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13 January 2021

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **PLANNING COMMITTEE** will be held as a Remote Meeting - Teams Live Event on Thursday 21 January 2021 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, Democratic Services Officer on (01304) 872303 or by e-mail at democraticservices@dover.gov.uk.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nicky', written over a white background.

Chief Executive

Planning Committee Membership:

J S Back (Chairman)
R S Walkden (Vice-Chairman)
M Bates
D G Beaney
E A Biggs
T A Bond
D G Cronk
O C de R Richardson
H M Williams
C F Woodgate

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** (Pages 5-16)

To confirm the attached minutes of the meeting of the Committee held on 17 December 2020.

5 **ITEMS DEFERRED** (Page 17)

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

ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING

(Pages 18-23)

6 **APPLICATION NO DOV/20/01117 - LAND REAR OF 152 AND 154 CANTERBURY ROAD, LYDDEN** (Pages 24-37)

Erection of a detached dwelling, vehicular access and associated parking

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

7 **APPLICATION NO DOV/20/00531 - LAND BETWEEN 20 AND 24 CASTLE AVENUE, DOVER** (Pages 38-53)

Erection of a three-storey building to provide six self-contained flats with associated car parking and formation of new vehicular access (existing double garage to be demolished)

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

8 **APPLICATION NO DOV/19/01260 - LAND OFF CHURCH LANE, DEAL** (Pages 54-98)

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

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

ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING

9 **APPEALS AND INFORMAL HEARINGS**

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

**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

- The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 have changed the basis of the public's legal right to attend meetings. This means the public now has the right to hear Councillors attending the remote committee meeting that would normally be open to the public to attend in person. It is the intention of Dover District Council to also offer the opportunity for members of the public to view, as well as hear, remote meetings where possible. You may remain present throughout them except during the consideration of exempt or confidential information.
- 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 by telephone: (01304) 872303 or email: democraticservices@dover.gov.uk

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.

Minutes of the meeting of the **PLANNING COMMITTEE** held remotely on Thursday, 17 December 2020 at 6.00 pm.

Present:

Chairman: Councillor R S Walkden (Vice-Chairman in the chair)

Councillors: R S Walkden
M Bates
D G Beaney
E A Biggs
T A Bond
D G Cronk
O C de R Richardson
H M Williams
C F Woodgate

Officers: Principal Planner
Planning Officer
Planning Consultant
Planning Solicitor
Democratic Services Manager
Democratic Services Officer

The following persons submitted written statements which were read out by the Democratic Services Manager in lieu of public speaking:

<u>Application No</u>	<u>For</u>	<u>Against</u>
DOV/20/01076	Mr Clive Tidmarsh	Mr & Mrs Louis Thompson
DOV/20/01063	Mr John MacKenzie	Mr Anthony Byfield Ms Bridget Ransom

71 APOLOGIES

It was noted that an apology for absence had been received from Councillor J S Back.

72 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor P D Jull had been appointed as a substitute member for Councillor J S Back.

73 DECLARATIONS OF INTEREST

Councillor H M Williams advised that she had sent an e-mail to residents in relation to Agenda Item 8 (Application No DOV/20/01125 – Site at Cross Road, Deal). However, she confirmed that she had not predetermined the application and was approaching it with an open mind.

Councillor P D Jull advised that he had made representations in relation to the previous application for the site at Cross Road, Deal. However, his views on Agenda Item 8 (Application No DOV/20/01125 – Site at Cross Road, Deal) amounted only to a predisposition, and his decision would be based on the discussions held at the meeting.

74 MINUTES

The minutes of the meeting held on 19 November 2020 were approved as a correct record and signed by the Chairman.

75 ITEMS DEFERRED

It was noted that the deferred item was not for consideration at the meeting.

76 APPLICATION NO DOV/20/01076 - LAND NORTH-EAST OF THE CLOSE NURSERY, STATION ROAD, ST MARGARET'S-AT-CLIFFE

The Committee was shown an aerial view, a map, drawings, plans and photographs of the application site which was located outside the village confines of St Margaret's-at-Cliffe and within the countryside and the Kent Downs Area of Outstanding Natural Beauty (AONB). The Planning Consultant advised that planning permission was sought for the erection of a detached dwelling and double garage.

The Principal Planner gave an update on the Local Plan in relation to the committee reports. Since they had been written, the draft Local Plan had been presented to Cabinet and the Overview and Scrutiny Committee. Cabinet had approved the draft for public consultation commencing on 20 January 2021. Whilst limited weight should be attached to the draft Local Plan at this early stage in the process, it was a material consideration. In respect of the application under consideration, the Planning Consultant added that the draft Plan did not propose to change the designation of the site within the AONB.

The Committee was reminded that it had refused an application for a very similar scheme in May 2020, on the same grounds as recommended by Officers for the refusal of the current application. The only difference between that and the current scheme was additional landscaping and tree planting along the boundary of the site, with an area left as natural grassland rather than for domestic purposes. An additional drawing had been submitted with these boundary details. A 2017 application had also been refused and dismissed at appeal in 2019. There had been little change in the physical appearance and condition of the site since 2017. The current condition of the land, the Appeal Inspector's judgement of the scheme and the Committee's previous decision on fundamentally the same proposal were material considerations in determining the application.

To clarify, Members were advised that the Appeal Inspector had stated that, given the separation distances from surrounding dwellings, the proposal would appear as a sporadic form of development that would encroach into the countryside. Furthermore, the development would suburbanise the site, eroding its rural qualities and the AONB, and the site would be clearly visible from surrounding properties, public rights of way and from Kingsdown Road to the east where the site was visible across the valley.

The applicant had referred in submissions to a nearby development of three bungalows in Nelson Park Road, a site which was also in the AONB. It was clarified that that site, unlike the one under consideration, was within the settlement confines and, as such, the two sites were not directly comparable. Although the applicant was proposing an area kept as natural grassland, it was not clear what this entailed nor how it could be controlled or enforced. It was also important to note that some of the hedgerow that currently provided some screening to the site from the AONB

was outside the application site and therefore outside the control of the applicant. This meant that the retention of the hedgerow to the south of the site and partly to the south-east should be accorded limited weight in the Committee's determination as its loss and replacement could not be controlled by planning condition.

The Planning Consultant stressed that the main point to consider was whether the proposal would cause harm to the character and appearance of the area, including the AONB. In this regard, it was the view of Officers that the development would appear distant from surrounding properties and would be seen as a sporadic form of development in the countryside. The site was not considered to be a natural or obvious extension to the village confines. The building would be visible from surrounding properties and public vantage points, and the full height of the building would be visible from certain locations. The use of the land around the building would be domestic, with the paraphernalia associated with such use. The use of the land would similarly erode the rural qualities of the area, a factor identified by the Appeal Inspector.

Whilst the Planning Committee was entitled to come to a different view to the one that supported its previous decision, the planning reasons for this should be explicitly stated in order to explain how a different outcome was being reached, having regard to all material considerations and the great weight that was afforded in the National Planning Policy Framework (NPPF) to conserving and enhancing the landscape and scenic beauty of the AONB.

The Planning Consultant advised that Members should be aware of some other matters. Firstly, that the Appeal Inspector had not considered that harm to highway safety was a reason to dismiss the 2019 appeal. Secondly, submitted with the 2017 application was a Preliminary Ecological Impact Assessment of the site which had raised no particular issues or concerns. If permission were to be granted, a series of planning conditions to address the assessment's conclusions should be imposed. Finally, in the event that the Planning Committee concluded that the proposal failed to conserve and enhance the landscape and scenic beauty of the AONB, the presumption in favour of granting permission for sustainable development (i.e. the tilted balance) would not apply.

In summary, it was considered that the application site made a positive contribution to the open character and beauty of the countryside, within the AONB. The site was visible from surrounding properties, the public rights of way and the open countryside, and should be considered as an integral part of the countryside, acting as an important visual buffer between the confines of the village and the cultivated farmland to the south. The proposed dwelling would be a sporadic form of development, visually sitting in isolation from surrounding development. Finally, the hedgerow that had been relied upon by the applicant's submissions was not within the site and the control of the applicant and, as such, could not be guaranteed as a form of screening. It was considered that the planning benefits of the scheme did not outweigh the harm that would be caused, and refusal was therefore recommended.

Councillor D G Cronk welcomed the explanation of the differences between the former and current schemes. In his view, insufficient changes had been made to come to a different view to that taken in May. He proposed that the application should be refused in accordance with the Officer's recommendation. Councillor E A Biggs agreed that the changes made were insignificant. The proposal was unacceptable due to the harm it would cause to the AONB which should be protected. Councillor H M Williams stated that the dwelling was interesting but in

the wrong place. The proposal was 'nibbling away' at the edges of the AONB and could set a precedent. In response to queries raised by Councillor P D Jull, the Planning Consultant clarified that paragraph 79(e) of the NPPF related to isolated development in the countryside which did not apply in this case. When compared with the scheme that went to appeal, the current design was well composed and an improvement – but not innovative.

Councillor O C de R Richardson argued that the site was scrubland and unattractive. The Planning Consultant stressed that the Appeal Inspector had found that the site contributed positively to the open character of the area and countryside. It was not helpful to look forensically at each parcel of land but to consider the AONB as a whole. Whilst the site might look scrubby and different to the surrounding farmland, it had a value and made a contribution to the overall scene. Councillor M Bates agreed that the site was unsightly and argued that development would enhance it.

In response to Councillor T A Bond, it was confirmed that a landscaping condition could be attached to keep the eastern section of the site as natural grassland, with details of the area required. In addition, permitted development rights could be removed to prevent development of this area. Councillor Bond was of the view that the proposal was innovative and would not detract from views of the AONB. If anything, it would improve views from the AONB by blocking out some of the houses surrounding the site. He noted that the applicant had also made improvements to the landscaping.

In response to Councillor Biggs who referred to setting a precedent, the Planning Solicitor advised that the creation of a precedent was capable of being a material consideration. The question was whether a proposal could be replicated widely across the district and therefore whether the granting of permission in this instance would create a risk of other such applications being submitted. In those circumstances, granting planning permission could be seen to be setting a precedent. By itself, the creation of a precedent would rarely constitute a reason for refusal. However, where the decision being taken was contrary to policy without compelling reason, the creation of a precedent could carry significant weight. In this case, the dwelling would be outside the settlement confines and therefore contrary to the Council's Core Strategy Policy DM1. Furthermore, the Committee was required to give great weight to conserving and enhancing the landscape of the AONB, as set out in paragraph 172 of the NPPF. Ultimately, it was for the Committee to decide how much weight should be accorded to setting a precedent by granting planning permission.

In response to a query from Councillor D G Beaney, Members were advised that, whilst possible, attaching a lifetime condition to control a matter like landscaping would be unusual and could be viewed as unreasonable. Landscaping would not last as long as the building itself, but a period of 10 to 15 years might be regarded as acceptable.

It was moved by Councillor D G Cronk and duly seconded that Application No DOV/20/01076 be REFUSED as per the Officer's recommendation.

On being put to the vote, the motion was LOST.

Councillor Bond indicated that he would move a motion to grant planning permission and stated the grounds on which the application should be approved. The Planning Consultant advised the Committee that it would be required to state the reasons

why it was not only coming to a different view to the Officer's recommendation, but also to explain why it was departing from its previous decision of May 2020 and the Appeal Inspector's decision of 2019 which were material considerations. It was suggested that the additional information submitted by the applicant, as shown on the plan, demonstrated how the development could better assimilate with the landscape of the AONB and this, along with the grounds already stated, allowed the Committee to form a different view and come to a different decision to that taken in May 2020.

On the advice of the Planning Consultant, Members agreed that no Environmental Impact Assessment would be required. The Planning Consultant summarised the conditions that could be imposed, including the removal of permitted development rights and a 15-year period for landscaping maintenance and retention. However, he suggested that the finalisation of conditions be delegated to Officers, as was the usual practice.

It was moved by Councillor T A Bond and duly seconded that Application No DOV/20/01076 be APPROVED on the grounds stated.

On being put to the vote, the motion was CARRIED.

(There being an equality of votes, the Chairman used his casting vote.)

RESOLVED: (a) That, notwithstanding the Officer's recommendation, Application No DOV/20/01076 be APPROVED on the grounds that: (i) The proposal was of an innovative design; (ii) Appeared to be part of existing development and was not in an isolated location; and (iii) Would not be detrimental to the landscape and scenic beauty of the AONB which would be conserved. These grounds, together with the additional information submitted by the applicant which had demonstrated how the development could better assimilate with the landscape of the AONB, had allowed the Committee to form a different view and come to a different decision to that taken in May 2020.

(b) Conditions to include:

- (i) Time commencement;
- (ii) Drawing nos;
- (iii) Surface water and foul drainage;
- (iv) Removal of permitted development rights;
- (v) Details of natural grassland area;
- (vi) Landscaping (including hedge) to be retained and maintained for 15 years.

(c) That powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the report and as resolved by the Planning Committee.

APPLICATION NO DOV/20/01063 - MORFIELD HOUSE, 11 BEWSBURY CRESCENT, WHITFIELD

Members viewed an aerial view, map, drawings, plans and photographs of the application site. The Planning Officer advised that the application sought planning permission for the erection of a dwelling and detached garage on a site which was within the settlement confines of Whitfield. The proposal was in accordance with the objectives of the NPPF, and approval was therefore recommended.

Councillor Jull referred to Whitfield Parish Council's policy against the development of back gardens. He asked how much weight could be accorded to the policy, in the way that a Neighbourhood Plan was considered to be a material consideration. The Planning Officer advised that there was no Whitfield Neighbourhood Plan and the Council did not have a policy against back-garden development. In response to Councillor Williams, she advised that no details of the driveway had been submitted, but conditions could require that it should be a permeable bound surface. She went on to clarify that applications for development along the southern side of Bewsbury Crescent had been refused and dismissed at appeal, mostly because of disturbance from driveways in close proximity to habitable rooms and harm caused to the prevailing pattern of development and the street scene.

Councillor Biggs raised concerns about back-garden development and the potential creation of a precedent. In his view the extension to the existing building and the proposed dwelling were not in keeping with neighbouring dwellings. The Planning Officer clarified that it was the roof of the extension that had not been constructed in accordance with the approved plans and which was currently the subject of investigation. The proposal was in keeping with the existing dwelling which, like others in the street, had been modernised. The Planning Solicitor advised that a precedent had already been set by virtue of the existence of other back-garden developments in the street.

RESOLVED: (a) That Application No DOV/20/01063 be APPROVED subject to the following conditions:

- (i) Standard time condition;
- (ii) List of approved plans;
- (iii) Samples of materials;
- (iv) Details of soft and hard landscaping (including boundary treatments and driveway/hardstanding surfaces) and schedule of planting;
- (v) Provision and retention of the parking area with drainage measures installed;
- (vi) Details of surface water disposal;
- (vii) Details of foul sewage disposal;
- (viii) Cables for electric vehicle charging points;
- (ix) Details of secured cycle storage;

(x) Bathroom window on south-east elevation to be fitted with obscured glazing and be non-opening below 1.7 metres above internal ground level;

(xi) Removal of permitted development rights for Classes B and C of Part 1, Schedule 2 of the GDPO.

(b) That powers be delegated to the Head of Planning, 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.

78 APPLICATION NO DOV/20/01125 - SITE AT CROSS ROAD, DEAL

The Committee was shown an aerial view and maps of the application site. The Principal Planner advised that the application sought outline planning permission for the erection of 100 dwellings on a site that was situated outside but adjoining the settlement confines of Deal. As an update to the report, she advised that five additional letters of objection had been received, largely reiterating concerns raised previously, but also referring to community woodland, overdevelopment and inadequate sewerage infrastructure, amongst other things.

Members were reminded that the proposed development was a re-submission of a previous application that had been refused by the Planning Committee on 2 July 2020 on the grounds of the development's impact on air quality and the countryside. Subsequently, having sought further legal and expert advice, Officers had recommended that the refusal should not be defended at appeal due to the lack of evidence available to support the reasons for refusal. The Planning Committee had agreed with this course of action at its meeting held on 2 September 2020. Whilst an appeal date had been set for February, the applicants had submitted the application in advance of the public inquiry so as to enable the appeal to be withdrawn in the event that planning permission was granted.

The Principal Planner stressed that, as a duplicate application, the considerations that previously applied were still relevant. As a development outside the confines, the proposed development was contrary to Core Strategy Policy DM1 and in tension with Policies DM11 and DM15. However, the Council was now required to deliver 629 dwellings per annum rather than the 505 dwellings envisaged when those policies had been developed and adopted more than a decade previously. The evidence base underlying Policy DM1 was considered to be out-of-date and, for the reasons explained in paragraph 2.14 of the report, Policies DM11 and DM15 were also considered to be partially out-of-date.

The blanket ban on development beyond the urban confines in policy DM1 was inconsistent with the approach to development in the countryside found in paragraphs 77, 78 and 170 of the NPPF. Where the policies that were most important for determining an application were out-of-date, paragraph 11 of the NPPF directed that sustainable development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This was the 'tilted balance' approach that the Committee was required to take when assessing the application.

In respect of the development's benefits, Members were reminded that, as well as making a significant contribution to the district's housing supply, the scheme would

provide 30% on-site affordable housing. It would also provide other benefits such as financial contributions towards education, health and open space. In respect of the concerns raised by residents and others, the highways impact had been thoroughly assessed and was considered acceptable subject to mitigation measures, as was the impact on the Coldblow level crossing. The proposed landscaping and green infrastructure works would ensure that the development's impact on the landscape/countryside was minimal. Expert advice had been sought on the effect on the riding school, and this would be mitigated to an acceptable degree.

Councillor Richardson expressed disappointment that the applicants had submitted the application ahead of the appeal. He also reiterated concerns expressed on previous occasions about the equine consultant having not visited or contacted the riding school. He advised that he had contacts at the British Horse Society (BHS) and would be willing to approach them for advice. On conditions, he stressed that electric vehicle charging points should be provided for every property. The Principal Planner acknowledged that the latter was an oversight, advising that the condition would be amended to provide each property with a charging point. She pointed out that the BHS had been consulted twice for advice and had not responded on both occasions.

Councillor Jull raised concerns about the accuracy of the traffic information provided by the applicants with regard to the Coldblow level crossing, and the applicants' use of Google Drivetime which he claimed was notoriously inaccurate. In particular, he disputed the number of vehicles using the route and the assertion that local residents tended not to use it because of the risk of meeting vehicles coming in the other direction. The Principal Planner confirmed that the level crossing impact assessment report had been assessed by Kent County Council (KCC) Highways and Network Rail (NR), both of which had raised no concerns about the projected numbers or other evidence submitted. She reiterated that these issues had been considered previously and were set out in paragraphs 2.70 to 2.75 of the committee report.

In response to Councillor Bates who expressed concerns about the use of old traffic data, she advised that the applicants had used 2011 census data which were the most recent baseline data available. Nevertheless, the 2011 data had been updated to reflect current traffic levels, and the traffic figures provided were found to be satisfactory by the two statutory consultees. She emphasised that the proposed development could only be expected to address its direct impact and not existing and wider problems with the road network or crossing. She clarified that NR would be consulted as a statutory consultee as part of the review of the Local Plan, during which the upgrading of Coldblow level crossing could be discussed if raised by NR.

In response to Councillor Bond who questioned the purpose of the application whilst an appeal was outstanding, the Principal Planner confirmed that the Council would attend the public inquiry only to answer questions to assist the Inspector and would not be presenting evidence of any kind. She emphasised that the application should be judged on its merits. At the inquiry the Council would be required to agree a Statement of Common Ground with the applicant. This was likely to state that another planning application had been submitted and the outcome of that application.

Councillor Williams questioned why updated landscaping and equine reports had not been sought. She suggested that Councillor Richardson be asked to approach the BHS on behalf of Officers. The Principal Planner advised that there had been

no material change in circumstances since the previous application. There was therefore no requirement or justification for the Council to ask the consultants to undertake further reports at additional cost. In respect of the riding school, she advised that a significant amount of time had been spent on assessing the development's impact on the school. There was no planning evidence to suggest that there would be a long-term harmful impact on the school. Furthermore, it was difficult to see what would be gained by approaching the BHS at this late stage. In summary, independent advice had been commissioned by the Council to assess the impacts on the landscape/countryside and the riding school. This advice had allowed Officers to assess the application in the fullest way possible.

In response to concerns raised by Councillors Williams and Jull about the landscape consultant, the Principal Planner stressed that the consultant was suitably qualified, and there was no reason to believe that his practices fell short of the requirements of his professional body. Whilst there may be guidance about contacting third parties, there was no requirement for the consultant to undertake public consultation when reporting to the Council.

Councillor Bond raised concerns about the inadequate sewerage infrastructure and flooding which was an historical and ongoing problem in the area, in particular Southern Water's (SW) advice that the existing foul sewer lacked capacity for the new development. He questioned what benefits the proposed development would provide apart from some additional dwellings, a benefit that did not justify going against Policy DM1 in his opinion. In respect of DM11, no information had been provided to demonstrate how the development would encourage walking and cycling. Moreover, given that primary schools in Deal and Walmer were operating at full capacity, it was doubtful that children of primary school age would be able to walk to school from the new development which would inevitably generate more travel by car. He could not support development of the site, being of the view that the countryside should be protected unless there were sound and justifiable reasons to overturn the Council's policies.

The Principal Planner advised that the Lead Local Flood Authority and the Environment Agency had been consulted on the proposed measures to deal with surface water, including an outline surface water drainage strategy, flood risk assessment and an on-site drainage pond. They had raised no objections. In addition, the site complied with the five criteria set out in the NPPF relating to the need to ensure that developments did not increase the risk of flooding elsewhere. It was accepted that foul drainage was an ongoing problem in Deal, largely caused by a combined sewer in Deal town centre. The Council had been in discussions with SW in recognition that the issue needed to be resolved. Whilst the applicants were not responsible for addressing existing problems, they were required to demonstrate that their development would not make matters worse. Imposing a condition until the requisite infrastructure works had taken place was an acceptable approach and one that was supported by case law.

In respect of harm to the countryside, the Principal Planner reiterated that the site was a non-designated site. The landscape consultant had concluded that there would be no substantial harm to the countryside, such that a refusal of planning permission could be justified. On travel, she advised that the site was in a sustainable location and well connected to cycle routes and footpaths, as well as a bus route.

(The meeting was adjourned at 9.25pm for a short break and reconvened at 9.37pm.)

The Planning Solicitor advised the Committee that it should consider the circumstances surrounding the determination of the application. With the agreement of the Committee, the Council (on the basis of legal advice) had accepted that the reasons for the refusal of the previous application were not ones that could be defended at appeal due to the lack of supporting evidence. At the same time, it had been concluded that there were no other reasons on which to refuse the application. In this context, when considering the current application which was identical to the previous one, it appeared to him that the logical conclusion to reach would be that there were no grounds on which to refuse it and that planning permission should therefore be granted. Members should be mindful that Officers would be attending the public inquiry to advise the Planning Inspector that there were no reasons to refuse the previous application. A decision to refuse the current application would then appear somewhat perverse. Whilst not a material consideration, it was relevant for the Committee to note that a decision to grant planning permission was likely to lead to the applicants withdrawing their appeal, resulting in a saving of costs and resources for the Council.

