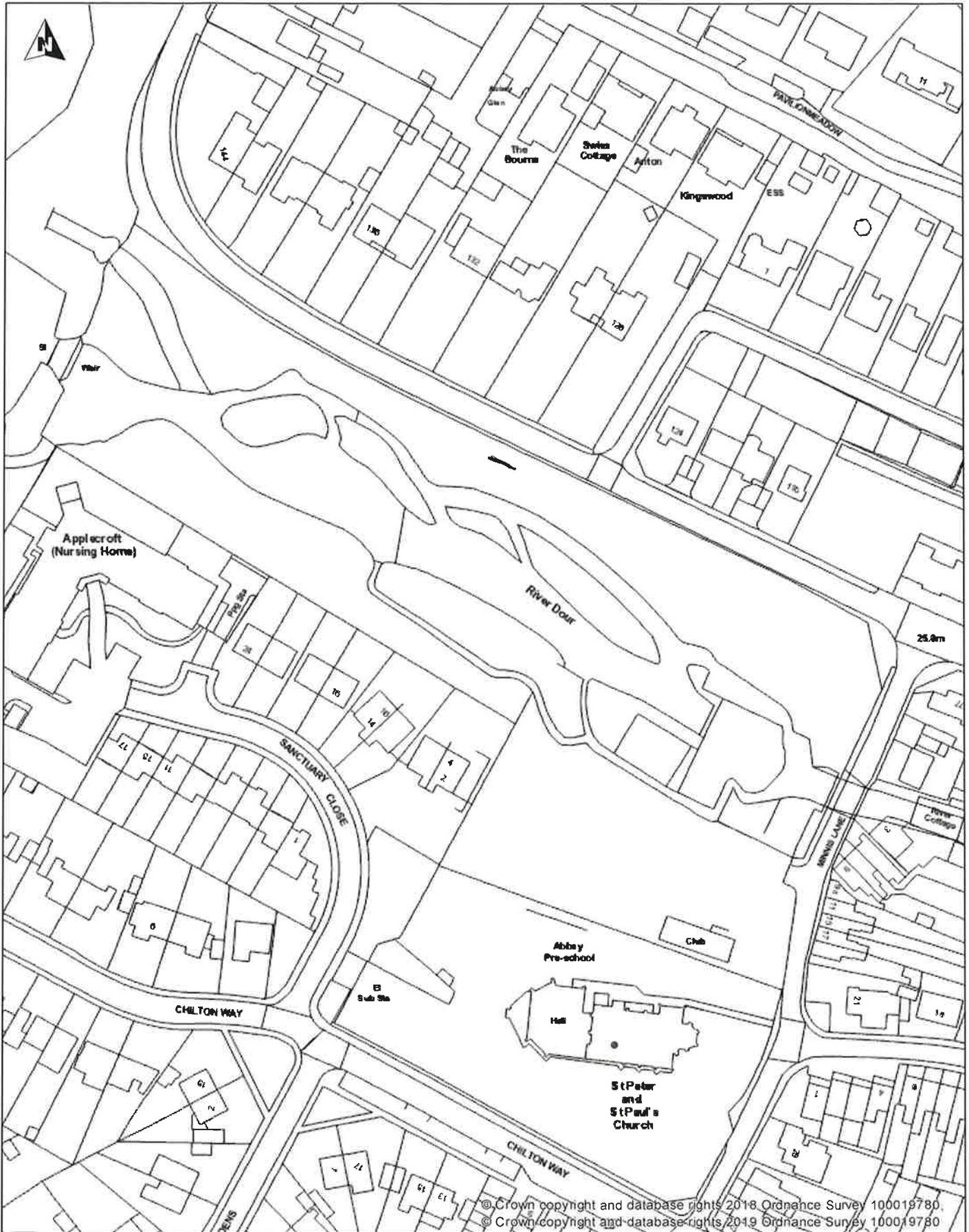
The Committee needs to bear in mind that its decision may interfere with the rights of particular parties, particularly under Article 8 and Article 1 of the First Protocol. The decision should be a balanced one and taken in the wider public interest, as reflected also in planning policies and other material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

(PTS/PLAN/GEN) HUMANRI

PUBLIC SPEAKING AT PLANNING COMMITTEE

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

This plan has been produced for Planning Committee purposes only. No further copies may be made.



DOV/19/00035

Author: Planning Services

Kearsney Abbey Alkham Road Temple Ewell CT17 0RG

Scale 1:1,250

Map Dated: 10/04/2019

Dover District Council
Honeywood Close
White Cliffs Business Park
Whitfield
DOVER
CT16 3PJ



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

- a) **DOV/19/00035 – Installation of a permanent sculpture - Kearsney Abbey, Alkham Road, Temple Ewell, Dover**

Reason for report - Number of contrary representations (13)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policies and Guidance**

Development Plan

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

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

A summary of relevant planning policy is set out below:

Dover District Core Strategy (2010)

Policy DM1 – Settlement boundaries

National Planning Policy Framework (NPPF) (2019)

Paragraph 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development. The objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Paragraph 124 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and landscaping, are sympathetic to local character and history and create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users.

Paragraph 192 states that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The Kent Design Guide (2006)

The Kent Design Guide says that works of art within existing development can be a potential means of improving the quality of the environment. Works of art can contribute to and enhance the creation of a sense of place and local identity. The guide also says that suitable locations for public art might include public open space or arrival points within towns and villages.

Section 66(1) of Planning (Listed Buildings and Conservation Area) Act 1990

Section 66(1) states that, 'In considering whether to grant planning permission [or permission in principle] for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

d) **Relevant Planning History**

Although there is no relevant planning history on file for this part of the site, a multi-functional timber structure has recently been granted permission under DOV/18/00860 within the Kearsney Park.

e) **Consultee and Third Party Responses**

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

DDC Kearsney Parks Team: "Joseph Black's proposed sculpture, Other Waters, is one of the works of art being produced as part of Art in the Park – Kearsney Interpreted. This is an Arts Council-funded project, delivered in partnership with Dover Arts Development. The aims of the project are to support and develop artists in the local area, and also to promote the use of Kearsney Abbey and Russell Gardens as cultural spaces... The location has been specially selected so that the sculpture can be viewed easily without being intrusive in the landscape. It will be placed close to the fence that is already there and will not interfere with people's line of sight across the pathway and to the river. The sculpture will have a textured surface and this will provide an excellent sensory experience for people with visual impairments or children with special needs... Finally with increasing concern about the state of the world's oceans we believe it is important that people are given the opportunity to make the link between the River Dour and the wider seas, and contemplate their inter-connectedness"

KCC Highways: Development proposal does not meet criteria to warrant involvement from the Highway Authority and is outside of the consultation protocol.

DDC Heritage Team: No objection, the sculpture would not affect the setting of the listed buildings.

River Parish Council: No comments were received

Third Party Representations:

Objections

There have been 12 objections from the public consultation of the application, summarised as follows:

- Sculpture doesn't reflect natural area
- Sculpture would be an eyesore
- The existing views of the abbey are enough
- Sculpture would be out of place in this location
- Kearsney Abbey is not a coastal location but a rural park
- Concrete addition to green space is neither attractive nor beautiful
- This is a vanity project
- Maintenance will cost the tax payer
- Sculpture is not relevant to Kearsney Abbey
- No benefit
- Unnatural addition
- Will attract antisocial behaviour and crime
- No needed in this location
- Waste of money
- Land is boggy
- Modern sculpture is at odds with the park
- Sculpture would detract from its surroundings
- Would be an incongruous addition to the park
- Proposal was advertised inadequately with only one site notice
- Application form is incorrect

Support

There have been 10 letters of support from the public consultation of the application, summarised as follows:

- Sculpture would enhance the park
- Would be a source of beauty and curiosity
- Would be a great addition
- Would have a positive impact on the community
- Would be a public work of art
- Enhances the experience of being in the park
- Thoughtful piece of art
- Will only add to the surroundings
- Would blend well with the park
- Theme is modern and ancient
- Sculpture is an artistic response to landscape
- Reflects history of town

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

1.1 The application site is within the Kearsney Abbey Park, located in River and the proposed development would be sited within the portion of the park between Lower Road (to the north) and the ruins of the paper mill (to the south-east). This portion of the park is wooded and has the River Dour running through it. The exact location for the proposal is 120 metres to the west of the entrance into Kearsney Abbey from Minnis Lane.

1.2 Permission is sought to erect a permanent sculpture within the park. The sculpture would comprise a concrete cast on a dark grey steel frame. Goodwin Sands was

selected as the casting site for this project and the sculpture would essentially be an imprint of the sands at low tide.

1.3 The approximate dimensions of the proposed sculpture are as follows:

- Height of frame – 0.8 metres
- Height of concrete cast – 0.25 metres
- Total height: 1.05 metres
- Total width: 1.6 metres

2 Assessment

2.1 The main issues to consider are:

- Principle
- Impact on the surrounding area and heritage assets
- Other matters

Principle of Development

2.2 The application site is within an area of existing public open space, Kearsney Abbey Park. The Kent Design Guide recommends that public art is installed in public open space. Furthermore, policy DM1 of the DDC Core Strategy says that “development will not be permitted on land outside the urban boundaries and rural settlement confines... unless... it functionally requires such a location, or it is ancillary to existing development or uses.” The proposal would be sited within the existing public park, which is outside of the Dover urban boundary, and would provide a piece public art. It is considered that the location, within existing public open space, is justified for such development and the proposal is considered to be ancillary to the existing public park. Subject to further material considerations set out below, it is considered that the installation of public art within the park is acceptable in principle.

Impact on the Surrounding Area

2.3 The NPPF, in paragraph 127 says that planning decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive, and create safe, inclusive and accessible spaces.

2.4 The proposal is considered to be reasonably low key and of a limited scale. The proposed location for the structure is not considered to be prominent and the sculpture would not detract from the natural or scenic beauty of the park. The Grade II Listed wall and arch are sited approximately 105 metres and 120 metres to the north-west of the application site, respectively.

2.5 Given the low-key nature of the proposal, its limited size and distance between the proposal and the heritage assets, it is considered that the historic significance of the heritage assets would be preserved and the proposal is considered unlikely to cause any harm to the setting of the heritage assets. Additionally, the DDC Heritage Team agreed with the recommendation and raised no objection to the proposal. As such, the proposal is considered to comply with the Planning (Listed Building and Conservation Areas) Act 1990, as well as the aims and objectives of the NPPF, paragraphs 189-202.

2.6 The sculpture, ‘Other Waters’ would not be readily visible from long distance views towards the park due to the existing boundary treatment around the park, the existing

mature trees and planting and the variation of land levels within the park. The proposal is considered sympathetic in terms of its size, scale and mass, and would result in a public benefit by providing an accessible piece of public art. The proposal is considered to comply with the aims and objectives set out by the NPPF, specifically in paragraph 127, as the proposal is considered to enhance the public park, is visually attractive and would result in a public benefit.

- 2.7 The proposal would have a limited impact on the surrounding area and is considered acceptable in this regard.

Other Matters

- 2.8 All representations from consultees and members of the public have been taken into consideration. A number of issues were raised within public representations, which are addressed below:

Maintenance

- 2.9 The issue of maintenance was raised in representations from members of the public. A maintenance plan was submitted by the applicants, which states: "The Kearsney Abbey Contract supervisor from the Parks and Open Spaces Team have been informed and have agreed to maintain the sculpture as part of the application and their regular maintenance programme. Every four years the steel structure should have a coat of exterior metal paint. The sculpture will be inspected every week by a competent person, the Parks Development Officer."

Anti-Social Behaviour

- 2.10 Concerns were raised from members of the public that the proposed sculpture would become a hotspot for crime and antisocial behaviour. Although the Community Safety Unit was not consulted on this application, they were consulted for the previous application for an art installation Kearsney Park (DOV/18/00860) and stated that "There are already a number of structures/ bridges / play areas within the park and calls to the area for ASB are relatively low." As such, it is considered unlikely that the proposed sculpture would result in any significant increase in antisocial behaviour within the park.

Advertising

- 2.11 It was suggested, within public representations, that the proposal was inadequately advertised, in terms of the location/number of site notices. One site notice was placed adjacent to the location of the proposed sculpture. This is considered appropriate for the extent of the proposed development. As such, while these concerns have been reviewed, the basis for decision-making is considered to be sound.

3. Conclusion

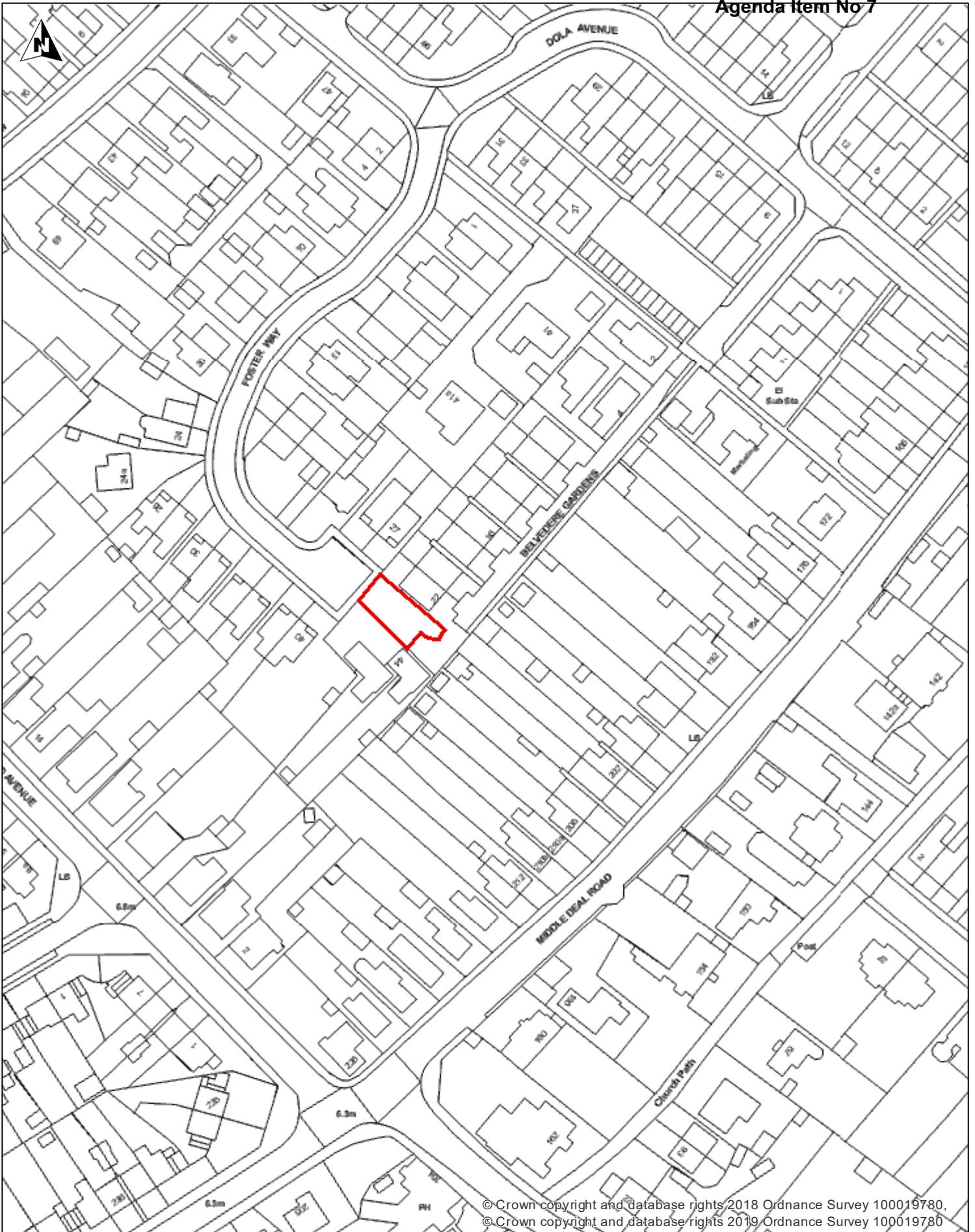
- 3.1 The proposal is considered acceptable and would not cause harm to the character or appearance of the surrounding area and as a piece of public art, it is considered to provide a public benefit. The proposal is considered acceptable in all other material respects. Accordingly the development would comply with the aims and objectives of the NPPF.

g) Recommendation

- I. PERMISSION BE GRANTED subject to the following (summarised) conditions:
1. Three years to commence works;
 2. In accordance with approved plans & sample;
 3. Sculpture to be inspected and maintained in accordance with the maintenance plan submitted.
- II. Powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by planning committee

Case Officer

Elouise Mitchell



DOV/19/00105

Author: Planning Services

Scale 1:1,250

Map Dated: 10/04/2019

Land Adjacent To 44 Foster Way Deal CT14 9QP

Dover District Council
Honeywood Close
White Cliffs Business Park
Whitfield
DOVER
CT16 3PJ



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

- a) **DOV/19/00105 – Erection of a detached dwelling, with associated parking and creation of vehicular access (existing boundary wall to be removed) - Land adjacent to 44 Foster Way, Deal**

Reason for report: Application called-in by Ward Member (Cllr Gardner)

- b) **Summary of Recommendation**

Planning permission be refused.

- c) **Planning Policies and Guidance**

Core Strategy Policies

- CP1 – Requires that the location and scale of development complies with the Settlement Hierarchy. Deal is identified as a District Centre, which is the secondary focus for development in the District; suitable for urban scale development.
- CP6 - Development that generates a demand for infrastructure will only be permitted if the necessary infrastructure is either already 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.
- 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.

National Planning Policy Framework 2018 (NPPF)

- Paragraph 2 states that “planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise”.
- Paragraph 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental. These three overarching objectives are interdependent and need to be pursued in a mutually supportive way.
- Paragraph 11 states that where development accords with an up-to-date development plan it should be approved without delay; or where there are no relevant policies or the most important policies for the determination of the application are out of date, then also granting consent. Where there is a clear reason for refusing the proposed development due to conflict with an area/asset of particular importance (as identified in the framework); and/or

where any adverse impacts of granting permission significantly and demonstrably outweigh the benefits, when taking the Framework as a whole, then planning permission should be refused.

- Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
- Paragraph 47 'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing'.
- Chapter five of the NPPF seeks to significantly boost the supply of housing, requiring Local Planning Authorities to identify specific deliverable sites sufficient to provide five years' worth of housing.
- Chapter nine of the NPPF seeks to promote sustainable transport.
- Chapter twelve seeks to achieve well-designed places, with the creation of high quality buildings and places being fundamental to what planning and development process should achieve.
- Chapter fifteen requires that the planning system contributes to and enhances the natural and local environment, by recognising the intrinsic character and beauty of the countryside, protecting valued landscapes, geological conservation interests and soils, recognising the value of ecosystems, minimising impacts on, and where possible enhancing, biodiversity, preventing pollution and remediating contamination.
- Chapter sixteen of the NPPF seeks to conserve and enhance the historic environment.
- Paragraph 177 states 'The presumption in favour of development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.'