In response to the Chairman, the Planning Solicitor clarified that, at this late stage and given the Committee's recent resolution not to defend its reasons for refusal, the Council's approach at the public inquiry would not change if the current application were refused. However, the existence of a separate, contradictory decision could leave the Council open to a finding of unreasonable behaviour with the potential for costs to be awarded against it. He added that Members needed to consider the 'tilted balance' and the presumption in favour of development unless any benefits were significantly and demonstrably outweighed by the adverse impacts. The addition of a significant number of dwellings to the district's housing supply was a significant benefit in this case. He advised that the draft Local Plan, which was due to go out to consultation in January, proposed to include this site in those allocated for development. Whilst the draft Local Plan carried little weight at this time, and the allocation of the site was not certain, its inclusion indicated how it was likely to be viewed in a policy context in the near future.

In response to Councillor Jull, the Planning Solicitor advised that there were no grounds on which to defer the application until the appeal had run its course as the Council's stated position was that there were no grounds on which to refuse the application.

(The Chairman advised the Committee that, in accordance with Council Procedure Rule 9, it was required to pass a resolution to continue the meeting beyond 10.00pm.

RESOLVED: That, in accordance with Council Procedure Rule 9, the Committee proceeds with the business remaining on the agenda.)

In response to Councillor Williams, the Principal Planner advised that landscaping and open space at the southern boundary would form part of a legal agreement. These would be undertaken earlier than would normally be expected in order to address concerns about the impact on the riding school. Whilst the applicants had offered to undertake the works before occupation of 70% of the site, the Principal Planner advised that the applicant could be requested to carry out the works earlier than this if Members were in favour.

It was moved by Councillor D G Beaney and duly seconded that Application No DOV/20/01125 be APPROVED as per the Officer's recommendation, subject to an

amendment regarding the landscape buffer and open space at the southern boundary being brought forward of the 70% occupation figure.

On being put to the vote, the motion was CARRIED.

(On there being an equality of votes, the Chairman used his casting vote.)

RESOLVED: (a) That, subject to a Section 106 legal agreement to secure necessary planning contributions and an undertaking for landscape works to be brought forward of occupation, Application No DOV/20/01125 be APPROVED subject to the following conditions:

- (i) Reserved matters details;
- (ii) Outline time limits;
- (iii) Approved plans;
- (iv) Existing and proposed site levels and building heights;
- (v) Ecological mitigation and recommendations implemented;
- (vi) Ecological/biodiversity mitigation, enhancement and management plan;
- (vii) Construction Management Plan (inc. route for construction vehicles);
- (viii) Highway conditions (parking, visibility splays, highway works and access fully implemented prior to construction works, turning facilities, cycle parking, gradient, surface, works to all footpaths and drainage);
- (ix) Affordable housing provision (numbers, type, tenure, location, timing of construction, housing provider and occupancy criteria scheme) (if not covered in Section 106 agreement);
- (x) Landscaping details and maintenance of green spaces;
- (xi) Open space management plan;
- (xii) Protection of trees and hedges;
- (xiii) Hard landscaping works and boundary details/enclosures;
- (xiv) Reporting of unexpected land contamination;
- (xv) No works on site until final SuDS details are submitted;
- (xvi) Design details of surface water drainage strategy;
- (xvii) Implementation and verification of SuDS scheme;
- (xviii) No other infiltration on site other than that approved;

- (xix) Environmental Construction Management Plan (inc. dust management plan);
- (xx) Internal acoustic requirements for dwellings;
- (xxi)4 Stage contamination, remediation and verification conditions;
- (xxii) Programme of archaeological works;
- (xxiii) No piling on site;
- (xxiv) Details of foul drainage;
- (xxv) No occupation of development until foul infrastructure reinforcement works are completed;
- (xxvi) Details of a scheme for Secure by Design principles compliance;
- (xxvii) Broadband connection;
- (xxviii) Cabling for electric vehicle charging points to be provided for each dwelling;
- (xxix) Road signage to advise of riding school/horses;
- (xxx) Off-site highway works prior to commencement and in accordance with a phased scheme;
- (xxxi) Scheme for Traffic Regulation Order along Station Road to be implemented prior to construction works.

(b) That powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions, and to agree a Section 106 agreement in line with the issues set out in the recommendation and as resolved by the Planning Committee.

79 APPEALS AND INFORMAL HEARINGS

The Committee noted that there was no information to receive regarding appeals and informal hearings.

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

The Committee noted that no action had been taken.

The meeting ended at 10.08 pm.

DOVER DISTRICT COUNCIL

REPORT OF THE HEAD OF PLANNING, REGENERATION AND DEVELOPMENT

PLANNING COMMITTEE – 21 JANUARY 2021

**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/19/01260** **Outline application for the erection of up to 14 dwellings (appearance, landscaping and scale to be reserved) – Land off Church Lane, Deal (Agenda Item 7 of 3 September 2020)**

This application is dealt with elsewhere on the agenda

Background Papers:

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

LOIS JARRETT

Head of Planning, Regeneration and Development

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



Remote Meetings

Planning Committee

The Council Offices will be closed during a remote meeting and it is not possible for members of the public to physically “attend” a remote meeting.

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 have changed the basis of the public’s legal right to attend meetings. This means the public now has the right to hear Councillors attending the remote committee meeting that would normally be open to the public to attend in person. It is the intention of Dover District Council to also offer the opportunity for members of the public to view remote meetings where possible.

Joining a Remote Meeting

To join a remote meeting, you will need to join via the link on the Council’s website. This can be accessed via the agenda page for each meeting. The Council is using Teams Live Events (a Microsoft Product) for its remote meetings and you will be taken to the meeting by clicking on the link.

The best way to view the remote meeting is through a laptop or desktop computer. However, you should also be able to view through a smartphone or tablet device. You will need internet access to do this.

Public Speaking

In accordance with Paragraph 9 of the Council’s Protocol for Public Speaking at Planning Committee, the Chairman has altered the public speaking procedure to allow written statements (of no more than 500 words) to be submitted in lieu of speaking.

The procedure for registering to speak itself remains unchanged. You must request to speak in writing by email to democraticservices@dover.gov.uk or by means of the form that can be found on the Council’s website at <https://www.dover.gov.uk/Planning/Planning-Applications/Making-Applications/Speaking-at-Planning-Committee.aspx>

In all cases, public speaking requests must be received by no later than 5pm on the second working day prior to the meeting.

Registration will be on a first-come, first-served basis. **If you have been successful in registering to speak, you will be contacted by a member of the Democratic Services team. If successfully registered, you must submit your written statement (of no more than 500 words) by email to democraticservices@dover.gov.uk by 10.00am on the day of the remote meeting.**

Registering to speak at a remote meeting confers the right to submit a written statement which will be read out to the remote meeting by an Officer (who is not a member of the Planning Department) on behalf of the speaker. Subject to normal public speaking procedures and the Chairman's discretion, there will be one speech in support of, and one speech against, an item for decision.

In submitting their statement, each speaker accepts that they remain fully responsible for its contents. If any defamatory, insulting, personal or confidential information, etc. is contained in any speech received from any speaker, and/or read to the remote meeting by an Officer, each speaker accepts full responsibility for all consequences thereof and agrees to indemnify the Officer and the Council accordingly.

Feedback

If you have any feedback on the Council's remote meeting arrangements, please let us know at democraticservices@dover.gov.uk

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.

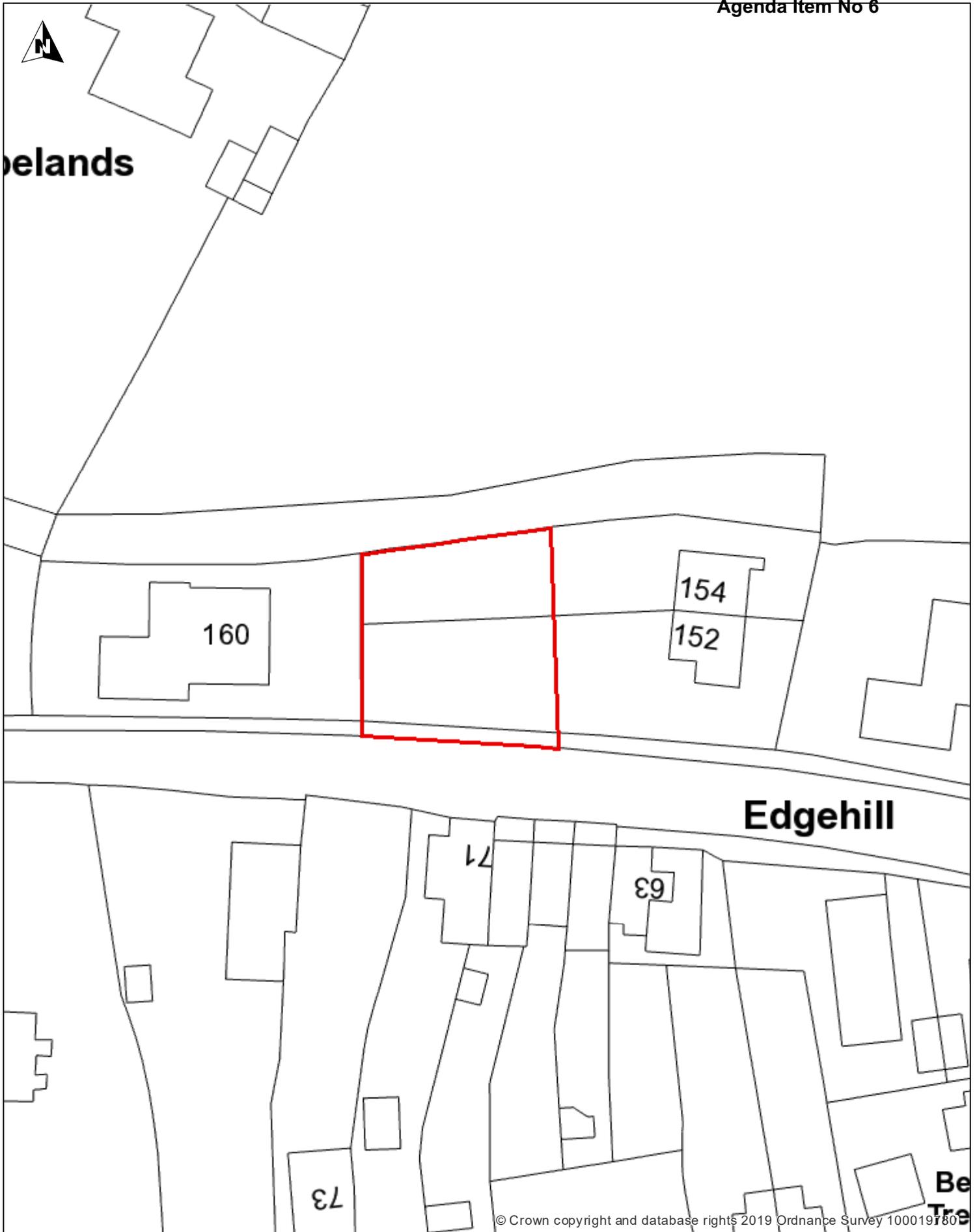
Article 14 - Prohibition of discrimination.

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.



20/01117

Land Rear of 152 and 154 Canterbury Road
Kydden
CT15 7EX

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/20/01117 - Erection of a detached dwelling, vehicular access and associated parking - Land Rear of 152 and 154 Canterbury Road, Lydden

Reason for report: Number of contrary representations

b) Summary of Recommendation

Planning permission be approved.

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.

Core Strategy Policies

A summary of relevant policy is set out below:

CP1 - The location and scale of development in the District must comply with the settlement hierarchy. Lydden is identified as a village and a tertiary focus for development in the rural area, suitable for a scale of development that would reinforce its role as a provider of services to its home community.

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 travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by Development Plan policies.

DM13 – Provision for parking should be a design led process based upon the characteristics of the site, the locality, the nature of the proposed development and its design objectives. Provision for residential development should be informed by the guidance in the Table for Residential Parking.

DM15 - Development which would result in the loss of or adversely affect the character or appearance of the countryside will only be permitted where it is in accordance with allocations in Development Plan Documents, is justified by the needs of agriculture, is justified by the need to sustain the rural economy or it cannot be accommodated elsewhere.

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process however the policies of the draft Plan have little weight and are not considered to materially affect the assessment of this application and the recommendation as set out.

This is relevant with regard to a site identified as land adjacent to Lydden Court Farm, Church Lane which lies to the north of the application site.

National Planning Policy Framework 2019 (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 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 11 states that decision making should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up to date development plan or where there are no relevant development plan policies or the policies are out of date, granting permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, or any adverse impacts of granting permission doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in this Framework taken as a whole.
- Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Paragraph 122 states that planning decision should take account of the desirability of maintaining an areas prevailing character and setting (including residential gardens).
- 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.

Kent Design Guide (2005)

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

National Design Guide (2019)

Provides guidance on objectives for good design and how this can make a positive contribution to the character of an area.

d) Relevant Planning History

DOV/05/01221 - Erection of a 3 bedroom detached dwelling with integral garage and construction of a vehicular access on part of the rear gardens of numbers 152 and 154 Canterbury Road - Approved

The dwelling the subject of DOV/05/01221 is now known as 160 Canterbury Road.

e) Consultee and Third-Party Responses

KCC Highways-advised that:

a) visibility splays of 43m x 2.4m x 43m are required at the access over land within the control of the applicant and/or the highway authority, with no obstructions over 1m above carriageway level within these splays and

b) pedestrian visibility splays are located behind the footway on each side of the access. These should measure 1m x 1m with no obstructions over 0.6m above footway level within the splays.

Amended plans have been received incorporating these details and no objections are raised in respect of highway matters and confirmation has been received that parking is in accordance with policy DM13. Conditions are recommended to cover the following:

- Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
- Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
- Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision and permanent retention of the vehicle parking spaces shown on the submitted plans prior to the use of the site commencing.
- Use of a bound surface for the first 5 metres of the access from the edge of the highway.
- Provision and permanent retention of secure, covered cycle parking facilities prior to the use of the site commencing in accordance with details to be submitted to and approved by the Local Planning Authority.
- Completion of the access shown on the submitted plans including the necessary vehicle crossing in the highway prior to the use of the site commencing.
- Provision and maintenance of the driver visibility splays shown on the submitted plans with no obstructions over 1 metre above carriageway level within the splays, prior to the use of the site commencing.
- Provision and maintenance of the pedestrian visibility splays shown on the submitted plans with no obstructions over 0.6m above footway level within the splays, prior to the use of the site commencing.
- Gradient of the access to be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

Southern Water-requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

In a further response to the neighbour comments about localised flooding the following comments were made:

"I'm not aware of and I cannot find any history of sewer related hydraulic flooding in the area behind 152/154. We have had issues of fat blockages up the road at the Lydden Bell public house so this is on sewer maintenance and there have been a few other blockages scattered around this area but none of them are really relevant. The area behind these properties being at a geographical low point, in a valley, so making a new connection may be problematic and of course there may be issues with field run-off."

KCC Archaeology-I can confirm that no archaeological measures are required.

Parish Council-No written representations received at the time of preparing the report.

Third-Party Representations

A total of 49 representations were received. Of these 24 were in support and 25 raised objections. Some of those in support simply state "Support" without giving planning reasons. Some of the objections received are from addresses that are not directly affected by the proposal or from addresses outside the district.

Summary of Comments raising objections

- Small size of the plot resulting in over intensification of development.
- Small amount of outdoor space for the occupants of the proposed dwelling and numbers 152/154.
- Overlooking and overshadowing.
- Outlook would be restricted from rear of property by trees on land outside applicant's ownership.
- Poor parking and access arrangements leading to increased risk of accidents. Vehicles would need to either reverse off or onto the highway.
- Lack of parking space for occupants or visitors.
- Numbers 152 and 154 do not have off road parking and currently park on the highway. Occupants of these properties will be forced to park further along the road where there is already a high level of on street parking. Drivers also park across the pavement causing obstructions for pedestrians.
- Views when leaving the site would be obstructed by parked cars and a tree on the neighbouring site.
- Light intrusion from car headlights causing distress and invasion of privacy.
- Removal of hedges and vegetation at the site and harm to flora/fauna
- Concern the plans will be altered to include windows in the side elevation leading to loss of privacy
- Change in outlook from houses opposite and loss of views
- Proximity of a telegraph pole/street light to vehicle access
- Rain brings debris down from the hills which can build up in Canterbury Road
- Potential for increase in surface water and flood risk.

Summary of comments in support

- The site is within the confines of the village, the proposal represents infill and the principle is acceptable
- Size of the site and garden are acceptable
- Proposal will provide a useful family home in the village that will be in keeping with the surroundings
- Design is in keeping. Property will appear as a bungalow at street level making it less obtrusive.
- New properties are important to keep the village school and community moving forward.
- Parked cars slow traffic down.
- No negative impacts

Other matters raised include:

- reference to cars already parking on the highway near the site for those residents who do not have off road parking.
- reference to speeding and dangerous driving issues that exist in the village.
- reference to Chunnel vehicles using the road and the use of Canterbury Road as an alternative route when the A2 is blocked
- proximity to 2 bus stops
- narrow pavements in the area

- disruption by delivery and construction traffic
- removal of non protected trees and vegetation.
- change to property values
- air quality

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

- 1.1 Numbers 152 and 154 are a pair of semi-detached two storey houses situated on the north side of Canterbury Road within the settlement confines. The properties are set approximately 2.3m below road level and are understood to be in the same ownership. Numbers 152 and 154 are older properties constructed of flint and brick that are set at right angles to Canterbury Road and reached via an external flight of stairs. The lower ground level of these properties result in only the first floor and roof of the cottages being readily visible from road level.
- 1.2 The southern boundary of number 152 closest to the road frontage comprises a low fence covered in vegetation adjacent to the back edge of the pavement along Canterbury Road. The rear gardens of numbers 152 & 154 slope down slightly from south to north. There was evidence that some clearing of the garden had taken place in recent times when the site was visited but that a hedge remained along the northern boundary of the garden of number 154. Beyond this boundary, on land outside of the applicant's ownership, is a row of mature leylandii type trees which screen the site from the land beyond.
- 1.3 To the west of the application site is number 160 Canterbury Road, a more recent property that was constructed on land that originally formed the end part of the gardens of numbers 152 and 154. This dwelling is situated centrally in a plot measuring approximately 33m in width by 15m in depth with amenity space on either side. There is a close boarded fence along the eastern boundary of the site with the end of the gardens of numbers 152 and 154.
- 1.4 Number 160 comprises a dwelling over two floors with further accommodation in the roof space and dormers to the eastern roof slope. The dormer windows serve bedrooms 1 and 2, both of which have a second window to either the front or rear elevation of the dwelling. This property benefits from an elevated vehicle turning/parking area with a garage on the western side.
- 1.5 On the south side of Canterbury Road is a terrace of 6 older houses, two of which, (numbers 71 and 75) are listed buildings. These properties do not all benefit from off road parking and the occupants tend to park on Canterbury Road. The street scene in this part of Lydden is somewhat mixed with differing plot and property sizes and styles.

Proposal

- 1.6 It is proposed to further subdivide the remaining garden of numbers 152 and 154 to create a building plot measuring 19.5m in width x an average of 20m in depth. The plot would have an area of approximately 390 square metres. The boundary with number 160 comprises a 1.8m high fence. Along the northern boundary of the proposed plot the existing hedge is shown as being retained.
- 1.7 The submitted plans show the provision of a detached 3 bedroom house with a room at first floor described as an office that could potentially be used as a fourth bedroom. The property would have a slab level below Canterbury Road not dissimilar to the adjoining properties either side. Garden and patio space would be provided on the eastern side and to the rear of the dwelling. The layout of the house has been designed without any windows at first floor level in the side elevations (facing east and west).

The dwelling would be finished in brickwork and tile hanging with a slate roof and white upvc windows.

- 1.8 A new vehicle access would be created on the eastern side of the dwelling leading to an elevated parking area with space for two cars. This area would be surrounded by a brick wall with fence above to a height of approximately 1.8m. Steps would be provided on the western side of the parking platform leading down to the garden area of the dwelling.

2. **Main Issues**

- 2.1 The main issues for consideration are:

- The principle of the development
- Standard of development-plot size, design and appearance
- Amenity of proposed occupants
- Impact on existing residential amenities
- The impact on the character and appearance of the area
- Highway Matters
- Surface Water/Drainage
- Appropriate Assessment
- Other Matters

Assessment

Principle of Development

- 2.2 The starting point for decision making is Section 38(6) of the Planning and Compulsory Purchase Act 2004. This states that 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 in accordance with the plan unless material considerations indicate otherwise.
- 2.3 In March 2017 DDC Cabinet agreed to commence the review of the Core Strategy (CS) and Land Allocation Action Plan (LALP) through the preparation of a single local plan. The decision to review the CS and LALP is an acknowledgement that in some cases the evidence base is out of date. It is also recognised that some of the detailed policies applicable to the assessment of this application (including Policy DM1) are to various degrees, now considered inconsistent with aspects of the NPPF and as such are out-of-date. That does not mean however that these policies automatically have no or limited weight. They remain part of the Development Plan and must therefore be the starting point for the determination of the application. Furthermore while the overall objective of a policy might be held out-of-date, greater weight can nevertheless still be applied to it depending on the nature/location of the proposal in question and the degree to which the policy (in that limited context) adheres to and is consistent with the policy approach in the NPPF.
- 2.4 This application must be assessed in line with the “tilted balance” at paragraph 11 of the NPPF which requires that planning permission be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the scheme.
- 2.5 Policy CP1 of the Core Strategy identifies Lydden as a village. The site lies within the settlement confines identified in Policy DM1. This location broadly accords with the objectives of the NPPF which seek to locate development where they have access to

and can support local services. The main focus of this assessment therefore relates to the site specific considerations which are addressed below.

Plot Size

- 2.6 The main issue is whether the remaining garden areas of numbers 152 & 154 can be subdivided further to produce a plot of adequate size to accommodate a dwelling without causing undue harm to the amenities of the occupants of the adjacent properties and without resulting in overdevelopment of the plot or causing undue harm to the general character of the area.
- 2.7 This part of Canterbury Road is characterised by a mix of property sizes, ages and styles. With the natural valley form those properties on the south side of the road are generally situated at a higher level than those on the north side. Numbers 152 and 154 do not have a traditional relationship with Canterbury Road, being set at right angles and at a lower level to the highway. Some dwellings nearby do not benefit from off road parking, leading to local on street parking, a situation that occurs in many villages throughout the district.
- 2.8 This proposal will result in the creation of a new plot measuring 19.5m in width x 20m (on average) in depth. In general terms the proposed plot is of adequate size, although not large. When considered in relation to other plots along Canterbury Road the proposed plot is larger than some but smaller than others. As a result of the subdivision numbers 152 and 154 would also be located on more compact sites measuring approximately 25m in length and between 9 and 13m in width. The resulting plot sizes cannot however be considered in isolation.