The Kent Design Guide

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

d) **Relevant Planning History**

DOV/15/00327 – Erection of 9 chalet bungalows, associated parking and vehicular access – Granted

DOV/16/00998 – Erection of two detached dwellings and creation of parking – Refused and Dismissed at Appeal

DOV/16/01038 – Variation of condition 2 of planning permission DOV/15/00327 to allow amendments to the approved plans (amendments to the rear dormer roof

extensions on chalet bungalows and alterations to fenestrations) (section 73 application) – Refused and Allowed at Appeal

DOV/17/00194 – Variation of condition 2 of planning permission DOV/15/00327 to allow amendments to the approved plans (amendments to the rear dormer roof extensions on chalet bungalows and alterations to fenestrations) (section 73 application) – Refused

DOV/17/00514 - Variation of condition 2 of planning permission DOV/15/00327 to allow changes to approved plans (application under section 73) – Granted

DOV/17/00832 – Erection of a detached dwelling – Granted

DOV/17/01022 - Erection of a detached dwelling with associated parking and creation of vehicular access - Refused

In addition to the above applications, the following applications, which relate to neighbouring sites, are of note in the assessment of the current application.

210 Middle Deal Road, Deal (Rear of Site with Access Proposed off Foster Way)

DOV/04/01318 – 2No. detached two storey 3 bedroom houses – Granted

Land Rear of 41 Dola Avenue, Deal

DOV/04/01287 – Erection of two detached bungalows – Refused and Dismissed at Appeal.

DOV/06/01461 – Erection of one detached chalet bungalow – Refused and Allowed at Appeal.

DOV/17/01022 - Erection of a detached dwelling with associated parking and creation of vehicular access. Refused and dismissed at appeal.

DOV/17/01369 - Erection of single storey dwelling with associated parking and creation of vehicular access. Refused and dismissed at appeal.

DOV/18/01006 - Erection of a detached dwelling with associated parking and creation of vehicular access. Refused.

e) **Consultee and Third Party Responses**

Deal Town Council – object to the planning application for the following reasons:

- over development of site,
- proximity to adjacent houses,
- party wall cannot be removed
- amended proposal does not address issues in DDCs previous refusal

Southern Water – no objection raised. An informative has been recommended to be attached in the event of grant of permission.

County Highways – this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

Public Representations:

Twenty four (24) representations received objecting to the planning application and raising the following relevant planning matters:

- would erode the openness
- over intensification of the site.
- Removal of boundary wall will result in increase in parking in Foster Way.
- The current gap provides a pleasant break between developments.
- Extremely overbearing.
- Loss of privacy, security.
- Tunnelling effect.
- Landscaping as approved under the previous application never materialised and the reason this area is looking as waste ground is because the builder refuses to finish clearing this site and therefore is using this area as a dumping ground for building materials.
- Would result in the overdevelopment of the site.
- The development would obstruct views.
- Fails to integrate into the area.
- Out of keeping with Belvedere Gardens and Foster Way homes and appears very cramped.
- Does not address the reasons why planning permission was rejected on 4 previous occasions and 3 rejections by the Planning Inspectorate.
- Affects the lives of the residents of Foster Way.

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

- 1.1 The site lies within a wholly residential area of Deal. The area has a mixed character with linear and perimeter block development to the south east and winding cul-de-sacs to the north west. The scale and form of development is equally varied, with a mixture of detached, semi-detached and terraced properties of one, one and a half or two storeys in height, although distinctive styles of dwellings are typically found grouped together.
- 1.2 The site itself lies at the end of a row of nine dwellings which are understood to have been substantially completed (some of these dwellings appear to have been occupied). The access road is now known as Belvedere Gardens.
- 1.3 The site was previously intended, under the original application (DOV/15/00327, as amended) and a subsequent Section 73 application to provide residential garden. However, the development has not been completed and the site remains vacant. The approved landscaping has not been carried out. More recently, trenches have been dug and concrete slabs (which have the appearance of foundations) have been poured on site.
- 1.4 This application seeks permission for the erection of a detached two storey bungalow which would be located towards Foster Way (south west) end of the site. It is proposed to demolish the existing boundary wall along the northwest boundary of the site to provide access off Foster Way. The dwelling would be provided with one car parking space which would be accessed from Foster Way. It is important to note that the dwelling which is the subject of the current application is in about the

same location as the dwelling which was refused and subsequently dismissed at appeal, under application number DOV/16/00998 and in the same location as the recently refused dwellings under application numbers DOV/17/01022, DOV/17/01369 and DOV/18/01006. The Inspector's decision, the decision notice for the refusal and the changes which have been made will be important considerations in the assessment of this application.

2 **Main Issues**

2.1 The main issues are:

1. The principle of the development
2. The impact on the character and appearance of the area
3. The impact on residential amenity
4. The impact on the highway network
5. The impact on ecology

ASSESSMENT

Principle of the Development

2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose 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.

2.3 The site lies within the settlement confines of Deal. It is considered that the principle of the development is acceptable, subject to site-specific considerations.

Impact on the Character and Appearance of Area

2.4 It is considered relevant to draw a comparative analysis between the previous refusals, appeal decisions and the current application. To date, there have been four refusals followed by three dismissed appeals, relating to the erection of a dwelling on this site.

2.5 Application DOV/16/00998, which proposed a dwelling on the site, was refused, in part, due to the harm it would cause to the character and appearance of the area. The reason for refusal read:

“The proposed development, by virtue of the location, layout, scale and design of the dwellings, together with their relationship with adjoining properties, would create a cramped and congested form of development, out of character with the pattern of development within the area. Consequently, the development would fail to integrate into, and cause harm to, the character and quality of the area, contrary to paragraphs 17, 58, 59, 60, 61 and 64 of the National Planning Policy Framework”.

2.6 This decision was subsequently dismissed at appeal. In respect of the proposed dwelling on the current application site which would have been a detached chalet bungalow of similar design to the approved dwellings in Belvedere Gardens, the Inspector commented at paragraphs 6, 7 and 8 of her Appeal Decision:

“No 24 would occupy a plot at the end of a run of new semi-detached chalet this run of buildings and would have very limited effect on the street scene

from Dola Avenue, being separated by some distance. I am again advised that the plot was proposed to form a garden area under the permitted scheme, which would give a pleasant, spacious character to this end of the development. However, given that the siting, scale and design of No 24 would reflect that of the adjacent new buildings, I consider that the character and appearance of the wider development, of itself, would not be significantly altered by the introduction of this additional unit.

Notwithstanding, this end of the development, and particularly the plot which would accommodate No 24, is clearly visible from Foster Way. From there, the plot offers separation between the individual style of the new development and existing houses in Foster Way, particularly Nos 44 and 42. This gap provides a sense of openness between the two streets and is currently dominated by a tall tree. No 24 would significantly erode this openness, partially obscuring the tree from Foster Way, which would result in a cramped appearance to this end of the development when viewed from Foster Way. Furthermore, No 24 would present a rear elevation to Foster Way, bounded by a wall enclosing the dwelling from the road, which would be generally out of keeping with the front elevations interacting with the road in this vicinity. For these reasons, No 24 would appear out of keeping with the general form and pattern of development of the surrounding area.

In light of the above, I conclude that the proposed development would significantly harm the character and appearance of the area. This would be contrary to the aims of the National Planning Policy Framework (the Framework), in particular Paragraphs 17, 58, 60 and 64 which among other things seek high quality design that responds to local character, promotes local distinctiveness and takes opportunities to improve the character and quality of an area. Paragraphs 59 and 61 are of no significant relevance to this appeal in that they respectively relate to design codes and policies and to connectivity between people and places”.

- 2.7 In summary, the Inspector concluded that the development would cause no harm to the visual amenity of Belvedere Gardens or Dola Avenue. However, the Inspector considered that: the dwelling on the current application site would be clearly visible from Foster Way; the gap created by the site provides an important sense of openness; the loss of this gap would cause a cramped appearance to the development when viewed from Foster Way; and the design of the development would be out-of-keeping with the properties in Foster Way.
- 2.8 Subsequently, a further application was submitted on this site, under application number DOV/17/01022 for a chalet bungalow. The size and general form of the building proposed by that application was similar to the previously dismissed scheme, but was located around half a metre further from the side elevation of No.22 Belvedere Gardens and consequently closer to the boundary with No.44 Foster Way. Whilst the detailed design was amended, the changes were not significant and, as such, the development was not considered to have overcome the previous concerns. The application was therefore refused and subsequently, dismissed at appeal.
- 2.9 In respect of the proposed dwelling on the current application site, the Inspector in his decision commented at paragraph 8:
“The chalet bungalow proposed in Appeal B would reflect the scale and appearance of the neighbouring development, and the entrance from Foster

Way means that it would relate to neighbouring dwellings in that road. As such, it would not harm the character and appearance of the surrounding area”.

It is noted that the Inspector in his assessment, did not comment upon the importance of this gap which was discussed by the previous Inspector for a similar scheme refused under (DOV/16/00998). It is considered that the assessment regarding the sense of openness that this gap provides remains relevant in this instance and has been discussed at length at paragraph 2.14.

2.10 A further application was submitted on this site, under application number DOV/17/01369 for a single storey dwelling in a similar location as, and having a similar footprint to, the refused and discussed schemes. However, the scale of the building had been significantly reduced to a single storey height and, consequently, the design had also been amended. The proposal was refused on the grounds of impact on visual amenity and unacceptable impact on residential amenity and was dismissed at appeal.

2.11 In respect of the proposed single storey bungalow, the Inspector in his decision commented at paragraphs 6 and 7:

“The appeal site is prominent in views along Foster Way as it is located at the end of the road. The bungalow proposed would contrast with the surrounding development. It would be low and there is a wall that forms the boundary to the Foster Way, limiting views into the site. Nevertheless, the roof of the proposed bungalow would be visible and would appear incongruous between the two storey houses at 42-44 Foster Way and chalet bungalows in Belvedere Avenue and at 27 Foster Way.

I note that there are other bungalows at the other end of Belvedere Avenue. However, these are located a short distance away, within a different immediate context and in a less prominent location. As such, they do not affect my conclusions as to the effect of the proposed bungalow in Appeal A on the character and appearance of the area.”

2.12 In summary, the Inspector concluded that by virtue of its overall form and design, the proposed single storey bungalow would be out of keeping with the properties in the street and deemed it unacceptable in terms of its impact on the visual amenity.

2.13 The fourth application was submitted on this site, under application number DOV/18/01006 for a two storey dwelling in a similar location as, and having a similar footprint to the current application and the refused and discussed schemes. Consequently, the proposal was refused by the authority of Planning Committee on the grounds of impact on visual amenity and unacceptable impact on residential amenity.

2.14 Members will note that the site is visible from Foster Way and it was the impact of the development from here that led to the previous refusals and three dismissed appeals. This application introduces a dwelling of a substantial scale which is similar in scale and design to the previously refused scheme (DOV/18/01006). It is also relevant to note that it is substantially larger than the other three previously refused and dismissed schemes in terms of overall massing and height. As such, the issue with regards to the intrusion of the sense of openness raised by the previous Inspector remains unaddressed. The application site functions as a transition space between the developments on either side and facilitates their co-

existence in an amenable manner. Prior to concluding, regard must also be had to the detailed design of the scheme which should be assessed in conjunction with the identified harm which would be caused by virtue of erosion of an important transition gap. The overall appearance of the building would remain consistent with the overall appearance of the dwellings in the immediate vicinity to the southwest (i.e. nos 42 and 44 Foster Way), thereby exhibiting stark differences in terms of design with respect to the dwellings immediately adjoining the application site to the northeast. Given the clash of architectural styles, it is felt that the need for the retention of open space between the developments becomes even more pronounced. Whilst the proposal replicates the design of the immediately adjoining properties in Foster Way, it is not considered that this design overcomes the concerns raised regarding its impact on the character and appearance of the street scene.

Impact on Neighbours

- 2.15 The most recent applications DOV/18/01006 and DOV/17/01022 were refused, in part due to the unacceptable sense of enclosure to, and corresponding loss of outlook from, that property, resulting in an unacceptable loss of amenity to No.44 Foster Way. Moreover, in dismissing the appeal (DOV/17/01022), at paragraphs 11 and 13 of the appeal decision, the Inspector commented that:

“The chalet bungalow proposed in Appeal B would have a side gable end facing towards the boundary of no.44 and would replace previous mature planting on the appeal site. The relationship between the proposed chalet bungalow and no.44 would result in the proposed chalet bungalow dominating that front garden area and the front windows of no.44 to create a tunnelling effect similar to that referred to in the previous appeal decision. The modest gap between the dwelling and the boundary and removal of boundary wall would not materially alter that effect.

For these reasons, I conclude that the proposal in Appeal B would result in harm to the living conditions of the occupiers of 44 Foster Way by reason of outlook. As such, the development in Appeal B (DOV/17/01022) would be contrary to policies contained within the Framework that seek a high quality of design and a good standard of living conditions for existing occupants of buildings”.

- 2.16 It is considered that the thrust of the above assessment remains relevant in this instance. For ease of understanding, it would be relevant to draw a comparison between the two schemes (DOV/17/01022 and DOV/19/00105 (current)) with a view to fully understand the associated impacts.
- 2.17 The height of the proposed dwelling is about the same height as the previous scheme (DOV/17/01022); however, it has been amended from a chalet style bungalow (which had a lower eaves height of approximately 2.5m) to a two storey dwelling with a gable roof with an eaves height of approximately 3.9m and a ridge height of 7.5m. The gable ends would face Belvedere Gardens and Foster Way to the southeast and northwest respectively whilst the southwest roofslope would face nos 42 and 44 and the northeast roofslope would face no.22. In summary, it means that the proposed dwelling has been orientated such that the longer and bulkier elevation would face the neighbouring properties in question, i.e. nos. 42 and 44, albeit the gables would no longer be adjacent to these neighbours. It is considered that the proposal would result in a severe sense of enclosure, loss of outlook and

overshadowing and would thereby unduly prejudice the living conditions of the occupiers of no.44. It is considered that having regard for the previous refused applications and dismissed appeals, this harm is sufficient to warrant a refusal.

- 2.18 Whilst unacceptable harm would be caused to the living conditions of no.44, the side elevation of No.42 does not contain any windows and, as such, no sense of enclosure, loss of light or overshadowing would occur.
- 2.19 Concerns have been raised by third parties that the development would obstruct views. However, the loss of or harm to a view is not a material planning consideration and cannot, therefore, be attributed weight.

Living Conditions of Future Occupiers

- 2.20 The dwelling proposed would be of a reasonable size, would be naturally lit and ventilated and would have access to a private external amenity area. An area is shown on the submitted drawings for the convenient and discrete storage of refuse. Consequently, it is considered that the living conditions of future occupiers would be acceptable.

Highways/Travel Impacts

- 2.21 The application proposes the provision of one car parking space, which would be accessed from Foster Way.
- 2.22 The dwelling is shown to provide two bedrooms and is within a suburban location. Table 1.1 of the Core Strategy advises that 2-bed dwellings in such locations will be expected to provide 1 allocated car parking space, with an additional 0.2 spaces provided for visitors. As such, the development would give rise to a need for 1.2 car parking spaces. Consequently, the development would be deficient in car parking, albeit by a fraction of a space. It is acknowledged, as set out by third parties, that car parking in Foster Way is constrained, particularly in the evenings and at weekends. Whilst the development would be likely to increase pressure for visitor parking at Foster Way, it is not considered that this additional pressure would amount to a severe cumulative impact on the road network or cause an unacceptable impact on the highway safety, which is the relevant test within the NPPF (paragraph 109). It is noted that none of the previous applications were refused or dismissed on highway grounds.
- 2.23 The submitted drawings show the provision of vertical cycle storage, consistent with the storage which has been provided for the approved dwellings in Belvedere Gardens. This provision is considered to be acceptable, subject to a condition ensuring that the storage is provided at the time of occupation.

Ecology

- 2.24 Having regard for Natural England's Standing Advice, it is not considered that the site includes any features likely to provide habitat for protected or notable species.

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

- 2.25 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely

significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.

- 2.26 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.
- 2.27 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.
- 2.28 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.29 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. **Conclusion**

- 3.1 Whilst the principle of the proposed development is acceptable, it is not considered that the development has overcome the concerns which led to the refusal of the previous applications (DOV/16/00998, DOV/17/01022, DOV/17/01369 and DOV/18/01006) and the subsequent dismissal of the appeals in relation to the same, insofar as they relate to the development of the current application site. In particular, the development would cause unacceptable harm to the character and appearance of the area and harm to the residential amenity of No.44 Foster Way. For these reasons, it is recommended that planning permission be refused.

g) **Recommendation**

- I Planning permission be REFUSED for the following reasons:
 1. The proposed development, by virtue of the location, layout, scale and design of the dwellings, together with their relationship with adjoining properties, would create a cramped and congested form of development, out of character with the pattern of development within the area. Consequently, the development would fail to integrate into, and cause harm to, the character and quality of the area, contrary to paragraphs 127, 130 and 131 of the National Planning Policy Framework.
 2. The proposed dwelling, by virtue of its location, scale and relationship with No.44 Foster Way, would cause an unacceptable sense of enclosure to, and corresponding loss of outlook from, that property, resulting in an unacceptable loss of amenity, contrary to paragraphs 127 of the National Planning Policy Framework.

- 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 the Planning Committee.

Case Officer

Benazir Kachchhi

- a) **DOV/18/01119 – Reserved matters application for Phase 4 pursuant to application DOV/15/00068 for 91 dwellings, associated infrastructure, access, landscaping, layout, scale and appearance for a development of up to 1,210 dwellings, and discharge of planning conditions 57, 58, 61, 63, 64, 67, 77, 78, 84, 85, 86, and 88 pursuant to application DOV/15/00068 (Phases 1B2 and 1B3) - Phase 4, Aylesham Village Expansion, Aylesham**

Reason for report: The application has been called in to planning committee by Cllr Keen due to various concerns, whilst not fully detailed, the material planning concern relates to informal footpaths.

- b) **Summary of Recommendation**

Planning Permission be granted.

- c) **Planning Policies and Guidance**

Core Strategy Policies

- CP4 - Developments of 10 or more dwellings should identify the purpose of the development in terms of creating, reinforcing or restoring the local housing market in which they are located and development an appropriate mix of housing mix and design. Density will be determined through the design process, but should wherever possible exceed 40dph and will seldom be justified to less than 30dph.
- CP6 - Development that generates a demand for infrastructure will only be permitted if the necessary infrastructure is either already 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.
- DM12 - Planning applications that would involve the construction of a new access or the increased use of an existing access onto a trunk or primary road will not be permitted if there would be a significant increase in the risk of crashes or traffic delays unless the proposals can incorporate measures that provide sufficient mitigation.
- 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.
- DM25 - Proposals that result in the loss of open space will not be permitted unless certain criteria are met.

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.

Dover District Local Plan 2002 (Saved Policies)

- AY1 – Land is allocated for up to 1000 dwellings, petrol filling station, formal playing fields and associated children’s play, employment land, a primary school and food retail.
- AY2 – An outline proposal for the strategic expansion of Aylesham should cover the whole development area and be accompanied by and based on a master plan.
- AY3 – Proposals for residential development in the development area will be permitted provided: the overall net density shall be at a minimum of 30 dwellings per hectare; at least 15 percent of all dwellings are for affordable housing; provision is made for children's play; and the development has variety in design, is energy efficient and avoids standard estate layouts.
- AY7 – Proposals for the Development Area will not be permitted unless: structural landscaping is provided on the eastern boundary with the railway line together with planting to strengthen the ancient hedge line which forms the northern boundary; at least 3.7 hectares of formal playing fields is provided in the development area; a landscape phasing programme is agreed with the Council; and the long term management of all open space and structural landscaping is secured.
- AY8 – Land is allocated to meet additional primary school provision.
- AY10 – Proposals will not be permitted unless they include provision for a spinal footpath and cycle network, extending where practicable into the existing settlement.