Design and Appearance

- 2.9 The proposed dwelling would be arranged over two floors with a ridged roof running west to east and dormer windows set across the eaves line to the front and rear elevations. No windows are shown in the side elevations or in the ground floor of the southern elevation, below road level. The proposed dwelling has been designed without windows at first floor level in the side elevations so as to avoid direct overlooking towards numbers 152, 154 or 160. As a standalone design the proposed style of dwelling is satisfactory.
- 2.10 The rooms of the proposed dwelling would be of acceptable sizes and would be naturally lit. The internal living conditions of the future occupants would be acceptable and would accord with paragraph 127 of the NPPF. An area for the storage of refuse is shown to the rear of the car parking area.
- 2.11 The proposal also incorporates an elevated car parking platform area to the east enclosed by a wall and fence. This would be constructed of brick work to a height of 5.5m (including the fence above) and being 6.2m wide x 6.5m deep, increasing to 7.4m to accommodate a bin storage area. The elevated car parking area would not be particularly visually pleasing when seen from within the site, appearing as a tall, solid brick structure with the fence reaching to above first floor window level of the proposed dwelling. Views from outside the site would however be limited and there should be no harm to the overall character of the street scene.
- 2.12 In order to better understand the situation at the site, the applicant's agent was requested to provide a section from within the site west-east to clarify the slab level of the proposed dwelling in relation to those of numbers 152, 154 and 160. The agent has however requested that the application is determined based on the information currently available.

Amenity of the Proposed Occupants

- 2.13 There is some concern about the level of external amenity that would be provided for the occupants of the proposed dwelling by reason of the size of the plot and siting of the adjacent properties. As mentioned, the proposed development would provide a reasonably sized four bedroom house on a plot of adequate although not large size, with a small but sufficient amount of outdoor garden/patio space. The quality of this outdoor space would be affected by several factors including the limited depth (4.5-5.5m) of the rear garden and the reduced outlook as a result of the mature evergreen trees that fall outside of but close to the application site. This row of trees is situated approximately 5.5m away from the rear boundary and could be removed at any time without the need for planning permission. If this were to occur it would improve the distance of outlook for the occupants, but this matter is outside of the scope of this application.
- 2.14 There are also some concerns about the amenity space associated with the proposed dwelling being overlooked from first floor dormer windows on the eastern side of number 160 (not shown on the submitted plan) and first floor rear windows of numbers 152 and 154. The dormers to the side of number 160 are set between 3.6 and 4.6m above the slab level of that property and 9.1m from the boundary with the application site. As a result of the windows facing directly towards the application site there is likely to be some overlooking of the private amenity area of the proposed dwelling from number 160. Such an arrangement is not ideal but can occur in some instances where a new dwelling is introduced within the confines of settlements amongst existing properties.
- 2.15 On the eastern side a distance of around 11.5m (at the nearest point) would remain between the rear of number 152 and the boundary with the proposed site. There would be an overall separation distance of 20m from the rear of numbers 152/154 to the side elevation of the proposed dwelling. Such a distance would not provide a high level of separation but would be satisfactory in terms of limiting direct overlooking from the rear of numbers 152/154 towards the application site and retaining a sufficient level of privacy from the eastern direction.
- 2.16 On this occasion whilst it is recognised that some overlooking towards the proposed dwelling would take place from number 160 to the west, there would be a satisfactory and more private amenity space remaining to the east. On balance this would provide an adequate level of amenity for the occupants of the proposed dwelling.

Impact on Existing Residential Amenities of Occupants of Adjacent Properties

Numbers 152 & 154

- 2.17 The introduction of a new dwelling to the rear of numbers 152 & 154 will inevitably have an impact upon and lower the standard of amenity currently enjoyed by the occupants. These properties would be situated approximately 20m away from the side elevation of the proposed house and will be left with gardens of around 12m in depth. The amount and quality of amenity space will be reduced but there would be sufficient space remaining for outdoor amenities for the occupants of numbers 152 & 154.
- 2.18 In addition to a reduction in amenity space there will also be some erosion of the quality of the outlook from these properties, particularly number 152 which will face towards the side wall of the elevated parking area. The wall with fence above would measure 5.5m in height and would extend for a maximum depth of approximately 7.4m. The applicant's agent has agreed to clad the exterior of the car parking area with timber so as to lessen (soften) the impact of this element of the development. Such an

arrangement would help to tone down the appearance of the structure and limit visual impact for the occupants of number 152. This matter would need to be covered by a condition requiring further details of this treatment to be submitted.

Number 160

- 2.19 It is acknowledged that the proposed house will also have some impact upon the amenities of number 160 particularly with regard to outlook. Number 160 is situated approximately 9m from the boundary with the application site and so there will be a change in outlook from the eastern side of this property. A degree of separation would however remain and would not be dissimilar from other relationships between neighbouring properties provided the proposed dwelling has a slab level to reflect that of the garden of number 160. To clarify this matter sections and slab level details showing the proposed dwelling located no higher than the existing garden area of number 160 are considered necessary. In order to safeguard this matter it is recommended that a condition is attached requiring details to be submitted and to ensure a satisfactory relationship with number 160. On balance the change in outlook from the eastern side of number 160 and the remaining separation distance between number 160 and the proposed dwelling would not result in such an unduly high level of harm such as to constitute a reason for refusal.
- 2.20 In submitted representations reference has been made to the impact the proposed development would have on the amount of sun and daylight reaching number 160. On occasion, where a proposed development would be sited adjacent to or in very close proximity to a neighbouring property or orientated in such a way as to cause direct overshadowing Building Research Establishment Tests can be carried out. The view of the department is that in this instance given the separation distance of 10m there would be no detrimental impact in terms of daylight reaching number 160. Whilst there may be a minor change in the level of early morning sunshine, based on experience and the level of separation this would not be at a harmful level such as to require the applicant to carry out sunlight tests.
- 2.21 The comments made by neighbours about the possible introduction of windows in the side elevations of the proposed dwelling at a later date are noted. Such an arrangement would lead to direct overlooking that would not be acceptable in terms of paragraph 127. In the event that planning permission is granted conditions can be attached to prevent openings in the roof or side elevations at first floor level.

Nearby properties

- 2.22 The proposed development will alter the outlook for the occupants on the southern side of Canterbury Road who are used to looking across a domestic garden. In planning terms there is no entitlement to a view and whilst the outlook will alter there will not be undue harm to the amenities of the occupants of houses to the south.

Impact on Character and Appearance of the Area and the Landscape

- 2.23 As a result of the lower slab level of the proposed house, only the upper floor of the development would be seen from road level. This stretch of Canterbury Road comprises a mix of house sizes and styles. The proposed dwelling would not look out of keeping or be harmful to the street scene. With regard to the wider village scene the proposal would not stand out as a harmful feature in the landscape.
- 2.24 There should be no undue impact on the setting of the two listed buildings on the south side of Canterbury Road due to the separation distance involved.

Highway Matters

- 2.25 With regard to parking provision the proposed dwelling would have two off road spaces. This would accord with the requirements set out in policy DM13 and is therefore considered to be acceptable. The KCC Highways Engineer has confirmed that visibility splays shown on the revised plan are acceptable. The introduction of an additional dwelling to the village represents a modest scale of development that would not produce a significant number of additional vehicle movements on the adjacent highway network. Subject to the conditions outlined by KCC, it is considered that the development would be provided with a safe access onto Canterbury Road, with adequate visibility in either direction, such that the operation of the highway or the footway would not be unacceptably impacted.
- 2.26 The following additional commentary is provided in response to highway concerns raised by neighbours:
1. It is noted that on street parking takes place in the locality for those properties that don't have off road parking, which includes number 152 and 154. The Highways Engineer notes that on street parking sometimes takes place adjacent to existing accesses and in visibility splays but adds that this does not appear to be creating significant problems.
 2. A neighbour has made reference to an "acceptable distance" of a vehicle access from the siting of a telegraph pole. The KCC Highways Engineer has stated he is unaware of any necessary distance in highway terms. The applicants would need to contact the relevant utility organisation responsible for the telegraph pole and make any necessary arrangements for its re-siting if required.
 3. The KCC Highways Engineer has confirmed that he is not aware of any plans to provide any additional traffic calming measures in this part of the village. He states "Parish Councils have been asked for a Highway Improvement Plan (HIP) by our Traffic Schemes Team, in which they can highlight issues/measures they would like investigated. Such highway improvements are certainly not a reasonable request for one dwelling."
 4. The KCC Highways Engineer has stated "There has been 1 reported personal injury crash in this section of Canterbury Road in the 3 years to the end of September 2019, involving a single vehicle skidding on a wet surface. Clearly no pattern or number of crashes to indicate a particular problem with accesses or visibility".
 5. The speed of vehicles along Canterbury Road and the movement of Chunnel Plant Hire works vehicles are matters that fall outside the scope of this planning application and would need to be pursued separately with the parties concerned.
 6. Reference is made to the possibility of the road becoming blocked by vehicles during the construction of the dwelling. This is often a matter that is raised in association with a planning application but would not constitute a reason for refusing planning permission, although clarification could be sought through a construction management plan condition about how construction vehicles would service the development.

Surface Water/Drainage

- 2.27 The application form identifies that surface water would be disposed to the existing water course and foul sewage would be disposed to a mains sewer. Southern Water have been consulted on the application and advise that a formal application for a connection to the foul sewer would need to be made by the applicant, and an informative is suggested accordingly. Pre-commencement conditions are suggested for details of site drainage works for the disposal of surface water and a detailed scheme for the disposal of foul sewage are recommended to ensure satisfactory arrangements if planning permission is granted.
- 2.28 As outlined above Southern Water has not identified a particular flooding problem in the area and field run off is to be expected in a valley location.

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

- 2.29 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.
- 2.30 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in-combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.31 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.32 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.33 Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.
- 2.34 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

Other Matters

- 2.35 The comments made by near neighbours have been given careful consideration and largely addressed above.
- 2.36 With regard to the removal of trees and vegetation at the site it should be noted that this can take place without the need for planning permission, with the exception of trees covered by a Tree Protection Order or those in a Conservation Area. Neither of these circumstances apply to this site. No indication has been given that there are ecological matters to be addressed at the site.
- 2.37 With regard to construction management issues further information was requested from the applicant's agent in relation to the requirements of the Highways Engineer. The agent states that his client would deal with the construction management plan under the usual condition guidelines. His client is negotiating with the farmer to access via the field at the rear but nothing has been finalised.

3. Conclusion

- 3.1 The application site is located within the settlement confines and the proposed erection of a dwelling in this location is broadly acceptable in principle having regard to policies CP1 and DM1 and the objectives of the NPPF. In addition paragraph 127 of the NPPF states that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which would promote health and well-being with a high standard of amenity for existing and future users. As noted above the tilted balance needs to be applied as outlined in paragraph 11 of the NPPF.
- 3.2 The proposal is acceptable in highway terms and the scheme would not result in harm to the overall character of the area or the visual qualities of the nearby AONB and as a result there would be no negative environmental impacts weighing against the proposal in the tilted balance. As outlined above the proposal would have some impact on the amenities of the occupants of adjoining properties but it has been satisfactorily demonstrated that the development would not result in significant and demonstrable harm such as to withhold planning permission. Various safeguarding conditions can be recommended to ensure a satisfactory level of amenity is retained for adjacent residents.
- 3.3 It is concluded, when weighed in the round, that some weight can be given to the fact that the proposal would contribute one additional dwelling to the supply of housing in the District and has the opportunity to provide employment for local companies during the construction phase. There would be a very modest social benefit, providing an additional dwelling which would support nearby local services/facilities. The environmental impact is considered to be neutral.
- 3.4 The tilted balance (paragraph 11, NPPF) requires that planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits of the proposal. In this case, whilst the proposal would have some effect on the living environments of the adjoining properties, this would be limited and would avoid unacceptable impacts. Overall it's considered, in line with the tilted balance, that the adverse impacts are well below the level whereby they would significantly and demonstrably outweigh the stated benefits of the proposal.
- 3.5 On balance therefore it is recommended that planning permission be approved subject to the conditions below.

g) **Recommendation**

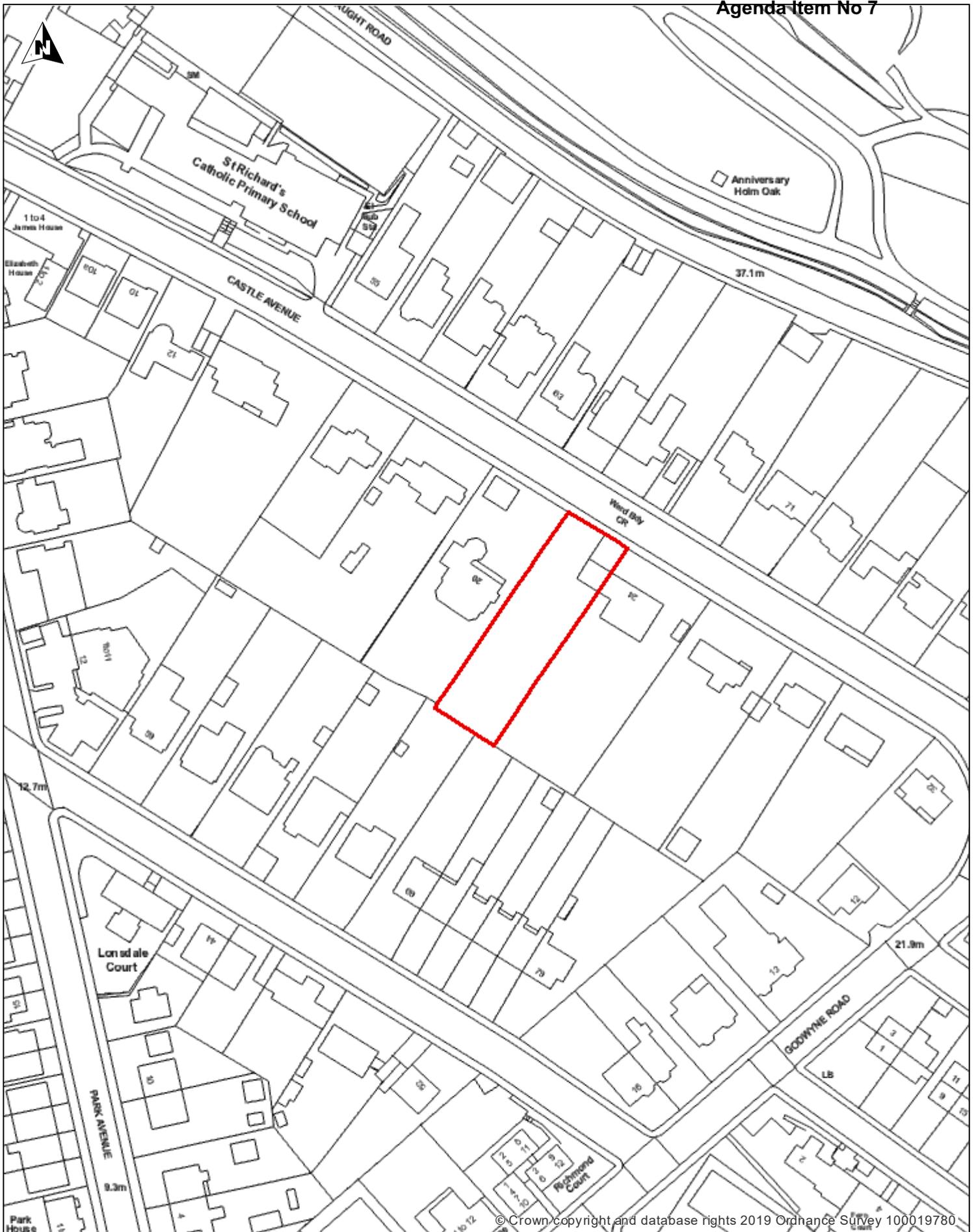
I PERMISSION BE APPROVED subject to the following conditions:

1. Time period.
2. In accordance with approved plans
3. Slab level/section details to be submitted showing the level no higher than the adjoining garden to no.160.
4. Materials including details of cladding to parking platform.
5. Landscaping
6. Drainage details
7. Parking provision.
8. Provision of vision splays
9. Construction management plan
10. Measures to accommodate electric vehicle charging facility
11. Provision of refuse storage facilities.
12. No windows or openings to be installed in the side elevations of the proposed dwelling.
13. No openings to be installed in the roof of the proposed dwelling.

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

Case Officer

Hilary Johnson



20/00531
Land Between 20 and 24 Castle Avenue
Dover
CT16 1HA

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/20/00531 – Erection of a three-storey building to provide 6 self-contained flats with associated car parking and formation of new vehicular access (existing double garage to be demolished) - Land between 20 and 24 Castle Avenue, Dover**

Reason for report: Number of contrary views.

b) **Summary of Recommendation**

Planning Permission be Granted.

c) **Planning Policy and Guidance**

Planning and Compulsory Purchase Act 2004

- Section 38(6) – requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

Draft Dover District Local Plan

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process however the policies of the draft Plan have little weight and are not considered to materially affect the assessment of this application and the recommendation as set out.

Core Strategy Policies

- CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy. Dover is identified as the major focus for development in the District, suitable for the largest scale developments.
- CP4 – Deals with housing quality, mix, density and design. Much of the policy is aimed at schemes of ten dwellings or more. However, more generally, housing density should wherever possible exceed 40 dwellings per hectare and will seldom be justified at less than 30 dwellings per hectare.
- DM1 – Development will not be permitted outside 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 – The Council will seek applications for residential developments of between 5 and 14 homes to make a contribution towards the provision of affordable housing.
- 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 the characteristics of the site, the locality, the nature of the proposed development and its design objectives. Provision for residential development should be informed by the guidance in Table 1.1 of the Core Strategy.
- DM17 – Groundwater Source Protection Zones; this site lies within Zone 1, where certain activities and forms of construction are not to be permitted unless adequate safeguards against possible contamination are provided.

Land Allocations Local Plan

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

National Planning Policy Framework (NPPF)

The most relevant parts of the NPPF are summarised below:

- Paragraph 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.
- Paragraph 11 states that development proposals that accord with an up-to-date development plan should be approved 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, permission should be granted unless:
 - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development (having regard for footnote 6); or
 - ii. 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.
- Paragraph 59 sets out the Government’s objective of significantly boosting the supply of homes, and the importance of a sufficient amount and variety of land coming forward to meet the needs of groups with specific housing requirements.
- Paragraph 108 states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable modes of transport can be taken up, safe and suitable access to the site can be achieved for all users, and any significant impacts on the transport network or highway safety can be mitigated to an acceptable degree.
- Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Paragraph 110 states (amongst other things) that applications should create places that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards; allow for the efficient delivery of goods, and access by service and emergency vehicles; and be designed to enable charging of plug-in and ultra-low emission vehicles.
- Paragraph 117 states that decisions should promote an efficient use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- Paragraph 118 states that decisions should (amongst other things) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing and available sites could be used more effectively.

- Paragraph 122 states that decisions should support development that makes efficient use of land, taking into account the need for different types of housing, local market conditions, infrastructure, the desirability of maintaining an area's prevailing character and setting, and the importance of securing well-designed, attractive and healthy places.
- Paragraph 127 states that decisions should (amongst other things) 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, and are sympathetic to local character and history, including the surrounding built environment and landscape setting, whilst not preventing or discouraging appropriate innovation or change (such as increased densities), and create places that promote health and well-being, with a high standard of amenity for existing and future users.
- Paragraph 170 says that planning decisions should contribute to and enhance the natural and local environment by (amongst other things) minimising impacts on and providing net gains for biodiversity.

The National Design Guide and Kent Design Guide (KDG)

- These Guides provide criteria and advice on providing well designed development.

d) Relevant Planning History

DOV/19/01381 – Erection of 3no. attached dwellings, conversion of existing garage/workshop to a dwelling, refuse area, cycle stores, creation of new vehicular access and associated parking – Refused for reasons of design and massing, loss of privacy, unsatisfactory access arrangements and noise from vehicles accessing the lower parking area.

e) Consultee and Third-Party Responses

Dover TC – Comments on original scheme: Object. Comments on amended scheme: Support.

KCC Highways – I refer to the amended plans submitted for the above on 5th October and note the reduction in the number of proposed flats to six.

The proposed access serves a smaller number of parking spaces than the previously refused application, however the access has been widened to allow two vehicles to pass each other and the spaces set back from the access. The gradient of the access is in accordance with current guidance. 2 metre x 2 metre pedestrian visibility splays in accordance with current guidance have been provided on each side of the access, to allow intervisibility between pedestrians crossing the access and a driver emerging from it. The amount of parking at one space per flat is in accordance with Local Plan policy DM13 and one parking space can be allocated to each flat to avoid drivers having to search for a free space. The proposals are likely to generate 2-3 two-way vehicle movements during the network peak hours, with only 1-2 movements likely during the peak 30-minute morning school drop-off period. There are no recorded personal injury crashes in this section of Castle Avenue in the 5 years to the end of 2019.

Taking all the above into account I would not recommend refusal on highway grounds subject to the following being secured by condition:

- Submission of a Construction Management Plan before the commencement of any development on site to include the following: (a) Routeing of construction and

delivery vehicles to / from site, (b) Parking/turning areas for construction and delivery vehicles and site personnel, (c) Timing of deliveries (these will not be allowed during school drop-of/pick-up periods), (d) Provision of wheel washing facilities, (e) Temporary traffic management / signage;

- Provision of measures to prevent the discharge of surface water onto the highway;
- Provision and permanent retention of the vehicle parking spaces shown on the submitted plans prior to the use of the site commencing;
- Use of a bound surface for the first 5 metres of the access from the edge of the highway;
- Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing;
- Completion of the access shown on the submitted plans and the associated vehicle crossing in the footway prior to the use of the site commencing;
- Provision and maintenance of 2 metres x 2 metres pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level, prior to the use of the site commencing.

I would also request that consideration be given to the provision of electric vehicle charging points.

Informatives are also requested relating to the need to obtain separate approval for works within the highway

DDC Environmental Health – No objections, but recommends conditions in relation to dealing with unforeseen contamination, and a site-specific Construction Management Plan.

The Dover Society – Objects. The changes do not fundamentally alter the development and the previous concerns still stand. Over intensification in a neighbourhood that has a particularly charming street scene characterised by large detached family dwellings. The grounds of refusal for DOV/19/01338 apply equally here, namely failure to contribute to the street scene, loss of privacy and creation of car parking difficulties. A single detached family house would be in keeping with the existing houses in the road.