National Planning Policy Framework (NPPF)

- Paragraph 2 states that “planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise”.
- Paragraph 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental. These three overarching objectives are interdependent and need to be pursued in a mutually supportive way.
- Paragraph 11 states that where development accords with an up-to-date development plan it should be approved without delay; or where there are no relevant policies or the most important policies for the determination of the application are out of date, then also granting consent. Where there is a clear reason for refusing the proposed development due to conflict with an area/asset of particular importance (as identified in the framework); and/or where any adverse impacts of granting permission significantly and demonstrably outweigh the benefits, when taking the Framework as a whole, then planning permission should be refused.

- Paragraph 47 'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing'.
- Chapter five of the NPPF seeks to significantly boost the supply of housing, requiring Local Planning Authorities to identify specific deliverable sites sufficient to provide five years' worth of housing.
- Chapter nine of the NPPF seeks to promote sustainable transport.
- Chapter twelve seeks to achieve well-designed places, with the creation of high quality buildings and places being fundamental to what planning and development process should achieve.
- Chapter fifteen requires that the planning system contributes to and enhances the natural and local environment, by recognising the intrinsic character and beauty of the countryside, protecting valued landscapes, geological conservation interests and soils, recognising the value of ecosystems, minimising impacts on, and where possible enhancing, biodiversity, preventing pollution and remediating contamination.

The Kent Design Guide (KDG)

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

d) **Relevant Planning History**

The site has an extensive planning history relating to the various phases of the Aylesham Village Expansion, including numerous amendments to previous consents. The following applications are those which are considered to be materially relevant to the current application:

DOV/07/01081 – A) A full application for residential development for 191 dwellings of which 20% will be affordable; all associated works and infrastructure, together with new shops and apartments; alterations to existing shops and apartments; landscaping to existing streets and public open spaces including Market Square; the formation of new public open spaces; upgrade of sports pitch and provision of changing facilities at Ratling Road; formation of squares and a strategic play area; traffic management schemes and new car parking areas; other landscaping works; temporary works and access; construction compounds and off-site highway works: and

B) Outline application for a residential development of up to 1210 dwellings; associated infrastructure and works, including new and enhanced sports and leisure grounds and facilities; new shops and apartments with alterations to existing shops and apartments; temporary construction access and compound areas; an area of live/work units; new and altered roads; parking facilities and traffic management within and nearby to Aylesham village - Granted

DOV/13/00120 – Variation of conditions including 1, 3, 5, 14, 15, 22, 24, 32, 34, 38, 45, 51, 52, 56, 68, 76 and 77 of planning permission DOV/07/01081 (Section 73 application) and modification to legal agreements – Granted

DOV/14/00338 – Variation of Conditions 88, 110 and 112 of planning permission
DOV/13/00120 (application under Section 73) - Granted

DOV/14/01206 – Variation of Conditions including 16, 48 and 85 of planning permission
DOV/14/00338 (Section 73 application) - Granted

DOV/15/00952 – Variation of Condition 14 of planning permission DOV/14/01206 to
introduce a new form of layout for junction 21 (application under Section 73) (amended
description/further details) – Withdrawn

DOV/16/00180 - Reserved matters application pursuant to outline application
DOV/07/01081 pursuant to Variation of Condition application DOV/14/01206 (pursuant
to DOV/14/00338 and DOV/13/00120) for approval of 277 dwellings, access,
landscaping, scale and appearance - Granted

DOV/16/00985 – Reserved matters application for the approval of details relating to
access, layout, scale, appearance and landscaping for the erection of 162 dwellings and
associated infrastructure and landscaping, pursuant to outline application
DOV/07/01081 pursuant to Variation of Condition application DOV/15/00068 (pursuant
to DOV/14/00338 and DOV/13/00120), at Aylesham Village Expansion, Aylesham
(Phases 1B2 and 1B3) - Granted

DOV/16/01177 - Reserved matters application pursuant to outline application
DOV/07/01081 pursuant to Variation of Condition application DOV/15/00068 (pursuant
to DOV/14/01206, DOV/14/00338 and DOV/13/00120) for details of access,
appearance, landscaping, layout and scale of Strategic Infrastructure Phases 1B.1, 1B.2
and 1B.3 (comprising highways, cycleway and footways and the formation of public
open space) - Granted

e) **Consultee and Third Party Responses**

DDC Environmental Health Officer – No observations/comments to make

Kent Fire & Rescue Service - Confirm the means of access is satisfactory.

Kent Police Crime Prevention Officer

Having reviewed the on line plans and documents, the applicant/agent has clearly demonstrated that they have considered crime prevention and have attempted to apply the seven attributes of CPTED in the submitted on-line plans. However, to date we have not received an SBD application as discussed when a former CPDA discussed this with the agent in 2016.

There is merit in meeting us to discuss the design and potential CPTED concerns, also any formal applications e.g. BREEAM, SBD and the SBD National Building Approval Scheme. We welcome a meeting with the applicant/agent to discuss site specific Crime Prevention in detail and avoid any potential knock on effects for the future services and duties of the Community Safety Unit (CSU) and local policing.

Our current concerns include:

- The placing, height and type of boundary treatments: perimeter, divisional and frontage including buffer zones and position of lockable gates.
- The layout and positioning of permeable routes including corner properties.
- The layout and design of parking courts.
- The layout and positioning of on plot and visitor spaces to increase natural surveillance opportunities. The visitor spaces should be managed to help avoid conflict.

- Need for specific street lighting for security purposes that do not create environmental pollution or lead to residents installing their own lighting that could affect a low level (power not height) “even” lighting scheme.
- CCTV plans to be submitted.

Apartments -

- Dwellings to include Security Compartmentalisation to minimise any unrestricted access in the apartment building for non-residents.
- PAS 24 – 2016 SBD approved testing house certified doorsets for all external doors and to all apartment doors.
- PAS 24 – 2016 SBD approved testing house certified vulnerable windows (ground level or close to flat roofs or door hoods.)
- Defensible space, especially to the ground floor bedroom windows.
- Postal delivery “through the wall” is preferred. Trade buttons should be avoided.
- Audio Visual access is required for all apartments.

We look forward to receiving details, however the Designing Out Crime elements of reserved matters have not yet been completely addressed.

The information contained within this response is provided by Kent Police DOCO’s and refers to situational crime prevention. This advice focuses on CPTED and improving Community Safety with regards to this specific development/planning application.

KCC Lead Local Flood Authority –

Initial response received 22nd November 2018, follow-up response received 27 March 2019 as follows:

The drainage strategy (drawing no. 7567/105D) makes reference to deep-bore soakaways and permeable paving, however, as stated in our previous response (22 November 2018), the drainage strategy should be supported by site specific ground investigation.

We would recommended that soakage tests including constant and falling head testing be compliant with BS5930. Detailed design should utilise a modified infiltration rate and demonstrate that any soakaway will have an appropriate half drain time (less than 24 hours). We recommend that falling head testing from borehole logs and subsequent infiltration results are submitted.

Network calculations and model details should be provided to demonstrate the drainage system’s operation and performance for the critical duration 1 year, 30 year, 100 year +20% and 100 year +40% storm intensities.

Until this information is submitted as part of this reserved matters application, we are unable to recommend the approval of reserved matters.

This response has been provided using the best knowledge and information submitted as part of the planning application at the time of responding and is reliant on the accuracy of that information.

Final response received 5 April 2019 as follows:

‘We have reviewed the information submitted and are satisfied with the principles of the drainage design and so have no objection to the reserved matters application from being determined.’

Natural England – No comments to make

Sport England – No details to comment on

Southern Water – No comments to make in respect of the reserved matters.

Highways England – No objection

KCC Highways and Transportation

Initial response received 8 November 2018, subsequent response received 4 March 2019, final response received 4 March 2019 as follows:

I refer to the amended drawings numbers 7567/100 Rev. C, 1343-100 Rev. C, 1343-106-2 Rev.B and 1343-106-3 Rev. A submitted for the above on 5th March and would comment as follows:

1. I note that there is still the potential for on-street parking on or near the bends in The Boulevard and so I would advise that, through the s.38 road adoption process, we will require double yellow lines to be introduced as detailed in the informative below.
2. I note that dimensions of the roads, footways, etc. are not provided and are proposed to be dealt with through a future discharge of condition application under condition 74. However, it should be noted this could mean that if the dimensions subsequently proposed are not acceptable, the site layout may then need to be altered. The same applies to the s.38 road adoption approval for The Boulevard, the dimensional requirements for the same meaning that the layout may subsequently need to be altered.
3. I would clarify that only The Boulevard is to be adopted by the highway authority and Streets 1-4 are to remain private. Whilst the following matters are therefore unlikely to impact on the highway you may wish to take them under consideration:
 - (i) Provision of 2 metres x 2 metres pedestrian visibility splays at the access point to plots 31-36.
 - (ii) Likelihood of on-street parking due to the tandem arrangements and/or remote location of parking for plots 21-23, 29-32, 40, 45, 46, 49, 51 and 55-59.

I therefore confirm I now have no objections in respect of highway matters but would request the following informatives:

- Double yellow line parking restrictions will be required through the s.38 road adoption process in the following locations:
 - (i) On the south side of The Boulevard, from the vehicular access to plot 63 round to the first visitor bay outside plot 61;
 - (ii) On the north side of The Boulevard, from the visitor bay opposite plot 62 round to the visitor bay opposite plots 60/61;
 - (iii) On both sides of The Boulevard, from the north edge of the lane to plots 124/125 round to the parking space for plot 70.
- The submission of street dimensions through a future discharge of condition application under condition 74 could mean that if the dimensions subsequently proposed are not acceptable, the site layout may then need to be altered. The same applies to the s.38 road adoption approval for The Boulevard, the dimensional requirements for the same meaning that the layout may also subsequently need to be altered.
- It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundaryenquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Aylesham Parish Council – Raise objections to the reserved matters application and discharge of some conditions for the following reasons (in summary):

- Support the comments of the KCC Highways officer in their response dated 8/11/18.
- Support the holding objection of the KCC Lead Local Flood Authority response dated 22/11/2018
- Support the comments of the Kent Police dated 19/11/18.
- No plans to support the discharge of condition 88 (CCTV) have been submitted
- No details have been provided to discharge conditions 98 & 99

Shepherdswell Parish Council – No comment

Wingham Parish Council – No objections

Canterbury City Council – No comments to make

Public Representations – None received

- f)
1. **The Site and the Proposal**
 - 1.1 The application site is approximately 2.4 hectares in size, is broadly triangular in shape and sited to the east of the B2046 Adisham Road on the northern side of Aylesham. Adjacent to the north-west boundary is a reservoir and to the west is an area of open space which will form the adjoining Neighbourhood Park. Aylesham Primary School is situated to the east of the site. Properties in Newman Close, Ash Road and Hill Crescent are situated adjacent to the south/south-east boundaries.
 - 1.2 A hybrid planning permission was granted to expand the village in 2012 (ref. 07/01081). A number of the early phases of the development have now been constructed, and are occupied; however, a significant portion of the outline planning permission is still to be implemented. An application for approval of the reserved matters for Phase 2 is currently under consideration.
 - 1.3 The overall masterplan provided for Phase 4 was to cover an area of 3.02 hectares and 99 new dwellings. This reserved matters application however, seeks consent for 91 dwellings on a reduced site area of 2.41 ha. The development would include the provision of 18 affordable dwellings. Condition 58 of the outline permission requires each Reserved Matters submission to explain how the proposal responds to the masterplan; this issue is explored further in this report but essentially the Reserved Matters do not cause conflict with condition 58.

2 **Main Issues**

2.1 The main issues are:

- The principle of the development
- The impact on the character and appearance of the area
- Impact on Residential Amenity
- The impact on the local highway network
- Ecology
- Drainage

Assessment

Principle

2.2 The site lies within the designated Aylesham Expansion area. The site benefits from outline planning permission for the erection of up to 1210 dwellings, together with associated development. This outline permission remains extant. Subject to meeting the conditions set out by the outline permission and being acceptable in all other material respects, the principle of the development is acceptable.

Housing Mix and Affordable Housing (condition 63)

2.3 The development would provide 91 dwellings together with associated infrastructure for Phase 4. The following housing mix would be provided:

Dwelling Type	Private	Apartments	Affordable	Totals
One Bed	2		6	8
Two Bed	23	6	11	40
Three Bed	30		1	31
Four Bed	12			12
Totals	67	6	18	91

2.4 This housing mix is considered to provide a good range of housing types. Correspondingly, the affordable housing also seeks to provide a range of housing sizes, including eleven two-bed dwellings. The scale of the houses proposed responds to the broad mix envisaged within the Aylesham Masterplan SPG and it is therefore considered that the housing mix proposed is appropriate.

2.5 The development would provide 18 affordable units as follows:

Dwelling Type	
One bed flat	6
Two bed flat	9
Two bed house	2
Three bed house	1
Total	18

The distribution of the affordable housing throughout the site is a balance between integration and grouping to ensure efficient management. In terms of social cohesion the design of the buildings would not differ from that of the market housing with the same house types being used. As such, the affordable housing areas would be indistinguishable from the market housing.

- 2.6 Condition 67 of the approved outline permission requires that the development provide 20% of the total number of dwellings as affordable dwellings. The 18 affordable dwellings to be provided in this application equates to a 20% provision.

Character and Appearance

- 2.7 The layout of the development takes its cue from the Aylesham Design Code. Three character areas are identified within the layout - these identify frontage development, non-frontage and key buildings. The frontage development comprises a mix of flatted development at the northern end of the site, primarily detached dwellings fronting the Boulevard, the occasional semi-detached property and terraced formations at the southern end. Set behind strong frontage development, in the centre of the site, are looser blocks around squares which provide a sense of place. Save for the flatted blocks the dwellings sit at two storeys in height with articulated roof forms to provide interest where needed. Predominantly, each block of houses faces outwards onto shared surfaces, boulevards and green spaces. Whilst there is a general theme/pattern to the materials and design ethos, there is also variation in size, shape and orientation.
- 2.8 The shape of the site has provided a challenge to ensure that where there is longer street (from the Boulevard to the southern end of the site), that a sense of place is created through landscaping, a mix of materials and corner plots to add relief to the street scene. By varying the layout and providing a 'sense of place' this all adds to the character and appearance of the development. Informal landmark features and gateways are created through the use of the apartment blocks and corner turning buildings which add a focal point.
- 2.9 It is considered that the majority of the layout functions well and that overall the proposal reflects the layout envisaged by the Masterplan and Design Code.
- 2.10 The scheme comprises a mixture of terraced, detached and semi-detached dwellings, with a concentration of flatted development at the northern end of the site adjacent to the boundary with the reservoir. The Masterplan identifies different character areas and attributes suggested densities and building types to these areas. The Design Code suggests that three storey dwellings overlook the SUDS area and it is, in part, for this reason that the flatted blocks are located accordingly. The rhythm of the hipped roofs reflects the Aylesham Vernacular.
- 2.11 The types of dwellings and the densities proposed generally relate well to the identified areas within the Masterplan, albeit that the density has moved from low to medium in some areas. Clearly, the highest density area is the three flat blocks – however, this is the area where there is more space to ensure that at three storeys high, there is no loss of residential amenity to existing dwellings. It is considered that the overall density, as demonstrated through the layout, does not compromise the aspirations of the masterplan nor cause visual harm. Furthermore, it is considered that the density has facilitated an active street frontage and sense of place around the informal squares and terrace on Hill Crescent. The NPPF requires all development to make efficient use of land, which post-dates the masterplan, which again supports a higher density than initially envisaged years previous. Overall, it is considered that the density and building types therefore respond to the Masterplan.
- 2.12 The proposed heights of the dwellings respond positively to the typical height of development within the Aylesham Expansion and the dwellings to the south/south-east of the site in the existing village. The three, 3 storey blocks of

flats are located on an important corner along the main boulevard close to the entrance to this part of the development. They create a visual landmark as required by the Design Code. The height of these buildings is therefore justified.

- 2.13 Whilst there are a number of shared characteristics with the proposed phase and previously constructed phases, some supplementary features have been added, such as use of brick heads and cills; linking elements; brick garden walls; render and tile hanging. Together with the variety of building designs, the variety of materials used will add interest to the development and allow Phase 4 to sit comfortably with the earlier phases and Aylesham more generally.
- 2.14 The development incorporates areas to the fronts of buildings which allow for the detailed soft landscaping, with houses set back from the road. Within these areas, between the front elevations of buildings and the highway, a mixture of hedges, trees and shrubs are proposed. Whilst the depth of the landscaped areas varies across the scheme, it is considered that as a whole these areas will soften the appearance of the development. The scheme also includes the provision of a generous number of trees, which will be of a reasonable size when planted, affording soft visual relief from the outset.
- 2.15 Boundary treatment is reflective of its siting within the street scene. Garden boundaries parallel to the street scene are shown to be brick walls as opposed to fencing or other material, this reinforces the character in the public realm.
- 2.16 Amendments were sought from the applicant regarding some of the design features, the scale and prominence of the flatted blocks and aspects of the parking layout. Splayed hipped roofs have now been incorporated on frontage dwellings, the bulk of the flatted blocks has been reduced and railings replaced with glazed balustrades. Parking within the site has also been adjusted to address the concerns from the Kent Highways Officer and it is considered that a balance has been struck between achieving a well thought out layout and parking provision. Subsequently, these areas have been amended; subdividing stretches of parking and providing intermittent trees to provide visual breaks. The landscaping plans include a variety of native species, including trees, hedges and scrubs.

Impact on Residential Amenity

- 2.17 Existing properties in the original part of Aylesham are located to the south/south-east of the site in Newman Road. Having walked the rear boundaries of these properties, it is apparent that there are a number of openings that have been created by the insertion of gates along the fenced boundaries. In order to facilitate the retention of these accesses, the layout for Phase 4 provides for access links out of these existing gates and into the wider development. Having met with a representative from Kent Police a preference was expressed for shorter links to be provided than a continuous length of alleyway across the whole length behind these gardens, the layout therefore reflects this. In addition, a meeting was held by the developer with residents to seek to ascertain their views on the impact on their servicing arrangements. It is therefore considered that in terms of impact on residential amenity, the layout has accommodated current servicing arrangements as far as possible.
- 2.18 Separation distances between the proposed properties adjacent to the boundary with Newman's Road and those existing are typically between 30-35m. Whilst there are some proposed dwellings located slightly closer than this, they are positioned to the side of, or at an angle to, existing properties so as to ensure that no unacceptable loss of light or sense of enclosure is caused. In addition,

the ground levels fall slightly from this boundary which also lessens the impact to ensure no loss of privacy or overbearing. This phase would also be well separated from other phases of development (Phase 1B) which have already been granted within the Aylesham Expansion area and, therefore, would not lead to any loss of amenity to those properties.

- 2.19 The development has been designed to provide a strong frontage to the Boulevard which runs from east to west before turning south into the Hill Crescent Character Area. The layout allows the majority of properties within the site to be well separated from each other, avoiding unacceptable living conditions for future occupiers. Where tighter relationships exist, the orientation of houses is such that overlooking is reduced to acceptable levels. All habitable rooms within the buildings would be of a reasonable size, whilst each house would be provided with a well sized private garden (in most instances a minimum of 10m length). For these reasons, it is considered that the proposed dwellings would benefit from an acceptable standard of accommodation.

Impact on the Highway

- 2.20 The development proposes a range of road types, including streets with footpaths, shared surfaces and informal squares. This range of road types produces a hierarchical character to the development which improves its legibility and defines routes which pass through each parcel and those which provide localised access to properties. The application has been amended and additional tracking drawings have been submitted to demonstrate refuse servicing safely throughout the site. It is therefore considered that the site provides a reasonable level of vehicular permeability and connectivity between the development and the existing community. Vehicle speeds throughout the site would be naturally slowed due to the geometry of the road layout, together with table junctions.
- 2.21 The application has been supported by parking plans which demonstrate the number and location of both private and visitor car parking spaces. The following parking specification has been provided:
- One bedroom = 1 space per dwelling
 - Two bedrooms = 1.5 spaces per dwelling
 - Three bedroom + = 2 spaces per dwelling.
 - Visitor parking = 28 spaces in total
- 2.22 The Masterplan and Design Code direct that the low and medium density areas should provide approximately 2 car parking spaces per dwelling, whilst the high density areas, in this instance the area with the concentration of flats, should provide one car parking space per dwelling. Concern has been raised by KCC Highways and Transportation that some of the car parking spaces are too remote from the dwellings they serve, which may increase the likelihood of inappropriate parking on the public highway. In order to address this issue, some amendments have been undertaken to the layout and yellow lines are proposed through the s38 road adoption agreement. There are also instances of tandem parking which results in spaces not so readily accessible. Whilst such relationships are not ideal, most spaces are located closely adjacent to the properties they serve. It is therefore not considered that such relationships would lead to a severe adverse impact on the highway.
- 2.23 A range of forms of car parking are included within the development, including laybys to the sides of roads(Crescent Hill Character area), private driveways to

the fronts and sides of buildings, parking courts to the rear of properties and parking courts to the front of terraced formations. This approach replicates the approach which has been used in the earlier phases of development and is consistent with the Masterplan, which advocates a mixture of courtyard parking and on plot parking. Overall it is considered that the development provides an appropriate number and form of car parking spaces to meet the needs of the development without harming the local highway network.

- 2.24 A high standard of pedestrian permeability through the site is achieved with regular footpaths being provided between properties – both proposed and existing, in accordance with the requirements of the Masterplan and Design Code. New footpath connections have been created at the rear of some of the properties in Newman Road, this is to reflect the existing creation of rear accesses that has occurred in some instances. In this instance the accesses have been linked through to the proposed new development.

Ecology

- 2.25 Having considered the terms of the outline application, it is noted that a number of conditions safeguard ecological issues and require the submission of bat and reptile surveys prior to the commencement of development and require that care is taken to avoid harm to birds, particularly during the breeding bird season. These conditions will remain in force and appropriately safeguard and mitigate habitats and species.
- 2.26 An Ecological Mitigation Strategy has been submitted with the application. The updated surveys found a low population of both slow worm and viviparous lizard across the site. It is noted that the site provides a limited suitable habitat for these species – the suitable area being the field margins.
- 2.27 Due to the low populations of slow worm and lizard found on site and the limited habitat for them, it is proposed to translocate them to the receptor site located along the northern boundary of Phase 1B. Details have been submitted to discharge the relevant conditions.

Drainage

- 2.28 The drainage for the site follows similar principles which have been employed on the earlier phases of the development of Aylesham. The applicants have submitted a drainage strategy which confirms that surface water drainage will be dealt with primarily by way of SUDS in the form of ponds. The flats to the north will be served by permeable paving as will areas in the most southerly part of the site. The main road running north to south will be served by an adoptable surface water drain. Initially the KCC LLFA placed a holding objection on the application as they required further site specific ground investigation calculations to be undertaken in order to support the proposed strategy. The required details were provided and no objection has been raised.
- 2.29 Condition 100 attached to the outline permission requires that full details, including calculations, an implementation timetable and a management and maintenance plan, be submitted and approved prior to development taking place. Whilst the details which have been submitted are not sufficient to discharge this condition, which will remain in force, the details do demonstrate that the proposed layout can be accommodated on the site.

- 2.30 Foul drainage will be routed into the existing system via gravity to outfalls to the north and the east. Southern Water has raised no concerns regarding the capacity of the network, whilst no objections have been raised in relation to existing or future capacity. Condition 102, which was attached to the outline permission, requires that works for the disposal of sewerage are provided prior to occupation.

Other Issues

- 2.31 The Parish Council has raised concern regarding the comments received from Kent Police. The comments from Kent Police are advisory and as stated earlier in this report the applicant has liaised with the Police and taken on board their comments as far as possible whilst reconciling other requirements within the layout.
- 2.32 Due to details of conditions being included as part of this application, they have been considered and referred to below.

Discharge of Conditions

Condition 57 – Details of layout, scale, appearance, access and landscaping for each phase as appropriate.

The details are the subject of this application and considered in the report above.

Condition 58 – Details in relation to how the proposal responds to the design principles of the masterplan and other relevant planning policies.

Design Compliance Statement October 2018 has been submitted with the application documents and assessed in this report. It is recommended that this condition be discharged.

Condition 61 – Details of sales and marketing accommodation

Sales Area Plan Elevation 18082A_602G, Sales Area Floorplan 18082G_607H have been submitted. It is recommended that this condition be discharged.

Condition 63 – Requires a schedule of accommodation to be submitted with each phase.

Accommodation Schedule shown on Planning Layout Rev D and referenced in the report above. It is recommended that this condition be discharged.

Condition 64 – No development on each Phase until details of affordable housing have been submitted.

Document Affordable Housing Scheme Phase 4 2018. Details submitted that show 20% provision with all units to be shared ownership. The provision of shared ownership on this phase is to ensure a balance of tenure throughout the development as a whole. It is recommended that this condition be discharged.

Condition 67 – Submission of a detailed Phasing Plan required

Phasing Programme Phase 4 2018. This sets out justification for delivering Phase 4 ahead of Phase 3 due to the practicalities of building out the phases. Phase 1B is adjacent to Phase 4 and it is more logical to move to Phase 4 in terms of deliverability. It is recommended that this condition be discharged.

Condition 77,78 – Sight lines on roads and driveways

Visibility splays at junctions and private drives plan no. 7567_103_A. No objection is raised with regard to visibility splays. Other highway matters have been discussed in the report above and considered to be acceptable on balance. It is recommended that this condition be discharged.

Conditions 84,85, 86 Conditions requiring reptile and bat surveys, mitigation strategy and no vegetation clearance works within the breeding season.

Aylesham Phase 4 Ecological Mitigation Strategy V2. The details have been considered above and are considered to address the conditions. It is recommended that this condition be discharged.

Condition 88 – Scheme for hard and soft landscaping.

Detailed landscaping plans have been submitted: 1343_101-1 B, 1343_101-2 C, 1343_101-3 C. It is not proposed to provide CCTV at the present time and thus details are not included. The landscaping strategy is considered suitable for the scale of development and provides an appropriate mix of hard and soft landscaping in an urban development. It is recommended that this condition be discharged.

3. **Conclusion**

- 3.1 The submitted application complies with the outline planning permission, whilst the detail of the scheme responds to the requirements contained with the Aylesham Masterplan SPG and the subsequently approved Design Code. Furthermore, it is considered that the development would provide an acceptable quality built environment and standard of residential amenity, both to existing and future residents. The development would retain a good level of permeability, prioritising pedestrian movement. The scheme is acceptable in all other material respects, subject to the approval of details which have been secured by condition. It is therefore recommended that this application be granted.

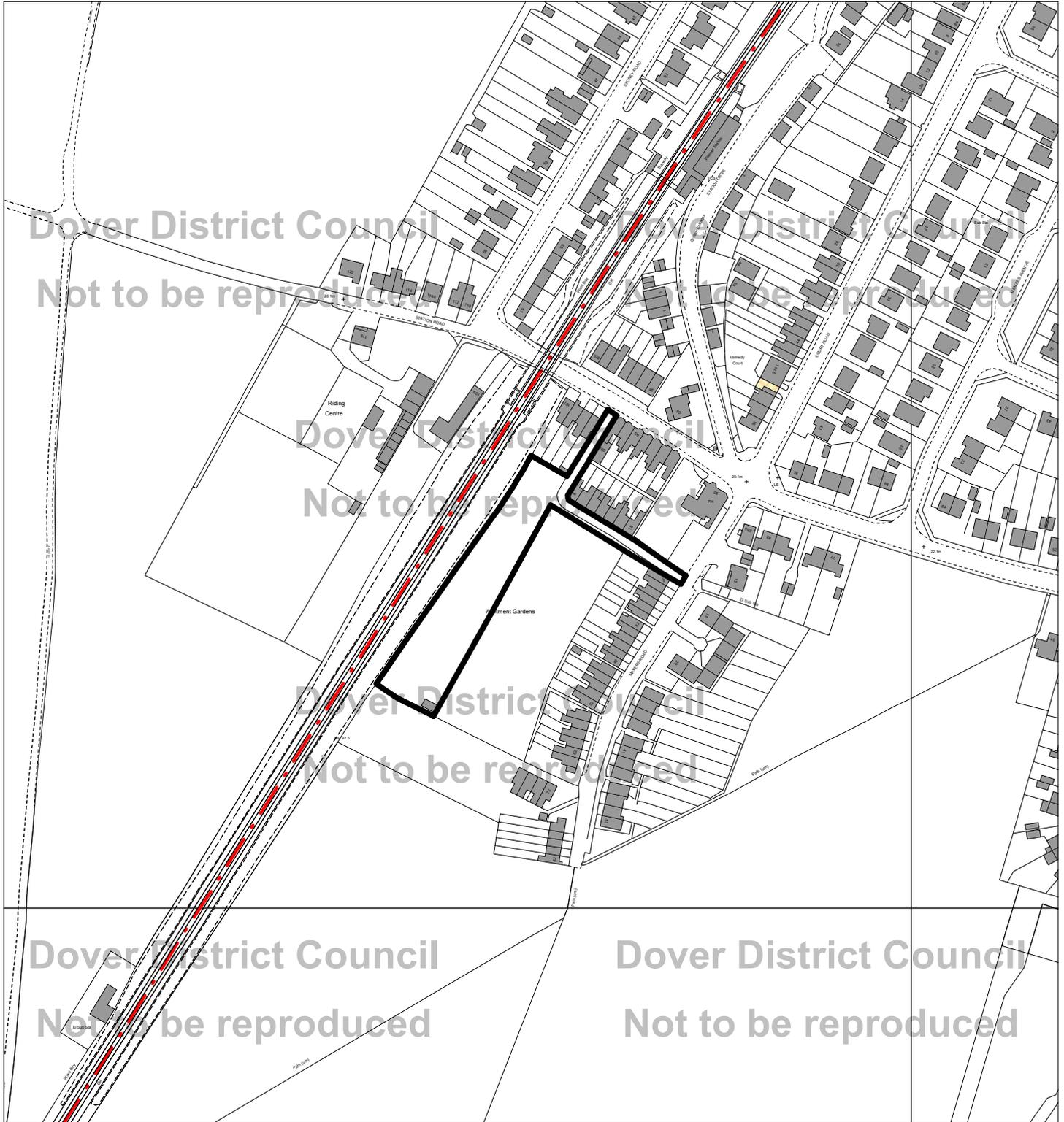
g) **Recommendation**

- I Reserved Matters BE GRANTED subject to conditions to include:-
- (1) The development shall be carried out in accordance with the approved plans;
 - (2) Finish to footpath – details to be submitted.
- 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.

Informative: Highways and discharge of remaining conditions

Case Officer

Amanda Marks



Not to scale

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Application: DOV/18/00592

Land r/o Station Road

Walmer

CT14 7RH

TR 3630 5015



- a) **DOV/18/00592 – Outline application for the erection of five detached dwellings with visitors' car park and turning head (with appearance, landscaping, layout and scale reserved) - Land rear of Station Road, Walmer, Deal**

Reason for report – Deferred at the Planning Committee meeting held on 22 November 2018

- b) **Summary of Recommendation**

Grant permission.

- c) **Planning Policies and Guidance**

Statute

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

A summary of relevant planning policy is set out below:

Dover District Core Strategy (2010)

CP1 – Settlement hierarchy.
DM1 – Settlement boundaries.
DM11 – Location of development and managing travel demand.
DM13 – Parking provision.
DM15 – Protection of the countryside.
DM16 – Landscape character.
DM25 – Open space.

Saved Dover District Local Plan (2002) policies

None applicable.

Dover Land Allocations Local Plan

DM27 – Providing open space.

National Planning Policy Framework (NPPF) (2019)

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

8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually

supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

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

For decision-taking this means:

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

96. Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.

97. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

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

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

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

127. Planning policies and decisions should ensure that developments:

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

d) **Relevant Planning History**

On-site:

DOV/87/00707 – Provision of 6 mobile homes as temporary accommodation during comprehensive improvements to dwellings – GRANTED.

Off-site (close proximity):

DOV/14/00361 – Erection of 223 dwellings (including 66 affordable units) together with associated vehicular access, car parking, landscaping and open space (amended plans) – GRANTED.

e) **Consultee and Third Party Responses**

KCC Highways [informally] – no objection to the proposed means of access, noting the relative infrequency with which larger vehicles will access the site, and the local parking provision proposed as part of the development at its northern end.

Dover District Council Waste Services – no objection – confirms that refuse should be collected directly from each property.

Kent Fire and Rescue – no objection – confirms that the means of access is considered satisfactory.

Walmer Parish Council – objects – RESOLVED:- That the committee objects to the proposal for the following reasons:-

- i) Members agreed that the application fails to meet section 9 paragraph 108 Safe and suitable access to the site can be achieved for all users.
- ii) The committee objects to the proposal now stating that previous advertisement indicated improvement to access surfacing, which is not now proposed.

Comments from 22 November 2018

The following comments were reported to and considered by Planning Committee on 22 November 2018:

DDC Regeneration and Delivery (planning policy) – in response to information provided by the applicant regarding the open space designation and its history:

- *The Council does not claim that the area is identified as protected open space because it was formerly used as allotments*
- *A number of other open spaces identified in on the proposals map are not currently publicly accessible, as stated in DM25 these should not be developed unless there is no identified qualitative or quantitative deficiency in public open space. The point is that protected sites have the potential of becoming accessible open space.*
- *In paragraph 3.16 the applicant makes reference to ‘extensive areas of countryside and areas of open space’ within 2km of the proposed development. This does not correspond with our adopted standards, as set out in the LALP, which require accessible green space state that there should be ‘at least one accessible green space of minimum size 0.4ha should be available within 300m and at least one green space of 2ha within 15 minute walking time or 1,000km. In addition, ‘countryside’ is not the same as accessible open space. I estimate the site size as 0.7ha (no area seems to be provided within the documents), so it is more than large enough to provide an open space of the requisite size. The analysis provided does not examine quantities of amenity open space in the vicinity.*
- *There is no consideration of visual amenity in the documentation. As we discussed, the adjacent Station Road 220 house development has a layout which was very carefully considered, will create a landscape buffer to the south east. Any proposals for developing this plot should take the layout of the adjacent development site into account, even though the applicant is depending on provision of open space within that application to serve the proposed development).*

DDC Environmental Health – no objection, subject to contaminated land condition.

KCC Highways – outside of consultation protocol – requests informative relating to the extent of highways land.

Southern Water – no objection – informatives relating to sewer connection and location of development/planting in relation to sewers.

Network Rail – no objection, subject to informatives.

Walmer Parish Council – objects –

RESOLVED: - That the committee objects to the proposal for the following reasons:-

Members are unable to agree that the proposed development meets NPPF section 4 (32) requirement, in which all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether safe and suitable access to the site can be achieved for all people.

- a) *That the proposed access/emergency access along Mayers Rd, is not fit for purpose due to parking related issues and general width of road. Members are unable to agree that the proposed development also meets NPPF section 10 (100) requirement of meeting the challenge of climate change, flooding and coastal change*
- b) *Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Mayers Road is already subject to flooding concerns, especially from Court Road and Station Drive.*
- c) *Residents also shared their concerns regarding noise disturbance and excessive traffic within an already heavily congested area.*

Public comments – Objections x 8 (x 6 within consultation period); Support x 13

Objections

- Mayers Road is too busy, there is no suitable site access.
- Development will spoil view.
- Site has benefitted from ecology in the past.
- Disagrees with submitted sustainability conclusions.
- Area would no longer be quiet.
- Concern about access for refuse vehicles.
- Concern about construction vehicles.
- Problems accessing Station Road would be compounded.
- Emergency vehicle access.
- Flooding issues around Mayers Road.

Support

- Site is used as a rubbish dump and has been a waste land for years.
- Proposal is sympathetic to fabric of area.
- Development would improve outlook of area.
- Bungalows suitable for elderly.
- Parking spaces will help functioning of access roads.
- Turning head will be a benefit.
- Sees no difference from when the site was used by the council for caravans when Mayers Road houses were being upgraded.
- Applicant has liaised with local community.

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

The Site

- 1.1. The site is located outside of but adjacent to the Deal urban boundary south-west of Station Road in Walmer and north west of Mayers Road. Forming the north-west boundary of the site is the railway embankment of the Dover to Thanet line. The site comprises an elongated area of open scrub land, orientated south-west to north-east, with a concrete track that runs approximately half its

length located in the centre.

- 1.2. The site is accessed by private roadways from either Station Road or Mayers Road.
- 1.3. The site is designated open space under policy DM25 of the Core Strategy. This designation incorporates land to the south east of the site, which was formerly used as allotments, but which appears to have been sold to residents on Mayers Road, and is now being assimilated into domestic curtilages.
- 1.4. Approximate site dimensions are:
 - Depth – 125 metres (excluding access).
 - Width – 22.5 metres (excluding access).

Proposed Development

- 1.5. The application is outline in form with all matters except access reserved, for the erection of five detached dwellings. The dwellings are ostensibly, and illustratively, noted as being single storey.
- 1.6. The indicative drawings show that the dwellings would be laid out along the length of the site from north east to south west, with a single road providing access located alongside the south eastern boundary of the site. There would be a turning head at the south western end of the access road.
- 1.7. At the north eastern end of the site would be a car park with five spaces.
- 1.8. No examples of elevational details have been provided.
- 1.9. Plans will be on display.

2. Main issues

- Deferred application, 22 November 2018
- Highways and traffic impact
- Housing land supply position
- Reconsultations and description of development
- Matters covered previously
- Sustainability and conclusion

3. Assessment

Deferred application, 22 November 2018

- 3.1. At the Planning Committee meeting on 22 November 2018 members resolved to defer this application for the following reason:

“To allow for additional information to be gathered and further advice from Kent Highways in respect of the access road.”
- 3.2. Since the meeting on 22 November 2018, the applicant has provided further technical information in respect of the functioning of the access points both at Mayers Road and Station Road. This is considered below.

Highways and Traffic Impact

- 3.3. The applicant has provided information that details the tracking of the largest vehicles that would/might need to access the site. This includes a refuse truck, a fire appliance and a typical (larger) Sprinter sized delivery vehicle dimensions as follows –
- Refuse truck – 6.6m long, 2.14m wide, 3.95m wheel base.
 - Fire appliance – 8.68m long, 2.18m wide, 3,81m wheel base.
 - Sprinter delivery van – 7.9m long, 2.4m wide, 4m wheel base.
- 3.4. Each of the tracking diagrams show that these larger vehicles could access the site, even with on street parking by neighbouring residents in relatively close proximity.
- 3.5. The relevant consultees commented as follows:
- 3.6. **Kent Highways.** Having liaised with Kent Highways, no objections were raised to the possibility of either route being used as an access. It was considered that the relative infrequency of these vehicles using this as a means of access would not lead to a material worsening of highway safety, particularly when considering that each of these accesses is in existence already.
- 3.7. **Fire Officer.** The fire officer has also confirmed that the means of access is considered satisfactory for a fire appliance.
- 3.8. **DDC Waste Services.** DDC Waste Services has reviewed the technical information submitted by the applicant and raises no objection, subject to the ability to collect refuse directly from each property – rather than from a shared collection point. It is considered appropriate to seek details of waste collection through planning condition.
- 3.9. Following the submitted information and comments provided by relevant consultees, it is considered that the highways implications of this proposal have been sufficiently addressed. While the tight knit nature of the area and narrow roads are acknowledged, no objections have been raised and as such, the proposal is considered to be acceptable in this regard and in accordance with the requirements of NPPF paragraph 108.