Private representations:

Original scheme (8 Flats):

31 objections received, raising the following issues:

- Over-intensive development, not in keeping with the low density, spacious feel of the road, which is characterised mainly by detached houses on well-spaced plots;
- Overbearing and dominant to neighbours; not in line with neighbouring buildings;
- 8 flats is too many; this would amount to a HMO; no need for more flats given other recent developments nearby;
- Not in keeping with the historic nature of the road;
- Low quality flats for rent would make the area less desirable;
- The site is suitable for a detached house (or maybe a pair of semis) that fit in with the quality of the area;
- Additional traffic, noise and pollution;

- Concerns over parking and road safety: parking is already at a premium in Castle Avenue; this is especially bad at the beginning and end of the school day, when there is conflict and people flout regulations and park irresponsibly; this situation is often chaotic;
- Insufficient provision of parking to serve the development will result in more competition for the available on-street space; on-street spaces will be lost; driveways are often blocked by parked vehicles;
- The access is unsafe and would endanger children attending the school opposite; visibility is limited;
- The size and location of the parking area at the front of the site is out of character; it is not comparable to that at no 20 which is set down lower and further back;
- Loss of views;
- Overlooking to neighbours and loss of privacy;
- Will appear dominant from houses in Salisbury Road, especially given the number of windows;
- Poor design; materials do not match; unaesthetic;
- Will create a cul-de-sac;
- Lack of measures to deal with surface water; this will adversely impact on properties in Salisbury Road at the rear, which are at a lower level; possible encroachment of soil; no permeable paving;
- Drainage and infrastructure are inadequate;
- Refuse bins will block the pavement;
- Concern over loss of trees and protection of tree roots; premature clearance of trees has already taken place at the rear of the site, on land whose ownership/responsibility for which is disputed;
- Harm to wildlife;
- This will set a precedent for other sites to be developed to the detriment of the quality of the town;
- Traffic gridlock at school times might constrain the growth of the school;
- Too many HMOs in Dover;
- A Members' site meeting is requested.

Amended scheme (6 flats):

25 objections received. Many of the letters received are from those who made similar comments on the original scheme; the points made then are reiterated, with many people saying that the revisions do not overcome their original objections. The following additional issues are raised:

- Even less parking is now proposed;
- The site is within sight of a National Monument;

- No visitors' parking is provided;
- Parking is already dangerous, made worse by the presence of the school

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

- 1.1 The application, as now amended, proposes the erection of a three-storey building accommodating six flats (two on each floor). When originally submitted, eight flats were proposed; the flats that have been removed would have been accommodated in an attached block at the rear of the building so, in terms of built form, the main manifestation of the amendment is to reduce the depth of the building from front to rear. As set out above, many of the representations that have been received related to the original scheme; however, most of them contain comments on matters of principle that might equally apply to the scheme as amended.
- 1.2 The site is on the southwestern side of Castle Avenue and has a width of about 18m and a depth of about 62m. It is currently a largely undeveloped plot between nos, 20 and 24; there is currently no official "no. 22".
- 1.3 There is a substantial difference in levels across the site, with the rear part being about 5.5m to 5.75m below the level of the front part. In the front corner of the site, adjacent to the boundary with 24, there is a garage/workshop building. The upper floor of this is accessed from the road across a concrete forecourt. The land drops down such that the lower floor of the garage building is at ground level at the rear. This building is proposed to be demolished. Further to the rear, the land falls again to a large (relatively) flat area occupied by a derelict hard-surfaced tennis court, accessed via steps and surrounded by a 3.6m tall chain link fence. There are several tall conifer trees on or beyond the rear boundary that form an imperfect screen to the gardens and houses beyond, in Salisbury Road, which lie at a lower level. On the rear part of the north-western side boundary (with number 20) are more evergreen trees that provide a more substantial boundary screen.
- 1.4 This side of Castle Avenue is characterised by substantial detached houses, many of which (including no 24) sit on the front sections of their sites, at or marginally below road level. No 20 (adjoining the application site on its NW side) is a notable exception, being set further back into its site and at a much lower level such that the eaves are (broadly) at road level.
- 1.5 Given this disparity between the siting of the dwellings on either side, the proposed building is to be located behind the line of no 24 and in front of that of no 20, to give a "staggered" appearance; the building itself is also in two bays, with the north-western bay (closest to no 20) set behind the south-eastern bay, thus reinforcing the staggered arrangement. The slab level of the building is shown to be broadly comparable to that of no 20, and therefore substantially below road level; this means that the lower ground floor at the front of the building will be behind a retaining wall, with steps providing access down to the entrance at this level. Each of the bays to the building has a ridged roof with a gable to the front and rear, with a linking transverse ridged roof between; when seen from the road, the ridge of the roof will be at broadly the same height as the main ridge to no 20. The building will be constructed of red stock bricks, with tile hanging to the gable elements; the roof will be brown plain tiles.
- 1.6 Each of the flats will have two bedrooms, with the bedroom accommodation at the front and living room/kitchen at the rear. The majority of window openings will face either to the front or rear, with only high-level and (secondary) kitchen windows on the flank elevations at lower ground and ground floor, and rooflights at first floor. Paved patios and gardens are provided to the rear of the lower ground floor flats,

with a communal drying area beyond. Within the main part of the communal rear garden is a communal sitting area with seats and planters, and a series of individual garden stores, one for each flat.

- 1.7 Parking for six cars is to be provided on the front part of the site, three either side of a 6m wide central driveway, accessed from a new vehicular access off Castle Avenue. The parking area is set slightly below the level of the road, with a gradient of 1 in 8 for the first 6m and 1 in 10 thereafter. The access will be flanked by 1.5m high brick walls, splayed to provide 2m pedestrian visibility splays. Behind the wall on the NW side is a walled bin store, with low planting on both sides of the driveway before the parking spaces are reached. Behind the parking spaces are racks to accommodate 12 cycles. The existing access serving the garage that is to be demolished will be closed. No highway trees will be removed.
- 1.8 Although there has been a limited amount of redevelopment, conversion and infilling, the overwhelming character of the locality is one of substantial detached or semi-detached dwellings on sizeable plots. The majority of the houses are located towards the front of their plots, with long rear gardens. There is a school on the opposite side of the road a short distance to the northwest. The highway of Castle Avenue is relatively wide, with car parking taking place on both sides in gaps between mature trees that are sited within the carriageway.

2. Main Issues

2.1 The main issues are:

- The principle of developing this site for housing;
- Impact on the character of the area;
- Impact on residential amenity;
- Parking and highways considerations, including the safety of pedestrians and other road users;
- Habitats and ecology.

In assessing these issues, it is also necessary to consider whether the reasons for refusal of the earlier application (DOV/19/01381) have been satisfactorily overcome.

Assessment

Principle

- 2.2 The starting point for decision making is Section 38(6) of the Planning and Compulsory Purchase Act 2004. This states that 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 in accordance with the plan unless material considerations indicate otherwise.
- 2.3 Policy CP1 states that the location and scale of development in the District must comply with the Settlement Hierarchy which informs the distribution of development in the Core Strategy. The site lies within the defined urban confines of Dover, which is identified under policy CP1 as being the major focus for development in the district, suitable for the largest scale developments.
- 2.4 Policy DM1 and the settlement confines referred to within the policy were devised, in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy, with the purpose of delivering 505 dwellings per annum.

The recently published consultation draft of the new Dover District Local Plan seeks to provide for 596 dwellings per annum in accordance with Government methodology. However, the application site is within the defined settlement confines and, as such, Policy DM1 supports development in this general location. Consequently, it is considered that DM1 reflects the NPPF (which supports locating development in urban areas) and, as a matter of judgement, it is considered that policy DM1 is not out-of-date (insofar as this application is concerned) and, as a result, should continue to carry significant weight.

- 2.5 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The site falls within the settlement confines and so development here is supported by DM11. This support is consistent with the NPPF which seeks to focus development in locations which are or can be made sustainable, where there is access to a range of modes of transport (including walking and cycling) and where development will support existing facilities and services, and social integration. Insofar as this application is concerned, it is therefore considered that DM11 is not out-of-date and should continue to attract significant weight.
- 2.6 Having regard to the compliance with Policy DM1 and DM11, new residential development within this area is acceptable in principle. NPPF paragraph 118 says that substantial weight should be given to using suitable brownfield land within settlements to meet the need for homes and other identified needs, and also promotes the development of under-used land and buildings. However, as this site is historically part of a residential garden in a built-up area, it is expressly excluded from the definition of previously developed land in NPPF Annex 2.
- 2.7 Nevertheless, this approach does not preclude development within built confines as a matter of principle, provided that the development is appropriate to its surroundings and consistent with all other planning policies (including, for example, the principles set out in NPPF paragraph 122 which says that planning decisions should support development that makes efficient use of land, taking into account the desirability of maintaining an area's prevailing character and setting, including residential gardens).
- 2.8 However, there are no specific policies in the adopted development plan that directly address this sort of issue. This being the case, NPPF paragraph 11(d) provides the basis upon which this application should be decided. This applies a presumption favour of sustainable development and says that permission should be granted unless either:
- the application of NPPF policies that protect areas or assets of particular importance (that is those referred to in footnote 6 to the NPPF, such as habitats sites, AONB, SSSI) provides a clear reason for refusing the development proposed; or
 - any adverse effects of granting permission would significantly and demonstrably outweigh the benefits, when assessed against NPPF policies taken as a whole.
- The first of these criteria is only peripherally relevant to the current proposal, so it is the second criterion that will be the primary determining issue.
- 2.9 Applying NPPF paragraph 11(d), therefore, there would be no objection to the principle of residential development on this site, provided the development meets all other relevant criteria including those referred to in NPPF paragraph 122. The determining issues for this application therefore rest on consideration of the impact

of the proposed development in its specific context and the impact on the surroundings, including its impact on the character of the area and existing residential amenities, parking and highway safety issues.

Character of the Area

- 2.10 NPPF paragraph 117 promotes the effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Paragraph 122 supports development that makes efficient use of land, taking into account (amongst other things) the identified need for different types of housing, the desirability of maintaining an area's prevailing character and setting, and the importance of securing well-designed, attractive and healthy places. Paragraph 127 says that developments should add to the overall quality of the area, be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, and be sympathetic to local character and history, while not preventing or discouraging appropriate change (such as increased densities).
- 2.11 The prevailing character of Castle Avenue and the surrounding roads is of low density development with buildings, mainly of conventional design, sitting on individual plots. Those on the south side of the road are relatively well-spaced; those on the north side are generally closer together but this does not detract from the overall feeling of spaciousness, which is bolstered by the tree-lined nature of the road itself. Although the existing properties vary in style and age, there is an element of coherence that is revealed, to varying degrees, through the proportions of the buildings themselves, the arrangement and proportions of window openings, roof form and pitch and the choice of external materials. Although the area is not designated as a Conservation Area there is a clear and recognisable character, one which the general thrust of the NPPF recognises merits protection. In this context it is worth noting that the previous application on this site (DOV/19/01381) was refused partly because the building then proposed reflected few of the characteristics mentioned particularly (for example) in its proportions and roof form.
- 2.12 Notwithstanding that it is designed to accommodate apartments, in terms of its architectural features the building now proposed is notably more successful in picking up on the elements that contribute to the character of the area.
- 2.13 The front of the building is located about 15.5m back from the site frontage, roughly midway between the forwardmost parts of the two neighbours. It is sited on the lower part of the site, with the ground floor slab at a similar level to that of no 20. Although it is a three-storey building, the gables facing the road will only be about 0.6m higher than the main ridge of the roof to no 20, and the transverse linking roof will be at more or less the same height as that of no 20. The use of gables reflects the form of other properties nearby and, although the pitch of the roof is steeper than that of the immediate neighbours, this is not uncharacteristic of the area generally and is unlikely to be noticeable in the broader street scene. The proportions and alignment of the windows on the front elevation reflect those of the early/mid twentieth century properties nearby, including the immediate neighbour at no 24. Although the windows on the rear elevation are differently orientated, this is also not out of character in the context of the rear of other properties. The proposed palette of external material is broadly acceptable, given the mixture of materials already apparent in the locality; samples of materials can be required by condition. Experience shows that some finer details, such as the depth of window reveals and features such as cills, can be critical in helping a new building to integrate successfully; it is also recommended that a condition be imposed to address this. The building is centrally located on its plot, a respectful distance from

the boundaries and from the houses either side. In terms of the height, positioning, proportions and general appearance of the building, it will make a positive contribution to the street scene that integrates well with its surroundings.

- 2.14 Some concern has been expressed over the extent and design of the parking area at the front of the site. Technical issues regarding the layout are discussed separately below, but in terms of its impact on the street scene and character of the area there are a number of factors to consider. The frontages along this side of the road are generally formed by relatively tall fences, walls or hedges that limit the views into the front garden areas; (this is not so true on the opposite side of the road, where the gardens slope up away from the road). Views into the front gardens can be obtained through the access openings, some of which are framed by taller pillars that lend an air of formality. That general approach will be repeated in the current proposal. Although in many instances views into the private garden areas are limited by the width of the openings, that is not always the case and there are several examples of wider openings, some of which reveal quite extensive forecourts and hardstandings. Although the proposed parking area providing for six cars is relatively large, due to the detailed layout and use of screening walls and planting at the front of the site, this should not unduly impact on the overall character of the street. The existing access at the south-eastern end of the road frontage will be closed and enclosed by the new boundary wall, partially offsetting the visual impact of the new access. The street trees will be kept, to retain the sylvan character. It is also fair to say that although the carriageway of Castle Way itself is relatively wide, it is dominated, visually, by parked vehicles.
- 2.15 The other issue that has caused considerable concern locally, in terms of impact on the character of the area, is that this proposal is for flats, rather than conventional family housing, and also the number of flats. The visual impact has already been described; seen purely in terms of the built form, there is no intrinsic reason why a building accommodating flats should not be capable of successfully integrating with these surroundings. There is a broader issue, though, relating to less tangible matters such as the social character of the area.
- 2.16 Members will be well aware of the general policy imperative to make the best, most efficient use of available land, so long as this is sympathetic to the surroundings, as reflected in the NPPF paragraphs referred to above. Although, superficially, the locality may appear to show uniformity in terms of the nature of occupancy, the actual pattern is not so simple; for example, there are several larger properties that appear to have been converted into smaller units of accommodation, including the immediate neighbor at no 24 which, it is understood, comprises three flats. Wider analysis reveals that, of the 51 numbered addresses in Castle Avenue, 14 contain flats (making up around 50 residential units) and 37 are what might be described as “conventional” detached or semi-detached houses.
- 2.17 Taking all these factors into account, there is no legitimate reason to resist this proposal simply in the basis of it providing flattened accommodation rather than conventional houses.

Impact on Residential Amenity

- 2.18 In addition to ensuring that developments are visually attractive and sympathetic to local character, NPPF paragraph 127 says that planning decisions should create places that have a high standard of amenity for existing and future users. The principal issues to be considered are whether there would be any harmful effects on the amenities of neighbouring properties though a loss of privacy, loss of outlook, deprivation of daylight or sunlight, creation of noise and disturbance, or

overbearing impacts. In addition to the houses either side, it is also appropriate to consider the impact on properties in Salisbury Road, to the rear of the site.

- 2.19 The “staggered” location of the building in relation to nos 20 and 24 has already been mentioned. In terms of no 20, the front corner of the closest part of the building will be about 7m forward of the closest affected window on the front elevation of that house, and the rear corner of the building will be about a quarter of the way along the side elevation, meaning that the main part of no 20 extends about 6.5m further back. The flank-to-flank distance between the new building and the house at no 20 (where they overlap) is about 11.8m. In terms of no 24 (which clearly sits at a much higher level), the rear corner of the proposed building will be about 6.5m further back than the rear windows, and the front corner will be 8m set back from the front corner of no 24. The flank-to-flank distance where there is overlap is 11m. The submitted drawings indicate that the building will not breach 45-degree lines drawn from the closest windows on the principal elevations (front and rear) of these neighbouring houses. No 20 has two small ground floor windows on its flank elevation; these appear to either be secondary windows, or windows that serve non-habitable rooms. There are several windows on the flank elevation of no 24 (which is occupied as flats), but these are mainly at a higher level and further from the boundary.
- 2.20 Given these relationships, there is unlikely to be an unacceptable loss of outlook or loss of daylight to the living accommodation of the neighbours. One of the concerns with the previously refused scheme (and with the current scheme as originally submitted and before it was amended) was to do with potential loss of privacy, especially to the private garden areas of the neighbours. In terms of the impact on no 20, this was exacerbated by the number of windows on the rear elevation, their height, and the fact that at that time the rear elevation would have been further back, a short distance beyond the rear elevation of no 20 itself. The current scheme still has windows on all three floors on the rear elevation, and these will serve rooms identified as living rooms. However, given that these windows will be about 6.5m further forward than the rear main wall of number 20, there is no longer the potential for views into the private garden area immediately to the rear of that house; any views into the rest of the rear garden will be limited by the flank wall of no 20 itself and the substantial boundary vegetation. The flank windows on the proposed building are secondary windows to the kitchen areas, or serve bathrooms, and can be obscure glazed. Similarly, any overbearing impact is mitigated by the degree of setback and the fact that the proposed building is no taller than no 20. In terms of overbearing impact, there was previously concern over the potential impact on the rear garden of no 24, due to the length of the rear projection of the building as previously proposed; this has now been reduced and the impact is mitigated to an acceptable extent.
- 2.21 There are also objections from residents in Salisbury Road regarding a dominating effect and potential loss of privacy to their properties. The rear garden serving the proposed flats will be in excess of 30m long and the “back to back” distance to the closest house in Salisbury Road will be in excess of 60m. This is a substantial separation, notwithstanding that the new building sits on higher ground and is three storeys tall. There is partial screening along the rear boundary, formed by some straggly conifers. The application drawings note that these are intended to be reduced in height by 50%. This has also attracted objections; the neighbours also draw attention to recent tree works at the rear of no 24, however the applicant has confirmed that that property is in separate ownership. Notwithstanding these factors, taking account of the separation distances and the opportunity to provide enhanced screening if deemed appropriate, I do not consider that the proposed

development would have an unacceptably adverse impact on the privacy of the properties at the rear in Salisbury Road.

Parking, Highways and Road Safety Issues

- 2.22 Policy DM13 advocates a design-led approach to the provision of car parking, based upon the characteristics of the site, the locality, the nature of the proposed development and design objectives. Provision for residential parking should be informed by the guidance in the Table that accompanies the policy, and which is based upon KCC IGN3. For one and two-bedroomed flats in urban areas, the recommended provision is one space per unit; this requirement is met. This level of provision also allows for the spaces to be allocated, one to each unit, which reduces the opportunity for people having to “search” for a space.
- 2.23 The extent of the parking area is reduced from the previously refused scheme (19/01381 proposed eight spaces in two separate groups, one at a significantly lower level on the site). The scope for potential noise and disturbance from parking activities is significantly reduced, both by the more compact layout and by the removal of the need for vehicles to move between two different levels.
- 2.24 There were other concerns of a more technical nature over the layout previously proposed; these related to visibility and manoeuvring within the parking area, the gradient of the approach and so on. To a certain extent, those concerns reflected some of the objections raised by local residents; many of these objections have also been raised in connection with the current proposal.
- 2.25 The detailed comments of Kent Highways are set out in full in the Consultee Responses section of this report; this provides a comprehensive technical appraisal of the proposed layout, written in the knowledge of the concerns that arose over the previous scheme, including those that have been raised again now through public consultation. There are no sustainable highways reasons for refusal, based on the technical assessment that has been provided. There are clearly local concerns over the parking situation in the vicinity, the amount traffic using Castle Avenue (including that arising from the nearby schools), and the perceived impact this has on road safety, particularly for pedestrians. However, these are all existing factors which it would be unreasonable to expect any new development proposals to “resolve”; given that the current scheme provides the required level of parking, and that the layout is acceptable in other technical respects, the advice provided by Kent Highways is clear and soundly-based.

Habitats and Ecology

- 2.26 The front part of the site, at the upper level, has become severely overgrown and although there are some shrubs and small trees, none of these appears to be worthy of individual protection. The lower part of the site is largely taken up by the surfaced tennis court. Across the rear of the site, near the boundary, is a belt of relatively tall conifers that appear to be in poor condition and do not appear to have been actively managed, although thinning seems to have taken place. They form an imperfect screen between this site and the gardens of the Salisbury Road houses; it is proposed to reduce these in height, which will not significantly affect their effectiveness as a screen. Towards the rear of the side boundary with no 20 there is a more substantial screen of conifers, but these appear to be mainly overhanging from the adjacent site and are, in any event, well removed from the proposed built development. Although there will be some loss of existing vegetation as a result of this development (mainly at the front of the site), this is not a substantial reason to object to the development overall.

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

- 2.27 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.
- 2.28 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.
- 2.29 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.
- 2.30 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.
- 2.31 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.
- 2.32 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 Issues

- 2.33 There has been some concern, notably from residents of Salisbury Road, about the adequacy of surface water drainage on the site, and the possibility of water flowing from this site downhill towards the Salisbury road properties and eroding the bank between them. The application form says that surface water is to be disposed of by soakaway. A large proportion of the lower part of the site is currently covered in hardstanding (the tennis court) and this is to be removed; although it is not clear to what extent this is permeable, it is reasonable to conclude that this removal can only improve any issue that may currently exist with regard to the surface water regime. Nevertheless, given the likely significant changes that this might bring, together with the significant difference in levels across the site, it is appropriate to require that the details of surface water drainage required by

condition should adopt sustainable drainage principles and include appropriate measures to regulate how this is disposed of.

- 2.34 Concern has also been expressed about the number of refuse bins that will be required and the potential for these to be left to block the footway on collection day. A dedicated refuse bin storage area, within a walled enclosure, is identified adjacent to the entrance to the site; subject to detailed consideration of layout and design, this might provide for communal bins that could be accessed directly on collection day; submission of such details can be required by condition.

3. Conclusion and Sustainability

- 3.1 This is an application for development on an infill site within the urban area that is clearly capable of accommodating residential development. Although there is a body of opinion that would favour a limited number of conventional houses, rather than the proposed flats, the tests that need to be applied are whether the proposal fits in appropriately with the character of the area in terms of its visual impact, amenity considerations, highway issues and so on. The form, proportions and detailed architectural design of the building pick up on many of the features that characterise the built form in the vicinity. A building of this size and in this location would not look out of place in the overall street scene. The building has been carefully sited with consideration for its impact on the amenity of immediate neighbours in mind, and in its amended form is satisfactory in these respects. The concerns levelled at the previously refused scheme, in terms of appearance and amenity impact, have been satisfactorily overcome. An appropriate amount of on-site parking is provided and the technical shortcomings of the previous scheme with regard to the layout of the parking and access have been addressed. All other issues can be appropriately dealt with through conditions. This is an opportunity to make effective use of available land in accordance with the NPPF guidance relating to the provision of housing and there are no adverse effects of granting permission that would significantly and demonstrably outweigh the benefits. It is therefore recommended that planning permission be granted.