Housing Land Supply Position

- 3.10. The 2017/2018 Dover District Council Annual Monitoring Report (AMR) was reported to Cabinet on 4 March 2019. The AMR concluded that the council in its role as the local planning authority (LPA) could demonstrate a five year supply of deliverable housing land. Cabinet agreed this position.
- 3.11. The consequence of being able to demonstrate a five year supply of housing land is that the policies which are most important for determining the application are considered to be in date.
- 3.12. Nevertheless, by virtue of updating its objectively assessed housing need in 2017, the LPA has acknowledged that some policies relating to housing supply, namely CP2 and CP3, are considered out of date. The result of this position is that there is some tension between an up to date housing land supply position and some out of date development plan policies, but regardless the presumption in favour of sustainable development, as defined by NPPF paragraph 11, applies.

- 3.13. In these circumstances the LPA acknowledges that less weight is attributed to policy DM1.
- 3.14. The presumption in favour of sustainable development directs that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Accordingly, this matter is concluded on below.

Reconsultations and Description of Development

- 3.15. The planning application has been reconsulted on twice since it was last reported to planning committee. DDC Waste Services initially requested that the access from Station Road (currently unmade) be surfaced in tarmac for the refuse truck to be able to use. This was initially agreed by the applicant and advertised as such, although no amended drawings were ever submitted.
- 3.16. Further consideration from the applicant queried this request, leading to it being removed from the proposal. The application was readvertised with the following description:

“Outline application for the erection of 5no. detached dwellings with visitors car park and turning head (with appearance, landscaping, layout and scale reserved) (re-advertisement, amended description - previous advertisement indicated improvement to access surfacing, which is not now proposed)”

- 3.17. For clarity, and if permitted, the applicant proposes to repair any damage caused to the access roads as a result of construction works. The applicant would then seek to fill any existing pot holes and leave the access roads in an improved condition than to begin with. Details of these works would be sought through planning condition.

Matters Covered Previously

- 3.18. The following matters were covered in the report to Planning Committee on 22 November 2018. These matters did not form the basis for the subsequent deferral of the application.
- 3.19. **Appropriate assessment.** The proposed development requires that an appropriate assessment be undertaken in relation to the potential effects of recreational pressure on the European sites at the Thanet Coast and Sandwich Bay.

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

- 3.20. 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.
- 3.21. Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in combination with all other housing development within the district, to have an

adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.

- 3.22. Following consultation with Natural England, the identified pathway for such an adverse effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.
- 3.23. 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.
- 3.24. Given the limited scale of the development proposed by this application, a contribution towards the Council's Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the council will draw on existing resources to fully implement the agreed Strategy.
- 3.25. Having had regard to the proposed mitigation measures, it is considered that the proposal would not have an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that any harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.
- 3.26. **Open space.** The application site is located on designated open space, as covered by policy DM25 of the 2010 Core Strategy, which states:
- 3.27. Policy DM25 of the Core Strategy states:

Proposals for development that would result in the loss of open space will not be permitted unless:

- i. there is no identified qualitative or quantitative deficiency in public open space in terms of outdoor sports sites, children's play space or informal open space; or
- ii. where there is such a deficiency the site is incapable of contributing to making it good; or
- iii. where there is such a deficiency the site is capable of contributing to making it good, a replacement area with at least the same qualities and equivalent community benefit, including ease of access, can be made available; or
- iv. in the case of a school site the development is for educational purposes; or
- v. in the case of small-scale development it is ancillary to the enjoyment of the open space; and
- vi. in all cases except point 2, the site has no overriding visual amenity interest, environmental role, cultural importance or nature conservation value.

- 3.28. The basis for policy DM25, as acknowledged in the Core Strategy, is to protect the spaces that have been identified from alternative uses, with a view that these identified spaces would form a small, high quality network.
- 3.29. The documentation submitted with the planning application contends that the site

was identified as open space in connection with the former allotments located to the south east. Following this line, the applicant has provided evidence that shows the site has not been used for this purpose from some time after the 1960s until the present day, including a period in the 1980s when it was occupied by caravans while repair works were undertaken to local dwellings. It is important to recognise, however, that the LPA does not necessarily link the designation of the site with the allotments.

3.30. The site has been in private ownership for 40 years and that there is no identified proposal for how it is intended to form part of a high quality network.

3.31. The NPPF states that planning policies should be based on robust and up-to-date assessments of the need for open space, including opportunities for new provision. Policy DM25 was adopted in 2010, with the latest audit prior to that date taking place in 2004 (the original designation was made based on an audit undertaken in the mid-1990s, which supported the Dover District Local Plan 2002). More recently, the Parks and Amenity Open Space Strategy from 2013, which provides the basis for policy DM27 adopted in 2015, has focused on accessible open space. The case put forward by the applicant is that this site, having been in private ownership for 40 years, has never technically in that time been accessible, regardless of how members of the public might have used it.

3.32. In its role as LPA, the onus is on Dover District Council to justify a deficiency that necessitates the need for this site to retain its designation as open space. Whatever the rationale might have been for the designation of this site, this would appear to be impaired by the assimilation of the allotment space into the rear gardens of the dwellings on Mayers Road, and by the permission granted under DOV/14/00361 for 223 dwellings on land allocation LA14 – Land between 51 and 77 Station Road, Walmer. That site, now beginning the first stages of construction, will provide an extensive area, located in very close proximity to the south-west of the application site, of natural and semi-natural green space, as well as providing a locally equipped area of play (LEAP) within the site.

3.33. No deficiency has been shown to exist, and certainly not one justified by a robust and recent assessment. Were there a deficiency identified, it is considered, notwithstanding the Regeneration and Delivery comments which are considered to be more applicable on a strategic basis, that for the reasons as discussed this site is incapable of addressing such a deficiency. Accordingly, the ongoing justification for this private land to be retained as designated open space would appear not to be as robust as the time of its original designation. Notwithstanding the tension with policy DM25, it is highly questionable (at best) that the site is capable of making good a deficiency in open space provision. Consequently, the weight attributed to any conflict with DM25 is considered to be limited.

3.34. Policy DM27 seeks the provision of open space for developments of five dwellings or above. The policy states that:

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

3.35. It is considered impractical to provide on-site open space, given the size of the

site, the details of the proposal, and for the reasons as discussed above regarding the realities of retaining the open space designation. Accordingly, the policy would seek provision of a commuted sum for qualitative improvements off-site. The options for directing such a payment are, however, limited. The scheme permitted under DOV/14/00361 is in the early stages of development and any funding directed to that proposal would in effect be put into the control of a private enterprise, which is not a preferred approach. Where typically such a sum might be directed to a local scheme, there are no such local schemes proposed within the 600 metre walking distance. Accordingly, it is not considered that such a payment could successfully be pursued.

3.36. As such, it is considered that the loss of the designation on this site is justified, and regrettably, that seeking and distributing a commuted sum in this case is impractical.

3.37. **Street scene, visual and rural amenity.** The site is located behind both Station Road and Mayers Road. It is accessed by private roadways, which mean that it is not prominent within the street scene. The site is approximately 37 metres from the highway at Station Road and 69 metres from the highway at Mayers Road. Accordingly, in terms of the street scene, it is not considered that any harm from the proposal is likely to arise, even accounting for the application currently being outline in form with no details of elevations.

3.38. In terms of the wider amenity around the site, in terms of the development plan, it is technically located within the countryside. However, the situation on the ground, whereby the north-west boundary of the site is formed by the raised railway embankment, means that there would be no impact in terms of long range views.

3.39. Seen from the south-west, the existing arable field, which is subject to planning permission to be developed as open space in connection with application DOV/14/00361, conceivably could provide a link through to the application site if it remained undeveloped, however, there is intervening land which remains in private ownership and is not designated for this purpose, so the likelihood of this is slim. Were the site to gain permission for housing, the existing backdrop of development, i.e. the rear of the dwellings on Station Road, would mean that it would not appear out of place.

3.40. In effect, the site is considered to displays characteristics more closely reminiscent of the urban area, rather than the countryside.

3.41. Policy DM15 – Protection of the countryside, states:

Development which would result in the loss of, or adversely affect the character or appearance, of the countryside will only be permitted if it is:

- i. In accordance with allocations made in Development Plan Documents, or
- ii. justified by the needs of agriculture; or
- iii. justified by a need to sustain the rural economy or a rural community;
- iv. it cannot be accommodated elsewhere; and
- v. it does not result in the loss of ecological habitats.

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

3.42. The preliminary text to policy DM15 of the Core Strategy, defines land which is not considered to be countryside. This includes formal open space. Therefore,

policy DM15 is not considered to apply in terms of the loss of countryside, and for the reasons as assessed above, the proposed development would not be considered to adversely affect the character or appearance of the countryside. The proposed development is therefore considered to comply with policy DM15.

3.43. Policy DM16 – Landscape character, states:

Development that would harm the character of the landscape, as identified through the process of landscape character assessment will only be permitted if:

- i. It is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or
- ii. It can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level.

3.44. Similarly to the assessment undertaken against policy DM15, the proposed development, for the reasons explained above, is not considered to harm the character of the landscape. Accordingly, the criteria under DM16 are not considered to apply to this proposal, and the application is considered to comply with policy DM16.

3.45. Therefore, in terms of the effect on the street scene, visual and rural amenity, the amount and type of development proposed could be successfully accommodated in the application site.

3.46. **Residential amenity.** Based on the submitted indicative drawings, the front (south-east) facing elevations would be approximately the following distances away from the rear of the dwellings on Mayers Road:

- Rear boundary of allotments (now being incorporated into rear gardens) – 6 metres.
- Rear boundary of Mayers Road gardens as defined on Ordnance Survey (OS) maps – 45 metres.
- Rear elevations of dwellings on Mayers Road – 58 metres.

3.47. If the de facto use of the allotments as rear gardens is accepted, the dwellings would be in close proximity to the rear boundaries of these gardens. However, this is not known to be a definitive use and in any case, the rear garden boundaries as shown on OS maps are 45 metres to the south east, with rear elevations further still. These provide an indication of where the private rear amenity areas of these properties are and this is considered to be at a suitable distance that no harm might arise from overlooking.

3.48. The indicative side elevation of the dwelling at plot 1 is 16 metres from the rear garden boundaries of the dwellings on Station Road and 36 metres from the rear elevations. This is considered to be acceptable given that the gardens are therefore approximately 20 metres in length and given that in any case no elevational details have been provided. Were permission granted, such details could more accurately be considered as part of the reserved matters and designed to protect residential amenity as necessary.

3.49. The private access roads would see traffic movements associated with the five dwellings, including the residents themselves, visitors and deliveries, however, it is considered that such movements could be accommodated without resulting in undue harm in terms of disturbance caused. Although the proposed development is of a different type, it should be acknowledged that the allotment use which appears to have ceased/be reducing to the south east of the site would have

attracted car movements at different times of the day and potentially to a similar level.

- 3.50. It is considered that the scale of development proposed, combined with the distances between the likely locations of the dwellings and existing residents, means that any potential issues arising in terms of residential amenity could ultimately be addressed through design measures in a future reserved matters application. Accordingly, the development proposal is considered to be acceptable in residential amenity terms.
- 3.51. **Surface water flooding.** Concern has been raised in relation to surface water flooding at the site. It is considered reasonable to impose a condition seeking the submission of surface water drainage details alongside any reserved matters application.

4. Sustainability and Conclusion

- 4.1 The three roles that planning must undertake in delivering sustainable development are its economic role, its social role and its environmental role. In accordance with the presumption in favour of sustainable development, consideration against these three aspects, in light of the complex policy environment, is considered to be a pragmatic way of assessing the proposal.

Economic

- 4.2 The proposed development would deliver time limited benefits in terms of local construction work. It would also potentially deliver a small ongoing benefit in terms of new residents to the area, assuming that they have not moved within the district. There would be no adverse economic effects.

Social

- 4.3 The proposed development has the potential to deliver a small benefit in social terms, with new residents to the area. It would also represent a small benefit in terms of five additional dwellings to the Dover housing supply. There are unlikely to be any adverse social effects associated with the loss of this site, which unlike the area of designated open space to the south east, has not functioned as allotments within recent memory, and it is highly unlikely that the site could perform such a function in the future.

Environmental

- 4.4 The proposed development would result in the loss of designated open space, however, due to the historical context and the location of the site, screened by the railway line to the north west and complemented by a significant forthcoming provision of open space to the south west, this is not considered to be harmful. In spatial terms, it is considered that there is a justifiable rationale for the development of this site, which would reduce the need to identify land for five dwellings elsewhere in the district. There are shown to be no protected wildlife species present, which accords with the overall impression of the site in its current condition. The submitted ecology report recommends that although there are no protected species on site, there is the opportunity for biodiversity enhancements, which would represent an environmental benefit. It is considered that the loss of open land can be seen as a small negative effect, however, this is considered to be balanced by the benefit that the development proposal could bring i.e. environmental enhancements, the offset need to deliver five dwellings

elsewhere in the district, and the sustainable location of the site in immediate proximity to sustainable transport links, and close to local facilities.

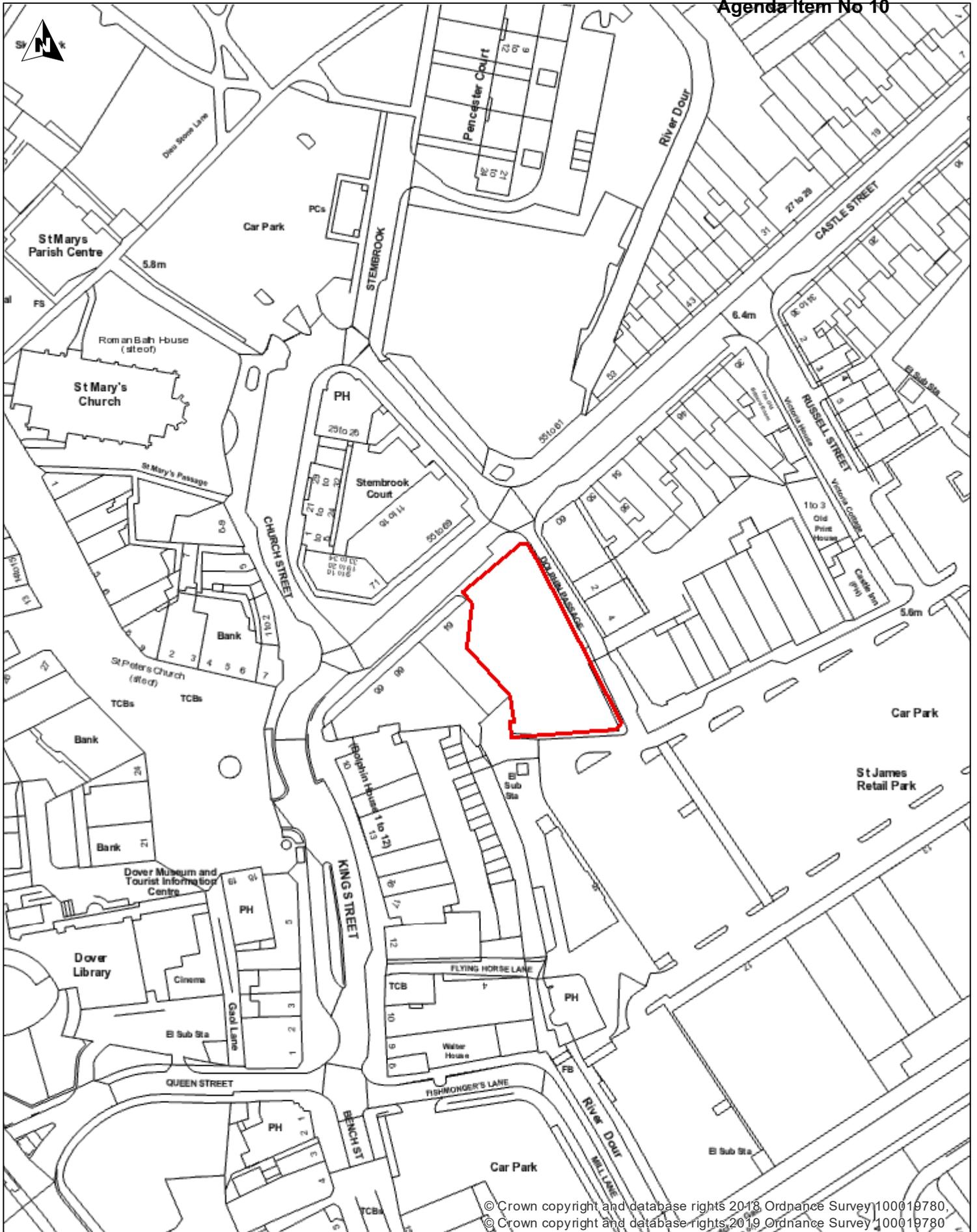
- 4.5 It is therefore considered, on balance, that any negative effects of the proposal are justified, and outweighed by the potential benefits, as described above. The recommendation in this case remains to grant permission.

g) **Recommendation**

- I. Planning permission be GRANTED, subject to conditions, including: (1) Reserved matters (layout, appearance, scale, landscaping) (2) RM application time limit (3) Commencement time limit (4) Samples (5) Landscaping hard and soft, including means of enclosure (6) Highways – vehicle parking and turning facilities (7) Highways – completion of site access (8) Highways – cycle parking (9) Highways – completion of roads, footways, footpaths, verges, junctions, street lighting sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture in accordance with approved details by time to be agreed (timetable to be submitted) (10) Highways – completion of works between adopted highway and dwelling before occupation of dwelling – footways and/or footpaths; carriageways, turning facilities, highway drainage, visibility splays, street lighting, street name signs and highway structures (if any) (11) Highways – driver visibility splays (12) Highways – pedestrian visibility splays (13) Highways – no surface water on to public highway (14) Highways – bound surface (15) External lighting (16) Refuse storage and waste collection strategy (17) Domestic sprinklers (18) Site levels (19) Biodiversity enhancement (20) Surface water drainage scheme (21) Construction management plan (22) Details of proposed works to existing access laneways, including survey of pre-development condition and works to repair and improve the surface of these laneways.
- II. That powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Darren Bridgett



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DOV/18/00221

Author: Planning Services

Scale 1:1,250

Map Dated: 10/04/2019

62 Castle Street Dover CT16 1PA

Dover District Council
 Honeywood Close
 White Cliffs Business Park
 Whitefield
 DOVER
 CT16 3PJ



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

- a) **DOV/18/00221 – Erection of a six-storey building, comprising flexible Class A1, A2, A3 and A4 uses (ground floor) and flexible Class A1, A2, A3 and A4 uses and B1 (1st Floor) and the formation of 28 flats (2nd-5th floor); separate commercial and residential access; associated commercial bin storage; secure residential bin and cycle storage; gated rear service yard; four parking spaces; communal roof garden at third-floor level and associated works - 62 Castle Street, Dover**

Reason for report: Due to the number of contrary views.

- b) **Summary of Recommendation**

Planning permission be granted

- c) **Planning Policies and Guidance**

Core Strategy Policies

- CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy.
- CP3 – Of the 14,000 houses identified by the plan 9,700 (around 70%) is identified for Dover.
- 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 of 15 or more dwellings should provide 30% of the total homes proposed as affordable homes.
- 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.

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 2019 (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:
 1. off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
 2. the agreed approach contributes to the objective of creating mixed and balanced communities

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

- Chapter six requires that planning decisions help to create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- Chapter seven supports the role that town centres play at the heart of local communities and seeks to promote their vitality and viability.
- Chapter eight promotes healthy and safe communities. This includes the promotion of social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. Developments should be safe and accessible, so that crime and disorder and the fear of crime and disorder do not undermine the quality of life or community cohesion. Policies and decisions should plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments; guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; and ensure that established shops, facilities

and services are able to develop and modernise, and are retained for the benefit of the community.

- Chapter nine promotes sustainable transport, requiring that the planning system should actively manage patterns of growth in support of this objective; although opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Chapter eleven requires that land is used effectively, having regard for: the need for different types of housing and the availability of land suitable for accommodating it; local market conditions and viability; the availability and capacity of infrastructure and services (including the ability to promote sustainable travel modes); the desirability of maintaining an areas prevailing character; and the importance of securing well-designed, attractive and healthy places. Where there is an anticipated shortfall of land to meet identified need, low densities should be avoided.
- Chapter twelve confirms that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Planning policies and decisions should ensure that developments:
 - a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.

- Chapter fourteen requires that development should be directed away from areas at the highest risk from flooding.
- Chapter sixteen requires that applicants describe the significance of any heritage assets affected by the development, including any contribution to their setting. 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. Account should be taken when determining applications of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness. Great weight should be given to the conservation of designated heritage assets. Where total loss of or substantial harm to a designated heritage asset would be caused, permission should be refused unless the exceptions at paragraph 195 are met. Where less than substantial harm would be caused this harm should be weighed against the public benefits. The effect on the significance of non-designated heritage assets should be taken into account

The Kent Design Guide (KDG)

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

d) **Relevant Planning History**

DOV/02/00567 – Change of use (including external alterations) to traditional ale, wine and food house and demolition of part of rear to form beer garden – Granted

DOV/02/00570 – Change of use (including external alterations) to traditional ale, wine and food house and demolition of part of rear to form beer garden – Granted

DOV/02/00570A – Revised plans relating to planning approval for change of use to traditional ale, wine and food house, involving internal and external alterations and revised size/siting of beer garden – Granted

DOV/02/00570B – Revised plans relating to planning approval for change of use to traditional ale, wine and food house, involving internal and external alterations and extensions and modifications to rear to form revised size/siting of beer garden/terrace – Granted

DOV/14/00779 – Demolition of building – Prior Approval Required

e) **Consultee and Third Party Responses**

KCC Highways – No objection to the principle of the development. Whilst there is very little on-site parking, the site is in the town centre with good access to public transport and public car parks. Whilst some trips may be generated, overall, the proposals are unlikely to have a severe impact on the highway that would warrant a recommendation for refusal.

Access for service/delivery vehicles is intended to be via the St James development and this will need to be conditioned to ensure that such vehicles do not instead use Dolphin Passage or Castle Street and obstruct the highway whilst loading/unloading.

Cycle parking should be provided.

Stagecoach – Separate discussions regarding improvements to the Market Square have identified a need to relocate the existing bus stop to the area in front of 64/66/68 Castle Street. Whilst no final decisions have been made (so far as we are aware), we

would need to be satisfied that the development proposed in the current application does not interfere with this.

Historic England – *Initial advice received 20th June 2018:*

Historic England has concerns regarding the application on heritage grounds.

62 Castle Street lies in part of the historic core of Dover. The street was first established in the 1830s as a continuation from the market place. Its historic nature is evident by the large number of 19th century terraced houses which survive on the street. The eastern part of Castle Street lies in the Dover Castle Conservation Area and the Dover Town Centre Conservation Area is nearby, with 62 Castle Street lying between the two. Dover Castle Conservation Area is focussed on Dover Castle and includes the surrounding, primarily 19th century, development. The Dover Town Centre Conservation Area is centred on Cannon Street, the market square and Biggin Street and contrasts with the Dover Castle Conservation Area as it forms an urban town centre comprising principally of 19th and early 20th century buildings. Castle Street forms a sight line between the market square and the castle which historically inspired artists and photographers, and as such is a significant remnant of the town's historical development and of the Conservation Area.

Whilst we appreciate the applicant's aim to reflect the adjoining Dolphin House's height, the majority of buildings on Castle Street within the Conservation Area and adjacent are smaller in scale. Modern two and four storey buildings dominate the western end of the street, whilst the eastern end is characterised by low scale three storey 19th century terraces. The proposed development is significantly taller than this, at six storeys, and would therefore cause a low level of harm, particularly to the Dover Castle Conservation Area, as it would impinge on views up to the castle from the street and market square. This is a historic view in which it is possible to appreciate the way in which the Castle dominates the town, as evidenced by the many historic drawings and photographs of this street. It is clear that the applicant has attempted to mitigate the scale of the building by stepping back the fifth and sixth storeys, and therefore minimise the harm to the adjacent conservation area as per paragraph 129 of the NPPF. However, we think that the harm could be further minimised by reducing the number of storeys so that the scale of historic development here is more closely replicated. We think this might also represent an enhancement to the quality of the historic environment as endorsed by Paragraph 131 of the NPPF.

We also have concerns regarding the materials proposed, for example the use of metal panels. Castle Street's palette of materials is quite restricted, with the majority of buildings being brick or stucco. We would encourage the applicant to re-assess the materials proposed and to consider alternatives which complement prevailing historic finishes in adjoining conservation areas rather better.

Archaeology should also be considered, as the site has great potential to contain archaeological remains of the Roman and Post-Medieval periods, and prehistoric palaeo-environmental remains, as well as moderate potential for Anglo-Saxon and Medieval Remains.

If you ultimately conclude the harm has been avoided or minimised, then Paragraph 132 applies. This states that any harm to a designated heritage asset should require a clear and convincing justification. Your Council must then apply paragraph 134 of the Framework which states that where a proposal will lead to less than substantial harm to the significance of the heritage asset, the local authority should weigh this harm against the public benefits of the proposal.

Further comments received 6th December 2018:

Historic England has concerns regarding the application on heritage grounds.

The view from Castle Street up to the Castle is a historic one, and this development would impinge on this. We note that the development within this view (View 2) has been assessed as not detracting from the important view towards the Castle or the view along Castle Street. We disagree, and the impact on the street and on the historic view to the Castle is clearer if one stands next to no 7 Dickens Corner, which is situated on the corner of Castle Street and Church Street, rather than slightly further south in the market square as shown in the views assessment. Our comments as stated in our previous letter, which I attached for reference, therefore still stand.

The proposed development remains significantly taller than the existing buildings, at six storeys, and would therefore cause a low level of harm, particularly to the Dover Castle Conservation Area, as it would impinge on views up to the castle from the street and market square. We think that the harm could be further minimised by reducing the number of storeys so that the scale of historic development here is more closely replicated. We think this might also represent an enhancement to the quality of the historic environment as endorsed by Paragraph 192 of the NPPF.

KCC Archaeology – Initial comments received 12th December 2018:

The site is known to contain or has the potential to contain a range of deeply stratified archaeological deposits including:

- Important sequences of palaeoenvironmentally rich deposits and potentially preserved timber structures, artefacts or vessels of Prehistoric and Romano-British date;
- Remains associated with the former Roman harbour
- Sequences of stratified medieval and post-medieval deposits, potentially including buildings, yards and rubbish pitting of domestic commercial or industrial origin.

The site has the potential to contain important archaeological deposits and sequences and it is suggested that further information is now required to characterise and assess the survival of archaeological remains within the proposed development site so that these can be appropriately considered and taken account of in any planning decision.

Paragraph 189 of the NPPF notes that where a site 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. In this instance it is suggested that it would be appropriate and reasonable to request field evaluation works prior to determination of the planning application. This is because heritage assets are an irreplaceable resource (as described in paragraph 184 of the NPPF) and it is possible that the proposed development site includes archaeological remains whose significance is such that they should be preserved in situ.

In this respect KCC have previously provided the applicant's archaeological advisors with pre-application advice when the need for such evaluation works was highlighted.

If you are minded to determine the application without seeking further information from the applicant, then I would welcome the opportunity to advise further.

Further response received 14th March 2019:

The site has the potential to contain important archaeological remains and KCC's preferred approach, in line with the NPPF, would be to evaluate this potential prior to the determination of the planning application.

Further information submitted by the applicant does however provide some more confidence, especially in terms of the comments from their architects which 1) confirms that there is some flexibility around the design of foundations and furthermore, 2) the acknowledgement that they would be amenable to considering alternative locations for more fixed elements of the scheme (such as stair and lift cores) by means of a non-material amendment to the scheme.

If accepted, then KCC think that this commitment, alongside appropriately worded planning conditions would be acceptable, subject to a suite of conditions requiring: archaeological field evaluation prior to the commencement of the development, including details of preservation of remains in situ or by record, as appropriate; the submissions of a Post Excavation Assessment Report within 9 months of archaeological works, which shall be published; and full details of foundation design and below ground excavation to be submitted and approved before development takes place.

DDC Head of Inward Investment – Support.

The redevelopment of the St James area of Dover Town Centre has been a long held ambition for the Council. While much progress has been achieved with the investment by Legal and General Investment Management funding the St James scheme, it is critical that momentum is maintained. The changing face of retail and pressures on town centres are bringing ever greater challenges to localities such as Dover.

Although a number of initiatives are in process, it is crucial that investment opportunities such as those envisaged by the planning application under consideration are taken forward. The application will bring a mixed use development into the heart of the town centre, bringing more diverse retail opportunities and residential footfall. In addition to this, redevelopment of the site will supplement the St James scheme and provide more visibility to the investment community that Dover is open for business.

As ever, viability is often a key determinant with schemes in Dover and balances need to be weighed in the decision making process. Consequently, any reductions in the massing and scale of the application are likely to impact on the development going forward.

DDC Heritage Team – As originally submitted, the application had failed to demonstrate that the historic environment had been considered. Consequently, further information was submitted from the applicant. The report contains poor quality photographs and the assessment of each is extremely brief and demonstrates no depth of understanding and an uninformed assessment of the implications of the development on the heritage.

There is no attempt to identify the harm using the established terminology as set out in the NPPF. The report provides a very brief conclusion that the development will cause "no harm" to the setting of heritage assets and that the "impact on critical views is negligible". I appreciate that this is a reasonable conclusion based on the body of the report, but as this is eminently flawed, the conclusion is not accepted. It is also contrary to the conclusion of the heritage statement initially received which identified

harm which it defines as less than substantial. I agree with the conclusion of the first report: harm is caused to the character of the Conservation Area and to the setting of listed buildings, including the castle. In my view this is as a result of the height, bulk and design of the proposed development.

Unfortunately the newly submitted document falls very short of adequately dealing with the concerns that were raised regarding the initial submission. The application fails to address the issues raised by Historic England. The harm caused to the Conservation Area and neighbouring listed buildings could be mitigated somewhat by a reduction in the height of the building. Removal of one storey would bring the building to a more comfortable relationship with the streetscene and help to reduce the impact on the view of the wider view of the castle that is currently able to be enjoyed from Castle Street (described as the 'landscape of the Eastern Heights' in the first heritage statement submitted).

Natural England – No objection

DDC Environmental Health – No objection, subject to conditions being attached to any grant of permission regarding: the remediation of any potential contamination identified; the provision of sound insulation between commercial and residential uses and between residential uses; and the submission and approval of a construction management plan.

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

Environment Agency – *Initial comments received 21st June 2019:*

Object. The proposal eliminates the possibility of reversing the substantial loss of watercourse habitat due to the existing culvert. It is recommended that permission be refused on this basis.

Paragraph 109 recognises that the planning system should aim to conserve and enhance the local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible. Paragraph 118 states that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused, and that opportunities to incorporate biodiversity in and around developments should be encouraged. In line with the requirements of the south east river basin management plan, we seek the removal of culverts wherever possible to re-establish river and bankside habitat and the continuity of the watercourse corridor.

In this case, there may be an opportunity to restore the River Dour through the site. However, the proposed development as submitted is on the line of the culverted watercourse and, if permitted, would preclude any future potential to remove the culvert and naturalise the water course.

This objection is also supported by our policy on culverting watercourses because this development would preclude future options to restore the watercourse. We have a long-held aspiration to achieve fish migration in the River Dour. Culverts create a barrier to the movement of fish.

It may be possible to overcome this objection if, preferably, the development were to include plans for re-instating an open watercourse within the site or if the development is set back at least 10 metres from the centre-line of the culvert.

Not only is the River Dour in this location is a designated 'main' river under our jurisdiction for flood risk management purposes, it is also a designated waterbody under the Water Framework Directive (WFD), for which we are the competent authority. The River Dour is currently classified as Poor under WFD. One of the reasons that the health of the River Dour is not as good as it should be is the fragmented nature of the river.

Dover's Local Plan recognises the importance of the River Dour as a central but underplayed structural feature of the town. It states: 'Public access to the river is fragmented and many existing developments have turned their frontages away from it, rather than making it an integral feature. The river also poses flood risk issues which will have an influence on development proposals. Water quality is also an issue. Some past developments have involved culverting over the river which has harmed water quality and wildlife. In combination, these issues result in both a need and desire to give more prominence to the river and allow it to fulfil its potential to help make Dover a distinctive place.'

Dover Core Strategy Policy DM18 states: "Development proposals that affect the setting of the River Dour should, wherever possible, ensure that they create a connected active river frontage, improve public access and enhance wildlife interest." We believe the proposals for 62 Castle Street run contrary to this policy.

The EA should be consulted should the application be recommended for approval.

Further comments received 3rd August 2018:

We appreciate that our objection to the proposal may not outweigh other benefits that the planning authority can identify in this case. We are however unable to remove our objection as this would go against our guidelines and our statutory role in the planning process. Through developing the ground above the existing culvert, any restoration of this stretch of river is eliminated.

In the event that there is a decision which contradicts our recommendations, we would suggest that the developer mitigate to loss of opportunity by providing contribution for other river habitats within the catchment. We would propose funding towards at least one of the below listed river restoration/enhancement or climate change resilience project:

- Fish passage at Halfords weir
- Restoration at Barton path
- Long term funding for the river warden scheme lead by WCCP

KCC SUDS – At the detailed design stage, we would expect to see the drainage system modelled using FeH rainfall data in any appropriate modelling or simulation software. Should the Local Planning Authority be minded to grant permission for this application, conditions are recommended.

Southern Water – Public sewers must be protected from the development, with the exact position of public sewers. There should be no new soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public sewer, rising main or water main. It is recommended that a condition be attached to ensure the protection of public sewers.

Southern Water can provide foul and surface water disposal to service the proposed development. A condition should be attached to require details of foul and surface water infrastructure to be provided.

NHS – Any increase in the local population has a knock-on effect in terms of health care and SKCCCG would seek to apply this s106 contribution to meet these extra demands placed upon the local primary care health service. St James Surgery, Harold Street. St James' would benefit from enhancements to improve accessibility to the site for patients. The current entrance is at the top of a steep slope, however a side entrance could be made available to allow ground floor entry with the installation of a patient lift. A contribution of £360 per occupant of the development is sought, totalling £20,160 to for a patient lift.

Kent Police – The applicant/agent has not demonstrated that they have considered crime prevention and have attempted to apply the seven attributes of Crime Prevention Through Environmental Design in their submitted on-line plans or Design and Access Statement. To date we have had no communication from the applicant/agent and there are design issues that need to be discussed and addressed.

The Dover Society – Neutral.

Delighted to see the owners of this eyesore submit a planning application and are pleased with the materials in the plans. However, concern is raised regarding: the overall height of the building; the density of residential units and on-street parking; the potential for retail units to remain empty (maybe a leisure activity or piazza with a glass floor could be provided).

Dover Chamber of Commerce – Support. It is important that Dover seizes the opportunity to improve the built environment of the town, to provide attractive residential accommodation for workers and to support retailers able and willing to take advantage of the purchasing power offered by the substantial number of ferry passengers passing through the port which numbered nearly 12 million in 2017.

The St James' development is contiguous to Castle Street. Dover District Council has been notably successful in attracting investment into this scheme which now has the capacity to act as a magnet to revive the town centre retailing.

The current derelict site is a significant disincentive to inward investors and to customers of the new outlets alongside. The development will make a significant contribution to the regeneration of the areas as well as providing much needed accommodation. Placing residential units above shops and offices also serves to enhance street-level security. Making the street scene more attractive will promote the local economy.

The housing mix is appropriate, in accordance with policy CP4. The scheme would rank as 'very good' under BREEAM, although this rating seems harsh.

The limited car parking is a valid concern; however, it is difficult to conceive of a viable scheme for the site if a large area of ground floor parking or underground parking were provided.

A 20% allowance for climate change should be applied rather than the 40% required in respect of flood risk.

Dover Town Council – *Initial response received 22nd June 2018:*

Support

Further response received 13th December:

Neutral. The Town Council supports the development of the site, but the design should also be amended to take account of the advice from Historic England on the views and nature of an historic conservation area. In addition, the advice from the Designing Out Crime Team to create a safe area for residents and limit anti-social behaviour.

Public Representations – Six objections have been received, raising the following points:

- The River Dour should not be ignored or hidden
- The development of the site presents an opportunity to completely open up the river at this location
- Damage to the river bed should be avoided
- The development would cause harm to the setting of listed buildings and the conservation area
- Lack of car parking
- Lack of affordable housing
- The roof terrace would cause noise pollution to neighbours
- The building would be an eyesore
- The development would lead to more empty shops in the town centre
- Loss of views
- Loss of light
- Increased traffic
- The building would further separate the St James' development from the town

One letter of support has been received, raising the following points:

- Dover has turned a corner in regards to regeneration
- Recent building activity and inward investment has allowed Dover to emerge as a very attractive destination to invest and deliver transformational change over the next 5-10 years
- The planning application for Castle Street offers a further opportunity to keep the current momentum going and should be supported.

Two neutral comments has also been received, raising the following points:

- Supportive of on-going regeneration in Dover
- Provision of high quality housing
- The building is too high
- There is no need for office floor space
- Inadequate parking provision
- Whilst the building is inoffensive, it misses an opportunity to produce an unashamedly modern building
- Difficulty turning within the site
- The building straddles the River Dour

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

- 1.1 The site lies within the settlement confines of Dover and within the Town Centre. Immediately to the west of the site, the ground floor units are identified as being a secondary shopping frontage, where uses should be restricted to A1, A2, A3, A4 and A5 uses. The River Dour passes under the site in a culvert.