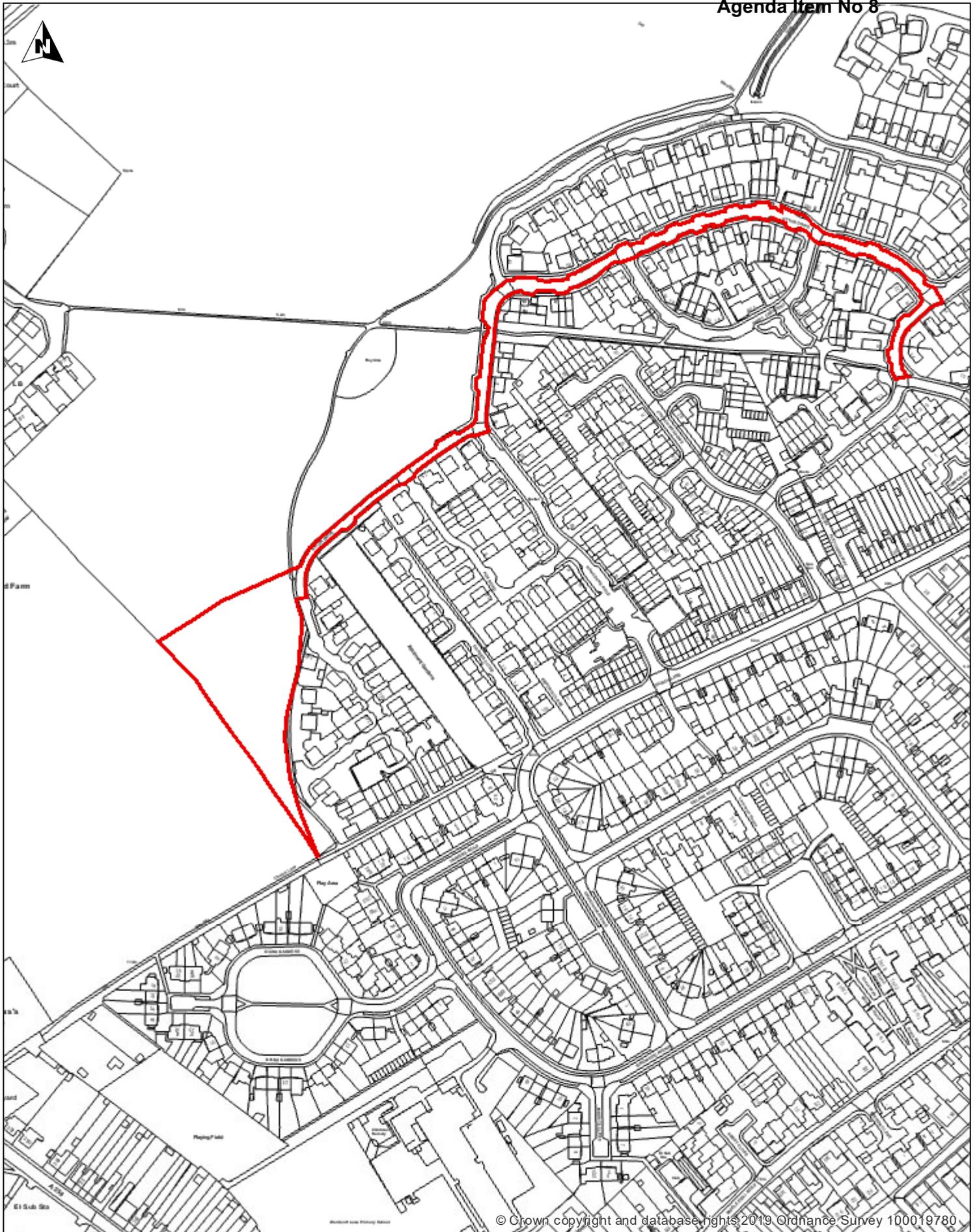
g) Recommendation

- I. GRANT PLANNING PERMISSION subject to conditions to cover the following matters:
 1. Standard commencement condition
 2. List of approved plans
 3. Submission of samples of external materials
 4. Submission of landscaping scheme and details of boundary treatment
 5. Provision of car parking
 6. Provision of new access, vehicular crossing and sight lines, before occupation
 7. Existing access to be closed
 8. Building to be constructed at the agreed slab level
 9. Provision of cycle parking
 10. Submission of details of refuse bin storage
 11. Submission of a detailed scheme for the disposal of surface water drainage, including SUDS (pre-commencement condition)
 12. Submission of, and adherence to, Construction Management Plan (pre-commencement condition)
 13. Provision of obscured glazing to flank windows
 14. Surfacing of access and no water to discharge to highway
 15. Provision of ducting and cabling to enable installation of electric vehicle charging points
 16. Provision of pedestrian vision splays

17. Dealing with unforeseen contamination
 18. Requirement to submit details of window openings, including depth of reveals and cill construction and materials.
- II. Powers to be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions, in line with the issues set out in the report and as resolved by Planning Committee and to draft and issue a Statement of Reasons.

Case Officer

Neil Hewett



DOV/19/01260

Land at Church Lane,
Sholden

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/19/01260 – Outline application for the erection of up to fourteen dwellings (appearance, landscaping and scale to be reserved) - Land off Church Lane, Deal**

Reason for report: Report back following deferral at Planning Committee meeting on 3rd September 2020. The application was also on the published agenda for the Planning Committee meeting on 17th November, but was withdrawn from that agenda pending the receipt of further information from Southern Water.

b) **Summary of Recommendation**

Planning Permission be Granted subject to conditions and S106 agreement.

c) **Planning Policy and Guidance**

Please refer to the report attached as an annex.

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process however the policies of the draft Plan have little weight and are not considered to materially affect the assessment of this application and the recommendation as set out.

In addition, the following are relevant:

Kent Minerals and Waste Local Plan 2012 -2030 Policies

DM7 – Safeguarding Mineral Resources:

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

1. the mineral is not of economic value or does not exist; or
2. that extraction of the mineral would not be viable or practicable; or
3. the mineral can be extracted satisfactorily, having regard to Policy DM9, prior to the non-minerals development taking place without adversely affecting the viability or deliverability of the non-minerals development; or
4. the incompatible development is of a temporary nature that can be completed and the site returned to a condition that does not prevent mineral extraction within the timescale that the mineral is likely to be needed; or
5. material considerations indicate that the need for the development overrides the presumption for mineral safeguarding such that sterilisation of the mineral can be permitted following the exploration of opportunities for prior extraction; or
6. it constitutes development that is exempt from mineral safeguarding policy, or
7. it constitutes development on a site allocated in the adopted development plan where consideration of the above factors (1-6) concluded that mineral resources will not be needlessly sterilised.

DM8 – Safeguarding Minerals Management, Transportation Production & Waste Management Facilities:

Planning permission will only be granted for development that is incompatible with safeguarded minerals management, transportation or waste management facilities, in certain, specified circumstances.

Planning applications for development within 250m of safeguarded facilities need to demonstrate that impacts, e.g. noise, dust, light and air emissions, that may legitimately arise from the activities taking place at the safeguarded sites would not be experienced to an unacceptable level by occupants of the proposed development and that vehicle access to and from the facility would not be constrained by the development proposed.

National Planning Policy Framework (NPPF)

In addition to the paragraphs listed in the previous report:

- Paragraph 206 says that LPAs should not normally permit other development proposals in Minerals Safeguarding Areas if it might constrain potential future use for mineral working.

d) Relevant Planning History

Please refer to the report attached as an annex.

e) Consultee and Third-Party Responses

Please refer to the report attached as an annex.

Additional comments received since publication of the previous Agenda:

Sholden PC – Objects.

Summary

1. The application should be refused on the grounds of policy and material considerations.

2. The applicant, after the deferral for further information at the planning committee on 03 September, has submitted various documents/correspondence providing the further information requested by Members of the Planning Committee.

3. Sholden Parish Council makes the following summary observations on the new submissions by the applicant (in particular on the Sustainability Note):

(i) the Objectives in the Sustainability Note seem to have been “cut and pasted” from a document created by Ashford Borough Council in 2018. Some of the wording bears a remarkable resemblance to the housing policies in the Ashford Local Plan – <https://www.ashford.gov.uk/media/jw3nbvq1/adopted-ashford-local-plan-2030.pdf> . Please see page 209. At the risk of stating the obvious, Sholden is not in the Borough of Ashford

(ii) the Sustainable Objectives submitted by the applicant are not based on the three overarching interdependent objectives/definitions detailed in paragraph 8 of the NPPF. Attached at Annex A are the Sholden Parish Council sustainability concerns based on the correct NPPF sustainable policies.

3. Even after this “new” information, the proposed development still breaches policies DM1, 12,15 and 16 and, as already proven, the “tilted balance” is not engaged (for more detail on these breaches please see our letter of 27 November).

Detail

Sustainability

4. Notwithstanding that it seems as though the applicant has copied either partly or in full Housing Policies HOU5 (a), (c), (d) and (e) from the Borough of Ashford Local Plan (see above), Sholden Parish Council has the following comments:

Sustainable Objective 1 (Ashford Housing Policy 5 (a))

5. We note the applicant’s statement that this proposed development represents an “infill” opportunity. It is the understanding of Sholden Parish Council that an infill is “the development of a relatively small gap between existing buildings”. This is not the case here. The proposed development is not being built between existing buildings.

6. The applicant also states that the current available services will be able to accommodate the proposed development in conjunction with other planned and committed development. No evidence for this statement has been presented. Please also see paragraphs 8 and 9 below.

7. Section 106 contributions towards education and health do not necessarily go to health or educational establishments in the area.

Sustainable Objective 2 (Ashford Housing Policy 5 (c))

8. As above, unfortunately, the applicant has not dealt with the wider developments happening adjacent, nearby or proposed which will considerably impact on vehicle movements and road safety. Currently, there are two extant developments totalling nearly 100 more dwellings not including a 64bed care home. There is another outstanding planning application for over two hundred houses on the boundary of sholden parish.

9. Sholden Parish Council was informed on 14 October that a planning application for 250 dwellings would probably be submitted “before Christmas”. Such a development will, as with this application, further exacerbate vehicle, road safety and sustainability issues.

Sustainable Objective 3 (Ashford Housing Policy 5 (d))

10. We note that it took the applicant three different attempts to get correct the three nearby primary schools. In their efforts to get that right, they have neglected to say that there is no capacity at these schools for any more children. Parents will have to drive to schools much further away for their children’s education.

11. In today’s modern age, people shop on the Internet and goods are delivered by vehicle – adding more traffic to roads. In addition, whilst the nearest two large

supermarkets are 1.6km away, not many people are going to carry their weekly shopping that far back home. They will use their cars.

12. The applicant indicates that it is committed to a “sustainable travel plan”. That has not been submitted. Readers of this objection will know what happened to the planned electrical charging points at Aldi’s supermarket.

Sustainable Objective 4 (Ashford Housing Policy 5 (e))

13. Sholden Parish Council rejects the assertion that there will be biodiversity gains. The ecological appraisal submitted on 14 October does not appear to have been reviewed and agreed by Dover District Council. Our view is that the development, far from conserving the natural environment, is going to lead to the potential destruction of local biodiversity. Sholden Parish will lose more of its biodiversity in a time when nature is in a state of crisis. No amount of compensation can make up for its destruction.

14. In addition, the Deal/Sholden/Sandwich area will become more suburbanised with fewer ‘wild’ or ‘natural’ spaces. The issue of suburbanisation is important since the result will be an increase in car journeys, an increase in greenhouse gas emissions and decrease in air quality.

15. An important factor in any major development is its effect on greenhouse gas emissions and its contribution to meeting climate change targets. The destruction of natural habitat removes carbon sinks and building in an unsustainable location requires people living in the new development to travel to work, shops, schools, cultural activities, doctors’ surgeries etc. etc. The more car journeys, the more greenhouse gas emissions. This Church Lane proposed development has three effects (i) the destruction of biodiversity (ii) the destruction of a carbon sink and (iii) an increase in greenhouse gas emissions. The National Planning Policy Framework paragraphs 103 and 149 are clear on the need for policies to mitigate climate change by both reducing the need to travel and also by not destroying carbon sinks. Just taken by themselves these paragraphs of the NPPF are sufficient grounds for refusing the application.

Access

14. At the time of writing, there has been no reply from the Kent Fire Service concerning access to the proposed development by Fire pumps.

15. There still appears to be confusion about access from the junction of Hancock’s Field/Hyton Drive to the proposed development. It seems to be agreed that this will be a private road. KCC (Highways) are not adopting it. Private roads do not belong to the local authority and it is not their duty to maintain them, they are unadopted roads. Sholden Parish Council assumes that since KCC (Highways) will not maintain that part of Hyton Drive, that responsibility will fall to local residents. There appears to have been no consultation with those residents – the owners of properties which front that unadopted road will be responsible for paying for any repairs or maintenance required. If they do not want to do that, then there is a major problem with access to and from the proposed development.

Previous planning commitments

16. It has been brought to the attention of Sholden Parish Council that previous planning consents surrounding the major development of Timperley Place would

maintain a clear view of St Nicholas Church (A Grade II* Listed Building). This proposed development will breach those previous commitments.

Comment and Conclusion

17. Sholden Parish Council finds the fact that the applicant appears to have used Housing Policies (their claimed Sustainable Objectives) from the Borough of Ashford Local Plan 2030 without referencing Ashford Council rather odd. But odder still, is why use objectives from a district which bears no relation to Sholden Parish.

18. Sholden Parish Council fully understands that Local Government can (and at times should) help central government deliver government policy – especially on housing. But in the case of housing, dwellings must be built in the right numbers, in the right places, to correct standards and in compliance with Core Strategies/Local Plans and Policies and/or the NPPF. In this case, the proposed development fails on both breaches of the Core Strategy and on NPPF sustainability criteria and other policies.

Annex A

NPPF Section 2: Achieving Sustainable Development: Paragraphs 8 and 9

The proposed development does not meet the requirements of these two paragraphs, namely

Economic – the applicant has not provided any evidence to substantiate their claim that the proposed development will have “significant benefits for the local and national economy” (paragraph 6.24 of their Planning Statement). It is quite preposterous to claim that a 14-dwelling development on the edge of Deal is going to impact the national economy! In addition, the jobs created during the construction will, by definition, be very temporary. Whilst the occupants of the 14 dwellings may well pay Council Tax, they are paying for services and thus are consumers of services that the Council must supply. That is not an economic benefit. It is quite simply a transaction. In effect the additional Council Tax will not economically benefit Dover District Council.

Social – the applicant has not provided any evidence to substantiate their claim that the households will contribute to the social fabric of the area. Sholden Parish Council would argue that, to the contrary, slotting in a small, but major, development on the proposed site could actually alienate those residents – being stuck between Hyton Ward, the proposed Churchfield Farm development and Sholden Village could lead to isolationism and create the problems linked to isolated communities. This isolation is an adverse effect of the proposed development and further breaches NPPF paragraphs 91 a) and 92 e).

Environment - there is nothing in the Planning Statement that indicates that this proposed development will help mitigate the effects of climate change or assist DDC in its quest reduce carbon emissions. Indeed, the applicant themselves have stated that some recently planted tree saplings will have to be uprooted if the proposed development goes ahead.

Deal TC – No further response received to date.

Environment Agency – No further comments to make.

KCC Flood and Water Management – Having reviewed the latest information submitted we are satisfied that the principles proposed, namely infiltration to ground where possible and where not possible to discharge to neighbouring drainage network, do not increase the risk flooding from surface water. Should you as LPA be minded to grant permission we would recommend the following conditions are applied:

Condition: No development shall take place until the details required by Condition 1 (assumed to be reserved matters condition for layout) shall demonstrate that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and that they are incorporated into the proposed layouts.

Condition: Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Charles & Associates Technical Note Ref: 19-015-03 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site where reasonably possible via infiltration techniques and were this is not proven to be possible discharge from site must not exceed 2l/s without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details. Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

Condition: No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

Condition: Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

Condition: Information shall be submitted to (and approved in writing) by the Local Planning Authority that demonstrates that off-site surface water drainage works are appropriately secured and protected and subsequently implemented prior to the occupation of any phase of the development.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water.

Southern Water – (Response received 2nd December 2020):

Further to our letter of 27/10/2020 regarding above planning application, we would wish to withdraw the representation and substitute the comments below.

Please see the attached extract from Southern Water records showing the approximate position of water mains in the immediate vicinity of the development site. The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water, before the layout of the proposed development is finalised.

- The public water main requires a clearance of 6 metres on either side of the water main to protect it from construction works and to allow for future access for maintenance.

- No excavation, mounding or tree planting should be carried out within 6 metres of the external edge of the public water main without consent from Southern Water.

- No new soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public water main.

- All existing infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works. Please refer to: southernwater.co.uk/media/default/PDFs/stand-off-distances.pdf

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Southern Water has undertaken a desktop study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that these additional flows may lead to an increased risk of foul flooding from the sewer network. Any network reinforcement that is deemed necessary to mitigate this will be provided by Southern Water.

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

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

Southern Water will carry out detailed network modelling as part of this review which may require existing flows to be monitored. This will enable us to establish the extent of any works required.

Southern Water endeavour to provide reinforcement within 24 months of planning consent being granted (Full or Outline) however for large developments our assessment of the timescales needed will require an allowance for the following which may result in an extension of the 24 month period:

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

Southern Water hence requests the following condition to be applied: Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.

The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SuDS). Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption will be considered if such systems comply with the latest Sewers for Adoption (Appendix C) and CIRIA guidance available here:

water.org.uk/sewerage-sector-guidance-approved-documents/

ciria.org/Memberships/The_SuDS_Manual_C753_Chapters.aspx

Where SUDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from

the proposed surface water system, which may result in the inundation of the foul sewerage system. Thus, where a SuDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SuDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development. This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with Sewers for Adoption standards will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

In situations where surface water is being considered for discharge to our network, we require the below hierarchy for surface water to be followed which is reflected in part H3 of the Building Regulations. Whilst reuse does not strictly form part of this hierarchy, Southern Water would encourage the consideration of reuse for new developments.

- Reuse
- Infiltration
- Watercourse
- Storm sewer
- Combined Sewer

Guidance on Building Regulations is here: gov.uk/government/publications/drainage-and-waste-disposal-approved-document-h Where a surface water connection to the foul or combined sewer is being considered, this should be agreed by the Lead Local Flood Authority, in consultation with Southern Water.

We would like to engage with you on the design for disposal of surface water for this development at the earliest opportunity and we recommend that civil engineers and landscape architects work together and with Southern Water. In many cases this may negate or reduce the need for network reinforcement and allow earlier completion of the development.

We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Note: Following receipt of these comments, officers wrote to Southern Water requesting further detail on the scale and nature of the works that might be

necessary in order to reinforce the network to provide additional capacity, how this might relate to any further upgrading works that might be necessary in the locality generally, and how realistic the proposed 24-month delivery timescale was, given that the nature of the required works has not been set out. The following response has been received.

(Response received 15 December 2020): I am unable to provide you with the information you require. I can only advise that once planning permission has been granted we will look to investigate the extent of reinforcement required to ensure the existing risk of flooding is not increased by a development, any works required as a result of this development will not address existing flooding issues in the catchment. Unfortunately this means we will not be able to provide information to you by 21st January 2020. As you will appreciate we have a number of developments to design infrastructure for and we do not commence this process until planning permission has been granted, so we avoid expending resources unnecessarily as many developments do not gain planning permission and to expend resource in such circumstances is not a justifiable use of customer money.

We aim to provide infrastructure within 24 months of planning being granted or provide an alternative method of drainage should any required infrastructure not be in place by then. The developer will be asked to contribute to the costs of reinforcement via the New Infrastructure charging system details of which are available at <https://www.southernwater.co.uk/developing-building/connection-charging-arrangements>.

River Stour IDB – No further response received to date.

KCC Highways – I refer to the Technical Note submitted for the above and would comment as follows:

1. The details submitted show that access is available for a fire service vehicle, however you may wish to confirm the views of the Fire Service in this regard.
2. As previously advised the existing road leading to the site (Hyton Drive) is to remain private from its junction with Hancocks Field, and is not included in the road adoption agreement for the wider Hyton Drive site already completed. It will therefore not be possible to adopt the proposed road within the application site as it does not connect to the existing public highway.
3. Although not a highway matter it appears rights of access are available over the existing private road to reach the site.
4. The existing roads leading to the site are constructed to accommodate refuse vehicles and buses, so are suitable to accommodate temporary construction traffic associated with the application site. If necessary the Construction Management Plan for the site can include a requirement for pre and post conditions photos/surveys, and a requirement for repairs to be undertaken if it can be demonstrated that damage has been caused by construction vehicles.

I therefore confirm I have no objections in respect of highway matters as per my previous comments dated 25 October 2019.

KCC Minerals and Waste Planning –

(Comments received 27 October 2020): I can confirm that the application site is not within 250 metres of any safeguarded mineral or waste facility, and thus would not have to be considered against the safeguarding exemption provisions of Policy DM 8: Safeguarding Minerals Management, Transportation, Production and Waste Management Facilities of the adopted Kent Minerals and Waste Local Plan 2013-30.

With regard to land-won minerals safeguarding matters it is the case that the area of the application site is coincident with a safeguarded mineral deposit, that being Brickearth (Other Areas) – Ashford, Canterbury, Dover, Shepway.

Therefore, the application details should include a Minerals Assessment to determine if the safeguarded mineral deposit is an economic and viable deposit for prior extraction, and if not whether an exemption pursuant to Policy DM 7: Safeguarding Mineral Resources of the Kent Minerals and Waste Local Plan 2013-30. The submitted Planning Statement does not have any reference to safeguarded minerals in the form of a Minerals Assessment. Therefore, the application is deficient in information for its determination. The County Council object to the application in its present form. However, the County Council is interested in cooperating with the determining authority and wishes to extend any advice to address the above, so that the applicant can also address this matter enabling the application to be determined.

(Comments received 30 October 2020): I have looked at the applicant's submission in this regard (from icene of the 29th October 2020).

They cite an exemption on grounds that exemption criteria 1, 2, 3 and 5 can be invoked. The policy only requires one criterion to be successfully argued in order for the proposed development being exempt from the presumption to safeguard as set out in Policy CSM 5: Land-won Mineral Safeguarding of the adopted Kent Minerals and Waste Local Plan 2013-30 (as partially reviewed in 2020).

Of the arguments put forward, that for criterion 1 appears to be the most compelling, in evidential terms. It states:

Exception 1: Mineral is not of economic value

7. Exception 1 states that planning permission can be granted if the mineral is not of economic value or does not exist.

8. In May 2018, the applicant for Planning Permission DOV/17/01345 for Land at Churchfield Farm, The Street, Sholden, CT14 0AL1, adjacent to the subject site, concluded that “there are no brickworks close to the reserves around Deal and Sholden, so little likelihood that they will ever be worked”. In response to this submission, KCC Minerals and Waste Planning Team confirmed that there have not been any recent historic mineral works to supply a brick making facility in the locality, such that it was “unlikely that the safeguarded deposit is of economic importance to the brick making industry currently” and that Exception 1 was met.

9. Since the granting of planning permission for application ref: DOV/17/01345, no plans have come forward for the creation of brick making facility within the local area. As such, the conclusions made for Planning Permission DOV/17/01345 remain relevant and up to date, and the mineral in this location is considered to remain of low economic value to the brickmaking industry. Therefore, Exception 1 of Policy DM7 is relevant to the current planning application.

The brickearth in this locality is considered as of probable limited viability, the following is an extract from the County Council's geological area note (soon to be part of an updated SPD on mineral and waste safeguarding):

In the Dover District Council area deposits of the material are found on Chalk dip slopes both as isolated deposits and as 'spreads' often closely associated with the Sub-Alluvial River Terrace deposits in this area. Many show down slope slumping by the process of solifluction that occurred when the Chalk was still frozen, as a permafrost at the end of the last glaciation (Pleistocene epoch), forming a the low friction plain for the windblown brickearth deposits to move under gravity down slope. There are no records of recent extraction of this mineral for modern brick making. It may have occurred in the past as isolated and temporary localised extraction and kilning for use in close proximity to the point of production. It would appear that the material is currently economically marginal or that any economic status is now historic and unrelated to present day industrial minerals requirements. However, this does not mean that their use in historic restoration will not be needed at some juncture, or that the brickearth using brick manufacturing industry will not consider their use with the depletion of 'Stock Brick' brickearth supplies in other areas of Kent, and for that reason are considered important to be safeguarded at this time.

The area of mineral affected with potential sterilisation is 0.47ha. This is a relatively insignificant area and that, combined with the absence of any brickmaking industry in the area using this mineral at this time (or in recent times) demonstrates that the relevant affected mineral deposit can reasonably be considered as being of no economic value.

Therefore, on the information submitted at this time, it can be concluded that an exemption from the presumption to safeguard this mineral deposit, as detailed in criterion 1 of Policy DM 7 can be invoked. The County Council, therefore, has no objection to the proposal on mineral and waste safeguarding grounds.

Kent Fire and Rescue Service – I can confirm that on this occasion it is my opinion that the off-site access requirements for the Fire Service, shown in plan drawing 19-015-013 have been met.

On-site access is a requirement of the Building Regulations 2010 Volume 1 and 2 and must be complied with to the satisfaction of the Building Control Authority who will consult with the Fire and Rescue Service once a building Regulations Application has been submitted.

Public representations –

A further 10 objections have been received since preparation of the 3 September Planning Committee Agenda (including those reported orally at the meeting). This brings the total number of objections to 37, plus the seven representations in support reported previously.

The additional objections raise the following issues:

- Additional traffic;
- Damage to the roads;
- Loss of view;
- Too close to existing houses;
- Disruption during construction;

- Loss of an open area, including damage to wildlife;
- Strain on infrastructure;
- There is a long-standing and ongoing problem with adequacy of the wastewater drainage system in Deal. This, combined with unchecked new developments being permitted by the council without due consideration to the drainage system, has resulted in an ever-wider area of Deal being flooded whenever there is heavy rain;
- Although new developments have separate wastewater and surface water drains, these feed into older combined sewers that become inundated and discharge foul water onto roads and eventually into homes;
- The proposed new development is upstream of Albert Road and will feed into the already inundated Albert Road sewer as it is the main route for transport of wastewater towards the treatment plant. Albert Road has suffered from foul water flooding in 2005, 2006, 2007, 2008, 2009, 2010, 2013, 2014, 2015, 2016 and, finally, on 28th August 2020. As a resident of Albert Road, I strongly object to the application for reasons outlined here;
- This planning application for 14 additional properties would further burden an already inadequate wastewater drainage system and increase the occurrence of floods. The drainage requirements for this proposed major development is going to be substantial, and will be routed and feed into a network that continually fails to cope with even the current requirements that it serves;
- It is not only the risk of flooding to properties; it is also the obvious risk to health and safety of residents, and members of the public who are unfortunate enough to be in the immediate vicinity when capacity breaches occur. Manhole covers are displaced with force and roads and paths are quickly submerged by untreated sewage water;
- As this serious problem is currently under investigation by the relevant authorities, I strongly urge the planning department to refuse this application at this present time. I must remind the planning department that it has given an undertaking not to permit new developments until the cause of flooding is resolved for the long term.

(These last six bullet points are reiterated, more or less verbatim, in five of the most recently received representations.)

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

1.1 Please refer to the report attached as an annex.

2. **Main Issues**

2.1 The main issues are:

- The principle of developing this site for housing;
- The impact on the countryside and the landscape setting at the edge of the built-up area;
- Impact on residential amenity;
- Parking and highways considerations;
- Contamination and drainage;
- Archaeology and heritage issues;
- Habitats and ecology;
- Viability and developer contributions.

Assessment

Update

- 2.2 This application was reported to the meeting of the Planning Committee on 3 September 2020; a copy of that report is attached as an annex to this report, and Members are asked to refer to that report for a discussion of those issues where there has been no substantial change since its publication. The application was also on the published agenda for the meeting on 17th November, but was withdrawn from that agenda pending the receipt of further comments from Southern Water. Those comments have now been received (dated 2nd December, and set out in the Consultee Responses section above). In the light of the comments from Southern Water, Officers asked Southern Water for further details of the works that would be required in order to provide the necessary sewer network capacity to accommodate this development. The further response, received on 15th December, is also set out above.

This report is an updated version of the report prepared for the November Committee meeting.

- 2.3 At the meeting on 3rd September, Members resolved to defer consideration of the application to seek further information, as follows:
- i. From the relevant authorities and the applicant on surface water drainage proposals (including localised flooding problems);
 - ii. Access rights and future responsibility for the maintenance of roads;
 - iii. Details of roads and whether they will be adopted by Kent County Council;
 - iv. General sustainability issues.

- 2.4 Since then, the applicants have submitted further information, including:

- A Technical note on surface water drainage proposals, in response to the previous comments from KCC as LLFA; copies of further correspondence between the applicants and Southern Water has also been submitted;
- A Technical Note on highway matters, appended to which is a plan showing the access route for fire tenders;
- A Sustainability Note, appended to which is an Accessibility Plan.

- 2.5 Following that, targeted re-consultation was carried out with the technical consultees and the two Parish Councils. The submitted documents broadly mirror the reasons for deferral, and each is discussed as a separate topic below.

- 2.6 A further issue has arisen in relation to minerals safeguarding. Upon receipt of the initial comments from KCC Minerals and Waste Team, the applicants submitted a technical note to address this issue, which has now been followed up by a further response from KCC. This is discussed as a separate topic below.

Principle

- 2.7 This is discussed in detail in the appended report.
- 2.8 However, there was some discussion at the previous meeting regarding the weight to be given to some of the Core Strategy policies and further clarification on this point is required. In March 2017 DDC Cabinet agreed to commence the

review of the Core Strategy (CS) and Land Allocation Action Plan (LALP) through the preparation of a single Local Plan. The decision to review the CS and LALP is an acknowledgement that in some cases the evidence base is out of date. It is also recognised that some of the detailed policies applicable to the assessment of this particular application (including Policies CP1, DM1, DM11, and DM15) are, to various degrees, now considered inconsistent with aspects of the NPPF and as such are out-of-date. That does not mean, however, that these policies automatically have no or limited weight. They remain part of the Development Plan and must therefore be the starting point for the determination of the application. Furthermore while the overall objective of a policy might be held out-of-date, greater weight can nevertheless still be applied to it depending of the nature/location of the proposal in question and the degree to which the policy (in that limited context) adheres to and is consistent with the policy approach in the NPPF.

- 2.9 It is also relevant to note that, since the publication of the report for the 3 September Committee, the Council has published the Housing Supply Technical Paper (October 2020). This confirms that, using updated data and based upon the Government's standard methodology, as at 1 April 2020 the Objectively Assessed Housing Need for Dover district was 596 dwellings per year. Set against this, at that date the Council could demonstrate 6.16 years' worth of housing supply.
- 2.10 I return to these issues in the Conclusion to this report.

Drainage Issues – Surface Water

- 2.11 At the time of the previous meeting there was an outstanding objection to the application from KCC as Lead Local Flood Authority. In the absence of further information they were not satisfied that disposing of surface water by infiltration into the ground (which is at the top of the hierarchy of preferences) was not a practical option; with regard to the suggested alternative of discharging to a watercourse to the north of the site, via the drainage network of the adjacent site (Persimmon), KCC required more information regarding the capacity and condition of the receiving network; there was also a question as to whether surface water from the current application site already drains to this same watercourse.
- 2.12 In response to topographical details submitted by the applicants, KCC subsequently accepted that the fall of the land is in the direction of the neighbouring site to the east, but remained unconvinced that the site actually drained that way (as opposed to infiltrating directly into the ground) and, although they believed that a drainage outfall is possible, further information was still needed in relation to infiltration feasibility, and with respect to the capacity of the adjacent network, if it is utilised, the final discharge rate from that network. The Technical Report that has now been submitted is in response to these outstanding issues.
- 2.13 Using information from the planning application for the Persimmon development, the existing system was modelled and drainage flows from the current proposal were added. This concluded that the downstream pipe network has sufficient capacity to carry an additional flow of 2.0 litres per second without any surcharge for all rainfall events up to the 1 in 30 year return period and without incurring any flooding for more extreme events of 1 in 100 years +40% climate change allowance. It was also

concluded that the final SUDS pond located within the Persimmon development has sufficient capacity to cater for the volume discharged from the application site. With regard to infiltration, it was reiterated that the underlying geology has very low infiltration characteristics, but that further investigation could take place at the detailed design stage to see to what extent this might be feasible.

- 2.14 The further comments from KCC are set out above in the Consultee Responses section of this report. Having reviewed the latest information submitted, they are satisfied that the principles proposed, namely infiltration to ground where possible and where not possible, to discharge to the neighbouring drainage network, do not increase the risk of flooding from surface water. Detailed conditions are recommended regarding the design of the proposed drainage network and the level of detail that needs to be provided. These matters are capable of being dealt with by condition and the previous objection from the Flood Authority has been withdrawn. The detailed requirements from Southern Water regarding the use of SUDS can also be dealt with through conditions. However, the crucial point is that surface water drainage from this development can be accommodated without increasing the risk of flooding. This satisfies the relevant tests in NPPF paragraphs 163 and 165.

Drainage Issues – Foul Water

- 2.15 However, as Members will see from the latest consultation responses from members of the public, a further issue has now arisen to do with foul water drainage. In summary, this relates to the fact that the foul water (sewage) from this site is intended to be drained via the existing foul system that serves the neighbouring site (Persimmon). It was suggested, and has now been confirmed, that this system drains, in turn, into the combined (foul and surface water) sewer that serves a large part of north Deal, and passes through the Albert Road area; Members will be well aware that there have been a number of flooding events in this locality, particularly associated with times of heavy rainfall. Although further investigations are under way, on a multi-agency basis, to establish precisely what may be the cause of this (and to identify potential solutions), in the light of these concerns Southern Water was asked to review their assessment and specifically to respond to the concerns raised by local residents. As mentioned, Southern Water's full response is set out above.
- 2.16 SW has carried out a desk-top assessment and this has concluded that the additional flows from this development may lead to an increased risk of foul flooding from the sewer network. However, SW has a statutory duty to provide the necessary infrastructure to accommodate these additional flows, and there is an established procedure for developers to contribute financially to facilitate any necessary additional infrastructure works. SW has committed to carrying out the works necessary to mitigate the impact of the development, but points out that the timescale for provision of these works will need to be aligned with the timing of occupation of the dwellings, and it will require detailed analysis to establish the extent of any works required, which will then need to be designed and constructed and so on. Although their stated target for reaching this position is 24 months (from the start of modelling and assessment, which they will not embark upon unless and until planning permission has been granted), this is an estimate and, depending on how complex the issue is and how significant the works, may take longer. With a view to being able to provide Members with a clearer picture of what this might mean in practice, in terms of

the scale and nature of works that might be required, their deliverability, and how this might relate to wider issues of sewer capacity, Southern Water was asked to provide more detailed information. In response they have reiterated that this will require further investigation and that work cannot commence unless and until planning permission has been granted for the development that triggers the need for the review.

- 2.17 In order to ensure that the development is adequately catered for in terms of foul drainage, SW has requested a condition be imposed requiring that occupation of the houses be timed to align with the delivery of any sewer upgrading works. Such a condition (often referred to as a “Grampian style” condition) could be phrased such as to require that no new dwelling is occupied until adequate sewer capacity has been provided to serve it. The applicants have provided a technical, legal note advocating this approach, citing legal precedents, and stressing that this then places an obligation on the statutory body (Southern Water) to provide the appropriate level of capacity, having extracted an infrastructure charge from the developer (which they are willing to provide). A condition in this form would be sufficient to ensure that the development complies with the requirement in NPPF paragraph 163 that, when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
- 2.18 In summary therefore, while it would have been useful to have had more information at this stage from SW relating to the precise timing and nature of required infrastructure upgrades, including details about wider sewer capacity, the safeguards proposed by the condition sought by SW and agreed by the applicant, are more than sufficient in planning terms to ensure that foul water drainage from this development is adequately catered for. This will be achieved by ensuring that occupation of the development only occurs at the point where there is capacity in the network to accommodate the foul flows. Government planning guidance indicates that when used properly, conditions can enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating adverse effects. The use of a “Grampian style” condition of the type proposed, is considered to address a legitimate planning concern and avoids the need to refuse this development on the basis of concerns relating to flooding. Other issues relating to contamination and drainage are discussed in detail in the appended report.

Highways and Access Issues

- 2.19 Several issues to do with highways arose during Members’ previous discussion. These included concerns over the legal status of the existing access roads outside but leading to the site (including whether they will be adopted by KCC), the physical capacity of these roads, who would be responsible for making good any damage caused by construction traffic, rights of access, and suitability for access by fire engines. The Technical Note submitted by the applicants attempts to address these issues.
- 2.20 Dealing first with the issue of adoption, the applicants say that the access road has been designed in accordance with the KCC design standards and is anticipated to meet the requirements for adoption under a S38 agreement. Kent Highways has responded by clarifying that the existing road leading to the site (Hyton Drive) is to remain private from its junction with Hancocks Field, and is not included in the road adoption agreement for the wider Hyton Drive site already completed. It will therefore not be possible to

adopt the proposed road within the application site as it does not connect to the existing public highway.

- 2.21 Nevertheless, the applicants have asserted that they have access rights over the roads in the Timperley Place development and have provided a Solicitor's letter to confirm this. KCC comments that, although not a highway matter, it appears rights of access are available over the existing private road to reach the site. The applicants also say that the Land Registry transfer (as referred to in the Solicitor's letter) includes obligations to make good damage resulting from the works, and the right of way also includes as a matter of general law the necessary rights of maintenance. On this issue, Kent Highways has clarified that the existing roads leading to the site are constructed to accommodate refuse vehicles and buses, so are suitable to accommodate temporary construction traffic associated with the application site. KCC also advises that, if necessary, the Construction Management Plan for the site can include a requirement for pre and post conditions photos/surveys, and a requirement for repairs to be undertaken if it can be demonstrated that damage has been caused by construction vehicles. The applicants say that they do not expect the types of construction vehicles they will use to exceed 10m in length and they will likely be smaller than the refuse vehicles currently accessing the estate roads. They also confirm their intention to submit a construction management plan showing vehicle types and routes, to be secured by condition.
- 2.22 The impact of construction traffic on existing residents' amenity is a material planning consideration. In the light of the further information that has been provided, it remains the case that this is something that can be adequately addressed through a condition requiring submission of and adherence to a construction management plan.
- 2.23 The question of responsibility for maintenance and repair of roads (either within or outside the site) is not normally regarded as a material planning consideration; what matters is that the roads are of adequate width, construction and so on to satisfactorily serve the purposes they are intended for, in terms of safety and other considerations. KCC Highways has confirmed that this is the case here. The construction of the new roads within the site in accordance with the submitted plans can be secured by condition. Furthermore, given that part of the off-site access route is over roads that it appears are not proposed for adoption by the Highway Authority (at least for the time being), it would not be unreasonable (in terms of material planning considerations) to include a clause in the construction management plan along the lines suggested by KCC with regard to making good any damage caused during construction, as this engages both amenity and highway safety considerations.
- 2.24 The other issue that Members expressed concern about was fire access. The Technical Note includes a plan showing the route that a fire tender would take via Hunters Walk and Hyton Drive. Kent Highways has confirmed that this does show that access is available, and KFRS has also confirmed that the off-site access requirements for the Fire Service, shown in plan drawing 19-015-013 have been met. Access to individual properties within the site will be dealt with under the Building Regulations.
- 2.25 Other issues relating to parking and highways are discussed in detail in the appended report.

Sustainability Issues

- 2.26 Members questioned the extent to which the proposed development can be said to be sustainable development; the three strands of sustainable development as set out in NPPF paragraph 8 – an economic objective, a social objective and an environmental objective – were referred to.
- 2.27 The applicants have responded to this by providing a Sustainability Note, which attempts to address this issue by responding to a series of specific questions (described as “sustainable objectives”). The questions they have chosen to deal with, and their responses are summarised below:
- 2.28 *Sustainable Objective 1: The scale of development proposed is proportionate to the size of the settlement and the level, type and quality of day to day service provision currently available within easy distance. Available services should be capable of accommodating the development in combination with other planned and committed development.* Applicants’ response: The scale of the development is commensurate with Deal’s status as a District Centre and proportionate to the size of the settlement and service provision currently available within easy walking and cycling distance as well as benefitting from public transport connectivity. The edge-of-settlement location provides an infill opportunity to deliver vital housing supply. It has been the subject of a detailed viability process and contributions will be secured through S106 to ensure the ability of services to absorb the level of development proposed; this includes a contribution to off-site affordable housing provision.
- 2.29 *Sustainable Objective 2: The development is able to be safely accessed from the local road network and the traffic generated can be accommodated on the local and wider road network without adversely affecting the character of the surrounding area.* Applicants’ response: Safe access arrangements have been demonstrated and Kent Highways concurs that the proposals are unlikely to have a severe impact on the highway network (which is the test applied under NPPF paragraph 109).
- 2.30 *Sustainable Objective 3: The development is located where it is possible to maximise the use of public transport, cycling and walking to access services.* Applicants’ response: An accessibility plan has been provided showing that the site is within 1 mile of the train station and has easy access to various bus stops; it also shows that Primary Schools, shops and key services are within walking and cycling distance.
- 2.31 *Sustainable Objective 4: The development conserves and enhances the natural environment and preserves or enhances any heritage assets in the locality.* Applicants’ response: The ecological appraisal confirms that there are no statutory or non-statutory nature conservation designations within or adjacent to the site and none of the designations further afield would be adversely affected. Habitats at the site are of low ecological value. Precautionary safeguards relating to nesting birds and other wildlife are recommended along with ecological enhancements which will provide a net biodiversity gain.

2.32 As has been noted in some consultation responses, these objectives do not directly correspond to the three sustainability objectives set out in NPPF paragraph 8:

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

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

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.

2.33 The NPPF says that these overarching objectives are interdependent and need to be pursued in mutually supportive ways; it also says that they are not criteria against which every decision can or should be judged. Seen on this light, the four objectives that the applicants have selected can be said to address a range of issues that stretch across the three NPPF objectives. Whilst it may be true (as suggested by Sholden PC) that they have been drawn from a policy document that applies to somewhere other than Dover district, they do nevertheless encompass a range of sustainability considerations that could be said to apply nationwide. Although they focus largely on locational characteristics which broadly come under the NPPF environmental objective – such as making effective use of land, minimising waste and pollution and moving to a low carbon economy – the provision of homes to meet identified need accessible to local services in a well-designed and safe built environment, and the contributions offsetting the impact of the development on public services (such as health and education) contribute to meeting the NPPF social objective. Whilst the contribution to NPPF economic objective is somewhat less tangible and easy to identify, this does not necessarily make it incompatible with the overall concept of sustainable development as envisaged in the NPPF.

2.34 Whilst any conclusion on this particular issue is necessarily a matter of judgement, seen in the context of NPPF policies overall, it would be reasonable to conclude that the sustainable characteristics of the proposed development outweigh those that might be seen as less sustainable.

Impact on the Countryside and the Landscape Setting

2.35 This is discussed in detail in the appended report. For clarification, though, and despite what is said in paragraphs 2.21 – 2.24 of that report, it would not be correct to describe this as “infill” development. It is more a question

of how the site is seen, and would be seen, in the broader landscape and in the context of existing and already consented development.

Impact on Residential Amenity

2.36 This is discussed in detail in the appended report.

Archaeology and Heritage Issues

2.37 This is discussed in detail in the appended report.

Ecology and Habitats

2.38 This is discussed in detail in the appended report.

Viability and Developer Contributions

2.39 This is discussed in detail in the appended report.

Minerals Safeguarding

2.40 A Partial Review of the Kent Minerals and Waste Local Plan (KMWLP) has recently been adopted by KCC; this highlighted the need to consult further with KCC, as the site lies within an area where underlying brickearth deposits are safeguarded pursuant to KMWLP policy DM7. This requires that, where non-minerals related development is proposed, an assessment be carried out to determine if the safeguarded mineral deposit is an economic and viable deposit for prior extraction and, if not, whether one of the exemptions set out in the policy can be applied.

2.41 The applicants have provided such an assessment, which concludes that several of the potential exemptions to the policy apply, namely that the mineral is of low economic value to the brickmaking industry, its extraction would not be viable or practical, it could not be extracted prior to carrying out the non-minerals development without affecting the viability or deliverability of that development, and that material considerations indicate that the need for the proposed development overrides the presumption of safeguarding the mineral deposits.

2.42 KCC notes that only one of the various exemptions needs to be met. They consider that the most compelling is that relating to the lack of economic value in the minerals. This they accept and KCC has no objection to the current application on the grounds of minerals safeguarding; the detailed rationale for this conclusion is set out in the "Consultee Responses" section of this report.

3. Conclusion and Sustainability

3.1 This is an application for the erection of 14 dwellings on a site that is in countryside, outside albeit adjoining the defined urban confines of Deal. The most important Development Plan policies are considered to be CP1, DM1, DM11 and DM15. Although, for various reasons, some or all of these policies may be considered to be out of date and/or in conflict with the NPPF to some degree, they are still the starting point for consideration of the application under Section 38. Although, depending on the context provided

by the particular development proposal and the location of the site, these policies may be afforded less than full weight, the degree of any reduction in weight will depend upon that context.