- 1.2 The site lies in a central location between the primary shopping frontages on and around Cannon Street and the St James' Retail and Leisure Park. The site has three 'frontages'; to Castle Street to the north; to Dolphin Passage to the east; and the St James' to the south. The site had been occupied by the Snoops nightclub (former Granada Cinema), until it was demolished to ground level in 2014. Since then, the site has not been in use and is surrounded by hoardings.
- 1.3 To the east of the site, Castle Street is predominantly characterised by three or three and a half storey Georgian and Victorian terraced townhouses, many of which have historic shop fronts. However, to the west of Dolphin Passage and Stembrook, the character changes markedly, with mid-C20th blocks of flats of four storeys (although the building containing no.'s 64 to 68 (even) has an additional storey over part of the building). These buildings contain commercial uses at ground floor level and residential uses above. Beyond Castle Street, the area contains an array of building styles, whilst building heights range between two and five storeys. The St James' development is a notable intervention in the townscape, presenting an overtly distinct character.
- 1.4 The application seeks permission to erect a six storey building containing commercial uses at ground and first floor levels and residential uses at second, third, fourth and fifth floor levels. To the ground floor, uses would be flexible between retail, financial and professional services, restaurants and cafes and drinking establishments. The ground floor would also provide areas for commercial and residential refuse storage, bicycle storage, a service yard including four car parking spaces with a car turntable and a plant room. At first floor level, these uses would be complemented business uses falling within use class B1 (typically offices or similar). The residential floors would provide accommodation for twenty-eight flats comprising eight one-bed, eighteen two-bed and two three-bed flats. Whilst six storeys in height the 'footprint' of the floors would reduce as the building ascends.

2. **Main Issues**

2.1 The main issues are:

- The principle of the development
- The economic role of the development
- The impact on the character and appearance of the area and the historic environment
- The impact on neighbouring properties
- The impact on the highway network
- The impact on archaeology

Assessment

Principle

2.2 The site lies within the settlement confines of Dover, and within its defined town centre, and, as such, the principle of the development is acceptable, being in accordance with Dover Core Strategy Policy DM1. Moreover, the NPPF supports a positive approach to the growth, management and adaption of town centres, which should be at the heart of local communities. The NPPF also recognises that residential development often plays an important role in

ensuring the vitality of centres and encourages residential development on appropriate sites. It is therefore concluded that the development is positively supported by the NPPF.

Economic Impact

- 2.3 An important element of the case for the development is its economic benefit. The applicants Planning Statement advises that this site forms a 'pivot' between the St James' development and the historic town centre. The development would also provide regeneration to this vacant plot to enhance the attractiveness of this part of the town.
- 2.4 Town centres across the country have been in decline for many years and Dover is no exception. The Core Strategy acknowledges that Dover has seen increasing competition from centres in Canterbury, Westwood Cross and, to a lesser extent, Folkestone, with the town centre proving unpopular (albeit this assessment predates the St James' development). The Core Strategy continues, by saying that the town lacks "modern buildings of interest or stature which could themselves become symbols of Dover in the future". The councils Corporate Plan (whilst not planning policy) identifies that a key priority is to continue the district's regeneration programme, with particular focus on the St James' development and Dover Waterfront areas. The St James' development has provided a landmark regeneration of a significant area of the town, providing high quality, modern retailing, leisure uses and restaurants which have transformed the offer of the town. Whilst a success, the benefit to the historic town centre has been limited, in part due to the attractiveness of connections between the St James' development and the historic town centre.
- 2.5 The proposed development would replace a vacant plot, which is surrounded by hoardings and has attracted waste and fly-tipping, with a building containing active commercial frontages. It is considered that this would enhance the attractiveness of the route between St James' and the town centre and increase the potential for linked trips and footfall past businesses in the town centre. The potential benefits to the town centre have been recognised by the Council's Head of Inward Investment and the Dover Chamber of Commerce both of whom have supported the application. In doing so, the Dover Chamber of Commerce have commented that the development could "act as a magnet to revive the town centre retailing" whilst "the current derelict site is a significant disincentive to inward investors and to customers of the new outlets alongside. The development will make a significant contribution to the regeneration of the areas as well as providing much needed accommodation". It is considered that the potential regenerative benefits of this development, which extend well beyond the site itself, are compelling and attract great weight in favour of the development.
- 2.6 Notwithstanding the above, the development itself would provide flexible commercial floor space at ground and first floor levels within a modern building. Whilst there is vacant commercial floor space within the town centre, the development would provide floor space of a type which is not well-catered for at present (i.e. floor space within a modern building designed to meet the needs of businesses and with flexibility in terms of unit size, use class and fit-out). Consequently, the floor space would be attractive to businesses. The development would provide both short term (jobs in construction) and long term (jobs created by businesses) direct economic benefits, together with the indirect economic benefits of increasing the population in a sustainable town

centre location and increased spending in the local economy. These benefits add further weight in favour of the development.

Character, Appearance and Heritage

- 2.7 Regard must be had for how the development would impact upon the heritage assets which are within the vicinity of the site, and their settings, having regard for the Planning (Listed Buildings and Conservation Areas) Act 1990 (The 'Act'). Section 66(1) of the Act states that, 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority, or as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.' As such, it is necessary to have 'special regard' for whether the development would preserve the listed buildings in the vicinity and their settings. Section 72(1) of the same Act, requires that 'special attention' is given to the desirability of preserving or enhancing the character or appearance of a conservation area. Additionally, the NPPF requires that regard must be had for whether the development would harm the significance of both designated and non-designated heritage assets and, where harm is identified (either substantial or less than substantial), consider whether this harm is outweighed by public benefits.
- 2.8 There are no listed buildings within or directly adjacent to the site and the site is not within any Conservation Area. However, the majority of buildings on Castle Street (those to the north east of No.60) are listed, whilst this area of listed buildings also signifies the boundary of the Dover Castle Conservation Area. To the west, the Dover Town Centre Conservation area extends along the northern edge of the Market Square and to the east of Church Street. The Façade of the Market Hall (The Dover Museum and Tourist Information Centre) and St Mary's Church, to the south east and north east respectively, are both listed. Views of the Castle are also prominent from some areas around the site, most notable along Castle Street. The broad area of the castle is a Scheduled Monument, whilst the site includes a number of individually listed buildings (including the outer curtain wall and St Mary's Church). Historic England, in their initial consultation response, providing a very useful summary of the character and importance of the area, as follows:
- "62 Castle Street lies in part of the historic core of Dover. The street was first established in the 1830s as a continuation from the market place. Its historic nature is evident by the large number of 19th century terraced houses which survive on the street. The eastern part of Castle Street lies in the Dover Castle Conservation Area and the Dover Town Centre Conservation Area is nearby, with 62 Castle Street lying between the two. Dover Castle Conservation Area is focussed on Dover Castle and includes the surrounding, primarily 19th century, development. The Dover Town Centre Conservation Area is centred on Cannon Street, the market square and Biggin Street and contrasts with the Dover Castle Conservation Area as it forms an urban town centre comprising principally of 19th and early 20th century buildings. Castle Street forms a sight line between the market square and the castle which historically inspired artists and photographers, and as such is a significant remnant of the town's historical development and of the Conservation Area".
- 2.9 The proposed building would be six storeys in total, although the upper two floors would be set in from the main elevations of the building (and be finished

in a different material) to reduce its prominence and perceptibility in views from the surrounding area. The fourth floor would be set in from the main elevations by around 2m, whilst the fifth floor would be set in a further 2.5m to the south, 5m to the east and 4m to the south (these distances relate to the over sailing roofs, with the elevations of these floors set back even further). The main four storey element of the building corresponds to the scale of the main elevation of the neighbouring No.'s 64 to 68 Castle Street, whilst the fourth floor corresponds to the height of the various built elements on the roof of No.'s 64 to 68. Consequently, in building is approximately one storey taller than its direct neighbour. As set out in the Historic England response other buildings in Castle Street and in the historic surrounding area are typically three storeys, although it is noted that a number of four storey buildings are also present.

- 2.10 The building has been designed in a modern style, with large plate glass windows at ground and, to the eastern and southern elevations, first floor levels with asymmetric glazing bars. Timber boarding is proposed to either side of doorways, above which (to the Dolphin Passage elevation) is dark grey metal cladding, which will provide relief from the expanse of brickwork and more of a vertical emphasis to this elevation. Above, the larger windows at ground and first floor, the windows are smaller and more residential in scale. The fourth and fifth floors would be well set in from the 'main' elevations of the building with overhanging roofs.
- 2.11 Due to the setbacks of the fourth and fifth floors these floors would be little seen in close views of the site from the immediate environs of the site. However, potential views of the upper storeys would be gained from more distant viewpoints. In these close viewpoints, therefore, the development would appear as a four storey building with a roof terrace, the scale and form of which would sit comfortably with the No.'s 64 to 68 Castle Street. Whilst it would be more dominant in the street compared to the three storey No. 60 Castle Street, it is not considered that this would be visually harmful, given that there would only be an appreciable difference of one storey and given that its appreciable height would be consistent with Stembrook Court opposite the site. It should also be borne in mind that the former building on the site rose to a similar height as the building now proposed, having 'main' front elevation which rose to the same height as No.'s 64 to 68 and then a further storey, with a pitched over, set back from the 'main' front elevation. It is therefore considered that the scale and massing of the development would cause no harm to the character and appearance of the area, or the significance of heritage assets, in close proximity to the site, including the Castle Street and Dolphin Passage street scenes.
- 2.12 As you move further away from the site, the development, and its upper floors, becomes more prominent. Initial comments from Historic England (which DDC Heritage concurred with) raised concern that the impact of the development could not be fully understood without the submission of an addendum to the Heritage Statement to assess the impacts of the development from various viewpoints. Subsequently, such an assessment was submitted. However, following a review of this additional information, Historic England and DDC Heritage concurred that, when stood adjacent to 7 Dickens Corner (slightly further to the north than the viewpoint chosen in the submitted addendum), the development would impinge on the view of the Castle. The consultees also agree that this would cause less than substantial harm to the Dover Castle Conservation Area and views up to the Castle (a Scheduled Monument that also contains listed buildings) from Castle Street and Market Square.

- 2.13 Following visits to the site, it is clear that the view of the Castle above the town gained along Castle Street is an intrinsic part of Dover town centres (and the Dover Castle Conservation Area) character. The view is therefore very important. This must be balanced against the limited field of view that can be gained of the Castle and where the proposed development would interfere with this view. For example, in no view would the development obscure views of the keep; however, outside 7 Dickens Corner, views of parts of the outer curtain wall, Colton's Gate and the tower of St Mary's Church, would be obscured. Whilst the harm is therefore limited (Historic England describe the harm as 'low level'), it is agreed that less than substantial harm would be caused. The NPPF requires that, where such harm is identified, "this harm should be weighed against the public benefits of the proposal".
- 2.14 The rear (east) of the development would be plainly visible from and across the car park serving St James'. This elevation would be seen adjacent to the tall (due to its large parapet) two storey building, Unit 1C, which is occupied by Costa and Anytime Fitness to its right hand side and the rear elevation of No.'s 64 to 68 Castle Street, which are four, part five, storeys in height, to its left. The development would be built off the side elevation of No.64 which currently presents a blank façade which has been temporarily covered in black sheeting following the demolition of the former Snoops building. The building would also conceal views across the site towards Stembrook Court. It is considered that some enhancement would be gained by providing a building in this location, as it would prevent views of the unattractive rear and side elevations of No.64 Castle Street. The design of the building positively references the yellow brickwork and window proportions of the St James' development, such that it would complement the cohesive design of the scheme. The use of materials would alter to the western (left hand) side of this elevation, where the height would also decrease to three storeys, to provide a transition to the rear elevation of No's 64 to 68 which comprises expanses of unrelieved brickwork. To provide concealment, and to provide an alternative to a continuation of the brickwork, the application proposes dark grey cladding, with a section of lighter grey cladding, whilst at ground floor level, this section would be timber boarded. It is considered that that choice of materials responds to the larger buildings in the St James' development and is successful in avoiding a monotonous use of brickwork.
- 2.15 The development would be seen in longer views from the north east along Stembrook, however, no visual harm would be caused due to the angle of view being sufficiently limited and the context of view, which would include Stembrook Court. Views would also be gained from the area around No. 21 Market Place (and the listed façade of the Dover Museum and Tourist Information Centre). However, these views would be over a three storey section of Dolphin House, between the four storey 64 to 68 Castle Street and the remainder of Dolphin House which is also four storeys in height. Given the very limited nature of this view, it is not considered that harm would be caused. The site would also be visible in views from either side of the valley (from Dover Castle and from Western Heights). However, given the distance at which these views would be taken, it is not considered that the development would be prominent and would not, therefore, cause harm to views from these points or the settings of heritage assets, particularly as the building would be seen in the context of many large, C20th buildings. It is not considered that the development would cause harm from any other viewpoint.
- 2.16 In terms of its design, it is considered that the building would be overtly modern in the street scene. Whilst such an approach could, in some

circumstances, be inappropriate, it is considered that in this location this approach is correct. This conclusion is reached as the building is located between two very different styles of building: to the east is the austere mid-century design of No.'s 64 to 68 Castle Street, whilst to the west there are the simple, traditional, late Georgian/early Victorian listed terraces. Whilst these two styles are at odds with each other, the use of brick, horizontal banding (plat bands or copings etc.) and fenestrations with a regular rhythm provide some unity. The proposal would replicate these features, being constructed of brick, having a coping to the top of the third floor and having a regular, repeating, fenestration. The floor to ceiling heights would be consistent with No's 64 to 68 Castle Street and would therefore sit comfortably with this building.

- 2.17 This design would be continued along the less prominent Dolphin Passage elevation, where views of the upper parts of the building would be restricted by the narrow width of the road. However, at ground floor level, the addition of timber boarding around entrance doors would add some visual interest to passers-by. The corner of the Dolphin Passage and St James' elevations provides, at second and third floor levels, vertical 'solar fins' which would splay out from the rounded corner. This is a new architectural feature for area, which is considered to be appropriate by reason of its location adjacent to the new St James' development. In this context, this innovative feature will add significant interest to the building. The St James' elevation would continue the principles of the other two elevations, before changing to the transitional metal clad part of the building. As set out above, it is considered that this change is necessary to provide a variation from brickwork, due to the expanse of brickwork to the rear of No.64 to 69 Castle Street. This element would, however, continue to relate positively to the rest of the building, due to the furtherance of the fenestration used elsewhere. Whilst it is therefore considered that the detailed design of the building is acceptable there should be, recognising the concern raised by consultees, a need to ensure that the palette of materials and detailed design is appropriate. It is therefore considered that conditions should be attached to any grant of permission to require; samples of materials; full details of the window frames and glazing bars; details of window reveals; details of coping and window surrounds; details of railings to balconies; and details of hard and soft (planting to balconies) landscaping.
- 2.18 Overall, it is concluded that the development would provide some visual enhancement of the townscape, particularly when viewed from Dolphin Passage and St James', whilst there is a clear benefit in regenerating the site and tidying up what is currently a significant detractor from the character of the area. Whilst the design of the building is considered to be acceptable, subject to conditions, it is inevitable that a building of this scale will be prominent in some views. This scale results from a need to provide a scheme which is viable; however the required height does impact upon the setting of designated heritage assets, namely views of Dover Castle and the setting of the Conservation Area and Listed Buildings. This harm must be weighed against the public benefits of the proposal when considering the application in the round, having regard for the Statutory Duty on Local Planning Authorities to have 'special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses'.

Impact on Residential Amenity

- 2.19 The site lies in the town centre where, typically, ground floors are in commercial use and upper floors are in residential use. To the north of the

site, across Castle Street, is Stembrook and to the west is 64 to 68 Castle Street. These properties conform to the residential over commercial character.

- 2.20 To the east is 60 Castle Street, No.'s 2 and 4 Dolphin Passage, which include ground and upper floor residential uses and, within the St James' development, Unit 17 which is in commercial use. To the south is the car park for the St James' development. Other properties, for example those on King Street, are considered to be sufficiently distant from the site so as to not be significantly affected by the development.
- 2.21 Stembrook Court lies to the north of the site on the opposite side of Castle Street. It contains commercial floor space at ground floor level with three storeys of residential space above. The building would be around 12m away from the proposed building, with windows in the elevations to both Stembrook Court and the proposed building. Due to the relative heights and massing of buildings, and their separation distance, some loss of light (likely late morning) and sense of enclosure to the first and second floor flats in Stembrook Court would occur, although this impact would be minor whilst the third floor would not be significantly affected.
- 2.22 The development would not protrude forward of the front elevation of No.'s 64 to 68 Castle Street and so would have no impact on the windows in the front elevation of that building. The side elevation of No.64 contains no windows or other openings and so would not be affected. The proposed development would wrap around part of the southern side of No.64 which does contain windows, some of which (to upper floors) serve residential properties. The proposed building has responded to this by limiting the height of the proposed building in areas which would have the greatest impact on these windows. Whilst a degree of loss of light and sense of enclosure would be caused, this would largely affect relatively small windows serving the ground floor retail unit and would not cause an unacceptable impact on other windows.
- 2.23 No.60 Castle Street and No.'s 2 and 4 Dolphin Passage are located the closest to the application site, being around 5m to the east. At present, windows within these properties facing towards the site enjoy a separation distance of around 30m to No.64 Castle Street across the application site. These properties include ground floor residential uses. Given the close proximity between these properties and the proposed development, it is clear that a loss of light and sense of enclosure, together with interlocking between windows in the two buildings, would be caused. This is considered to weight against the development.
- 2.24 The application has been supported by a Daylight and Sunlight Assessment which concludes that, whilst there will be some impact on neighbouring properties, the reduction in daylight to the majority of windows will not be noticeable whilst the reduction in sunlight would be within the limits prescribed by BRE Guidelines for the majority of windows. Whilst some windows would experience a noticeable change, described as moderate in the assessment, they would continue to receive a reasonable degree of sunlight and daylight. These findings are broadly consistent with the assessment above, insofar as it relates to sunlight and daylight.
- 2.25 It is noteworthy, although not determinative, that the site had, until relatively recently, contained a building of comparable size to that which is now proposed. Although this building has now been demolished, it demonstrates that the light levels reaching properties and the outlook from windows are

relatively recent gains. It is considered that this a material consideration when assessing the weight to attribute to the loss of light, sense of enclosure and overlooking which would be caused.

- 2.26 Whilst the applicant's Daylight and Sunlight Assessment demonstrates that the impact on neighbouring properties would be limited, it is nonetheless considered that some harm would be caused, which must be weighed in the planning balance.
- 2.27 The construction phase has the potential to cause unacceptable impacts on the living conditions of neighbours, particularly given that the building would directly abut No.64 Castle Street and would be in close proximity to the properties to the eastern side of Dolphin Passage. Consequently, Environmental Health have recommended that, should permission be granted, a condition be attached requiring that a Construction Management Plan be submitted for approval. Subject to such a condition, it is considered that impacts from this phase could be suitably mitigated.
- 2.28 Turning to the living conditions of future occupiers, all flats would be of reasonable size and would be naturally lit and ventilated. Whilst some rooms would, by virtue of their relationship with No.64 Castle Street have a more limited outlook, it is not considered that this would result in significant harm. A moderate degree of overlooking would occur from the upper floors of Stembrook Court, however, it is not considered that this impact would be unacceptable. A separate refuse storage area for the residential units would be provided at ground floor level. Environmental Health have raised concerns that the arrangement of residential flats and their relationships with the commercial areas and each other could result in unacceptable noise and disturbance to future occupiers. However, they have advised that this could be mitigated by attaching conditions to any grant of permission requiring the provision of sound insulation between commercial and residential uses and between residential uses. For these reasons, and subject to conditions, it is considered that the living conditions of future occupiers would be acceptable.