- 3.2 Both Development Plan policies and NPPF policies can (and should) be taken into account; it is for the decision-maker to decide what weight is to be given to the various policies, subject to this being within the bounds of reasonableness and not *ultra vires*. **The “tilted balance” as set out in NPPF paragraph 11 therefore does apply.** This means that planning 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.
- 3.3 Looking at the specific Development Plan policies, CP1 identifies Deal as a District Centre. CP1 is broadly consistent with the NPPF and development that is well-located relative to urban areas is broadly in accordance with the NPPF. This application site is immediately adjacent to the settlement boundary, and well-related to the facilities and services that Deal has to offer. To that extent it is a sustainable location and therefore in accordance with the relevant parts of the NPPF.
- 3.4 DM1 and DM11 both seek to place blanket restrictions on development outside settlement confines. This approach is not consistent with the NPPF, notably paragraphs 77, 78 and 103. It would therefore be appropriate to afford these policies limited weight; this applies especially on sites that are close to or adjacent to existing settlements, as here. DM11, in particular, might attract more weight in relation to development that is well beyond settlement boundaries than those close to. This is a separate issue from whether the boundaries themselves are out of date because they are based on an outdated housing needs requirement.
- 3.5 With regard to DM15, although development of this site would result in the loss of countryside, the detailed assessment that has been provided shows that, in terms of impact on the character and appearance of the local countryside, and the wider landscape, this would cause limited harm because of the specific location of the site, its visual relationship to neighbouring land and, in particular, the limited impact it would have on reducing the physical gap between the built-up areas of Deal and Sholden. Moreover, parts of DM15 can also be regarded as being inconsistent with the NPPF (for example, the universal opposition to “loss of countryside”) for similar reasons to those set out above. It’s also worth repeating that DM15 talks about the “character and appearance” of the countryside being important, whereas the NPPF seeks to protect “character and beauty”. Therefore, notwithstanding the site-specific appraisal that has been undertaken, DM15 should be afforded less than full weight.
- 3.6 The various issues that prompted deferral of this application at the previous Committee are discussed in detail in the body of this report. In relation to surface water drainage, KCC no longer objects on flooding grounds. With regard to foul drainage, the further response received from Southern Water identifies that, although there is currently insufficient capacity to serve the development, they will carry out the necessary sewer enhancement works to achieve adequate capacity; because this process will take some time, a condition is recommended (agreed with the applicant) that prevents occupation of any dwelling until sufficient capacity has been

provided to serve it, which in planning terms is considered to be an appropriately robust means of ensuring that foul drainage for this development is adequately dealt with. Further technical information has been provided with regard to the status and capacity of the access roads and the responsibility for making good any damage caused by construction traffic; so far as this is capable of being a material planning consideration, this can be addressed through a condition relating to the Construction Management Plan. The applicants have put forward a case relating to the sustainability of the development (in the broadest sense); this is essentially a matter of judgement. The proposal is acceptable in terms of its impact on the setting of heritage assets, ecology, the residential amenity of existing residents and in terms of other technical considerations. All other matters can be addressed through conditions.

- 3.7 The overarching aim behind the judgement in paragraph 11 is to foster sustainable development. This has three objectives – economic, social and environmental; despite being outside the confines, this is a sustainable location for residential development, being within close proximity to a range of services and access to public transport. The development would bring social and economic benefits by way of helping to meet the need for additional housing. All this analysis needs to be read in the context of the Government's stated objective of significantly boosting the supply of homes (NPPF paragraph 59). Overall, therefore it is considered that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of granting permission.

g) Recommendation

- I. **GRANT PLANNING PERMISSION** subject to completion of a Section 106 Agreement to secure the developer contributions as set out in the report of 3rd September, and conditions to cover the following matters:
1. Standard Outline condition – Reserved Matters (appearance, landscape and scale) to be submitted
 2. Standard Outline condition – submit Reserved Matters within three years
 3. Standard Outline condition - commencement
 4. List of approved plans
 5. Submission of details of external materials
 6. Submission of landscaping scheme
 7. Provision of car parking
 8. Provision of cycle parking
 9. Provision of refuse facilities
 10. Unforeseen contamination
 11. A condition substantially in the following form: None of the dwellings hereby approved shall be occupied until any necessary sewerage network reinforcement work has been carried out to ensure that adequate wastewater network capacity is available to adequately drain the development. In order to demonstrate that sufficient capacity has been provided, prior to the occupation of any dwelling, details of the drainage network that will serve the development shall be submitted to the local planning authority, accompanied by written confirmation from the responsible drainage body that the necessary works have been carried out and that the network does have the required capacity. Occupation shall then

not take place until the local planning authority has confirmed that it is satisfied that the submitted details fulfil the necessary requirements.

Reason: In order to ensure that the development is adequately served by drainage infrastructure, pursuant to the objectives of paragraphs 127, 163 and 180 of the NPPF, and in the interests of public health and the prevention of flooding generally.

12. Submission of details to confirm that the surface water drainage system can accommodate storm events (as required by KCC) (pre-commencement condition)
13. Submission of a detailed scheme for the disposal of surface water drainage, including SUDS (pre-commencement condition)
14. Verification of installation and effectiveness of drainage scheme
15. Limitation and control over extent and location of infiltration into the ground (as required by KCC)
16. Securing and protection of off-site drainage works (as required by KCC)
17. Submission of, and adherence to, Construction Management Plan, including a requirement for pre- and post-construction condition surveys/photographs of access roads (pre-commencement condition)
18. Provision of access to highway and construction of visibility splays, before occupation
19. Archaeological investigation (pre-commencement condition)
20. Submission of ecological management and monitoring plan
22. Broadband provision
23. Scheme of ecological mitigation (pre-commencement condition)
24. Scheme in relation to secured by design principles
25. Cabling to secure opportunity for future electric vehicle charging points

Informatives

1. Need for consent to connect to sewer (SW)
 2. Other sewers running through site (SW)
 3. Advice on biodiversity measures to be incorporated into the landscaping scheme and ecological management plan
 4. Incorporation of technical design measures regarding Secured by Design
 5. Provision of infrastructure to facilitate broadband
 6. Disposal of waste arising from excavation/construction (EA)
 7. Protection of existing water infrastructure (SW)
 8. Matters to be included in detailed SUDS scheme (SW)
- II. Powers to be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions, in line with the issues set out in the report and as resolved by Planning Committee and to draft and issue a Statement of Reasons.

Case Officer

Neil Hewett

a) **DOV/19/01260 – Outline application for the erection of up to 14 dwellings (appearance, landscaping and scale to be reserved) - Land Off Church Lane, Deal**

Reason for report: The number of representations objecting to the proposal.

b) **Summary of Recommendation**

Planning Permission be Granted subject to conditions and S106 agreement.

c) **Planning Policy and Guidance**

Planning and Compulsory Purchase Act 2004

- Section 38(6) – requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

Core Strategy Policies

- CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy. Deal is identified as a District Centre and the secondary focus for development in the District, suitable for urban scale development.
- CP4 – Sets out strategic considerations for housing development, including the need to reflect the local housing market and provide an appropriate housing mix. Density should wherever possible exceed 40 dwellings per hectare.
- DM1 – Development will not be permitted outside 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 – The Council will seek applications for residential developments of 15 or more dwellings to provide 30% of homes as affordable homes in home types that will address prioritised need, and for developments between 5 and 14 homes to make a contribution towards the provision of affordable housing.
- 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 – The access arrangements of development proposals will be assessed with regard to the Highway Network set out in the Local Transport Plan for Kent.
- DM13 – Parking provision should be design-led, based upon the characteristics of the site, the locality, the nature of the proposed development and its design objectives. Provision for residential development should be informed by the guidance in Table 1.1 of the Core Strategy.
- DM15 – 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 in accordance with allocations, justified by the needs of agriculture or a need to sustain the rural economy, it cannot be accommodated elsewhere and it does not result in a loss of ecological habitats. Measures are to be incorporated to reduce, as far as practicable, any harmful effects on countryside character.
- DM16 – Development that would harm the character of the landscape will only be permitted if it is in accordance with Development Plan allocations and incorporates any necessary avoidance and mitigation measures, or it can be sited to avoid or

reduce harm and/or incorporate design measures to mitigate the impacts to an acceptable level.

Land Allocations Local Plan

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

National Planning Policy Framework (NPPF)

The most relevant parts of the NPPF are summarised below:

- Paragraph 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.
- Paragraph 11 states that development proposals that accord with an up-to-date development plan should be approved 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, permission should be granted unless:
 - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development (having regard for footnote 6); or
 - ii. 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.
- Paragraph 59 says that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- Paragraph 78 states that to promote sustainable development in rural areas, housing should be located where it will enhance the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.
- Paragraph 98 says that planning policies and decisions should protect and enhance public rights of way and access.
- Paragraph 108 states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable modes of transport can be taken up, safe and suitable access to the site can be achieved for all users, and any significant impacts on the transport network or highway safety can be mitigated to an acceptable degree.
- Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Paragraph 110 states (amongst other things) that applications should create places that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to

local character and design standards; and allow for the efficient delivery of goods, and access by service and emergency vehicles.

- Paragraph 117 states that decisions should promote an efficient use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- Paragraph 122 states that decisions should support development that makes efficient use of land, taking into account the need for different types of housing, local market conditions, infrastructure, the desirability of maintaining an area's prevailing character and setting, and the importance of securing well-designed, attractive and healthy places.
- Paragraph 123 states that, where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.
- Paragraph 127 states that decisions should (amongst other things) 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, and are sympathetic to local character and history, including the surrounding built environment and landscape setting, whilst not preventing or discouraging appropriate innovation or change (such as increased densities), and create places that promote health and well-being, with a high standard of amenity for existing and future users.
- Paragraph 158 says that development should be steered towards areas with the lowest risk of flooding, using the sequential test.
- Paragraph 163 says that, in determining any planning application, local planning authorities should ensure that flood risk is not increased elsewhere.
- Paragraph 165: Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
- Paragraph 175 says that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or compensated for, planning permission should be refused. Development which is likely to have an adverse effect on a SSSI or other designated habitats site should not normally be permitted. The only exception is where the benefits of the development clearly outweigh its likely impact on the features for which the site is designated.
- Paragraph 177: The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects) unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
- Paragraph 178: Planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.
- Paragraph 193 says that, when considering the impact of a proposed development on the significance of a heritage asset, great weight should be given to the asset's conservation.

The National Design Guide and Kent Design Guide (KDG)

- These Guides provide criteria and advice on providing well designed development.

d) **Relevant Planning History**

DOV/10/01012 and DOV/13/00945 – (Adjoining site to the east) Outline planning application and Reserved Matters for residential development of up to 230 dwellings and public open space, with access from Hancocks Field, Hunters Walk, and Hyton Drive, including roads, cycle paths, footpaths, ancillary works incorporating landscaping, a pond, and alterations to existing public rights of way – Permission granted.

DOV/17/01345 – (Adjoining site to the west) Outline planning application for up to 48 dwellings (comprising up to 14 affordable dwellings and up to 34 market dwellings), up to 64 bedroom care home (C2 Use), publicly accessible open space (including children's play area), attenuation pond, and creation of vehicular access, with the demolition of two dwellings – Permission granted at appeal.

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

Sholden PC – Objects. The reasons for objection may be summarised as follows:

- Does not accept the applicants' assertion that the provision of additional housing should be given substantial weight because DDC cannot demonstrate a five-year supply of housing. DDC has provided 131% of its housing need over the past three years and in August 2019 it was stated that a 5.56 years' supply existed.
- Disagrees that the presumption in favour of sustainable development is active. But even if it was, the presumption is not conclusive (that is, just having the presumption does not in itself mean that granting permission is a foregone conclusion). Although the Core Strategy is in need of revision, this does not make all the policies redundant. In particular CP1, CP2, CP3, DM1, DM12, DM15 and DM16 should form the basis of DDC's decision.
- The site is outside the confines and the application should be refused under DM1, as there are no other policies that justify the development.
- The development needs to use a private road for access and local residents should be considered experts in their local area.
- It will breach DM15 because of a loss of countryside; there will also be a loss of ecological habitat.
- There will be harm to the character of the landscape (DM16) without any avoidance or mitigation measures, and the development could be accommodated elsewhere.
- There is no evidence that the development would bring economic, social and environmental benefits and thus justify being considered "sustainable".
- There are numerous other breaches of NPPF policies, such as in relation to traffic congestion, air quality, poor design, climate change and flood risk. Disagrees with the statement that the Timperley Place development has a hard urban edge; but this development would create one. This proposal will close the gap between Sholden and Deal. The harmful effects far outweigh the benefits and the application should be refused.

This is a summary of a detailed and lengthy response; Members may wish to read the full response on the Council's website.

Deal TC – Object as over development of area and not part of allocation of land.

Environment Agency – No objection in principle. It is assumed foul drainage will be connected to the main sewer; an appropriate condition should be imposed. Also requests a condition to address any unforeseen land contamination and informatives relating to the treatment and disposal of construction wastes.

KCC Flood and Water Management – We are aware from the Flood Risk Assessment that infiltration SuDS have been disregarded from this site due to groundwater being 8-9m below ground and insufficient unsaturated zone available (10m), as per the requirements of the Environment Agency. BGS's infiltration SuDS Map indicates that the site has opportunities for bespoke infiltration as there is freely draining bedrock geology, however the superficial head deposits are poorly drained and ground instability is indicated.

Whilst soakage testing has been undertaken, the report including infiltration test results has not been submitted. We would recommend that results are provided to confirm why infiltration is not suitable at this site. The depth of groundwater needs to be confirmed. We would only permit off site discharge until it is proven that infiltration is not viable.

We are aware that the proposed drainage approach is a surface water connection into the adjacent sites network before discharging into the watercourse north of the site. Unfortunately, no details have been provided regarding the receiving networks capacity and condition. This information should be provided at the earliest opportunity.

Please be aware that the half drain time of the permeable paving system should not exceed 24 hours. A half drain time of 7 days is not acceptable.

Although this is an outline application with some matters reserved, unfortunately insufficient information regarding infiltration viability and capacity of the receiving network has been provided. It is imperative that the principles of surface water drainage are demonstrated to be appropriate at the earliest opportunity, avoiding later complications. Unfortunately we currently object to the development pending receipt of further information as discussed above.

Re-consultation has been carried out with KCC in respect of the additional information on drainage submitted by the applicant and a response is awaited. Any further comments received in advance of the Committee meeting will be reported to Members orally.

Southern Water – Has provided details of nearby water infrastructure, but caveats that the exact position should be ascertained in advance of any work and sets out the limitations with regard to work in the vicinity of such assets. Advises that there may be other sewers deemed to be public crossing the site. A formal application for connection to the foul sewer is required and an informative is requested in this regard. Southern Water has also set out the level of detail required when SUDS are proposed, and the prescribed hierarchy in terms of preferred final means of disposal from SUDS. Has requested a condition requiring details of foul and surface water drainage to be submitted and approved prior to commencement of the development.

Re-consultation has been carried out in respect of the additional information provided by the applicant and any further response will be reported to Members orally.

River Stour IDB - I note that the applicant proposes to restrict surface water discharge into the adjacent network to the greenfield rate, Q_{bar} , but it is still not clear whether or not this area of land already drains to the SuDS (which is thought to be unlikely). It is therefore essential that this is clarified; does the site already drain to the adjacent SuDS and was that SuDS originally designed to accommodate this runoff? As previously stated, details of on-site drainage will need to be agreed with KCC's SuDS team to ensure that the existing SuDS (or any modification to it) can fully accommodate additional runoff. The final discharge rate from the SuDS into Southwall Road Dyke must not be increased, without the prior written agreement of the Stour IDB. Please note that due to the history of flooding at this location I doubt that the Board would agree to any increase in rate.

Natural England – Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).

Advises that an Appropriate Assessment under the Habitats Regulations is required. Standing advice should be followed with regard to impact on protected species.

Kent Wildlife Trust – No response received.

KCC County Archaeologist – No response received.

KCC Highways – I concur with the Transport Statement that the proposals are unlikely to have a severe impact on the highway network, with around 7 two-way vehicle movements likely to be generated in the network peak hours.

I note the application form indicates that the new road is to be adopted by the highway authority, however the existing road leading to the site is a private road and the new road will therefore also have to remain private. Whilst not a highway matter due to the road staying private, I would point out that the layout shows tandem parking arrangements which are generally not accepted under Policy DM13 of the Local Plan.

No objection, subject to a condition requiring a Construction Management Plan. Conditions are also suggested relating to the provision of car and cycle parking, and the protection of visibility splays. Informative requested regarding the need for Highways Consents.

KCC PROW – Have no comments to make.

KCC Developer Contributions – Has requested the following contributions:

£46,536 towards expansion at Deal Primary School;
£57,610 towards expansion at Dover Grammar School for Girls;
£358.92 towards additional resources including IT equipment for the new Learners at Deal Adult Education Centre;
£917.00 towards additional resources for Deal Youth Service to mitigate the impact of the new attendees;
£776.30 towards additional services and stock at Deal Library to mitigate the impact of the new borrowers from this development;
£2,056.32 towards specialist care accommodation within Dover District;

£3,325.56 towards improvements at both WTS and HWRC to increase capacity to mitigate impact.

Has also requested that all new homes be wheelchair accessible and adaptable dwellings, and that an informative be added regarding provision of broadband to all new houses.

Designing Out Crime Officer – Layout and permeability should be safe and appropriate, especially alongside the footpath. Parking should be designed to minimise conflict and maximise surveillance. Technical measures suggested to meet Secured by Design standard.

NHS South Kent Coast CCG – There is currently limited capacity within existing general practice premises to accommodate growth in this area. The need from this development, along with other new developments, will therefore need to be met through the creation of additional capacity in general practice premises. Requests a developer contribution of £10,725 towards provision of capacity in the Deal and Sandwich Primary Care Network to provide primary care services for the additional patient numbers generated from new build developments.

DDC Environmental Health Officer – Accepts the conclusions of the submitted Desk Study regarding contaminated land. Requests a condition setting out how any unforeseen contamination is to be dealt with.

Public representations –

27 objections received raising the following issues:

- Site is outside the development area for Deal and this will result in the separation between Deal and Sholden being lost; rubbing salt into the wound after the Churchfield Farm decision;
- Overdevelopment; the site isn't big enough; cumulative impact with other development nearby;
- Development here will put greater pressure/bigger risk for development on the adjacent field, which would completely remove the gap between Deal and Sholden; risk that this would create a rat-run;
- Application site doesn't reflect boundaries; boundary is inaccurate;
- Loss of open space and nature/wildlife; wildlife is only just re-establishing here after the Timperley Place development; newly planted trees and verges would have to be removed;
- Hyton Drive is a private road and residents pay the cost of maintenance; it is not suitable for construction traffic and the developers should compensate residents for the damage that will inevitably be caused; speed humps, narrowness of road, and pedestrian-friendly design all make this unsuitable for large construction vehicles;
- Disturbance during construction; noise and traffic; this will prolong disturbance residents have endured during construction of Timperley Place;
- Danger from increased traffic and safety risk to children going to the play park, residents using the existing footpath and others; footpath used as a through route will be disrupted, meaning people have to walk in the road/cross the road;

- Construction traffic would damage the newly-built houses as they are built on rafts; need for repair and redecoration;
- Questions over the safety of the new junction onto Hyton Drive; on a bend where vehicles already speed and where people park;
- The traffic statement is totally unreasonable and underestimates the traffic that will be generated;
- All local access roads are at a standstill at peak times, even before the current development is finished;
- Overlooking and loss of privacy to existing houses; new houses are too close; design of new houses isn't clear;
- Loss of views of open countryside;
- Materials won't match and will look odd;
- Insufficient parking;
- Further demands on/lack of infrastructure (schools; dentist; doctors);
- Surface water drainage system is already overwhelmed and needs to be cleaned out frequently;
- Scheme is for large family houses with no affordable housing and will attract new people to the area rather than providing for local need.

7 representations in support, raising the following issues:

- Site is untidy and looks a mess; minimal environmental effect as the site is already damaged;
- There is a need to build more homes; this development will provide more houses and improve the area;
- Hyton Drive provides better access than Vicarage Lane; it is wide and with few houses;
- Happy for more development away from Sholden and towards the town;
- This is a modest increase on what has already been built and will have little effect on the local area;
- Surrounding roads still have more capacity.

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

1.1 This is an application for outline planning permission with access and layout to be determined at this stage, and appearance, landscape and scale to be dealt with as Reserved Matters. The site of 0.61ha is broadly triangular and lies to the west of houses in Hyton Drive, which is part of the recently-developed Timperley Place development. Hyton Drive and the public footpath leading to Church Lane form the eastern boundary. A narrow tongue of land extending to Church Lane is included within the site. Church Lane at this point is a footpath not used by vehicular traffic. To the north-west of the site is undeveloped agricultural land. To the south-west is a wooded area that is undeveloped but formed part of the

application site for development at Churchfield Farm, granted planning permission at appeal in 2019. The site itself has the appearance of overgrown scrub; it is understood that it was used for the storage of equipment and so on during the Timperley Place construction phase. The north-western boundary is not clearly defined on the ground and it appears that the current cropping regime in the adjacent field has encroached across the boundary into the application site.

- 1.2 It is proposed to erect three two-bedroom dwellings, eight three-bedroom dwellings and three four-bedroom dwellings (total 14), mostly detached but there are two pairs of semis. Access is taken off Hyton Drive in the north-east corner of the site, at the point where that road bends to the south. The access road runs close to the north-western and south-western boundaries, with a landscaped buffer between the road and the north-western boundary. The new houses mainly front onto the other side of the access road, with three arranged around a spur in the centre of the site. An amended layout plan has been submitted to address some of the concerns expressed by Kent Highways over tandem parking; only four of the properties now have tandem parking. As appearance and scale are to be treated as Reserved Matters, although a site layout has been provided, there are no details of the design or height of the proposed buildings at this stage. However, an illustrative street elevation has been provided which shows two-storey houses of conventional design, with pitched and gabled roofs, rustic style porches, featured lintels over the windows and some chimneys.
- 1.3 In terms of the policy context, the site lies in countryside outside, but adjacent to, the defined urban confines of Deal; that boundary follows the eastern boundary of the site. The outer edge of the built-up area of Sholden is about 120m away, across the field to the north-west. Public footpaths cross this field. There is a play area, associated with the Timperley Place development, within the open area to the north-west of that development and to the north-east of the current application site. The site is in Flood Zone 1.
- 1.4 The application is accompanied by a Design and Access Statement, Planning Statement, Transport Statement (amended), Heritage Statement, Archaeological desk-based Assessment, Landscape and Visual Appraisal, Ecological Appraisal, Flood Risk Assessment (including Drainage Strategy), and Phase I Contamination Assessment. A further statement on drainage issues has been provided in response to the consultation responses from technical consultees. A Viability Assessment has also been provided to address the capability of the development to provide Developer Contributions, this has been the subject of independent review.

2. Main Issues

2.1 The main issues are:

- The principle of developing this site for housing;
- The impact on the countryside and the landscape setting at the edge of the built-up area;
- Impact on residential amenity;
- Parking and highways considerations;
- Contamination and drainage;
- Archaeology and heritage issues;
- Habitats and ecology;
- Viability and developer contributions.