Impact on the Local Highway Network

- 2.29 The proposed development would have one vehicular access, from St James Lane (through the St James' development). The access would link to an existing access road providing circulation around the car park. Being adjacent to a 90 degree bend in this road, vehicle speeds at this point are relatively slow. Whilst visibility splays are not shown on the submitted drawing, it is noted that the access is approximately 3.8m wide. The majority of vehicles would exit roughly centrally, in order to avoid the damage to vehicles and, as such, would have a reasonable degree visibility out of the access. Delivery, refuse and emergency vehicles would not need to gain access to the site and would instead temporarily stop on the internal access road in the St James' development. Kent Fire and Rescue and KCC Highways have raised no objections to such an arrangement. It is recommended that, should permission be granted, a condition should be attached to ensure that such vehicles do not use Dolphin Passage or Castle Street, which would cause an obstruction.
- 2.30 Policy DM13 of the Core Strategy requires developments to provide sufficient car parking, having regard for the scale of the development and its location. DM13 does, however, acknowledge that car parking provision should be design-led. The site is considered to be in a town centre location. In such locations, Table 1.1 of the Core Strategy advises that dwellings should be

provided with a maximum of one car parking space per dwelling, whilst visitor parking can be accommodated within public car parks. However, footnote 1 of Table 1.1 advises that within Town Centre locations reduced or even nil provision is encouraged in support of demand management and the most efficient use of land. The commercial uses would also generate a need to travel to and from the site.

- 2.31 The development would incorporate four car parking spaces at ground floor level, one of which has been designed to accommodate disabled users. Given the tight turning area available, the application includes a car turntable to allow vehicles to turn within the site and exit in a forward gear. Whilst the car parking on site is very limited, in accordance with advice from KCC, it is considered that this is acceptable, given the highly sustainable location of the development. The site is close to all of the day-to-day facilities and services required to meet the needs of occupants and users of the development, whilst the nearest bus stops providing frequent services are less than 100m away and the nearest train station providing mainline and High Speed services is less than 800m away. The St James' car park is adjacent to the site, whilst the Stembrook public car park is around 75m away. Consequently, it is concluded that the site is capable of accommodating low car/car free development, in accordance with the government's objectives to promote sustainable transport and make efficient use of land. It is important to clarify that the provision of additional car parking would further erode the viability of the scheme, as parking spaces do not significantly increase sales values and require significant floor space.
- 2.32 An area of around 42sqm would be provided for cycle parking and refuse parking. It is not clear how this space would be subdivided or what proportion of the space would be given over to each use. However, it is considered that the size of the area is sufficient to provide adequate provision for both requirements. However, given the uncertainty as to the detail of provision, it is considered that conditions should be attached to require full details of both refuse and cycle provision.
- 2.33 Stagecoach have advised that early discussions have taken place to improve the Market Square, which may mean that the bus stops need to be relocated to Castle Street. Although there is no specific project in place at this time, Stagecoach have requested that the development should not prejudice the future relocation of the bus stops. The proposed building would be in line with the front elevation of 64 to 68 (and behind the protruding canopy of these neighbours), being set around 1.8m inside the application site area. Consequently, the development would retain the existing width of the pavement, which is more than capable of accommodating bus stops or a bus shelter (albeit the relocation of bus stops would, in themselves, likely require changes to the footpath, kerbs and on-street parking). Moreover, as the entrance to the ground floor commercial unit which fronts Castle Street is located at the junction of Castle Street and Dolphin Passage, the location of this entrance would not prejudice the location of a bus stop along the Castle Street frontage.

Archaeology

- 2.34 The site lies in a very sensitive location in terms of the potential for archaeological remains. The site lies within a former estuary at the mouth of the River Dour. Any deposits would likely be waterlogged and therefore, due to the potential for organic matter to be preserved, of great

palaeoenvironmental interest. Wooden structures and artefacts may also be preserved. It is from deposits such as this that the internationally important Dover Bronze Age Boat was discovered around 160m to the south. It is also said that a log canoe was discovered on the opposite side of Dolphin Passage. Evidence of Roman harbour installations were found 45m to the south-east of the site, whilst evidence of a piled timber quayside and jetty were observed in the 1950's at Stembrook Court opposite the site. The precise arrangement of Roman harbour and quay facilities is not understood, and it is possible that harbour related structures or other maritime features of Roman date may be present within the proposed development site. During the construction of the St James' development, unabraded Roman pottery and Anglo-Saxon coin were found immediately overlying marine lain sands.

- 2.35 Medieval and post-medieval occupation gradually extended across much of the former estuary/harbour basin as streets were laid out and buildings erected, with numerous Norman and post-Norman finds close to the site, including a vaulted medieval structure to the west on Castle Street and possible medieval floors and surfaces on the opposite side of Dolphin Passage. It has been suggested, although remains unproven, that the line of Dover's medieval town walls may have run through or close to the site, with the foundations of a possible tower having been recorded a short distance to the south. Castle Street itself is of post-medieval date and there have been numerous discoveries related to this period.
- 2.36 Due to the great potential for archaeology at the site, and the potential for that archaeology to be highly significant, KCC Archaeology initially requested that archaeological field evaluation take place prior to the determination of the application, to allow the full potential for buried Archaeology to be understood at the decision making stage and for any archaeology to be preserved in situ.
- 2.37 The applicants raised concerns regarding undertaking archaeological fieldwork prior to determination and it is acknowledged that this would present significant upfront costs and delay, against a backdrop of perilous financial viability. The applicants have advised that the foundation design will comprise a degree of flexibility around the location of any piling, whilst the stair/lift core could be moved to an alternative location (as part of a non-material amendment), if required in order to preserve archaeology in situ. The applicant is fully aware of the requirement to undertake post planning decision survey work to discharge planning conditions prior to commencing development and is also cognisant of the obligation to fund the archaeological works in order to bring forward the development on the site.
- 2.38 In response, whilst KCC Archaeology have advised that they would prefer to see pre-determination archaeological fieldwork, they are satisfied that the applicant has provided confidence that the scheme can be augmented to response to archaeological constraints post-determination. Consequently, subject to a suite of three conditions being attached, no objection is raised. These conditions would require:
- 1) That a scheme of archaeological field evaluation takes place in accordance with an agreed specification and timetable and that further investigation and recording or preservation in situ is secured, as appropriate, following evaluation.
 - 2) Within 9 months of the completion of on-site archaeological work, a post excavation assessment report is submitted for approval, which

shall include a timetable for further analysis, publication and archive deposition.

3) Details of foundation design are submitted for approval.

2.39 Whilst it is agreed that, ideally, archaeological field work should take place prior to determination, in order to ensure that the archaeological impacts of the development are known at the outset, with any alterations required to the foundations and excavations being made before determination, it is considered that the conditions proposed by KCC Archaeology provide the required surety that the development would not cause significant harm to archaeological remains, in accordance with the NPPF.

Flood Risk and Drainage

2.40 Parts of the site lie within Flood Risk Zones 2 and 3. The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, the development should be made safe without increasing the flood risk elsewhere. Where development within areas at risk of flooding is proposed, the NPPF requires that the Sequential Test is applied and, if necessary, that the Exception Test is applied.

2.41 The aim of the Sequential Test is to steer development to areas with the lowest risk of flooding. However, development may be permitted where there are no reasonably available sites which are appropriate for the development in areas with a lower probability of flooding.

2.42 A Sequential Test has not been undertaken by the applicant, albeit the submitted Flood Risk Assessment advises that the site itself has been sequentially tested and, consequently, the more vulnerable residential uses have been located to the upper floors. Whilst this approach is not consistent with the NPPF, it is considered that due to the unique nature of this development, there is little alternative but to locate the development on this site. The development comprises main town centre uses at ground and first floor levels, limiting the scope of the search area to town centre locations. Furthermore, the amount of development being applied for necessitates a tall building, which itself necessitates a site adjacent to other tall buildings (in this case the 64-68 Castle Street), again limiting the search area. Finally, a unique proposition of the application is its role in facilitating enhancements to the route between the St James' development and the town centre. No other sites could achieve this. Whilst the sequential assessment of this site is unorthodox, it is considered that the circumstances of this applicant warrant such an approach. Planning Guidance also recognises that flexibility and pragmatism may be applied in circumstances where there is a need for regeneration. For these reasons, and in accordance with the NPPF, there are no "reasonably available site appropriate for the proposed development in areas with a lower risk of flooding" and, therefore, the sequential test is passed.

2.43 In accordance with the Planning Practice Guidance the Exception Test must also be applied to More Vulnerable development (dwellings and public houses), although it should not be applied to Less Vulnerable development (e.g. shops, offices, restaurants). The Exception Test comprises two parts.

2.44 Firstly, it is necessary to consider whether the development would provide wider sustainability benefits to the community. As demonstrated by the

support received from the council's Head of Inward Investment and the Dover Chamber of Commerce, and for the reasons set out earlier in this report, the development would deliver significant regenerative benefits to this part of Dover, providing a more attractive route between St James' and the town centre, redeveloping a vacant plot which has attracted rubbish and providing employment and housing in a highly sustainable location. It is therefore considered that the first part of the Exception Test has been passed.

2.45 The second part of the Exception Test requires that the development be safe for its planned lifetime, taking account of the vulnerability of its users, without increasing the risk of flooding elsewhere. Where possible an overall reduction in flood risk should be sought. The More Vulnerable residential uses have been located at second floor level or above, well above the design flood level. The occupiers of the residential units would therefore be safe from any flooding. At ground and first floor level, all uses with the exception of Use Class A4 Drinking Establishments would be Less Vulnerable. Whilst A4 uses could occupy the ground floor, the floor level would be 200mm above the design flood level whilst flood resistance and resilience measures could also be incorporated. It is considered that, subject to details of the measures to be incorporated at ground floor level being secured by condition, users of the development would be safe over the developments planned lifetime. Moreover, given the management of surface water (which will be explained below), compared to the existing lack of management of surface in the context of a non-permeable surface to the site, the development would not increase the risks of flooding elsewhere. Therefore, the Exception Test has been passed.

2.46 The existing site is predominantly non-permeable, being largely covered by concrete. As such, the development would be unlikely to significantly increase surface water run-off. However, it would be appropriate to ensure that the proposed development is served by suitable surface water drainage, in accordance with the clear requirement in the NPPF that major development should incorporate sustainable drainage systems except in exceptional circumstances (paragraph 165). The development would also need to be served by adequate foul drainage infrastructure which avoids increasing the risk of flooding on site or elsewhere. Given that the development would occupy the entire footprint of the site, it is not considered that infiltration is feasible. As such, the submitted Surface Water Management Strategy advises that both surface water and foul water will discharge to the public sewer, albeit the site will accommodate a 'blue roof' system to slow down the flow of rainwater and manage its discharge to the sewer to a rate of no greater than 9.6l/s during a critical storm. Southern Water have raised no objection to the application, but have advised that the drainage system will need to be appropriately modelled whilst recommending that conditions should be attached requiring full details of surface and foul water drainage. It is considered that such conditions are reasonable and necessary, although it is also considered that a timetable for the provision of this infrastructure should also be required by condition.

Contamination

2.47 The application has been supported by a Contaminated Land Assessment. This assessment, which has considered the former uses of the site and the likelihood of contamination being encountered during construction or which could be a risk to human health or the environment. The report concludes that there is a low risk of significant contamination on the site due to its former

uses. However, it does conclude that off-site uses present a moderate risk of contamination to the site. The report therefore recommends that intrusive investigations take place, including sampling and testing of material. Environmental Health have advised that, concurring with the recommendations of the report, conditions should be attached to any grant of permission to secure the recommended contamination work, together with remediation and verification of remediation as necessary.

Contributions

- 2.48 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 policy also acknowledges that the exact amount of affordable housing, or financial contribution, to be delivered from any scheme will be determined by economic viability, having regard to individual site and market conditions.
- 2.49 Policy CP6 requires that development which generates demand for additional infrastructure will only be permitted if the necessary infrastructure is either in place or where it can be provided. Policy DM27 requires that developments contribute towards the provision of open space to meet the needs which will be generated by the development. However, no requests for contributions have been received for infrastructure such as schools, libraries etc. or for open space provision. A request has been received from the NHS who have requested £20,160 for the installation of a patient lift at St James' Surgery, Harold Street. However, no evidence has been provided as to how the figure of £360 per patient has been reached or how the provision of a lift would increase the capacity of the surgery to meet the additional need generated by this application. In the absence of this information, it is not considered that the request is CIL compliant and cannot be sought.
- 2.50 The application has been supported by a viability statement which seeks to demonstrate that the development cannot support the provision of affordable housing or contributions, making a substantial loss. In accordance with the Council's normal practice, and having regard for the Affordable Housing SPD, the council appointed an independent viability consultant to review the applicant's report.
- 2.51 The council's viability consultant questioned a number of the assumptions made within the submitted statement and sensitivity tested the applicant's viability appraisal.
- 2.52 The consultant undertook their own research into the local housing market to establish whether the sales values proposed were reasonable. The report valued the development at just under £7.5million, valuing the residential units at an average of around £207,000 and the commercial floor space at just under £1.5 million. The consultant advised that whilst they had found insufficient data on new build flats in the area over the last two years, they had increased the predicted sales values of the flats to accommodate for this, concluding that the applicant's valuation of sales values is within reasonable parameters for the area. The retail floor space was also compared to recent lettings in the area. The applicant values the commercial floor space at £107.64 per square meter. The average rate in the area is £92 per square meter and, as such, the consultant concluded that the applicant's conclusion was not unreasonable.

- 2.53 Turning to construction costs, the applicant had adopted a figure of £1,834 per square meter or just over £7.5 million in total. The consultant compared this figure to the BCIS database, concluding that a median build cost would be £1,957. The applicant's figure is therefore lower than the average build cost for a development of this type, albeit is within the normal cost range.
- 2.54 Other figures, such as sales and marketing costs, legal fees, professional fees etc., were also examined and whilst there was some disagreement between the parties, these differences did not amount to a significant difference overall, with the scheme continuing to make a modest loss. Consequently, the viability assessor is of the opinion that the scheme is not sufficiently viable to support contributions. They have also commented that it is unusual that a scheme with an existing use value of zero is unable to support contributions. However this is caused by the low sales values achievable in the local area set against relatively high build costs. In accordance with Policy DM5, which acknowledges that "the exact amount of affordable housing, or financial contribution, to be delivered from any specific scheme will be determined by economic viability having regard to individual site and market conditions", and having regard for paragraph 64 of the NPPF and the advice contained within the Planning Practice Guidance, it is considered that the application has demonstrated that it would not be reasonable in this instance to require affordable housing or contributions.

Ecology

- 2.55 Having regard for Natural England's Standing Advice, it is not considered that the site contains any features likely to provide habitat for protected to notable species.
- 2.56 It is noted that the River Dour passes underneath the site, within a culvert. Whilst rivers are typically important ecological resources, the culverting of the river at this point has created a barrier to fish migration and caused the substantial loss of watercourse habitat. Consequently, it is concluded that no loss of habitat would be caused by the development.
- 2.57 The Environment Agency have objected to the application, on the basis that the redevelopment of the site presents an opportunity to restore the River Dour through the site and that the development does not provide this restoration.
- 2.58 Until recently, the site was occupied by a building of comparable scale. This building was demolished shortly before, and in anticipation of, the submission of the current planning application. The site still contains some remnants of the building and is entirely covered by concrete hardstanding.
- 2.59 There is no evidence of any deliverable plans to open up the river at this point, whilst any such plan would itself require the acquisition of the site and significant investment. Opening up the river at this point would allow for little, if any, developable space and, as such, opening up the river would be highly unlikely to be financially viable. It is therefore questionable whether there is a realistic opportunity to open up the river in this location. The river would remain culverted under Castle Street to the north and for a short stretch under the car parking to the St James' development, so it is therefore questionable the extent to which the opening up of this short stretch of river would enhance biodiversity.

- 2.60 Given that the river is currently culverted and this situation is highly unlikely to change, it is not considered that the development would result in the loss of or harm to biodiversity. Whilst paragraph 175 (d) of the NPPF encourages the incorporation of biodiversity improvements, it does not direct that permission should be refused where improvements are not incorporated.
- 2.61 It is also noted that the Development Plan includes a policy, DM18, which seeks to enhance the River Dour and its setting. However, this policy acknowledges that it may not be possible to deliver enhancements in all cases.
- 2.62 In the absence of being able to open up the river, the Environment Agency were asked for their further comments. In their response, they acknowledge that concern may be outweighed by other benefits to the project, but suggest that off-site enhancement of the river could be achieved. River restoration/enhancement projects suggested by the Environment Agency are:
- Fish passage at Halfords weir
 - Restoration at Barton path
 - Long term funding for the river warden scheme lead by WCCP

As has been addressed previously within this report, the scheme already has questionable viability such that affordable housing and contributions cannot be supported. Moreover, as the development would result in no loss of habitat, it is not considered that a requirement to provide off-site enhancements would comply with the CIL Regulations tests for requiring contributions as the contribution would not be: “necessary to make the development acceptable in planning terms”; “directly related to the development”; or, in the absence of evidence to demonstrate what a proportionate contribution would be, “fairly and reasonably related in scale and kind to the development”. Consequently, it would not be reasonable to require the developer to fund off-site enhancements to the River Dour. These enhancements will not, therefore, be sought.

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

- 2.63 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.64 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.
- 2.65 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.

- 2.66 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.67 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, which will be secured by a S106.
- 2.68 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

Other Matters

- 2.69 It is relevant to note that, whilst the council can demonstrate a five year housing land supply, the presumption in favour of sustainable development (set out at paragraph 11 of the NPPF), or 'tilted balance', is engaged as the council's development plan is out-of-date. Moreover, whilst the development would cause less than substantial harm to designated heritage assets and would impact upon archaeology (insofar as pre-commencement archaeological works would be required), it is not considered that these matters trigger the tilted balance to be disengaged as the policies relevant to those considerations do not provide "a clear reason for refusing development proposed" (having regard for footnote 6). Therefore, determination must consider the presumption in favour of sustainable development (the 'tilted balance').

3. Conclusion

- 3.1 The site is located within the settlement confines of Dover, which is identified as the 'major focus for development in the District; suitable for the largest scale developments'. The principle of the development is therefore supported.
- 3.2 The development would cause less than substantial harm to the settings of designated heritage assets and it is therefore necessary to refuse permission unless there are public benefits that outweigh this harm, whilst also having regard for the duty on the local planning authority to have special regard to the desirability of preserving the settings of these assets. The development would also reduce the residential amenity currently enjoyed by neighbouring properties. However, it is considered that the regeneration of this site and the economic benefits this regeneration would bring to the town centre, by providing an attractive link to St James' (as well as the employment directly related to the development and the provision of dwellings in a highly sustainable location) provides compelling benefits which outweigh the less than substantial harm to heritage assets and the impacts on neighbours. Additionally, subject to conditions, it is considered that the development is

acceptable in all other material respects and, therefore, it is recommended that permission be granted.

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Recommendation

I PERMISSION BE GRANTED subject to a S106 agreement to secure habitat mitigation and conditions to include:-

(1) standard time limits, (2) approved plans, (3) samples of materials, (4) full details of window frames and glazing bars, (5) details of window reveals, (6) details of copings and window surrounds, (7) details of railings to balconies, (8) details of hard and soft landscaping, (9) provision of access, car parking and turning areas (including car turntable) prior to first occupation, (10) details of areas to be used for the loading and unloading in relation to the commercial units, (11) details of cycle parking, (12) details of suitable facilities for refuse storage, (13) archaeological field evaluation, (14) submission of post evaluation archaeological report, (15) details of foundation design, (16) details of flood resistance and resilience measures to be incorporated, (17) scheme for foul water drainage, including a timetable for its implementation, (18) details of surface water drainage, including a timetable for its implementation, (19) scheme of sound insulation between commercial and residential and between residential and residential units, (20) contaminated land assessment, together with remediation and verification as necessary, and (21) construction management plan.

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

Luke Blaskett