Assessment

Principle

- 2.2 The starting point for decision making is Section 38(6) of the Planning and Compulsory Purchase Act 2004. This states that 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 in accordance with the plan unless material considerations indicate otherwise.
- 2.3 The site lies outside the settlement boundaries, where Policy DM1 of the Core Strategy applies. This policy states that development will not be permitted on land outside the confines, unless it is specifically justified by other development plan policies or it functionally requires such a location or is ancillary to existing development or uses. Having regard to the wording of this policy, the erection of dwellings in this location is by definition contrary to Policy DM1.
- 2.4 DM11 seeks to resist development outside the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. Although the site is outside the settlement confines, it is for a relatively modest number of dwellings, adjoining the confines and it is within walking distance of a number of local facilities, including access to public transport. On this basis it is considered that the occupants of the development could access necessary day to day facilities and services. As such, whilst technically contrary to Policy DM11, the location of the site is considered to foster a sustainable pattern of development, which is the overarching intention of Policy DM11, as set out in the paragraphs which precede the policy, and also broadly consistent with NPPF paragraph 108 in this regard.
- 2.5 Policy DM15 requires that applications which result in the loss of countryside, or adversely affect the character or appearance of the countryside, will only be permitted if they meet one of the exceptions; none of those exceptions applies directly in this case. The development would result in the loss of countryside, as the site is outside the confines. The applicants have provided a detailed Landscape and Visual Appraisal (LVA) which is discussed later in this report. Members will be aware that this site is more sensitive than some other sites to the issue of countryside loss, given that it might be perceived as narrowing the gap between the built-up areas of Deal and Sholden. However, in the light of the more detailed discussion later in this report, it is concluded that development of this site would not substantially reduce that gap and the impact on the wider countryside would be limited. It is therefore considered that the proposal is contrary to the first part of Policy DM15 (loss of countryside), but is in line with the second part of Policy DM15 (whether harm is caused).
- 2.6 However, notwithstanding the primacy of the development plan, paragraph 11 of the NPPF states that where the policies which are most important for determining the application are out of date (including where the LPA cannot demonstrate a five year housing land supply or where the LPA has 'failed' the Housing Delivery Test), 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 (known as the 'tilted balance') or where specific policies in the NPPF indicate that development should be restricted.
- 2.7 Having regard to the most recent Annual Monitoring Report 2018/9, the Council is currently able to demonstrate a five-year supply. The Council has not met the Housing Delivery Test, achieving 92%. Whilst this has been taken into account, it

does not trigger the paragraph 11 'tilted balance', which is only engaged when housing delivery falls below 75%. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date. It is considered that the policies which are most important for determining the application are DM1, DM11 and DM15.

- 2.8 Policy DM1 and the settlement confines referred to within the policy were devised, in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy, with the purpose of delivering 505 dwellings per annum. In accordance with the Government's standardised methodology for calculating the need for housing, the Council must now deliver 629 dwellings per annum. As a matter of judgement, it is considered that some policies in the Core Strategy are in tension with the NPPF, are out-of-date and, as a result, should carry only limited weight. Whilst it is not considered that policies DM11 and DM15 are out-of-date (although the parts of these policies which place 'blanket' restrictions on development outside the confines are in tension with the NPPF), policy DM1 is now out-of-date. Given how important this policy is and given the tension between policies DM11 and DM15 and the NPPF, it is considered that the 'basket of policies' which are most important for determining this application is out-of-date.
- 2.9 The 'tilted balance' identified in paragraph 11 of the NPPF is therefore engaged. An assessment as to whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the development therefore needs to be undertaken and whether there are any other material considerations that indicate permission should be granted.
- 2.10 It is also worth noting at this point that, although the site is outside the confines of Deal, policy CP1 states that the location and scale of development in the District must comply with the Settlement Hierarchy. Deal is identified as a District Centre and the secondary focus for development in the District, suitable for urban scale development.

Impact on Countryside and Landscape Setting

- 2.11 In terms of the impact on the wider landscape policies DM15 and DM16 of the Core Strategy are most relevant. Policy DM15 relates to the protection of the countryside and states that development that would result in the loss of, or adversely affect the character or appearance, of the countryside will only be permitted if it is in accordance with allocations made in Development Plan Documents or the development justifies a rural location.
- 2.12 Policy DM16 relates to landscape character and states that development that would harm the character of the landscape, as identified through the process of landscape character assessment, will only be permitted if:
- it is in accordance with allocations made in development plan documents and incorporates any necessary avoidance and mitigation measures; or
 - it can be sited to avoid or reduce the harm and/or incorporate design mitigation measures to mitigate the impacts to an acceptable level.
- 2.13 The site is not situated within a designated landscape but consideration of the impact on the existing landscape, its setting and character, and visual amenity is necessary to establish whether the proposed development would affect the character of the wider landscape and countryside. It is also necessary to consider

paragraph 170 of the NPPF which relates to the need to enhance the natural and local environment, protect and enhance biodiversity, and to recognise the intrinsic character and beauty of the countryside.

- 2.14 The Landscape and Visual Appraisal (LVA) submitted with the application looked at the historical map data and published landscape character assessments and undertook on-site field analysis to identify key viewpoints, analyse the landscape character and visual environment of the local area, and identify any potential landscape and visual effects. The particular setting is described, with open agricultural land to the north and recent residential development to the east. It comments that to the south west and west more established vegetation exists within a broadly square parcel of land and physically and visually encloses the site along this boundary. It is noted that the plot to the west of the site has been granted planning permission for 48 dwellings and a 64 bedroom care home and the approved layout plan shows that the built development will be separated from the current application site by an area of landscaped public open space, which wraps around the north eastern, eastern and south western parts of that site.
- 2.15 The LVA describes the site as being largely flat, reflecting the localised and wider landscape setting. The site and the urban areas to the east and west are located in the wider Stour floodplain and, as such, there is limited variation in topography. There are no landscape features within the site of any particular landscape value. The quality of the landscape within the application site is said to be of low value and because of the enclosed nature of the site within the urban fringe setting of Deal, the sensitivity of the site is also assessed as being low.
- 2.16 A number of viewpoints were identified in order to demonstrate the visibility of the site within the localised and wider setting. With regard to the effect of the proposals upon landscape character, it is considered that they can be integrated in this location without detriment to the localised or wider character. The design of the proposals in terms of their layout and appearance has been informed by the built form which characterises the immediate setting of the site. It is concluded that the proposed development will have a limited effect on the character of the wider landscape setting, and of Deal itself, due to the visually contained nature of the site and will provide a suitable continuation of the existing built form / environment that already characterises the immediate setting of the site. The design of the site also takes account of the recent residential development to the east and will reflect the scale and nature of the properties, maintaining a connection between the site and the existing settlement area. The northernmost properties have also been set back from the northern boundary to reflect a similar line of built form to that which currently exists to the east / north east. Reference is made to the neighbouring Churchfield Farm development and it is noted that the Inspector considered the effect of the proposals upon the separation between Sholden and Middle Deal. At para 24 the Inspector concluded that *“the relatively large amount of undeveloped land indicated in the masterplan provides an opportunity to maintain a substantial portion of the site as publicly available open space at the expense of some addition to the built-up area of Sholden. Therefore, I find limited harm from this proposal eroding the extent of unbuilt separation between Sholden and Deal, given the quite substantial public space offered in perpetuity.”*
- 2.17 The LVA concludes that, in relation to landscape character, the proposals can be integrated alongside the recently approved Churchfield Farm scheme without compromising the perceived gap between Deal and Sholden. The gap is not protected by any policy designations and the proposals will maintain the gap resulting from the Churchfield Farm development between the two settlements, which the Inspector considered acceptable and appropriate. As a result of the

surrounding vegetation cover and existing built form, it is considered that the proposals would only be perceived in the context of the existing built up area of Deal. It is concluded that the proposals can be integrated without harm to the perceived gap between Deal and Sholden and will not adversely affect the individual identities of the two settlements.

- 2.18 Having reviewed the LVA and its conclusions, it is considered to represent a reasonable assessment of the site and its broader visual context. The development will not encroach any further north into the agricultural land than the existing development at Hyton Drive. The site is relatively well enclosed in visual terms and does not feature significantly in longer distance views from the north and north-east, being visually somewhat separate from the more open agricultural land that forms the majority of the gap between the Timperley Place development and that part of Sholden to the north. Seen in the context of the future development on the Churchfield Farm site, this site appears almost as an indentation within what will become a clear boundary denoting the northern edge of the built-up area of Deal. The proposed layout of the site, with the houses set back from the northern boundary behind the road and a landscape planted buffer, which also assists in assimilating the development into the wider landscape setting. Bearing in mind all these factors, and also what the Inspector said about the impact of the Churchfield Farm proposal on the gap separating the two settlements, it is reasonable to accept the conclusion that development on this site would not unacceptably erode that gap.
- 2.19 Therefore, although the proposal would result in a loss of countryside and be contrary to part of DM15, no significant harm has been identified, and mitigation measures are incorporated, such that a reason for refusal based on DM15, DM16 and NPPF paragraph 170 could not be justified.

Impact on Residential Amenity

- 2.20 NPPF paragraph 117 promotes the effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Para 122 supports development that makes efficient use of land, taking into account (amongst other things) the identified need for different types of housing, the desirability of maintaining an area's prevailing character and setting, and the importance of securing well-designed, attractive and healthy places. Para 127 says that developments should add to the overall quality of the area, be visually attractive and sympathetic to local character.
- 2.21 In terms of residential amenity, the main issues to consider are the impact on the amenity of existing residents through any loss of privacy, overlooking, loss of daylight and sunlight, loss of outlook, or additional noise and disturbance. NPPF paragraph 127 advocates the achievement of a high standard of amenity for existing and future users.
- 2.22 Although details of the design and appearance of the buildings have not been submitted at this stage, the general pattern of development and the illustrative street scene indicate that the development would be compatible with the recent development to the east. The overall density is 23dph, which is below that sought through policy CP4. However, this is partly accounted for by the irregular shape of the site and the tongue of land at the southern end which could not satisfactorily accommodate any houses, and partly by the desire to provide a meaningful landscaped edge to the northern boundary.

- 2.23 The layout within the site should provide a satisfactory level of private amenity for future occupiers, with back gardens generally about 10m long and “back-to-back” distances (where they exist) generally in excess of 20m. In terms of the potential for overlooking into the dwellings and gardens in Hyton Drive, there are no obvious opportunities for a serious loss of privacy, with the new dwellings either presenting a flank elevation to the boundary, or being at a slight angle; in most instances the new houses are separated from those in Hyton Drive by roadway; the closest house (plot 11) is about 6m from the flank of 140 Hyton Drive and the public footpath passes between them. These relationships can be more readily assessed at the Reserved Matters stage.
- 2.24 On the basis of the submitted details, there is no reason to suppose that the objectives of NPPF paragraphs 117, 122 and 127 cannot be met. A number of local residents have expressed concern at the impact of traffic, including heavy vehicles, during the construction phase; this is discussed in the section that follows.

Parking and Highways

- 2.25 The development will be accessed through the Timperley Place development, via Hyton Drive and various other roads, eventually out onto Church Lane, Southwall Road and Middle Deal Road. There is more than one option for navigating through the Timperley Place development and not all traffic will necessarily go the same way. The submitted Transport Assessment concludes that an average of seven vehicle movements are likely to be generated in the peak hour, and this conclusion is endorsed by Kent Highways. On this basis no objection has been raised on strategic highways grounds. The network can accommodate this modest increase in traffic and the visibility and junction design are to standard. For clarification in relation to points raised by Sholden PC, this development does not propose a new access or increased use of an existing access onto a trunk or primary road, so that part of policy DM12 is not invoked.
- 2.26 The road within the site will be a 6m wide shared surface. The amended parking layout shows a reduction in the number of tandem parking spaces; each house has a minimum of two parking spaces (the four-bedroom houses have at least three) and there are two visitor spaces. Tracking diagrams have been provided to show adequate access for refuse freighters and the like.
- 2.27 In response to Kent Highways comments regarding the unadopted status of the access roads, the applicants have provided a Solicitor’s statement that confirms that the application site has the benefit of full rights of way and services over the Persimmon development at Timperley Place, and that these rights are referred to in Land Registry documents. Nevertheless, in order to comply with Planning Act requirements, the applicants have been requested to provide an amended site plan showing the “red line” extending to the adopted highway, and to serve formal notice on the owners of the intervening land.
- 2.28 A number of residents within the Timperley Place development have expressed concern over the impact of construction traffic on their living conditions during the construction phase, and the impact this might have on the road infrastructure itself. This raises a number of different issues. The impact of construction activity (including traffic) on amenity is a material planning consideration. Some residents complain that this is likely to be felt just as construction works elsewhere within that development are coming to an end; that, in itself, is not a material consideration. The impact on the living conditions of affected residents is something that would normally be dealt with through implementation and adherence to a Construction Management Plan. It is not uncommon for

construction traffic, including large machinery and so on, to have to pass through residential areas in order to reach the site; whilst local residents' concern is understandable, there is no reason why careful and thoughtful management, including for example minimising the number of trips such vehicles need to make and sensitive timing of delivery of construction materials, should not be able to provide adequate protection for residents' amenity. A condition can be imposed on any permission that might be granted, requiring a Construction Management Plan.

- 2.29 The question of potential damage to the road infrastructure (or indeed to individual properties along the way) is not normally regarded as a material planning consideration; this is a private matter between the operators of the machinery/traffic and the owners of the infrastructure, whether that be the Highway Authority or another party. If, as is suggested, there is a management company responsible for the upkeep of the roads, to which residents contribute, then recompense for any damage (should it occur) would be a matter to be resolved between that body and the alleged perpetrators.

Contamination and Drainage

- 2.30 With regard to potential ground contamination, EHO has accepted the conclusions of the submitted report that the site is suitable for development and has recommended a condition to address any unforeseen contamination becoming apparent during construction. The Environment Agency raises no objection and has asked for a similar condition, plus a number of informatives.
- 2.31 The proposed development is located in Flood Zone 1 (little to no risk of flooding). Therefore, the proposed development passes the Sequential Test and application of the Exception Test is not necessary. The submitted FRA says that all potential sources of flood risk to and from the site, as listed in NPPF, have been assessed and the risks of flooding occurring have all been assessed as low. In assessing the flood risk, the impacts of climate change have been considered for the lifetime of the proposed development and are also considered acceptable.
- 2.32 For foul drainage, it is proposed to connect into the existing system serving the Timperley Place development; this is likely to require some increase in pipe capacity, which the submitted Drainage Strategy says can be paid for through Southern Water's infrastructure charge.
- 2.33 The Drainage Strategy also includes an indicative approach to the disposal of surface water; it is proposed to install sustainable drainage systems to reduce surface water run-off flows from the site for storm return periods up to the 1-in-100-year storm event, plus an allowance for climate change. However the final design of the scheme has not been provided at this stage. The preferred option, in accordance with the normal hierarchy, would be infiltration to the ground. However, it is not clear whether this is a practical option here because of a high water table. Should further tests and groundwater monitoring demonstrate that there is a sufficient unsaturated zone, the strategy will be reviewed to incorporate this option. At this stage, though, the proposal is to discharge to a watercourse through connection to the existing drainage network for the Timperley Place site. This will involve the use of pervious paving and attenuation tanks and regulating devices to control the rate of run-off.
- 2.34 A further statement has been submitted in response to the issues raised by KCC Flood and Water Management. In this, the applicants say they will undertake further groundwater testing, but ask that this be dealt with through planning

conditions. They also argue that, because of the level of attenuation, the impact on the capacity of the existing system would be negligible and also, because that system has been fairly recently installed and is to be under the control of Southern Water, there should be no issue regarding its condition. A further response is awaited from Southern Water and KCC, which will be reported to Members orally.

Archaeology and Heritage Issues

- 2.35 The application is accompanied by both a Heritage Statement and an Archaeological Assessment. St Nicholas Church is Grade II* listed and is about 240m to the west of the application site. There are a number of Grade II listed tombs in the churchyard. As required by NPPF paragraph 189, the application describes the significance of these heritage assets and their setting, and the likely impact of the proposed development on this significance. Paragraph 193 requires lpas to give great weight to an asset's conservation in considering development proposals. Under paragraph 196, where a development would lead to "less than substantial harm" to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
- 2.36 The Heritage Statement concludes that the listed buildings do not have any direct historical or functional relationship with the current application site and the proposed development will not impact on their historic fabric. Any alteration to the setting of the Church as a result of the proposed Churchfield Farm development needs to be taken into account; the Inspector concluded that that development provided "no harm" due to the vegetation buffer being maintained at the southern end of the Churchfield Farm site. Due to the vegetation within and along the boundaries of the churchyard, there is little visual interaction to enable appreciation of the architectural or historic fabric of the Church, when looking from the east; therefore, the Statement concludes, the current proposed development does not affect the significance of the Church, as a heritage asset. This conclusion is accepted.
- 2.37 The Archaeological Assessment looks in detail at the potential for archaeological remains to exist on the application site. This includes a historical analysis of activity in the vicinity at different eras and the evidence from other finds nearby. It concludes that the site is of high archaeological interest and regional significance for the Prehistoric and Roman period, moderate for the Mediaeval period, and low for all other periods. This is an area with high archaeological potential, the potential for surviving remains is high, and the proposed development has the potential to have a high-level impact on any remains. In the light of this assessment, it is appropriate to impose a condition on any permission that might be granted, requiring a programme of archaeological field investigation, in advance of any development taking place; this is also the approach that was adopted by the Inspector in determining the Churchfield Farm appeal.

Ecology and Habitats

- 2.38 The submitted Ecological Appraisal concludes that the habitats at the site appear to be of low ecological value, and that none of the nature conservation designations in the area are likely to be affected. This conclusion is accepted. A limited number of measures are proposed for ecological enhancements to comply with the policy requirements of the NPPF to achieve biodiversity gain; these include bird boxes, use of native species and trees and shrubs of local provenance in the landscaping scheme, and establishment of a wildflower grassland strip. Although the site is fairly small, it is suggested that the applicant could consider further enhancement

measures, including providing habitat features to encourage species such as hedgehogs, reptiles and bats. These can be addressed through a condition requiring an ecological management and monitoring plan, together with an informative listing the features that might be considered.

- 2.39 Natural England comments on the SPA Mitigation Strategy, but points out that an Appropriate Assessment should be carried out; this is set out below.

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

- 2.40 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.
- 2.41 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.
- 2.42 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.
- 2.43 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.
- 2.44 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.
- 2.45 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.

Viability and Developer Contributions

- 2.46 KCC has requested contributions towards primary and secondary education, community learning, youth service, libraries, social care and waste and recycling facilities, as set out above in the "Consultee responses" section of this report. These all appear reasonable, apart from that requested for the enhancement of capacity at household waste and recycling sites. Further work is currently being

carried out to put together a strategy for enhancement of these sites County-wide and, until that has been satisfactorily concluded, there is no certainty over the level of justification for the requested contribution.

- 2.47 The remaining KCC requests amount to £108,254.54. In addition, the NHS CCG has asked for £10,725 on behalf of the NHS, to go towards enhancing general practice facilities in the Deal and Sandwich Primary Care Network. The resulting total is £118,979.54, which the applicants have agreed to pay, this to be secured through a S106 agreement subject to the grant of planning permission.
- 2.48 Under policy DM5, the Council is to seek a contribution towards the provision of affordable housing from developments of between five and 14 dwellings. For developments of this scale, provision can be made either on-site or through a broadly equivalent financial contribution, or a combination of both. Applying the normal 30% requirement would equate to four dwellings. However, given the relatively small number of units involved, experience has shown that it is often difficult to attract an affordable housing provider, as shared overheads and management costs are generally higher for such sites. The most practical way forward in this instance is therefore considered to be through a contribution to off-site provision. However, given the level of contributions already identified and other “unusual” costs associated with this development (such as the need for a full archaeological investigation), the applicants sought to argue that viability of the scheme would be threatened if the full amount of affordable housing contribution were to be required. A viability assessment has been provided by the applicants and this has been examined by specialist consultants on behalf of the Council. It is common ground between the consultants that the full level of affordable housing provision would not be viable. Negotiations have therefore taken place between Officers and the applicants and as a result of that the applicants have agreed a contribution of £100,000. This is a negotiated position and, in all the circumstances, is one that is commended to Members.
- 2.49 The total amount of developer contributions secured through the proposed S106 agreement would therefore be £218,979.54.

3. Conclusion and Sustainability

- 3.1 This is an application for the erection of 14 dwellings on a site that is in countryside outside the defined urban confines of Deal. Although this means that it is contrary to policies DM1, DM11 and, in some respects, DM15, those policies now carry reduced weight in the light of the NPPF and the need to provide increased numbers of homes within the District. Because the policies that are most important for the determination of the application are either out of date or otherwise in conflict with the NPPF, determination of the application rests on the application of NPPF paragraph 11. There are no considerations in respect of “assets of particular importance” that clearly point to refusal. Therefore the judgement that has to be reached is whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 3.2 Although development of this site would result in the loss of countryside, the detailed assessment that has been provided shows that, in terms of impact on the character and appearance of the local countryside, and the wider landscape, this would cause limited harm because of the specific location of the site, its visual relationship to neighbouring land and, in particular, the limited impact it would have on reducing the physical gap between the built-up areas of Deal and Sholden. The proposed site layout assists in integrating the development with that to the east,

and that approved to the west, which further mitigates the impact on this visual gap and, indeed, will help to strengthen the northern boundary of the built-up area of Deal. The proposal is acceptable in terms of its impact on the setting of heritage assets, ecology, the residential amenity of existing residents and in terms of other technical considerations. All other matters can be addressed through conditions.

- 3.3 The overarching aim behind the judgement in paragraph 11 is to foster sustainable development. This has three objectives – economic, social and environmental; despite being outside the confines, this is a sustainable location for residential development, being within close proximity to a range of services and access to public transport. The development would bring social and economic benefits by way of helping to meet the need for additional housing. Overall, therefore it is considered that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of granting permission.

g) Recommendation

- I. GRANT PLANNING PERMISSION subject to completion of a Section 106 Agreement to secure the developer contributions as set out in the report, and conditions to cover the following matters:

- 1) Standard Outline condition – Reserved Matters (appearance, landscape and scale) to be submitted
- 2) Standard Outline condition – submit Reserved Matters within three years
- 3) Standard Outline condition - commencement
- 4) List of approved plans
- 5) Submission of details of external materials
- 6) Submission of landscaping scheme
- 7) Provision of car parking
- 8) Provision of cycle parking
- 9) Provision of refuse facilities
- 10) Unforeseen contamination
- 11) Submission of a detailed scheme for the disposal of foul drainage (pre-commencement condition)
- 12) Submission of a detailed scheme for the disposal of surface water drainage, including SUDS (pre-commencement condition)
- 13) Verification of installation and effectiveness of drainage scheme
- 14) Submission of, and adherence to, Construction Management Plan
- 15) Provision of access to highway and construction of visibility splays, before occupation
- 16) Archaeological investigation (pre-commencement condition)
- 17) Submission of ecological management and monitoring plan
- 18) Provision of electric vehicle charging points
- 19) Broadband provision
- 20) Scheme of ecological mitigation
- 21) Scheme in relation to secured by design principles

Informatives

- 1) Need for consent to connect to sewer (SW)
- 2) Other sewers running through site (SW)
- 3) Advice on biodiversity measures to be incorporated into the landscaping scheme and ecological management plan
- 4) Incorporation of technical design measures regarding Secured by Design

- 5) Provision of infrastructure to facilitate broadband
 - 6) Disposal of waste arising from excavation/construction (EA)
 - 7) Protection of existing water infrastructure (SW)
 - 8) Matters to be included in detailed SUDS scheme (SW)
- II. Powers to be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions, in line with the issues set out in the report and as resolved by Planning Committee and to draft and issue a Statement of Reasons.

Case Officer

Neil Hewett